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EN

[1] Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 354/2005

of 1 March 2005

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 2 March 2005.

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

Done at Brussels, 1 March 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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

ANNEX

to Commission Regulation of 1 March 2005 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	052	115,1
	204	63,9
	212	135,3
	624	184,6
	999	124,7
0707 00 05	052	174,3
	068	113,5
	204	132,4
	220	230,6
	999	162,7
0709 10 00	220	28,9
	999	28,9
0709 90 70	052	187,2
	204	152,6
	999	169,9
0805 10 20	052	50,7
	204	49,6
	212	51,6
	220	39,8
	421	41,6
	624	56,6
	999	48,3
0805 50 10	052	57,9
	999	57,9
0808 10 80	388	98,1
	400	111,3
	404	96,9
	512	102,3
	524	56,8
	528	78,1
	720	61,4
	999	86,4
0808 20 50	388	77,2
	400	92,1
	512	48,7
	528	65,1
	720	45,1
	999	65,6

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

COMMISSION REGULATION (EC) No 355/2005

of 28 February 2005

amending Regulation (EEC) No 2676/90 determining Community methods for the analysis of wines

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine [1], and in particular Article 46(3) thereof,

Whereas:

(1) The method for measuring the alcoholic strength of wine by electronic densimetry has been validated in accordance with internationally recognised criteria. The International Vine and Wine Office (OIV) adopted the new description of this method at its General Assembly in 2000.

(2) Use of this measurement method can constitute a simpler and more accurate means of checking the alcoholic strength by volume of wines.

(3) There is no longer any need to recognise the equivalence of this method with the methods described in Chapter 3 of the Annex to Commission Regulation (EEC) No 2676/90 [2], and Article 3(2) of that Regulation should therefore be deleted. The updated description of this method and the experimental values for the validation parameters for the method should also be included in Chapter 3 of the Annex to that Regulation.

(4) Regulation (EEC) No 2676/90 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2676/90 is hereby amended as follows:

1. Article 3(2) is deleted.

2. The Annex is amended in accordance with the Annex hereto.

Article 2

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

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

Done at Brussels, 28 February 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 179, 14.7.1999, p. 1. Regulation as amended by the 2003 Act of Accession.
[2] OJ L 272, 3.10.1990, p. 1. Regulation as last amended by Regulation (EC) No 128/2004 (OJ L 19, 27.1.2004, p. 3).

ANNEX

Chapter 3 of the Annex to Regulation (EEC) No 2676/90, 'Alcoholic strength by volume', is hereby amended as follows:

1. point 2.2 is replaced by the following:

'2.2. **Reference methods:**

— measurement of the alcoholic strength of the distillate using a pycnometer,

— measurement of the alcoholic strength of wines using a hydrostatic balance,

— measurement of the alcoholic strength of wines by electronic densimetry using a frequency oscillator.';

2. in point 4, the title is replaced by the following title and subtitle:

'4. REFERENCE METHODS

4–A **Measurement of the alcoholic strength of the distillate using a pycnometer';**

3. in paragraph 4a, the title is replaced by the following:

'4–B **Measurement of the alcoholic strength of wines using a hydrostatic balance';**

4. the following paragraph 4–C is inserted after paragraph 4–B:

'4–C **Measurement of the alcoholic strength of wines by electronic densimetry using a frequency oscillator**

1. **Method of measurement**

1.1. *Title and introduction*

The alcoholic strength by volume of wines must be measured before marketing, principally to comply with labelling rules.

Alcoholic strength by volume is defined in paragraph 1 of this chapter.

1.2. *Purpose and scope*

The method of measurement described is electronic densimetry using a frequency oscillator.

For the purposes of the regulatory provisions in force, the trial temperature is set at 20 °C.

1.3. *Principle and definitions*

The principle of this method is based on distilling wine volume by volume. The distilling method is described in paragraph 3 of this Chapter. Distillation eliminates non-volatile substances. Homologues of ethanol, together with ethanol and ethanol homologues in ethyl esters, are included in the alcoholic strength since they occur in the distillate.

The density of the distillate obtained is then measured. The density of a liquid at a given temperature is equal to the quotient of the mass over its volume:

$\rho = m/V$, for wine, it is expressed in g/ml.

For a hydroalcoholic solution such as a distillate, where the temperature is known, tables can be used to map density and alcoholic strength. This alcoholic strength corresponds to that of wine (distillation volume by volume).

In this method the density of the distillate is measured by electronic densimetry using a frequency oscillator. The principle consists of measuring the period of oscillation of a tube containing the sample subject to electromagnetic excitation. The density can then be calculated – it is linked to the period of oscillation by the following formula:

$$\rho = T^2 \times \left(\frac{C}{4\pi^2 V}\right) - \left(\frac{M}{V}\right) \quad (1)$$

ρ= density of the sample
T= period of vibration induced
M= mass of the empty tube
C= spring constant
V= volume of the sample in vibration

This link takes the form $\rho = A\ T^2 - B$ (2); hence there is a linear relationship between the density and the period squared. The constants A and B are specific to each oscillator and are estimated by measuring the period of fluids of known density.

1.4. *Reagents and products*

1.4.1. Reference fluids

Two reference fluids are used to adjust the densimeter. The densities of the reference fluids must encompass those of the distillates to be measured. A difference in the density of the reference fluids greater than 0,01000 g/ml is recommended. Their density must be known with a degree of uncertainty below +/- 0,00005 g/ml, at a temperature of 20,00 °C +/- 0,05 °C.

To measure the alcoholic strength by volume using an electronic densimeter, the reference fluids are:

— dry air (unpolluted),

— water of at least grade 3 as defined by ISO 3696:1987 should be used,

— hydroalcoholic solutions of reference density,

— solutions linked to national viscosity standards below 2 mm^2/s.

1.4.2. Cleaning and drying products

— detergents, acids,

— organic solvents: ethanol 96 % vol., pure acetone.

1.5. *Apparatus*

1.5.1. Electronic densimeter using a frequency oscillator

The electronic densimeter comprises the following:

— a measuring cell with a measuring tube and thermostatic chamber,

— a system for making the tube oscillate and for measuring the period of oscillation,

— a clock,

— a digital display unit, and possibly a calculator.

The densimeter is placed on a perfectly stable stand that is insulated from all vibrations.

1.5.2. Controlling the temperature in the measuring cell

The measuring tube is placed in a thermostatic chamber. The temperature stability must be +/- 0,02 °C or better.

Where possible, the temperature of the measuring cell should be checked as this has a strong impact on the measurement results. The density of a hydroalcoholic solution of 10 % vol is 0,98471 g/ml at 20 °C and 0,98447 g/ml at 21 °C, or a difference of 0,00024 g/ml.

The trial temperature is set at 20 °C. The temperature is measured in the cell using a thermometer with a resolution of below 0,01 °C in line with national standards. It should guarantee a temperature measurement with under +/- 0,07 °C uncertainty.

1.5.3. Calibration of the apparatus

The apparatus must be calibrated before its first use, then every six months or if the check is unsatisfactory. Two reference fluids should be used to calculate the constants A and B (see above formula 2). Calibration should be carried out in line with the operating instructions for the apparatus. In principle, calibration is carried out using dry air (taking into account atmospheric pressure) and extremely pure water (twice distilled and/or micro-filtered with extremely high resistivity > 18 MΩ).

1.5.4. Checking the calibration

To check the calibration, measure the density of the reference fluids.

The air density should be checked every day. A difference between the theoretical and the actual density greater than 0,00008 g/ml may indicate that the tube is blocked. It should therefore be cleaned. After cleaning, check the air density once again. If this check is not conclusive, the apparatus must be adjusted.

Check the water density also. If the difference between the theoretical and the actual density is greater than 0,00008 g/ml, the apparatus should be adjusted.

If it is difficult to check the temperature of the cell, the density of a hydroalcoholic solution with an alcoholic strength by volume comparable to that of the distillates analysed can be checked directly.

1.5.5. Checks

If the difference between the theoretical density of a reference solution (known with under 0,00005 g/ml uncertainty) and the measurement is greater than 0,00008 g/ml, the temperature of the cell must be checked.

1.6. *Sampling and preparation of the samples*

(see point 3 of this Chapter, "Method of obtaining distillate").

1.7. *Procedure*

After obtaining the distillate, measure its density or alcoholic strength by volume using densimetry.

First ensure the temperature stability of the measuring cell. The distillate in the densimeter cell must not contain air bubbles and must be homogeneous. If a lighting system is available which can help verify the absence of bubbles, it should quickly be switched off after carrying out the checks as the heat generated by the bulb affects the measuring temperature.

If the apparatus only gives the period, the density should be calculated using the constants A and B (see 1.3). If the apparatus does not give the alcoholic strength by volume directly, this can be obtained from the tables.

1.8. *Expression of results*

The alcoholic strength by volume of the wine is that obtained for the distillate. It is expressed in "% vol".

If the temperature conditions cannot be complied with, correct the result to express it at 20 °C. Give the result to two decimal places.

1.9. *Remarks*

The volume placed in the measuring cell must be large enough to avoid any contamination by the previous sample. Consequently, at least two measurements should be carried out. If these do not give results within the repeatability limit, a third measurement is needed. The results of the last two measurements are normally homogeneous and the first value is eliminated.

1.10. *Precision*

For samples with an alcoholic strength by volume of between 4 and 18 % vol

Repeatability (r)	=	0,067 (% vol)
Reproducibility (R)	=	0,0454 + 0,0105 × alcoholic strength by volume

2. **Interlaboratory trials. Precision and accuracy on adjuncts**

The method performance characteristics shown in paragraph 1.10 were obtained from an interlaboratory test carried out in accordance with established international procedures on six samples and by eleven laboratories.

All the details and repeatability and reproducibility calculations carried out in this test are described in the Chapter "*TITRE ALCOOMETRIQUE VOLUMIQUE*" (Alcoholic strength by volume) (point 4.B.2) of the OIV's "*Recueil International des Méthodes d'Analyse*" (compendium of analysis methods – 2004 edition).'

COMMISSION REGULATION (EC) No 356/2005

of 1 March 2005

laying down detailed rules for the marking and identification of passive fishing gear and beam trawls

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy [1], and in particular Articles 5(c) and 20a(3) thereof,

Whereas:

(1) The monitoring and inspection of fishing activities, in particular of certain technical conservation measures, specifying *inter alia*, mesh sizes, limitations of fishing times and other characteristics of passive fishing gear is necessary. For this purpose, the fishing gear used by fishing vessels should be easy to identify and to check. In order to ensure compliance with those requirements, detailed rules should be laid down for the marking and identification of certain fishing gear utilised in Community waters.

(2) It is appropriate, for a proper implementation of the present regulation, that the use of fishing gears which does not comply with the requirements it lays down is prohibited, as well as the carrying on board of gears which do not comply with certain provisions of the Regulation.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fishery and Aquaculture,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down detailed rules for the marking and identification of passive fishing gear and beam trawls.

Article 2

Scope

1. This Regulation shall apply to vessels fishing in Community waters.

2. This Regulation shall not apply within the 12 nautical miles measured from the base lines of the Coastal Member State.

Article 3

Definitions

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

(a) 'passive gear' means:

(i) longlines;

(ii) gillnets, entangling nets, trammel nets, drifting gillnets which may consist of one or more separate nets which are rigged with top, bottom and connecting ropes, and may be equipped with anchoring, floating and navigational gear;

(b) 'beam trawls' mean trawls which are towed from outrigger booms.

Article 4

Prohibition

1. It shall be prohibited to use for fishing passive gear, buoys and beam trawls which are not marked and identifiable in accordance with the provisions of this Regulation.

2. It shall be prohibited to carry on board:

(a) beams of a beam trawl which do not display the external registration letters and numbers in accordance with Article 5;

(b) passive gear which is not labelled in accordance with Article 7;

(c) buoys which are not marked in accordance with Article 10.

[1] OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1954/2003 (OJ L 289, 7.11.2003, p. 1).

CHAPTER II

BEAM TRAWLS

Article 5

Responsibilities concerning beam trawls

The master of a fishing vessel or his representative shall ensure that each assembled beam of a beam trawl carried on board or used for fishing shall clearly display the external registration letters and numbers of the vessel to which they belong on the beam or shoes of each beam.

CHAPTER III

PASSIVE GEAR

Article 6

Responsibilities concerning passive gear

The master of a fishing vessel or his representative shall ensure that each passive gear — carried on board or used for fishing is clearly marked and identifiable, in accordance with the provisions of this Chapter.

Article 7

Display of identification

Each passive gear used for fishing shall permanently display the external registration letters and numbers displayed on the hull of the vessel to which they belong:

(a) on a label attached to the upper first row at both ends of each passive gear;

(b) for passive gear extending more than one nautical mile, on labels attached to the upper first row of the passive gear at regular intervals not exceeding one nautical mile so that no part of the passive gear extending more than one nautical mile shall be left unmarked.

Article 8

Labels

1. Each label shall be:

(a) made of durable material;

(b) securely fitted to the gear;

(c) at least 65 millimetres broad;

(d) at least 75 millimetres long.

2. The letters and numbers displayed on each label shall not be effaced, altered or allowed to become illegible.

CHAPTER IV

BUOYS

Article 9

Responsibilities concerning buoys

The master of a fishing vessel or his representative shall ensure that two end marker buoys and intermediary marker buoys, rigged in accordance with the Annex, are fixed to each passive gear used for fishing and are deployed in accordance with the provisions of this Chapter.

Article 10

Display of identification

1. Each end marker buoy and intermediary buoy shall display the external registration letters and numbers displayed on the hull of the vessel to which they belong as follows:

(a) letters and numbers shall be displayed as high above the water as possible so as to be clearly visible;

(b) in a colour contrasting with the surface on which they are displayed.

2. The letters and numbers displayed on the marker buoy shall not be effaced, altered or allowed to become illegible.

Article 11

Cords

1. The cords linking the buoys to the passive gear shall be of submersible material, or shall be weighted down.

2. The cords linking the end marker buoys to each gear shall be fixed at the ends of that gear.

Article 12

End marker buoys

1. End marker buoys shall be deployed so that each end of the gear may be determined at any time.

2. The mast of each end marker buoy shall have a height of at least 1,5 metres above the sea level measured from the top of the float.

3. End marker buoys shall be coloured, but may not be red or green.

4. Each end marker buoy shall include:

(a) one or two rectangular flag(s) whose side measures at least 40 centimetres; where two flags are required on the same buoy, the distance between them shall be at least 20 centimetres; the distance between the water and the first flag shall be at least 80 centimetres; flags indicating the extremities of the same net shall be of the same colour, which may not be white, and of the same size;

(b) one or two lights, which shall be yellow and give one flash each five-second (F1 Y5s) and be visible from a distance of at least two nautical miles;

(c) a top sign on the top of the buoy which shall be a sphere of a diameter of at least 25 centimetres topped with one or two luminous band which shall be neither red nor green and shall be at least 6 centimetres broad. A spherical radar reflector may be used as the mark on top of the buoy;

(d) radar reflectors giving an echo of at least two nautical miles.

Article 13

Fixing of end marker buoys

End marker buoys shall be fixed to passive gear in the following way:

(a) the buoy in the western sector (meaning the half compass circle from south through west to and including north) shall be rigged with two flags, two striped luminous bands, two lights and a label in accordance with Article 8;

(b) the buoy in the eastern sector (meaning the half compass circle from north through east to and including the south) shall be rigged with one flag one striped luminous band, one light and a label in accordance with Article 8.

The label shall contain the information contained in Article 10.

Article 14

Intermediary marker buoys

1. Intermediary marker buoys shall be fixed to passive gear extending more than 1 nautical mile.

2. Intermediary marker buoys shall be deployed at distances of not more than 1 nautical mile so that no part of the gear extending 1 nautical mile or more shall be left unmarked.

3. Intermediary marker buoys shall have the same characteristics as those of the end marker buoy in the eastern sector except for the following:

(a) the flags shall be white;

(b) every fifth intermediary marker buoys shall be fitted with a radar reflector giving an echo at least two nautical miles.

CHAPTER V

FINAL PROVISION

Article 15

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

It shall apply from 1 October 2005.

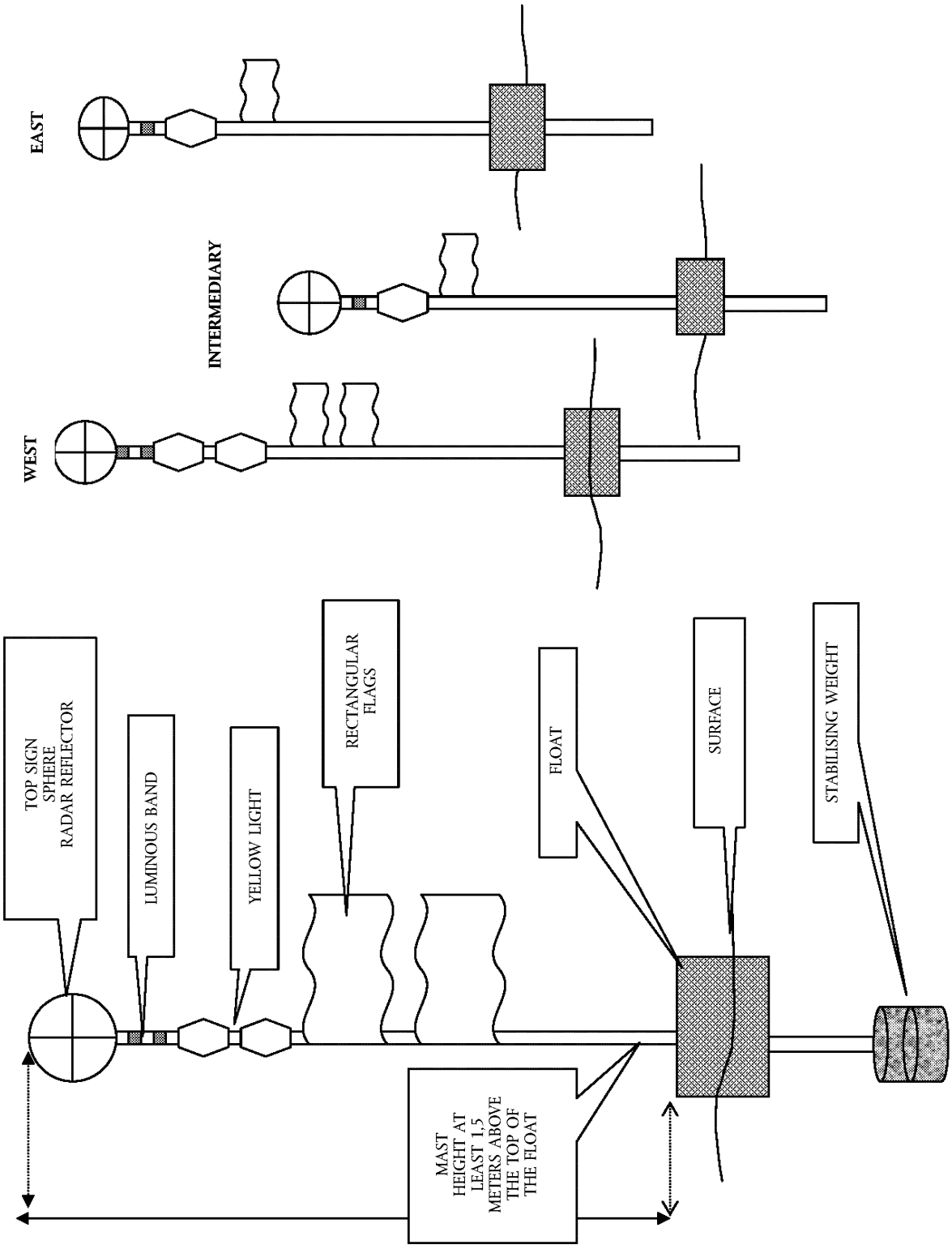
This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 1 March 2005.

For the Commission
Joe BORG
Member of the Commission

ANNEX

CHARACTERISTICS OF END MARKER AND INTERMEDIARY MARKER BUOYS



COUNCIL DIRECTIVE 2005/15/EC

of 28 February 2005

amending Annex IV to Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community [1], and in particular point (d) of the second paragraph of Article 14 thereof,

Having regard to the proposal of the Commission,

Whereas:

(1) Directive 2004/102/EC [2] amends Annexes II, III, IV and V to Directive 2000/29/EC and is to be implemented by the Member States by 1 March 2005.

(2) Directive 2004/102/EC contains provisions related to wood and wood products. The measures related to pallets, boxes and dunnage align Community measures with the FAO International Standard for Phytosanitary Measures (ISPM) No 15 on 'Guidelines for regulating wood packaging material in international trade' which was adopted in March 2002 by the Fourth Interim Commission on Phytosanitary Measures (ICPM).

(3) Standard No 15 describes that wood packaging (including dunnage) made of coniferous and non-coniferous raw wood, should be subjected to approved measures such as heat treatment (56 °C for a minimum of 30 minutes) or fumigation with Methyl Bromide. Moreover the wood should display a specified mark to certify that the wood has been subjected to an approved measure.

(4) The Standard also provides that countries may require that imported wood packaging material subjected to an approved measure be made from debarked wood and display a mark subject to 'technical justification'.

(5) Third countries have requested that the Community consider alternative methods of achieving the same goal. To this end, research is under way on technical aspects of debarking wood, in particular the efficiency of 'pest risk reduction' of debarking in addition to treatment measures.

(6) While awaiting the results of that research, it is appropriate to postpone for debarked wood, the application of the requirement to be used.

(7) Directive 2000/29/EC should therefore be amended accordingly.

(8) The Standing Committee on Plant Health has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2000/29/EC is amended as follows:

1. In Annex IV, Part A, section I, point 2, the following paragraph shall be added at the end of the right hand column:

'The first indent, requiring wood packaging material to be made from debarked round wood, shall only apply from 1 March 2006.'

2. In Annex IV, Part A, section I, point 8, the following paragraph shall be added at the end of the right hand column:

'The first line of point (a), requiring wood packaging material to be made from debarked round wood, shall only apply from 1 March 2006.'

Article 2

1. Member States shall adopt and publish, not later than 28 February 2005, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between these provisions and this Directive.

[1] OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2004/102/EC (OJ L 309, 6.10.2004, p. 9).
[2] OJ L 309, 6.10.2004, p. 9.

They shall apply these provisions from 1 March 2005.

When Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 28 February 2005.

For the Council
The President
F. BODEN

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 24 February 2005

amending the Decision of 27 March 2000 authorising the Director of Europol to enter into negotiations on agreements with third States and non-EU related bodies

(2005/169/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Article 42(2), Article 10(4) and Article 18 of the Convention on the establishment of a European Police Office (Europol Convention) [1],

Having regard to the Council Act of 3 November 1998 laying down rules governing Europol's external relations with third States and non-European Union related bodies [2], and in particular Article 2 of that Act,

Having regard to the Council Act of 3 November 1998 laying down rules governing the receipt of information by Europol from third parties [3], and in particular Article 2 of that Act,

Having regard to the Council Act of 12 March 1999 adopting the rules governing the transmission of personal data by Europol to third States and third bodies [4], and in particular Articles 2 and 3 of that Act,

Whereas:

(1) Operational requirements and the need to combat in an effective way organised forms of criminality through Europol, require that Israel be added to the list of third States with whom the Director of Europol is authorised to start negotiations.

(2) Council Decision of 27 March 2000 [5] should therefore be amended,

HAS DECIDED AS FOLLOWS:

Article 1

Council Decision of 27 March 2000 is hereby amended as follows:

In Article 2(1), under the heading 'Third States', the following State shall be added to the alphabetical list:

'— Israel'.

Article 2

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

Article 3

This Decision shall enter into force on the day following that of its adoption.

Done at Brussels, 24 February 2005.

For the Council
The President
N. SCHMIT

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[1] OJ C 316, 27.11.1995, p. 2.
[2] OJ C 26, 30.1.1999, p. 19.
[3] OJ C 26, 30.1.1999, p. 17.
[4] OJ C 88, 30.3.1999, p. 1.
[5] OJ C 106, 13.4.2000, p. 1. Decision as last amended by Decision of 2 December 2004 (OJ C 317, 22.12.2004, p. 1).

COMMISSION

COMMISSION DECISION

of 16 June 2004

concerning aid for the construction of a propylene pipeline between Rotterdam, Antwerp and the Ruhr area notified by Germany, the Netherlands and Belgium

C 67/03 (ex N 355/03) — C 68/03 (ex N 400/03) — C 69/03 (ex N 473/03)

(notified under document number C(2004) 2031)

(Only the Dutch, French and German texts are authentic)

(Text with EEA relevance)

(2005/170/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above [1] and having regard to their comments,

Whereas:

1. **PROCEDURE**

(1) Starting in the autumn of 2002, the Commission had informal contacts with the German and Dutch authorities on State aid in favour of the German and Dutch sections of a propylene pipeline project. It sent a letter to Germany on 13 February 2002 and received a reply on 27 March 2003. It subsequently had informal contacts with the Belgian authorities. The Association of Petrochemical Producers in Europe (APPE) sent a position paper in support of the project by letter of 15 May 2003. By letters of 24 July, 4 September and 16 October 2003, the German, Dutch and Belgian authorities notified aid for their own sections of the project. The cases were registered under Nos N 355/03, N 400/03 and N 473/03 respectively.

(2) The Commission asked Germany for further information by letter of 27 August 2003. Germany obliged by letters of 6, 15 and 28 October 2003.

(3) By decision C(2003) 4080 of 11 November 2003, the Commission initiated the procedure under Article 88(2) of the Treaty in respect of the notified measures. The decision was sent to Germany, the Netherlands and Belgium the same day; the procedures were registered under Nos C 67/03, C 68/03 and C 69/03 respectively. Germany, the Netherlands and Belgium commented on the decision by letters of 12, 18 and 22 December 2003. The Commission asked for further information by letters of 23 January 2004, to which the Member States concerned replied by letters of 20 February, 27 February and 2 March 2004.

[1] OJ C 315, 24.12.2003, p. 7.

(4) The Commission decision was published in the *Official Journal of the European Union* of 24 December 2003 [2]. Comments were received from three third parties. They were forwarded to Germany, the Netherlands and Belgium, which reacted by letters of 5, 29 and 11 March 2004 respectively. Lastly, the three Member States provided further information by letters of 25 May and 4 June 2004.

2. DETAILED DESCRIPTION OF THE MEASURE CONCERNED

2.1. Background and beneficiary

2.1.1. *Propylene and propylene transport*

(5) Propylene is derived from petroleum and is used for the production of polymers, which are then used to produce plastics. In western Europe some 70 % of all propylene is a by-product of the production of ethylene. Consequently, the location of propylene plants is often determined by the marketing outlets for ethylene. The total size of the western European market was estimated at some 14,7 million tonnes in 2001, half of which is used in the area that would be served by the pipeline. Estimates for future growth of the propylene market range from 3,7 % to 4,0 % for the coming years. The ethylene market is characterised by much lower growth of around 2 %.

(6) At present, some 550 barges (1 500 tonnes each) and 4 800 rail tankers (50 tonnes each) carrying propylene arrive in the Rotterdam-Antwerp-Cologne triangle each year. The expectation is that there will be a shortage of approximately 1,7 million tonnes of propylene in the area in 2010. With changes in the structure of the chemical industry, the expectation is that by that time the pipeline will be transporting 2,5 million tonnes.

(7) Taking simply the transport from Rotterdam to South Limburg and the Ruhr area, the figures are somewhat different. In 1997 this propylene transport flow amounted to 93,4 million tonne-kilometres, of which about 4 million was by rail and about 89,4 million by barge. From 2010 a total of about 1,5 million tonnes per year is expected to be transported to the Ruhr area, equivalent to 750 barges per year. The total quantity transported from Rotterdam to South Limburg would be about 180 000 tonnes per year, equivalent to 900 rail tankers and 70 barges.

2.1.2. *The beneficiary*

(8) The beneficiary will be European Pipeline Company BV (EPC), a consortium of companies in the chemical industry. Its predecessor was European Pipeline Development Company (EPDC). The shareholders are BASF AG, Celanese Chemical Europe GmbH, Shell Nederland Chemie BV, DSM NV, Rütgers Chemicals AG, Sasol Germany GmbH, Veba Oil Refining & Petrochemicals GmbH, Westgas GmbH and SABIC Europe. The consortium owns the Dutch assets, 100 % of the Belgium asset management company, EPDC Flanders NV, and 49,9 % of the German asset management company, Propylenpipeline Ruhr GmbH (PRG) [3]. Landesentwicklungsgesellschaft Nordrhein-Westfalen (LEG) [4] owns the remaining 50,1 % but is not liable for any financial obligation beyond its participation in the company's capital. EPC and the Belgian and German asset management companies together established a joint venture, European Pipeline Administration Company (EPAC), that will be responsible for managing the entire pipeline.

2.1.3. *The pipeline project*

(9) The notifications concern a pipeline for the transportation of propylene from Rotterdam, via Antwerp, Tessenderloo, Geleen and Cologne to Oberhausen in the Ruhr area. The network will be approximately 520 km long. The pipeline consists of nine sections, following as far as possible existing ethylene pipelines. The German notification concerns only the section between Oberhausen, via Cologne, and the Dutch border (Pilot 2), where it connects to another section in the Northern Ruhr area (Pilot 1). In addition to the investment in the pipeline, new storage capacity will be built in the Dutch and Belgian ports and in Duisburg, Germany. In accordance with Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment [5], the beneficiary will carry out such an assessment on the pipeline project as a whole.

[2] See footnote 1.

[3] The assets belong to the limited companies EPDC NL CV, EPDC BE CV and PRG GmbH & CoKG, of which EPDC NL BV, EPDC BE BV and PRG GmbH are the respective shareholders.

[4] The Land of North Rhine-Westphalia has a 68,15 % share in LEG and WestLB a 22,25 % share, while the rest of the shares are privately owned.

[5] OJ L 175, 5.7.1985, p. 40. Directive as last amended by Directive 2003/35/EC of the European Parliament and of the Council (OJ L 156, 25.6.2003, p. 17).

(10) The total investment cost amounts to EUR 148 500 000 (see table below [6]):

Table 1

Total investment cost

(in EUR million)

Section	Investment cost
Germany 'Pilot 2'	67,134
Netherlands	26,0
Belgium	55,4
Total	148,5

(11) The pipeline is managed in accordance with the 'open access/common carrier principle' and the 'low-profit principle'. Any interested producer or user can have access to the pipeline without discrimination. The capacity of the pipeline should be sufficient for dealing with the growth expected over the next 20 years. Transport fees will be the same for any user, whether a shareholder or not. They will be determined on the basis of the number of sections passed through.

(12) The fees will be established in a transparent manner and will be fixed at a level comparable with the transport fees for rail and inland water transport. For the period 2006 to 2008, […] (*). There will be no quantity rebates. In order to keep the fees up to date, a study into these different modes of transport will be carried out every two years.

(13) As regards purchases of works and services, EPAC and PRG must comply with the procurement procedures laid down by the legislation on public procurement at Community and national level.

2.1.4. *The aid*

(14) Germany intends to grant a direct subsidy equal to 80 % of the calculated deficit for normal profitability (unrentierlichen investiven Kosten) for the German section of the pipeline (Pilot 2), with a ceiling of 50 % of the total investment cost. The eligible cost is the investment cost including planning, construction and the first fill, less the income surpluses over the first 15 years based on a discounted cash flow analysis. The aid would amount to EUR 18 682 000. According to a calculation submitted by the German authorities, this aid is equivalent to an internal rate of return (IRR) of 5,6 % when calculated over 25 years.

(15) The Netherlands intends to grant a subsidy of EUR 4 000 000, the amount needed to raise the profitability of the Dutch section of the project to an acceptable level for the industrial partners. The German aid and the Dutch aid are ad hoc measures that are not part of a particular scheme.

(16) Belgium intends to grant a direct subsidy of EUR 2 919 480 and a five-year exemption from property tax, the benefit of which is estimated at EUR 766 000. The total investment cost in Belgium would be EUR 55 400 000, of which the Belgian authorities have recognised EUR 40 885 000 as eligible costs, from which operating profits of EUR 16 556 000 have been deducted [7], leaving an eligible amount of EUR 24 329 000. The Belgian authorities take the view that the aid is covered by a State aid scheme approved by the Commission [8]. The scheme provides for aid of 12 % for this type of investment, corresponding to the amount of EUR 2 919 480 mentioned above. Costs not eligible for aid under the scheme include costs for general research, land acquisition and commissions.

(17) The Belgian aid has been notified with a view to obtaining legal certainty and providing the Commission with an overview of the investment project, together with the total amount of aid granted.

(18) The three Member States have made the aid conditional on compliance with the principles of open access and non-discrimination for 25 years, i.e. the economic lifetime of the project. Compliance with these principles is enshrined in the statutes of EPMC; after 25 years the statutes may be amended in this respect only by a unanimous vote of all the participants.

(19) A loan from the EIB of up to 30 % of the total project cost is under discussion. The shareholders would provide own capital totalling EUR 8 000 000, with the remainder to be financed by banks. At the same time, the shareholders must bear the losses in the initial years, amounting to some EUR 38 000 000 until 2008, equivalent to some EUR 18 000 000 after interest and tax.

(6) 'Pilot 1' will represent an investment cost of EUR 50,5 million for which it would receive an aid of around EUR 25 million.

(*) Confidential information.

(7) It should be noted that these operating profits are the net proceeds minus depreciation and interest on investments.

(8) Decree on economic expansion in the Flemish Region, N 40/99 (OJ C 284, 7.10.2000) and N 223/93 (OJ C 282, 20.10.1993).

2.1.5. *The broader European olefins pipelines network*

(20) The APPE informed the Commission of the broader olefins pipelines network of which the pipeline project at issue is part [9]. At present, there are five separate systems in Europe for ethylene. They are not interconnected to form a complete network and link only about 50 % of the total capacity. For propylene, there are a number of individual systems in and around the Benelux area. The olefins network should connect the individual systems and expand them. The position paper contains several maps indicating various ongoing or projected pipeline projects that should permit completion of the overall network.

2.2. **Justification for the aid put forward by the German, Dutch and Belgian authorities**

(21) The project would be justified by environmental, transport safety and industrial policy considerations.

2.2.1. *Environmental benefits*

(22) Propylene transport is expected to increase significantly, putting pressure on transport capacity by ship and truck. The pipeline is designed to ease that pressure and to prevent bottlenecks. It would reduce road congestion problems significantly.

(23) The differences in emissions between traditional logistics and transport by pipeline are given in Table 2:

Table 2

Emissions

	Units	Rail	Barge	Total	Pipeline	Delta
Shipments	t/km	7 100 000	158 200 000	165 300 000	165 300 000	
CO_2	kg per t/km	312	6 960	7 237	4 496	2 741
NO_x	kg per t/km	199	124	126	5,12	121
CO	kg per t/km	0,14	6,33	6,47	0,5	5,97
VOC	kg per t/km	0,07	6,33	6,4	0,17	6,23
SO_2	kg per t/km	0,14	9,49	9,63	2,15	7,48

(24) Further reductions of emissions would result from the fact that the pipeline would permit new investment projects at locations requiring less transport of olefins.

2.2.2. *Transport safety and congestion*

(25) The pipeline would contribute significantly to enhanced transport safety. Propylene is a Hazard Class 1 material. Without the pipeline, the growth of the market would lead to a substantial increase in other forms of transport for propylene and in the related safety and congestion concerns.

(26) In the Netherlands the concerns relate in particular to transport by barge and rail. The growth of rail transport would accentuate safety problems along the track and the problems posed by the transhipment of propylene. The pipeline would alleviate the risk, in particular by reducing the number of shunting operations at railway yards and the transhipment of propylene. One of the most serious problem areas on the rail link between Rotterdam and Geleen would be the railway yard at Venlo. Relocation would be the solution but would cost some EUR 134 000 000. The pipeline reduces the need for such relocation.

(27) The Netherlands has put the immediate social return (traffic safety, emissions and noise) on the subsidy at 12 %.

2.2.3. *Industrial policy and employment considerations*

(28) The pipeline would be of strategic importance for the viability of the chemical industry in the area. A 1998 study singled out the lack of appropriate infrastructure as the major factor hampering competitiveness. This contrasts with the extensive network in the United States. The pipeline would make transport much more flexible as it would serve as a 'storage place', with all users having direct and near access. It would also reduce the uncertainty of propylene supply to customers stemming from disruptions in propylene production in steam crackers.

[9] Position Paper: *The Development of a European Olefins Pipelines Network and Its Benefits*, May 2003. It can be found at the following website: http://www.petrochemistry.net/templates/shwPressroom.asp?TID=4&SNID=16

(29) In 1999 the chemical raw materials industry in the Emscher-Lippe region in Germany provided jobs for 5 233 people. Of these jobs, some 1 906 were reported as being heavily dependent on propylene-based products (1 506 in the raw materials industry and 400 in plastics processing). Without the propylene pipeline the potential in this region would be used to the extent of 50 % at most. An expert study estimated the number of jobs that there would be in the region with and without the pipeline. For the raw materials industry, the project would create 658 jobs by 2010, disregarding multiplier effects. For the integrated chemicals cluster, this figure would be 2 697. In absolute figures, employment would still decline, albeit at a slower rate due to the pipeline.

(30) In 2002 some 9 740 people were employed in the chemical industry in South Limburg with between 500 and 550 of them being employed in the production of propylene and in the production and processing of polypropylene-related products.

3. **REASONS FOR INITIATING THE PROCEDURE PROVIDED FOR IN ARTICLE 88(2) OF THE TREATY**

(31) In its decision to initiate the Article 88(2) procedure, the Commission explained why the measures were to be considered as State aid within the meaning of Article 87(1) of the Treaty and expressed certain doubts as to their compatibility with the Treaty. The aid would not be covered by the Community guidelines on State aid for environmental protection [10] (environmental aid guidelines), the guidelines on national regional aid [11] (regional aid guidelines) or by any other guidelines laid down by the Commission. Similarly, the case in hand differs from other aid measures for transport infrastructure projects previously approved by the Commission. As regards the general criteria for assessing State aid, the Commission noted that the need for the full amount and the proportionality of the aid had not been clearly demonstrated. Some existing pipelines have been financed in their entirety out of private resources. In addition, the aid intensities for the various sections of the project differ, the aid intensity for the German section being relatively high. There were some factual questions as regards the assumptions for the profitability calculations. Lastly, the Commission wondered whether there would not be undue distortion of competition, notably between chemical companies participating directly in the project and other companies in the chemical and related industries and between the chemical industry in the region concerned and that in other regions of the Community.

4. **COMMENTS FROM THIRD PARTIES**

(32) The Commission received comments from Deutsche Bahn and from two competitors in the chemical industry.

(33) Deutsche Bahn confirms the Commission's analysis and takes the view that the aid is detrimental to its interests as pipeline transport will replace rail transport, causing a loss in turnover of some EUR 13 000 000 per year. Turnover would fall further as propylene producers in southern Germany might find their supply contract with users in the Ruhr area being terminated. Deutsche Bahn provided several examples of turnover losses caused by the construction of pipelines.

(34) The first competitor is in favour of developing an olefins pipeline infrastructure in Europe but it is not convinced that the project under consideration justifies the aid granted. Firstly, only polymer-grade propylene will be transported, not chemical- or refinery-grade, the propylene content of which is lower. Polymer-grade propylene accounts for only 60 % of the market. To gain access to the new pipeline will require substantial investments on the part of chemical-grade producers in improving their product to polymer-grade. Secondly, the lack of pipeline networks for propylene transportation in Europe cannot be used as a justification for low competitiveness in the chemical industry as the fees will be similar to those for other modes of transport. The pipeline will compete with the latter and the aid will distort competition with those companies that invest heavily in site selection, jetty facilities and the like. Thirdly, transport by barges and by rail has proven to be environmentally sound. Fourthly, the pipeline may shift investments from coastal locations in the Benelux to, say, Germany.

(35) The second competitor agrees that the transport of light hydrocarbons by pipeline is attractive in terms of efficiency and safety and that a sound infrastructure promotes investment and employment in the areas linked by the pipeline. However, it points out that the current propylene flow from west to east is not a sufficient reason to invest in this pipeline project. Additional volumes would be needed at either end to justify the aid: consumption of propylene in Dutch Limburg and

[10] OJ C 37, 3.2.2001, p. 3.
[11] OJ C 74, 10.3.1998, p. 9.

the German section of the pipeline, and production of propylene in the coastal region. In contrast, Sabic has announced the development of a cracker in Dutch Limburg. This would reduce the flow of propylene from the Antwerp-Rotterdam-Amsterdam (ARA) area to the eastern part of the pipeline. Without investment in propylene production in the ARA area, the pipeline would remain underutilised.

5. COMMENTS FROM GERMANY, THE NETHERLANDS AND BELGIUM

5.1. Comments made by all three Member States

(36) All three Member States confirm the importance of the project from an environmental, transport safety and industrial point of view. They stress that the pipeline will be operated in line with the 'open access', 'non-discrimination' and 'common carrier' principles.

(37) A tender procedure for selecting the beneficiaries was not possible as some petrochemical companies were directly involved in the project as owners of sections of existing pipelines. This would not, in any case, have been economically efficient. Distortions of competition are ruled out in this case since any company can join the consortium.

5.2. Comments from Germany

(38) Germany insists that the public support does not constitute State aid as it does not confer a selective advantage. The pipeline must be viewed as a transport infrastructure like other traffic infrastructure project. This would be in line with earlier decisions by the Commission ([12]). The project was undertaken for environmental and industrial policy reasons and the aid is not simply a reaction to a private initiative. Similarly, the fact that the alternative transport modes of inland waterway and rail are financed by the public authorities was taken into account in the decision to grant aid to the project.

(39) Germany also considers that the project seeks to organise propylene transport on the basis of different transport modalities. Hence the measure would fall within the scope of Article 73 of the Treaty.

(40) The aid would give the project an internal rate of return of 5,6 % in Germany. A higher return would not be possible: in case of higher-than-expected proceeds over the first 15 years, a corresponding amount would be recovered from the beneficiary. Germany stresses that there is no disproportionate advantage for the companies participating directly in the project since any potential user will have access to the installation on non-discriminatory terms. Furthermore, even companies involved in other branches of economic activity may join the consortium. The pipeline will still belong to the company after 15 years, but the company will derive no advantage.

(41) As the pipeline forms part of a Europe-wide network, there will be no distortion of competition for the chemical industry in other regions of the Community.

5.3. Comments from the Netherlands

(42) The Netherlands points out that in the 1990s the ethylene- and propylene-producing industry in north-west Europe, which had been a net exporter, became a net importer on account of the strong competition from Asian countries in particular. The ethylene and propylene market in north-west Europe is currently a closed market given the absence of independent transport, storage and transhipment facilities. The project receiving the aid could force the industry to open up the market. The Netherlands submitted a map giving examples of coastal sites throughout Europe which could supply propylene to the pipeline structurally or on a temporary basis.

(43) The Netherlands recalls its calculation of the societal rate of return on the subsidy (12 %). In addition to the calculation of the project's internal rate of return (6,19 %), it notes that the rates of return in competing modes of transport are similarly low, in the range of 1 to 8 %. It also takes the view that the aid could be considered compatible on the basis of Article 87(3)(b) of the Treaty as it concerns an important project of common European interest.

5.4. Comments from Belgium

(44) In addition to the general comments, Belgium points out that the aid notified by it falls within the scope of an aid scheme approved by the Commission and that the Commission's opinion that it would not be covered by the environmental aid guidelines is not consistent with the previous assessment given by it on the application of the Belgian aid scheme.

([12]) Including N 517/98 UK, South Wales European Rail Freight Terminal (OJ C 81, 24.3.1999, p. 8), N 121/99 AT, Aid for combined transport (OJ C 245, 28.8.1999, p. 2), N 208/00 NL, Subsidy scheme for public inland terminals (OJ C 315, 4.11.2000, p. 22) and N 649/2001 UK, Freight Facilities Grant, Port of Rosyth Project (OJ C 45, 19.2.2002, p. 2).

5.5. **Comments from interested parties**

(45) With respect to the comments from Deutsche Bahn, the three Member States stress that the subsidy will be used only for the pipeline infrastructure and not for actual transport and that the fees will be set by reference to those for competing modes of transport. The fees will be transparent and non-discriminatory. Propylene users that had already invested in infrastructure for transport by inland waterway or by rail are not disadvantaged since the pipeline users are themselves responsible for the connection to the pipeline. Moreover, most of the necessary investments in transport by inland waterway or by rail are not intended specifically for propylene but can be used for other liquefied gases. Lastly, Deutsche Bahn can join EPDC. Success of the pipeline project may be important for Deutsche Bahn as the pipeline creates opportunities for transporting propylene further inland.

(46) With respect to the comments from the first competitor, the three Member States point out that polymer-grade propylene is the only all-purpose grade. Refinery-grade propylene is very rarely used in chemical processes because of the high percentage of propane that has to be treated as an off-gas; for the rest, there are only a few producers of chemical- and refinery-grade propylene. There is a trend towards greater use of polymer-grade propylene in new chemical production processes. The issue of grade has been extensively discussed with the encouragement of a Task Force set up by the Ministry for Economic Affairs of North Rhine-Westphalia. The pipeline, in fact, opens up the prospect of a European single market for propylene.

(47) With respect to the comments from the second competitor, the three Member States point out that all the expected values given by both the participants and independent experts point to a disproportionately high increase in propylene demand in the next few decades. Accordingly, the problem is to avoid a capacity bottleneck with existing modes of transport. The propylene produced by the cracker investment announced by Sabic has been included in the profitability calculations for the pipeline. This investment is currently under consideration, but the pipeline economics will not be affected should it go ahead. In fact, if SABIC does go ahead with the investment, the Geleen site will have an even greater need for the pipeline in order to provide operational flexibility in the event of an unexpected failure in either the production or consumption process. In addition, cracker capacity is being expanded at Terneuzen, which came on stream in 2002 providing 300 kt for consumers in the Antwerp-Rotterdam area. The pipeline opens up completely new investment perspectives for the propylene users, irrespective of where suppliers are located. Moreover, current pipelines are owned by just a few large enterprises.

6. **ASSESSMENT**

6.1. **Existence of State aid within the meaning of Article 87(1) of the Treaty**

(48) State funding for the construction or management of transport infrastructure is not always to be regarded as aid within the meaning of Article 87(1) of the Treaty. However, if the body managing the infrastructure is pursuing an economic activity, the grant may confer a potential competitive advantage on the beneficiary. Both EPC and its shareholders pursue economic activities. In this respect, the case is very similar to the case involving the aviation fuel pipeline in Athens ([13]). The grant allows the consortium to construct and exploit a facility for 25 years, without paying the entire cost. The following should be noted:

(a) The Member States in question have not followed open tender procedures for the construction and operation of the pipeline. The authorities concerned have simply responded to a private initiative.

(b) The pipeline is being depreciated over 25 years and the conditions for granting the aid apply for 15 or 25 years, but the pipeline remains the property of the asset management companies.

(c) Participation in the pipeline company is, in principle, open to any company but, in practice, only propylene and ethylene producers are directly involved.

([13]) Case N 527/2002. The case concerns investment aid of 35 % for a kerosene pipeline from the sea to Athens International Airport. The pipeline is publicly owned but exploited by a consortium in which the airport, Olympic Airways and three oil companies participate. The Commission found the aid to be compatible on the basis of the regional aid guidelines (OJ C 148, 25.6.2003).

(d) The company is to operate on the basis of the 'low-profit principle'. The aid effectively allows an internal rate of return of 5,6 % for the German section. However, the tariff structure has to follow the developments in fees for competing modes of transport. Consequently, a higher rate of return cannot be ruled out.

(49) For these reasons, there is a selective advantage for EPC, as compared with the other enterprises that could have undertaken the project and with competitors providing alternative transport services. The case thus involves a private initiative which is subsidised by the State. There is no doubt that the aid will affect trade between Member States. The beneficiaries are all large chemical companies active on the world market. Moreover, the project relates to a transport activity between the three Member States concerned.

(50) Germany, the Netherlands and Belgium have complied with the requirement to notify the aid pursuant to Article 88(3) of the Treaty. The Commission notes that the total investment cost exceeds EUR 25 000 000 and that the total aid exceeds the gross grant equivalent of EUR 5 000 000. Therefore, even if the Belgian aid were covered by an approved aid scheme, the notification requirement pursuant to point 76 of the environmental aid guidelines is applicable.

6.2. **Compatibility of the aid in question**

(51) The aid is granted to facilitate a transport activity. Transporting propylene by means of a pipeline cannot be seen as an adaptation of the propylene production process; it constitutes a separate service. This is illustrated by the fact that the pipeline will be built by new legal entities created for the sole purpose of providing transport services for propylene. Although EPC's shareholders are active in propylene production and processing, the new activity competes in the first place on the transport market.

(52) The rules on the compatibility of State aid in the Title of the Treaty dealing with transport are, however, not applicable. Article 73 of the Treaty states that aid is compatible with the Treaty if it meets the needs of coordination of transport. However, Article 80 of the Treaty limits the provisions of the Title dealing with transport by stating that *'[t]he provisions of this Title shall apply to transport by rail, road and inland waterway.'* Accordingly, Article 73 does not apply to the investment project in question.

(53) Despite the various positive effects of the aid, none of the rules on the compatibility of State aid that the Commission has developed on the basis of Article 87(2) and (3) are applicable. Only a small part of the investment is located in assisted regions, and the authorities concerned have not sought approval on the basis of the regional and aid guidelines. The environmental aid guidelines are not applicable either. Transport by pipeline causes less pollution than other modes of transport operated by competitors, including even transport by rail or inland waterway. Consequently, there will be a net reduction in pollution. In principle, however, the Commission does not allow State aid for investment that leads to a reduction in pollution by *competitors* of aid beneficiaries. Instead, it considers State aid to be compatible in certain circumstances where the beneficiary reduces its *own* pollution.

(54) The Commission has therefore assessed the measure directly on the basis of Article 87(3)(c), which states that aid to facilitate the development of certain economic activities or of certain economic areas may be considered to be compatible with the common market where such aid does not adversely affect trading conditions to an extent contrary to the common interest. The use of a pipeline that shifts some traffic away from rail, road or inland waterway transport constitutes an economic activity.

(55) In the field of transport infrastructure, the Commission has previously acknowledged that aid could be granted if the market did not provide society with the public transport infrastructure necessary to achieve sustainable mobility ([14]). For facilities that are accessible on non-discriminatory terms for all existing and potential operators, an aid intensity of up to 50 % of the total project cost has been allowed. Pipeline transport, like the transport infrastructure projects referred to in paragraph 38, reduces emissions and is safer compared with other modes of transport. It will also contribute to the reduction of congestion. Furthermore, the Commission agrees with the Dutch, Belgian and German authorities that, apart from its environmental and industrial benefits, the project has strategic importance for the chemical industry in the region concerned. Propylene producers in other parts of the EU where there is excess supply of propylene would benefit as well since the project facilitates the sale of their propylene. As part of the procedure, no competitor in other regions of the common market has denied the existence of such beneficial effects.

([14]) N 649/01 UK, Freight Facilities Grant scheme, see footnote 12.

(56) Distortions of competition on the propylene market are limited on account of the open access to the pipeline for all competitors. Compliance with this principle is guaranteed for a period of 25 years, which is the depreciation period for the pipeline, and it is expected that the capacity of the pipeline will, in the normal course of events, be sufficient to avoid bottlenecks for the next 20 years.

(57) The notified aid can be considered to be necessary and proportional to the objectives in mind. Without it, the return on the investments would be too low and the project would not be carried out. For the rest, it should be pointed out that the subsidy is limited to a level that allows not more than a normal internal rate of return (IRR) on the investments for the companies involved. In the case at issue, the IRR should be calculated with respect to the total project (including Pilot 1) and to its individual sections because these are inextricably linked to each other and it would not make sense to invest in one section and not in others. If the pipeline were only partly built, the expected propylene flows would be lower, resulting in a lower IRR and lower environmental, safety and industrial benefits. The calculation for the entire project gives an IRR of 6,19 % over 25 years, but one of only 2,75 % when calculated over 15 years. Without subsidies these rates would be 3,80 % and − 0,24 %. The assumptions underpinning the calculations are realistic and reasonable, even when taking into account the relevant comments from the third parties. Even the figure of 6,19 % can be considered as being equal to or below a normal rate of return for this type of project. The post-tax IRR on other chemical and oil pipeline systems in Europe has been between 9 and 13 % over 25 years. IRRs on equivalent systems in the United States have a slightly higher IRR (in the range of 11 to 15 %). Returns on power stations and similar installations are in the range of 10 to 13 % over shorter periods, e.g. 15 years. The expectations of the chemical industry for new chemical plants are above 15 %, with actual returns tending to be lower (9 to 15 %), depending on the type of plant and the tax regime. Furthermore, the IRR calculated is higher than average returns in rail transport (1 to 3 %) and bulk road transport (3 to 4 %), but comparable to those for the transport of chemicals by inland waterway (7 to 8 %).

(58) Distortions of competition between the companies participating directly in the project and other companies in the chemical and related industries are limited. In the first place, the pipeline will be used by a substantial number of companies, not only those participating in the consortium. Much of the propylene will be used at integrated chemical sites, where the derivatives are immediately fed into other production processes operated by other companies, including SMEs. Secondly, any company may join the consortium on non-discriminatory conditions. The fact that the participating companies all participate on equal terms also indicates that there is no major benefit for one or more of the companies in the industry. Given the low-profit principle and the principle whereby fees are set at a level making it just possible to compete with other modes of transport, the benefit to the industry consists in an increased flexibility and immediate availability of propylene supply, rather than a pecuniary benefit.

(59) It is true that producers of propylene with a lower purity level than polymer-grade propylene may not derive much benefit from the pipeline. Any standard, however, limits the use of the pipeline to a certain extent, and the chosen standard ensures the widest use. To some extent, the pipeline may reduce competition between producers on the quality of propylene, but this effect is likely to be limited since, for technical reasons, most chemical companies will need polymer-grade not lower-grade propylene. In any case, the pipeline does not hamper the transport of propylene of other grades by rail and inland waterway. The apparently most important positive effect on competition will derive from the increased flexibility of supply and from standardisation based on polymer-grade propylene, and this will make it easier for propylene consumers to switch supplier.

(60) In accordance with point 29 of the environmental aid guidelines, the Commission may authorise investment aid enabling firms to improve on the Community standards applicable up to no more than 30 % gross of the eligible investment costs. Although the investments in question do not fall within the scope of these guidelines, the Commission notes that there is no Community standard requiring the participating companies to undertake the investment. The overall aid level, taking into account also the aid for Pilot 1, is below 30 %. Conversely, a number of elements distinguish the present project from the transport infrastructures referred to in paragraph 38 and explain why higher intensities would not be admissible in the present case. Those earlier decisions concerned, for example, projects

for rail and inland waterway infrastructures designed to replace transport by truck, and not pipeline transport designed to replace transport by rail and inland waterway. In addition, the pipeline constitutes a long-distance transport infrastructure, and not only facilities at a certain point or along a limited part of the pipeline. It should also be noted that the infrastructure can be used only for propylene and not for the transportation of other products. Furthermore, the operators will, at the same time, be major users of the pipeline. In addition, if the benefit results not, in the first place, from the lower cost of transport but from improved flexibility of supply, they will, in any event, be major beneficiaries. For all these reasons, the overall aid level seems appropriate.

(61) The pipeline will distort competition as regards inland waterway and rail transport, as Deutsche Bahn maintains. The Commission notes that such a distortion seems to be inherent in the very nature of the project in question but has accepted distortions of this kind in other cases involving transport infrastructures because, in its view, the benefits of such projects outweighed those distortions. Taking all the above arguments into account, the Commission finds that the level of distortion of competition is acceptable in view of the project's benefits and concludes therefore that the distortion resulting from the notified aid is not undue either.

7. **CONCLUSION**

(62) The aid amounting to EUR 3 685 480, EUR 18 682 000 and EUR 4 000 000 notified by Belgium, Germany and the Netherlands respectively in favour of the construction of a propylene pipeline from Rotterdam via Antwerp to the Ruhr area constitutes State aid within the meaning of Article 87(1) of the Treaty.

(63) The aid is compatible with the common market, taking into account the following elements: the reduction of emissions and transport congestion and the increase in safety resulting from the project; the project's importance for the chemical industry in the regions concerned; the limitation of the distortions of competition by virtue of compliance with the principles of low profit, open access/common carrier and non-discrimination; the fact that the aid is limited to a level that does not allow a higher-than-normal rate of return,

HAS ADOPTED THIS DECISION:

Article 1

The aid of EUR 3 685 480, EUR 18 682 000 and EUR 4 000 000 notified by Belgium, Germany and the Netherlands respectively in favour of the construction of a propylene pipeline between Rotterdam, Antwerp and the Ruhr area is compatible with the common market.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Federal Republic of Germany and the Kingdom of the Netherlands.

Done at Brussels, 16 June 2004.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 23 February 2005

on the allocation of quantities of controlled substances allowed for essential uses in the Community in 2004 under Regulation (EC) No 2037/2000 of the European Parliament and of the Council

(notified under document number C(2005) 293)

(Only the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Italian, Portuguese, Slovenian and Spanish texts are authentic)

(Text with EEA relevance)

(2005/171/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer [1], and in particular Article 3(1) thereof,

Whereas:

(1) The Community has already phased out the production and consumption of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride,1,1,1-trichloroethane, hydrobromofluorocarbon and bromo-chloromethane.

(2) Each year the Commission has to determine essential uses for these controlled substances, the quantities that may be used and the companies that may use them.

(3) Decision IV/25 of the Parties to the Montreal Protocol on substances that deplete the ozone layer, hereinafter 'the Montreal Protocol', sets out the criteria used by the Commission for determining any essential uses and authorises the production and consumption necessary to satisfy essential uses of controlled substances in each Party.

(4) Decision XV/8 of the Parties to the Montreal Protocol authorises the production and consumption necessary to satisfy essential uses of controlled substances listed in Annexes A, B and C (Group II and III substances) of the Montreal Protocol for laboratory and analytical uses as listed in Annex IV to the report of the seventh Meeting of the Parties, subject to the conditions set out in Annex II to the report of the sixth Meeting of the Parties, Decision VII/11 and Decision XI/15 of the Parties to the Montreal Protocol.

(5) Pursuant to paragraph 3 of Decision XII/2 of the 12th Meeting of the Parties to the Montreal Protocol on measures to facilitate the transition to chlorofluorocarbon-free metered-dose inhalers (MDIs), Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, Luxembourg, Norway, Portugal, the Netherlands, Sweden and the United Kingdom have notified the United Nations Environment Programme [2] that chlorofluorocarbons (CFCs) are no longer essential for the manufacture of specific short-acting beta agonist CFC-MDIs. Article 4(4)(i)(b) of Regulation (EC) No 2037/2000 prevents CFCs from being used and placed on the market unless they are considered essential under the conditions described in Article 3(1) of that Regulation. These non-essentiality determinations have reduced the demand for CFCs in the Community. In addition, Article 4(6) prevents CFC-MDI products being imported and placed on the market unless the CFCs in these products are considered essential under the conditions described in Article 3(1).

(6) The Commission published a notice [3] on 11 July 2003 to those companies in the Community (15) that request consideration by the Commission for the use of controlled substances for essential uses in the Community in 2004 and a further notification to companies in the 10 new Member States on 11 May 2004 [4], and has received declarations on intended essential uses of controlled substances in 2004.

(7) Commission Decision 2004/209/EC of 28 January 2004 on the allocation of quantities of controlled substances allowed for essential uses in the Community in 2004 pursuant to Regulation (EC) No 2037/2000 of the European Parliament and of the Council [5] should be amended in order to take account of the inclusion of specific quantities of ozone depleting substances required for essential uses in the 10 new Member States from 1 May 2004.

(8) In the interests of legal clarity and transparency Decision 2004/209/EC should therefore be replaced.

(9) The measures provided for in this Decision are in accordance with the opinion of the Management Committee established by Article 18(1) of Regulation (EC) No 2037/2000,

[1] OJ L 244, 29.9.2000, p. 1. Regulation as last amended by Commission Regulation (EC) No 2077/2004 (OJ L 359, 4.12.2004, p. 28).

[2] www.unep.org/ozone/dec12-2-3.shtml

[3] OJ C 162, 11.7.2003, p. 19.

[4] OJ C 133, 11.5.2004, p. 12.

[5] OJ L 66, 4.3.2004, p. 36.

HAS ADOPTED THIS DECISION:

Article 1

1. The quantity of controlled substances of Group I (chlorofluorocarbons 11, 12, 113, 114 and 115) subject to Regulation (EC) No 2037/2000 which may be used for essential medical uses in the Community in 2004 shall be 1 428 533,000 ODP (ozone depletion potential) kilograms.

2. The quantity of controlled substances of Group I (chlorofluorocarbons 11, 12, 113, 114 and 115) and Group II (other fully halogenated chlorofluorocarbons) subject to Regulation (EC) No 2037/2000 which may be used for essential laboratory uses in the Community in 2004 shall be 73 336,765 ODP kilograms.

3. The quantity of controlled substances of Group III (halons) subject to Regulation (EC) No 2037/2000 that may be used for essential laboratory use in the Community in 2004 shall be 19 268,700 ODP kilograms.

4. The quantity of controlled substances of Group IV (carbon tetrachloride) subject to Regulation (EC) No 2037/2000 that may be used for essential laboratory uses in the Community in 2004 shall be 141 834,000 ODP kilograms.

5. The quantity of controlled substances of Group V (1,1,1-trichloroethane) subject to Regulation (EC) No 2037/2000 that may be used for essential laboratory uses in the European Union in 2004 shall be 529,300 ODP kilograms.

6. The quantity of controlled substances of Group VII (hydrobromofluorocarbons) subject to Regulation (EC) No 2037/2000 that may be used for essential laboratory uses in the Community in 2004 shall be 3,070 ODP kilograms.

7. The quantity of controlled substances of group IX (bromochloromethane) subject to Regulation (EC) No 2037/2000 that may be used for essential laboratory uses in the Community in 2004 shall be 13,248 ODP kilograms.

Article 2

The chlorofluorocarbon metered-dose inhalers (CFC-MDIs) listed in Annex I shall not be placed on markets that have determined CFCs for these products to be non-essential.

Article 3

During the period 1 January to 31 December 2004 the following rules shall apply:

1. The allocation of essential medical use quotas for chlorofluorocarbons 11, 12, 113, 114 and 115 shall be to the companies indicated in Annex II.

2. The allocation of essential laboratory use quotas for chlorofluorocarbons 11, 12, 113, 114 and 115 and other fully halogenated chlorofluorocarbons shall be to the companies indicated in Annex III.

3. The allocation of essential laboratory use quotas for halons shall be to the companies indicated in Annex IV.

4. The allocation of essential laboratory use quotas for carbon tetrachloride shall be to the companies indicated in Annex V.

5. The allocation of essential laboratory use quotas for 1,1,1-trichloroethane shall be to the companies indicated in Annex VI.

6. The allocation of essential laboratory use quotas for hydrobromofluorocarbons shall be to the companies indicated in Annex VII.

7. The allocation of essential laboratory use quotas for bromochloromethane shall be to the companies indicated in Annex VIII.

8. The essential use quotas for chlorofluorocarbons 11, 12, 113, 114 and 115, other fully halogenated chlorofluorocarbons, carbon tetrachloride, 1,1,1-trichloroethane, hydrobromofluorocarbons and bromochloromethane shall be as set out in Annex IX.

Article 4

Decision 2004/209/EC is repealed.

References to the repealed Decision shall be construed as references to this Decision.

Article 5

This Decision is addressed to the following undertakings:

3M Health Care Ltd
3M House Morley Street
Loughborough
Leicestershire LE11 1EP
United Kingdom

Aventis
London Road, Holmes Chapel
Cheshire CW4 8BE
United Kingdom

Bespak PLC
North Lynn Industrial Estate
King's Lynn
Norfolk PE30 2JJ
United Kingdom

Boehringer Ingelheim GmbH
Binger Strasse 173
D-55216 Ingelheim am Rhein

Chiesi Farmaceutici SpA
Via Palermo 26/A
I-43100 Parma

GlaxoSmithKline
Speke Boulevard
Speke
Liverpool L24 9JD
United Kingdom

IG Sprühtechnik GmbH
Im Hemmet 1
D-79664 Wehr

Inyx Pharmaceuticals Ltd
Astmoor Industrial Estate
9 Arkwright Road Runcorn
Cheshire WA7 1NU
United Kingdom

IVAX Ltd
Unit 301 Industrial Park
Waterford
Ireland

Jaba Farmaceutica SA
Rua da Tapada Grande, 2
P-2710-089, Abrunheira Sintra

Laboratorio Aldo Union SA
Baronesa de Maldá 73
Espluges de Llobregat
E-08950 Barcelona

Otsuka Pharmaceuticals (E)
Provenca, 388
E-08025 Barcelona

SICOR SpA
Via Terrazzano 77
I-20017 RHO Milano

Schering-Plough Labo NV
Industriepark 30
B-2220 Heist Op Den Berg

Valvole Aerosol Research Italiana
(VARI) Spa — LINDAL Group Italia
Via del Pino, 10
Olginate (LC)
I-23854 Italia

Valeas SpA Pharmaceuticals
Via Vallisneri, 10
I-20133 Milano

Valois SA
50 avenue de l'Europe
F-78160 Marly-Le-Roi

Acros Organics bvba
Janssen Pharmaceuticalaan 3a
B-2440 Geel

Airbus France
316, route de Bayonne
F-31300 Toulouse

Agfa-Gevaert NV
Septestraat 27
B-2640 Mortsel

Bie & Berntsen
Sandbækvej 7
DK-2610 Rødovre

Biosolove BV
Waalreseweg 17
5554 HA Valkenswaard
The Netherlands

Butterworth Laboratories Ltd
54 Waldegrave Road, Teddington
Middlesex TW11 8NY
United Kingdom

Carl Roth GmbH
Schoemperlenstr. 1—5
D-76185 Karlsruhe

Elcom Group
Okružní 988
CZ-735 14 Orlová — Lutyně

Environnement SA
111, Bld Robespierre
BP 4513
F-78304 Poissy

Fisher Scientific
Bishop Meadow Road
Loughborough LE11 5RG
United Kingdom

Health Protection Inspectorate-Laboratories
Paldiski mnt 81
EE-10617 Tallinn

Honeywell Specialty Chemicals
Wunstorfer Straße 40
Postfach 100262
D-30918 Seelze

Institut scientifique de service public (ISSeP)
Rue du Chéra 200
B-4000 Liège

Institut E. Malvoz (B)
Quai du Barbou, 4
B-4000 Liège

Ineos Fluor Ltd
PO Box 13, The Heath
Runcorn Cheshire WA7 4QF
United Kingdom

Katholieke Universiteit Leuven
Krakenstraat 3
B-3000 Leuven

Laboratoires sérobiologiques
3, rue de Seichamps
F-54425 Pulnoy

LGC Promochem GmbH
Mercatorstr. 51
D-46485 Wesel

Mallinckrodt Baker BV
Teugseweg 20
7418 AM Deventer
The Netherlands

Merck KgaA
Frankfurter Strasse 250
D-64271 Darmstadt

Mikro+Polo d.o.o.
Lackova 78
SLO-2000 Maribor

Panreac Química SA
Riera de Sant Cugat 1
E-08110 Montcada I Reixac (Barcelona)

Rohs Chemie GmbH
Berliner Str. 54
D-53819 Neunkirchen-Seelsheid

Sanolabor d.d.
Leskoškova 4
SLO-Ljubljana

SDS Solvants, Documentation, Synthèses SA
Z.I. de Valdonne, BP 4
F-13124 Peypin

Sigma Aldrich Chemie GmbH
Riedstrasse 2
D-89555 Steinheim

Sigma Aldrich Chimie SARL
80 rue de Luzais
L'Isle-d'Abeau Chesnes
F-38297 St-Quentin-Fallavier

Sigma Aldrich Company Ltd
The Old Brickyard
New Road Gillingham SP8 4XT
United Kingdom

Sigma Aldrich Laborchemikalien
Wunstorfer Straße 40, Postfach 100262
D-30918 Seelze

VWR I.S.A.S.
201, rue Carnot
F-94126 Fontenay-sous-bois

University Of Technology Vienna
Institut of Industrial Electronics and Material Science
Gusshausstrasse 27-29
A-1040 Wien

YA-Kemia Oy — Sigma-Aldrich Finland
Teerisuonkuja 4
FI-00700 Helsinki

Done at Brussels, 23 February 2005.

For the Commission

Stavros DIMAS

Member of the Commission

ANNEX I

Pursuant to paragraph 3 of Decision XII/2 of the 12th Meeting of the Parties to the Montreal Protocol on measures to facilitate the transition to chlorofluorocarbon-free metered-dose inhalers (MDIs), the following Parties have determined that, due to the presence of suitable non-CFC MDIs, CFCs no longer qualify as 'essential' under the Protocol when combined with following products:

Country \ Product	Salbutamol	Terbutaline	Fenoterol	Orciprenaline	Reproterol	Carbuterol	Hexoprenaline	Pirbuterol	Clenbuterol	Bitolterol	Procaterol	Beclomethasone	Dexamethasone	Fluinisolide	Fluiticasone	Budesonide	Triamcinolone	Ipratropium bromide	Oxitropium Bromide
Austria	X	X	X	X	X	X	X	X	X	X	X								
Belgium	X	X	X	X	X	X	X	X	X	X	X								
Czech Republic	X	X	X	X	X	X	X	X	X	X	X								
Denmark	X	X	X	X	X	X	X	X	X	X	X								
Finland	X																		
France	X																		
Germany	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Greece	X	X	X	X	X	X	X	X	X	X	X								
Ireland	X																		
Luxembourg	X																		
Portugal	X	X	X	X	X	X	X	X	X	X	X								
The Netherlands	X	X	X	X	X	X	X	X	X	X	X								
Norway	X	X	X	X	X	X	X	X	X	X	X								
Sweden	X																		
UK	X																		

Source: www.unep.org/ozone/dec12-2-3.pdf

ANNEX II

ESSENTIAL MEDICAL USES

Quota of controlled substances of Group I that may be used in the production of metered-dose inhalers (MDIs) for the treatment of asthma and other chronic obstructive pulmonary diseases (COPDs) are allocated to:

3M (UK)
Aventis (UK)
Bespak (UK)
Boehringer Ingelheim (DE)
Chiesi (IT)
Glaxo Smith Kline (UK)
IG Sprühtechnik (DE)
Inyx Pharmaceuticals (UK)
IVAX (IE)
Jaba Farmaceutica (PT)
Lab. Aldo-Union (ES)
Otsuka Pharmaceuticals (ES)
Sicor (IT)
Schering-Plough (BE)
V.A.R.I. (IT)
Valeas (IT)
Valois (FR)

ANNEX III

ESSENTIAL LABORATORY USES

Quota of controlled substances of Group I and II that may be used for laboratory and analytical uses, are allocated to:

Agfa-Gevaert (BE)
Bie & Berntsen (DK)
Butterworth Laboratories (UK)
Biosolve (NL)
Carl Roth (DE)
Elcom Group (CZ)
Environnement SA (FR)
Honeywell Specialty Chemicals (DE)
Ineos Fluor (UK)
Katholieke Universiteit Leuven (BE)
LGC Promochem (DE)
Mallinckrodt Baker (NL)
Merck KGaA (DE)
Mikro + Polo (SI)
Panreac Química (ES)
SDS Solvants (FR)
Sanolabor (SI)
Sigma Aldrich Chemie (DE)
Sigma Aldrich Chimie (FR)
Sigma Aldrich Company (UK)
University Of Technology Vienna (AT)
Ya Kemia Oy — Sigma Aldrich (FI)

ANNEX IV

ESSENTIAL LABORATORY USES

Quota of controlled substances of Group III that may be used for laboratory and analytical uses are allocated to:

Airbus France (FR)
Butterworth Laboratories (UK)
Ineos Fluor (UK)
Sigma Aldrich Chimie (FR)
Sigma Aldrich Company (UK)

ANNEX V

ESSENTIAL LABORATORY USES

Quota of controlled substances of Group IV that may be used for laboratory and analytical uses, are allocated to:

Acros Organics (BE)
Agfa-Gevaert (BE)
Bie & Berntsen (DK)
Biosolve (NL)
Butterworth Laboratories (UK)
Fisher Scientific (UK)
Health Protection Inspectorate-Laboratories (EE)
Institut E. Malvoz (BE)
Institut Scientifique de Service Public (ISSeP) (BE)
Katholieke Universiteit Leuven (BE)
Laboratoires Sérologiques (FR)
Mallinckrodt Baker (NL)
Merck KGaA (DE)
Mikro + Polo (SI)
Panreac Química (ES)
Rohs Chemie (DE)
SDS Solvants (FR)
Sanolabor d.d. (SI)
Sigma Aldrich Chemie (DE)
Sigma Aldrich Chimie (FR)
Sigma Aldrich Company (UK)
Sigma Aldrich Laborchemikalien (DE)
VWR I.S.A.S. (FR)
YA-Kemia Oy (FI)

ANNEX VI

ESSENTIAL LABORATORY USES

Quota of controlled substances of Group V that may be used for laboratory and analytical uses are allocated to:

Acros Organics (BE)
Agfa-Gevaert (BE)
Bie & Berntsen (DK)
Katholieke Universiteit Leuven (BE)
Mallinckrodt Baker (NL)
Mikro + Polo (SI)
Panreac Química (ES)
Sanolabor d.d. (SI)
Sigma Aldrich Chemie (DE)
Sigma Aldrich Chimie (FR)
Sigma Aldrich Company (UK)

ANNEX VII

ESSENTIAL LABORATORY USES

Quota of controlled substances of Group VII that may be used for laboratory and analytical uses are allocated to:

Acros Organics (BE)
Ineos Fluor (UK)
Sigma Aldrich Chimie (FR)
Sigma Aldrich Company (UK)

ANNEX VIII

ESSENTIAL LABORATORY USES

Quota of controlled substances of Group IX that may be used for laboratory and analytical uses are allocated to:

Ineos Fluor (UK)
Sigma Aldrich Chemie (DE)
Sigma Aldrich Chimie (FR)

ANNEX IX

(This Annex is not published because it contains confidential commercial information.)

CORRIGENDA

Corrigendum to Commission Directive 2004/104/EC of 14 October 2004 adapting to technical progress Council Directive 72/245/EEC relating to the radio interference (electromagnetic compatibility) of vehicles and amending Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(Official Journal of the European Union L 337 of 13 November 2004)

1. Delete the Directive number and subsequent rule in the titles of the graphs in Annex I:

   — appendix 2 (page 28),
   — appendix 3 (page 29),
   — appendix 4 (page 30),
   — appendix 5 (page 31),
   — appendix 6 (page 32),
   — appendix 7 (page 33).

2. On page 35, in Annex II A, in the title:

   for: 'Commission Directive 2004/78/EC',

   read: 'Directive 2004/104/EC'.

3. On page 38, in Annex II B, in the title:

   for: 'Commission Directive 95/54/EC',

   read: 'Directive 2004/104/EC'.

4. On page 40, in Annex III A, in the title:

   for: 'Commission Directive 95/54/EC',

   read: 'Directive 2004/104/EC'.

5. On page 42, in Annex III B, in the title:

   for: 'Commission Directive 95/54/EC',

   read: 'Directive 2004/104/EC'.

6. On page 43, in Annex III C, sixth line:

   for: 'Directive 2004/XX/EC',

   read: 'Directive 2004/104/EC'.

7. On page 45, insert the following paragraph 1.3:

   '1.3 As an initial step the levels of emissions in the FM frequency band (76 o 108 MHz) shall be measured at the vehicle broadcast radio antenna with an average detector. If the level specified in paragraph 6.3.2.4 of Annex I is not exceeded, then the vehicle shall be deemed to comply with the requirements of this Annex in respect of that frequency band and the full test shall not be carried out.'

Corrigendum to Commission Regulation (EC) No 2336/2003 of 30 December 2003 introducing certain detailed rules for applying Council Regulation (EC) No 670/2003 laying down specific measures concerning the market in ethyl alcohol of agricultural origin

(Official Journal of the European Union L 346 of 31 December 2003)

On page 20, the first two lines of Article 5(3):

for: 'Applications for import and export licences for alcohol of agricultural origin …',

read: 'Applications for import licences and import licences for alcohol of agricultural origin …'.