

# Official Journal

## of the European Union

Volume 48

English edition

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26 January 2005

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## I

(Acts whose publication is obligatory)

**REGULATION (EC) No 107/2005 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 12 January 2005**  
**amending Regulation (EC) No 2130/2001 on operations to aid uprooted people in Asian and Latin American developing countries**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 179(1) thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(1)</sup>,

Whereas:

(1) The Community is implementing a programme in favour of operations to aid uprooted people in Asian and Latin American developing countries under Regulation (EC) No 2130/2001 <sup>(2)</sup>. That Regulation expired on 31 December 2004.

(2) The renewal of Regulation (EC) No 2130/2001 will be dependent on the possibilities for integrating it into a single framework Regulation for Asia and Latin America.

(3) In July 2002, the Commission adopted a proposal for a Regulation of the European Parliament and of the Council concerning Community cooperation with Asian and Latin American countries <sup>(3)</sup> which integrates aid to uprooted people in Asian and Latin American developing countries and repeals Regulation (EC) No 2130/2001. The proposed Regulation was not adopted in time to enter into force by 31 December 2004. Such a situation could jeopardise the continuity and smooth implementation of operations to aid uprooted people in Asian and Latin American developing countries.

(4) It is necessary to ensure the application of Regulation (EC) No 2130/2001 until the entry into force of the future Regulation. The latter would then constitute the new legal framework for operations to aid uprooted people in these two regions.

(5) It is necessary to indicate the financial framework for the remaining years of the current financial perspective, namely 2005 and 2006.

(6) It is also necessary to provide for an independent evaluation of the application of Regulation (EC) No 2130/2001.

(7) Regulation (EC) No 2130/2001 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 2130/2001 is hereby amended as follows:

1. in Article 8, paragraph 1 is replaced by the following:

‘1. The Commission shall be responsible for evaluating, deciding and administering the operations covered by this Regulation in accordance with the budgetary and other procedures in force, in particular those laid down in Articles 27, 48(2) and 167 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (\*).

—————  
 (\*) OJ L 248, 16.9.2002, p. 1.’;

2. in Article 15, the following paragraph is inserted:

‘1a. The financial framework for the implementation of this Regulation for the period from 2005 to 2006 is hereby set at EUR 141 million.’;

<sup>(1)</sup> Opinion of the European Parliament of 26 October 2004 (not yet published in the Official Journal) and Council Decision of 21 December 2004.

<sup>(2)</sup> OJ L 287, 31.10.2001, p. 3.

<sup>(3)</sup> OJ C 331 E, 31.12.2002, p. 12.

3. in Article 20, the second paragraph is replaced by the following:

*Article 2*

'It shall apply until 31 December 2006.'

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

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

Done at Strasbourg, 12 January 2005.

*For the European Parliament*

*The President*

J. P. BORRELL FONTELLES

*For the Council*

*The President*

Nicolas SCHMIT

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**DIRECTIVE 2004/107/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 15 December 2004**

**relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

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

After consulting the Committee of the Regions,

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

Whereas:

(1) On the basis of principles enshrined in Article 175(3) of the Treaty, the Sixth Community Environment Action Programme, adopted by Decision No 1600/2002/EC of the European Parliament and of the Council <sup>(3)</sup>, establishes the need to reduce pollution to levels which minimise harmful effects on human health, paying particular attention to sensitive populations, and the environment as a whole, to improve the monitoring and assessment of air quality including the deposition of pollutants and to provide information to the public.

(2) Article 4(1) of Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management <sup>(4)</sup> requires the Commission to submit proposals for regulating the pollutants listed in Annex I to that Directive taking into account the provisions laid down in paragraphs 3 and 4 of that Article.

<sup>(1)</sup> OJ C 110, 30.4.2004, p. 16.

<sup>(2)</sup> Opinion of the European Parliament of 20 April 2004 (not yet published in the Official Journal), Council Decision of 15 November 2004.

<sup>(3)</sup> OJ L 242, 10.9.2002, p. 1.

<sup>(4)</sup> OJ L 296, 21.11.1996, p. 55. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

(3) Scientific evidence shows that arsenic, cadmium, nickel and some polycyclic aromatic hydrocarbons are human genotoxic carcinogens and that there is no identifiable threshold below which these substances do not pose a risk to human health. Impact on human health and the environment occurs via concentrations in ambient air and via deposition. With a view to cost-effectiveness, ambient air concentrations of arsenic, cadmium, nickel and polycyclic aromatic hydrocarbons, which would not pose a significant risk to human health, cannot be achieved in specific areas.

(4) With the aim of minimising harmful effects on human health, paying particular attention to sensitive populations, and the environment as a whole, of airborne arsenic, cadmium and nickel and polycyclic aromatic hydrocarbons, target values should be set, to be attained as far as possible. Benzo(a)pyrene should be used as a marker for the carcinogenic risk of polycyclic aromatic hydrocarbons in ambient air.

(5) The target values would not require any measures entailing disproportionate costs. Regarding industrial installations, they would not involve measures beyond the application of best available techniques (BAT) as required by Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control <sup>(5)</sup> and in particular would not lead to the closure of installations. However, they would require Member States to take all cost-effective abatement measures in the relevant sectors.

(6) In particular, the target values of this Directive are not to be considered as environmental quality standards as defined in Article 2(7) of Directive 96/61/EC and which, according to Article 10 of that Directive, require stricter conditions than those achievable by the use of BAT.

(7) In accordance with Article 176 of the Treaty, Member States may maintain or introduce more stringent protective measures relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons provided that they are compatible with the Treaty and that they are notified to the Commission.

<sup>(5)</sup> OJ L 257, 10.10.1996, p. 26. Directive as last amended by Regulation (EC) No 1882/2003.

- (8) Where concentrations exceed certain assessment thresholds, monitoring of arsenic, cadmium, nickel and benzo(a)pyrene should be mandatory. Supplementary means of assessment may reduce the required number of sampling points for fixed measurements. Further monitoring of background ambient air concentrations and deposition is foreseen.
- (9) Mercury is a very hazardous substance for human health and the environment. It is present throughout the environment and, in the form of methylmercury, has the capacity to accumulate in organisms, and in particular to concentrate in organisms higher up the food chain. Mercury released into the atmosphere is capable of being transported over long distances.
- (10) The Commission intends to come forward in 2005 with a coherent strategy containing measures to protect human health and the environment from the release of mercury, based on a life-cycle approach, and taking into account production, use, waste treatment and emissions. In this context, the Commission should consider all appropriate measures with a view to reducing the quantity of mercury in terrestrial and aquatic ecosystems, and thereby the ingestion of mercury via food, and avoiding mercury in certain products.
- (11) The effects of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons on human health, including via the food chain, and the environment as a whole, occur through concentrations in ambient air and via deposition; the accumulation of these substances in soils and the protection of ground water should be taken into account. In order to facilitate review of this Directive in 2010, the Commission and the Member States should consider promoting research into the effects of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons on human health and the environment, particularly via deposition.
- (12) Standardised accurate measurement techniques and common criteria for the location of measuring stations are important elements in assessing ambient air quality so that the information obtained is comparable throughout the Community. Providing reference measurement methods is acknowledged to be an important issue. The Commission has already mandated work on the preparation of CEN standards for the measurement of those constituents in ambient air where target values are defined (arsenic, cadmium, nickel and benzo(a)pyrene) as well as for the deposition of heavy metals with a view to their early development and adoption. In the absence of CEN standard methods, the use of international or national standard reference measurement methods should be permitted.
- (13) Information on the concentrations and the deposition of the regulated pollutants should be forwarded to the Commission as a basis for regular reports.
- (14) Up-to-date information on ambient air concentrations and deposition of regulated pollutants should be readily available to the public.
- (15) The Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (16) The measures necessary for the implementation of this Directive 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 <sup>(1)</sup>.
- (17) The amendments necessary for adaptation of this Directive to scientific and technical progress should relate solely to criteria and techniques for the assessment of concentrations and deposition of regulated pollutants or detailed arrangements for forwarding information to the Commission. They should not have the effect of modifying the target values either directly or indirectly,

HAVE ADOPTED THIS DIRECTIVE:

#### Article 1

#### Objectives

The objectives of this Directive shall be to:

- (a) establish a target value for the concentration of arsenic, cadmium, nickel and benzo(a)pyrene in ambient air so as to avoid, prevent or reduce harmful effects of arsenic, cadmium, nickel and polycyclic aromatic hydrocarbons on human health and the environment as a whole;
- (b) ensure, with respect to arsenic, cadmium, nickel and polycyclic aromatic hydrocarbons, that ambient air quality is maintained where it is good and that it is improved in other cases;
- (c) determine common methods and criteria for the assessment of concentrations of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air as well as of the deposition of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons;

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

(d) ensure that adequate information on concentrations of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air as well as on the deposition of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons is obtained and ensure that it is made available to the public.

#### Article 2

#### Definitions

For the purposes of this Directive the definitions in Article 2 of Directive 96/62/EC, with the exception of the definition of 'target value', shall apply.

The objectives of this Directive shall be to:

- (a) 'target value' means a concentration in the ambient air fixed with the aim of avoiding, preventing or reducing harmful effects on human health and the environment as a whole, to be attained where possible over a given period;
- (b) 'total or bulk deposition' means the total mass of pollutants which is transferred from the atmosphere to surfaces (e.g. soil, vegetation, water, buildings, etc.) in a given area within a given time;
- (c) 'upper assessment threshold' means a level specified in Annex II below which a combination of measurements and modelling techniques may be used to assess ambient air quality, in accordance with Article 6(3) of Directive 96/62/EC;
- (d) 'lower assessment threshold' means a level specified in Annex II below which the sole use of modelling or objective estimation techniques shall be possible to assess ambient air quality, in accordance with Article 6(4) of Directive 96/62/EC;
- (e) 'fixed measurements' means measurements taken at fixed sites either continuously or by random sampling, in accordance with Article 6(5) of Directive 96/62/EC;
- (f) 'arsenic', 'cadmium', 'nickel' and 'benzo(a)pyrene' mean the total content of these elements and compounds in the PM<sub>10</sub> fraction;
- (g) 'PM<sub>10</sub>' means particulate matter, which passes through a size-selective inlet as defined in EN 12341 with a 50 % efficiency cut-off at 10 µm aerodynamic diameter;
- (h) 'polycyclic aromatic hydrocarbons' means those organic compounds, composed of at least two fused aromatic rings made entirely from carbon and hydrogen;
- (i) 'total gaseous mercury' means elemental mercury vapour (Hg<sup>0</sup>) and reactive gaseous mercury, i.e. water-soluble mercury species with sufficiently high vapour pressure to exist in the gas phase.

#### Article 3

#### Target values

1. Member States shall take all necessary measures not entailing disproportionate costs to ensure that, as from 31 December 2012, concentrations of arsenic, cadmium, nickel and benzo(a)pyrene, used as a marker for the carcinogenic risk of polycyclic aromatic hydrocarbons, in ambient air, as assessed in accordance with Article 4, do not exceed the target values laid down in Annex I.

2. Member States shall draw up a list of zones and agglomerations in which the levels of arsenic, cadmium, nickel, and benzo(a)pyrene are below the respective target values. Member States shall maintain the levels of these pollutants in these zones and agglomerations below the respective target values and shall endeavour to preserve the best ambient air quality, compatible with sustainable development.

3. Member States shall draw up a list of the zones and agglomerations where the target values laid down in Annex I are exceeded.

For such zones and agglomerations, Member States shall specify the areas of exceedance and the sources contributing thereto. In the areas concerned, Member States shall demonstrate the application of all necessary measures not entailing disproportionate costs, directed in particular at the predominant emission sources, in order to attain the target values. In the case of industrial installations covered by Directive 96/61/EC this means the application of BAT as defined by Article 2(11) of that Directive.

#### Article 4

#### Assessment of ambient air concentrations and deposition rates

1. Ambient air quality with respect to arsenic, cadmium, nickel and benzo(a)pyrene shall be assessed throughout the territory of the Member States.

2. In accordance with the criteria referred to in paragraph 7, measurement is mandatory in the following zones:

- (a) zones and agglomerations in which levels are between the upper and the lower assessment threshold, and
- (b) other zones and agglomerations where levels exceed the upper assessment threshold.

The measurements provided for may be supplemented by modelling techniques to provide an adequate level of information on ambient air quality.

3. A combination of measurements, including indicative measurements as referred to in Annex IV, Section I, and modelling techniques may be used to assess ambient air quality in zones and agglomerations where the levels over a representative period are between the upper and lower assessment thresholds, to be determined pursuant to Annex II, Section II.

4. In zones and agglomerations where the levels are below the lower assessment threshold, to be determined pursuant to Annex II, Section II, the sole use of modelling or objective estimation techniques for assessing levels shall be possible.

5. Where pollutants have to be measured, the measurements shall be taken at fixed sites either continuously or by random sampling. The number of measurements shall be sufficient to enable the levels to be determined.

6. The upper and lower assessment thresholds for arsenic, cadmium, nickel and benzo(a)pyrene in ambient air shall be those laid down in Section I of Annex II. The classification of each zone or agglomeration for the purposes of this Article shall be reviewed at least every five years in accordance with the procedure laid down in Section II of Annex II. Classification shall be reviewed earlier in the event of significant change in activities relevant to concentrations of arsenic, cadmium, nickel and benzo(a)pyrene, in ambient air.

7. The criteria for determining the location of sampling points for the measurement of arsenic, cadmium, nickel and benzo(a)pyrene in ambient air in order to assess compliance with the target values shall be those listed in Sections I and II of Annex III. The minimum number of sampling points for fixed measurements of concentrations of each pollutant shall be as laid down in Section IV of Annex III, and they shall be installed in each zone or agglomeration within which measurement is required if fixed measurement is the sole source of data on concentrations within it.

8. To assess the contribution of benzo(a)pyrene in ambient air, each Member State shall monitor other relevant polycyclic aromatic hydrocarbons at a limited number of measurement sites. These compounds shall include at least:

benzo(a)anthracene, benzo(b)fluoranthene, benzo(j)fluoranthene, benzo(k)fluoranthene, indeno(1,2,3-cd)pyrene, and dibenz(a,h)anthracene. Monitoring sites for these polycyclic aromatic hydrocarbons shall be co-located with sampling sites for benzo(a)pyrene and shall be selected in such a way that geographical variation and long-term trends can be identified. Sections I, II and III of Annex III shall apply.

9. Irrespective of concentration levels, one background sampling point shall be installed every 100 000 km<sup>2</sup> for the indicative measurement, in ambient air, of arsenic, cadmium, nickel, total gaseous mercury, benzo(a)pyrene and the other polycyclic aromatic hydrocarbons referred to in paragraph 8 and of the total deposition of arsenic, cadmium, mercury, nickel, benzo(a)pyrene and the other polycyclic aromatic hydrocarbons referred to in paragraph 8. Each Member State shall set up at least one measuring station; however, Member States may, by agreement, and in accordance with guidelines to be drawn up under the procedure laid down in Article 6, set up one or several common measuring stations, covering neighbouring zones in adjoining Member States, to achieve the necessary spatial resolution. Measurement of particulate and gaseous divalent mercury is also recommended. Where appropriate, monitoring shall be coordinated with the European Monitoring and Evaluation of Pollutants (EMEP) monitoring strategy and measurement programme. The sampling sites for these pollutants shall be selected in such a way that geographical variation and long-term trends can be identified. Sections I, II and III of Annex III shall apply.

10. The use of bio indicators may be considered where regional patterns of the impact on ecosystems are to be assessed.

11. For zones and agglomerations within which information from fixed measurement stations is supplemented by information from other sources, such as emission inventories, indicative measurement methods and air quality modelling, the number of fixed measuring stations to be installed and the spatial resolution of other techniques shall be sufficient for the concentrations of air pollutants to be established in accordance with Section I of Annex III and Section I of Annex IV.

12. Data quality objectives are laid down in Section I of Annex IV. Where air quality models are used for assessment, Section II of Annex IV shall apply.

13. The reference methods for the sampling and analysis of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air shall be as laid down in Sections I, II and III of Annex V. Section IV of Annex V sets out reference techniques for measuring the total deposition of arsenic, cadmium, mercury, nickel and the polycyclic aromatic hydrocarbons and Section V of Annex V refers to reference air quality modelling techniques when such techniques are available.

14. The date by which Member States shall inform the Commission of the methods used for the preliminary assessment of air quality under Article 11(1)(d) of Directive 96/62/EC shall be the date referred to in Article 10 of this Directive.

15. Any amendments necessary to adapt the provisions of this Article and of Section II of Annex II and of Annexes III to V to scientific and technical progress shall be adopted in accordance with the procedure referred to in Article 6 but may not result in any direct or indirect changes to target values.

#### Article 5

### Transmission of information and reporting

1. With regard to the zones and agglomerations where any of the target values laid down in Annex I is exceeded, Member States shall forward the following information to the Commission:

- (a) the lists of the zones and agglomerations concerned,
- (b) the areas of exceedance,
- (c) the concentration values assessed,
- (d) the reasons for exceedance, and in particular any sources contributing to it,
- (e) the population exposed to such exceedance.

Member States shall also report all data assessed in accordance with Article 4, unless already reported under Council Decision 97/101/EC of 27 January 1997 establishing a reciprocal exchange of information and data from networks and individual stations measuring ambient air pollution within the Member States <sup>(1)</sup>.

The information shall be transmitted for each calendar year, by no later than 30 September of the following year, and for the first time for the calendar year following 15 February 2007.

2. In addition to the requirements laid down in paragraph 1, Member States shall also report any measures taken pursuant to Article 3.

3. The Commission shall ensure that all information submitted pursuant to paragraph 1 is promptly made available to the public by appropriate means, such as Internet, press and other easily accessible media.

<sup>(1)</sup> OJ L 35, 5.2.1997, p. 14. Decision as amended by Commission Decision 2001/752/EC (OJ L 282, 26.10.2001, p. 69).

4. The Commission shall adopt, in accordance with the procedure referred to in Article 6, any detailed arrangements for forwarding the information to be provided under paragraph 1 of this Article.

#### Article 6

### Committee

1. The Commission shall be assisted by the committee established by Article 12(2) of Directive 96/62/EC.

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

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

3. The Committee shall adopt its Rules of Procedure.

#### Article 7

### Public information

1. Member States shall ensure that clear and comprehensible information is accessible and is routinely made available to the public as well as to appropriate organisations, such as environmental organisations, consumer organisations, organisations representing the interests of sensitive populations and other relevant healthcare bodies, on ambient air concentrations of arsenic, cadmium, mercury, nickel and benzo(a)pyrene and the other polycyclic aromatic hydrocarbons referred to in Article 4(8) as well as on deposition rates of arsenic, cadmium, mercury, nickel and benzo(a)pyrene and the other polycyclic aromatic hydrocarbons referred to in Article 4(8).

2. The information shall also indicate any annual exceedance of the target values for arsenic, cadmium, nickel and benzo(a)pyrene laid down in Annex I. The information shall give the reasons for the exceedance and the area to which it applies. It shall also provide a short assessment in relation to the target value and appropriate information regarding effects on health and impact on the environment.

Information on any measures taken pursuant to Article 3 shall be made available to the organisations referred to in paragraph 1 of this Article.

3. The information shall be made available by means of, for example, Internet, press and other easily accessible media.



## Article 8

**Report and review**

1. The Commission shall, by 31 December 2010 at the latest, submit to the European Parliament and the Council a report based on:

- (a) the experience acquired in the application of this Directive,
- (b) in particular, the results of the most recent scientific research concerning the effects on human health, paying particular attention to sensitive populations, and on the environment as a whole, of exposure to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons, and
- (c) technological developments including the progress achieved in methods of measuring and otherwise assessing concentrations of these pollutants in ambient air as well as their deposition.

2. The report referred to in paragraph 1 shall take into account:

- (a) current air quality, trends and projections up to and beyond 2015;
- (b) the scope for making further reductions in polluting emissions from all relevant sources, and the possible merit in introducing limit values aimed at reducing the risk to human health, for the pollutants listed in Annex I, taking account of technical feasibility and cost-effectiveness and any significant additional health and environmental protection that this would provide;
- (c) the relationships between pollutants and opportunities for combined strategies for improving Community air quality and related objectives;
- (d) current and future requirements for informing the public and for the exchange of information between Member States and Commission;
- (e) the experience acquired in the application of this Directive in Member States, and in particular the conditions under which measurement has been carried out as laid down in Annex III;
- (f) secondary economic benefits for the environment and health in reducing the emissions of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons to the extent that these can be assessed;

(g) the adequacy of the particle size fraction used for sampling in view of general particulate matter measurement requirements;

(h) the suitability of benzo(a)pyrene as a marker for the total carcinogenic activity of polycyclic aromatic hydrocarbons, having regard to predominantly gaseous forms of polycyclic aromatic hydrocarbons such as fluoranthene.

In the light of the latest scientific and technological developments the Commission shall also examine the effect of arsenic, cadmium and nickel on human health with a view to quantifying their genotoxic carcinogenicity. Taking account of measures adopted pursuant to the mercury strategy the Commission shall also consider whether there would be merit in taking further action in relation to mercury, taking account of technical feasibility and cost-effectiveness and any significant additional health and environmental protection that this would provide.

3. With a view to achieving levels of ambient air concentrations that would further reduce harmful effects on human health and would lead to a high level of protection of the environment as a whole, taking into account the technical feasibility and cost-effectiveness of further action, the report referred to in paragraph 1 may be accompanied, if appropriate, by proposals for amendments to this Directive, particularly taking into account the results obtained in accordance with paragraph 2. In addition the Commission shall consider regulating the deposition of arsenic, cadmium, mercury, nickel and specific polycyclic aromatic hydrocarbons.

## Article 9

**Penalties**

Member States shall determine the penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

## Article 10

**Implementation**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 February 2007 at the latest. They shall forthwith inform the Commission thereof.

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

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

*Article 12*

**Addressees**

This Directive is addressed to the Member States.

*Article 11*

**Entry into force**

Done at Strasbourg, 15 December 2004.

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

*For the European Parliament*

*The President*

J. P. BORRELL FONTELLES

*For the Council*

*The President*

A. NICOLAI

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## ANNEX I

**Target values for arsenic, cadmium, nickel and benzo(a)pyrene**

Pollutant	Target value <sup>(1)</sup>
Arsenic	6 ng/m <sup>3</sup>
Cadmium	5 ng/m <sup>3</sup>
Nickel	20 ng/m <sup>3</sup>
Benzo(a)pyrene	1 ng/m <sup>3</sup>

<sup>(1)</sup> For the total content in the PM<sub>10</sub> fraction averaged over a calendar year.

## ANNEX II

**Determination of requirements for assessment of concentrations of arsenic, cadmium, nickel and benzo(a)pyrene in ambient air within a zone or agglomeration****I. Upper and lower assessment thresholds**

The following upper and lower assessment thresholds will apply:

	Arsenic	Cadmium	Nickel	B(a)P
Upper assessment threshold in percent of the target value	60 % (3,6 ng/m <sup>3</sup> )	60 % (3 ng/m <sup>3</sup> )	70 % (14 ng/m <sup>3</sup> )	60 % (0,6 ng/m <sup>3</sup> )
Lower assessment threshold in percent of the target value	40 % (2,4 ng/m <sup>3</sup> )	40 % (2 ng/m <sup>3</sup> )	50 % (10 ng/m <sup>3</sup> )	40 % (0,4 ng/m <sup>3</sup> )

**II. Determination of exceedances of upper and lower assessment thresholds**

Exceedances of upper and lower assessment thresholds must be determined on the basis of concentrations during the previous five years where sufficient data are available. An assessment threshold will be deemed to have been exceeded if it has been exceeded during at least three calendar years out of those previous five years.

Where fewer than five years' data are available, Member States may combine measurement campaigns of short duration during the period of the year and at locations likely to be typical of the highest pollution levels with results obtained from information from emission inventories and modelling to determine exceedances of the upper and lower assessment thresholds.

## ANNEX III

**Location and minimum number of sampling points for the measurement of concentrations in ambient air and deposition rates****I. Macroscale siting**

The sites of sampling points should be selected in such a way as to:

- provide data on the areas within zones and agglomerations where the population is likely to be directly or indirectly exposed to the highest concentrations averaged over a calendar year;
- provide data on levels in other areas within zones and agglomerations which are representative of the exposure of the general population;
- provide data on deposition rates representing the indirect exposure of the population through the food chain.

Sampling points should in general be sited so as to avoid measuring very small micro-environments in their immediate vicinity. As a guideline, a sampling point should be representative of air quality in surrounding areas of no less than 200 m<sup>2</sup> at traffic-orientated sites, at least 250 m × 250 m at industrial sites, where feasible, and several square kilometres at urban-background sites.

Where the objective is to assess background levels the sampling site should not be influenced by agglomerations or industrial sites in its vicinity, i.e. sites closer than a few kilometres.

Where contributions from industrial sources are to be assessed, at least one sampling point shall be installed downwind of the source in the nearest residential area. Where the background concentration is not known, an additional sampling point shall be situated within the main wind direction. In particular where Article 3(3) applies, the sampling points should be sited such that the application of BAT can be monitored.

Sampling points should also, where possible, be representative of similar locations not in their immediate vicinity. Where appropriate they should be co-located with sampling points for PM<sub>10</sub>.

**II. Microscale siting**

The following guidelines should be met as far as practicable:

- the flow around the inlet sampling probe should be unrestricted, without any obstructions affecting the airflow in the vicinity of the sampler (normally some metres away from buildings, balconies, trees and other obstacles and at least 0,5 m from the nearest building in the case of sampling points representing air quality at the building line);
- in general, the inlet sampling point should be between 1,5 m (the breathing zone) and 4 m above the ground. Higher positions (up to 8 m) may be necessary in some circumstances. Higher siting may also be appropriate if the station is representative of a large area;
- the inlet probe should not be positioned in the immediate vicinity of sources in order to avoid direct intake of emissions unmixed with ambient air;
- the sampler's exhaust outlet should be positioned so that recirculation of exhaust air to the sample inlet is avoided;
- traffic-orientated sampling points should be at least 25 metres from the edge of major junctions and at least 4 m from the centre of the nearest traffic lane; inlets should be sited so as to be representative of air quality near the building line;
- for the deposition measurements in rural background areas, the EMEP guidelines and criteria should be applied as far as practicable and where not provided for in the Annexes.

The following factors may also be taken into account:

- interfering sources
- security
- access
- availability of electrical power and telephone communications
- visibility of the site in relation to its surroundings
- safety of the public and operators
- the desirability of co-locating sampling points for different pollutants
- planning requirements.

### III. Documentation and review of site selection

The site selection procedures should be fully documented at the classification stage by such means as compass-point photographs of the surrounding area and a detailed map. Sites should be reviewed at regular intervals with repeated documentation to ensure that selection criteria remain valid over time.

### IV. Criteria for determining numbers of sampling points for fixed measurement of concentrations of arsenic, cadmium, nickel and benzo(a)pyrene in ambient air

Minimum number of sampling points for fixed measurement to assess compliance with target values for the protection of human health in zones and agglomerations where fixed measurement is the sole source of information.

#### (a) Diffuse sources

Population of agglomeration or zone (thousands)	If maximum concentrations exceed the upper assessment threshold <sup>(1)</sup>		If maximum concentrations are between the upper and lower assessment thresholds	
	As, Cd, Ni	B(a)P	As, Cd, Ni	B(a)P
0–749	1	1	1	1
750–1 999	2	2	1	1
2 000–3 749	2	3	1	1
3 750–4 749	3	4	2	2
4 750–5 999	4	5	2	2
≥ 6 000	5	5	2	2

<sup>(1)</sup> To include at least one urban-background station and for benzo(a)pyrene also one traffic-oriented station provided this does not increase the number of sampling points.

#### (b) Point sources

For the assessment of pollution in the vicinity of point sources, the number of sampling points for fixed measurement should be determined taking into account emission densities, the likely distribution patterns of ambient air pollution and potential exposure of the population.

The sampling points should be sited such that the application of BAT as defined by Article 2(11) of Directive 96/61/EC can be monitored.

## ANNEX IV

**Data quality objectives and requirements for air quality models****I. Data quality objectives**

The following data quality objectives are provided as a guide to quality assurance.

	Benzo(a)pyrene	Arsenic, cadmium and nickel	Polycyclic aromatic hydrocarbons other than benzo(a)pyrene, total gaseous mercury	Total deposition
— Uncertainty				
Fixed and indicative measurements	50 %	40 %	50 %	70 %
Modelling	60 %	60 %	60 %	60 %
— Minimum data capture	90 %	90 %	90 %	90 %
— Minimum time coverage:				
Fixed measurements	33 %	50 %		
Indicative measurements (*)	14 %	14 %	14 %	33 %

(\*) Indicative measurement being measurements which are performed at reduced regularity but fulfil the other data quality objectives.

The uncertainty (expressed at a 95 % confidence level) of the methods used for the assessment of ambient air concentrations will be evaluated in accordance with the principles of the CEN Guide to the expression of uncertainty in measurement (ENV 13005-1999), the methodology of ISO 5725:1994, and the guidance provided in the CEN Report, 'Air quality — Approach to uncertainty estimation for ambient air reference measurement methods' (CR 14377:2002E). The percentages for uncertainty are given for individual measurements, which are averaged over typical sampling times, for a 95 % confidence interval. The uncertainty of the measurements should be interpreted as being applicable in the region of the appropriate target value. Fixed and indicative measurements must be evenly distributed over the year in order to avoid skewing of results.

The requirements for minimum data capture and time coverage do not include losses of data due to regular calibration or normal maintenance of the instrumentation. Twenty-four-hour sampling is required for the measurement of benzo(a)pyrene and other polycyclic aromatic hydrocarbons. With care, individual samples taken over a period of up to one month can be combined and analysed as a composite sample, provided the method ensures that the samples are stable for that period. The three congeners benzo(b)fluoranthene, benzo(j)fluoranthene, benzo(k)fluoranthene can be difficult to resolve analytically. In such cases they can be reported as sum. Twenty-four hour sampling is also advisable for the measurement of arsenic, cadmium and nickel concentrations. Sampling must be spread evenly over the weekdays and the year. For the measurement of deposition rates monthly, or weekly, samples throughout the year are recommended.

Member States may use wet only instead of bulk sampling if they can demonstrate that the difference between them is within 10 %. Deposition rates should generally be given as  $\mu\text{g}/\text{m}^2$  per day.

Member States may apply a minimum time coverage lower than indicated in the table, but not lower than 14 % for fixed measurements and 6 % for indicative measurements provided that they can demonstrate that the 95 % expanded uncertainty for the annual mean, calculated from the data quality objectives in the table according to ISO 11222:2002 — 'Determination of the uncertainty of the time average of air quality measurements' will be met.

**II. Requirements for air quality models**

Where an air quality model is used for assessment, references to descriptions of the model and information on the uncertainty shall be compiled. The uncertainty for modelling is defined as the maximum deviation of the measured and calculated concentration levels, over a full year, without taking into account the timing of the events.

III. **Requirements for objective estimation techniques**

Where objective estimation techniques are used, the uncertainty shall not exceed 100 %.

IV. **Standardisation**

For substances to be analysed in the PM<sub>10</sub> fraction, the sampling volume refers to ambient conditions.

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## ANNEX V

**Reference methods for assessment of concentrations in ambient air and deposition rates****I. Reference method for the sampling and analysis of arsenic, cadmium and nickel in ambient air**

The reference method for the measurement of arsenic, cadmium and nickel concentrations in ambient air is currently being standardised by CEN and shall be based on manual PM<sub>10</sub> sampling equivalent to EN 12341, followed by digestion of the samples and analysis by Atomic Absorption Spectrometry or ICP Mass Spectrometry. In the absence of a CEN standard method, Member States are allowed to use national standard methods or ISO standard methods.

A Member State may also use any other methods which it can demonstrate give results equivalent to the above method.

**II. Reference method for the sampling and analysis of polycyclic aromatic hydrocarbons in ambient air**

The reference method for the measurement of benzo(a)pyrene concentrations in ambient air is currently being standardised by CEN and shall be based on manual PM<sub>10</sub> sampling equivalent to EN 12341. In the absence of a CEN standard method, for benzo(a)pyrene or the other polycyclic aromatic hydrocarbons referred to in Article 4(8), Member States are allowed to use national standard methods or ISO methods such as ISO standard 12884.

A Member State may also use any other methods which it can demonstrate give results equivalent to the above method.

**III. Reference method for the sampling and analysis of mercury in ambient air**

The reference method for the measurement of total gaseous mercury concentrations in ambient air shall be an automated method based on Atomic Absorption Spectrometry or Atomic Fluorescence Spectrometry. In the absence of a CEN standardised method, Member States are allowed to use national standard methods or ISO standard methods.

A Member State may also use any other methods which it can demonstrate give results equivalent to the above method.

**IV. Reference method for the sampling and analysis of the deposition of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons**

The reference method for the sampling of deposited arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons shall be based on the exposition of cylindrical deposit gauges with standardised dimensions. In the absence of a CEN standardised method, Member States are allowed to use national standard methods.

**V. Reference air quality modelling techniques**

Reference air quality modelling techniques cannot be specified at present. Any amendments to adapt this point to scientific and technical progress must be adopted in accordance with the procedure laid down in Article 6.

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## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 22 December 2004

**concerning the conclusion and the provisional application of the Agreement between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products**

(2005/45/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with Article 300(2) and Article 300(4) thereof,

*Article 1*

The Agreement between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products is hereby approved on behalf of the Community.

Having regard to the proposal from the Commission,

The text of the Agreement is attached to this Decision.

Whereas:

(1) The Council authorised the Commission to negotiate with the Swiss Confederation an Agreement between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products.

*Article 2*

The position to be taken by the Community as regards decisions or recommendations of the Joint Committee that are based on Article 7 of Protocol 2 to the Agreement shall be laid down by the Commission.

(2) By Council Decision of 20 October 2004 <sup>(1)</sup>, and subject to its conclusion at a later date, the Agreement was signed on behalf of the Community on 26 October 2004.

*Article 3*

(3) The Agreement provides for its provisional application pending its entry into force.

The President of the Council shall effect the notification provided for in Article 5(1) of the Agreement on behalf of the Community <sup>(2)</sup>.

(4) The Agreement should be approved,

<sup>(2)</sup> The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

<sup>(1)</sup> Not published in the Official Journal.

*Article 4*

In accordance with Article 5(2) of the Agreement and pending its entry into force, the Agreement shall be applied on a provisional basis from 1 February 2005, provided that the implementation measures as defined in Article 5(4) of Protocol 2 are adopted at the same time.

*Article 5*

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

Done at Brussels, 22 December 2004.

*For the Council*

*The President*

C. VEERMANN

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## AGREEMENT

### **between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products**

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

of the one part, and

THE SWISS CONFEDERATION, hereinafter referred to as 'Switzerland',

of the other part,

hereinafter together referred to as 'the Contracting Parties',

HAVING REGARD to the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 and to the Joint Declaration on further negotiations attached to the Final Acts of the Agreements between the European Communities and their Member States and the Swiss Confederation, signed in Luxembourg on 21 June 1999,

CONSIDERING that Protocol 2 to the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972, hereinafter referred to as 'the Agreement', should be updated in accordance with the results of the Uruguay Round and be adapted as regards product coverage,

CONSIDERING that the trade flows between Switzerland and the new Member States should be maintained after enlargement of the European Union,

DESIRING to improve reciprocal market access for processed agricultural products,

HAVING REGARD to the Agreement in the form of an Exchange of Letters between the European Community, of the one part, and the Swiss Confederation, of the other part, on Protocol 2 to the Agreement between the European Economic Community and the Swiss Confederation, of 17 March 2000,

HAVE AGREED AS FOLLOWS:

#### *Article 1*

The Agreement is hereby amended as follows:

1. Annex I to the Agreement shall be replaced by the new Annex I which is attached to this Agreement as Annex 1.
2. Protocol 2 to the Agreement shall be replaced by the new Protocol 2, which is attached to this Agreement as Annex 2.

#### *Article 2*

The following agreements shall be repealed with effect from the entry into force of this Agreement:

- Agreement in the form of an Exchange of Letters between the European Community, of the one part, and the Swiss Confederation, of the other part, on Protocol 2 to the Agreement between the European Economic Community and the Swiss Confederation, of 17 March 2000,

- Exchange of letters between the European Commission and the Swiss Federal Administration on arrangements designed to improve transparency in the various price compensation measures applied by the European Community and Switzerland which affect trade in processed agricultural products covered by Protocol 2, of 29 November 1988.

#### *Article 3*

The Annexes to this Agreement, including tables and appendices to the tables and the appendix to Protocol 2, shall form an integral part hereof.

#### *Article 4*

1. This Agreement shall apply, on the one hand, to the territories to 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 Switzerland.

2. This Agreement shall also apply to the territory of the Principality of Liechtenstein as long as the customs union with Switzerland is maintained.

## Article 5

1. This Agreement shall be approved by the Contracting Parties in accordance with their own procedures. It shall enter into force on the day following the day on which the Contracting Parties have notified each other of the completion of their internal procedures necessary to this end.

2. Pending the completion of the ratification procedures referred to in paragraph 1, the Contracting Parties shall apply this Agreement from the first day of the fourth month following the date of the signature, provided that the implementing measures as defined in Article 5(4) of Protocol 2 are adopted at the same date.

## Article 6

1. This Agreement shall be drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovene, Spanish and Swedish languages, each text 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 languages referred to in paragraph 1.

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

Hecho en Luxemburgo, el veintiséis de octubre de dos mil cuatro.

V Lucemburku dne dvacátého šestého října dva tisíce čtyři.

Udfærdiget i Luxembourg den seksogtyvende oktober to tusind og fire.

Geschehen zu Luxemburg am sechsundzwanzigsten Oktober zweitausendundvier.

Kahe tuhanda neljanda aasta oktoobrikuu kahekümne kuuendal päeval Luxembourgis.

Έγινε στο Λουξεμβούργο, στις είκοσι έξι Οκτωβρίου δύο χιλιάδες τέσσερα.

Done at Luxembourg on the twenty-sixth day of October in the year two thousand and four.

Fait à Luxembourg, le vingt-six octobre deux mille quatre.

Fatto a Lussemburgo, addì ventisei ottobre duemilaquattro.

Luksemburgā, divi tūkstoši ceturtdā gada divdesmit sestajā oktobrī.

Priimta du tūkstančiai ketvirtų metų spalio dvidešimt šeštą dieną Liuksemburge.

Kelt Luxembourgban, a kettőezer negyedik év október havának huszonhatodik napján.

Magħmula fil-Lussemburgu fis-sitta u għoxrin jum ta' Ottubru tas-sena elfejn u erbgħa.

Gedaan te Luxemburg, de zesentwintigste oktober tweeduizendvier.

Sporządzono w Luksemburgu w dniu dwudziestym szóstym października roku dwutysięcznego czwartego.

Feito no Luxemburgo, em vinte e seis de Outubro de dois mil e quatro.

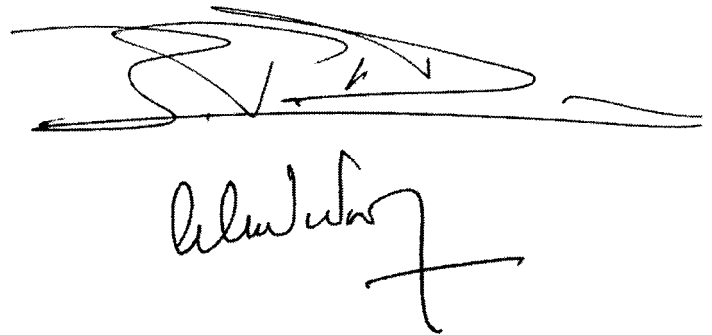
V Luxemburgu dvadsiateho šiesteho oktobra dvetisícčtyri.

V Luxembourggu, dne šestindvajsetega oktobra leta dva tisoč štiri.

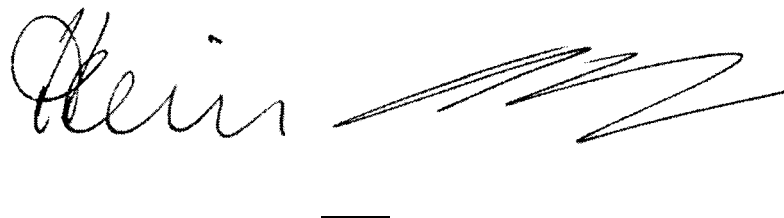
Tehty Luxemburgissa kahdentenäkymmenentenäkuudentena päivänä lokakuuta vuonna kaksituhattaneljä.

Som skedde i Luxemburg den tjugosjätte oktober 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

A large, stylized handwritten signature in black ink, consisting of several sweeping, interconnected strokes.

Für die Schweizerische Eidgenossenschaft  
Pour la Confédération suisse  
Per la Confederazione svizzera

A handwritten signature in black ink, featuring a large, cursive 'H' followed by several horizontal, wavy strokes.

## ANNEX 1

## 'ANNEX I

**List of products referred to in Article 2(i) of the Agreement**

HS code	Description
2905 43	-- Mannitol
2905 44	-- D-glucitol (sorbitol)
3501	Casein, caseinates and other casein derivatives; casein glues:
3501 10	- Casein
ex 3501 90	- Other:
	- Other than casein glues
3502	Albumins (including concentrates of two or more whey proteins, containing by weight more than 80 % whey proteins, calculated on the dry matter), albuminates and other albumin derivatives:
	- Egg albumin:
3502 11	-- Dried
3502 19	-- Other
3502 20	- Milk albumin, including concentrates of two or more whey proteins
3505	Dextrins and other modified starches (for example, pregelatinised or esterified starches); glues based on starches, or on dextrins or other modified starches
3809	Finishing agents, dye carriers to accelerate the dyeing or fixing or dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included:
3809 10	- With a basis of amylaceous substances
3823	Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols:
	- Industrial monocarboxylic fatty acids; acid oils from refining:
3823 11	-- Stearic acid
3823 12	-- Oleic acid
3823 19	-- Other
3823 70	- Industrial fatty alcohols
3824 60	- Sorbitol other than that of subheading 2905 44
5301	Flax, raw or processed but not spun; flax tow and waste (including yarn waste and garnetted stock)
5302	True hemp ( <i>Cannabis sativa</i> L.), raw or processed but not spun; tow and waste of true hemp (including yarn waste and garnetted stock)

## ANNEX 2

## PROTOCOL 2

**Concerning certain processed agricultural products***Article 1***General principles**

1. The provisions of the Agreement shall apply to products listed in Tables I and II unless otherwise specified in this Protocol.
2. In particular, with respect to these products, the Contracting Parties may not levy customs duties on imports or charges having equivalent effect, including agricultural components, or grant export refunds or any refund, remission or non-payment, partial or complete, of customs duties or charges having an equivalent effect.
3. The provisions of this Protocol shall likewise apply to the Principality of Liechtenstein until the application of Protocol 3 to the Agreement on the European Economic Area to the Principality of Liechtenstein.

*Article 2***Application of price compensation measures**

1. In order to take account of differences in the cost of the agricultural raw materials used in the manufacture of the products specified in Table I, the Agreement does not preclude the application of price compensation measures to these products; that is the levying of agricultural components upon import and the granting of export refunds or the granting of refunds, remissions or non-payments, partial or complete of customs duties or charges having an equivalent effect.
2. If a Contracting Party applies internal measures, which reduce the price of raw materials to processing industries, these measures shall be taken into account in the calculation of the price compensation amounts.

*Article 3***Price compensation measures on imports**

1. Switzerland's basic amounts for the agricultural raw materials taken into consideration in calculating the agricultural components on imports shall neither exceed the difference between the Swiss domestic reference price and the Community's domestic reference price for the respective agricultural raw material nor the Swiss import duty actually applied for the agricultural raw material when imported as such.

2. The Swiss import regime for products specified in Table I is laid down in Table IV.

3. If the Swiss domestic reference price is lower than the Community's domestic reference price, the Community may introduce the price compensation measures as laid down in Article 2 that is the levying of agricultural components upon import, in accordance with Regulation (EC) No 1460/96 as subsequently amended.

*Article 4***Price compensation measures on exports**

1. The Swiss export refunds or refunds, remissions or non-payments, partial or complete, of customs duties or charges having an equivalent effect for exports to the Community for products listed in Table I shall not exceed the difference between the Swiss domestic reference price and the Community's domestic reference price for the agricultural raw materials used in the manufacture of these products multiplied by the quantities actually used. If the Swiss domestic reference price is equal or lower than the Community's domestic reference price, the Swiss export refund or refund, remission or non-payment, partial or complete, of customs duties or charges having an equivalent effect shall be zero.
2. If the Swiss domestic reference price is lower than the Community's domestic reference price, the Community may introduce the price compensation measures as laid down in Article 2 that is the granting of export refunds, in accordance with Regulation (EC) No 1520/2000 as subsequently amended, or the granting of refunds, remissions or non-payments, partial or complete of customs duties or charges having an equivalent effect.
3. For sugar (HS headings 1701, 1702 and 1703) used in the manufacture of products listed in Table I and Table II the Contracting Parties may not grant any export refunds or any refund, remission or non-payment, partial or complete, of customs duties or charges having an equivalent effect.

*Article 5***Reference prices**

1. The Community and Swiss domestic reference prices for agricultural raw materials mentioned in Articles 3 and 4 are listed in Table III.



2. The Contracting Parties shall periodically, at least once every year, provide to the Joint Committee the domestic reference prices of all raw materials for which price compensation measures are applied. The domestic reference prices, which are provided, shall reflect the actual price situation in the territory of the Contracting Party. They shall be the prices normally paid at the wholesale or the manufacturing stage by processing industries. If an agricultural raw material is available to the processing industry, or to a part of it, at a price lower than the one otherwise ruling on the domestic market, the domestic reference prices provided shall be adjusted accordingly.

3. The Joint Committee shall fix the domestic reference prices and the price differences, for agricultural raw materials listed in Table III on the basis of the information provided by the services of the European Commission and the Swiss Federal Administration. If necessary for the preservation of the relative preferential margins, the basic amounts of the agricultural raw materials listed in Table IV shall be adapted.

4. The Joint Committee shall review the domestic prices for agricultural raw materials mentioned in Articles 3 and 4 that are listed in Table III prior to the application of this Protocol.

#### Article 6

#### Special provision on administrative cooperation

Special provisions on administrative cooperation are laid down in the Appendix to this Protocol.

#### Article 7

#### Amendments

The Joint Committee may decide to amend the tables, the appendices to the tables and the Appendix attached to this Protocol.

TABLE I

#### Products subject to price compensation measures

HS heading	Description of products
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa:
.10	– Yogurt:
ex .10	– – Flavoured or containing added fruit, nuts or cocoa
.90	– Other:
ex .90	– – Flavoured or containing added fruit, nuts or cocoa
0405	Butter and other fats and oils derived from milk; dairy spreads:
.20	– Dairy spreads:
ex .20	– Of a fat content, by weight, of 39 % or more but less than 75 %
1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, other than edible fats or oils or their fractions of heading 1516:
.10	– Margarine, excluding liquid margarine:
ex .10	– – Containing more than 10 % but not more than 15 % by weight of milk fats
.90	– Other:
ex .90	– – Containing more than 10 % but not more than 15 % by weight of milk fats
1704	Sugar confectionery (including white chocolate), not containing cocoa:
1806	Chocolate and other food preparations containing cocoa:
1901	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa powder or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:
1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:

HS heading	Description of products
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, groats and meal), pre-cooked, or otherwise prepared, not elsewhere specified or included:
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:
2004	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading 2006:
.10	– Potatoes:
ex .10	– – In the form of flour, meal or flakes
2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006:
.20	– Potatoes:
ex .20	– In the form of flour, meal or flakes
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:  – Nuts, ground-nuts and other seeds, whether or not mixed together:
.11	– – Ground-nuts:
ex .11	– – – Peanut butter
2101	Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof:  – Extracts, essences and concentrates, of coffee, and preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:
.12	– – Preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:
ex .12	– – – Containing by weight 1,5 % or more milk fat, 2,5 % or more milk proteins, 5 % or more sugar or 5 % or more starch
.20	– Extracts, essences and concentrates, of tea or maté, and preparations with a basis of these extracts, essences or concentrates, or with a basis of tea or maté:
ex .20	– Containing by weight 1,5 % or more milk fat, 2,5 % or more milk proteins, 5 % or more sugar or 5 % or more starch
2103	Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard:
.20	– Tomato ketchup and other tomato sauces
.90	– Other:
ex .90	– – Other than mango chutney, liquid
2104	Soups and broths and preparations therefor; homogenised composite food preparations
2105	Ice cream and other edible ice, whether or not containing cocoa:
2106	Food preparations not elsewhere specified or included:
.10	– Protein concentrates and textured protein substances:

HS heading	Description of products
ex .10	-- Containing more than 1 % milk fats, 1 % other fats or more than 5 % sugars
.90	- Other
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages:
ex .90	- Other than undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol and other than concentrated grape juice containing added spirit
3501	Casein, caseinates and other casein derivatives; casein glues
.10	- Casein
.90	- Other:
ex .90	-- Other than casein glues

TABLE II

**Free-trade products**

HS heading	Description of products
0501	Human hair, unworked, whether or not washed or scoured; waste of human hair
0502	Pigs', hogs' or boars' bristles and hair; badger hair and other brush making hair; waste of such bristles or hair:
0503	Horsehair and horsehair waste, whether or not put up as a layer with or without supporting material
0505	Skins and other parts of birds, with their feathers or down, feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation; powder and waste of feathers or parts of feathers
10	- Feathers of a kind used for stuffing; down
ex 90	- Other (other than for feed purposes)
0506	Bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised; powder and waste of these products
0507	Ivory, tortoiseshell, whalebone and whalebone hair, horns, antlers, hooves, nails, claws and beaks, unworked or simply prepared but not cut to shape; powder and waste of these products
0508	Coral and similar materials, unworked or simply prepared but not otherwise worked; shells of molluscs, crustaceans or echinoderms and cuttle-bone, unworked or simply prepared but not cut to shape, powder and waste thereof:
ex 00	- Other (than for feed purposes)
0509	Natural sponges of animal origin:
0510	Ambergris, castoreum, civet and musk; cantharides; bile, whether or not dried; glands and other animal products used in the preparation of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved
0710	Vegetables, frozen:
40	- Sweet corn ( <i>Zea mays</i> var. <i>saccharata</i> )
0711	Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption:
90	- Other vegetables; mixtures of vegetables:
ex 90	-- Sweet corn ( <i>Zea mays</i> var. <i>saccharata</i> )

HS heading	Description of products
0901	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion:
0902	Tea, whether or not flavoured:
0903	Maté
1212	Locust beans, seaweeds and other algae, sugar beet and sugar cane, fresh, chilled, frozen or dried, whether or not ground; fruit stones and kernels and other vegetable products (including unroasted chicory roots of the variety <i>Cichorium intybus sativum</i> ) of a kind used primarily for human consumption, not elsewhere specified or included:
ex 20	– Seaweeds and other algae (other than for feed purposes)
1302	Vegetables saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products:
1401	Vegetable materials of a kind used primarily for plaiting (for example bamboos, rattans, reeds, rushes, osier, raffia, cleaned, bleached or dyed cereal straw, and lime bark):
1402	Vegetable materials of a kind used primarily as stuffing or as padding (for example kapok, vegetable hair and eelgrass), whether or not put up as a layer with or without supporting material
1403	Vegetable materials of a kind used primarily in brooms or in brushes (for example broomcorn piassava, couch grass and istle), whether or not in hanks or bundles
1404	Vegetable products not elsewhere specified or included:
10	– Raw vegetable materials of a kind used primarily in dyeing and tanning
20	– Cotton linters
ex 90	– Other (other than for feed purposes)
1505	Wool grease and fatty substances derived therefrom (including lanolin):
ex 00	– Other (than for feed purposes)
1516	Animal or vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared:
20	– Vegetable fats and oils and their fractions:
ex 20	– – Hydrogenated castor oil, so called ‘opal-wax’
1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, other than edible fats or oils or their fractions of heading 1516:
90	– Other:
ex 90	– – Edible mixtures or preparations of a kind used as mould release preparations
1518	Animal or vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this Chapter, not elsewhere specified or included:
ex 00	– Linoxyn
1520	Glycerol, crude; glycerol waters and glycerol lyes
1521	Vegetable waxes (other than triglycerides), beeswax, other insect waxes and spermaceti, whether or not refined or coloured
1522	Degras; residues resulting from the treatment of fatty substances or animal or vegetable waxes

HS heading	Description of products
1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:
50	– Chemically pure fructose
90	– Other, including invert sugar and other sugar syrup blends containing in the dry state 50 % by weight of fructose:
ex 90	– – Chemically pure maltose (other than for feed purposes)
1803	Cocoa paste, whether or not defatted:
1804	Cocoa butter, fat and oil
1805	Cocoa powder, not containing added sugar or other sweetening matter
1903	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or in similar forms
2001	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid:
90	– Other:
ex 90	– – Sweet corn ( <i>Zea mays</i> var. <i>saccharata</i> ); palm hearts; yams, sweet potatoes and similar edible parts of plants of heading 0714
2004	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading 2006:
90	– Other vegetables and mixtures of vegetables:
ex 90	– – Sweet corn ( <i>Zea mays</i> var. <i>saccharata</i> )
2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006:
80	– Sweet corn ( <i>Zea mays</i> var. <i>saccharata</i> )
2006	Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallised):
ex 00	– Sweet corn ( <i>Zea mays</i> var. <i>saccharata</i> )
2007	Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, obtained by cooking, whether or not containing added sugar or other sweetening matter:
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:
	– Nuts, ground-nuts and other seeds, whether or not mixed together:
11	– – Ground-nuts:
ex 11	– – – Ground nuts, roasted
	– Other, including mixtures other than those of subheading 2008 19:
91	– – Palm Hearts
99	– – Other:
ex 99	– – – Maize (corn), other than sweet corn ( <i>Zea mays</i> var. <i>saccharata</i> )

HS heading	Description of products
2101	Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof:
	– Extracts, essences and concentrates, of coffee, and preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:
11	– – Extracts, essences and concentrates:
12	– – Preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:
ex 12	– – – Containing no milk fats, milk proteins, sucrose, isoglucose, glucose or starch or containing by weight less than 1,5 % milk fat, 2,5 % milk proteins, 5 % sucrose or isoglucose 5 % glucose or starch
20	– Extracts, essences and concentrates, of tea or maté, and preparations with a basis of these extracts, essences or concentrates, or with a basis of tea or maté:
ex 20	– – Containing no milk fats, milk proteins, sucrose, isoglucose, glucose or starch or containing by weight less than 1,5 % milk fat, 2,5 % milk proteins, 5 % sucrose or isoglucose, 5 % glucose or starch
30	– Roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof:
2102	Yeasts (active or inactive); other single-cell micro-organisms, dead (but not including vaccines of heading 3002); prepared baking powders:
ex 10	– Active yeasts (other than bakers' yeast and other than for feeding purposes)
ex 20	– Inactive yeasts; other single-cell micro-organisms, dead (other than for feed purposes)
30	– Prepared baking powders
2103	Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard:
10	– Soya sauce
30	– Mustard flour and meal and prepared mustard:
ex 30	– – Mustard flour and meal other than for feed purposes; prepared mustard
90	– Other:
ex 90	– – Mango chutney, liquid
2106	Food preparations not elsewhere specified or included:
10	– Protein concentrates and textured protein substances:
ex 10	– – Other than containing more than 1 % milk fats, 1 % other fats or more than 5 % sugars
2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter not flavoured; ice and snow
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009:
10	– Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured
ex 90	– Other than fruit juice or vegetable juice diluted with water or aerated

HS heading	Description of products
2203	Beer made from malt:
2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:
2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol or higher; ethyl alcohol and other spirits, denatured, of any strength:
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages:
20	– Spirits obtained by distilling grape wine or grape marc:
30	– Whiskies:
40	– Rum and tafia:
50	– Gin and Geneva:
60	– Vodka:
70	– Liqueurs and cordials:
2209	Vinegar and substitutes for vinegar obtained from acetic acid:

TABLE III

EC and Swiss domestic reference prices <sup>(4)</sup>

Agricultural raw material	Swiss domestic reference price CHF per 100 kg net	EC domestic reference price CHF per 100 kg net	Difference Swiss/EC reference price CHF per 100 kg net
Common wheat	64,00	19,45	44,55
Durum wheat	43,22	28,46	14,76
Rye	58,00	15,98	42,02
Barley	32,46	11,81	20,65
Maize	38,97	18,87	20,10
Common wheat flour	105,88	27,23	78,65
Whole-milk powder	607,00	382,77	224,23
Skimmed-milk powder	481,04	295,49	185,55
Butter	922,00	336,10 <sup>(1)</sup> /455,20	466,80/585,90 <sup>(1)</sup>
Sugar (HS headings 1701, 1702 and 1703)	–	–	0,00
Eggs <sup>(2)</sup>	250,75	186,70	64,05
Fresh potatoes	42,00	21,14	20,86
Vegetable fat <sup>(3)</sup>	360,00	147,25	212,75

<sup>(1)</sup> For products benefiting from the aid for butter granted under Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs.

<sup>(2)</sup> Derived from the prices for liquid birds' eggs, not in shell multiplied by factor 0,85.

<sup>(3)</sup> Prices for vegetable fats (for the baking and food industry) with 100 % fat content.

<sup>(4)</sup> The EC and Swiss domestic reference prices for agricultural raw materials mentioned in Articles 3 and 4 that are listed in Table III are based on data of 1 January 2002. They shall be reviewed by the Joint Committee prior to the application of this Protocol.

TABLE IV

**Swiss Import Regime**

- (a) The customs duty for the products listed in the Appendix to this Table is an agricultural component calculated on the basis of the net mass. The standard recipes are specified in the Appendix.
- (b) For products listed in the Appendix the following basic amounts for agricultural raw materials are taken into account for the calculation of the agricultural components:

Agricultural raw material	Applied basic amount as from the entry into force	Applied basic amount as from three years after the entry into force
	CHF per 100 kg net	CHF per 100 kg net
Common wheat	40,00	38,00
Durum wheat	13,00	12,00
Rye	37,00	36,00
Barley	18,00	18,00
Maize	18,00	18,00
Common wheat flour	70,00	67,00
Whole-milk powder	201,00	191,00
Skimmed-milk powder	167,00	158,00
Butter	466,00	466,00
Sugar (HS headings 1701, 1702 and 1703)	00,00	00,00
Eggs	36,00	36,00
Fresh potatoes	18,00	18,00
Vegetable fat	191,00	181,00

- (c) The customs duty for the products listed in the table below is zero.

Swiss tariff heading	Comments
1901.9099	
1904.9020	
1905.9040	
2103.2000	
ex 2103.9000	Other than mango chutney, liquid
2104.1000	
2106.9010	
2106.9024	
2106.9029	
2106.9030	
2106.9040	
2106.9099	
2208.9099	



- (d) As from the application of this Protocol the customs duties for the products listed in the table below are reduced to zero in three equal yearly steps.

Swiss tariff heading	Applied duty as from the entry into force	Applied duty as from one year after the entry into force	Applied duty as from two years after the entry into force
	CHF per 100 kg gross	CHF per 100 kg gross	CHF per 100 kg gross
2208.9021	27,30	13,70	00,00
2208.9022	46,70	23,30	00,00

- (e) The tariff headings set out in this Table refer to those applicable in Switzerland on 1 January 2002. Notwithstanding Article 12bis of the Agreement, the terms of this Table will not be affected by any changes that may be made in the tariff nomenclature.
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## Appendix to Table IV

## Swiss standard recipes

The standard recipes referred to in Table IV, paragraph a (Swiss Import Regime) used in the calculation of the agricultural components are specified in the table below.

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
0403.1010								6	8		20			
0403.1020								10	8		15			
0403.9031								20		18				
0403.9041								10	8					
0403.9049								10	8					
0403.9061								20		20	15			
ex 0403.9071	Containing more than 1 % but not more than 3 % by weight of milk fat							8	12		15			
ex 0403.9071	Containing more than 3 % by weight of milk fat							15	12		15			
ex 0405.2010	Of a fat content, by weight, of 39 % or more but less than 75 %								6	85	9			
ex 0405.2090	Of a fat content, by weight, of 39 % or more but less than 75 %								6	85	9			
ex 1517.1010	Containing more than 10 % but not more than 15 % by weight of milk fat									15				80
ex 1517.1061	Containing more than 10 % but not more than 15 % by weight of milk fat									15				80

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
ex 1517.1069	Containing more than 10 % but not more than 15 % by weight of milk fat									15				80
ex 1517.1071	Containing more than 10 % but not more than 15 % by weight of milk fat									15				40
ex 1517.1079	Containing more than 10 % but not more than 15 % by weight of milk fat									15				40
ex 1517.1081	Containing more than 10 % but not more than 15 % by weight of milk fat									15				25
ex 1517.1089	Containing more than 10 % but not more than 15 % by weight of milk fat									15				25
ex 1517.1091	Containing more than 10 % but not more than 15 % by weight of milk fat									15				10
ex 1517.1099	Containing more than 10 % but not more than 15 % by weight of milk fat									15				10
ex 1517.9010	Containing more than 10 % but not more than 15 % by weight of milk fat									15				85
ex 1517.9061	Containing more than 10 % but not more than 15 % by weight of milk fat									15				85
ex 1517.9069	Containing more than 10 % but not more than 15 % by weight of milk fat									15				85

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
1704.1010						16					74			
1704.1020						32					65			
1704.1030						40					52			
1704.9010								20			45			
1704.9020						21					53			
1704.9031						16					40			
1704.9032						16					10			
1704.9041						24					80			
1704.9042						56					60			
1704.9043						72					37			
1704.9050						61					46			10
1704.9060						61		11			45			
1704.9091											80			
1704.9092											60			
1704.9093											40			
1806.1010											90			
1806.1020											60			
1806.2011										105				
1806.2012										85	15			
1806.2013										45	30			
1806.2014								70			10			
1806.2015								25			55			
1806.2019									70		10			

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
1806.2091								28			50			
1806.2092								20			50			
1806.2093								11			55			
ex 1806.2094	Containing more than 15 % by weight of fat										55			20
ex 1806.2094	Containing not more than 15 % by weight of fat										55			8
ex 1806.2095	Containing more than 15 % by weight of fat							6	8		45			20
ex 1806.2095	Containing more than 2 % but not more than 15 % by weight of fat							6	8		45			8
1806.2096								6	8		45			
ex 1806.2097	Containing more than 20 % by weight of fat										45			30
ex 1806.2097	Containing more than 2 % but not more than 20 % by weight of fat										45			10
1806.2099											55			
1806.3111								12	2		40			5
1806.3119								6	8		45			
1806.3121											45			15
1806.3129											55			
1806.3211								28			50			
1806.3212								17			50			

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
1806.3213								9			55			
1806.3290											55			
ex 1806.9011	Containing more than 15 % by weight of fat							6	8		45			17
ex 1806.9011	Containing more than 8 % but not more than 15 % by weight of fat							6	8		45			12
ex 1806.9011	Containing more than 2 % but not more than 8 % by weight of fat							6	8		45			6
1806.9019								6	8		45			
ex 1806.9021	Containing more than 15 % by weight of fat										45			17
ex 1806.9021	Containing more than 8 % but not more than 15 % by weight of fat										45			12
ex 1806.9021	Containing more than 2 % but not more than 8 % by weight of fat										45			6
1806.9029											55			
1901.1011							30	50			20			
ex 1901.1012	Containing more than 3 % but not more than 6 % by weight of milk fat						40	15	18		20			4
ex 1901.1012	Containing more than 6 % but not more than 12 % by weight of milk fat						40	25	10		20			4

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
ex 1901.1013	Containing more than 1 % but not more than 1,5 % by weight of milk fat						40	4	18		20			4
ex 1901.1013	Containing more than 1,5 % but not more than 3 % by weight of milk fat						40	10	18		20			4
1901.1021			30				55				18			
1901.1022						35	65							
1901.2011							50		10			8		5
1901.2012							50		10			8		5
1901.2018							50		10			8		5
1901.2019							50		10			8		5
1901.2081							55	5		40				
1901.2082							70	10		20				
ex 1901.2083	Containing more than 1 % but not more than 3 % by weight of milk fat						52	6		1	15	8		5
ex 1901.2083	Containing more than 3 % but not more than 6 % by weight of milk fat						52	8		4	15	8		5
ex 1901.2083	Containing more than 6 % but not more than 12 % by weight of milk fat						52	10		10	15	8		5
1901.2091							50			50				
1901.2092							50			22	25			

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
ex 1901.2093	Containing more than 1 % but not more than 3 % by weight of milk fat						55			3	20			10
ex 1901.2093	Containing more than 3 % but not more than 6 % by weight of milk fat						55			6	20			10
ex 1901.2093	Containing more than 6 % but not more than 12 % by weight of milk fat						55			12	20			10
1901.2099							75			5	20			
1901.9011							60		5			2		5
1901.9012							60		5			2		5
1901.9018							60		5			2		5
1901.9019							60		5			2		5
1901.9021					166									
1901.9022					140									
1901.9031							10	25		100				
1901.9032							15	25		70				
1901.9033								25		40	30			
1901.9034							5	85			10			
1901.9035							5	40			55			
1901.9036							50	4	40		10			
1901.9037							50		40		10			
1901.9041							15	25		60				
1901.9042							15	40		40				10



Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
1901.9043										40				
1901.9044								40		10				
1901.9045										10				
1901.9046								12			15			
1901.9047									20		15			
1901.9081							45	5		50				
1901.9082							50	15		20	15			
1901.9089							54	10	8		15	8		5
1901.9091							35			60	5			
1901.9092							50			22	25			
1901.9093						15	55				20			20
1901.9094						30	60				20			
1901.9095											20			5
1901.9096											20	8	30	
ex 1902.1100	Not containing common wheat, rye, barley, maize nor potatoes; other than for feed purposes		145									15		
ex 1902.1100	Others	30	115									15		
ex 1902.1900	Not containing common wheat, rye, barley, maize nor potatoes; other than for feed purposes		160											
ex 1902.1900	Others	30	130											
1902.2000			60									20		10

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
1902.3000			60									20		10
ex 1902.4010	For human consumption		160											
ex 1902.4010	Others	30	130											
1902.4090			60									20		10
1904.1010		25				15	5				13			5
1904.1090						110					20			
1904.2000		35		5	5	3			2		6			
1904.3000			120											
1904.9010			80											
1904.9090			100											5
1905.1010				136										
1905.1020				125							10			
ex 1905.2010	Containing more than 1 % but not more than 3 % by weight of milk fat						35			3	25			
ex 1905.2010	Containing more than 3 % but not more than 9 % by weight of milk fat						35			8	25			
ex 1905.2010	Containing more than 9 % by weight of milk fat						35			10	25			
1905.2020							35				25			15
1905.2030							50				25			

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
ex 1905.3110	Containing more than 1 % but not more than 3 % by weight of milk fat						50			3	20			12
ex 1905.3110	Containing more than 3 % but not more than 6 % by weight of milk fat						50			6	20			9
ex 1905.3110	Containing more than 6 % but not more than 15 % by weight of milk fat						50			15	20			3
ex 1905.3110	Containing more than 15 % by weight of milk fat						50			20	20			
ex 1905.3190	Containing more than 1 % but not more than 3 % by weight of fat						50				20			2,5
ex 1905.3190	Containing more than 3 % but not more than 6 % by weight of fat						50				20			5
ex 1905.3190	Containing more than 6 % but not more than 15 % by weight of fat						50				20			13
ex 1905.3190	Containing more than 15 % by weight of fat						50				20			20
1905.3210							95							
1905.3220							40				20			25
1905.4010							90							5
1905.4021							80				5			5

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
1905.4029							40				25			15
1905.9021							105							
1905.9025							105							
1905.9029					16		95							
1905.9031							110							
1905.9032							105							
1905.9039					16		95							
1905.9071							50		10			8		5
1905.9072							50		10			8		5
1905.9078							50		10			8		5
1905.9079							50		10			8		5
1905.9091							5						370	35
1905.9092							85							10
1905.9093							35			8	25	8		
ex 1905.9094	Breadcrumbs						105							
ex 1905.9094	Other than breadcrumbs						35				25	8		15
ex 1905.9095	Breadcrumbs						105							
ex 1905.9095	Other than breadcrumbs						50				25			
ex 2004.1011	In form of flour, meal or flakes								5				570	

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
ex 2004.1019	In form of flour, meal or flakes								5				570	
ex 2004.1091	In form of flour, meal or flakes								5				570	
ex 2004.1099	In form of flour, meal or flakes								5				570	
2005.2011									5				570	
2005.2012								2				8	410	2
2008.1110														25
ex 2101.1210	Containing by weight 1,5 % or more milk fat, 2,5 % or more milk proteins, 5 % or more sugar or 5 % or more starch							20			45			15
ex 2101.1290	Containing by weight 1,5 % or more milk fat, 2,5 % or more milk proteins, 5 % or more sugar or 5 % or more starch							10			35			10
ex 2101.2010	Containing by weight 1,5 % or more milk fat, 2,5 % or more milk proteins, 5 % or more sugar or 5 % or more starch							20			55			
ex 2101.2090	Containing by weight 1,5 % or more milk fat, 2,5 % or more milk proteins, 5 % or more sugar or 5 % or more starch							10			35			

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
2104.2000							5						40	3
ex 2105.0000	Containing no milk fats or containing not more than 3 % by weight of milk fats, containing no other fats or containing not more than 3 % by weight of other fats								10		20			
ex 2105.0000	Containing no milk fats or containing not more than 3 % by weight of milk fats, containing more than 3 % but not more than 10 % by weight of other fats								10		20			7
ex 2105.0000	Containing no milk fats or containing not more than 3 % by weight of milk fats, containing more than 10 % by weight of other fats								10		20			13
ex 2105.0000	Containing more than 3 % but not more than 7 % by weight of milk fats								10	7	20			
ex 2105.0000	Containing more than 7 % but not more than 10 % by weight of milk fats								10	11	20			
ex 2105.0000	Containing more than 10 % but not more than 13 % by weight of milk fats								10	14	20			
ex 2105.0000	Containing more than 13 % by weight of milk fats								10	19	20			

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
2106.1011						10		12	10		10			5
2106.9021											75			
2106.9022											55			
2106.9023											45			
2106.9070							15	1		5		5		5
2106.9081										100	10			
ex 2106.9085	Containing more than 20 % but not more than 35 % by weight of milk fat										35			40
ex 2106.9085	Containing more than 35 % but not more than 50 % by weight of milk fat										50			40
ex 2106.9086	Containing more than 20 % but not more than 35 % by weight of milk fat										35			
ex 2106.9086	Containing more than 35 % but not more than 50 % by weight of milk fat										50			
ex 2106.9087	Containing more than 3 % but not more than 6 % by weight of milk fat								10		6	5		30
ex 2106.9087	Containing more than 6 % but not more than 12 % by weight of milk fat								10		12	5		30
ex 2106.9087	Containing more than 12 % but not more than 20 % by weight of milk fat								10		20	5		30

Swiss tariff heading	Comments	Common wheat	Durum wheat	Rye	Barley	Maize	Common wheat flour	Whole-milk powder	Skimmed-milk powder	Butter	Sugar	Eggs	Fresh potatoes	Vegetable fat
		Kg of raw material per 100 kg net of finished product												
ex 2106.9088	Containing more than 1 % but not more than 1,5 % by weight of milk fat							10	5		30			30
ex 2106.9088	Containing more than 1,5 % but not more than 3 % by weight of milk fat							10	10		30			30
ex 2106.9091	Containing more than 40 % but not more than 60 % by weight of fat								20					50
ex 2106.9091	Containing more than 60 % by weight of fat								20					70
ex 2106.9092	Containing more than 10 % but not more than 25 % by weight of fat								15		25	6		18
ex 2106.9092	Containing more than 25 % but not more than 40 % by weight of fat								15		25	6		32
ex 2106.9093	Containing more than 1 % but not more than 5 % by weight of fat								10		35			5
ex 2106.9093	Containing more than 5 % but not more than 10 % by weight of fat								10		35			10
2106.9094											60			
2106.9095									5		35			
2106.9096					40							20		
ex 3501.1010	Other than casein glues								301					
ex 3501.1090	Other than casein glues								301					
ex 3501.9010	Other than casein glues								301					
ex 3501.9090	Other than casein glues								301					



*Appendix to Protocol 2***Provisions on administrative cooperation**

1. The Contracting Parties agree that administrative cooperation is essential for the implementation and the control of the preferential treatment granted under this Protocol and underline their commitment to combat irregularities and fraud in customs and related matters.

2. Where a Contracting Party has made a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud under this Protocol, the Contracting Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned in accordance with this Annex.

3. For the purpose of this Appendix a failure to provide administrative cooperation shall mean, *inter alia*:

- (a) a repeated failure to respect the obligations to verify the originating status of the product(s) concerned;
- (b) a repeated refusal or undue delay in carrying out and/or communicating the results of subsequent verification of the proof of origin;
- (c) a repeated refusal or undue delay in obtaining authorisation to conduct administrative cooperation missions to verify the authenticity of documents or accuracy of information relevant to the granting of the preferential treatment in question.

For the purpose of this Appendix a finding of irregularities or fraud may be made, *inter alia*, where there is a rapid increase, without satisfactory explanation, in imports of goods exceeding the usual level of production and export capacity of the other Contracting Party that is linked to objective information concerning irregularities or fraud.

4. The application of a temporary suspension shall be subject to the following conditions:

- (a) the Contracting Party which has made a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud in customs and related matters shall without undue delay notify the Joint Committee of its finding together with the objective information and enter into consultations within the Joint Committee, on the basis of all relevant information and objective findings, with a view to reaching a solution acceptable to both Contracting Parties;
- (b) where the Contracting Parties have entered into consultations within the Joint Committee as above and have failed to agree on an acceptable solution within three months following the notification, the Contracting Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned. A temporary suspension shall be notified to the Joint Committee without undue delay;
- (c) temporary suspensions under this Appendix shall be limited to that necessary to protect the financial interests of the Contracting Party concerned. They shall not exceed a period of six months, which may be renewed. Temporary suspensions shall be notified immediately after their adoption to the Joint Committee. They shall be subject to periodic consultations within the Joint Committee in particular with a view to their termination as soon as the conditions for their application are no longer given;

5. At the same time as the notification to the Joint Committee under paragraph 4(a) of this Appendix, the Contracting Party concerned should publish a notice to importers in its Official Journal. The notice to importers should indicate for the product concerned that there is a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud.

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