ISSN 1725-2555

Official Journal of the European Union

L 381

English edition

Volume 47

28 December 2004

Legislation

Contents

I *Acts whose publication is obligatory*

(Continued overleaf)

Price: EUR 18

EN

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.

Contents (continued)

II *Acts whose publication is not obligatory*

Council

Commission

EN

[1] Text with EEA relevance

(Continued on inside back cover)

Contents (continued)

EN

[1] Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2243/2004

of 22 December 2004

amending Regulation (EC) No 2505/96 opening and providing for the administration of autonomous Community tariff quotas for certain agricultural and industrial products

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 26 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) On 20 December 1996 the Council adopted Regulation (EC) No 2505/96 opening and providing for the administration of autonomous Community tariff quotas for certain agricultural and industrial products [1]. Community demand for the products in question should be met under the most favourable conditions. New Community tariff quotas should therefore be opened at reduced or zero rates of duty for appropriate volumes and certain existing tariff quotas should be extended, while avoiding any disturbance to the markets for these products.

(2) Since the quota amount for certain Community tariff quotas is insufficient to meet the needs of Community industry for the current quota period, these tariff quotas should be increased with effect from 1 January 2005.

(3) It is no longer in the Community interest to continue to grant Community tariff quotas in 2005 for certain products on which duties were suspended in 2004. These products should therefore be removed from the table in Annex I to Regulation (EC) No 2505/96.

(4) In view of the many changes to be made, the full text of Annex I to Regulation (EC) No 2505/96 should be replaced in the interests of clarity.

(5) Having regard to the economic importance of this Regulation, it is necessary to rely upon the grounds of urgency provided for in point I.3 of the Protocol annexed to the Treaty on European Union and to the Treaties establishing the European Communities on the role of national parliaments in the European Union.

(6) Regulation (EC) No 2505/96 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 2505/96 is replaced by the Annex hereto.

Article 2

For the quota period from 1 January to 30 June 2005, in Annex I to Regulation (EC) No 2505/96:

— the validity of tariff quota 09.2021 shall expire on 30 June 2005; its volume shall remain unaltered,

— the quota amount of tariff quota 09.2613 is fixed at 400 tonnes at a 0 % rate of duty.

Article 3

For the quota period from 1 January to 31 December 2005, in Annex I to Regulation (EC) No 2505/96:

— the quota amount of tariff quota 09.2023 is fixed at 700 000 units,

— the quota amount of tariff quota 09.2603 is fixed at 3 400 tonnes,

— the quota amount of tariff quota 09.2612 is fixed at 500 tonnes at a 0 % rate of duties,

— the quota amount of tariff quota 09.2619 is fixed at 80 tonnes,

— the quota amount of tariff quota 09.2620 is fixed at 500 000 units,

— the quota amount of tariff quota 09.2621 is fixed at 1 500 tonnes and its period of validity shall expire on 31 December 2005,

— the quota amount of tariff quota 09.2985 is fixed at 300 000 units and its period of validity shall expire on 31 December 2005.

[1] OJ L 345, 31.12.1996, p. 1. Regulation as last amended by Regulation (EC) No 1329/2004 (OJ L 247, 21.7.2004, p. 1).

Article 4

The tariff quotas 09.2605, 09.2606, 09.2607, 09.2609, 09.2614, 09.2918, 09.2957, 09.2966, 09.2993 and 09.2999 shall be closed from 31 December 2004.

Article 5

This Regulation shall enter into force on the day 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, 22 December 2004.

For the Council
The President
C. VEERMAN

ANNEX

'ANNEX I

Serial number	CN code	Taric sub-division	Description	Amount of quota	Quota duty (%)	Quota period
09.2021	ex 7011 20 00	45	Glass face-plate with a diagonal measurement of 72 cm (± 0,2 cm), from the outer edge to the outer edge and having a light transmission of 56,8 % (± 3 %) by a glass thickness of 10,16 mm.	70 000 units	0	1.1.-30.6.2005
09.2022	ex 8504 90 11	20	Ferrite cores for the production of deflection yokes [a]	2 400 000 units [c]	0	1.7.2004–30.6.2005
09.2023	ex 8540 91 00	34	Flat masks, with a length of 597,1 mm (± 0,2 mm) and a height of 356,2 mm (± 0,2 mm) fitted with slots of a width of 179,1 µm (± 9 µm) at the end of the central vertical axis	700 000 units	0	1.1.-31.12.2005
09.2602	ex 2921 51 19	10	o-phenylenediamine	1 800 tonnes	0	1.1.-31.12.
09.2603	ex 2931 00 95	15	Bis(3-triethoxysilylpropyl) tetrasulfide	3 400 tonnes	0	1.1.-31.12.2005
09.2604	ex 3905 30 00	10	Poly(vinyl alcohol) partially acetalized with 5-(4-azido-2-sulfobenzylidene)-3-(formylpropyl)-rhodanine, sodium salt	100 tonnes	0	1.1.-31.12.
09.2610	ex 2925 20 00	20	(Chloromethylene) dimethylammonium chloride	100 tonnes	0	1.1.-31.12.
09.2611	ex 2826 19 00	10	Calcium fluoride having a total content of aluminium, magnesium and sodium of 0,25 mg/kg or less, in the form of powder	55 tonnes	0	1.1.-31.12.
09.2612	ex 2921 59 90	30	3,3'-dichlorobenzidine dihydrochloride	500 tonnes	0	1.1.-31.12.2005
09.2613	ex 2932 99 70	40	1,3:2,4-Bis-O-(3,4-dimethylbenzylidene)-D-glucitol	400 tonnes	0	1.1.-30.6.2005
09.2615	ex 2934 99 90	70	Ribonucleic acid	110 tonnes	0	1.1.-31.12.
09.2616	ex 3910 00 00	30	Polydimethylsiloxane with a degree of polymerisation of 2 800 monomer units (± 100)	1 300 tonnes	0	1.1.-31.12.
09.2618	ex 2918 19 80	40	(R)-2-Chloromandelic acid	100 tonnes	0	1.1.-31.12.
09.2619	ex 2934 99 90	71	2-Thienylacetonitrile	80 tonnes	0	1.1.-31.12.
09.2620	ex 8526 91 90	10	Assembly for GPS system having a position determination function	500 000 units	0	1.1.-31.12.
09.2621	ex 3812 30 80	50	Aluminium magnesium zinc hydroxide carbonate hydrate, coated with a surface-active agent	1 500 tonnes	0	1.1.-31.12.2005
09.2622	ex 1108 12 00	10	Maize starch containing at least 40 % but not more than 60 % by weight of insoluble dietary fibre	600 tonnes	0	1.1.-31.12.2005
09.2623	ex 2710 19 61 ex 2710 19 63	10 10	Fuel oils with a sulphur content not exceeding 2 % by weight, for use in fuel for sea-going vessels [a]	80 000 tonnes	0	1.1.-31.12.
09.2624	2912 42 00		Ethylvanillin (3-ethoxy-4-hydroxybenzaldehyde)	352 tonnes	0	1.1.-31.12.

Serial number	CN code	Taric sub-division	Description	Amount of quota	Quota duty (%)	Quota period
09.2625	ex 3920 20 21	20	Film of polymers of polypropylene, biaxially oriented, of a thickness of 3,5 µm or more but less than 15 µm, of a width of 490 mm or more but not exceeding 620 mm, for the production of film capacitors [a]	170 tonnes	0	1.1.-31.12.
09.2626	ex 4205 00 00	10	Pieces of embossed grain bovine leather, dyed grey-blue or beige and cut to shape, for use in products of subheading 9401 20 00 [a]	400 000 units	0	1.1.-31.12.
09.2627	ex 7011 20 00	55	Glass face-plate with a diagonal measurement of 814,8 mm (± 1,5 mm) from the outer edge to the outer edge and having a light transmission of 51,1 % (± 2,2 %) by a glass thickness of 12,5 mm	500 000 units	0	1.1.-31.12.
09.2628	ex 7019 52 00	10	Glass web woven from glass fibre coated in plastic, of a weight of 120 g/m^2 (± 10 g/m^2) of a type used in the manufacture of anti-insect rollers and framed nets	350 000 m^2	0	1.1.-31.12.
09.2629	ex 7616 99 90	85	Aluminium telescopic handle for use in the manufacture of luggage [a]	240 000 units	0	1.1.-31.12.
09.2630	ex 3908 90 00	30	Thermoplastic polyamide resin having a fire point of more than 750 °C, for use in the manufacture of deflection yokes of cathode ray tubes [a]	40 tonnes	0	1.1.-30.6.2005
09.2703	ex 2825 30 00	10	Vanadium oxides and hydroxides only for the production of alloys [a]	13 000 tonnes	0	1.1.-31.12.
09.2713	ex 2008 60 19 ex 2008 60 39	10 10	Sweet cherries, marinated in alcohol, of a diameter not exceeding 19,9 mm, stoned, intended for the manufacture of chocolate products [a]: — with a sugar content exceeding 9 % by weight — with a sugar content not exceeding 9 % by weight	2 000 tonnes	10 [1] 10	1.1.-31.12.
09.2719	ex 2008 60 19 ex 2008 60 39	20 20	Sour cherries (Prunus cerasus), marinated in alcohol, of a diameter not exceeding 19,9 mm, intended for the manufacture of chocolate products [a]: — with a sugar content exceeding 9 % by weight — with a sugar content not exceeding 9 % by weight	2 000 tonnes	10 [1] 10	1.1.-31.12.
09.2727	ex 3902 90 90	93	Synthetic poly-alpha-olefin having a viscosity of not less than 38 x $10^{-6} m^2 s^{-1}$ (38 centistokes) at 100 °C measured using the ASTM D 445 method	10 000 tonnes	0	1.1.-31.12.
09.2799	ex 7202 49 90	10	Ferro-chromium containing 1,5 % or more but not more than 4 % by weight of carbon and not more than 70 % of chromium	50 000 tonnes	0	1.1.-31.12.
09.2809	ex 3802 90 00	10	Acid activated montmorillonite, for the manufacture of *self-copy* paper [a]	10 000 tonnes	0	1.1.-31.12.

Serial number	CN code	Taric sub-division	Description	Amount of quota	Quota duty (%)	Quota period
09.2829	ex 3824 90 99	19	Solid extract of the residual, insoluble in aliphatic solvents, obtained during the extraction of resin from wood, having the following characteristics: — a resin acid content not exceeding 30 % by weight, — an acid number not exceeding 110, and — a melting point of not less than 100 °C	1 600 tonnes	0	1.1.-31.12.
09.2837	ex 2903 49 80	10	Bromochloromethane	450 tonnes	0	1.1.-31.12.
09.2841	ex 2712 90 99	10	Blend of 1-alkenes containing 80 % by weight or more of 1-alkenes of a chain-length of 20 and 22 carbon atoms	10 000 tonnes	0	1.1.-31.12.
09.2849	ex 0710 80 69	10	Mushrooms of the species *Auricularia polytricha* (uncooked or cooked by steaming or boiling), frozen, for the manufacture of prepared meals [a] [b]	700 tonnes	0	1.1.-31.12.
09.2851	ex 2907 12 00	10	O-Cresol having a purity of not less than 98,5 % by weight	20 000 tonnes	0	1.1.-31.12.
09.2853	ex 2930 90 70	35	Glutathione	15 tonnes	0	1.1.-31.12.
09.2881	ex 3901 90 90	92	Chlorosulphonated polyethylene	6 000 tonnes	0	1.1.-31.12.
09.2882	ex 2908 90 00	20	2,4-Dichloro-3-ethyl-6-nitrophenol, powdered	90 tonnes	0	1.1.-31.12.
09.2889	3805 10 90	—	Sulphate turpentine	20 000 tonnes	0	1.1.-31.12.
09.2904	ex 8540 11 19	95	Flat screen colour cathode-ray tube with a screen width/height ratio 4/3, a diagonal measurement of the screen of 79 cm or more but not exceeding 81 cm and a curvature radius of 50 m or more	8 500 units	0	1.1.-31.12.
09.2913	ex 2401 10 41 ex 2401 10 49 ex 2401 10 50 ex 2401 10 70 ex 2401 10 90 ex 2401 20 41 ex 2401 20 49 ex 2401 20 50 ex 2401 20 70 ex 2401 20 90	10 10 10 10 10 10 10 10 10 10	Natural unmanufactured tobacco, whether or not cut in regular size, having a customs value of not less than EUR 450 per 100 kg net weight, for use as binder or wrapper for the manufacture of goods falling within subheading 2402 10 00 [a]	6 000 tonnes	0	1.1.-31.12.
09.2914	ex 3824 90 99	26	Aqueous solution containing by weight not less than 40 % of dry betaine extract and 5 % or more but not more than 30 % by weight of organic or inorganic salts	38 000 tonnes	0	1.1.-31.12.
09.2917	ex 2930 90 13	90	Cystine	600 tonnes	0	1.1.-31.12.
09.2919	ex 8708 29 90	10	Folding bellows for the manufacture of articulated buses [a]	2 600 units	0	1.1.-31.12.
09.2933	ex 2903 69 90	30	1,3-Dichlorobenzene	2 600 tonnes	0	1.1.-31.12.

Serial number	CN code	Taric sub-division	Description	Amount of quota	Quota duty (%)	Quota period
09.2935	3806 10 10	—	Rosin and resin acids, obtained from fresh oleoresins	120 000 tonnes	0	1.1.-30.6.
09.2935	3806 10 10	—	Rosin and resin acids, obtained from fresh oleoresins	80 000 tonnes	0	1.7.-31.12.
09.2945	ex 2940 00 00	20	D-Xylose	400 tonnes	0	1.1.-31.12.
09.2947	ex 3904 69 90	95	Poly(vinylidene fluoride), in powder form, for the preparation of paint or varnish for coating metal [a]	1 300 tonnes	0	1.1.-31.12.
09.2950	ex 2905 59 10	10	2-Chloroethanol, for the manufacture of liquid thioplasts of subheading 4002 99 90 [a]	8 400 tonnes	0	1.1.-31.12.
09.2955	ex 2932 19 00	60	Flurtamone (ISO)	300 tonnes	0	1.1.-31.12.
09.2964	ex 5502 00 80	20	Filament tow of cellulose produced by organic solvent spinning (Lyocell), for use in the paper industry [a]	1 200 tonnes	0	1.1.-31.12.
09.2975	ex 2918 30 00	10	Benzophenone-3,3':4,4'-tetracarboxylic dianhydride	500 tonnes	0	1.1.-31.12.
09.2976	ex 8407 90 10	10	Four-stroke petrol engines of a cylinder capacity not exceeding 250 cm^3 for use in the manufacture of lawnmowers of sub-heading 8433 11 or mowers with motor of subheading 8433 11 or mowers with motor of subheading 8433 20 10 [a]	750 000 units [c]	0	1.7.2004-30.6.2005
09.2979	ex 7011 20 00	15	Glass face-plate with a diagonal measurement from the outer edge to the outer edge of 81,5 cm (± 0,2 cm) and having a light transmission of (80 % (± 3 %) by a reference thickness of the glass of 11,43 mm	600 000 units	0	1.1.-31.12.
09.2981	ex 8407 33 90 ex 8407 90 80 ex 8407 90 90	10 10 10	Spark-ignition reciprocating or rotary internal combustion piston engines, having a cylinder capacity of not less than 300 cc and a power of not less than 6 but not exceeding 15,5 kW, for the manufacture of: — self-propelled lawn mowers, with a seat of sub-heading 8433 11 51 — tractors of subheading 8701 90 11, having the main function of a lawn mower or — four stroke mowers with a motor capacity of not less than 300 cc of subheading 8433 20 10 [a]	210 000 units	0	1.1.-31.12.
09.2985	ex 8540 91 00	33	Flat masks of a length of 685,6 mm (± 0,2 mm) arba 687,2 mm (± 0,2 mm) or 687,2 mm (± 0,2 mm) and a height of 406,9 mm (± 0,2 mm) or 408,9 mm (± 0,2 mm), with a width of the slots at the end of the central vertical axe of 174 micrometer (± 8 micrometer)	300 000 units	0	1.1.-31.12.2005

Serial number	CN code	Taric sub-division	Description	Amount of quota	Quota duty (%)	Quota period
09.2986	ex 3824 90 99	76	Mixture of tertiary amines containing: — 60 % by weight of dodecyldimethylamine, or more — 20 % by weight of dimethyl(tetradecyl)amine, or more — 0,5 % by weight of hexadecyldimethylamine, or more, for use in the production of amine oxides (a)	14 000 tonnes	0	1.1.-31.12.
09.2992	ex 3902 30 00	93	Propylene-butylene copolymer, containing by weight not less than 60 %, but not more than 68 % of propylene and not less than 32 %, but not more than 40 % of butylene, of a melt viscosity not exceeding 3 000 mPa at 190 °C, as determined by the ASTM D 3236 method, for use as an adhesive in the manufacture of products falling within subheading 4818 40 (a)	1 000 tonnes	0	1.1.-31.12.
09.2995	ex 8536 90 85 ex 8538 90 99	95 93	Keypads, — comprising a layer of silicone and polycarbonate keytops or — wholly of silicone or wholly of polycarbonate, including printed keys, for the manufacture or repair of mobile radio-telephones of subheading 8525 20 91 (a)	20 000 000 units	0	1.1.-31.12.
09.2998	ex 2924 29 95	80	5'-Chloro-3-hydroxy-2',4'-dimethoxy-2-naphtanilide	26 tonnes	0	1.1.-31.12.

(a) Checks on this prescribed end use shall be carried out pursuant to the relevant Community provisions.
(b) However, the tariff quota is not allowed where processing is carried out by retail or catering undertakings.
(c) The quantities of goods subject to this quota and released for free circulation as from 1 July 2004, as provided for in Regulation (EC) No 1329/2004, shall be fully counted against this quantity.
(1) The specific additional duty is applicable.'

COMMISSION REGULATION (EC) No 2244/2004

of 23 December 2004

opening tariff quotas for the year 2005 for imports into the European Community of certain processed agricultural products originating in Romania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products [1], and in particular Article 7(2) thereof,

Having regard to Council Decision 98/626/EC of 5 October 1998 relating to the conclusion of a Protocol for the adaptation of the trade aspects of the Europe Agreement between the European Communities and their Member States, of the one part, and Romania, of the other part, to take into account the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the results of the agricultural negotiations of the Uruguay Round, including the improvements to the existing preferential regime [2], and in particular Article 2(1) thereof,

Whereas:

(1) Protocol 3 on trade in processed agricultural products to the Europe Agreement with Romania, as amended by the Protocol for the adaptation of the trade aspects of that Agreement, provides for the reduction in the agricultural component of the duties applicable on importation of certain processed agricultural products originating in Romania, within the limits of tariff quotas. Those quotas should be opened for 2005.

(2) 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 Common Customs Code [3] lays down rules for the management of tariff quotas. It is appropriate to provide that the tariff quotas opened by this Regulation are to be managed in accordance with those rules.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for horizontal questions concerning trade in processed agricultural products not listed in Annex I,

HAS ADOPTED THIS REGULATION:

Article 1

The Community annual tariff quotas for the processed agricultural products originating in Romania listed in the Annex are opened from 1 January 2005 to 31 December 2005 under the conditions set out in that Annex.

Article 2

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

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*.

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, 23 December 2004.

For the Commission
Günter VERHEUGEN
Vice-President

[1] OJ L 318, 20.12.1993, p. 18. Regulation as last amended by Council Regulation (EC) No 2580/2000 (OJ L 298, 25.11.2000, p. 5).
[2] OJ L 301, 11.11.1998, p.1.
[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).

ANNEX

Serial No	CN Code	Description	Quota for 2005 (tonnes)	Rate of duty applicable (1)
09.5431	ex 1704	Sugar confectionery (including white chocolate), not containing cocoa, excluding liquorice extract containing more than 10 % by weight of sucrose but not containing other added substances, falling within CN code 1704 90 10 (*)	2 100	0 + RAC
09.5433	ex 1806	Chocolate and other food preparations containing cocoa (*), other than those falling within CN codes 1806 10 15 or 1806 20 70	1 500	0 + RAC
09.5435	ex 1902	Pasta, whether or not cooked or stuffed or otherwise prepared, excluding stuffed pasta falling within CN codes 1902 20 10 and 1902 20 30, couscous, whether or not prepared	600	0 + RAC
09.5437	ex 1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour and meal), precooked or otherwise prepared, not elsewhere specified or included, excluding products falling within CN code 1904 20 10	438	0 + RAC
09.5439	1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products	1 875	0 + RAC
09.5441	2101 30 19 2101 30 99	Roasted coffee substitutes Extracts, essences and concentrates of roasted coffee substitutes excluding those of roasted chicory	163	0 + RAC
09.5443	2105 00	Ice cream and other edible ice, whether or not containing cocoa	114	0 + RAC
09.5445	0405 20 10 0405 20 30 ex 2106 ex 3302 10 3302 10 29	Dairy spreads of a fat content, by weight, of 39 % or more, but not exceeding 75 % Food preparations not elsewhere specified or included other than those falling within CN codes 2106 10 20, 2106 90 20 and 2106 90 92 and other than flavoured or coloured sugar syrups (*) Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used for the beverages industries: Other	1 050	0 + RAC
09.5447	2202 90 91 2202 90 95 2202 90 99	Non-alcoholic beverages, not including fruit or vegetable juices of CN code 2009, containing products of CN codes 0401 to 0404 or fat obtained from products of CN codes 0401 to 0404	100	0 + RAC

(1) RAC = reduced agricultural components (calculated in accordance with the basic amounts set out in Protocol 3 to the Agreement) applicable within the quantitative limits of the quotas. Such reduced agricultural components are subject to the maximum duty laid down in the common customs tariff, if any, and in the case of products falling within CN codes 1704 10 91, 1704 10 99, 2105 00 10, 2105 00 91 or 2106 90 10, to the maximum duty provided for in the Agreement.

(*) Excluding goods containing 70 % or more by weight of sucrose (including invert sugar expressed as sucrose), falling within CN codes ex 1704 90 51, ex 1704 90 99, ex 1806 20 80, ex 1806 20 95, ex 1806 90 90 or ex 2106 90 98.

COMMISSION REGULATION (EC) No 2245/2004

of 27 December 2004

amending Annexes I, II, III and IV to Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters [1], and in particular Article 74 thereof,

Whereas:

(1) Annex I to Regulation (EC) No 44/2001 lists the rules of national jurisdiction. Annex II contains the lists of courts or competent authorities that have jurisdiction in the Member States to deal with applications for a declaration of enforceability. Annex III lists the courts for appeals against such decisions, and Annex IV enumerates the redress procedures for such purpose.

(2) Annexes I, II, III and IV to Regulation (EC) No 44/2001 were amended by the 2003 Act of Accession so as to include the rules of national jurisdiction, the lists of courts or competent authorities and the redress procedures of the acceding States.

(3) France, Latvia, Lithuania, Slovenia and Slovakia have notified the Commission of amendments to the lists set out in Annexes I, II, III and IV.

(4) Regulation (EC) No 44/2001 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 44/2001 is amended as follows:

1. Annex I is amended as follows:

(a) the indent relating to Latvia is replaced by the following:

'— in Latvia: section 27 and paragraphs 3, 5, 6 and 9 of section 28 of the Civil Procedure Law (Civilprocesa likums),';

(b) the indent relating to Slovenia is replaced by the following:

'— in Slovenia: Article 48(2) of the Private International Law and Procedure Act (Zakon o medarodnem zasebnem pravu in postopku) in relation to Article 47(2) of Civil Procedure Act (Zakon o pravdnem postopku) and Article 58(1) of the Private International Law and Procedure Act (Zakon o medarodnem zasebnem pravu in postopku) in relation to Article 57(1) and 47(2) of Civil Procedure Act (Zakon o pravdnem postopku),';

(c) the indent relating to Slovakia is replaced by the following:

'— in Slovakia: Articles 37 to 37e of Act No 97/1963 on Private International Law and the Rules of Procedure relating thereto.';

2. Annex II is amended as follows:

(a) the indent relating to France is replaced by the following:

'— in France:

(a) the "*greffier en chef du tribunal de grande instance*",

(b) the "*président de la chambre départementale des notaires*" in the case of application for a declaration of enforceability of a notarial authentic instrument.';

(b) the indent relating to Slovenia is replaced by the following:

'— in Slovenia, the "okrožno sodišče",';

(c) the indent relating to Slovakia is replaced by the following:

'— in Slovakia, the "okresný súd".';

[1] OJ L 12, 16.1.2001, p. 1. Regulation as last amended by the 2003 Act of Accession.

3. Annex III is amended as follows:

(a) the indent relating to France is replaced by the following:

'— in France:

(a) the "*cour d'appel*" on decisions allowing the application,

(b) the presiding judge of the "*tribunal de grande instance*", on decisions rejecting the application.';

(b) the indent relating to Lithuania is replaced by the following:

'— in Lithuania, the "*Lietuvos apeliacinis teismas*",';

(c) the indent relating to Slovenia is replaced by the following:

'— in Slovenia, the "okrožno sodišče",';

(d) the indent relating to Slovakia is replaced by the following:

'— in Slovakia, the "okresný súd".';

4. Annex IV is amended as follows:

(a) the indent relating to Lithuania is replaced by the following:

'— in Lithuania, an appeal to the "Lietuvos Aukščiausiasis Teismas",';

(b) the indent relating to Slovenia is replaced by the following:

'— in Slovenia, an appeal to the "Vrhovno sodišče Republike Slovenije",';

(c) the indent relating to Slovakia is replaced by the following:

'— in Slovakia, the "dovolanie".'

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 Brussels, 27 December 2004.

For the Commission

José Manuel BARROSO

President

COMMISSION REGULATION (EC) No 2246/2004

of 27 December 2004

amending Regulation (EC) No 1555/96 as regards the trigger levels for additional duties on pears, lemons, apples and courgettes

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 33(4) thereof,

Whereas:

(1) Commission Regulation (EC) No 1555/96 of 30 July 1996 on rules of application for additional import duties on fruit and vegetables [2] provides for surveillance of imports of the products listed in the Annex thereto. That surveillance is to be carried out in accordance with the rules laid down in Article 308d of 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 [3].

(2) For the purposes of Article 5(4) of the Agreement on Agriculture [4] concluded during the Uruguay Round of multilateral trade negotiations and in the light of the latest data available for 2001, 2002 and 2003, the trigger levels for additional duties on pears, lemons, apples and courgettes should be adjusted.

(3) Regulation (EC) No 1555/96 should be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1555/96 is hereby replaced by the Annex hereto.

Article 2

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

It shall apply from 1 January 2005.

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

Done at Brussels, 27 December 2004.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

---

[1] OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Commission Regulation (EC) No 47/2003 (OJ L 7, 11.1.2003, p. 64).
[2] OJ L 193, 3.8.1996, p. 1. Regulation as last amended by Regulation (EC) No 1844/2004 (OJ L 322, 23.10.2004, p. 12).
[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).
[4] OJ L 336, 23.12.1994, p. 22.

ANNEX

'ANNEX

Without prejudice to the rules governing the interpretation of the Combined Nomenclature, the description of the products is deemed to be indicative only. The scope of the additional duties for the purposes of this Annex is determined by the scope of the CN codes as they exist at the time of the adoption of this Regulation. Where "ex" appears before the CN code, the scope of the additional duties is determined both by the scope of the CN code and by the corresponding trigger period.

Serial number	CN code	Description	Trigger period	Trigger level (tonnes)
78.0015	ex 0702 00 00	Tomatoes	— 1 October to 31 May	596 477
78.0020			— 1 June to 30 September	552 167
78.0065	ex 0707 00 05	Cucumbers	— 1 May to 31 October	39 640
78.0075			— 1 November to 30 April	30 932
78.0085	ex 0709 10 00	Artichokes	— 1 November to 30 June	2 071
78.0100	0709 90 70	Courgettes	— 1 January to 31 December	65 658
78.0110	ex 0805 10 10 ex 0805 10 30 ex 0805 10 50	Oranges	— 1 December to 31 May	620 166
78.0120	ex 0805 20 10	Clementines	— 1 November to end of February	88 174
78.0130	ex 0805 20 30 ex 0805 20 50 ex 0805 20 70 ex 0805 20 90	Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids	— 1 November to end of February	94 302
78.0155	ex 0805 50 10	Lemons	— 1 June to 31 December	341 887
78.0160			— 1 January to 31 May	13 010
78.0170	ex 0806 10 10	Table grapes	— 21 July to 20 November	227 815
78.0175	ex 0808 10 20 ex 0808 10 50 ex 0808 10 90	Apples	— 1 January to 31 August	730 999
78.0180			— 1 September to 31 December	32 266
78.0220	ex 0808 20 50	Pears	— 1 January to 30 April	274 921
78.0235			— 1 July to 31 December	28 009
78.0250	ex 0809 10 00	Apricots	— 1 June to 31 July	4 123
78.0265	ex 0809 20 95	Cherries, other than sour cherries	— 21 May to 10 August	32 863
78.0270	ex 0809 30	Peaches, including nectarines	— 11 June to 30 September	6 808
78.0280	ex 0809 40 05	Plums	— 11 June to 30 September	51 276'

COMMISSION REGULATION (EC) No 2247/2004

of 27 December 2004

repealing certain Regulations in the beef and veal sector and Regulation (EEC) No 3882/90 in the sheepmeat and goatmeat sector

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 Articles 28(2), 29(2), 33(12) and 41 thereof,

Having regard to Council Regulation (EC) 2529/2001 of 19 December 2001 on the common organisation of the market in sheepmeat and goatmeat [2], and in particular Articles 15 and 24 thereof,

Whereas:

(1) Regulations (EEC) No 2182/77 [3], (EEC) No 2173/79 [4], (EEC) No 2326/79 [5], (EEC) No 2539/84 [6], (EEC) No 2824/85 [7], (EC) No 2271/95 [8], (EC) No 773/96 [9], (EC) No 793/97 [10], (EC) No 1495/97 [11], (EC) No 23/2001 [12], (EC) No 252/2002 [13] and (EC) No 496/2003 [14] are not relevant anymore for the proper functioning of the common organisation of the market for beef and veal.

(2) Regulation (EEC) No 3882/90 [15] concerning the monitoring of import lamb prices is obsolete because the Commission no longer fixes levies on the import of live sheep and fresh, chilled or frozen sheepmeat. Moreover, it has been noted that the import prices provided by the Member States under this Regulation do not represent any additional added value, while they require a considerable effort and cost for the different administrations involved in the data collection and reporting. Therefore, the obligation for Member States to notify these prices should be abolished.

(3) For reasons of clarity and legal certainty it is therefore necessary to repeal the abovementioned Regulations.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulations (EEC) No 2182/77, (EEC) No 2173/79, (EEC) No 2326/79, (EEC) No 2539/84, (EEC) No 2824/85, (EEC) No 3882/90, (EC) No 2271/95, (EC) No 773/96, (EC) No 793/97, (EC) No 1495/97, (EC) No 23/2001, (EC) No 252/2002 and (EC) No 496/2003 are repealed.

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*.

[1] OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1899/2004 (OJ L 328, 30.10.2004, p. 67).
[2] OJ L 341, 22.12.2001, p. 3. Regulation as last amended by the 2003 Act of Accession.
[3] OJ L 251, 1.10.1977, p. 60. Regulation as last amended by Regulation (EC) No 2417/95 (OJ L 248, 14.10.1995, p. 39).
[4] OJ L 251, 5.10.1979, p. 12. Regulation as last amended by Regulation (EC) No 2417/95.
[5] OJ L 266, 24.10.1979, p. 5.
[6] OJ L 238, 6.9.1984, p. 13. Regulation as last amended by Regulation (EC) No 2417/95.
[7] OJ L 268, 10.10.1985, p. 14. Regulation as last amended by Regulation (EEC) No 251/93 (OJ L 28, 5.2.1993, p. 47).
[8] OJ L 231, 28.9.1995, p. 23. Regulation as amended by Regulation (EC) No 1185/98 (OJ L 164, 9.6.1998, p. 11).
[9] OJ L 104, 27.4.1996, p. 19. Regulation as last amended by Regulation (EC) No 1349/96 (OJ L 174, 12.7.1996, p. 13).
[10] OJ L 114, 1.5.1997, p. 29.
[11] OJ L 202, 30.7.1997, p. 35.
[12] OJ L 3, 6.1.2001, p. 7. Regulation as last amended by Regulation (EC) No 1840/2001 (JO L 251, 20.9.2001, p. 4).
[13] OJ L 40, 12.2.2002, p. 6.
[14] OJ L 74, 20.3.2003, p. 3.
[15] OJ L 367, 29.12.1990, p. 127. Regulation as amended by Regulation (EEC) No 3890/92 (OJ L 391, 31.12.1992, p. 51).

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

Done at Brussels, 27 December 2004.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 2248/2004

of 27 December 2004

opening and providing for the administration of a Community tariff quota for 2005 for manioc originating in Thailand

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV(6) negotiations [1], and in particular Article 1(1) thereof,

Whereas:

(1) During the World Trade Organisation multilateral trade negotiations, the Community undertook to open a tariff quota restricted to 21 million tonnes of products falling within CN codes 0714 10 10, 0714 10 91 and 0714 10 99 originating in Thailand per four-year period, with customs duty reduced to 6 %. This quota must be opened and administered by the Commission.

(2) It is necessary to keep an administration system which ensures that only products originating in Thailand may be imported under the quota. The issue of an import licence should therefore continue to be subject to the presentation of an export certificate issued by the Thai authorities, a specimen of which has been notified to the Commission.

(3) Since imports to the Community market of the products concerned have traditionally been administered on the basis of a calendar year, this system should be retained. A quota must therefore be opened for 2005.

(4) The import of products covered by CN codes 0714 10 10, 0714 10 91 and 0714 10 99 is subject to the presentation of an import licence in accordance with 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 [2] and with Commission Regulation (EC) No 1342/2003 of 28 July 2003 laying down special detailed rules for the application of the system of import and export licences for cereals and rice [3].

(5) In the light of past experience and taking into account that the Community concession provides for an overall quantity for four years with an annual maximum of 5 500 000 tonnes, it is advisable to maintain measures which, under certain conditions, either facilitate the release for free circulation of quantities of products exceeding those given in the import licences, or allow the difference between the figure given in the import licences and the smaller figure actually imported to be carried forward.

(6) In order to ensure the correct application of the agreement, a system of strict and systematic controls is needed that take account of the information given on the Thai export certificates and the Thai authorities' procedures for issuing export certificates.

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

HAS ADOPTED THIS REGULATION:

CHAPTER I

OPENING OF THE QUOTA

Article 1

1. An import tariff quota for 5 500 000 tonnes of manioc falling within CN codes 0714 10 10, 0714 10 91 and 0714 10 99 originating in Thailand is hereby opened for the period 1 January to 31 December 2005.

[1] OJ L 146, 20.6.1996, p. 1.

[2] OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1741/2004 (OJ L 311, 8.10.2004, p. 17).

[3] OJ L 189, 29.7.2003, p. 12. Regulation as last amended by Regulation (EC) No 1092/2004 (OJ L 209, 11.6.2004, p. 9).

The customs duty applicable is hereby fixed at 6 % *ad valorem*.

The serial number of the quota shall be 09.4008.

2. The products referred to in paragraph 1 shall benefit from the arrangements provided for in this Regulation on condition that they are imported under import licences issued subject to the submission of a certificate for export to the European Community issued by the Department of Foreign Trade, Ministry of Commerce, Government of Thailand, hereinafter referred to as an 'export certificate'.

CHAPTER II

EXPORT CERTIFICATES

Article 2

1. There shall be one original and at least one copy of the export certificate, to be made out on a form of which a specimen is given in the Annex.

The size of the form shall be approximately 210 × 297 millimetres. The original shall be made out on white paper having a printed yellow guilloche pattern background so as to reveal any falsification by mechanical or chemical means.

2. Export certificates shall be completed in English.

3. The original and copies of export certificates shall be completed in typescript or in handwriting. In the latter case, they must be completed in ink and in block capitals.

4. Each export certificate shall bear a pre-printed serial number; in the upper section it shall also bear a certificate number. The copies shall bear the same numbers as the original.

Article 3

1. Export certificates issued from 1 January to 31 December 2005 shall be valid for 120 days from the date of issue. The date of issue of the certificate shall be included in the period of validity of the certificate.

For the certificate to be valid, its different sections must be properly completed and duly authenticated in accordance with paragraph 2. In the 'shipped weight' section, the quantity must be written out in full and also given in figures.

2. The export certificate shall be duly authenticated when it indicates the date of issue and bears the stamp of the issuing body and the signature of the authorised person or persons.

CHAPTER III

IMPORT LICENCES

Article 4

Applications for an import licence for products falling within CN codes 0714 10 10, 0714 10 91 and 0714 10 99 originating in Thailand, drawn up in accordance with Regulations (EC) No 1291/2000 and (EC) No 1342/2003, shall be submitted to the competent authorities in the Member States accompanied by the original of the export certificate.

The original of the export certificate shall be retained by the body which issues the import licence. However, where the application for an import licence relates to only a part of the quantity indicated on the export certificate, the issuing body shall indicate on the original the quantity for which it was used and, after affixing its stamp, shall return it to the party concerned.

Only the quantity indicated under 'shipped weight' on the export certificate shall be taken into consideration for the issue of the import licence.

Article 5

Where it is found that the quantities actually unloaded in a given consignment are greater than the total figuring on the import licence or licences issued for this consignment, the competent authorities who issued the import licence or licences concerned shall, at the request of the importer, communicate to the Commission by telex or fax, case by case and as soon as possible, the number or numbers of the Thai export certificates, the number or numbers of the import licences, the excess quantity concerned and the name of the cargo vessel.

The Commission shall contact the Thai authorities so that new export certificates may be drawn up.

Until the new certificates have been drawn up, the excess quantities may not be released for free circulation under this Regulation unless new import licences are presented for the quantities concerned.

New import licences shall be issued on the terms laid down in Article 10.

Article 6

As an exception to the third subparagraph of Article 5, where it is found that the quantities actually unloaded in the case of a given delivery do not exceed the quantities covered by the import licence or licences presented by more than 2 %, the competent authorities of the Member State of release for free circulation shall, at the importer's request, authorise the release for free circulation of the surplus quantities in return for payment of a customs duty with a ceiling of 6 % *ad valorem* and the lodging by the importer of a security of an amount equal to the difference between the duty laid down in the Common Customs Tariff and the duty paid.

The security shall be released upon presentation to the competent authorities of the Member State of release for free circulation of an additional import licence for the quantities concerned. The security referred to in Article 15(2) of Regulation (EC) No 1291/2000 or Article 8 of this Regulation shall not be required for additional licences.

Additional import licences shall be issued on the terms laid down in Article 10 and on presentation of one or more new export certificates issued by the Thai authorities.

Section 20 of additional import licences shall contain one of the following entries:

— Certificado complementario, artículo 6 del Reglamento (CE) nº 2248/2004,

— Licence pro dodatečné množství, čl. 6 nařízení (ES) č. 2248/2004,

— Supplerende licens, forordning (EF) nr. 2248/2004, artikel 6,

— Zusätzliche Lizenz — Artikel 6 der Verordnung (EG) Nr. 2248/2004,

— Lisakoguse litsents, määruse (EÜ) nr 2248/2004 artikkel 6,

— Συμπληρωματικό πιστοποιητικό — Άρθρο 6 του κανονισμού (ΕΚ) αριθ. 2248/2004,

— Licence for additional quantity, Article 6 of Regulation (EC) No 2248/2004,

— Certificat complémentaire, règlement (CE) nº 2248/2004, article 6,

— Titolo complementare, regolamento (CE) n. 2248/2004 articolo 6,

— Atļauja par papildu daudzumu, Regulas (EK) Nr. 2248/2004 6. pants,

— Papildomoji licencija, Reglamento (EB) Nr. 2248/2004 6 straipsnio,

— Kiegészítő engedély, 2248/2004/EK rendelet 6. cikk,

— Aanvullend certificaat — artikel 6 van Verordening (EG) nr. 2248/2004,

— Uzupełniające pozwolenie, rozporządzenie (WE) nr 2248/2004 art. 6,

— Certificado complementar, artigo 6.º do Regulamento (CE) n.º 2248/2004,

— Dodatočné povolenie, článok 6 nariadenia (ES) č. 2248/2004,

— Dovoljenje za dodatne količine, člen 6, Uredba (ES) št. 2248/2004,

— Lisätodistus, asetus (EY) N:o 2248/2004 6 artikla,

— Kompletterande licens, artikel 6 i förordning (EG) nr 2248/2004.

Except in cases of *force majeure*, the security shall be forfeit for quantities for which an additional import licence is not presented within four months from the date of acceptance of the declaration of release for free circulation referred to in the first subparagraph. It shall be forfeit in particular for quantities for which no additional import licence has been issued under Article 10, first subparagraph.

After the competent authority has entered the quantity on the additional import licence and authenticated the entry, when the security provided for in the first subparagraph is released, the licence shall be returned to the issuing body as soon as possible.

Article 7

Applications for import licences under this Regulation may be submitted in all Member States and licences issued shall be valid throughout the Community.

The fourth indent of the first subparagraph of Article 5(1) of Regulation (EC) No 1291/2000 shall not apply to imports carried out under this Regulation.

Article 8

As an exception to Article 12 of Regulation (EC) No 1342/2003, the security relating to the import licences provided for in this Regulation shall be EUR 5 per tonne.

Article 9

1. Section 8 of applications for import licences and the licences themselves shall be marked 'Thailand'.

2. Import licences shall contain:

(a) in section 24, one of the following entries:

— Derechos de aduana limitados al 6 % *ad valorem* [Reglamento (CE) nº 2248/2004],

— Clo limitované 6 % *ad valorem* (nařízení (ES) č. 2248/2004),

— Toldsatsen begrænses til 6 % af værdien (forordning (EF) nr. 2248/2004),

— Beschränkung des Zolls auf 6 % des Zollwerts (Verordnung (EG) Nr. 2248/2004),

— Väärtuseline tollimaks piiratud 6 protsendini (määrus (EÜ) nr 2248/2004),

— Τελωνειακός δασμός κατ' ανώτατο όριο 6 % κατ' αξία [κανονισμός (ΕΚ) αριθ. 2248/2004],

— Customs duties limited to 6 % *ad valorem* (Regulation (EC) No 2248/2004),

— Droits de douane limités a 6 % *ad valorem* [règlement (CE) nº 2248/2004],

— Dazi doganali limitati al 6 % *ad valorem* [regolamento (CE) n. 2248/2004],

— Muitas nodokļi nepārsniedz 6 % *ad valorem* (Regula (EK) Nr. 2248/2004),

— Muito mokestis neviršija 6 % ad valorem (Reglamentas (EB) Nr. 2248/2004),

— Mérsékelt, 6 %-os értékvám (2248/2004/EK rendelet),

— Douanerechten beperkt tot 6 % ad valorem (Verordening (EG) nr. 2248/2004),

— Należności celne ograniczone do 6 % ad valorem (Rozporządzenie (WE) nr 2248/2004),

— Direitos aduaneiros limitados a 6 % *ad valorem* [Regulamento (CE) n.º 2248/2004],

— Dovozné clo so stropom 6 % *ad valorem* (Nariadenie (ES) č 2248/2004),

— Omejitev carinskih dajatev na 6 % *ad valorem* (Uredba (ES) št. 2248/2004),

— Arvotulli rajoitettu 6 prosenttiin (asetus (EY) N:o 2248/2004),

— Tullsatsen begränsad till 6 % av värdet (förordning (EG) nr 2248/2004);

(b) in section 20, the following information:

(i) the name of the cargo vessel as given in the Thai export certificate,

(ii) the number and date of the Thai export certificate.

3. The import licence shall be accepted in support of a declaration of release for free circulation only if it is shown, in particular by a copy of the bill of lading presented by the party concerned, that the products for which release for free circulation is requested have been transported to the Community by the vessel referred to in the import licence.

4. Subject to Article 6 of this Regulation, and as an exception to Article 8(4) of Regulation (EC) No 1291/2000, the quantity released for free circulation may not exceed that shown in sections 17 and 18 of the import licence. The figure 0 shall be entered to that effect in section 19 of the said licence.

Article 10

Import licences shall be issued on the fifth working day following the day on which the application is lodged, except where the Commission informs the competent authorities of the Member State by telex or fax that the conditions laid down in this Regulation have not been fulfilled.

At the request of the party concerned, and following communication of the Commission's agreement by telex or fax, the import licence may be issued within a shorter period.

Where the conditions governing the issue of the import licence have not been complied with, the Commission may, where necessary, and following consultation with the Thai authorities, adopt appropriate measures.

Article 11

As an exception to Article 6 of Regulation (EC) No 1342/2003, the last day of the period of validity of the import licence shall correspond to the last day of the period of validity of the corresponding export certificate plus 30 days.

Article 12

1. The Member States shall notify the Commission each day by telex or fax of the following information concerning each import licence application:

(a) the quantity for which each import licence is requested, with the indication, where appropriate, 'additional import licence';

(b) the name of the applicant for the import licence;

(c) the number of the export certificate submitted, as indicated in the upper section of the certificate;

(d) the date of issue of the export certificate;

(e) the total quantity for which the export certificate was issued;

(f) the name of the exporter indicated on the export certificate.

2. No later than the end of the first six months of 2006, the authorities responsible for issuing import licences shall send the Commission, by telex or fax, a complete list of quantities not taken up as endorsed on the back of the import licences, the name of the cargo vessel and the numbers of the export certificates in question.

CHAPTER IV

FINAL PROVISIONS

Article 13

This Regulation shall enter into force on 1 January 2005.

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

Done at Brussels, 27 December 2004.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANEXO — PŘÍLOHA — BILAG — ANHANG — LISA — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO — PIELIKUMS — PRIEDAS — MELLÉKLET — BIJLAGE — ZAŁĄCZNIK — ANEXO — PRÍLOHA — PRILOGA — LIITE — BILAGA

SERIAL No

ORIGINAL

DEPARTMENT OF FOREIGN TRADE

MINISTRY OF COMMERCE
GOVERNMENT OF THAILAND

EXPORT CERTIFICATE SUBJECT TO REGULATION (EC) No 2248/2004

SPECIAL FORM FOR PRODUCTS FALLING WITHIN CN CODES 0714 10 10, 0714 10 91, 0714 10 99

EXPORT CERTIFICATE No	
EXPORT PERMIT No	

1. EXPORTER (NAME, ADDRESS AND COUNTRY)		2. FIRST CONSIGNEE (NAME, ADDRESS AND COUNTRY)	
NAME		NAME	
ADDRESS		ADDRESS	
COUNTRY		COUNTRY	
3. SHIPPED PER		4. COUNTRY/COUNTRIES OF DESTINATION IN EU	

5. TYPE OF MANIOC PRODUCTS	6. WEIGHT (TONNES)	7. PACKING
☐ CN CODE 0714 10 10	SHIPPED WEIGHT	☐ IN BULK
☐ CN CODE 0714 10 91		☐ ..... BAGS
☐ CN CODE 0714 10 99	ESTIMATED NET WEIGHT	☐ OTHERS

WE HEREBY CERTIFY THAT THE ABOVEMENTIONED PRODUCTS ARE PRODUCED IN AND ARE EXPORTED FROM THAILAND

DEPARTMENT OF FOREIGN TRADE

DATE

.....
NAME AND SIGNATURE OF AUTHORISED OFFICIAL AND STAMP

THIS CERTIFICATE IS VALID FOR 120 DAYS FROM THE DATE OF ISSUE

FOR USE BY EU AUTHORITIES:

COMMISSION REGULATION (EC) No 2249/2004

of 27 December 2004

amending Regulation (EC) No 686/2004 laying down transitional measures concerning producer organisations in the market for fresh fruit and vegetables by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia,

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

Whereas:

(1) Article 4 of Commission Regulation (EC) No 686/2004 [1] provides for the possibility of transitional operational programmes for producer organisations in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

(2) Article 16(1) of Commission Regulation (EC) No 1433/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operational funds, operational programmes and financial assistance [2] provides that operational programmes shall be implemented in annual periods running from 1 January to 31 December. However, the implementation of operational programmes can only commence after the competent national authorities have approved them. Consequently, the transitional operational programmes should be able to have a duration of a few months in 2004, and a full 12-month-period in 2005. Provisions concerning the calculation of the reference period and the aid due for the transitional operational programmes should therefore be provided for.

(3) It should be clarified that aid is due for the part of the transitional operational programme that is carried out in 2004, but only for its actual length, calculated pro rata from the day of its approval.

(4) Regulation (EC) No 686/2004 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

In Regulation (EC) No 686/2004, Article 4 is amended as follows:

1. in paragraph 3, the following subparagraph is added:

'By way of derogation from Article 16(1) of Regulation (EC) No 1433/2003, in 2004, the operational programmes shall run from their date of approval by the competent national authorities until 31 December 2004.'

2. the following paragraph 4a is inserted:

'4a. By way of derogation from Article 4(1) of Regulation (EC) No 1433/2003, for the application for aid for 2004, the value of marketed production during the reference period shall be multiplied by the number of days from the date of the approval of the operational programme to 31 December 2004 (both days included), and divided by 366.'

Article 2

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

[1] OJ L 106, 15.4.2004, p. 10.
[2] OJ L 203, 12.8.2003, p. 25. Regulation as last amended by Regulation (EC) No 1813/2004 (OJ L 319, 20.10.2004, p. 5).

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

Done at Brussels, 27 December 2004.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 2250/2004

of 27 December 2004

amending Regulations (EEC) No 429/90, (EC) No 2571/97, (EC) No 174/1999, (EC) No 2771/1999, (EC) No 2799/1999, (EC) No 214/2001, (EC) No 580/2004, (EC) No 581/2004 and (EC) No 582/2004 as regards the time limits for the submission of tenders and for the communication to the Commission

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 Articles 10, 15 and 31 thereof,

Whereas:

(1) The following Regulations set provisions on tendering procedures concerning time limits both for tenderers to present their offers to the competent authorities and for the Member States to communicate the offers to the Commission:

— Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community [2],

— Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs [3],

— Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream [4],

— Commission Regulation (EC) No 2799/1999 of 17 December 1999 laying down detailed rules for applying Regulation (EC) No 1255/1999 as regards the grant of aid for skimmed milk and skimmed-milk powder intended for animal feed and the sale of such skimmed-milk powder [5],

— Commission Regulation (EC) No 214/2001 of 12 January 2001 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in skimmed-milk powder [6],

— Commission Regulation (EC) No 580/2004 of 26 March 2004 establishing a tender procedure concerning export refunds for certain milk products [7],

— Commission Regulation (EC) No 581/2004 of 26 March 2004 opening a standing invitation to tender for export refunds concerning certain types of butter [8], and

— Commission Regulation (EC) No 582/2004 of 26 March 2004 opening a standing invitation to tender for export refunds concerning skimmed milk powder [9].

(2) In order to ensure a smooth functioning of the tender systems, notably allowing the relevant competent authorities and the Commission services sufficient time to deal with the data related to each tender, it is appropriate to advance the time limits for the operators to lodge the bids and for competent authorities to communicate the data to the Commission.

[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 45, 21.2.1990, p. 8. Regulation as last amended by Regulation (EC) No 921/2004 (OJ L 163, 30.4.2004, p. 94).
[3] OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 921/2004.
[4] OJ L 333, 24.12.1999, p. 11. Regulation as last amended by Regulation (EC) No 1932/2004 (OJ L 333, 9.11.2004, p. 4).
[5] OJ L 340, 31.12.1999, p. 3. Regulation as last amended by Regulation (EC) No 1992/2004 (OJ L 344, 20.11.2004, p. 11).
[6] OJ L 37, 7.2.2001, p. 100. Regulation as last amended by Regulation (EC) No 1838/2004 (OJ L 322, 23.10.2004, p. 3).
[7] OJ L 90, 27.3.2004, p. 58.
[8] OJ L 90, 27.3.2004, p. 64.
[9] OJ L 90, 27.3.2004, p. 67.

(3) In order to minimise the risk for speculation created by the anticipation of the submission of the bids in respect of the tender procedure as provided for in Regulations (EC) No 581/2004 and (EC) No 582/2004, prefixation of export refunds as provided for in Commission Regulation (EC) No 174/1999 of 26 January 1999 laying down special detailed rules for application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case of milk and milk products [1] should not be possible after the closing date for submission of tenders.

(4) Regulations (EEC) No 429/90, (EC) No 2571/97, (EC) No 174/1999, (EC) No 2771/1999, (EC) No 2799/1999, (EC) No 214/2001, (EC) No 580/2004, (EC) No 581/2004 and (EC) No 582/2004 should therefore be amended accordingly.

(5) 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 3 of Regulation (EEC) No 429/90 is amended as follows:

1. Paragraph 2 is replaced by the following:

'2. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August and the fourth Tuesday of December. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

2. The following paragraph 4 is added:

'4. On the closing date referred to in Article 3(2), the Member States shall inform the Commission of the quantities and prices offered by tenderers.

If no offers have been submitted Member States communicate this to the Commission within the same delay.'

Article 2

Article 14 of Regulation (EC) No 2571/97 is amended as follows:

1. Paragraph 2 is replaced by the following:

'2. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August and the fourth Tuesday of December. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

2. The following paragraph 3 is added:

'3. On the closing date referred to in Article 14(2), the Member States shall inform the Commission of the quantities and prices offered by tenderers.

If no offers have been submitted Member States communicate this to the Commission within the same delay if butter is available for sale in the Member State concerned.'

Article 3

In Article 1 of Regulation (EC) No 174/1999, the third paragraph is replaced by the following:

'3. Licence applications for all the products referred to in Article 1(1) of Council Regulation (EC) No 1255/1999 (*) which, within the meaning of Article 17 of Commission Regulation (EC) No 1291/2000 (**), were lodged on the Wednesday and the Thursday following the end of each tendering period referred to in Article 2(2) of Commission Regulation (EC) No 581/2004 (***) and in Article 2(2) of Commission Regulation (EC) No 582/2004 (****) shall be deemed to have been submitted on the working day following that Thursday.

[1] OJ L 20, 27.1.1999, p. 8. Regulation as last amended by Regulation (EC) No 1846/2004 (OJ L 322, 23.10.2004, p. 16).

(*) OJ L 160, 26.6.1999, p. 48.
(**) OJ L 152, 24.6.2000, p. 1.
(***) OJ L 90, 27.3.2004, p. 64.
(****) OJ L 90, 27.3.2004, p. 67.'.

Article 4

Regulation (EC) No 2771/1999 is amended as follows:

1. In Article 16, paragraph 3 is replaced by the following:

'3. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

2. In Article 17b, paragraph 1 is replaced by the following:

'1. On the closing date referred to in Article 16(3), the Member States shall inform the Commission of the quantities and prices offered by tenderers.

If no offers have been submitted Member States communicate this to the Commission within the same delay.'

3. In Article 22, paragraph 2 is replaced by the following:

'2. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August and the fourth Tuesday of December. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

4. In Article 24a, paragraph 1 is replaced by the following:

'1. On the closing date referred to in Article 22(2), the Member States shall inform the Commission of the quantities and prices offered by tenderers and the quantity of butter offered for sale.

If no offers have been submitted Member States communicate this to the Commission within the same delay if butter is available for sale in the Member State concerned.'

Article 5

Regulation (EC) No 2799/1999 is amended as follows:

1. In Article 27, paragraph 2 is replaced by the following:

'2. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August and the fourth Tuesday of December. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

2. In Article 30(1), the following subparagraph is added:

'If no offers have been submitted Member States communicate this to the Commission within the same delay if skimmed-milk powder is available for sale in the Member State concerned.'

Article 6

Regulation (EC) No 214/2001 is amended as follows:

1. In Article 14, paragraph 2 is replaced by the following:

'2. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

2. In Article 17, paragraph 1 is replaced by the following:

'1. On the closing date referred to in Article 14(2), the Member States shall inform the Commission of the quantities and prices offered by tenderers.

If no offers have been submitted Member States communicate this to the Commission within the same delay.'

3. In Article 22, paragraph 2 is replaced by the following:

'2. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August and the fourth Tuesday of December. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

4. In Article 24a(1), the third subparagraph is replaced by the following:

'If no offers have been submitted Member States communicate this to the Commission within the same delay if skimmed-milk powder is available for sale in the Member State concerned.'

Article 7

The first subparagraph of Article 4(2) of Regulation (EC) No 580/2004 is replaced by the following:

'All valid tenders shall be communicated to the Commission by the Member States in the form specified in the Annex, without mentioning the tenderers by name, within three hours of the end of each tendering period.'

Article 8

In Article 2 of Regulation (EC) No 581/2004, paragraph 2 is replaced by the following:

'2. Each tendering period shall begin at 13.00 (Brussels time) on the first and third Tuesday of the month except the first Tuesday in August and the third Tuesday in December. If Tuesday is a public holiday, the period shall begin at 13.00 (Brussels time) on the following working day.

Each tendering period shall end at 13.00 (Brussels time) on the second and the fourth Tuesday of the month, except on the second Tuesday in August and on the fourth Tuesday in December. If Tuesday is a public holiday the period shall end at 13.00 (Brussels time) on the previous working day.'

Article 9

In Article 2 of Regulation (EC) No 582/2004, paragraph 2 is replaced by the following:

'2. Each tendering period shall begin at 13.00 (Brussels time) on the first and third Tuesday of the month except the first Tuesday in August and the third Tuesday in December. If Tuesday is a public holiday, the period shall begin at 13.00 (Brussels time) on the following working day.

Each tendering period shall end at 13.00 (Brussels time) on the second and the fourth Tuesday of the month, except on the second Tuesday in August and on the fourth Tuesday in December. If Tuesday is a public holiday the period shall end at 13.00 (Brussels time) on the previous working day.'

Article 10

This Regulation shall enter into force on the third day following 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, 27 December 2004.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 2251/2004

of 27 December 2004

amending the import duties in the cereals sector applicable from 28 December 2004

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],

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector [2], and in particular Article 2(1) thereof,

Whereas:

(1) The import duties in the cereals sector are fixed by Commission Regulation (EC) No 2142/2004 [3].

(2) Article 2(1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by EUR 5 per tonne from the duty fixed, a corresponding adjustment is to be made. Such a difference has arisen. It is therefore necessary to adjust the import duties fixed in Regulation (EC) No 2142/2004,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 2142/2004 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 28 December 2004.

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

Done at Brussels, 27 December 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

---

[1] OJ L 270, 29.9.2003, p. 78.

[2] OJ L 161, 29.6.1996, p. 125. Regulation as last amended by Regulation (EC) No 1110/2003 (OJ L 158, 27.6.2003, p. 12).

[3] OJ L 369, 16.12.2004, p. 55. Regulation as amended by Regulation (EC) No 2215/2004 (OJ L 374, 22.12.2004, p. 61).

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EC) No 1784/2003 applicable from 28 December 2004

CN code	Description	Import duty [1] (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	9,66
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	Common high quality wheat other than for sowing	0,00
1002 00 00	Rye	47,57
1005 10 90	Maize seed other than hybrid	52,37
1005 90 00	Maize other than seed [2]	52,37
1007 00 90	Grain sorghum other than hybrids for sowing	47,57

[1] For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:
— EUR 3/t, where the port of unloading is on the Mediterranean Sea, or
— EUR 2/t, where the port of unloading is in Ireland, the United Kingdom, Denmark, Estonia, Latvia, Lithuania, Poland, Finland, Sweden or the Atlantic coasts of the Iberian peninsula.

[2] The importer may benefit from a flat-rate reduction of EUR 24/t, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

period from 15.12.2004-23.12.2004

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Exchange quotations	Minneapolis	Chicago	Minneapolis	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2 (14 %)	YC3	HAD2	Medium quality (*)	Low quality (**)	US barley 2
Quotation (EUR/t)	109,43 (***)	59,79	147,01	137,01	117,01	78,13
Gulf premium (EUR/t)	—	11,13	—			—
Great Lakes premium (EUR/t)	23,12	—	—			—

(*) A discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).
(**) A discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).
(***) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight/cost: Gulf of Mexico–Rotterdam: 31,79 EUR/t; Great Lakes–Rotterdam: 46,26 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)
0,00 EUR/t (SRW2).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 29 November 2004

on the signing of the Agreement between the European Community and the Republic of San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments and the approval and signing of the accompanying Memorandum of Understanding

(2004/903/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 94 in conjunction with the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) On 16 October 2001, the Council authorised the Commission to negotiate with the Republic of San Marino an appropriate agreement for securing the adoption by the Republic of San Marino of measures equivalent to those to be applied within the Community to ensure effective taxation of savings income in the form of interest payments.

(2) The text of the Agreement which is the result of the negotiations duly reflects the negotiating directives issued by the Council. It is accompanied by a Memorandum of Understanding between the European Community and its Member States, and the Republic of San Marino.

(3) Subject to the adoption at a later date of a Decision on the conclusion of the Agreement, it is desirable to sign the two documents that were initialled on 12 July 2004 and have confirmation of the Council approval of the Memorandum of Understanding,

HAS DECIDED AS FOLLOWS:

Article 1

Subject to the adoption at a later date of a Decision on the conclusion of the Agreement between the European Community and the Republic of San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments, the President of the Council is hereby authorised to designate the persons empowered to sign, on behalf of the Community, the Agreement and the accompanying Memorandum of Understanding and the Letters from the European Community which have to be exchanged in accordance with Article 21(2) of the Agreement and the last paragraph of the Memorandum of Understanding.

The Memorandum of Understanding is approved by the Council.

The texts of the Agreement and of the Memorandum of Understanding are attached to this Decision.

Article 2

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

Done at Brussels, 29 November 2004.

For the Council
The President
L. J. BRINKHORST

AGREEMENT

between the European Community and the Republic of San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments

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

and

THE REPUBLIC OF SAN MARINO, hereinafter referred to as San Marino,

both hereinafter referred to as 'Contracting Party' or 'Contracting Parties',

HAVE AGREED AS FOLLOWS:

Article 1

Aim

1. The purpose of this Agreement between the Community and San Marino is to consolidate and extend the existing close relations between the two Contracting Parties by establishing measures equivalent to those laid down in the Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments made to beneficial owners, individuals, resident for tax purposes in a Member State of the European Community, hereinafter referred to as the Directive.

2. San Marino shall take the necessary measures and specifically provide for provisions on procedures and penalties, to ensure that the tasks necessary for the implementation of this Agreement are carried out by paying agents established within its territory, irrespective of the place of establishment of the debtor of the debt-claim producing the interest.

Article 2

Definition of beneficial owner

1. For the purposes of this Agreement, 'beneficial owner' shall mean any individual who receives an interest payment or any individual for whom an interest payment is secured, unless such individual provides evidence that it was not received or secured for his or her own benefit, that is to say that:

(a) he or she acts as a paying agent within the meaning of Article 4, or

(b) he or she acts on behalf of a legal person, an investment fund or a comparable or equivalent body for common investments in securities, or

(c) he or she acts on behalf of another individual who is the beneficial owner and discloses to the paying agent the identity of that beneficial owner in accordance with Article 3.

2. Where a paying agent has information suggesting that the individual who receives an interest payment or for whom an interest payment is secured may not be the beneficial owner, and where neither paragraph 1(a) nor 1(b) applies to that individual, that agent shall take reasonable steps to establish the identity of the beneficial owner in accordance with Article 3. If the paying agent is unable to identify the beneficial owner, that agent shall treat the individual in question as the beneficial owner.

Article 3

Identity and residence of beneficial owners

In order to establish the identity and residence of the beneficial owner as defined in Article 2, the paying agent shall keep a record of the family name, the first name and the data concerning the address and residence status in accordance with the Republic of San Marino Law against usury and money-laundering. For contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January 2004, for individuals presenting a passport or official identity card issued by a Member State of the European Union, hereinafter referred to as 'Member State', who declare themselves to be resident in a State other than a Member State or San Marino, residence shall be established by means of a tax residence certificate issued by the competent authority of the State in which the individual claims to be resident. Failing the presentation of such a certificate, the Member State which issued the passport or other official identity document shall be considered the State of residence.

Article 4

Definition of paying agent

For the purposes of this Agreement, 'paying agent' in San Marino shall mean banks under San Marino banking law, as well as economic operators including natural and legal persons resident or established in San Marino, partnerships and permanent establishments of foreign companies, which, even occasionally, accept, hold, invest or transfer assets of third parties or merely pay or secure interests in the course of their business.

Article 5

Definition of competent authority

1. For the purposes of this Agreement the 'competent authorities of the Contracting Parties' shall mean those listed in Annex I.

2. The 'competent authorities of States not included in the Contracting Parties' shall mean those authorities of such States which are competent for the purposes of bilateral or multilateral conventions, or, failing that, which are competent to issue certificates of residence for tax purposes.

Article 6

Definition of interest payment

1. For the purposes of this Agreement, 'interest payment' means:

(a) interest paid, or credited to an account, relating to debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures; penalty charges for late payments shall not be regarded as interest payments;

(b) interest accrued or capitalised at the sale, refund or redemption of the debt-claims referred to in (a);

(c) income deriving from interest payments either directly or through an entity referred to in Article 4(2) of the Directive, distributed by:

(i) undertakings for collective investment or comparable or equivalent bodies for common investments in securities established within the territories referred to in Article 19,

(ii) an entity domiciled in a Member State, which exercises the option under Article 4(3) of the Directive and informs the paying agent of this fact,

(iii) undertakings for collective investment or comparable or equivalent bodies for common investment in securities established outside the territories referred to in Article 19;

(d) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities, if they invest directly or indirectly via other undertakings for collective investment or entities referred to below more than 40 % of their assets in debt-claims as referred to in (a):

(i) undertakings for collective investment or comparable or equivalent bodies for common investments in securities established within the territories referred to in Article 19,

(ii) an entity domiciled in a Member State, which exercises the option under Article 4(3), of the Directive and informs the paying agent of this fact,

(iii) undertakings for collective investment or comparable or equivalent bodies for common investment in securities established outside the territories referred to in Article 19.

However, San Marino shall have the option of including income mentioned under (d) in the definition of interest only to the extent that such income corresponds to gains directly or indirectly deriving from interest payments within the meaning of (a) and (b).

2. As regards paragraphs 1(c) and (d), when a paying agent has no information concerning the proportion of the income which derives from interest payments, the total amount of the income shall be considered an interest payment.

3. As regards paragraph 1(d), when a paying agent has no information concerning the percentage of the assets invested in debt-claims or in shares or units as defined in that paragraph, that percentage shall be considered to be above 40 %. Where that agent cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.

4. As regards paragraphs 1(b) and (d), San Marino shall have the option of requiring paying agents in its territory to annualise the interest over a period of time which may not exceed one year, and treating such annualised interest as an interest payment even if no sale, redemption or refund occurs during that period.

5. By way of derogation from paragraphs 1(c) and (d), San Marino shall have the option of excluding from the definition of interest payment any income referred to in those paragraphs from undertakings or entities established within its territory where the investment in debt-claims referred to in paragraph 1(a) of such entities has not exceeded 15 % of their assets.

The exercise of such option by San Marino, once notified to the other Contracting Party, shall be binding on both Contracting Parties.

6. The percentage referred to in paragraph 1(d) and paragraph 3 shall after 31 December 2010 be 25 %.

7. The percentages referred to in paragraph 1(d) and in paragraph 5 shall be determined by reference to the investment policy as laid down in the fund rules or instruments of incorporation of the undertakings or entities concerned and, failing which, by reference to the actual composition of the assets of the undertakings or entities concerned.

Article 7

Withholding tax

1. Where the beneficial owner is resident in a Member State, San Marino shall levy a withholding tax at a rate of 15 % during the first three years from the date of application of this Agreement, 20 % for the subsequent three years and 35 % thereafter.

2. The paying agent shall levy withholding tax as follows:

(a) in the case of an interest payment within the meaning of Article 6(1)(a): on the amount of interest paid or credited;

(b) in the case of an interest payment within the meaning of Article 6(1)(b) or (d): on the amount of interest or income referred to in those paragraphs or by a levy of equivalent effect to be borne by the recipient on the full amount of the proceeds of the sale, redemption or refund;

(c) in the case of an interest payment within the meaning of Article 6(1)(c): on the amount of income referred to in that paragraph;

(d) where San Marino exercises the option under Article 6(4): on the amount of annualised interest.

3. For the purposes of paragraph 2(a) and (b), withholding tax is levied pro rata to the period of holding of the debt-claim by the beneficial owner. When the paying agent is unable to determine the period of holding on the basis of information in its possession, it shall treat the beneficial owner as having held the debt-claim throughout its period of existence unless he provides evidence of the date of acquisition.

4. Taxes other than that provided for in this Agreement on the same interest payment, and in particular the withholding taxes levied by San Marino on San Marino's source interest income, shall be credited against the amount of the withholding tax calculated in accordance with this Article.

5. The imposition of withholding tax by the paying agent located in the Republic of San Marino shall not preclude the Member State of residence for tax purposes of the beneficial owner from taxing the income in accordance with its domestic law. In cases where a taxpayer declares his or her interest income obtained from a paying agent located in San Marino to the tax authorities in the Member State of his or her residence, that interest income shall be subject to taxation there at the same rates as those applied to interest earned domestically.

Article 8

Revenue sharing

1. San Marino shall retain 25 % of its revenue from the withholding tax referred to in Article 7 and transfer 75 % of the revenue to the Member State of residence of the beneficial owner of the interest payment.

2. Such transfers shall take place in one instalment per Member State at the latest within a period of six months following the end of the tax year of San Marino.

3. San Marino shall take the necessary measures to ensure the proper functioning of the revenue sharing system.

Article 9

Voluntary disclosure

1. San Marino shall provide for a procedure which allows the beneficial owner as defined in Article 2 to avoid the withholding tax referred to in Article 7 by expressly authorising his paying agent established in San Marino to report the interest payments to the competent authority of that State. Such authorisation shall cover all interest payments made to, or secured for the immediate benefit of, the beneficial owner by that paying agent.

2. The minimum amount of information to be reported by the paying agent in case of express authorisation by the beneficial owner shall consist of:

(a) the identity and residence of the beneficial owner established in accordance with Article 3 of this Agreement, supplemented, when available, by the tax identification number allocated by the Member State where the beneficial owner has his or her residence;

(b) the name and address of the paying agent;

(c) the account number of the beneficial owner or, where there is none, identification of the debt-claim giving rise to the interest, and

(d) the amount of the interest payment established in accordance with Article 6 of this Agreement.

3. The competent authority of San Marino shall communicate the information referred to in paragraph 2 to the competent authority of the Member State of residence of the beneficial owner. Such communications shall be automatic and shall take place at least once a year, within six months following the end of the tax year in San Marino, for all interest payments made during that year.

Article 10

Elimination of double taxation

1. The Member State of residence for tax purposes of the beneficial owner shall ensure the elimination of any double taxation which might result from the imposition of the withholding tax referred to in Article 7, in accordance with the provisions of paragraphs 2 and 3.

2. If interest received by a beneficial owner has been subject to the withholding tax referred to in Article 7 in San Marino, the Member State of residence for tax purposes of the beneficial owner shall grant him or her a tax credit equal to the amount of the tax withheld, in accordance with its national law. Where this amount exceeds the amount of tax due in accordance with its national law on the total amount of the interest payment which has been subject to the withholding tax referred to in Article 7, the Member State of residence for tax purposes of the beneficial owner shall repay to him or her the excess amount of tax withheld.

3. If, in addition to the withholding tax referred to in Article 7, interest received by a beneficial owner has been subject to any other type of withholding tax and the Member State of residence for tax purposes of the beneficial owner grants a tax credit for such withholding tax in accordance with its national law or double taxation conventions, such other withholding tax shall be credited before the procedure in paragraph 2 is applied.

4. The Member State of residence for tax purposes of the beneficial owner may replace the tax credit mechanism referred to in paragraphs 2 and 3 by a refund of the withholding tax referred to in Article 7.

Article 11

Transitional provisions for negotiable debt securities

1. From the date of application of this Agreement for as long as at least one Member State also applies similar provisions, and until 31 December 2010 at the latest, domestic and international bonds and other negotiable debt securities which were first issued before 1 March 2001 or for which the original issuing prospectuses were approved before that date by the authorities which are competent for this purpose in the issuing State shall not be considered as debt-claims within the meaning of Article 6(1)(a), provided that no further issues of such negotiable debt securities are made on or after 1 March 2002.

However, for as long as at least one Member State also applies provisions similar to those of Article 7 of this Agreement the provisions of this Article shall continue to apply beyond 31 December 2010 in respect of such negotiable debt securities:

— which contain gross-up and early redemption clauses, and

— where the paying agent, as defined in Article 4, is established in San Marino, and

— where that paying agent pays interest directly to, or secures the payment of interest for the immediate benefit of, a beneficial owner resident in a Member State.

If and when all Member States cease to apply provisions similar to those of Article 7 of this Agreement, the provisions of this Article shall continue to apply only in respect of those negotiable securities:

— which contain gross-up and early redemption clauses, and

— where the issuer's paying agent is established in San Marino, and

— where that paying agent pays interest directly to, or secures the payment of interest for the immediate benefit of, a beneficial owner resident in a Member State.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by a Government or a related entity acting as a public authority or whose role is recognised by an international Agreement (listed in Annex II to this Agreement), the entire issue of such a security, consisting of the original issue and any further issue shall be considered a debt-claim within the meaning of Article 6(1)(a).

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by any other issuer not covered by the fourth subparagraph, such further issue shall be considered a debt-claim within the meaning of Article 6(1)(a).

2. This Article shall not prevent San Marino and the Member States from continuing to levy a tax on revenues deriving from the aforementioned negotiable debt-claims in paragraph 1 in accordance with their national law.

Article 12

Other withholding taxes — Relationships with other agreements

1. This Agreement shall not preclude the parties from levying other types of withholding tax than that referred to in this Agreement in accordance with their national laws or double taxation conventions.

2. The provisions of the double taxation conventions between San Marino and the Member States shall not prevent the levying of the withholding tax for which this Agreement provides.

Article 13

Exchange of information on request

1. The competent authorities of San Marino and of any Member State shall exchange information on conduct constituting tax fraud under the laws of the requested State, or the like for income covered by this Agreement. 'The like' only includes offences with the same level of wrongfulness as is the case for tax fraud under the laws of the requested State, resulting in any prejudice for the taxation interests of the requesting State. In response to a duly justified request, the requested State shall provide information with respect to the conduct that the requesting State is investigating, or may investigate, on a criminal or non-criminal basis.

2. In determining whether information may be provided in response to a request, the requested State shall apply the statute of limitations applicable under the laws of the requesting State.

3. The requested State shall provide information where the requesting State has a reasonable suspicion that the conduct would constitute tax fraud or the like. The requesting State's reasonable suspicion of tax fraud or the like may be based on:

(a) documents, whether authenticated or not, and including but not limited to business records, books of account, or bank account information;

(b) testimonial information from the taxpayer;

(c) information obtained from an informant or other third person that has been independently corroborated or is otherwise likely to be credible; or

(d) circumstantial evidence.

4. The competent authority of the requesting State shall provide the following elements to the competent authority of the requested State when making a request for information under this Agreement to demonstrate the foreseeable relevance of the information to the request:

(a) the identity of the person under examination or investigation;

(b) a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State;

(c) the tax purpose for which the information is sought;

(d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;

(e) to the extent known, the name and address of any person believed to be in possession of the requested information;

(f) a statement that the request is in conformity with the law and administrative practices of the requesting State, that if the requested information was within the jurisdiction of the requesting State then the competent authority of the requesting State would be able to obtain the information under the laws of the requesting State or the normal course of administrative practice and that it is in conformity with this Agreement;

(g) a statement that the requesting State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

5. The competent authority of the requested State shall forward the requested information as promptly as possible to the requesting State.

6. San Marino shall enter into bilateral negotiations with each of the Member States in order to define individual categories of cases falling under 'the like' in accordance with the procedure of taxation applied by those States.

Article 14

Confidentiality

Any information received by a Contracting Party under this Agreement shall be treated as confidential and may be disclosed only to persons or authorities (including courts and administrative bodies) in the jurisdiction of the Contracting Party concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement. Such persons or authorities shall use such information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The information may not be disclosed to any other person or entity or authority or any other jurisdiction without the express written consent of the competent authority of the requested Party.

Article 15

Consultation and review

1. If any disagreement arises between the competent authority of San Marino and one or more of the other competent authorities listed in Annex I as to the interpretation or application of this Agreement, they shall endeavour to resolve this by mutual agreement. They shall immediately notify the Commission of the European Communities and the competent authorities of the other Member States of the results of their consultations. In relation to issues of interpretation the Commission may take part in consultations at the request of any of the competent authorities listed in Annex I.

2. The Contracting Parties shall consult each other at least every three years or at the request of either Contracting Party with a view to examining and, if deemed necessary by the Contracting Parties, improving the technical functioning of the Agreement and assessing international developments. The consultations shall be held within one month of the request or as soon as possible in urgent cases.

3. On the basis of such an assessment, the Contracting Parties may consult each other in order to examine whether changes to the Agreement are necessary taking into account international developments.

4. As soon as sufficient experience of the full implementation of this Agreement is available, the Contracting Parties shall consult each other in order to examine whether changes to this Agreement are necessary taking into account international developments.

5. For the purposes of the consultations referred to in paragraphs 1, 2 and 3, the Contracting Parties shall inform each other of possible developments which could impact on the proper functioning of this Agreement. This shall also include any relevant agreement between one of the Contracting Parties and a third State.

Article 16

Signing, entry into force and termination

1. This Agreement requires ratification or approval by the Contracting Parties in accordance with their own procedures. The Contracting Parties shall notify each other of the completion of these procedures. The Agreement shall enter into force on the first day of the second month following the last notification.

2. Subject to the fulfilment of its constitutional requirements concerning entering into international agreements and without prejudice to Article 17, San Marino shall effectively implement and apply this Agreement as from 1 July 2005 and notify the Community thereof.

3. This Agreement shall remain in force until terminated by a Contracting Party.

4. Either Contracting Party may terminate this Agreement by giving notice to the other. In such a case, the Agreement shall cease to have effect twelve months after the serving of notice.

Article 17

Application and suspension of application

1. The application of this Agreement shall be conditional on the adoption and implementation by the dependent or associated territories of the Member States mentioned in the report of the Council (Economic and Financial Affairs) to the European Council of Santa Maria da Feira of 19 and 20 June 2000, as well as by the United States of America, the Swiss Confederation, Andorra, Liechtenstein, and Monaco, respectively, of measures which conform with or are equivalent to those contained in the Directive or in this Agreement.

2. The Contracting Parties shall decide, by common accord, at least six months before the date referred to in Article 16(2), whether the condition set out in the above paragraph will be met having regard to the dates of entry into force of the relevant measures in the third States and dependent or associated territories concerned. If the Contracting Parties do not decide that the condition will be met, they shall, by common accord, adopt a new date for the purposes of Article 16(2).

3. The application of this Agreement or parts thereof may be suspended by either Contracting Party with immediate effect through notification to the other should the Directive or part of the Directive cease to be applicable either temporarily or permanently in accordance with Community law or in the event that a Member State should suspend the application of its implementing legislation.

4. Either Contracting Party may suspend the application of this Agreement through notification to the other in the event that one of the third States or territories referred to in paragraph 1 should subsequently cease to apply the measures referred to in that paragraph. Suspension of application shall take place no earlier than two months after notification. Application of this Agreement shall resume as soon as the measures are reinstated.

Article 18

Claims and final settlement

1. Should this Agreement be terminated or its application be suspended either in full or in part, the claims of individuals in accordance with Article 10 shall remain unaffected.

2. San Marino will, in such case, establish a final account by the end of the period of applicability of this Agreement and make a final payment to the Member States.

Article 19

Territorial scope

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of San Marino.

Article 20

Annexes

1. The Annexes shall form an integral part of this Agreement.

2. The list of competent authorities in Annex I may be amended simply by notification of the other Contracting Party by San Marino for the authority referred to in (a) therein, and by the Community for the other authorities.

The list of related entities in Annex II may be amended by mutual agreement.

Article 21

Languages

1. This Agreement shall be drawn in duplicate in Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish, each of these texts being equally authentic.

2. The Maltese language version shall be authenticated by the Contracting Parties on the basis of an Exchange of Letters. It shall also be authentic, in the same way as for the language versions referred to in paragraph 1.

EN FE DE LO CUAL, los plenipotenciarios abajo firmantes suscriben el presente Acuerdo.

NA DŮKAZ ČEHOŽ připojili níže podepsaní zplnomocnění zástupci k této smlouvě své podpisy.

TIL BEKRÆFTELSE HERAF har undertegnede befuldmægtigede underskrevet denne aftale.

ZU URKUND DESSEN haben die unterzeichneten Bevollmächtigten ihre Unterschriften unter dieses Abkommen gesetzt.

SELLE KINNITUSEKS on täievolilised esindajad käesolevale lepingule alla kirjutanud.

ΣΕ ΠΙΣΤΩΣΗ ΤΩΝ ΑΝΩΤΕΡΩ, οι υπογράφοντες πληρεξούσιοι έθεσαν την υπογραφή τους κάτω από την παρούσα συμφωνία.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have hereunto set their hands.

EN FOI DE QUOI, les plénipotentiaires soussignés ont apposé leurs signatures au bas du présent accord.

IN FEDE DI CHE, i plenipotenziari sottoscritti hanno apposto la propria firma in calce al presente accordo.

TO APLIECINOT, attiecīgi pilnvarotas personas ir parakstījušas šo nolīgumu.

TAI PALIUDYDAMI, šį Susitarimą pasirašė toliau nurodyti įgaliotieji atstovai.

FENTIEK HITELÉÜL e megállapodást az alulírott meghatalmazottak alább kézjegyükkel látták el.

B'XIEHDA TA' DAN, il-Plenipotenzjari hawn taht iffirmati ffirmaw dan il-Ftehim.

TEN BLIJKE WAARVAN de ondergetekende gevolmachtigden hun handtekening onder deze overeenkomst hebben geplaatst.

W DOWÓD CZEGO, niżej podpisani pełnomocnicy złożyli swoje podpisy.

EM FÉ DO QUE, os plenipotenciários abaixo assinados apuserem as suas assinaturas no final do presente Acordo.

NA DÔKAZ ČOHO dolupodpísaní splnomocnení zástupcovia podpísali túto dohodu.

V POTRDITEV TEGA so spodaj podpisani pooblaščenci podpisali ta sporazum.

TÄMÄN VAKUUDEKSI allamainitut täysivaltaiset edustajat ovat allekirjoittaneet tämän sopimuksen.

TILL BEVIS HÄRPÅ har undertecknade befullmäktigade undertecknat detta avtal.

Hecho en Bruselas, el siete de diciembre del dos mil cuatro.

V Bruselu dne sedmého prosince dva tisíce čtyři.

Udfærdiget i Bruxelles den syvende december to tusind og fire.

Geschehen zu Brüssel am siebten Dezember zweitausendundvier.

Kahe tuhande neljanda aasta detsembrikuu seitsmendal päeval Brüsselis.

Έγινε στις Βρυξέλλες, στις εφτά Δεκεμβρίου δύο χιλιάδες τέσσερα.

Done at Brussels on the seventh day of December in the year two thousand and four.

Fait à Bruxelles, le sept décembre deux mille quatre.

Fatto a Bruxelles, addì sette dicembre duemilaquattro.

Briselē, divi tūkstoši ceturtā gada septītajā decembrī.

Pasirašyta du tūkstančiai ketvirtų metų gruodžio septintą dieną Briuselyje.

Kelt Brüsszelben, a kettőezer negyedik év december hetedik napján.

Magħmul fi Brussel fis-seba' jum ta' Diċembru tas-sena elfejn u erbgħa.

Gedaan te Brussel, de zevende december tweeduizendvier.

Sporządzono w Brukseli dnia siódmego grudnia roku dwutysięcznego czwartego.

Feito em Bruxelas, em sete de Dezembro de dois mil e quatro.

V Bruseli siedmeho decembra dvetisícštyri.

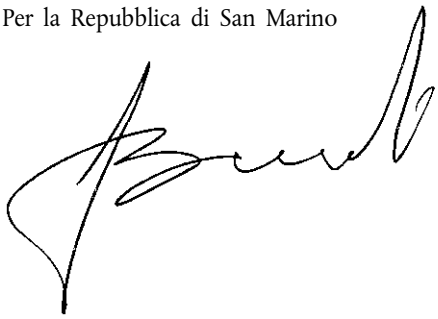
V Bruslju, dne sedmega decembra leta dva tisoč štiri.

Tehty Brysselissä seitsemäntenä päivänä joulukuuta vuonna kaksituhattaneljä.

Som skedde i Bryssel den sjunde december tjugohundrafyra.

Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
az Európai Közösség részéről
Għall-Komunità Ewropea
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Za Európske spoločenstvo
za Evropsko skupnost
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar

Per la Repubblica di San Marino



ANNEX I

LIST OF COMPETENT AUTHORITIES OF THE CONTRACTING PARTIES

The competent authorities for the purposes of this Agreement are:

(a) in the Republic of San Marino: Il Segretario di Stato per le Finanze e il Bilancio or an authorised representative;

(b) in the Kingdom of Belgium: De Minister van Financiën/Le Ministre des Finances or an authorised representative;

(c) in the Czech Republic: Ministr financí or an authorised representative;

(d) in the Kingdom of Denmark: Skatteministeren or an authorised representative;

(e) in the Federal Republic of Germany: Der Bundesminister der Finanzen or an authorised representative;

(f) in Republic of Estonia: Rahandusminister or an authorised representative;

(g) in the Hellenic Republic: Ο Υπουργός Οικονομίας και Οικονομικών or an authorised representative;

(h) in the Kingdom of Spain: El Ministro de Economía y Hacienda or an authorised representative;

(i) in the French Republic: Le Ministre chargé du budget or an authorised representative;

(j) in Ireland: The Revenue Commissioners or their authorised representative;

(k) in the Italian Republic: Il Capo del Dipartimento per le Politiche Fiscali or an authorised representative;

(l) in the Republic of Cyprus: Υπουργός Οικονομικών or an authorised representative;

(m) in the Republic of Latvia: Finanšu ministrs or an authorised representative;

(n) in the Republic of Lithuania: Finansų ministras or an authorised representative;

(o) in the Grand Duchy of Luxembourg: Le Ministre des Finances or an authorised representative; however for the purposes of Article 13 the competent authority shall be 'le Procureur Général d'Etat luxemburgeois';

(p) in the Republic of Hungary: A pénzügyminiszter or an authorised representative;

(q) in the Republic of Malta: Il-Ministru responsabbli għall-Finanzi or an authorised representative;

(r) in the Kingdom of the Netherlands: De Minister van Financiën or an authorised representative;

(s) in the Republic of Austria: Der Bundesminister für Finanzen or an authorised representative;

(t) in the Republic of Poland: Minister Finansów or an authorised representative;

(u) in the Portuguese Republic: O Ministro das Finanças or an authorised representative;

(v) in the Republic of Slovenia: Minister za finance or an authorised representative;

(w) in the Slovak Republic: Minister financií or an authorised representative;

(x) in the Republic of Finland: Valtiovarainministeriö/Finansministeriet or an authorised representative;

(y) in the Kingdom of Sweden: Chefen för Finansdepartementet or an authorised representative;

(z) in the United Kingdom of Great Britain and Northern Ireland and in the European territories for whose external relations the United Kingdom is responsible: the Commissioners of Inland Revenue or their authorised representative and the competent authority in Gibraltar, which the United Kingdom will designate in accordance with the Agreed Arrangements relating to Gibraltar authorities in the context of EU and EC instruments and related treaties notified to the Member States and institutions of the European Union of 19 April 2000, a copy of which shall be notified to the Republic of San Marino by the Secretary-General of the Council of the European Union, and which shall apply to this Agreement.

ANNEX II

LIST OF RELATED ENTITIES

For the purposes of Article 11 of this Agreement, the following entities will be considered to be a '*related entity acting as a public authority or whose role is recognised by an international treaty*':

ENTITIES WITHIN THE EUROPEAN UNION:

Belgium

— Vlaams Gewest (Flemish Region)'

— Région wallonne (Walloon Region)

— Région bruxelloise/Brussels Gewest (Brussels Region) Communauté française (French Community)

— Vlaamse Gemeenschap (Flemish Community)

— Deutschsprachige Gemeinschaft (German-speaking Community)

Spain

— Xunta de Galicia (Regional Executive of Galicia)

— Junta de Andalucía (Regional Executive of Andalusia)

— Junta de Extremadura (Regional Executive of Extremadura)

— Junta de Castilla-La Mancha (Regional Executive of Castilla-La Mancha)

— Junta de Castilla-León (Regional Executive of Castilla-León)

— Gobierno Foral de Navarra (Regional Government of Navarre)

— Govern de les Illes Balears (Government of the Balearic Islands)

— Generalitat de Catalunya (Autonomous Government of Catalonia)

— Generalitat de Valencia (Autonomous Government of Valencia)

— Diputación General de Aragón (Regional Council of Aragon)

— Gobierno de las Islas Canarias (Government of the Canary Islands)

— Gobierno de Murcia (Government of Murcia)

— Gobierno de Madrid (Government of Madrid)

— Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Government of the Autonomous Community of the Basque Country)

— Diputación Foral de Guipúzcoa (Regional Council of Guipúzcoa)

— Diputación Foral de Vizcaya/Bizkaia (Regional Council of Vizcaya)

— Diputación Foral de Alava (Regional Council of Alava)

— Ayuntamiento de Madrid (City Council of Madrid)

— Ayuntamiento de Barcelona (City Council of Barcelona)

— Cabildo Insular de Gran Canaria (Island Council of Gran Canaria)

— Cabildo Insular de Tenerife (Island Council of Tenerife)

— Instituto de Crédito Oficial (Public Credit Institution)

— Instituto Catalán de Finanzas (Finance Institution of Catalonia)

— Instituto Valenciano de Finanzas (Finance Institution of Valencia)

Greece

— Οργανισμός Τηλεπικοινωνιών Ελλάδος (National Telecommunications Organisation)

— Οργανισμός Σιδηροδρόμων Ελλάδος (National Railways Organisation)

— ημόσια Επιχείρηση Ηλεκτρισμού (Public Electricity Company)

France

— La Caisse d'amortissement de la dette sociale (CADES)(Social Debt Redemption Fund)

— L'Agence française de développement (AFD)(French Development Agency)

— Réseau Ferré de France (RFF)(French Rail Network)

— Caisse Nationale des Autoroutes (CNA)(National Motorways Fund)

— Assistance publique Hôpitaux de Paris (APHP)(Paris Hospitals Public Assistance)

— Charbonnages de France (CDF)(French Coal Board)

— Entreprise minière et chimique (EMC)(Mining and Chemicals Company)

Italy

— Regions

— Provinces

— Municipalities

— Cassa Depositi e Prestiti (Deposits and Loans Fund)

Latvia

— Pašvaldības (Local governments)

Poland

— gminy (communes)

— powiaty (districts)

— województwa (provinces)

— związki gmin (associations of communes)

— związki powiatów (association of districts)

— związki województw (association of provinces)

— miasto stołeczne Warszawa (capital city of Warsaw)

— Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Restructuring and Modernisation of Agriculture)

— Agencja Nieruchomości Rolnych (Agricultural Property Agency)

Portugal

— Região Autónoma da Madeira (Autonomous Region of Madeira)

— Região Autónoma dos Açores (Autonomous Region of Azores)

— Municipalities

Slovakia

— mestá a obce (municipalities)

— Železnice Slovenskej republiky (Slovak Railway Company)

— Štátny fond cestného hospodárstva (State Road Management Fund)

— Slovenské elektrárne (Slovak Power Plants)

— Vodohospodárska výstavba (Water Economy Building Company)

INTERNATIONAL ENTITIES:

— European Bank for Reconstruction and Development

— European Investment Bank

— Asian Development Bank

— African Development Bank

— World Bank/IBRD/IMF

— International Finance Corporation

— Inter-American Development Bank

— Council of Europe Social Development Fund

— Euratom

— European Community

— Corporación Andina de Fomento (CAF) (Andean Development Corporation)

— Eurofima

— European Coal & Steel Community

— Nordic Investment Bank

— Caribbean Development Bank

The provisions of Article 11 are without prejudice to any international obligations that the Contracting Parties may have entered into with respect to the abovementioned international entities.

ENTITIES IN THIRD COUNTRIES:

The entities that meet the following criteria:

1. the entity is clearly considered to be a public entity according to the national criteria;
2. such public entity is a non-market producer which administers and finances a group of activities, principally providing non-market goods and services, intended for the benefit of the community and which are effectively controlled by general government;
3. such public entity is a large and regular issuer of debt;
4. the State concerned is able to guarantee that such public entity will not exercise early redemption in the event of gross-up clauses.

MEMORANDUM OF UNDERSTANDING

between the European Community, the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland and the Republic of San Marino

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

THE KINGDOM OF BELGIUM,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

THE REPUBLIC OF MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

AND

THE REPUBLIC OF SAN MARINO, hereinafter referred to as 'San Marino',

HAVE AGREED AS FOLLOWS:

When an Agreement providing for measures equivalent to those laid down in the Council Directive 2003/48/EC of 3 June 2003 on the taxation of savings income in the form of interest payments, hereinafter 'the Directive', was concluded, the European Community, the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland and the Republic of San Marino signed this Memorandum of Understanding supplementing this Agreement.

1. The signatories to this Memorandum of Understanding consider that the Agreement between San Marino and the Community providing for measures equivalent to those laid down in the Directive is a balanced and acceptable agreement protecting the interests of both Contracting Parties. Consequently, they shall apply in good faith the measures agreed and shall refrain from taking any unilateral action which might jeopardise this Agreement without reasonable cause. If a serious discrepancy is discovered between the scope of the Directive as adopted on 3 June 2003 and that of the Agreement, in particular with regard to Articles 4 and 6 of the latter, the Contracting Parties shall consult each other forthwith in accordance with Article 15(1) of the Agreement to ensure that the equivalent nature of the measures provided for by the Agreement is safeguarded. The signatories to this Memorandum of Understanding note that the definition of tax fraud for the purposes of Article 13 of the Agreement concerns only needs relating to the taxation of savings within the framework of this Agreement and is without prejudice to developments and/or decisions relating to tax fraud under other circumstances and in other forums.

2. During the transitional period provided for in the Directive, the Community shall enter into discussions with other important financial centres with a view to promoting the adoption by those jurisdictions of measures equivalent to those to be applied by the Community.

3. Considering that San Marino wishes to be further integrated in the European economic environment, and that it considers its full participation in the European banking and financial system as therefore appropriate and desirable, San Marino and the Community shall enter into consultations as soon as possible with a view to identifying the conditions for reaching a mutual recognition of the prudential measures and systems of the respective Parties on financial services, including insurance. In this context, San Marino, in order to preserve the proper functioning of the internal market in the sectors in question, undertakes to adopt and implement, in the relevant business sectors, the relevant existing, and future, *acquis communautaire,* including the relevant prudential rules and the supervision of the San Marino operators concerned. Any possible Agreement in this field may also provide that San Marino undertakes to implement other relevant Community rules, both current and those to be introduced in future, for example in matters of competition and taxation.

4. In this context of deepening relations, the conclusion of fiscal agreements with Member States of the European Union, hereinafter referred to as 'Member States', and San Marino's commitment to provide, within this framework, for information exchange in accordance with the standards of the OECD would enhance wider economic and tax cooperation. Recognising the efforts made by San Marino, consultations could take place between San Marino and the Member States with the objective of eliminating or reducing, on a bilateral basis, double taxation in relation to different forms of income.

5. The Community and San Marino shall also enter into consultations with a view to:

   — defining forms for simplifying the procedures laid down in their Agreement on Customs Union and Cooperation. In this regard, San Marino is ready to adopt computerised procedures even similar to the Intrastat system;

   — better exploring the existing possibilities for nationals and enterprises from the San Marino to participate in research and development Community programmes and activities.

Drawn up at Brussels on 7 December 2004 in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.

The Maltese language version shall be authenticated by the signatories on the basis of an Exchange of Letters. It shall also be authentic, in the same way as for the language versions referred to in the preceding paragraph.

Pour le Royaume de Belgique
Voor het Koninkrijk België
Für das Königreich Belgien

Za Českou republiku

På Kongeriget Danmarks vegne

Für die Bundesrepublik Deutschland

Eesti Vabariigi nimel

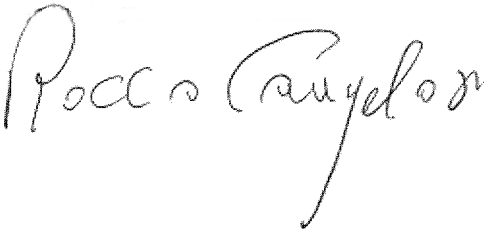
Για την Ελληνική Δημοκρατία

Por el Reino de España

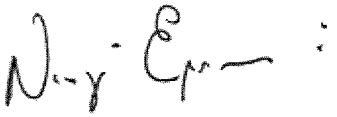
Pour la République française

Thar cheann Na hÉireann
For Ireland

Per la Repubblica italiana

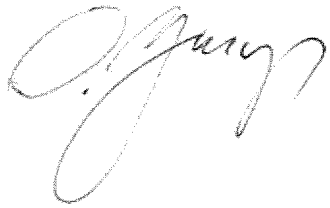


Για την Κυπριακή Δημοκρατία,



Latvijas Republikas vārdā

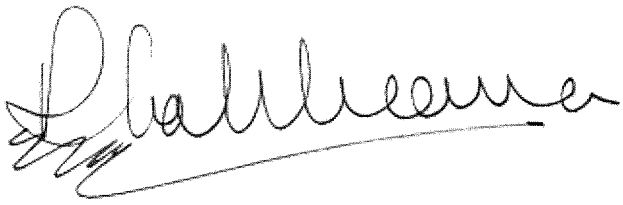
Lietuvos Respublikos vardu



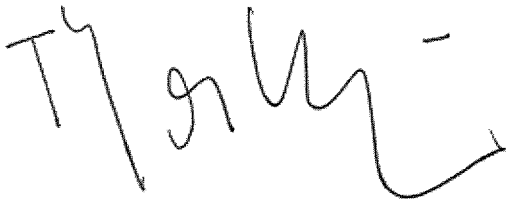
Pour le Grand-Duché de Luxembourg

A Magyar Köztársaság részéről

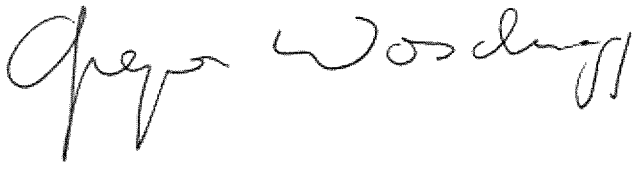
Ghar-Republikka ta' Malta



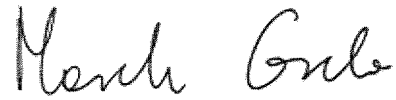
Voor het Koninkrijk der Nederlanden



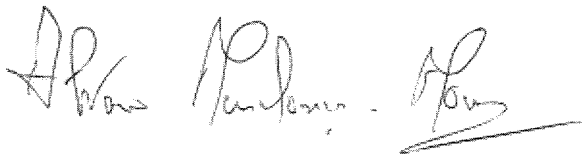
Für die Republik Österreich



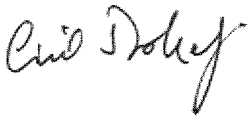
W imieniu Rzeczypospolitej Polskiej



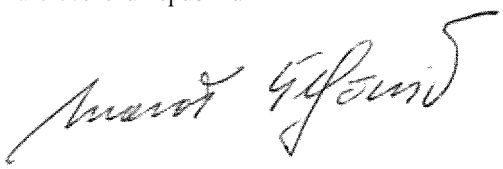
Pela República Portuguesa



Za Republiko Slovenijo

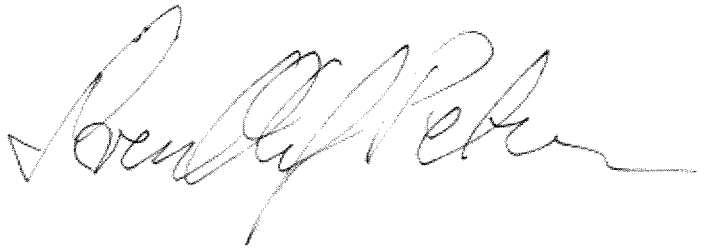


Za Slovenskú republiku

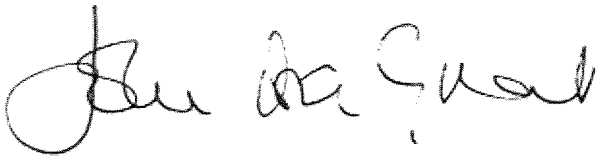


Suomen tasavallan puolesta
För Republiken Finland

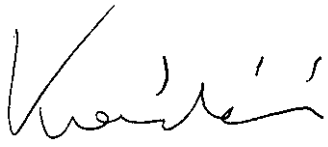
För Konungariket Sverige



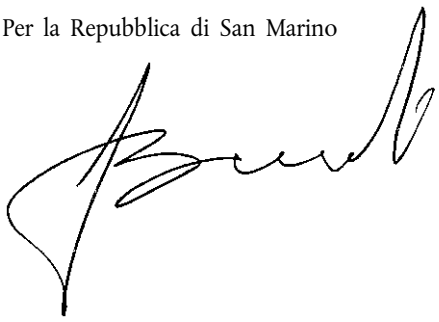
For the United Kingdom of Great Britain and Northern Ireland



Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
az Európai Közösség részéről
Għall-Komunità Ewropea
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Za Európske spoločenstvo
za Evropsko skupnost
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar



Per la Repubblica di San Marino



COUNCIL DECISION

of 2 December 2004

establishing the European Refugee Fund for the period 2005 to 2010

(2004/904/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63(2)(b) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Having regard to the opinion of the European Economic and Social Committee [2],

After consulting the Committee of the Regions,

Whereas:

(1) A common policy on asylum, including a Common European Asylum System, is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the European Union.

(2) Implementation of this policy should be based on solidarity between Member States and requires the existence of mechanisms to promote a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons. To that end, a European Refugee Fund was established for the period 2000 to 2004 by Decision 2000/596/EC [3].

(3) It is necessary to establish a European Refugee Fund (the Fund) for the period 2005 to 2010 to ensure continued solidarity between Member States in the light of recently adopted Community legislation in the field of asylum, taking account of the experience acquired when implementing the first phase of the Fund for the period 2000 to 2004.

(4) It is necessary to support the efforts made by Member States to grant appropriate reception conditions to refugees and displaced persons and to apply fair and effective asylum procedures so as to protect the rights of persons requiring international protection.

(5) The integration of refugees into the society of the country in which they are established is one of the objectives of the Geneva Convention of 28 July 1951 relating to the Status of Refugees, as supplemented by the New York Protocol of 31 January 1967. Such persons must be enabled to share the values set out in the Charter of Fundamental Rights of the European Union. To this end, there should be support for action by Member States to promote their social, economic and cultural integration in so far as it contributes to economic and social cohesion, the maintenance and strengthening of which is one of the Community's fundamental objectives provided for by Articles 2 and 3(1)(k) of the Treaty.

(6) It is in the interests of both Member States and the persons concerned that refugees and displaced persons who are allowed to stay in the territory of the Member States should be given the opportunity to provide for themselves by working in accordance with the provisions of the related Community instruments.

(7) Since measures supported by the Structural Funds and other Community measures in the field of education and vocational training are not in themselves sufficient to promote such integration, support should be given for special measures to enable refugees and displaced persons to benefit fully from the programmes which are organised.

(8) Practical support is needed to create or improve conditions enabling refugees and displaced persons to take an informed decision to leave the territory of the Member States and return home, should they so wish.

(9) Action involving bodies of two or more Member States and action of Community interest in this field should be eligible for support by the Fund, and exchanges between Member States should be encouraged with a view to identifying and promoting the most effective practices.

[1] Opinion delivered on 20 April 2004 (not yet published in the Official Journal).
[2] OJ C 241, 28.9.2004, p. 27.
[3] OJ L 252, 6.10.2000, p. 12.

(10) A financial reserve should be established for the implementation of emergency measures to provide temporary protection in the event of a mass influx of refugees pursuant to Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [1].

(11) With a view to establishing financial solidarity in an effective and proportionate way and taking account of the experience acquired when the Fund was implemented between 2000 and 2004, the Commission's responsibilities and those of the Member States for the implementation and management of the Fund should be delineated. Member States should designate appropriate national authorities for that purpose, the duties of which should be set out.

(12) The support provided by the Fund will be more efficient and better targeted if co-financing of eligible actions is based on two multiannual programmes and on an annual work programme drawn up by each Member State taking into account its situation and needs.

(13) It is fair to allocate resources proportionately to the burden on each Member State by reason of its efforts in receiving refugees and displaced persons, including refugees enjoying international protection within the framework of national programmes.

(14) 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].

(15) Efficient monitoring is one way of ensuring that the actions supported by the Fund are effective. The conditions governing monitoring should be determined.

(16) Without prejudice to the Commission's responsibilities for financial control, cooperation between Member States and the Commission should be established in that regard.

(17) Member States should provide sufficient guarantees as regards arrangements for implementation and quality of execution. The responsibility of Member States for pursuing and correcting irregularities and infringements, and the responsibility of the Commission where Member States do not comply with their obligations, should be specified.

(18) The effectiveness and impact of actions supported by the Fund also depend on their evaluation. The responsibilities of Member States and the Commission in this regard, and arrangements to ensure the reliability of evaluation, should be clearly defined.

(19) Actions should be evaluated with a view to a mid-term review and assessment of their impact, and the evaluation process should be incorporated into project-monitoring arrangements.

(20) Since the objective of this Decision, namely to promote a balance of effort between Member States in receiving refugees and displaced persons, cannot 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 Decision does not go beyond what is necessary to achieve this objective.

(21) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom has notified its wish to take part in the adoption and application of this Decision.

(22) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Ireland has notified its wish to take part in the adoption and application of this Decision.

(23) 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 Decision and is not bound by it nor subject to its application,

[1] OJ L 212, 7.8.2001, p. 12.
[2] OJ L 184, 17.7.1999, p. 23.

HAS ADOPTED THIS DECISION:

CHAPTER I

OBJECTIVES AND TASKS

Article 1

Establishment and objectives

1. This Decision establishes the European Refugee Fund (the Fund) for the period from 1 January 2005 to 31 December 2010.

2. The purpose of the Fund shall be to support and encourage the efforts made by the Member States in receiving and bearing the consequences of receiving refugees and displaced persons, taking account of Community legislation in these matters by co-financing the actions provided for by this Decision.

Article 2

Financial provisions

1. The financial reference amount for the implementation of the Fund from 1 January 2005 to 31 December 2006 shall be EUR 114 million.

2. The annual appropriations for the Fund shall be authorised by the budgetary authority within the limits of the financial perspectives.

Article 3

Groups targeted by the actions

For the purposes of this Decision the target groups shall comprise the following categories:

1. any third-country nationals or stateless persons having the status defined by the Geneva Convention of 28 July 1951 relating to the Status of Refugees and the 1967 protocol thereto and who are permitted to reside as refugees in one of the Member States;

2. any third-country nationals or stateless persons enjoying a form of subsidiary protection within the meaning of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted [1];

3. any third-country nationals or stateless persons who have applied for one of the forms of protection described in points 1 and 2;

4. any third-country nationals or stateless persons enjoying temporary protection within the meaning of Directive 2001/55/EC.

Article 4

Actions

1. The Fund shall support actions in Member States relating to one or more of the following:

(a) reception conditions and asylum procedures;

(b) integration of persons referred to in Article 3 whose stay in the Member State is of a lasting and stable nature;

(c) voluntary return of persons referred to in Article 3, provided they have not acquired a new nationality and have not left the territory of the Member State.

2. Actions provided for by paragraph 1 shall, in particular, promote the implementation of the provisions of the relevant existing and future Community legislation in the field of the common European asylum system.

3. Actions shall take account of the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.

Article 5

Eligible national actions relating to reception Conditions and asylum procedures

Actions relating to reception conditions and asylum procedures, and in particular the following, shall be eligible for support from the Fund:

(a) accommodation infrastructure or services;

(b) provision of material aid and medical or psychological care;

(c) social assistance, information or help with administrative formalities;

(d) legal aid and language assistance;

(e) education, language training and other initiatives which are consistent with the status of the person;

[1] OJ L 304, 30.9.2004, p. 12.

(f) the provision of support services such as translation and training to help improve reception conditions and the efficiency and quality of asylum procedures;

(g) information for local communities who will be interacting with those being received in the host country.

Article 6

Eligible national actions relating to integration

Actions relating to integration into Member States' society of persons referred to in Article 4(1)(b) and members of their family, and in particular the following, shall be eligible for support from the Fund:

(a) advice and assistance in areas such as housing, means of subsistence, integration into the labour market, medical, psychological and social care;

(b) actions enabling recipients to adapt to the society of the Member State in socio-cultural terms, and to share the values enshrined in the Charter of Fundamental Rights of the European Union;

(c) actions to promote durable and sustainable participation in civil and cultural life;

(d) measures focusing on education, vocational training, recognition of qualifications and diplomas;

(e) actions designed to promote self-empowerment and to enable these persons to provide for themselves;

(f) actions that promote meaningful contact and constructive dialogue between these persons and the receiving society, including actions which promote the involvement of key partners such as the general public, local authorities, refugee associations, voluntary groups, social partners and the broader civil society;

(g) measures to support the acquisition of skills by these persons, including language training;

(h) actions that promote both equality of access and equality of outcomes in relation to these persons' dealings with public institutions.

Article 7

Eligible national actions relating to voluntary return

Actions relating to voluntary return, and in particular the following, shall be eligible for support from the Fund:

(a) information and advisory services concerning voluntary return initiatives or programmes;

(b) information on the situation in the country or region of origin or former habitual residence;

(c) general or vocational training and help with reintegration;

(d) action by communities of origin resident in the European Union to facilitate the voluntary return of the persons referred to in this Decision;

(e) actions which facilitate the organisation and implementation of national voluntary return programmes.

Article 8

Community actions

1. In addition to the projects provided for by Articles 5, 6 and 7, at the Commission's initiative, up to 7 % of the Fund's available resources may be used to finance transnational actions or actions of interest to the Community as a whole concerning asylum policy and measures applicable to refugees and displaced persons as referred to in paragraph 2.

2. Eligible Community actions essentially concern the following areas:

(a) the furthering of Community cooperation in implementing Community law and good practices;

(b) support for the setting-up of transnational cooperation networks and pilot projects based on transnational partnerships between bodies located in two or more Member States designed to stimulate innovation, facilitate exchanges of experience and good practice and improve the quality of asylum policy;

(c) support for transnational awareness-raising campaigns on European asylum policy and the situation and circumstances of the persons referred to in Article 3;

(d) support for dissemination and exchange of information, including the use of IT and communications technology, on best practices and all other aspects of the Fund.

3. The annual work programme laying down the priorities for Community actions shall be adopted in accordance with the procedure referred to in Article 11(2).

Article 9

Emergency measures

1. In the event of temporary protection mechanisms within the meaning of Directive 2001/55/EC being implemented, the Fund shall also finance measures to help the Member States, such measures being separate from, and in addition to, the actions referred to in Article 4.

2. Eligible emergency measures shall concern the following types of action:

(a) reception and accommodation;

(b) provision of means of subsistence, including food and clothing;

(c) medical, psychological or other assistance;

(d) staff and administration costs linked to the reception of persons concerned and implementation of measures;

(e) logistical and transport costs.

CHAPTER II

IMPLEMENTATION AND MANAGEMENT PROVISIONS

Article 10

Implementation

The Commission shall be responsible for implementing this Decision and shall adopt such implementing rules as may be necessary.

Article 11

Committee procedure

1. The Commission shall be assisted by a Committee.

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 three months.

3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.

4. The Committee shall adopt its rules of procedure.

Article 12

Respective responsibilities of the Commission and the Member States

1. The Commission shall:

(a) adopt guidelines, in accordance with the procedure referred to in Article 11(2), for the priorities of the multiannual programmes provided for by Article 15 and shall notify the Member States of the indicative financial allocations for the Fund;

(b) ensure, as part of its responsibility for executing the general budget of the European Union, that appropriate management and control systems are in place in the Member States and that they operate smoothly, so as to guarantee that Community funds are used properly and effectively. These measures shall include documentary and on-the-spot checks carried out on a prior basis on implementation procedures, control systems, accounting procedures and the procurement and grant allocation procedures followed by the responsible authorities. The Commission shall review procedures or systems whenever substantial changes are made;

(c) implement the Community actions provided for by Article 8.

2. Member States shall:

(a) be responsible for implementing national actions supported by the Fund;

(b) take the measures needed for the effective operation of the Fund at national level, and involving all those concerned by asylum policy in accordance with national practice;

(c) appoint a responsible authority to manage national projects supported by the Fund in accordance with the applicable Community legislation and the principle of sound financial management;

(d) be responsible in the first instance for financial control of actions and ensure that management systems and checks are implemented in such a way as to guarantee that Community funds are used properly and effectively. They shall provide the Commission with a description of these systems;

(e) certify that the declarations of expenditure submitted to the Commission are accurate and shall ensure that they result from accounting systems based on verifiable supporting documents;

(f) cooperate with the Commission for the collection of the statistics needed for the implementation of Article 17.

3. In cooperation with the Member States, the Commission shall:

(a) assume responsibility for disseminating the results of actions undertaken during the 2000 to 2004 phase of the Fund and of those to be implemented in the 2005 to 2010 phase;

(b) ensure that appropriate information, publicity and follow-up are provided for actions supported by the Fund;

(c) ensure that actions are cohesive with, and complementary to, other relevant Community policies, instruments and initiatives.

Article 13

Responsible authorities

1. Each Member State shall appoint a responsible authority which shall handle all communication with the Commission. The authority shall be a functional body of the Member State or a national public body. The responsible authority may delegate some or all of its implementation tasks to another public administration or a private-law body governed by the law of the Member State and which has a public-service mission. Where the Member State designates a responsible authority other than itself, it shall lay down all the arrangements governing its relations with the said authority and the latter's relations with the Commission.

2. The body designated as the responsible authority or any delegated authority shall meet the following minimum conditions:

(a) it shall have legal personality, except where it is a functional body of the Member State;

(b) it shall have a financial and management capacity commensurate with the volume of Community funds which it will be called upon to manage and allowing it to carry out its tasks correctly, in accordance with the rules governing the management of Community funds.

3. The responsible authorities' tasks shall include the following:

(a) consulting with appropriate partners to establish the multiannual programme;

(b) organising and advertising calls for tenders and proposals;

(c) organising selection and award procedures for co-financing by the Fund in accordance with the principles of transparency and equal treatment, and taking all necessary measures to avoid any possible conflict of interests;

(d) ensuring consistency and complementarity between co-financing under the Fund and from other relevant national and Community financial instruments;

(e) administrative, contractual and financial management of actions;

(f) information and advisory activities, as well as dissemination of results;

(g) monitoring and evaluation;

(h) cooperation and liaison with the Commission and the responsible authorities in the other Member States.

4. Member States shall provide the responsible authority or any delegated authority with adequate resources so that it can continue to carry out its tasks properly throughout the period of implementation of actions financed by the Fund. The implementation activities may be financed under the technical and administrative assistance arrangements referred to in Article 18.

5. Acting in accordance with the procedure referred to in Article 11(2), the Commission shall adopt rules concerning the Member States' management and control systems, including rules for the administrative and financial management of national projects co-financed by the Fund.

Article 14

Selection criteria

The responsible authority shall select projects on the basis of the following criteria:

(a) the situation and requirements in the Member State;

(b) the cost-effectiveness of the expenditure, in view of the number of persons concerned by the project;

(c) the experience, expertise, reliability and financial contribution of the organisation applying for funding and any partner organisation;

(d) the extent to which the projects complement other action funded by the general budget of the European Union or as part of national programmes.

CHAPTER III

PROGRAMMES

Article 15

Multiannual programmes

1. Actions in the Member States shall be implemented on the basis of two multiannual programme phases, each lasting three years (2005 to 2007 and 2008 to 2010).

2. For each programme phase, on the basis of guidelines for the priorities of the multiannual programmes and indicative financial allocations provided by the Commission and provided for by Article 12(1)(a), each Member State shall propose a draft multiannual programme which includes the following elements:

(a) a description of the current situation in the Member State as regards arrangements for reception, asylum procedures, integration and voluntary return of the persons covered by Article 3;

(b) an analysis of requirements in the Member State in question in terms of reception, asylum procedures, integration and voluntary return and an indication of operational objectives designed to meet these requirements during the period covered by the programme;

(c) presentation of an appropriate strategy to achieve these objectives and the priority attached to their attainment, taking account of the consultation of the partners provided for in Article 13(3)(a), and a brief description of the actions envisaged to implement the priorities;

(d) an indication of whether this strategy is compatible with other regional, national and Community instruments;

(e) an indicative financing plan which sets out, for each priority and each year, the Fund's proposed financial contribution and the overall amount of public or private co-financing.

3. Member States shall submit their draft multiannual programme no more than four months after the Commission has provided the guidelines and indicative financial allocations for the period in question.

4. Acting in accordance with the procedure referred to in Article 11(3), the Commission shall approve the draft multiannual programmes within three months of their receipt, in the light of the recommendations in the guidelines adopted pursuant to Article 12(1)(a).

Article 16

Annual programmes

1. The multiannual programmes approved by the Commission shall be implemented by means of annual work programmes.

2. No later than 1 July each year, the Commission shall provide Member States with an estimate of the amounts to be allocated to them for the following year from the total appropriations allocated under the annual budgetary procedure, calculated as provided by Article 17.

3. No later than 1 November each year, Member States shall submit to the Commission a draft annual programme for the following year, drawn up in accordance with the approved multiannual programme and including:

(a) the general rules for selection of projects to be financed under the annual programme if these differ from the modalities laid down in the multiannual programme;

(b) a description of the tasks to be carried out by the responsible authority when implementing the annual programme;

(c) the proposed financial breakdown of the Fund's contribution between the programme's various actions and an indication of the amount requested to cover technical and administrative assistance under Article 18 for the purpose of implementing the annual programme.

4. When examining the Member State's proposal, the Commission shall take account of the final amount of the appropriations allocated to the Fund under the budgetary procedure and shall adopt the decision on co-financing from the Fund no later than 1 March of the year in question. The decision shall indicate the amount allocated to the Member State and the period for which the expenditure is eligible.

5. In the event of significant changes affecting the implementation of the annual programme which imply a transfer of funds between actions exceeding 10 % of the total amount allocated to a Member State for the year in question, the Member State shall submit for the Commission's approval a revised annual programme at the latest at the time of submission of the progress report referred to in Article 23(3).

Article 17

Annual breakdown of resources for actions in the Member States provided for by Articles 5, 6 and 7

1. Each Member State shall receive a fixed amount of EUR 300 000 from the Fund's annual allocation. This amount shall be fixed at EUR 500 000 per annum for 2005, 2006 and 2007 in conformity with new financial perspectives for the states which acceded to the European Union on 1 May 2004.

2. The remainder of the available annual resources shall be broken down between the Member States as follows:

(a) 30 % in proportion to the number of persons admitted in one of the categories referred to in Article 3(1) and (2) over the previous three years;

(b) 70 % in proportion to the number of persons referred to in Article 3(3) and (4) registered over the previous three years.

3. The reference figures shall be the latest statistics produced by the Statistical Office of the European Communities in accordance with Community law on the collection and analysis of asylum data.

Article 18

Technical and administrative assistance

Part of the annual co-financing allocated to a Member State may be set aside to cover expenditure on technical and administrative assistance for preparation, monitoring and evaluation of actions.

The annual amount set aside for technical and administrative assistance may not exceed 7 % of the total annual co-financing allocated to a Member State, plus EUR 30 000.

Article 19

Special provisions concerning emergency measures

1. Member States shall provide the Commission with a statement of requirements and an implementation plan for the emergency measures provided for by Article 9, including a description of the planned measures and the bodies responsible for implementing them.

2. Financial assistance from the Fund for the emergency measures provided for by Article 9 shall be limited to a period of six months and shall not exceed 80 % of the cost of each measure.

3. Available resources shall be distributed among the Member States on the basis of the number of persons benefiting from temporary protection in each Member State as referred to in Article 9(1).

4. Articles 20(1) and (2), 21 and 23 to 26 shall apply.

CHAPTER IV

FINANCIAL MANAGEMENT AND SUPERVISION

Article 20

Financing structure

1. The Fund's financial participation shall take the form of non-refundable grants.

2. Actions supported by the Fund shall be co-financed by public or private sources, shall be of a non-profit nature and shall not be eligible for funding from other sources covered by the general budget of the European Union.

3. Fund appropriations shall be complementary to public or equivalent expenditure allocated by Member States to the measures covered by this Decision.

4. The Community contribution to supported projects shall not exceed:

(a) as regards actions implemented in the Member States under Articles 5, 6 and 7, 50 % of the total cost of a specific action. This may be increased to 60 % for particularly innovative actions, such as actions carried out by transnational partnerships or actions that involve the active participation of persons referred to in Article 3 or organisations established by these target groups, and shall be increased to 75 % in the Member States covered by the Cohesion Fund;

(b) as regards calls for proposals within the framework of Community actions under Article 8, 80 % of the total cost of a specific action.

5. As a general rule, Community financial aid granted for actions supported by the Fund shall be given for a period of no more than three years, subject to periodic progress reports.

Article 21

Eligibility

1. Expenditure shall correspond to the payments effected by the final grant recipients. It shall be justified by receipted invoices or accounting documents of equivalent status.

2. Expenditure may be considered eligible for support from the Fund only if it is actually paid no earlier than 1 January of the year referred to in the Commission decision on co-financing referred to in Article 16(4).

3. The Commission, acting in accordance with the procedure referred to in Article 11(3), shall adopt the rules governing eligibility of expenditure within the framework of actions implemented in the Member States under Articles 5, 6 and 7 and co-financed by the Fund.

Article 22

Commitments

Community budgetary commitments shall be made annually on the basis of the Commission decision on co-financing referred to in Article 16(4).

Article 23

Payments

1. The contribution from the Fund shall be paid by the Commission to the responsible authority in accordance with budgetary commitments.

2. A first pre-financing payment representing 50 % of the amount allocated in the Commission's annual decision on co-financing by the Fund shall be made to the Member State within 60 days following the adoption of the co-financing decision.

3. A second pre-financing payment shall be made no more than three months after the Commission has approved a progress report on implementation of the annual work programme and a declaration of expenditure accounting for at least 70 % of the amount of the initial payment. The amount of the second pre-financing payment made by the Commission shall not exceed 50 % of the total amount allocated by the co-financing decision or, in any event, the balance of the amount of Community funds actually committed by the Member State for selected projects under the annual programme minus the first pre-financing payment.

4. Payment of the balance shall be made no more than three months after the Commission has approved the annual programme's final implementation report and the final declaration of expenditure provided for by Articles 24(3) and 28(2); failing that, a request for reimbursement of amounts released under the first or second payments in excess of the final expenditure approved for the Fund shall be issued within that deadline.

Article 24

Declarations of expenditure

1. For all expenditure which it declares to the Commission, the responsible authority shall provide assurance that the national implementation programmes are managed in accordance with the Community regulations applicable and that the funds are used in accordance with the principle of sound financial management.

2. Declarations of expenditure shall be certified by an individual or department operationally independent of any authorising department of the responsible authority.

3. Within nine months of the deadline laid down in the co-financing decision whereby expenditure must be effected, the responsible authority shall forward a final declaration of expenditure to the Commission. Failing that, the Commission shall automatically terminate the annual programme and release the relevant appropriations.

Article 25

Audit of accounts and financial corrections by the Member States

1. Without prejudice to the Commission's responsibilities for implementing the general budget of the European Union, the Member States shall be take responsibility in the first instance for financial control of actions. To that end, the measures they take shall include:

(a) organising, on the basis of an appropriate sample, checks on actions covering at least 10 % of the total eligible expenditure for each annual implementing programme and on a representative sample of approved actions. Member States shall ensure an appropriate separation between checks and implementation or payment procedures concerning actions;

(b) preventing, detecting and correcting irregularities, notifying the Commission of them in accordance with the rules and keeping the Commission informed of the progress of administrative and judicial proceedings;

(c) cooperating with the Commission to ensure that Community funds are used in accordance with the principle of sound financial management.

2. Member States shall make the financial corrections required where an irregularity is ascertained, having regard to whether it is an individual or a systemic case. The corrections made by the Member State shall consist in cancelling all or part of the Community contribution, and, where the amount is not repaid in the time allowed by the relevant Member State, default interest shall be due at the rate provided for by Article 26(4).

3. Acting in accordance with the procedure referred to in Article 11(3), the Commission shall adopt the rules and procedures for financial corrections made by the Member States in connection with actions implemented in the Member States under Articles 5, 6 and 7 and co-financed by the Fund.

Article 26

Audit of accounts and financial corrections by the Commission

1. Without prejudice to the powers of the Court of Auditors or the checks carried out by the Member States in accordance with national laws, regulations and administrative provisions, Commission officials or servants may carry out on-the-spot checks, including sample checks, on the operations financed by the Fund and on management and control systems with a minimum of three working days' notice. The Commission shall give notice to the Member State concerned with a view to obtaining all the assistance necessary. Officials or servants of the Member State concerned may take part in such checks.

The Commission may require the Member State concerned to carry out an on-the-spot check to verify the correctness of one or more transactions. Commission officials or servants may take part in such checks.

2. If, after completing the necessary verifications, the Commission concludes that a Member State is not complying with its obligations under Article 25, it shall suspend the pre-financing or final payment relating to co-financing from the Fund for the relevant annual programmes in cases where:

(a) a Member State is not implementing the actions as agreed in the co-financing decision; or

(b) all or part of an action justifies neither part nor the whole of the co-financing from the Fund; or

(c) there are serious deficiencies in management and control systems that could give rise to systemic irregularities.

In those cases, the Commission shall, stating its reasons, request the Member State to submit its comments and, where appropriate, to carry out any corrections within a specified period of time.

3. At the end of the period set by the Commission, the Commission may, if no agreement has been reached and the Member State has not made the corrections, and taking account of any comments made by the Member State, decide within three months to:

(a) reduce the pre-financing or final payments; or

(b) make the financial corrections required by cancelling all or part of the contribution of the Fund to the actions in question.

In the absence of a decision pursuant to either (a) or (b), the payments shall immediately cease to be suspended.

4. Any sum received unduly or to be recovered shall be repaid to the Commission. If the amount owed has not been repaid by the deadline set by the Commission, it shall bear interest at the rate applied by the European Central Bank to its principal refinancing operations in euros, plus three and a half points. The reference rate to which the increase applies shall be the rate in force on the first day of the month of the final date for payment, as published in the C series of the *Official Journal of the European Union*.

5. The Commission, acting in accordance with the procedure referred to in Article 11(3), shall adopt rules and procedures for financial corrections made by the Commission in connection with actions implemented in the Member States under Articles 5, 6 and 7 and co-financed by the Fund.

CHAPTER V

MONITORING, EVALUATION AND REPORTS

Article 27

Monitoring and evaluation

1. The Commission shall carry out regular monitoring on the Fund in cooperation with the Member States.

2. The Fund shall be evaluated regularly by the Commission in partnership with the Member States to assess the relevance, effectiveness and impact of actions in the light of the objectives referred to in Article 1. The Commission shall also look at complementarity between the actions implemented under the Fund and those pursued under other relevant Community policies, instruments and initiatives.

Article 28

Report

1. In each Member State the responsible authority shall take the necessary measures to ensure project monitoring and evaluation.

To that end, the agreements and contracts it concludes with the organisations responsible for action implementation shall include clauses laying down an obligation to submit regular detailed progress reports on the implementation of these actions and a detailed final implementation report on the extent to which stated objectives have been achieved.

2. No more than nine months after the eligibility deadline for expenditure laid down in the co-financing decision for each annual programme, the responsible authority shall submit a final implementation report and a final declaration of expenditure to the Commission as provided for by Article 24(3).

3. Member States shall submit to the Commission:

(a) no later than 31 December 2006, an evaluation report on the implementation of actions co-financed by the Fund;

(b) no later than 30 June 2009 and 30 June 2012, an evaluation report on the results and impact of actions co-financed by the Fund.

4. The Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions:

(a) no later than 30 April 2007, an intermediate report on the results achieved and on qualitative and quantitative aspects of implementation of the Fund, together with any proposed amendments;

(b) no later than 31 December 2009, an intermediate evaluation report and a proposal on the Fund's future development;

(c) no later than 31 December 2012, an *ex post* evaluation report.

CHAPTER VI

TRANSITIONAL PROVISIONS

Article 29

2005 to 2007 multiannual programme

By way of derogation from Article 15, the following timetable shall apply for implementation of the multiannual programme for the period 2005 to 2007:

(a) no later than 31 January 2005, the Commission shall notify Member States of planning guidelines and shall provide an indication of the financial amounts allocated to them;

(b) no later than 1 May 2005, Member States shall designate the national responsible authority referred to in Article 13 and shall submit the proposal for a multiannual programme for the period 2005 to 2007 referred to in Article 15;

(c) acting in accordance with the procedure referred to in Article 11(3), the Commission shall approve the multiannual programmes no more than two months after the proposal for a multiannual programme has been received.

Article 30

2005 annual programme

By way of derogation from Article 16, the following timetable shall apply for implementation in the financial year 2005:

(a) by 31 January 2005, the Commission shall provide Member States with an estimate of the amounts allocated to them;

(b) Member States shall present the proposal for an annual programme referred to in Article 16 to the Commission by 1 June 2005; the proposal shall be accompanied by details of the management systems and checks which will be implemented with a view to ensuring that Community funds are used properly and effectively;

(c) the Commission shall adopt co-financing decisions no more than two months after the draft annual programme has been presented, following verification of the aspects indicated in Article 12(1)(b).

Expenditure actually disbursed between 1 January 2005 and that date on which the co-financing decisions are adopted may qualify for support from the Fund.

CHAPTER VII

FINAL PROVISIONS

Article 31

Review

The Council shall review this Decision on the basis of a proposal from the Commission by 31 December 2010.

Article 32

Addressees

This Decision is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 2 December 2004.

For the Council

The President

J. P. H. DONNER

COMMISSION

COMMISSION DECISION

of 14 December 2004

laying down guidelines for the notification of dangerous consumer products to the competent authorities of the Member States by producers and distributors, in accordance with Article 5(3) of Directive 2001/95/EC of the European Parliament and of the Council

(notified under document number C(2004) 4772)

(Text with EEA relevance)

(2004/905/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety [1], and in particular the second subparagraph of Article 5(3) thereof,

After consulting the Committee set up by Article 15 of Directive 2001/95/EC,

Whereas:

(1) Directive 2001/95/EC establishes in Article 5(3) that producers and distributors are to inform the competent authorities if they know or ought to know, on the basis of the information in their possession and as professionals, that a product they have placed on the market is dangerous according to the definitions and criteria of the Directive.

(2) Annex I(2) to Directive 2001/95/EC requires the Commission, assisted by a Committee of representatives of the Member States, to define the content and draw up the standard form for the notification concerning information on products that do not comply with the general safety requirements to be provided to the competent national authorities by producers and distributors, while ensuring the effectiveness and proper functioning of the notification system. In particular, the Commission has to put forward, possibly in the form of a guide, simple and clear criteria for determining the special conditions, particularly those concerning isolated circumstances or products, for which notification is not relevant.

(3) The obligation to inform the authorities about dangerous products is an important element for improved market surveillance as it enables the competent authorities to monitor whether the companies have taken appropriate measures to address the risks posed by a product already placed on the market and to order or take additional measures if necessary for avoiding risks.

(4) In order to prevent a disproportionate burden on producers, distributors and the competent authorities and to facilitate the effective application of this obligation it is appropriate to establish, in addition to a standard form, operational guidelines concerning the most relevant notification criteria as well as practical aspects of notification, which are put forward in particular in order to assist producers and distributors in the implementation of the provisions laid down in Article 5(3) of Directive 2001/95/EC,

HAS ADOPTED THIS DECISION:

Article 1

The Commission hereby adopts guidelines for the notification of dangerous consumer products by producers and distributors to the competent authorities of the Member States, in accordance with Article 5(3) of that Directive 2001/95/EC.

The guidelines are set out in the Annex to this Decision.

[1] OJ L 11, 15.1.2002, p. 4.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 14 December 2004.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

Guidelines for the notification of dangerous consumer products to the competent authorities of the Member States by producers and distributors in accordance with Article 5(3) of Directive 2001/95/EC

1. INTRODUCTION

1.1. *Background and objectives of the guidelines*

The General Product Safety Directive (GPSD) aims to ensure that non-food consumer products placed on the EU market are safe. It includes an obligation for producers and distributors to provide information on findings and measures concerning dangerous products to the competent authority.

The GPSD mandates the Commission, assisted by the GPSD Committee of Member States, to draw up a guide defining simple and clear criteria to facilitate the effective application of this obligation. In addition the guide is to simplify the work of economic operators and the competent authorities by defining the particular conditions, especially isolated circumstances or products, for which notification is not appropriate. The guide should also define the content and lay out of the standard form for notifications by producers and distributors to the authorities.

In particular the Commission is responsible for ensuring the effectiveness and proper functioning of the notification procedure.

The objectives of these guidelines are therefore to:

(a) clarify from the operational point of view the scope of producers' and distributors' obligations in such a way that only the information relevant for risk management is notified and that any information overload is prevented;

(b) make reference to relevant criteria for applying the concept of 'dangerous products';

(c) provide criteria for identifying the 'isolated circumstances or products' for which notification is not relevant;

(d) define the content of notifications, in particular the information and data required, and the form to be used;

(e) identify to whom and how the notification should be submitted;

(f) define the follow-up action to be taken by the Member States receiving a notification and the information to be provided on such follow-up.

1.2. *Status and further developments of the guidelines*

Status

These are operational guidelines. These guidelines have been adopted by the Commission, after consultation of the Member States within the GPSD Committee acting in accordance with the advisory procedure.

They therefore represent the reference document for the application of the provisions of the GPSD concerning notification of dangerous consumer products to the competent authorities of the Member States by producers and distributors.

Further developments

These guidelines will need to be adapted in the light of experience and of new developments. The Commission will update or amend them as necessary in consultation with the Committee referred to in Article 15 GPSD.

1.3. *To whom the guidelines are addressed*

These guidelines are addressed to the Member States. They should be used to guide producers and distributors of consumers' products as well as the national authorities designated as contact points to receive information from producers and distributors, in order to ensure the effective and consistent application of the notification requirement in question.

2. SUMMARY OF THE PROVISIONS IN THE GPSD ON NOTIFICATION BY PRODUCERS AND DISTRIBUTORS

2.1. *Obligation to inform competent authorities in the Member States*

Under the GPSD, producers and distributors must inform the competent authorities if they know or ought to know, on the basis of the information in their possession and as professionals, that a product they have placed on the market is dangerous (according to the definitions and criteria of the Directive).

'Isolated' circumstances or products are excluded from the obligation to notify.

Producers and distributors could give the authorities preliminary information about a potential product risk as soon as they are aware of it. With this information the authorities may be able to help producers and distributors to carry out their notification duty correctly. In addition, they are encouraged to contact their national authorities if they have a doubt as to whether a product risk exists.

2.2. *Reason and objectives for the provision on notification*

The obligation to inform the authorities about dangerous products is an important element for improved market surveillance and risk management.

Producers and distributors, within the limits of their respective activities, are responsible in the first instance for preventing risks from dangerous products. However, producers and distributors may not have taken (or may not be in a position to take) all the necessary measures. Moreover, other products of the same type may pose risks similar to those related to the products considered.

The purpose of the notification procedure is to enable the competent authorities to monitor whether the companies have taken appropriate measures to address the risks posed by a product already placed on the market and to order or take additional measures if necessary to prevent risks. The notification also allows the competent authorities to assess whether they should check other similar products on the market. Therefore, competent authorities must receive adequate information to enable them to assess whether an economic operator has taken adequate measures with regard to a dangerous product. In this respect it should be noted that the GPSD entitles the competent authorities to request additional information if they feel unable to assess whether a company has taken adequate measures with regard to a dangerous product.

3. NOTIFICATION CRITERIA

3.1. *Scope*

The first requirement for notification under the GPSD is that the product should be within the scope of this Directive and that the conditions of Article 5(3) are met.

It should be noted that separate requirements for the notification of dangerous food products are established by EU food law (Regulation (EC) No 178/2002 of the European Parliament and of the Council [1]).

If Community sectoral legislation on product safety establishes notification obligations with the same objectives that excludes the applicability of the GPSD obligation to the categories of products covered by the sectoral requirements. For further information on the relationship between the notification procedures and their purposes, please see the *Guidance Document on the Relationship between the GPSD and certain Sector Directives* [2]. This document will be further developed, in particular if in light of experience any overlapping or uncertainty appears concerning the application of Article 5(3) of the GPSD and relevant sectoral information or notification requirements in specific Community legislation.

In addition, it is worth noting that these guidelines are not relevant for, and do not interfere with the application of requirements concerning 'safeguard clauses' or other notification procedures established by vertical Community legislation on product safety.

Important criteria for notification are:

— the product is within the scope of Article 2(a) of the Directive: a product intended for or likely to be used by consumers (including in the context of providing a service and second-hand products);

— Article 5 of the Directive is applicable (that is, no specific similar obligation is established by other Community legislation, cf. Article 1(2)(b) GPSD);

— the product is on the market;

— the producer or distributor has evidence (from monitoring the safety of products on the market, from testing, from quality control or from other sources) that the product is dangerous as defined by the GPSD (it does not satisfy the general safety requirement, taking into account the safety criteria of the GPSD) or does not satisfy the safety requirements of the relevant Community sectoral legislation applicable to the product considered;

[1] OJ L 31, 1.2.2002, p. 1. Regulation as last amended by Regulation (EC) No 1642/2003 (OJ L 245, 29.9.2003, p. 4).
[2] http://europa.eu.int/comm/consumers/cons_safe/prod_safe/gpsd/revisedGPSD_en.htm

— the risks are therefore such that the product may not remain on the market and producers (and distributors) have the obligation to take appropriate preventive and corrective action (modifying the product, warnings, withdrawal, recalling, etc. depending on the specific circumstances).

3.2. *General safety requirement and conformity criteria*

Producers and distributors must inform the competent authorities of the Member States if a product they have placed on the market poses a risk to consumers 'that is incompatible with the general safety requirement'. Producers are obliged to place only 'safe' products on the market. Article 2(b) defines a safe product as one that *under normal or reasonably foreseeable conditions of use including duration and, where applicable, putting into service, installation and maintenance requirements, does not present any risk or only the minimum risks compatible with the product's use, considered to be acceptable and consistent with a high level of protection for the safety and health of persons taking into account the following points in particular:*

(i) *the characteristics of the product, including its composition, packaging, instructions for assembly and, where applicable, for installation and maintenance;*

(ii) *the effect on other products, where it is reasonably foreseeable that it will be used with other products;*

(iii) *the presentation of the product, the labelling, any warnings and instructions for its use and disposal and any other indication or information regarding the product;*

(iv) *the categories of consumers at risk when using the product, in particular children and the elderly.*

The feasibility of obtaining higher levels of safety or the availability of other products presenting a lesser degree of risk shall not constitute grounds for considering a product to be 'dangerous'.

Any product that does not meet this definition is regarded as dangerous (Article 2(c)). In other words, a product is 'dangerous' when it does not satisfy the general safety requirement (products on the market must be safe).

Article 3 GPSD describes how conformity is assessed with reference to national legislation, European standards and other reference material. Where suitable European standards do not exist, the GPSD allows other elements to be taken into account in assessing the safety of a product: national standards, codes of good practice, etc.

In addition to the above, the Directive also refers to serious risk, which is defined in Article 2(d) as 'any serious risk, including those the effects of which are not immediate, requiring rapid intervention by the public authorities'.

Nevertheless, the Directive recognises that the feasibility of obtaining higher levels of safety or the availability of other products presenting a lesser degree of risk do not constitute grounds for considering a product to be 'dangerous'.

The level of risk could depend on a number of factors such as for example the type and vulnerability of the user and the extent to which the producer had taken precautions to guard against the hazard and warn the user. It is considered that these factors should also be taken into account in determining the level of risk that is regarded as dangerous and requires producers to notify the competent authorities.

A risk could be the result of a manufacturing or production error or it could result from the design of, or the materials used in, the product. A risk could also arise from a product's contents, construction, finish, packaging, warnings or instructions.

In determining whether a product is dangerous under the terms of the GPSD several issues should be analysed: the utility of the product, the nature of the risk, the population groups exposed, previous experience with similar products, etc. A safe product must have no risk or only present the minimum risk compatible with the product's use and needed in order to ensure useful operation of the product.

Producers are expected to undertake a risk assessment of their products before they are marketed. This will form both the basis of their conclusion that the product satisfies the general safety obligation and can be marketed, and also provide a reference for subsequent reassessment of further risk information and whether the product continues to satisfy the definition of 'safe product' or notification needs to be made.

If producers or distributors become aware of information or new evidence showing that a product may be dangerous they should determine whether such information leads to the conclusion that a product is actually dangerous.

The guidance referred to in this document was developed for the *Guidelines for the management of the Community Rapid Information System (RAPEX) and for notifications presented in accordance with Article 11 of Directive 2001/95/EC* [1]. It is presented here in order to assist producers or distributors to decide if a specific situation caused by a consumer product justifies a notification to the competent authorities. It represents a methodological framework intended to promote consistency and does not take account of all possible factors, but should facilitate consistent, reasoned, professional judgements on the risks posed by specific consumer products. However, if producers or distributors consider that they have clear evidence based on different considerations of the need for notification they must carry out the notification.

Producers or distributors should analyse the information collected and decide whether a particular hazardous situation should be notified to the authorities taking into account:

— the gravity of the outcome of a hazard, depending on the severity and probability of the possible health/safety damage. Combining the severity and probability gives an assessment of the gravity of the risk. The accuracy of this assessment will depend upon the quality of the information available to the producer or distributor.

  The severity of health/safety damage for a given hazard should be that for which there is reasonable evidence that the health/safety damage attributable to the product could occur under foreseeable use. This could be the worst case from health/safety damages that have occurred with similar products.

  The probability of health/safety damage for a normal user who has an exposure corresponding to the intended or reasonably expected use of the defective product has also to be considered as well as the probability of the product being or becoming defective.

  The decision to notify should not be influenced by the number of products on the market or by the number of people who could be affected by a dangerous product. These factors may be taken into account in deciding on the type of action to be taken to solve the problem.

— the factors which affect the level of the risk such as the type of user and, for non-vulnerable adults, whether the product has adequate warnings and safeguards and whether the hazard is sufficiently obvious.

  Society accepts higher risks in some circumstances (e.g. such as motoring), than in others (e.g. such as children's toys). It is considered that among the important factors affecting the level of risk are the vulnerability of the type of person affected and, for non-vulnerable adults, the knowledge of the risk and the possibility of taking precautions against it.

  The type of person using a product should be taken into account. If the product is likely to be used by vulnerable people (such as children, the elderly) the level of risk which should be notified should be set at a lower level.

  For non-vulnerable adults the level of risk which is high enough to require notification should depend on whether the hazard is obvious and necessary for the function of the product and whether the manufacturer has taken adequate care to provide safeguards and warnings, especially if the hazard is not obvious.

Annex II gives more details on the risk estimation and evaluation assessment method developed for the *Guidelines for the management of the Community Rapid Information System (RAPEX) and for notifications presented in accordance with Article 11 of Directive 2001/95/EC*. Other methods may be suitable and the choice of method may depend on the resources and information available.

Producers and distributors should be encouraged to contact the authorities if they have evidence of a potential problem in order to discuss whether a notification is appropriate. The authorities will be responsible for assisting and helping them to correctly fulfil their notification obligation.

[1] Commission Decision 2004/418/EC of 29 April 2004 (OJ L 151, 30.4.2004, p. 86).

3.3. *Criteria for non-notification*

The flow of information must be manageable for both sides: the economic operators and the authorities. The notification procedure should deal only with justified cases taking into account the criteria mentioned above and avoid overloading the system with non-relevant notifications.

In order to assess if a notification by producers or distributors to the competent authorities is justified, it is also relevant to know on what terms a notification is not required.

The objective is to prevent a possible proliferation of notifications of measures, actions or decisions related to 'isolated circumstances or products' which do not require any verification, monitoring or action by the authorities and do not provide information useful for risk assessment and consumer protection. This may happen when it is clear that the risk is related to a limited number of well-identified products (or batches) only, and the producer or distributor has solid evidence to conclude that the risk has been fully controlled and its cause is such that knowledge of the incident does not represent useful information for the authorities (such as the malfunctioning of a production line, errors in handling or packaging, etc.).

Producers and distributors do not need to notify under the GPSD:

— products that are not within the scope of Articles 1 and 2(a) GPSD such as: antiques, products not intended for use by consumers and not likely to be used by consumers, second-hand products supplied for repair;

— products that are not within the scope of Article 5(3) GPSD such as: those covered by specific notification procedures of other Community legislation;

— products for which the manufacturer has been able to take immediate corrective action for all the items concerned. The defect is limited to well identified items or batches of items and the producer has withdrawn the items in question;

— problems related to the functional quality of the product, not to its safety;

— problems related to non-compliance with applicable rules not affecting safety in such a way that the product could be considered 'dangerous';

— when the producer/distributor knows that the authorities have already been informed and have all the required elements of information. In particular, if retailers receive information on a dangerous product from their producer/distributor or from a professional organisation that diffuses the information provided by a producer/-distributor, they should not inform the authorities if they know that the authorities have already been informed by the producer or distributor.

4. NOTIFICATION PROCEDURE

4.1. *Who must notify*

The obligation to notify applies to both producers and distributors, within the limits of their respective activities and in proportion to their responsibilities.

There may be doubts as to who should be the first to give information. Because of this it will be useful for everyone involved in the supply chain to discuss the practical arrangements related to the responsibility for notification before the need arises. Then if a notification becomes necessary, the various operators will know what to do and unnecessary double notifications will be avoided. In addition, direct contact between the authorities and business is highly important if businesses have doubts about the fulfilment of their notification obligation.

If it is the manufacturer or the importer of the product that first has evidence that a product is dangerous, they should inform the competent national authority and forward a copy of the information to retailers and distributors. A distributor or retailer receiving product hazard information from a manufacturer or importer must inform the authorities **unless** it knows that the national authority has already been adequately informed by the producer or by another authority.

If it is the retailers or distributors of a product that first have evidence that it is dangerous, they should inform the competent national authority and forward a copy of the information to the manufacturer or importer. A manufacturer or importer receiving product hazard information from a retailer or distributor must complete the information provided by them by passing to the authority(ies) all information they have concerning the dangerous product, in particular identification of other distributors or retailers of the product in order to ensure the product's traceability.

Distributors who have doubts about the safety of a product or whether a dangerous product represents an 'isolated case' must transmit to the producer the information they have. They can also contact the competent authorities for advice on how to proceed.

Many hazard situations are recognised by producers only as a result of an aggregated assessment of individual communications received from different retailers or distributors. The producer has the responsibility of assessing the information in order to determine the exact origin of the possible risk and to take the measures which appear to be necessary, including notification of the authorities.

A company should assign responsibility for the information to be notified to someone with sufficient knowledge of the product.

4.2. *To whom the notification should be presented*

Producers and distributors are required by the GPSD to submit their notifications to the market surveillance/enforcement authorities of all the Member States where the product has been marketed or otherwise supplied to consumers. Each Member State must designate the authority in charge of receiving such notifications. A list of the authorities designated to that effect is on the Commission's website.

Annex I of the GPSD states that the information specified in Article 5(3) must be submitted to the competent authorities in the Member States where the products in question are or have been marketed or otherwise supplied to consumers.

However, it is desirable to reduce the burden on producers and distributors by introducing arrangements simplifying the practical application of the requirements in question, while ensuring that all the interested authorities are informed. These arrangements will also contribute to prevent multiple notifications concerning the same fault.

Therefore, producers and distributors have the option of submitting the required information to the authority of the Member State in which they are established, if one of these two conditions is fulfilled:

— The risk is notified as being 'serious' or is considered 'serious' by the receiving authority and this authority decides to introduce a notification concerning the product in question under the RAPEX system. In such a case, the receiving authority should without delay inform the producer or distributor who has submitted the information of its decision to inform the other Member States' authorities through RAPEX.

— The risk is notified as not being 'serious' or is not considered serious by the receiving authority, but this authority has communicated to the producer or distributor who has submitted the information its intention to forward the information, through the Commission, to the authorities of the other Member States [1] where, according to the indications of the producer or distributor, the product is/has been placed on the market. In such a case, the receiving authority must inform the producer or distributor without delay.

The producer or distributor that only informs the authority of the country where it is located should always provide this authority with the available information about other countries where the product has been marketed.

If the national authorities conclude or obtain evidence that a product placed on the market is dangerous and they have not been informed by its producer or distributors, they must examine whether and when the relevant operators should have notified and decide appropriate action, including possible sanctions.

4.3. *How to notify*

A company should notify by filling in the form presented in Annex I and submitting it without delay to the relevant competent authority(ies). The operator notifying must provide the information required in the form. However, no company should delay a notification because part of the information is not yet available.

It may be helpful to divide the form into two parts. The first part should be filled in immediately (Sections 1 to 5) and the second part (Section 6) should be filled in when the information has been collected (a timetable for providing the missing information should be transmitted) and then when there is a serious risk situation or when the producer/distributor opts to submit the notification only to the authority of the Member State in which they are established. Notification should not be delayed when some of the fields in a section cannot be completed.

[1] The Product Safety Network of the GPSD provides the framework for the appropriate arrangements to facilitate such exchanges.

The GPSD requires that the competent authorities be informed immediately. A company must therefore inform them without delay, as soon as the relevant information has became available, and in any case within 10 days [1] since it has reportable information, even while investigations are continuing, indicating the existence of a dangerous product. When there is a serious risk companies are required to inform the authority(ies) immediately and in no case later than three days after they have obtained notifiable information.

In an emergency situation, such as when immediate action is taken by a company, the company should inform the authorities **immediately and by the fastest means**.

5. CONTENTS OF NOTIFICATIONS

5.1. *Background to notifications (obligation of post-marketing monitoring)*

In addition to the duty to comply with the general safety requirement for their products, producers and distributors have the obligation, as professionals and within the limits of their activities, to ensure an adequate follow-up of the safety of products they supply. The obligations for producers and distributors established by GPSD in that respect, such as information to consumers, post-marketing monitoring of product risks, withdrawing dangerous products, etc., have been mentioned above. The obligations on producers apply to manufacturers, but also to any other members of the supply chain who can affect the safety characteristics of a product.

Various types of evidence may become available to operators within the framework of their post-marketing responsibilities which may lead to a notification, such as and among others:

— reports or other information on accidents involving the company's products;

— safety-related complaints received from consumers, directly or through distributors or consumer associations;

— insurance claims or legal actions concerning dangerous products;

— safety-related non-compliance reported via the company's quality control procedures;

— any information relevant for identifying non-compliances with safety requirements that is brought to the company's attention by other organisations such as market surveillance authorities, consumer organisations or other companies;

— information on relevant scientific developments on product safety.

5.2. *Notification form*

The information required has been classified under the following sections:

1. Details of authority(ies)/company(ies) receiving the notification form: the person completing the form is requested to identify the authority(ies) and company(ies) that will receive the notification and the role that these companies have in the marketing of the product.

2. Details of the producer (as defined in the GPSD, Article 2(e))/distributor completing the notification form: the person filling in the form must enter complete details of their identity, that of the company and its role in the marketing of the product.

3. Details of the product involved: a precise identification of the product is required including its brand, model, etc., supported by photographs in order to avoid confusion.

4. Details of the hazard (type and nature) including accidents and health/safety effects and conclusions of the risk estimation and evaluation that has been carried out in accordance with Chapter 3 (Notification criteria) and in light of Annex II (Methodological framework).

5. Details of corrective actions that have been taken or are planned to reduce or eliminate the risk to consumers, e.g. recall or withdrawal, modification, informing consumers, etc. and of the company responsible for them.

[1] All deadlines mentioned in the text are expressed in calendar days.

6. Details of all company(ies) in the supply chain who hold affected products and reference to the approximate number of products in the hands of businesses as well as of consumers (this section applies in cases of serious risk or when the producer/distributor opts to submit the notification only to the authority of the Member State in which they are established) ([1]).

In the event of serious risk, producers and distributors are required to include all the available information relevant for tracing the product. The information required for Section 6 of the notification form (see Annex I) may take longer to collect than the other sections, because it may be necessary to collect it from several organisations. Companies should complete and send Sections 1 to 5 as soon as possible and send Section 6 as soon as the information is available and in a situation of serious risk or when the producer/distributor opts to submit the notification only to the authority of the Member State in which they are established.

6. FOLLOW-UP TO NOTIFICATIONS

After a notification is sent, various developments are possible. In particular:

— the authority that has received the notification should, if appropriate, reply by asking for additional information or request the producer or distributor to take further action or measures;

— producers and distributors may have to provide additional information at their own initiative or on request from the authorities on any new developments or findings and/or success or problems with any action taken;

— the authority should decide where appropriate to take enforcement action and/or require producers and distributors to ensure cooperation on market surveillance or to inform the public about product identification, the nature of the risk and the measures taken, taking into account professional secrecy;

— if the requirements of a RAPEX notification are fulfilled (serious risk, product marketed in several Member States), the competent authority must send a RAPEX notification to the Commission which will then transmit it to all Member States.

([1]) Even in case of a product marketed in just one Member State a list of the companies who hold affected products in that country is relevant in order to permit the competent authority(ies) to monitor the effectiveness of the action taken.

ANNEX I

Notification form for the notification of dangerous products to the authorities by producers or distributors

Section 1: Details of authority(ies)/company(ies) receiving the notification form	
Authority/contact name/address/telephone/fax/e-mail/website	
Identification of the companies notified and their role in the marketing of the product	
Section 2: Details of producer/distributor	
Producer or producer's representative/distributor completing the form	
Contact name/responsibility/address/telephone/fax/e-mail/website	
Section 3: Details of products involved	
Category. Brand or trademark. Model name(s) or bar code/CN tariff. Country of origin	
Description/photograph	
Section 4: Details of hazard	
Description of the hazard and possible health/safety damages and conclusions of the risk estimation and evaluation carried out	
Record of accident(s)	
Section 5: Details of corrective actions already taken	
Types/scope/duration of action(s) and precautions taken and identification of the company responsible	

Companies should complete and send Section 6 in case of a serious risk or when the producer/distributor opts to submit the notification only to the authority of the Member State in which they are established

Section 6: Details of other company(ies) in the supply chain which hold affected products	
List of manufacturers, importers or authorised representatives by Member State (name/address/telephone/fax/e-mail/website)	
List of distributors or retailers by Member State (name/address/telephone/fax/e-mail/website)	
Number of products (serial numbers or date codes) held by producer/importer/distributor/retailer/consumers by Member State	

ANNEX II

Methodological framework for facilitating consistent risk estimation and evaluation

The following text is based on the framework developed for the RAPEX Guidelines and is presented here in order to assist companies in assessing the level of a risk and deciding whether a notification to the authorities is necessary. The guidelines in this Annex II are not exhaustive and do not attempt to take into account all possible factors. The companies should judge each individual case on its merits taking into account the criteria set out in these guidelines as well as their own experience and practice, other relevant considerations and appropriate methods.

A consumer product may present one or more intrinsic hazards. The hazard may be of various types (chemical, mechanical, electrical, heat, radiation, etc.). The hazard represents the intrinsic potential of the product to damage the health and safety of users under certain conditions.

The severity of each type of hazard may be given a rating, based on qualitative and sometimes quantitative criteria related to the type of damage that it is liable to produce.

It may happen that not all individual products present the hazard in question, but only some of the items placed on the market. The hazard may in particular be related to a defect that appears only in some of the products of a certain type (brand, model, etc.) placed on the market. In such cases the probability of the defect/hazard being present in the product should be considered.

The potential of a hazard to materialise as an actual negative effect on health/safety will depend on the degree to which the consumer is exposed to it when using the product as intended or as could reasonably be expected during its lifetime. In addition the exposure to certain hazards may in some cases involve more than one person at a time. Finally when determining the level of the risk presented by a product by combining the severity of the hazard with the exposure, consideration should be given also to the ability of the exposed consumer to prevent or react to the hazardous situation. This will depend on the evidence of the hazard, the warnings given and the vulnerability of the consumer who may be exposed to it.

Taking into account the above considerations, the following conceptual approach may assist businesses when deciding whether a specific hazardous situation caused by a consumer product requires a notification to the competent authorities.

It is recommended that assessments be carried out by a small team who have knowledge and experience of the product and its hazards. Assessors may have to make subjective judgements if objective data are not available and it is hoped this procedure will help them to make consistent and reasoned judgements about actual or potential risks.

The assessor should analyse the information collected and use the risk assessment table as follows:

1. As a first step, use Table A to determine the gravity of the outcome of a hazard, depending on both its severity and the probability of it occurring under the conditions of use considered, and of the possible health/safety effect related to the intrinsic hazardous characteristics of the product.

2. As a second step, use Table B to further assess the gravity of the outcome depending on the type of consumer and, for non-vulnerable adults, whether the product has adequate warnings and safeguards and whether the hazard is sufficiently obvious to make it possible to grade the risk level qualitatively.

Table A — Risk estimation: severity and probability of health/safety damage

In Table A the two main factors affecting the risk estimation, namely the severity and probability of health/safety damage, are combined. The following definitions of severity and probability have been drawn up to assist in the selection of appropriate values.

Severity of injury

The assessment of severity is based on consideration of the potential health/safety consequences of the hazards presented by the product considered. A grading should be established specifically for each type of hazard [1].

The assessment of severity should also take into account the number of people who could be affected by a dangerous product. This means that the risk from a product which could pose a risk to more than one person at a time (e.g. fire or gas poisoning from a gas appliance) should be classified as more severe than a hazard which can only affect one person.

The initial risk estimation should refer to the risk to any person exposed to the product and should not be influenced by the size of the population at risk. However, it may be legitimate for the companies to take account of the total number of people exposed to a product in deciding on the type of action to be taken.

For many hazards it is possible to envisage unlikely circumstances that could lead to very serious injury, e.g. tripping over a cable, falling and banging one's head, leading to death, although a less serious outcome is more likely. The assessment of the severity of the hazard should be based on reasonable evidence that the effects selected for characterising the hazard could occur during foreseeable use. This could be the worst-case experience involving similar products.

Overall probability

This refers to the probability of negative health/safety effects to a person exposed to the hazard. It does not take into account the total number of people at risk. Where the guide refers to the probability of a product being defective, this should not be applied if it is possible to identify each one of the defective samples. In this situation, the users of the defective products are exposed to the full risk and the users of the other products to no risk.

The overall probability is the combination of all the contributing probabilities such as:

— the probability of the product being or becoming defective (if all products carry the defect then this probability would be 100 %);

— the probability of the negative effect materialising for a normal user who has an exposure corresponding to the intended or reasonably expected use of the defective product.

[1] As an example, for certain mechanical risks the following definitions of the severity classifications may be proposed, with typical corresponding injuries:

Slight	Serious	Very serious
< 2 % incapacityusually reversible and not requiring hospital treatment.	2-15 % incapacityusually irreversible requiring hospital treatment	> 15 % incapacity usually irreversible
Minor cuts	Serious cuts	Serious injury to internal organs
	Fractures	Loss of limbs
	Loss of finger or toe	Loss of sight
	Damage to sight	Loss of hearing
	Damage to hearing	

These two probabilities are combined in the following table to give an overall probability which is entered into Table A.

Overall probability of health/safety damage		Probability of hazardous product		
		1 %	10 %	100 % (All)
Probability of health/safety damage from regular exposure to hazardous product	Hazard is always present and health/safety damage is likely to occur in foreseeable use	Medium	High	Very high
	Hazard may occur under one improbable or two possible conditions	Low	Medium	High
	Hazard only occurs if several improbable conditions are met	Very low	Low	Medium

Combining the severity and overall probability in Table A gives an estimation of the gravity of the risk. The accuracy of this assessment will depend upon the quality of the information available to the company. However, this assessment needs to be modified to take account of society's perception of the acceptability of the risk. Society accepts much higher risks in some circumstances such as motoring, than in others, such as children's toys. Table B is used to input this factor.

Table B — Grading of risk: type of person, knowledge of the risk and precautions

Society accepts higher risks in some circumstances than in others. It is considered that the main factors affecting the level of risk are the vulnerability of the type of person affected and for non-vulnerable adults, the knowledge of the risk and the possibility of taking precautions against it.

Vulnerable people

The type of person using a product should be taken into account. If the product is likely to be used by vulnerable people, the level of risk which should be notified should be set at a lower level. Two categories of vulnerable people are proposed below, with examples:

Very vulnerable	Vulnerable
Blind	Partially sighted
Severely disabled	Partially disabled
Very old	Elderly
Very young (<3 years)	Young (3-11years)

Normal adults

The adjustment of the seriousness of risk for non-vulnerable adults should only apply if the hazard is obvious and necessary for the function of the product. For non-vulnerable adults, the level of risk should be dependent on whether the hazard is obvious and whether the manufacturer has taken adequate care to make the product safe and to provide safeguards and warnings, especially if the hazard is not obvious. For example, if a product has adequate warnings and safeguards and the hazard is obvious, a high gravity of outcome may not be serious in terms of grading the risk (Table B), although some action may be needed to improve the safety of the product. Conversely, if the product does not have adequate safeguards and warnings, and the hazard is not obvious, a moderate gravity of outcome is serious in terms of grading the risk (Table B).

Risk Assessment of consumer products for the GPSD

This procedure is proposed to assist companies when deciding whether a specific hazardous situation caused by a consumer product requires notification to the authorities

Table A — Risk Estimation

Probability of Health/Safety Damage	Severity of Health/Safety Damage: Slight	Serious	Very Serious	Overall Gravity of Outcome
		Very High	High	Very High
	Very High	High	Medium	High
	High	Medium	Low	Moderate
	Medium	Low	Very Low	Low
	Low	Very Low		Very Low

Table B — Grading of Risk

Vulnerable people		Non-vulnerable adults				
Very vulnerable	Vulnerable	No	Yes	No	Yes	Adequate warnings and safeguards?
		No	No	Yes	Yes	Obvious hazard?
Serious Risk — Notification required						
Moderate risk		Notification required				
		Low risk Notification unlikely				

Table A is used to determine the gravity of the outcome of a hazard, depending on the severity and probability of the possible health/safety damage (see tables in notes)

Table B is used to determine the rating of the gravity of risk depending on the type of user and, for non-vulnerable adults, whether the product has adequate warnings and safeguards and whether the hazard is sufficiently obvious

Example (indicated by the arrows above)

A chain saw user has suffered a badly cut hand and it is found that the chain saw has an inadequately designed guard which allowed the user's hand to slip forward and touch the chain. The company's assessor makes the following risk assessment.

Table A — The assessment of probability is **High** because the hazard is present on all products and may occur under certain conditions. The assessment of severity is **Serious** so the overall gravity rating is **High**.

Table B — The chain saw is for use by non-vulnerable adults, presents an obvious hazard but with inadequate guards.

The **High** gravity is therefore intolerable so a **serious risk** exists.

COMMISSION DECISION

of 23 December 2004

on the appointment of members of the Committee of Senior Labour Inspectors for a term of office

(2004/906/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Commission Decision 95/319/EC of 12 July 1995 setting up a Committee of Senior Labour Inspectors [1], and in particular Article 5 thereof,

Having regard to Commission Decision C(2004) 1542 of 27 April 2004 (*),

Having regard to the list of candidates submitted by the 10 new Member States,

Whereas:

(1) Article 5(1) of that Decision provides that the Committee shall consist of two representatives from each Member State.

(2) Article 5(2) of that Decision provides that the members of the Committee shall be nominated by the Commission on a proposal from the Member States.

(3) Article 5(3) of that Decision provides that the term of office of the members of the Committee shall be three years and that their appointment shall be renewable. However, as the current term of office of the members of the Committee expires on 31 December 2006, it is appropriate to appoint the members from the 10 new Member States for a term of office ending on the same date.

(4) Following the accession of 10 new Member States to the European Union on 1 May 2004, and on the basis of proposals received from them in accordance with the said Article 5 of Decision 95/319/EC, the Commission has to appoint the members of the Committee to represent the 10 new Member States for the period from 1 May 2004 to 31 December 2006,

DECIDES:

Sole Article

The persons named in the Annex to the present Decision are appointed as members of the Committee of Senior Labour Inspectors (SLIC) for a period starting on 1 May 2004 and ending on 31 December 2006.

Done at Brussels, 23 December 2004.

For the Commission
Vladimír ŠPIDLA
Member of the Commission

[1] OJ L 188, 9.8.1995, p. 11.
(*) Not yet published.

ANNEX

Appointment of members of the Committee of Senior Labour Inspectors

The Committee of Senior Labour Inspectors was set up by Decision 95/319/EC.

The Commission has decided to appoint the following members for a period starting on 1 May 2004 and ending on 31 December 2006:

Czech Republic	Mr Jaromir Elbel Ms Daniela Kubičová
Estonia	Mr Priit Siitan Mrs Katrin Lepisk
Cyprus	Mr Leandros Nicolaides Mr Anastasios Yiannaki
Latvia	Mr Jānis Bērzinš Ms Tatjana Zabarovska
Lithuania	Mr Mindaugas Pluktas Mrs Dalia Legiené
Hungary	Mr András Békés Ms Kornélia Molnár
Malta	Mr Mark Gauci Mr Silvio Farrugia
Poland	Mrs Anna Hintz Mrs Katarzyna Kitajewska
Slovenia	Mr Borut Brezovar Mr Boriz Ruzic
Slovakia	Mr Gabriel Hrabovsky Mrs Ludmila Mikleticova

COMMISSION DECISION

of 27 December 2004

concerning the financial contribution by the Community towards the organisation of an international seminar on animal welfare in the context of the EC-Chile Agreement on Sanitary and Phytosanitary measures applicable to trade in animals and animal products, plants, plant products and other goods and animal welfare

(2004/907/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field [1], and in particular Article 20 thereof,

Whereas:

(1) The EC-Chile Agreement on Sanitary and Phytosanitary measures applicable to trade in animals and animal products, plants, plant products and other goods and animal welfare (hereafter referred to as the Agreement) includes, given the importance of animal welfare and its relation with veterinary matters, the aim of developing animal welfare standards and to examine such standards taking into account the development in the competent international standards organisations. As per Appendix IC to the Agreement, it shall apply in particular to the development of animal welfare standards concerning the stunning and slaughter of animals.

(2) The specific working group on animal welfare established by the Agreement's Joint Management Committee concluded in order to better achieve its objectives, it would be helpful to exchange information on scientific expertise and to establish active contacts between scientists from the two Parties.

(3) An international seminar on animal welfare is being organised in Santiago, Chile, in November 2004 by the Chilean Ministry of Agriculture and the Delegation of the European Commission to Chile to assist with the Agreement's objective on reaching a common understanding between the Parties concerning animal welfare standards.

(4) Pursuant to Decision 90/424/EEC the Community is to undertake the technical and scientific measures necessary for the development of Community veterinary legislation and for the development of veterinary education or training.

(5) In line with the Community's obligation to pay full regard to the welfare requirements of animals in formulating and implementing the Community's policies, and the Agreement's aim of reaching a common understanding between the Parties concerning animal welfare standards for the protection of animals, it is appropriate that the Community should support the organisation of this seminar, the outcome of which will assist in the further development of Community veterinary legislation and veterinary education or training on this issue.

(6) With a view to the further development of veterinary education or training in the field of animal welfare, it is appropriate that the Community should assist with communicating and disseminating the outcome of the seminar, including covering the costs of the publication and dissemination of the scientific proceedings of the seminar, to be organised in the framework of an open call for offers.

(7) It is appropriate that the disbursement of such financial support should be coordinated by the Delegation of the European Commission to Chile, one of the joint organisers of the seminar.

(8) The financial resources necessary for the Community to support the organisation of this seminar should therefore be engaged and granted subject to the planned seminar having been efficiently carried out.

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

[1] OJ L 224, 18.8.1990, p. 19. Decision as last amended by Directive 2003/99/EC of the European Parliament and of the Council of 17 November 2003 (OJ L 325, 12.12.2003, p. 31).

HAS DECIDED AS FOLLOWS:

Sole Article

The action to support the organisation of an international seminar on animal welfare in the context of the EC-Chile Agreement on Sanitary and Phytosanitary measures applicable to trade in animals and animal products, plants, plant products and other goods and animal welfare, to be financed from budget line 17.4.02 of the budget of the European Union for 2004 to a maximum amount of EUR 35 000, is hereby approved. In particular the Community's financing of the costs of publishing and disseminating the scientific proceedings of the seminar shall not exceed EUR 35 000 in total.

Done at Brussels, 27 December 2004.

For the Commission

Markos KYPRIANOU

Member of the Commission

COMMISSION DECISION

of 23 December 2004

concerning protection measures in relation to Newcastle disease in Bulgaria

(notified under document number C(2004) 5650)

(Text with EEA relevance)

(2004/908/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC [1], and in particular Article 18(1) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries [2], and in particular Article 22(1) thereof,

Whereas:

(1) Newcastle disease is a highly contagious viral disease in poultry and birds, which can quickly take epizootic proportions liable to present a serious threat to animal health and to reduce sharply the profitability of poultry farming.

(2) There is a risk that the disease agent might be introduced via international trade in live poultry and poultry products.

(3) On 23 December 2004 Bulgaria has confirmed an outbreak of Newcastle disease in the Kardjali region.

(4) In view of the animal health risk of disease introduction into the Community, it is therefore appropriate as an immediate measure to suspend imports of live poultry, ratites, farmed and wild feathered game birds and hatching eggs of these species from Bulgaria.

(5) Furthermore the importation into the Community from Bulgaria should be suspended for fresh meat of poultry, ratites and wild and farmed feathered game, meat preparations and meat products consisting of, or containing meat of those species, obtained from birds slaughtered after 16 November 2004.

(6) Commission Decision 97/222/EC [3] lays down the list of third countries from which Member States may authorise the importation of meat products, and establishes treatment regimes in order to prevent the risk of disease transmission via such products. The treatment that must be applied to the product depends on the health status of the country of origin, in relation to the species the meat is obtained from; in order to avoid an unnecessary burden on trade, imports of poultry meat products originating in Bulgaria treated to a temperature of at least 70 °C throughout the product should continue to be authorised.

(7) As soon as Bulgaria has communicated further information on the disease situation and the control measures taken in this respect the measures taken on Community level in relation to this outbreak should be reviewed.

(8) The provisions of this Decision will be reviewed at the next meeting of the Standing Committee on the Food Chain and Animal Health, foreseen on 11-12 January 2005,

HAS ADOPTED THIS DECISION:

Article 1

Member States shall suspend the importation from the territory of Bulgaria of live poultry, ratites, farmed and wild feathered game and hatching eggs of these species.

Article 2

Member States shall suspend the importation from the territory of Bulgaria of:

— fresh meat of poultry, ratites, farmed and wild feathered game and of

— meat preparations and meat products consisting of, or containing meat of, those species.

Article 3

1. By derogation from Article 2, Member States shall authorise the importation of the products covered by this Article which have been obtained from birds slaughtered before 16 November 2004.

[1] OJ L 268, 24.9.1991, p. 56. Directive as last amended by the 2003 Act of Accession.

[2] OJ L 24, 31.1.1998, p. 9. Directive as last amended by the 2003 Act of Accession.

[3] OJ L 98, 4.4.1997, p. 39. Decision as last amended by Decision 2004/857/EC (OJ L 369, 16.12.2004, p. 65).

2. In the veterinary certificates accompanying consignments of the products mentioned in paragraph 1 the following words shall be included:

'Fresh poultry meat/fresh ratite meat/fresh meat of wild feathered game/fresh meat of farmed feathered game/meat product consisting of, or containing meat of, poultry, ratites, farmed or wild feathered game meat/meat preparation consisting of, or containing meat of, poultry, ratites, farmed or wild feathered game meat (*) obtained from birds slaughtered before 16 November 2004 in accordance with Article 3 (1) of Decision 2004/908/EC.

(*) Delete as appropriate.'.

3. By derogation from Article 2, Member States shall authorise the importation of meat products consisting of, or containing meat of, poultry, ratites, farmed and wild feathered game, when the meat of these species has undergone one of the specific treatments referred to under points B, C or D in part IV of the Annex to Decision 97/222/EC.

Article 4

The Member States shall amend the measures they apply to imports so as to bring them into compliance with this Decision and they shall give immediate appropriate publicity to the measures adopted. They shall immediately inform the Commission thereof.

Article 5

This Decision shall be reviewed in the light of the disease evolution and information supplied by the veterinary authorities of Bulgaria at the Standing Committee foreseen for 11 and 12 January 2005.

Article 6

This Decision shall apply until 31 January 2005.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 23 December 2004.

For the Commission

Markos KYPRIANOU

Member of the Commission

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

COUNCIL JOINT ACTION 2004/909/CFSP

of 26 November 2004

on establishing an expert team with a view to a possible European Union integrated police, rule of law and civilian administration mission for Iraq

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in particular Articles 14 and 26 thereof,

Whereas:

(1) The European Union is committed to a secure, stable, unified, prosperous and democratic Iraq that will make a positive contribution to the stability of the region. The EU supports the people of Iraq and the Iraqi Interim Government in their efforts towards the economic, social and political reconstruction of Iraq in the framework of the implementation of United Nations Security Council Resolution 1546 of 8 June 2004.

(2) The European Council on 5 November 2004 welcomed the Joint Fact Finding Mission for a possible integrated Police and Rule of Law operation for Iraq and considered its report. The European Council recognised the importance of strengthening the criminal justice system, consistent with the respect for the rule of law, human rights and fundamental freedoms. It noted the wish of the Iraqi authorities for the EU to become more actively involved in Iraq and that strengthening the criminal justice sector would respond to Iraqi needs and priorities.

(3) The European Council decided that an expert team should be sent by the end of November 2004 to continue the dialogue with the Iraqi authorities, to start initial planning for a possible integrated police, rule of law and civilian administration mission which is expected to start after the elections, scheduled for 30 January 2005, and in particular assess the urgent security needs for such a mission. A dialogue with other countries in the region on these and other matters should also be encouraged.

(4) The EU will use its dialogue with Iraq and its neighbours to encourage continuous regional engagement and support for improved security and for the political and reconstruction process in Iraq based on inclusiveness, democratic principles, respect for human rights and the rule of law, as well as support for security and cooperation in the region.

(5) Such a mission should be secure, independent and distinct but would be complementary and bring added value to ongoing international efforts as well as develop synergies with ongoing Community and Member States' efforts. With regard to a mission in Iraq all security concerns need to be appropriately addressed before any decision is taken.

(6) Bearing in mind the current security situation in Iraq and Baghdad, any deployment of the expert team, or elements thereof, inside Iraq (including the extent and duration of such deployment) should only be decided based on appropriate security advice and assessments and provided adequate security and logistic arrangements are in place to minimise the level of risk.

(7) The expert team will implement its mandate in the context of a situation posing a threat to law and order, the security and safety of individuals, and to the stability of Iraq and which could harm the objectives of the Common Foreign and Security Policy as set out in Article 11 of the Treaty on European Union.

(8) In conformity with the guidelines of the European Council meeting in Nice on 7 to 9 December 2000, this Joint Action should determine the role of the Secretary-General/High Representative, hereafter referred to as 'SG/HR', in accordance with Articles 18 and 26 of the Treaty on European Union,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Mission

1. An expert team is hereby established to continue the dialogue with the Iraqi authorities, to start initial planning for a possible integrated police, rule of law and civilian administration mission which is expected to start after the January 2005 elections and in particular assess the urgent security needs for such a mission. A dialogue with other countries in the region on these and other matters shall also be encouraged.

2. The expert team shall be deployed by the end of November 2004.

3. The expert team shall operate in accordance with the terms of reference set out in Article 2.

Article 2

Terms of reference

1. By the end of January 2005 at the latest, the expert team is expected to produce a report setting out detailed options to address the objectives above. Its findings shall be supported by detailed analysis of both the feasibility of the options, their added value in terms of existing and planned national and international initiatives in this field and the security constraints.

2. The expert team shall base its initial planning on the declaration of the European Council that 'while judging that activities outside Iraq with a presence of liaison elements in Iraq would be feasible at this point in time, the European Council agreed that with regard to a mission inside Iraq, all security concerns need to be appropriately addressed before any decision could be taken.' Dialogue with other countries in the region should be conducted.

3. The report shall identify in particular and include:

— a comprehensive and detailed analysis of the security situation in Iraq, which includes a detailed threat assessment for all aspects of the possible mission in Iraq. The analysis should take into account latest developments in the country in the run-up to the presentation of the report. It should also brief on contingency planning for any elements of the mission inside Iraq, should a deterioration of the security situation occur,

— the areas in which policy advice might be delivered and the specific objectives of such advice and the profile of expertise required to deliver it,

— the specific training requirements, the precise target group for such training and the relative merits of different models for delivering the training (including in-country and out-of country),

— any relevant international standards (in particular UN, Council of Europe or OSCE norms) that should be reflected in the training material,

— scope for collaboration with the UN, in line with the EU-UN joint declaration on crisis management,

— ongoing or planned assistance from other donors in fields relevant to the planned operation,

— the linkages to existing frameworks for coordination of assistance within Iraq and national development frameworks,

— possible areas of deployment, inside and outside Iraq,

— the timelines for deployment,

— personnel, logistics, technical and security requirements,

— the necessary items for a budget regarding the different options,

— the necessary items for draft Status of Mission agreements.

4. The expert team shall conduct appropriate dialogue with Iraqi authorities both at national and regional level, and across the criminal justice sector and with other relevant actors. It should ensure regular contact with the Iraqi Ministry of Planning, responsible for the overall coordination of assistance efforts. The team shall also establish close contact with the European Commission's office for Iraq (currently based in Amman), Member States' bilateral programmes, United Nations Assistance Mission for Iraq and the UN Development Group, other major providers of international assistance, and authorities of the region.

5. The expert team will comprise a small working core that can be supplemented, as required, by short-term expertise.

Article 3

Head of the expert team and members of the expert team

1. Mr Pieter Feith is appointed Head of the expert team. He shall select the members of the expert team under the authority of the SG/HR. The Head of the expert team shall consult with the Political and Security Committee, hereafter referred to as 'PSC', on matters of size and composition of the expert team.

2. The Head of the expert team and its members shall be seconded by Member States or EU institutions. All members of the expert team shall remain under the authority of the seconding Member State or institution and shall carry out their duties and act in the interest of the expert team. Both during and after the execution of their mandate, the members of the expert team shall exercise the greatest discretion with regard to all facts and information relating to the team.

3. The Member State or institution having seconded a staff member shall be responsible for answering any claims linked to the secondment from, or concerning, the staff member. The Member State or institution in question shall be responsible for bringing any action against the secondee.

4. The Head of the expert team shall lead the expert team and assume its management.

Article 4

Political supervision and reporting

1. The Head of the expert team shall act under the authority of the SG/HR and shall report to him. The PSC shall receive reports by the Head of the expert team at regular intervals.

2. The PSC shall exercise, under the responsibility of the Council, political supervision. The PSC shall report to the Council at regular intervals.

Article 5

Security

1. The Head of the expert team shall, in consultation with the Council Security Office representative of the mission, be responsible for ensuring compliance with the minimum security standards applicable to the expert team.

2. Member States shall endeavour to provide the expert team with secure accommodation, body armour and close protection within Iraq.

3. The Head of the expert team shall consult with the PSC on security issues affecting the deployment of the team as directed by the SG/HR.

Article 6

Financial arrangements

1. The financial reference amount intended to cover the expenditure related to the expert team shall be EUR 1 058 000.

2. The expenditure financed by the amount stipulated in paragraph 1 shall be managed in accordance with the procedures and rules applicable to the general budget of the European Union with the exception that any pre-financing shall not remain the property of the Community.

3. The Commission shall sign a contract with the Head of the expert team. He shall report fully to, and be supervised by, the Commission on the budgetary aspects of the activities undertaken in the framework of his contract. The Head of the expert team shall be accountable to the Commission for all expenditure.

4. The financial arrangements shall respect the operational requirements of the expert team, including those related to its security.

5. Expenditure shall be eligible as of the date of entry into force of this Joint Action.

Article 7

Entry into force

This Joint Action shall enter into force on the day of its adoption. It shall expire on 15 February 2005.

Article 8

Publication

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

Done at Brussels, 26 November 2004.

For the Council
The President
B. R. BOT