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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 385/2005**of 8 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 9 March 2005.

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

Done at Brussels, 8 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 8 March 2005 establishing the standard import values for determining the entry price of certain fruit and vegetables

<i>(EUR/100 kg)</i>		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	122,8
	204	97,9
	212	143,7
	624	163,4
	999	132,0
0707 00 05	052	144,5
	068	159,6
	096	128,5
	204	130,8
	999	140,9
0709 10 00	220	21,9
	999	21,9
0709 90 70	052	160,4
	204	147,1
	999	153,8
0805 10 20	052	57,9
	204	49,4
	212	54,3
	220	50,9
	421	39,1
	624	61,1
	999	52,1
0805 50 10	052	59,4
	220	22,0
	624	51,0
	999	44,1
0808 10 80	388	93,2
	400	109,1
	404	70,8
	508	65,9
	512	68,4
	528	64,0
	720	65,0
	999	76,6
	0808 20 50	052
388		68,7
400		93,4
512		56,2
528		55,0
999		93,9

⁽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 386/2005

of 8 March 2005

amending several regulations as regards the combined nomenclature codes for certain fruit and vegetables and certain products processed from fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 234/79 of 5 February 1979 on the procedure for adjusting the Common Customs Tariff nomenclature used for agricultural products⁽¹⁾, and in particular Article 2(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 1810/2004 of 7 September 2004 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽²⁾ provides for amendments to the combined nomenclature for certain fruit and vegetables and certain products processed from fruit and vegetables.

(2) Regulations amending Annex I to Council Regulation (EEC) No 2658/87⁽³⁾ in previous years have also introduced changes to the combined nomenclature for certain fruit and vegetables and certain products processed from fruit and vegetables, and not all of these amendments are reflected in the following Regulations governing the common organisation of the market in fruit and vegetables and of products processed from fruit and vegetables: Commission Regulation (EEC) No 1591/87 of 5 June 1987 laying down quality standards for cabbages, Brussels sprouts, ribbed celery, spinach and plums⁽⁴⁾; Commission Regulation (EEC) No 1677/88 of 15 June 1988 laying down quality standards for cucumbers⁽⁵⁾; Council Regulation (EC) No 399/94 of 21 February 1994 concerning specific measures for dried grapes⁽⁶⁾; Commission Regulation (EC) No 3223/94 of 21 December 1994 on

detailed rules for the application of the import arrangements for fruit and vegetables⁽⁷⁾; Commission Regulation (EC) No 1555/96 of 30 July 1996 on rules of application for additional import duties on fruit and vegetables⁽⁸⁾ and Commission Regulation (EC) No 1961/2001 of 8 October 2001 laying down detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables⁽⁹⁾.

(3) Regulations (EEC) No 1591/87, (EEC) No 1677/88, (EC) No 399/94, (EC) No 3223/94, (EC) No 1555/96 and (EC) No 1961/2001 should therefore be amended accordingly.

(4) The amendments should apply at the same time as Regulation (EC) No 1810/2004.

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

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 1591/87, the first paragraph is replaced by the following:

‘The quality standards for the following products are set out in Annexes I, II, III and IV:

— cabbages, falling within CN code 0704 90,

— Brussels sprouts, falling within CN code 0704 20 00,

⁽¹⁾ OJ L 34, 9.2.1979, p. 2. Regulation as last amended by Regulation (EC) No 3290/94 (OJ L 349, 31.12.1994, p. 105).

⁽²⁾ OJ L 327, 30.10.2004, p. 1.

⁽³⁾ OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 1989/2004 (OJ L 344, 20.11.2004, p. 5).

⁽⁴⁾ OJ L 146, 6.6.1987, p. 36. Regulation as last amended by Regulation (EC) No 907/2004 (OJ L 163, 30.4.2004, p. 50).

⁽⁵⁾ OJ L 150, 16.6.1988, p. 21. Regulation as last amended by Regulation (EC) No 907/2004.

⁽⁶⁾ OJ L 54, 25.2.1994, p. 3. Regulation as amended by Regulation (EC) No 2826/2000 (OJ L 328, 23.12.2000, p. 2).

⁽⁷⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 537/2004 (OJ L 86, 24.3.2004, p. 9).

⁽⁸⁾ OJ L 193, 3.8.1996, p. 1. Regulation as last amended by Regulation (EC) No 1844/2004 (OJ L 322, 23.10.2004, p. 12).

⁽⁹⁾ OJ L 268, 9.10.2001, p. 8. Regulation as last amended by Regulation (EC) No 537/2004.

- ribbed celery, falling within CN code 0709 40 00,
- spinach, falling within CN code 0709 70 00.

Article 2

In Article 1 of Regulation (EEC) No 1677/88, the first paragraph is replaced by the following:

'The quality standards for cucumbers falling within CN code 0707 00 05 shall be as set out in the Annex.'

Article 3

In Article 1 of Regulation (EC) No 399/94, the first paragraph is replaced by the following:

'Specific measures relating to the quality of dried grapes produced in the Community and covered by CN codes 0806 20 10 and 0806 20 30 shall be adopted in accordance with the procedure referred to in Article 4.'

Article 4

In the Annex to Regulation (EC) No 3223/94, Part A is amended as follows:

1. In the fifth row of the table, the CN codes for sweet oranges, fresh 'ex 0805 10 10, ex 0805 10 30 and ex 0805 10 50' are replaced by the CN code 'ex 0805 10 20'.
2. In the 10th row of the table, the CN codes for apples 'ex 0808 10 20, ex 0808 10 50 and ex 0808 10 90' are replaced by the CN code 'ex 0808 10 80'.

Article 5

The Annex to Regulation (EC) No 1555/96 is amended as follows:

1. In the fifth row of the table, the CN codes for oranges 'ex 0805 10 10, ex 0805 10 30 and ex 0805 10 50' are replaced by the CN code 'ex 0805 10 20'.
2. In the 10th row of the table, the CN codes for apples 'ex 0808 10 20, ex 0808 10 50 and ex 0808 10 90' are replaced by the CN code 'ex 0808 10 80'.

Article 6

In Article 7(2) of Regulation (EC) No 1961/2001, the third subparagraph is amended as follows:

1. The fifth indent is replaced by the following:
 - '— oranges covered by CN code 0805 10 20;'
2. The 11th and 12th indents are replaced by the following:
 - '— lemons (*Citrus limon*, *Citrus limonum*) covered by CN code 0805 50 10,
 - limes (*Citrus aurantifolia*) covered by CN code 0805 50 90;'
3. The 14th indent is replaced by the following:
 - '— apples covered by CN codes 0808 10 10 and 0808 10 80;'

Article 7

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

It shall apply from 1 January 2005.

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

Done at Brussels, 8 March 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 387/2005
of 8 March 2005
amending (EC) Regulation No 831/97 laying down marketing standards applicable to avocados

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) The Working Party on Standardisation of Perishable Produce and Quality Development of the United Nations Economic Commission for Europe (UN/ECE) has recently amended standard FFV-42 concerning the marketing and commercial quality control of avocados. For the sake of clarity and international transparency, account should be taken of such amendments in Commission Regulation (EC) No 831/97⁽²⁾.
- (2) Maturity and development of avocados can be assessed by their dry matter contents. In order to exclude fruit unable to ripen, a requirement as to the minimum dry matter content should be introduced.

- (3) Trade in small-sized Hass avocados is growing and meets the demand of certain consumers. It is therefore necessary to decrease the minimum size for avocados of this variety.
- (4) Regulation (EC) No 831/97 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fresh Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 831/97 is amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 May 2005.

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

Done at Brussels, 8 March 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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

⁽²⁾ OJ L 119, 8.5.1997, p. 13. Regulation as last amended by Regulation (EC) No 907/2004 (OJ L 163, 30.4.2004, p. 50).

ANNEX

The Annex to Regulation (EC) No 831/97 is amended as follows:

1. Title II (Provisions concerning quality) is amended as follows:

(a) in point A (Minimum requirements), the second subparagraph is replaced by the following:

‘Avocados must be firm and carefully picked.’

(b) the following point Aa is inserted:

‘Aa. **Maturity**

The development of the avocados should have reached a physiological stage which will ensure a continuation of the ripening process to completion.

The fruit should have the following minimum dry matter content, to be measured by drying to constant weight:

- 21 % for the variety Hass,
- 20 % for the varieties Fuerte, Pinkerton, Reed and Edranol,
- 19 % for the other varieties except for Antillean varieties that may show a lower dry matter content.

The ripe fruit should be free from bitterness.’

2. Title III (Provisions concerning sizing) is amended as follows:

(a) in the table of the first subparagraph, the following line is added:

‘80 to 125 (Hass variety only)	S (*)
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(*) The difference between the smallest and largest fruit within a package should not exceed 25 g.’

(b) The second subparagraph is replaced by the following:

‘The minimum weight of avocados must not be less than 125 g except for avocados of the Hass variety, which must not be less than 80 g.’

COMMISSION REGULATION (EC) No 388/2005

of 8 March 2005

adopting the specifications of the 2006 ad hoc module on transition from work into retirement provided for by Council Regulation (EC) No 577/98 and amending Regulation (EC) No 246/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 577/98 of 9 March 1998 on the organisation of a labour force sample survey in the Community⁽¹⁾, and in particular Article 4(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 246/2003 of 10 February 2003 adopting the programme of ad hoc modules, covering the years 2004 to 2006, to the labour force sample survey provided by Council Regulation (EC) No 577/98⁽²⁾ includes an ad hoc module on transition from work into retirement.

(2) There is a need for a comprehensive and comparable set of data on transition from work into retirement in order to monitor progress towards the common objectives of the Community's Employment Strategy and of the open method of coordination in the area of pensions that was launched by the Laeken European Council in December 2001. Both processes identify the promotion of active ageing and prolongation of working life as priorities for action, in particular through guideline 5 of the Employment Guidelines 2003 'Increase labour supply and promote active ageing' as adopted by the Council on 22 July 2003⁽³⁾ and through objective 5 of the pensions process as developed in the Joint report on objectives and working methods in the area of pensions approved by the Council of Laeken of 14 and 15 December of 2001 and in the Joint report by the Commission and the Council on adequate and sustainable pensions adopted by the Council of Brussels, 20 and 21 March 2003.

(3) In accordance with Decision No 1145/2002/EC⁽⁴⁾ of the European Parliament and of the Council of 10 June 2002 on Community incentive measures in the field of employment, Community activities concerning analysis,

research and cooperation among the Member States in the field of employment and the labour market shall be carried out in the period from 1 January 2002 to 31 December 2006 and one of the objectives of these activities is to develop, follow up and evaluate the European Employment Strategy with a strong forward-looking emphasis.

(4) It is also necessary to update the specification of the sample set out in section 3 of the Annex to Regulation (EC) No 246/2003, in order to maximise the potentiality of the sample for the ad hoc module in terms of analysis.

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

HAS ADOPTED THIS REGULATION:

Article 1

The detailed list of information to be collected in 2006 by the ad hoc module on transition from work into retirement shall be as set out in the Annex.

Article 2

In Section 3 of the Annex to Regulation (EC) No 246/2003, the point 'Sample' is replaced by the following:

'Sample: The target age group for the sample for this module consists of persons aged 50 to 69. The complete set of variables of the labour force survey shall be collected for the sub-sample used for the ad hoc module. When the sample unit is the individual, no data on the other members of the household are required.'

Article 3

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

⁽¹⁾ OJ L 77, 14.3.1998, p. 3. Regulation as last amended by Regulation (EC) No 2257/2003 of the European Parliament and of the Council (OJ L 336, 23.12.2003, p. 6).

⁽²⁾ OJ L 34, 11.2.2003, p. 3.

⁽³⁾ OJ L 197, 5.8.2003, p. 13.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 1. Decision as amended by Decision No 786/2004/EC (OJ L 138, 30.4.2004, p. 7).

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

Done at Brussels, 8 March 2005.

For the Commission
Joaquín ALMUNIA
Member of the Commission

ANNEX

LABOUR FORCE SURVEY

Specifications of the 2006 ad hoc module on transition from work into retirement

1. Member States and regions concerned: all.
2. The variables will be coded as follows:

The numbering of the variables of the labour force survey in the column 'Filter' (C11/14, C24 and C67/70) refers to Commission Regulation (EC) No 1575/2000.

Column	Code	Description	Filter
240		<i>Person reduced his/her working hours in a move to full retirement</i>	Everybody aged 50-69 and ((C24 = 3, 5 and (C67/70 - C11/14) > 49) or (C24 = 1, 2))
	1	Yes, in a progressive retirement scheme/part-time pension	
	2	Yes, but not in a progressive retirement scheme/part-time pension	
	3	No, but plans to do so within the next 5 years	
	4	No, and plans not to do so within the next 5 years/did not do so	
	5	No, and does not know about plans for the next 5 years or plans are not relevant	
	9	Not applicable (not included in the filter)	
	Blank	No answer	
241/242		<i>Planned age for stopping all work for pay or profit</i>	Everybody aged 50-69 and ((C24 = 3, 5 and (C67/70 - C11/14) > 49) or (C24 = 1, 2))
	50-93	2 digits	
	94	No exact planned age, but it will be before 60 years old	
	95	No exact planned age, but it will be between 60 and 64 years old	
	96	No exact planned age, but it will be at 65 years old or after or plans to work as long as possible	
	97	No exact planned age and does not know at all when it will be	
	98	Has already stopped all work for pay or profit	
	99	Not applicable (not included in the filter)	
	Blank	No answer	
	243		
1		Unemployed	
2		In retirement or early retirement	
3		Long term sick or disabled	
4		Other	
9		Not applicable (not included in the filter)	
Blank	No answer		
244		<i>Main reason for retirement or early retirement</i>	C243 = 2
	1	Job lost	
	2	Had reached compulsory retirement age	
	3	Own health or disability	
	4	Care responsibilities	
	5	Problems related to job	
	6	Favourable financial arrangements to leave	
	7	Preference to stop working other than previous codes	
	8	Other	
	9	Not applicable (not included in the filter)	
Blank	No answer		

Column	Code	Description	Filter
245		<i>More flexible working time arrangements would have contributed to person staying longer at work/would contribute to person staying longer at work</i>	Everybody aged 50-69 and ((C24 = 3, 5 and (C67/70 - C11/14) > 49) or (C24 = 1, 2))
	1	Yes	
	2	No	
	9	Not applicable (not included in the filter)	
	Blank	No answer	
246		<i>More opportunities to update skills would have contributed to person staying longer at work/would contribute to person staying longer at work</i>	Everybody aged 50-69 and ((C24 = 3, 5 and (C67/70 - C11/14) > 49) or (C24 = 1, 2))
	1	Yes	
	2	No	
	9	Not applicable (not included in the filter)	
	Blank	No answer	
247		<i>Better health and/or safety at workplace would have contributed to person staying longer at work/would contribute to person staying longer at work</i>	Everybody aged 50-69 and ((C24 = 3, 5 and (C67/70 - C11/14) > 49) or (C24 = 1, 2))
	1	Yes	
	2	No	
	9	Not applicable (not included in the filter)	
	Blank	No answer	
248/249		<i>Age at which person started to receive an individual retirement pension</i> 2 digits	Everybody aged 50-69 and ((C24 = 3, 5 and (C67/70 - C11/14) > 49) or (C24 = 1, 2))
	97	Does not receive an individual retirement pension even though is entitled to	
	98	Is not/not yet entitled to an individual retirement pension	
	99	Not applicable (not included in the filter)	
	Blank	No answer	
250		<i>Person receives an individual pension or individual benefits, other than a retirement pension and unemployment benefits, such as a disability pension, a sick pension or an early retirement scheme allowance</i>	Everybody aged 50-69 and C24 = 3, 5 and (C67/70 - C11/14) > 49
	1	Yes, a disability pension or a sick pension	
	2	Yes, an early retirement scheme allowance	
	3	Yes, another individual benefit not elsewhere classified	
	4	Yes, combination of codes 1, 2 or 3	
	5	No	
	9	Not applicable (not included in the filter)	
	Blank	No answer	
251		<i>Main financial incentive to stay at work</i>	Everybody aged 50-69 and C24 = 1, 2 and C248/249 < 98
	1	To increase retirement pension entitlements	
	2	To provide sufficient household income	
	3	No financial incentive	
	9	Not applicable (not included in the filter)	
Blank	No answer		

Column	Code	Description	Filter
252/253		<i>Number of years spent working for pay or profit (during working life)</i> 2 digits	Everybody aged 50-69 and ((C24 = 3, 5 and (C67/70-C11/14) > 49) or (C24 = 1, 2))
	99	Not applicable (not included in the filter)	
	Blank	No answer	
254/259		<i>Weighting factor for the LFS module 2006 (optional)</i>	Everybody aged 50-69 and ((C24 = 3, 5 and (C67/70-C11/14) > 49) or (C24 = 1, 2))
	0000-9999	Columns 254-257 contain whole numbers	
	00-99	Columns 258-259 contain decimal places	

COMMISSION REGULATION (EC) No 389/2005**of 8 March 2005****laying down derogations from Council Regulation (EC) No 2201/96 and Regulation (EC) No 800/1999 as regards certain sugars used in certain products processed from fruit and vegetables exported to third countries other than Switzerland and Liechtenstein**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products⁽¹⁾, and in particular Article 18(7) thereof,

Whereas:

(1) Articles 16 and 18 of Regulation (EC) No 2201/96 and Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products⁽²⁾ apply as regards exports of certain sugars used in certain products processed from fruit and vegetables.

(2) Article 18(6) of Regulation (EC) No 2201/96 provides that, in the case of a differentiated refund, the refund shall be paid upon proof that the products have reached the destination indicated on the licence or another destination for which the refund was fixed. It provides also that exceptions may be made to this rule, provided conditions are laid down which offer equivalent guarantees.

(3) Article 3 of Regulation (EC) No 800/1999 provides that entitlement to the export refund is acquired on importation into a specific third country when a differentiated refund applies for that third country. Articles 14, 15 and 16 of that Regulation lay down the conditions for the payment of the differentiated refund, in particular the documents to be supplied as proof of the arrival of the good at destination.

(4) In the case of a differentiated refund, Article 18(1) and (2) of Regulation (EC) No 800/1999 provides that part of the refund, calculated using the lowest refund rate, is paid on application by the exporter once proof is furnished that the product has left the customs territory of the Community.

(5) 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⁽³⁾, which was signed in October 2004, is provisionally applicable from 1 February 2005 by virtue of Council Decision 2005/45/EC⁽⁴⁾ concerning the conclusion and the provisional application of that Agreement.

(6) Pursuant to Decision 2005/45/EC, sugar (HS headings 1701, 1702 and 1703) used in the manufacture of certain processed agricultural goods exported to Switzerland and Liechtenstein is, from 1 February 2005, no longer eligible for export refunds.

(7) The Agreement approved by Decision 2005/45/EC introduces special provisions on administrative co-operation aimed at combating irregularities and fraud in customs and export refund related matters.

(8) In the light of those provisions and in order to avoid the imposition of unnecessary costs on operators in their commercial trade with other third countries, it is appropriate to derogate from Regulation (EC) No 2201/96 and Regulation (EC) No 800/1999 in so far as it requires proof of import in the case of differentiated refunds. It is also appropriate, where no export refunds have been fixed for the particular countries of destination in question, not to take account of that fact when the lowest rate of refund is determined.

⁽¹⁾ OJ L 297, 21.11.1996, p. 29. Regulation as last amended by Commission Regulation (EC) No 386/2004 (OJ L 64, 2.3.2004, p. 25)

⁽²⁾ OJ L 102, 17.4.1999, p. 11. Regulation as last amended by Regulation (EC) No 671/2004 (OJ L 105, 14.4.2004, p. 5).

⁽³⁾ OJ L 23, 26.1.2005, p. 19.

⁽⁴⁾ OJ L 23, 26.1.2005, p. 17.

- (9) Since the measures laid down in the Agreement between the European Community and the Swiss Confederation, approved by Decision 2005/45/EC, will apply from 1 February 2005, this Regulation should apply from the same date.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Products Processed from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from Article 18(6) of Regulation (EC) No 2201/96 and Article 16 of Regulation (EC) No 800/1999, where the differentiation of the refund is the result solely of a refund not having been fixed for Switzerland or Liechtenstein, proof that the customs import formalities have been completed shall not be a condition for payment of the refund in respect of certain sugars used in certain products processed from fruit and

vegetables, covered by Regulation (EC) No 2201/96, and listed in Tables I and II to Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972.

Article 2

The fact that no export refund has been fixed in respect of the export to Switzerland or Liechtenstein of certain sugars used in certain products processed from fruit and vegetables, covered by Regulation (EC) No 2201/96, and listed in Tables I and II to Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972, shall not be taken into account in determining the lowest rate of refund within the meaning of Article 18(2) of Regulation (EC) No 800/1999.

Article 3

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

It shall apply from 1 February 2005.

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

Done at Brussels, 8 March 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION DIRECTIVE 2005/23/EC

of 8 March 2005

amending Directive 2001/25/EC of the European Parliament and of the Council on the minimum level of training of seafarers

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the Treaty establishing the European Community,

Article 1

In Annex I to Directive 2001/25/EC, Chapter V is amended as follows:

Having regard to Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers⁽¹⁾, and in particular Article 22(1) thereof,

1. In paragraph 3 of Regulation V/2, the following text is added:

Whereas:

‘... or be required to provide evidence of having achieved the required standard of competence within the previous five years.’

(1) Directive 2001/25/EC defines minimum training, certification and watchkeeping requirements for seafarers serving on board Community ships. Those requirements are based on the standards laid down in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention) and the Seafarers' Training, Certification and Watchkeeping Code (STCW Code).

2. The following text is added at the end of the Chapter:

*Regulation V/3***Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on passenger ships other than ro-ro passenger ships**

(2) The STCW Convention and the STCW Code have been amended by Resolutions MSC.66(68) and MSC.67(68) of the Maritime Safety Committee of the International Maritime Organisation, which entered into force on 1 January 1999, Resolution MSC.78(70), which entered into force on 1 January 2003, and circulars STCW.6/Circ.3 and STCW.6/Circ.5, which became effective on 20 May 1998 and 26 May 2000, respectively.

1. This Regulation applies to masters, officers, ratings and other personnel serving on board passenger ships, other than ro-ro passenger ships, engaged on international voyages. Administrations shall determine the applicability of these requirements to personnel serving on passenger ships engaged on domestic voyages.

(3) The new Regulation V/3 of the STCW Convention, which was added by Resolution MSC.66(68), prescribes mandatory minimum requirements of training and qualifications for masters, officers, ratings and other personnel on passenger ships other than ro-ro passenger ships.

2. Prior to being assigned shipboard duties on board passenger ships, seafarers shall have completed the training required by paragraphs 4 to 8 below in accordance with their capacity, duties and responsibilities.

(4) Directive 2001/25/EC should therefore be amended accordingly.

3. Seafarers who are required to be trained in accordance with paragraphs 4, 7 and 8 below shall, at intervals not exceeding five years, undertake appropriate refresher training or be required to provide evidence of having achieved the required standard of competence within the previous five years.

(5) The measures provided for in this Directive are in accordance with the opinion of the Committee on Safe Seas, set up by Regulation (EC) No 2099/2002 of the European Parliament and of the Council⁽²⁾,

4. Personnel designated on muster lists to assist passengers in emergency situations on board passenger ships shall have completed training in crowd management as specified in section A-V/3, paragraph 1, of the STCW Code.

⁽¹⁾ OJ L 136, 18.5.2001, p. 17. Directive as last amended by Directive 2003/103/EC (OJ L 326, 13.12.2003, p. 28).

⁽²⁾ OJ L 324, 29.11.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 415/2004 (OJ L 68, 6.3.2004, p. 10).

5. Masters, officers and other personnel assigned specific duties and responsibilities on board passenger ships shall have completed the familiarisation training specified in section A-V/3, paragraph 2, of the STCW Code.
6. Personnel providing direct service to passengers on board passenger ships in passenger spaces shall have completed the safety training specified in section A-V/3, paragraph 3, of the STCW Code.
7. Masters, chief mates and every person assigned immediate responsibility for embarking and disembarking passengers shall have completed approved training in passenger safety as specified in section A-V/3, paragraph 4, of the STCW Code.
8. Masters, chief mates, chief engineer officers, second engineer officers and any person having responsibility for the safety of passengers in emergency situations on board passenger ships shall have completed approved training in crisis management and human behaviour as specified in section A-V/3, paragraph 5, of the STCW Code.
9. Administrations shall ensure that documentary evidence of the training which has been completed is issued for every person found qualified under the provisions of this Regulation.'

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 29 September 2005 at the latest. They shall forthwith inform the Commission thereof.

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

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 8 March 2005.

For the Commission
Jacques BARROT
Vice-President

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 5 July 2004

on the existence of an excessive deficit in Slovakia

(2005/182/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission,

Having regard to the observations made by Slovakia,

Whereas:

(1) According to Article 104 of the Treaty, Member States are to avoid excessive government deficits; this applies also to Member States with a derogation, the case of all countries that joined the European Union on 1 May 2004.

(2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.

(3) The excessive deficit procedure under Article 104 provides for a decision on the existence of an excessive deficit and the Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the excessive deficit procedure. Council Regulation (EC) No 3605/93⁽¹⁾ lays down detailed rules and definitions for the application of the provision of the said Protocol.

(4) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. Having examined all relevant factors taken into account in its report in accordance with Article 104(3) and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4), the Commission concluded in its opinion of 24 June 2004 that there exists an excessive deficit in Slovakia.

(5) Article 104(6) of the Treaty lays down that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists.

(6) The overall assessment leads to the following conclusions. The general government deficit reached 3,6% of GDP in 2003 in Slovakia, above the 3% of GDP Treaty reference value. The excess of the general government deficit over the reference value did not result from an unusual event outside the control of the Slovak authorities, nor was it the result of a severe economic downturn, in the sense of the Stability and Growth Pact. The general government deficit is likely to remain above 3% of GDP in 2004. In particular, according to the Commission Spring 2004 forecast, the deficit is projected to reach 4,1% of GDP in 2004, while the convergence programme of Slovakia expects a deficit of 4,0% of GDP. The debt ratio, which was 42,8% in 2003, is likely to remain below the 60% of GDP Treaty reference value in 2004,

⁽¹⁾ OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Commission Regulation (EC) No 351/2002 (OJ L 55, 26.2.2002, p. 23).

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Slovakia.

Article 2

This Decision is addressed to the Slovak Republic.

Done at Brussels, 5 July 2004.

For the Council
The President
G. ZALM

COUNCIL DECISION**of 5 July 2004****on the existence of an excessive deficit in Poland**

(2005/183/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission,

Having regard to the observations made by Poland,

Whereas:

- (1) According to Article 104 of the Treaty Member States are to avoid excessive government deficits; this applies also to Member States with a derogation, the case of all countries that joined the European Union on 1 May 2004.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure under Article 104 provides for a decision on the existence of an excessive deficit and the Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the excessive deficit procedure. Council Regulation (EC) No 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community⁽¹⁾, lays down detailed rules and definitions for the application of the provision of the said Protocol.
- (4) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. Having examined all relevant factors taken into account in its report in accordance with Article 104(3) and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4), the Commission concluded in its opinion of 24 June 2004 that there exists an excessive deficit in Poland.

(5) Article 104(6) of the Treaty lays down that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists.

(6) The overall assessment leads to the following conclusions: the general government deficit reached 4,1% of GDP in 2003 in Poland, above the 3% of GDP Treaty reference value. The excess of the general government deficit over the reference value did not result from an unusual event outside the control of the Polish authorities, nor was it the result of a severe economic downturn, in the sense of the Stability and Growth Pact. The general government deficit is likely to remain above 3% of GDP in 2004. In particular, according to the Commission Spring 2004 forecasts, the deficit is projected to reach 6% of GDP in 2004, while the convergence programme of Poland expects a deficit of 5,7% of GDP. The debt ratio, which was 45,4% in 2003, is likely to remain below the 60% of GDP Treaty reference value in 2004. The deficit and the debt figures will have to be adjusted upward if the open pension funds are excluded from the general government sector following the Eurostat decision on the classification of the funded pension schemes,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Poland.

Article 2

This decision is addressed to the Republic of Poland.

Done at Brussels, 5 July 2004.

*For the Council**The President*

G. ZALM

⁽¹⁾ OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Commission Regulation (EC) No 351/2002 (OJ L 55, 26.2.2002, p. 23).

COUNCIL DECISION
of 5 July 2004
on the existence of an excessive deficit in Cyprus
(2005/184/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission,

Having regard to the observations made by Cyprus,

Whereas:

- (1) According to Article 104 of the Treaty, Member States are to avoid excessive government deficits; this applies also to Member States with a derogation, the case of all countries that joined the European Union on 1 May 2004.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure under Article 104 provides for a decision on the existence of an excessive deficit and the Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the excessive deficit procedure. Council Regulation (EC) No 3605/93⁽¹⁾ of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community lays down detailed rules and definitions for the application of the provision of the said Protocol.
- (4) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. Having examined all relevant factors taken into account in its report in accordance with Article 104(3) and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4), the Commission concluded in its opinion of 24 June 2004 that there exists an excessive deficit in Cyprus.

(5) Article 104(6) of the Treaty lays down that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists.

(6) The overall assessment leads to the following conclusions. The general government deficit reached 6,3 % of GDP in 2003 in Cyprus, above the 3 % of GDP Treaty reference value. The excess of the general government deficit over the reference value did not result from an unusual event outside the control of the Cypriot authorities, nor was it the result of a severe economic downturn, within the meaning of the Stability and Growth Pact. The general government deficit is likely to remain above 3 % of GDP in 2004. In particular, according to the Commission Spring 2004 forecast, the deficit is projected to reach 4,6 % of GDP in 2004, while the convergence programme of Cyprus forecasts a deficit of 5,2 % of GDP. The debt ratio, which was 72,2 % in 2003, is likely to further diverge from the 60 % of GDP Treaty reference value in 2004,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Cyprus.

Article 2

This Decision is addressed to the Republic of Cyprus.

Done at Brussels, 5 July 2004.

For the Council
The President
G. ZALM

⁽¹⁾ OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Commission Regulation (EC) No 351/2002 (OJ L 55, 26.2.2002, p. 23).

COUNCIL DECISION
of 5 July 2004
on the existence of an excessive deficit in the Czech Republic
(2005/185/EC)

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission,

Having regard to the observations made by the Czech Republic,

Whereas:

- (1) According to Article 104 of the Treaty, Member States are to avoid excessive government deficits; this applies also to Member States with a derogation, the case of all countries that joined the European Union on 1 May 2004.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure under Article 104 provides for a decision on the existence of an excessive deficit and the Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the excessive deficit procedure. Council Regulation (EC) No 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community⁽¹⁾, lays down detailed rules and definitions for the application of the provision of the said Protocol.
- (4) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. Having examined all relevant factors taken into account in its report in accordance with Article 104(3) and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4), the Commission concluded in its opinion of 24 June 2004 that there exists an excessive deficit in the Czech Republic.
- (5) Article 104(6) of the Treaty lays down that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists.
- (6) The overall assessment leads to the following conclusions. The general government deficit reached 12,9% of GDP in 2003 (5,9% of GDP excluding a major one-off operation related to imputed state guarantees) in the Czech Republic, above the 3% of GDP Treaty reference value. The excess of the general government deficit over the reference value did not result from an unusual event outside the control of the Czech authorities, nor was it the result of a severe economic downturn, within the meaning of the Stability and Growth Pact. The general government deficit is likely to remain above 3% of GDP in 2004. In particular, according to the Commission Spring 2004 forecast, the deficit is projected to reach 5,9% of GDP in 2004, while the convergence programme of the Czech Republic forecasts a deficit of 5,3% of GDP. The debt ratio, which was 37,6% in 2003, is likely to remain below the 60% of GDP Treaty reference value in 2004,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in the Czech Republic.

Article 2

This Decision is addressed to the Czech Republic.

Done at Brussels, 5 July 2004.

For the Council

The President

G. ZALM

⁽¹⁾ OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Commission Regulation (EC) No 351/2002 (OJ L 55, 26.2.2002, p. 23).

COUNCIL DECISION
of 5 July 2004
on the existence of an excessive deficit in Malta
(2005/186/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission,

Having regard to the observations made by Malta,

Whereas:

- (1) According to Article 104 of the Treaty Member States are to avoid excessive government deficits; this applies also to Member States with a derogation, the case of all countries that joined the European Union on 1 May 2004.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure under Article 104 provides for a decision on the existence of an excessive deficit and the Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the excessive deficit procedure. Council Regulation (EC) No 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community⁽¹⁾, lays down detailed rules and definitions for the application of the provision of the said Protocol.
- (4) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. Having examined all relevant factors taken into account in its report in accordance with Article 104(3) and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4), the Commission concluded in its opinion of 24 June 2004 that there exists an excessive deficit in Malta.

(5) Article 104(6) of the Treaty lays down that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists.

(6) The overall assessment leads to the following conclusions. The general government deficit reached 9,7% of GDP in 2003 in Malta (of which 3,2% of GDP was due to one-off operation), above the 3% of GDP Treaty reference value. The excess of the general government deficit over the reference value did not result from an unusual event outside the control of the Maltese authorities, nor was it the result of a severe economic downturn, within the meaning of the Stability and Growth Pact. The general government deficit will remain above 3% of GDP in 2004. In particular, according to the Commission Spring 2004 forecast, the deficit is projected to reach 5,9% of GDP in 2004, while the convergence programme of Malta forecasts a deficit of 5,2% of GDP. The debt ratio, which was 72,0% in 2003, is likely to further diverge from the 60% of GDP Treaty reference value in 2004,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Malta.

Article 2

This Decision is addressed to the Republic of Malta.

Done at Brussels, 5 July 2004.

For the Council

The President

G. ZALM

⁽¹⁾ OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Commission Regulation (EC) No 351/2002 (OJ L 55, 26.2.2002, p. 23).

COMMISSION

COMMISSION RECOMMENDATION

of 2 March 2005

on the coordinated inspection programme in the field of animal nutrition for the year 2005 in accordance with Council Directive 95/53/EC

(Text with EEA relevance)

(2005/187/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

of harvesting, storage and transport conditions. As mycotoxin concentration varies from year to year, it is appropriate to collect data from consecutive years for all mycotoxins mentioned.

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 95/53/EC of 25 October 1995 fixing the principles governing the organisation of official inspections in the field of animal nutrition⁽¹⁾, and in particular Article 22(3) thereof,

- (3) Antibiotics, other than coccidiostats and histomonostats, may be marketed and used as feed additives only until 31 December 2005. Previous checks for the presence of antibiotics and coccidiostats in certain feedingstuffs where some of those substances are not authorised indicate that this type of infringement still occurs. The frequency of such findings and the sensitivity of this matter justify the continuation of checks.

Whereas:

(1) In 2004 Member States identified certain issues as worthy of a coordinated inspection programme to be carried out in the year 2005.

- (4) It is important to ensure that the restrictions on the use of feed materials of animal origin in feedingstuffs, as laid down in the relevant Community legislation, are effectively enforced.

(2) Although Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed⁽²⁾ establishes maximum contents of aflatoxin B₁ in feedingstuffs, there are no Community rules for other mycotoxins, such as ochratoxin A, zearalenone, deoxynivalenol and fumonisins. Gathering information on the presence of those mycotoxins through random sampling could provide useful data for an assessment of the situation with a view to the development of the legislation. Furthermore, certain feed materials such as cereals and oil seeds are particularly exposed to mycotoxin contamination because

- (5) It is appropriate to ensure that the levels of the trace elements copper and zinc in compound feedingstuffs for pigs do not exceed the maximum content laid down by Commission Regulation (EC) No 1334/2003 of 25 July 2003 amending the conditions for authorisation of a number of additives in feedingstuffs belonging to the group of trace elements⁽³⁾.

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

⁽¹⁾ OJ L 265, 8.11.1995, p. 17. Directive as last amended by Directive 2001/46/EC of the European Parliament and of the Council (OJ L 234, 1.9.2001, p. 55).

⁽²⁾ OJ L 140, 30.5.2002, p. 10. Directive as last amended by Commission Directive 2003/100/EC (OJ L 285, 1.11.2003, p. 33).

⁽³⁾ OJ L 187, 26.7.2003, p. 11. Regulation as amended by Regulation (EC) No 2112/2003 (OJ L 317, 2.12.2003, p. 22).

HEREBY RECOMMENDS:

1. It is recommended that Member States carry out during the year 2005 a coordinated inspection programme aimed to check:

- (a) the concentration of mycotoxins (aflatoxin B₁, ochratoxin A, zearalenone, deoxynivalenol and fumonisins) in feeding-stuffs, indicating the methods of analysis; the method of sampling should comprise both random and targeted sampling; in the case of targeted sampling, the samples should be feed materials suspected of containing higher concentrations of mycotoxins, such as cereal grains, oil seeds, oil fruits, their products and by-products, and feed materials stored for a long time or transported by sea over a long distance; in the case of aflatoxin B₁, particular attention should also be paid to compound feedingstuffs for dairy animals other than dairy cattle; the results of the checks should be reported using the model set out in Annex I;
- (b) antibiotics, coccidiostats and/or histomonostats, whether or not authorised as feed additives for certain animal species and categories, that occur frequently in non-medicated pre-mixtures and compound feedingstuffs in which these medicinal substances are not authorised; the checks should target those medicinal substances in pre-mixtures and compound feedingstuffs if the competent authority

considers that there is a greater probability of finding irregularities; the results of the checks should be reported using the model set out in Annex II;

- (c) the implementation of restrictions on the production and use of feed materials of animal origin, as set out in Annex III;
- (d) the levels of copper and zinc in compound feedingstuffs for pigs, as set out in Annex IV.

2. It is recommended that Member States include the results of the coordinated inspection programme provided for in paragraph 1 in a separate chapter in the annual report on inspection activities to be transmitted by 1 April 2006 in accordance with Article 22(2) of Directive 95/53/EC and the latest version of the harmonised reporting model.

Done at Brussels, 2 March 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX I

Concentration of certain mycotoxins (aflatoxin B₁, ochratoxin A, zearalenone, deoxynivalenol, fumonisins) in feedingstuffs*Individual results of all tested samples; model for reports as referred to in paragraph 1(a)*

Feedingstuffs		Sampling (random or targeted)	Type and concentration of mycotoxins (µg/kg relative to a feedingstuff with a moisture content of 12 %)				
Type	Country of origin		Aflatoxin B ₁	Ochratoxin A	Zearalenone	Deoxynivalenol	Fumonisin ^(a)

(^a) The concentration of fumonisins comprises the total of fumonisins B₁, B₂ and B₃.

The competent authority should also indicate:

- the action taken when maximum levels for aflatoxin B₁ are exceeded,
- the methods of analysis used,
- the limits of detection.

ANNEX II

Presence of certain medicinal substances not authorised as feed additives

Certain antibiotics, coccidiostats and other medicinal substances may be legally present as additives in pre-mixtures and compound feedingstuffs for certain species and categories of animals, when fulfilling the requirements of Article 10 of Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ⁽¹⁾.

The presence of unauthorised medicinal substances in feedingstuffs constitutes an infringement.

The medicinal substances to be controlled should be chosen from the following:

1. Medicinal substances authorised as feed additives for certain animal species or categories only:

avilamycin
decoquinat
diclazuril
flavophospholipol
halofuginone hydrobromide
lasalocid A sodium
maduramicin ammonium alpha
monensin sodium
narasin
narasin — nicarbazin
robenidine hydrochloride
salinomycin sodium
semduramicin sodium

2. Medicinal substances no longer authorised as feed additives:

amprolium
amprolium/ethopabate
arprinocid
avoparcin
carbadox
dimetridazole
dinitolmid
ipronidazol
meticlorpindol
meticlorpindol/methylbenzoquate
nicarbazin
nifursol

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

olaquinox
 ronidazol
 spiramycin
 tetracyclines
 tylosin phosphate
 virginiamycin
 zinc bacitracin
 other antimicrobial substances

3. Medicinal substances never authorised as feed additives:

other substances

Individual results of all non-compliant samples; model for reports as referred to in paragraph 1(b)

Type of feedingstuff (animal species and category)	Substance detected	Level found	Reason for the infringement ⁽⁴⁾	Action taken

⁽⁴⁾ Reason leading to the presence of the unauthorised substance in the feedingstuff, as concluded after an investigation carried out by the competent authority.

The competent authority should also indicate:

- the total number of samples tested,
- the names of the substances which have been investigated,
- the methods of analysis used,
- the limits of detection.

ANNEX III

Restrictions on the production and use of feed materials of animal origin

Without prejudice to Articles 3 to 13 and 15 of Directive 95/53/EC, Member States should during 2005 undertake a coordinated inspection programme to determine whether restrictions on the production and use of feed materials of animal origin have been complied with.

In particular, in order to ensure that the ban on feeding processed animal protein to certain animals, as laid down in Annex IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies ⁽¹⁾, are effectively applied, Member States should implement a specific control programme based on targeted controls. In accordance with Article 4 of Directive 95/53/EC, that control programme should be based on a risk-based strategy where all stages of production and all types of premises where feed is produced, handled and administered are included. Member States should pay special attention to the definition of criteria that can be related to a risk. The weighting given to each criterion should be proportional to the risk. The inspection frequency and the number of samples analysed in the premises should be in correlation to the sum of weightings allocated to those premises.

The following indicative premises and criteria should be considered when drawing up a control programme:

Premises	Criteria	Weighting
Feed mills	Double-stream feed mills producing ruminant compound feed and non-ruminant compound feed containing derogated processed animal proteins Feed mills with previous history, or suspicion, of non-compliance Feed mills with a large amount of imported feedingstuffs with high protein content such as fishmeal, soybean meal, corn gluten meal and protein concentrates Feed mills with a high production of compound feed Risk of cross-contamination resulting from internal operational procedures (dedication of silos, control of the effective separation of lines, control of ingredients, internal laboratory, sampling procedures)	
Border Inspection Posts and other points of entry into the Community	Large/small amount of imports of feedingstuffs Feedingstuffs with high protein content	
Farms	Home mixers using derogated processed animal proteins Farms keeping ruminants and other species (risk of cross feeding) Farms purchasing feedingstuffs in bulk	
Dealers	Warehouses and intermediate storage of feedingstuffs with high protein content High volume of bulk feedingstuffs traded Dealers in compound feedingstuffs produced abroad	
Mobile mixers	Mixers producing for both ruminants and non-ruminants Mixers with previous history, or suspicion, of non-compliance Mixers incorporating feedingstuffs with high protein content Mixers with high production of feedingstuffs Large number of farms served including farms which keep ruminants	
Means of transportation	Vehicles used for the transportation of processed animal proteins and feedingstuffs Vehicles with previous history, or suspicion, of non-compliance	

⁽¹⁾ OJ L 147, 31.5.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 214/2005 (OJ L 37, 10.2.2005, p. 9).

As an alternative to these indicative premises and criteria, Member States may forward their own risk assessment to the Commission before 31 March 2005.

Sampling should be targeted on batches or events where cross-contamination with prohibited processed proteins is most likely (first batch after the transport of feedingstuffs containing animal protein prohibited in this batch, technical problems or changes in production lines, changes in storage bunkers or silos for bulk material).

In 2005, Member States should focus on the analysis of sugar beet pulp and imported feed materials.

The minimum number of inspections per year in a Member State should be 10 per 100 000 tonnes of compound feed produced. The minimum number of official samples per year in a Member State should be 20 per 100 000 tonnes of compound feed produced. Pending the approval of alternative methods, microscopic identification and estimation as described in Commission Directive 2003/126/EC of 23 December 2003 on the analytical method for the determination of constituents of animal origin for the official control of feedingstuffs⁽¹⁾ should be used for analysing samples. Any presence of prohibited constituents of animal origin in feedingstuffs should be considered as a breach of the feed ban.

The results of the inspection programmes should be communicated to the Commission using the following formats.

Summary of checks concerning feeding restrictions for feed of animal origin (feeding of prohibited processed animal proteins)

A. Documented inspections

Stage	Number of inspections comprising checks on the presence of processed animal proteins	Number of breaches based on documentary checks etc. rather than laboratory testing
Import of feed materials		
Storage of feed materials		
Feed mills		
Home mixers/mobile mixers		
Intermediaries of feedingstuffs		
Means of transport		
Farms keeping non-ruminants		
Farms keeping ruminants		
Others:		

B. Sampling and testing of feed materials and compound feedingstuffs for processed animal proteins

Premises	Number of official samples tested for processed animal proteins			Number of non-compliant samples					
				Presence of processed animal protein from terrestrial animals			Presence of processed animal protein from fish		
	Feed materials	Compound feedingstuffs		Feed materials	Compound feedingstuffs		Feed materials	Compound feedingstuffs	
for ruminants		for non-ruminants	for ruminants		for non-ruminants	for ruminants		for non-ruminants	
At import									
Feed mills									
Intermediaries/ storage									
Means of transport									
Home mixers/ mobile mixers									
On farm									
Others:									

⁽¹⁾ OJ L 339, 24.12.2003, p. 78.

C. Summary of prohibited processed animal proteins found in samples of feedingstuffs intended for ruminants

	Month of sampling	Type degree and origin of contamination	Sanctions (or other measures) applied
1			
2			
3			
4			
5			
...			

ANNEX IV

Individual results of all samples (both compliant and non-compliant) concerning the content of copper and zinc in compound feedingstuffs for pigs

Type of compound feedingstuff (animal category)	Trace element (copper or zinc)	Level found (mg/kg of complete feedingstuff)	Reason for exceeding the maximum content ^(e)	Action taken

^(e) As concluded after an investigation carried out by the competent authority.

COMMISSION DECISION

of 19 July 2004

declaring a concentration compatible with the common market and the functioning of the EEA Agreement

(Case No COMP/M.3333 — SONY/BMG)

(notified under document number C(2004) 2815)

(Only the English text is authentic)

(Text with EEA relevance)

(2005/188/EC)

On 19 July 2004 the Commission adopted a Decision in a merger case under Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings⁽¹⁾, and in particular Article 8(2) of that Regulation. A non-confidential version of the full Decision can be found in the authentic language of the case and in the working languages of the Commission on the website of the Directorate-General for Competition, at the following address: http://europa.eu.int/comm/competition/index_en.html

- (1) On 9 January 2004, the Commission received a notification under Article 4 of Regulation (EEC) No 4064/89 (the Merger Regulation) of a transaction whereby Bertelsmann AG (Bertelsmann) and Sony Corporation of America, belonging to the Sony group (Sony), contribute the global recorded music businesses of the parties (excluding Sony's activities in Japan) into a joint venture. This joint venture shall be operated under the name Sony BMG and will be active in the discovery and the development of artists (so-called A&R⁽²⁾) and the subsequent marketing and sale of recorded music. Sony BMG will not engage in related activities such as music publishing, manufacturing and distribution.
- (2) Bertelsmann is an international media company with world-wide activities in music recording and publishing, television, radio, book and magazine publishing, print services and book and music clubs. Bertelsmann is active in recorded music through its wholly owned subsidiary Bertelsmann Music Group (BMG). BMG's record labels include Arista Records, Jive Records, Zomba and RCA.
- (3) Sony is globally active in music recording and publishing, industrial and consumer electronics, and entertainment. In recorded music it acts through Sony Music Entertainment. Sony's labels include Columbia Records Group, Epic Records Group and Sony Classical.
- (4) The Advisory Committee on Concentrations, at its 127th meeting, on 9 July 2004, delivered a favourable opinion on a draft Decision granting clearance submitted to it by the Commission.
- (5) The Hearing Officer, in a report dated 5 July 2004, took the view that the right of the parties to be heard had been respected.

I. THE RELEVANT MARKETS

Recorded music

- (6) The Commission found that the relevant *product market* for recorded music (including A&R and the promotion, sales and marketing of recorded music) might be subdivided into distinct product markets based on genre (such as international pop, local pop, classical music) or for compilations. For the purpose of the present case, however, it could be left open whether the abovementioned genres or categories constitute separate markets, as the concentration would not lead to a creation or strengthening of a dominant position under any market definition considered.
- (7) The market investigation confirmed a number of factors (e.g. A&R, pricing, sales and marketing mainly taking place nationally, strong demand for local repertoire, and limited international presence of independent record companies) for the relevant *geographic* markets for recorded music being considered as national.

Online music

- (8) Supported by its findings in the market investigation, the Commission considers that online music is not part of the market for physical recorded music, in particular due to differences in the product and its distribution. It identified two distinct product markets for online music: (i) the wholesale market for licences for online music and (ii) the retail market for distribution of online music.

⁽¹⁾ OJ L 395, 30.12.1989, p. 1. Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9.7.1997, p. 1).

⁽²⁾ A&R = Artist and Repertoire; the music industry's equivalent of research and development.

(9) For the purpose of the present case the Commission considers that both the wholesale market for licences for online music and the retail market for distribution of online music are national in scope. This may change in the future, depending on further cross-border developments in online music licensing and music distribution.

Music publishing

(10) Based on both demand and supply-side considerations the Commission found indications for the existence of separate product markets for music publishing according to the exploitation of the different rights categories (i.e. mechanical, performance, synchronisation, print and other rights). However, the exact scope of the relevant product market could be left open as the competitive assessment is the same under any market definition considered.

(11) The market investigation has confirmed that the geographic scope of the market is essentially, and in spite of some cross-border elements, national, given that licence fees for mechanical and performance rights are generally collected on a national basis. For the purpose of the present case the exact scope of the relevant geographic market could be left open as the competitive assessment is the same under any market definition considered.

II. ASSESSMENT

A. Possible strengthening of collective dominance in the recorded music markets

Introduction

(12) The Commission's investigation has not provided sufficiently conclusive evidence for the existence of a collective dominant position of the five 'majors' (Sony, BMG, Universal, EMI and Warner) in the markets for music recording.

(13) Based on the case law of the European courts, in particular the *Airtours* judgment, a prerequisite for the existence of a collective dominant position among market players is: (i) a common understanding about the terms of coordination; (ii) the ability to monitor whether such terms are adhered to; (iii) the existence of a deterrent mechanism in case of deviations; and (iv) third parties (actual and potential competitors, customers) not being able to effectively jeopardise the benefits expected from coordination.

(14) In assessing whether there exists a collective dominant position in the markets for recorded music among the five music majors, the Commission analysed whether during the last three to four years a coordinated price policy of the majors could be established in the EEA Member States.

(15) For this purpose the Commission investigated the development of the five majors' wholesale prices to wholesalers and retailers in each Member State in the period 1998 to 2003. In particular, the Commission's analysis focused on the development of average net wholesale prices, PPDs (Published Prices to Dealers), gross and net price ratios as well as invoice discounts and retrospective discounts.

(16) To assess a possible coordination of the majors' wholesale prices, the Commission analysed the parallelism of the development of (inflation-corrected) average net prices for the top 100 single albums of each major in the five largest Member States (this is considered a representative sample as the top 100 single albums account for approximately 70 to 80 % of the majors' respective total music sales). Secondly, the Commission examined whether any price coordination could have been reached in using list prices (PPDs) as focal points. Thirdly, the Commission analysed whether the different majors' discounts were aligned and sufficiently transparent in order to allow effective monitoring of competitive behaviour.

France, Germany, Italy, Spain, UK

(17) On the basis of the net average prices, the Commission found some parallelism and a relatively similar development of the majors' prices in the five larger markets, France, Germany, Italy, Spain and the UK. However, these observations as such are not sufficient to conclude that coordinated pricing behaviour existed in the past.

(18) Therefore, the Commission further investigated whether additional elements, namely list prices and discounts, were aligned and sufficiently transparent to provide sufficient evidence for coordination.

(19) The Commission found some indications that PPDs could have been used as focal points for an alignment of the majors' list prices in all five Member States. Regarding discounts, the investigation indicated that the level of discounts varied to some extent among the different majors and that certain types of discounts were not sufficiently transparent to establish existing collusion.

- (20) Furthermore, the Commission analysed whether the markets for recorded music were characterised by features facilitating collective dominance, in particular by considering product homogeneity, transparency and retaliation mechanisms.
- (21) As to product homogeneity, the Commission found that the content of individual albums is differentiated but also that pricing and marketing are standardised to some extent. However, the heterogeneity of content has some implications for pricing and reduces transparency in the market and makes tacit collusion more difficult as it requires monitoring at the individual album level.
- (22) With respect to transparency, the Commission found that the publication of weekly charts, the stability of the common customer base and the majors' monitoring of the retail market by means of weekly reports increase the market transparency and facilitate the monitoring of a coordinated policy. However, the investigation also indicated that the monitoring of campaign discounts requires monitoring on an album level, which reduces the transparency in the market and makes tacit collusion more difficult. On balance, the Commission has not found sufficient evidence that the majors have overcome this transparency deficit in the past.
- (23) As to retaliation, the Commission explored whether majors could retaliate against any 'cheating' major, in particular by a (temporary) return to competitive behaviour or by exclusion of the deviator from compilation joint ventures and agreements. However, the Commission has not found sufficient evidence that such retaliation mechanisms have been applied or used as a threat in the past.

The Netherlands, Sweden, Ireland, Austria, Belgium, Denmark, Finland, Norway, Portugal, Greece

- (24) In the smaller Member States the Commission equally found a considerable degree of parallelism between the PPDs of the majors which, in principle, could have been used as focal points by the majors to align prices. However, the investigation revealed, also in the smaller Member States, some differences in the level of discounts and deficits of transparency with respect to certain discounts.
- (25) The Commission's considerations as to homogeneity of the product, transparency of the market and the possibility to retaliate, as specified above for the larger

Member States, are also valid for the smaller Member States.

Conclusion

- (26) The Commission considers that it has not found sufficient evidence for an existing collective dominant position of the five music majors in the markets for recorded music in any EEA Member State.

B. Possible creation of collective dominance in the recorded music markets

- (27) The Commission has also considered whether the merger would lead to the *creation* of collective dominance of the music majors in any EEA Member State. However, in the light of the above remarks, in particular regarding market transparency, product content heterogeneity and retaliation, the Commission considers that the effect of a reduction from five to four majors following the merger would not be substantial enough to lead to the creation of a collective dominant position of the majors in the recorded music markets.

C. Possible creation of single dominance in the recorded music markets

- (28) Third parties raised concerns that the joint venture would achieve a position of single dominance in the markets for recorded music due to the joint venture's vertical relationship to Bertelsmann's media interests. It is argued that Bertelsmann could use its position in television and radio stations to foreclose competitors and favour Sony BMG, in particular by granting preferential rates or treatment or by foreclosure of competitors from promoting their artists via these channels.
- (29) The Commission concludes that it is not likely that the proposed joint venture would achieve single dominance on the markets for recorded music in Germany, the Netherlands, Belgium, Luxembourg and France, where Bertelsmann is active via RTL TV and radio stations. The advantages derived from the vertical integration in Bertelsmann's media group (e.g. through the Pop Idol format which, according to industry experts has already passed its peak) are already incorporated in BMG's market shares for 2003. On the basis of these market shares the proposed joint venture does not reach the threshold of single dominance. Furthermore, the Commission has not found any evidence that it could be a profitable strategy for Bertelsmann to foreclose competitors from access to its TV channels and radio stations.

D. Possible collective dominance in the wholesale market for licenses for online music

- (30) The Commission notes that the market for legal online music is currently in a state of infancy as most of the sites for online music have only recently started operations in the EEA. It is therefore difficult to definitively conclude on the market positions of the major record companies, particularly in relation to national markets. In addition, the information on actually downloaded or streamed songs does not appear to give a clear picture of the different players' market positions and no public industry data is available. However, on the basis of the information received by the Commission, it can be concluded that the market position of the major record companies on the wholesale market for licences for online music appears to be by and large similar to their position on the markets for recorded music.
- (31) Given the emerging state of the markets and the differences in pricing and conditions in the current agreements, the Commission has concluded that no sufficient evidence could be found for an existing collective dominant position of the majors on the national markets for licences for online music and that the concentration would not result in the creation of a collective dominant position on these markets.

E. Possible single dominance in the online music distribution markets

- (32) Third parties have raised concerns that, as a result of the transaction, Sony could obtain a position of single dominance on the national markets for distribution of online music via its Sony Connect music downloading service. It has been submitted that Sony could use the control of the joint venture to foreclose competitors in the downstream market for distribution of online music, in particular by denying competing online platforms access to the joint venture's library or by engaging in discriminatory behaviour *vis-à-vis* its competitors, e.g. by means of usage rules, time of release of new songs and the track format.
- (33) The Commission considers that Sony Connect is currently only in the process of being launched in Europe, after having been launched in the US in May 2004. It therefore currently does not have a share of

the market. Also, other players have already gained a certain position in the market (e.g. OD2) and further players have recently entered the market or announced that they would do so soon. Furthermore, by foreclosing competitors, the proposed joint venture Sony BMG would forego considerable licence revenues for the tracks sold by competitors and it appears doubtful whether such a strategy would be profitable.

F. Possible spill-over effects in music publishing

- (34) Third parties have raised concerns that the creation of the joint venture would have as its effect the coordination of the parties' competitive behaviour in the closely related markets for music publishing.
- (35) The Commission considers that any coordination could only materialise to a rather limited extent since the administration of publishing rights is mainly carried out by the collecting societies (at least for the important mechanical and performance rights). The collecting societies grant, on the basis of prevailing legislation, licences on non-discriminatory terms and agree on royalties with publishers, authors and composers. The Commission also considers that, contrary to some third parties' concerns, the concentration would not lead to the bypassing of the collecting societies by the majors as there is no sufficiently concrete evidence for such a strategy.

III. CONCLUSION

- (36) The Decision concludes that the proposed concentration does not create or strengthen a single or collective dominant position in the national markets for recorded music, licences for online music, or distribution of online music as a result of which effective competition would be significantly impeded in the common market or in a substantial part of it. The Decision further concludes that the transaction does not have as its object or effect the coordination of the competitive behaviour of the joint venture's parent companies, Sony and Bertelsmann, in the music publishing markets. Consequently, the Decision declares the concentration compatible with the Common Market and the EEA Agreement, in accordance with Articles 2(2) and (4) and Article 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.

COMMISSION DECISION

of 7 March 2005

amending the Appendix to Annex XIV to the 2003 Act of Accession as regards certain establishments in the meat sector in Slovakia

(notified under document number C(2005) 512)

(Text with EEA relevance)

(2005/189/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

two meat establishments from that list have ceased their activities. Those establishments should therefore be deleted from the list of establishments in transition.

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia⁽¹⁾, and in particular Annex XIV, Chapter 5, Section B, paragraph (d) thereto,

- (4) Three meat establishments on the list of establishments in transition have made considerable efforts to comply with structural requirements laid down by Community legislation. However, those establishments are not in position to finish their upgrading process by the prescribed deadline due to exceptional technical constraints. Therefore it is justified to allow them further time to complete the upgrading process.

Whereas:

(1) Annex XIV, Chapter 5, Section B, paragraph (a) to the 2003 Act of Accession provides that the structural requirements laid down in Annex I to Council Directive 64/433/EEC of 26 June 1964 on health conditions for the production and marketing of fresh meat⁽²⁾ and in Annexes A and B to Council Directive 77/99/EEC of 21 December 1976 on health problems affecting the production and marketing of meat products and certain other products of animal origin⁽³⁾ are not to apply to establishments in Slovakia listed in the Appendix⁽⁴⁾ to Annex XIV to the Act of Accession until 31 December 2006, subject to certain conditions.

- (5) The Appendix to Annex XIV to the 2003 Act of Accession should therefore be amended accordingly. For the sake of clarity, it should be replaced.

(2) The Appendix to Annex XIV to the 2003 Act of Accession has been amended by Commission Decision 2004/463/EC⁽⁵⁾.

- (6) The Standing Committee on the Food Chain and Animal Health has been informed of the measures provided for in this Decision,

(3) According to an official declaration from the Slovak competent authority, three meat establishments have completed their upgrading process and are now in full compliance with Community legislation. Furthermore,

HAS ADOPTED THIS DECISION:

⁽¹⁾ OJ L 236, 23.9.2003, p. 33.

⁽²⁾ OJ L 121, 29.7.1964, p. 2012/64. Directive as last amended by Directive 2004/41/EC of the European Parliament and of the Council (OJ L 157, 30.4.2004 p. 33, corrected version (OJ L 195, 2.6.2004, p. 12)).

⁽³⁾ OJ L 26, 31.1.1977, p. 85. Directive as last amended by Directive 2004/41/EC.

⁽⁴⁾ OJ C 227 E, 23.9.2003, p. 1654.

⁽⁵⁾ OJ L 156, 30.4.2004, p. 138, corrected version (OJ L 202, 7.6.2004, p. 95).

Article 1

The Appendix to Annex XIV to the 2003 Act of Accession is replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 7 March 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

'APPENDIX

referred to in Chapter 5, Section B to Annex XIV (*)

List of establishments, including shortcomings and deadlines for the correction of these shortcomings

Veterinary approval number	Name of the establishment	Shortcomings	Date of full compliance
GA 6-2	Sered'ský MP a.s., Bratislavská 385, Sered'	Council Directive 64/433/EEC: Annex I, Chapter I, point 1(a), (b) and (g) Annex I, Chapter I, point 11 Annex I, Chapter II, point 14(a) Council Directive 77/99/EEC: Annex A, Chapter I, point 2(a), (b) and (c) Annex A, Chapter I, point 11	31.12.2006
PB 5-6-1	Slovryb a.s., Príbovce Hospodárske stredisko Považská Bystrica-Rybníky, Žilinská 776/3, 017 01	Council Directive 91/493/EEC Annex, Chapter III.I point 1 Annex, Chapter III.I point 2(a), (b), (c), (d), (e) and (g) Annex, Chapter III.I point 9	30.11.2006

Veterinary approval number	Name and address of establishment	Sector: Meat			Date of compliance
		Activity of the establishments			
		Fresh meat, slaughter, cutting	Meat products	Cold store	
PE 6-10	COLAGEN SLOVAKIA, s.r.o. Kúpeľná 193 958 04 Partizánske	X	X		30.4.2005
MI 6-1	Mäso ZEMPLÍN a.s. Užhorodská č. 86 071 01 Michalovce		X		30.4.2005
MA 6-30	BERTO-Ignác Bertovič Hlavná 1 900 66 Vysoká pri Morave	X	X		30.4.2005
CA 6-31	K.B.K. spol. s.r.o. A. Hlinku 27 022 01 Čadca		X		15.2.2005

(*) For the text of Annex XIV see OJ L 236, 23.9.2003, p. 915.

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

COUNCIL JOINT ACTION 2005/190/CFSP

of 7 March 2005

on the European Union Integrated Rule of Law Mission for Iraq, EUJUST LEX

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14, Article 25, third paragraph, Article 26 and Article 28 (3) thereof,

Whereas:

- (1) The European Union is committed to a secure, stable, unified, prosperous and democratic Iraq that will make a positive contribution to the stability of the region. The EU supports the people of Iraq and the Iraqi Interim Government in their efforts towards the economic, social and political reconstruction of Iraq in the framework of the implementation of United Nations Security Council Resolution 1546 of 8 June 2004.
- (2) The European Council on 5 November 2004 welcomed the Joint Fact Finding Mission for a possible integrated police, rule of law and civilian administration mission for Iraq and considered its report. The European Council recognised the importance of strengthening the criminal justice system, consistent with the respect for the rule of law, human rights and fundamental freedoms. It noted the wish of the Iraqi authorities for the EU to become more actively involved in Iraq and that strengthening the criminal justice sector would respond to Iraqi needs and priorities.
- (3) The European Council agreed that the EU could usefully contribute to the reconstruction and the emergence of a stable, secure and democratic Iraq through an integrated mission, which could *inter alia* promote closer collaboration between the different actors across the criminal justice system and strengthen the management capacity of senior and high-potential officials from the police, judiciary and penitentiary and improve skills and procedures in criminal investigation in full respect for the rule of law and human rights.
- (4) As agreed by the European Council, by Joint Action 2004/909/CFSP⁽¹⁾ the Council decided to send an expert team to continue the dialogue with the Iraqi authorities, to start initial planning for a possible integrated police, rule of law and civilian administration mission to be launched after the elections, and in particular assess the urgent security needs for such a mission.
- (5) The Council decided on 21 February 2005 to launch an integrated rule of law mission for Iraq, which would become operational as soon as possible, subject to an official invitation from the Iraqi authorities.
- (6) The success of the mission will depend on an effective strategic and technical partnership with the Iraqis throughout the operation, in the framework of European Security and Defense Policy and in complementarity with the United Nations.
- (7) The EU will use its dialogue with Iraq and its neighbours to encourage continuous regional engagement and support for improved security and for the political and reconstruction process in Iraq based on inclusiveness, democratic principles, respect for human rights and the rule of law, as well as support for security and co-operation in the region.
- (8) EUJUST LEX will implement its mandate in the context of a situation posing a threat to law and order, the security and safety of individuals, and to the stability of Iraq and which could harm the objectives of the Common Foreign and Security Policy as set out in Article 11 of the Treaty.
- (9) In conformity with the guidelines of the European Council meeting in Nice on 7 to 9 December 2000, this Joint Action should determine the role of the Secretary General/High Representative, hereinafter referred to as 'SG/HR', in accordance with Articles 18 and 26 of the Treaty.

⁽¹⁾ Council Joint Action 2004/909/CFSP of 26 November 2004 on establishing an expert team with a view to a possible European Union integrated police, rule of law and civilian administration mission for Iraq (OJ L 381, 28.12.2004, p. 84).

- (10) Article 14(1) of the Treaty calls for the indication of a financial reference amount for the whole period of implementation of the Joint Action. The indication of amounts to be financed by the Community budget illustrates the will of the legislative authority and is subject to the availability of commitment appropriations during the respective budget year. EUJUST LEX will also receive contributions in kind from Member States,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Mission

1. The European Union hereby establishes an European Union Integrated Rule of Law Mission for Iraq, EUJUST LEX, comprising a planning phase beginning no later than 9 March 2005 and an operational phase beginning no later than 1 July 2005.

2. EUJUST LEX shall operate in accordance with the objectives and other provisions as contained in the mission statement set out in Article 2.

Article 2

Mission statement

1. EUJUST LEX shall address the urgent needs in the Iraqi criminal justice system through providing training for high and mid level officials in senior management and criminal investigation. This training shall aim to improve the capacity, coordination and collaboration of the different components of the Iraqi criminal justice system.

2. EUJUST LEX shall promote closer collaboration between the different actors across the Iraqi criminal justice system and strengthen the management capacity of senior and high-potential officials primarily from the police, judiciary and penitentiary and improve skills and procedures in criminal investigation in full respect for the rule of law and human rights.

3. The training activities shall take place in the EU or in the region and EUJUST LEX shall have a liaison office in Baghdad.

Depending on developments in the security conditions in Iraq and on the availability of appropriate infrastructure, the Council shall examine the possibility of training within Iraq and, if necessary, shall amend this Joint Action accordingly.

4. An effective strategic and technical partnership with the Iraqi counterparts shall be developed throughout the mission, particularly in relation to the design of the curricula during the

planning phase. Coordination will also be needed for the selection, vetting, evaluation, follow-up and coordination of personnel attending the training with the aim of rapid appropriation by the Iraqis. There shall also be a need for close coordination during the planning and operational phases between EUJUST LEX and the Member States providing training. This shall include the involvement of the relevant Member States diplomatic missions in Iraq and liaison with those Member States with current experience in providing training relevant for the mission.

5. EUJUST LEX shall be secure, independent and distinct but shall be complementary and bring added value to ongoing international efforts, in particular of the United Nations, as well as develop synergies with ongoing Community and Member States efforts. In this context, EUJUST LEX shall liaise with Member States who presently conduct training projects.

Article 3

Structure

EUJUST LEX shall, in principle, be structured as follows:

- (a) the Head of Mission;
- (b) a Coordinating Office in Brussels;
- (c) a Liaison Office in Baghdad;
- (d) Training Facilities and trainers provided by the Member States and coordinated by EUJUST LEX.

These elements shall be developed in the Concept of Operations (CONOPS) and the Operation Plan (OPLAN).

Article 4

Head of Mission

1. The Head of Mission shall assume the day-to-day management and coordination of EUJUST LEX activities and shall be responsible for staff and disciplinary matters.

2. The Head of Mission shall sign a contract with the Commission.

Article 5

Planning phase

1. During the preparatory phase of the mission, a planning team shall be established and shall comprise the Head of Mission, who shall lead the planning team, and the necessary staff to deal with functions ensuing from established needs of the mission.

2. A comprehensive risk assessment shall be carried out as a priority in the planning process and shall be updated as necessary.

3. The planning team shall draw up an OPLAN and develop all technical instruments necessary to execute the mission including the common curricula taking into account current training projects of Member States. The CONOPS and the OPLAN shall take into account the comprehensive risk assessment. The OPLAN shall contain the common EU curricula for the courses, which will be designed by the planning team in consultation with the Iraqis and Member States, including those providing training relevant for the mission. The Council shall approve the CONOPS and the OPLAN.

4. The planning team shall work in close coordination with relevant international actors, in particular the United Nations.

Article 6

Staff

1. The numbers and competence of EUJUST LEX staff shall be consistent with the mission statement set out in Article 2 and the structure set out in Article 3.

2. EUJUST LEX staff shall be seconded by EU Member States or institutions. Each Member State shall bear the costs related to EUJUST LEX staff seconded by it, including salaries, medical coverage, allowances other than *per diems* and travel expenses as defined in the financial statement.

3. International staff and local staff shall be recruited on a contractual basis by EUJUST LEX as required.

4. All staff shall remain under the authority of the appropriate EU Member State or institution and shall carry out their duties and act in the interest of the mission. Both during and after the mission, they shall exercise the greatest discretion with regard to all facts and information relating to the mission. The staff shall respect the security principles and minimum standards established by Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations⁽¹⁾.

Article 7

Status of staff

1. Where required, the status of EUJUST LEX staff, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of EUJUST LEX shall be agreed in accordance with the procedure laid down in Article 24 of the Treaty. The SG/HR, assisting the Presidency, may negotiate such an agreement on its behalf.

⁽¹⁾ OJ L 101, 11.4.2001, p. 1. Decision amended by Decision 2004/194/EC (OJ L 63, 28.2.2004, p. 48).

2. The EU Member State or institution having seconded a staff member shall be responsible for answering any claims linked to the secondment, from or concerning the staff member. The EU Member State or institution in question shall be responsible for bringing any action against the seconded.

Article 8

Chain of command

1. The structure of EUJUST LEX shall have a unified chain of command as a crisis management operation,

2. The Political and Security Committee (hereinafter referred to as 'PSC') shall provide the political control and strategic direction.

3. The Head of Mission shall lead the Mission and assume its coordination and day-to-day management.

4. The Head of Mission shall report to the SG/HR.

5. The SG/HR shall give guidance to the Head of Mission.

Article 9

Political control and strategic direction

1. The PSC shall exercise, under the responsibility of the Council, the political control and strategic direction of the mission. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 25 of the Treaty. This authorisation shall include the powers to appoint, upon a proposal by the SG/HR, a Head of Mission, and to amend the CONOPS and the OPLAN and the chain of command. The powers of decision with respect to the objectives and termination of the operation shall remain vested in the Council, assisted by the SG/HR.

2. The PSC shall report to the Council at regular intervals.

3. The PSC shall receive reports by the Head of Mission regarding contributions to and the conduct of the mission, at regular intervals. The PSC may invite the Head of Mission to its meetings as appropriate.

Article 10

Security

1. The Head of Mission shall be responsible for the security of EUJUST LEX and shall, in consultation with the Security Office of the General Secretariat of the Council (hereinafter referred to as 'GSC Security Office'), be responsible for ensuring compliance with minimum security requirements applicable to the mission.

2. For the elements of the mission which shall be carried out in Member States, the host Member State shall take all necessary and appropriate measures to ensure the security of the participants and the trainers on its territory.
3. For the Coordinating Office in Brussels, the necessary and appropriate measures shall be organised by the GSC Security Office in collaboration with the host Member State authorities.
4. Should the training take place in a third State, the EU, with the involvement of the Member States concerned, shall ask third States authorities to make the appropriate arrangements regarding the security of the participants and the trainers on its territory.
5. EUJUST LEX shall have a dedicated mission Security Officer reporting to the Head of Mission.
6. The Head of Mission shall consult with the PSC on security issues affecting the deployment of the Mission as directed by the SG/HR.
7. EUJUST LEX staff members shall undergo mandatory security training organised by the GSC Security Office and medical checks prior to any deployment or travel to Iraq.
8. Member States shall endeavour to provide EUJUST LEX, in particular the Liaison Office, secure accommodation, body armour and close protection within Iraq.

Article 11

Financial arrangements

1. The financial reference amount intended to cover the expenditure related to the mission shall be EUR 10 000 000.
2. The expenditure financed by the amount stipulated in paragraph 1 shall be managed in accordance with the procedures and rules applicable to the general budget of the European Union with the exception that any pre-financing shall not remain the property of the Community. Should a part of the training be conducted in third States, nationals of third States shall be allowed to tender for contracts. In this case, goods and services procured for EUJUST LEX may also have their origin in third States.
3. Given the particular security situation in Iraq, services in Baghdad shall be provided through the existing agreements entered into by the United Kingdom with the companies listed in the Annex. The budget of EUJUST LEX shall cover these expenses up to a maximum of EUR 2 340 000. The United Kingdom shall, in consultation with the Head of Mission, report regularly with adequate information to the Council on these expenses.

4. The Head of Mission shall report fully to, and be supervised by, the Commission on the activities undertaken in the framework of his contract.
5. The financial arrangements shall respect the operational requirements of EUJUST LEX, including compatibility of equipment.
6. Expenditure shall be eligible as of the date of entry into force of this Joint Action.
7. The equipment and supplies for the Coordination Office in Brussels shall be purchased and rented on behalf of the EU.

Article 12

Community action

1. The Council notes the intention of the Commission to direct its action towards achieving the objectives of this Joint Action in all phases of the proposed operation, including in view of the elaboration by the Commission of potential follow-on actions to the European Security and Defense Policy operation under Community programs.
2. The Council also notes that coordination arrangements are required in Brussels as well as, as appropriate, in Baghdad.

Article 13

Release of classified information

The SG/HR is authorised to release to the host State and the United Nations, as appropriate and in accordance with the operational needs of the mission, EU classified information and documents up to the level 'RESTREINT UE' generated for the purposes of the operation, in accordance with the Council's security regulations. Local arrangements shall be drawn up for this purpose.

Article 14

Entry into force

This Joint Action shall enter into force on the date of its adoption

It shall expire on 30 June 2006.

Article 15

Publication

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

Done at Brussels, 7 March 2005.

For the Council
The President
J. KRECKÉ

ANNEX

List of companies referred to in Article 11(3)

- Control Risks Group: mobile security
Cottons Centre
Cottons Lane
London SE1 2QG
(Limited company)
 - Frontier Medical: basic medical services
Mitcheldean
Gloucestershire
GL17 ODD
(a division of Exploration Logistics Group plc)
 - Crown Agents for Oversea Governments & Administrations Limited: life support including food, water, laundry and cleaning
St Nicholas House
St Nicholas Road
Sutton
Surrey SM1 1EL
 - Armorgroup Services Limited: perimeter security
25 Buckingham Gate
London
SW1E 6LD
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