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EN

[1] Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 583/2005

of 15 April 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 16 April 2005.

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

Done at Brussels, 15 April 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 15 April 2005 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	052	107,6
	204	63,6
	212	146,4
	624	101,8
	999	104,9
0707 00 05	052	138,3
	204	48,4
	999	93,4
0709 90 70	052	106,9
	204	36,8
	999	71,9
0805 10 20	052	47,3
	204	44,8
	212	52,7
	220	45,6
	400	53,7
	624	58,6
	999	50,5
0805 50 10	052	56,6
	220	69,6
	400	69,0
	624	68,2
	999	65,9
0808 10 80	388	85,7
	400	140,6
	404	111,3
	508	62,9
	512	71,2
	524	45,3
	528	77,4
	720	81,3
	804	117,0
	999	88,1
0808 20 50	388	83,7
	512	70,3
	528	69,3
	720	59,5
	999	70,7

(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 584/2005

of 15 April 2005

opening a standing invitation to tender for the resale on the internal market of paddy rice held by the French intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice [1], and in particular Article 7(4) and (5) thereof,

Whereas:

(1) Commission Regulation (EEC) No 75/91 [2] lays down the procedures and conditions for the disposal of paddy rice held by intervention agencies.

(2) The French intervention agency has been storing a very significant quantity of paddy rice for a very long time. A standing invitation to tender should therefore be opened for the resale on the internal market of some 5 000 tonnes of paddy rice held by that agency.

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

HAS ADOPTED THIS REGULATION:

Article 1

Under the conditions laid down in Regulation (EC) No 75/91, the French intervention agency shall launch a standing invitation to tender for the resale on the internal market of the quantities of paddy rice held by it, as set out in the Annex to this Regulation.

Article 2

1. The closing date for the submission of tenders in response to the first partial invitation to tender shall be 27 April 2005.

2. The closing date for the submission of tenders in response to the last partial invitation to tender shall be 29 June 2005.

3. Tenders must be lodged with the French intervention agency:

ONIC
Service 'Intervention'
21, avenue Bosquet
F-75341 Paris Cedex 07
Fax: (33) 144 18 20 08.

Article 3

As an exception to Article 19 of Regulation (EEC) No 75/91, the French intervention agency shall inform the Commission, no later than the Tuesday of the week following the closing date for the submission of tenders, of the quantity and average prices of the various lots sold, broken down by group where appropriate.

Article 4

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

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

Done at Brussels, 15 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 270, 21.10.2003, p. 96.
[2] OJ L 9, 12.1.1991, p. 15.

ANNEX

Group	1
Quantity (approximate)	5 000 t
Harvest year	2002
Rice type	Ariète

COMMISSION REGULATION (EC) No 585/2005

of 15 April 2005

opening a standing invitation to tender for the resale on the internal market of paddy rice held by the Italian intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice [1], and in particular Article 7(4) and (5) thereof,

Whereas:

(1) Commission Regulation (EEC) No 75/91 [2] lays down the procedures and conditions for the disposal of paddy rice held by intervention agencies.

(2) The Italian intervention agency has been storing a very significant quantity of paddy rice for a very long time. A standing invitation to tender should therefore be opened for the resale on the internal market of some 30 010 tonnes of paddy rice held by that agency.

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

HAS ADOPTED THIS REGULATION:

Article 1

Under the conditions laid down in Regulation (EC) No 75/91, the Italian intervention agency shall launch a standing invitation to tender for the resale on the internal market of the quantities of paddy rice held by it, as set out in the Annex to this Regulation.

Article 2

1. The closing date for the submission of tenders in response to the first partial invitation to tender shall be 27 April 2005.

2. The closing date for the submission of tenders in response to the last partial invitation to tender shall be 29 June 2005.

3. Tenders must be lodged with the Italian intervention agency:

Ente Nazionale Risi (ENR)
Piazza Pio XI, 1
I-20123 Milano
Tel. (39) 02 885 51 11
Fax (39) 02 86 13 72.

Article 3

As an exception to Article 19 of Regulation (EEC) No 75/91, the Italian intervention agency shall inform the Commission, no later than the Tuesday of the week following the closing date for the submission of tenders, of the quantity and average prices of the various lots sold, broken down by group where appropriate.

Article 4

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

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

Done at Brussels, 15 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 270, 21.10.2003, p. 96.
[2] OJ L 9, 12.1.1991, p. 15.

ANNEX

Group	1	2	3
Quantity (approximate)	1 010 t	4 000 t	25 000 t
Harvest year	1999	2002	2002
Rice types	Round-grain	medium-grain and long-grain A	Long-grain B

COMMISSION REGULATION (EC) No 586/2005

of 15 April 2005

opening a standing invitation to tender for the resale on the internal market of paddy rice held by the Greek intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice [1], and in particular Article 7(4) and (5) thereof,

Whereas:

(1) Commission Regulation (EEC) No 75/91 [2] lays down the procedures and conditions for the disposal of paddy rice held by intervention agencies.

(2) The Greek intervention agency has been storing a very significant quantity of paddy rice for a very long time. A standing invitation to tender should therefore be opened for the resale on the internal market of some 18 000 tonnes of paddy rice held by that agency.

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

HAS ADOPTED THIS REGULATION:

Article 1

Under the conditions laid down in Regulation (EEC) No 75/91, the Greek intervention agency shall launch a standing invitation to tender for the resale on the internal market of the quantities of paddy rice held by it, as set out in the Annex to this Regulation.

Article 2

1. The closing date for the submission of tenders in response to the first partial invitation to tender shall be 27 April 2005.

2. The closing date for the submission of tenders in response to the last partial invitation to tender shall be 29 June 2005.

3. Tenders must be lodged with the Greek intervention agency:

OPEKEPE
Acharnon Street 241
GR-10446 Athens
Tel. (30-210) 212 48 46 and 212 47 88
Fax (30-210) 212 47 91.

Article 3

As an exception to Article 19 of Regulation (EEC) No 75/91, the Greek intervention agency shall inform the Commission, no later than the Tuesday of the week following the closing date for the submission of tenders, of the quantity and average prices of the various lots sold, broken down by group where appropriate.

Article 4

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

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

Done at Brussels, 15 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 270, 21.10.2003, p. 96.
[2] OJ L 9, 12.1.1991, p. 15.

ANNEX

Group	1
Quantity (approximate)	18 000 t
Harvest year	1998
Rice type	Long-grain B

COMMISSION REGULATION (EC) No 587/2005

of 15 April 2005

opening a standing invitation to tender for the resale on the internal market of paddy rice held by the Spanish intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice [1], and in particular Article 7(4) and (5) thereof,

Whereas:

(1) Commission Regulation (EEC) No 75/91 [2] lays down the procedures and conditions for the disposal of paddy rice held by intervention agencies.

(2) The Spanish intervention agency has been storing a very significant quantity of paddy rice for a very long time. A standing invitation to tender should therefore be opened for the resale on the internal market of some 25 021 tonnes of paddy rice held by that agency.

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

HAS ADOPTED THIS REGULATION:

Article 1

Under the conditions laid down in Regulation (EEC) No 75/91, the Spanish intervention agency shall launch a standing invitation to tender for the resale on the internal market of the quantities of paddy rice held by it, as set out in the Annex to this Regulation.

Article 2

1. The closing date for the submission of tenders in response to the first partial invitation to tender shall be 27 April 2005.

2. The closing date for the submission of tenders in response to the last partial invitation to tender shall be 29 June 2005.

3. Tenders shall be lodged with the Spanish intervention agency:

Fondo Español de Garantia Agraria (FEGA)
Beneficencia 8
E-28004 Madrid
Telex: 23427 FEGA E;
Fax (34) 915 21 98 32 and (34) 915 22 43 87.

Article 3

As an exception to Article 19 of Regulation (EEC) No 75/91, the Spanish intervention agency shall inform the Commission, no later than the Tuesday of the week following the closing date for the submission of tenders, of the quantity and average prices of the various lots sold, broken down by group where appropriate.

Article 4

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

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

Done at Brussels, 15 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 270, 21.10.2003, p. 96.
[2] OJ L 9, 12.1.1991, p. 15.

ANNEX

Group	1	2
Quantity (approximate)	10 021 t	15 000 t
Harvest year	2001	2001
Rice types	round-grain, medium-grain and long-grain A	Long-grain B

COMMISSION REGULATION (EC) No 588/2005

of 15 April 2005

amending Regulation (EC) No 1002/2004 accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of potassium chloride originating in the Republic of Belarus, the Russian Federation or Ukraine

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not member of the European Communities [1] (the basic Regulation) and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 992/2004 [2] of 17 May 2004 amending Regulation (EEC) No 3068/92 imposing a definitive anti-dumping duty on imports of potassium chloride originating in Belarus, Russia or Ukraine and in particular Article 1 thereof,

After consulting the Advisory Committee,

Whereas:

(1) The Council, by Regulation (EEC) No 3068/92 [3], imposed a definitive anti-dumping duty on imports of potassium chloride originating, *inter alia*, in the Russian Federation ('Russia'). By Regulation (EC) No 969/2000 [4], the Council amended and extended the period of application of the measures originally imposed by Regulation (EEC) No 3068/92 on imports of potassium chloride originating, *inter alia*, in Russia.

(2) In March 2004, by means of a notice published in the *Official Journal of the European Union* [5], the Commission launched, on its own initiative, a partial interim review of the measures in force on imports of potassium chloride from, *inter alia*, Russia to examine whether they should be amended to take account of the enlargement of the European Union to 25 Member States (Enlargement).

(3) The results of that partial interim review showed that it was in the interests of the Community to provide for the temporary adaptation of the measures so as to avoid a sudden and excessively negative economic impact on importers and users in the 10 new Member States (EU10) immediately following Enlargement.

(4) The Council, by Regulation (EC) No 992/2004, authorised the Commission to accept undertaking offers respecting the conditions set out in recitals 27 to 32 of the same Regulation. On this basis, and pursuant to Articles 8, 11(3), 21 and 22(c) of the basic Regulation, the Commission, by Regulation (EC) No 1002/2004 [6], accepted undertaking offers from two exporting producers in Russia.

(5) In the case of one exporting producer, the Commission accepted a joint undertaking for imports of potassium chloride produced by JSC Uralkali, Berezniki, Russia and sold by a trading company, Fertexim Ltd, Limassol, Cyprus which acted as the exclusive distributor for JSC Uralkali's sales to the Community.

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[1] OJ L 56, 6.3.1996, p. 1. Regulation, as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).
[2] OJ L 182, 19.5.2004, p. 23.
[3] OJ L 308, 24.10.1992, p. 41. Regulation, as last amended by Regulation (EC) No 992/2004 (OJ L 182, 19.5.2004, p. 23).
[4] OJ L 112, 11.5.2000, p. 4. Corrigendum: OJ L 2, 5.1.2001, p. 42.
[5] OJ C 70, 20.3.2004, p. 15.
[6] OJ L 183, 20.5.2004, p. 16.

(6) JSC Uralkali has informed the Commission that it would, henceforth, sell to the Community through a different company called Uralkali Trading SA, Geneva, Switzerland. To take account of this change, JSC Uralkali and Fertexim Ltd requested that the relevant provisions of Regulation (EC) No 1002/2004 accepting the joint undertaking be amended. To this end, JSC Uralkali and Uralkali Trading SA have jointly offered a revised undertaking.

(7) JSC Uralkali has also pointed out that the undertaking accepted by Regulation (EC) No 1002/2004 did not allow for direct sales from JSC Uralkali to the first independent customer in the Community. By the revised undertaking, JSC Uralkali also undertakes to respect the terms thereof for direct sales to the Community.

(8) The Commission has examined the undertaking offer. It was concluded that the revised undertaking fulfilled all the necessary criteria for acceptance laid down in Regulation (EC) No 992/2004, namely that: (i) the sales prices of the companies concerned would be at levels which significantly contribute to the elimination of injury; (ii) the companies would observe certain import volumes for sales to customers in the EU10; and (iii) they would also broadly respect their traditional selling patterns to individual customers in the EU10. It was also considered, as had been argued by JSC Uralkali, that the transfer of the trading activities of Fertexim Ltd to Uralkali Trading SA did not affect the workability of the undertaking nor, on the basis of information provided by the companies, its effective monitoring.

(9) Furthermore, the request for exemption of JSC Uralkali's direct sales to the Community from the anti-dumping duties was considered to be acceptable as it is in line with normal practice to accept appropriate undertaking offers from producers which export directly to the Community.

(10) In light of the above, it was considered appropriate to amend the operative part of Regulation (EC) No 1002/2004 accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 of Regulation (EC) No 1002/2004 shall be amended as follows:

'*Article 1*

The undertakings offered by the exporting producers mentioned below, in connection with the anti-dumping proceeding concerning imports of potassium chloride originating in the Republic of Belarus and the Russian Federation are hereby accepted.

Country	Company	TARIC additional code
Republic of Belarus	Produced by Republican Unitary Enterprise Production Amalgamation Belaruskali, Soligorsk, Belarus and sold by JSC International Potash Company, Moscow, Russia, or Belurs Handelsgesellschaft mbH, Vienna, Austria, or UAB Baltkalis, Vilnius, Lithuania, to the first independent customer in the Community acting as an importer	A518
Russian Federation	Produced by JSC Silvinit, Solikamsk, Russia and sold by JSC International Potash Company, Moscow, Russia, or Belurs Handelsgesellschaft m.b.H, Vienna, Austria to the first independent customer in the Community acting as an importer	A519
Russian Federation	Produced and sold by JSC Uralkali, Berezniki, Russia or produced by JSC Uralkali, Berezniki, Russia and sold by Uralkali Trading SA, Geneva, Switzerland to the first customer in the Community acting as an importer	A520'

Article 2

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

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

Done at Brussels, 15 April 2005.

For the Commission
Peter MANDELSON
Member of the Commission

COMMISSION REGULATION (EC) No 589/2005

of 15 April 2005

fixing the minimum selling prices for butter for the 161st individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], and in particular Article 10 thereof,

Whereas:

(1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs [2], to sell by invitation to tender certain quantities of butter from intervention stocks that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further stipulated that the price or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

(2) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The minimum selling prices of butter from intervention stocks and processing securities applying for the 161st individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 16 April 2005.

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

Done at Brussels, 15 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).
[2] OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

ANNEX

to the Commission Regulation of 15 April 2005 fixing the minimum selling prices for butter for the 161st individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula			A		B	
Incorporation procedure			With tracers	Without tracers	With tracers	Without tracers
Minimum selling price	Butter ≥ 82 %	Unaltered	208,10	210	—	210
		Concentrated	204,1	—	—	—
Processing security		Unaltered	73	73	—	—
		Concentrated	73	—	—	—

COMMISSION REGULATION (EC) No 590/2005

of 15 April 2005

fixing the maximum aid for cream, butter and concentrated butter for the 161st individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], and in particular Article 10 thereof,

Whereas:

(1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice cream and other foodstuffs [2], to sell by invitation to tender certain quantities of butter of intervention stocks that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further stipulated that the price or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

(2) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The maximum aid and processing securities applying for the 161st individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 16 April 2005.

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

Done at Brussels, 15 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).
[2] OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

ANNEX

to the Commission Regulation of 15 April 2005 fixing the maximum aid for cream, butter and concentrated butter for the 161st individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula		A		B	
Incorporation procedure		With tracers	Without tracers	With tracers	Without tracers
Maximum aid	Butter ≥ 82 %	51	47	50	41
	Butter < 82 %	44	45,9	—	—
	Concentrated butter	61,5	57,5	61,5	57,5
	Cream			24	20
Processing security	Butter	56	—	55	—
	Concentrated butter	68	—	68	—
	Cream	—	—	26	—

COMMISSION REGULATION (EC) No 591/2005

of 15 April 2005

fixing the maximum aid for concentrated butter for the 333rd special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], and in particular Article 10 thereof,

Whereas:

(1) In accordance with Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community [2], the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter. Article 6 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 % or a decision is to be taken to make no award; the end-use security must be fixed accordingly.

(2) In the light of the tenders received, the maximum aid should be fixed at the level specified below and the end-use security determined accordingly.

(3) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

For the 333rd tender under the standing invitation to tender opened by Regulation (EEC) No 429/90 the maximum aid and the end-use security are fixed as follows:

— maximum aid: 60,6 EUR/100 kg,

— end-use security: 67 EUR/100 kg.

Article 2

This Regulation shall enter into force on 16 April 2005.

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

Done at Brussels, 15 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).
[2] OJ L 45, 21.2.1990, p. 8. Regulation as last amended by Commission Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

COMMISSION REGULATION (EC) No 592/2005

of 15 April 2005

suspending the buying-in of butter in certain Member States

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream [2], and in particular Article 2 thereof,

Whereas:

(1) Article 2 of Regulation (EC) No 2771/1999 lays down that buying-in is to be opened or suspended by the Commission in a Member State, as appropriate, once it is observed that, for two weeks in succession, the market price in that Member State is below or equal to or above 92 % of the intervention price.

(2) Commission Regulation (EC) No 544/2005 [3] establishes the most recent list of Member States in which intervention is suspended. This list must be adjusted as a result of the market prices communicated by Sweden pursuant to Article 8 of Regulation (EC) No 2771/1999. In the interests of clarity, the list in question should be replaced and Regulation (EC) No 544/2005 should be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Buying-in of butter as provided for in Article 6(1) of Regulation (EC) No 1255/1999 is hereby suspended in Belgium, Denmark, Cyprus, Hungary, Malta, Greece, Luxembourg, the Netherlands, Austria, Slovakia, Slovenia and Finland.

Article 2

Regulation (EC) No 544/2005 is hereby repealed.

Article 3

This Regulation shall enter into force on 16 April 2005.

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

Done at Brussels, 15 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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

[2] OJ L 333, 24.12.1999, p. 11. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

[3] OJ L 91, 9.4.2005, p. 3.

COMMISSION REGULATION (EC) No 593/2005

of 15 April 2005

fixing the minimum selling price for butter for the 17th individual invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 2771/1999

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], and in particular Article 10(c) thereof,

Whereas:

(1) Pursuant to Article 21 of Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream [2], intervention agencies have put up for sale by standing invitation to tender certain quantities of butter held by them.

(2) In the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no award, in accordance with Article 24a of Regulation (EC) No 2771/1999.

(3) In the light of the tenders received, a minimum selling price should be fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 17th individual invitation to tender pursuant to Regulation (EC) No 2771/1999, in respect of which the time limit for the submission of tenders expired on 12 April 2005, the minimum selling price for butter is fixed at 275 EUR/100 kg.

Article 2

This Regulation shall enter into force on 16 April 2005.

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

Done at Brussels, 15 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).
[2] OJ L 333, 24.12.1999, p. 11. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

COMMISSION REGULATION (EC) No 594/2005

of 15 April 2005

fixing the minimum selling price for skimmed-milk powder for the 16th individual invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 214/2001

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], and in particular Article 10(c) thereof,

Whereas:

(1) Pursuant to Article 21 of Commission Regulation (EC) No 214/2001 of 12 January 2001 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in skimmed milk [2], intervention agencies have put up for sale by standing invitation to tender certain quantities of skimmed-milk powder held by them.

(2) In the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no award, in accordance with Article 24a of Regulation (EC) No 214/2001.

(3) In the light of the tenders received, a minimum selling price should be fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 16th individual invitation to tender pursuant to Regulation (EC) No 214/2001, in respect of which the time limit for the submission of tenders expired on 12 April 2005, the minimum selling price for skimmed milk is fixed at 195,50 EUR/100 kg.

Article 2

This Regulation shall enter into force on 16 April 2005.

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

Done at Brussels, 15 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).
[2] OJ L 37, 7.2.2001, p. 100. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

COMMISSION REGULATION (EC) No 595/2005

of 15 April 2005

fixing the import duties in the cereals sector applicable from 16 April 2005

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

(1) Article 10 of Regulation (EC) No 1784/2003 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.

(2) Pursuant to Article 10(3) of Regulation (EC) No 1784/2003, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market.

(3) Regulation (EC) No 1249/96 lays down detailed rules for the application of Regulation (EC) No 1784/2003 as regards import duties in the cereals sector.

(4) The import duties are applicable until new duties are fixed and enter into force.

(5) In order to allow the import duty system to function normally, the representative market rates recorded during a reference period should be used for calculating the duties.

(6) Application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in Annex I to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the cereals sector referred to in Article 10(2) of Regulation (EC) No 1784/2003 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 16 April 2005.

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

Done at Brussels, 15 April 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

[1] OJ L 270, 21.10.2003, p. 78.

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

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EC) No 1784/2003 applicable from 16 April 2005

CN code	Description	Import duty [1] (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	Common high quality wheat other than for sowing	0,00
1002 00 00	Rye	29,48
1005 10 90	Maize seed other than hybrid	52,57
1005 90 00	Maize other than seed [2]	52,57
1007 00 90	Grain sorghum other than hybrids for sowing	29,48

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

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

ANNEX II

Factors for calculating duties

period from 1.4.2005-14.4.2005

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

Exchange quotations	Minneapolis	Chicago	Minneapolis	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2 (14 %)	YC3	HAD2	Medium quality (*)	Low quality (**)	US barley 2
Quotation (EUR/t)	108,04 (***)	63,21	158,82	148,82	128,82	86,68
Gulf premium (EUR/t)	—	11,93	—			—
Great Lakes premium (EUR/t)	25,13	—	—			—

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

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

Freight/cost: Gulf of Mexico–Rotterdam: 33,60 EUR/t; Great Lakes–Rotterdam: 45,15 EUR/t.

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

COMMISSION REGULATION (EC) No 596/2005

of 15 April 2005

on the issue of licences for the import of garlic in the quarter from 1 June to 31 August 2005

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],

Having regard to Commission Regulation (EC) No 565/2002 of 2 April 2002 establishing the method for managing the tariff quotas and introducing a system of certificates of origin for garlic imported from third countries [2], and in particular Article 8(2) thereof,

Whereas:

(1) The quantities for which licence applications have been lodged by traditonal importers and by new importers on 11 and 12 April 2005, pursuant to Article 5(2) of Regulation (EC) No 565/2002 exceed the quantities available for products originating in China and all third countries other than China and Argentina.

(2) It is now necessary to establish the extent to which the licence applications sent to the Commission on 14 April 2005 can be met and to fix, for each category of importer and product origin, the dates until which the issue of certificates must be suspended,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for import licences lodged pursuant to Article 3(1) of Regulation (EC) No 565/2002, on 11 and 12 April 2005 and sent to the Commission on 14 April 2005, shall be met at a percentage rate of the quantities applied for as set out in Annex I hereto.

Article 2

For each category of importer and the origin involved, applications for import licences pursuant to Article 3(1) of Regulation (EC) No 565/2002 relating to the quarter from 1 June 2005 to 31 August 2005 and lodged after 12 April 2005 but before the date in Annex II hereto, shall be rejected.

Article 3

This Regulation shall enter into force on 16 April 2005.

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

Done at Brussels, 15 April 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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[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 86, 3.4.2002, p. 11. Regulation as last amended by Regulation (EC) No 537/2004 (OJ L 86, 24.3.2004, p. 9).

ANNEX I

Origin of the products	Percentage allocations		
	China	Third countries other than China or Argentina	Argentina
— traditional importers (Article 2(c) of Regulation (EC) No 565/2002)	9,959 %	100 %	X
— new importers (Article 2(e) of Regulation (EC) No 565/2002)	0,664 %	37,541 %	X

'X': No quota for this origin for the quarter in question.
'—': No application for a licence has been sent to the Commission.

ANNEX II

Origin of the products	Dates		
	China	Third countries other than China or Argentina	Argentina
— traditional importers (Article 2(c) of Regulation (EC) No 565/2002)	31.8.2005	—	—
— new importers (Article 2(e) of Regulation (EC) No 565/2002)	31.8.2005	4.7.2005	—

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 7 July 2004

imposing fines on an undertaking for supplying incorrect or misleading information in a notification in a merger control proceeding

(Case No COMP/M.3255 — Tetra Laval/Sidel)

(notified under document number C(2004) 2500)

(Only the English version is authentic)

(Text with EEA relevance)

(2005/305/EC)

On 7 July 2004 the Commission adopted a Decision under Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings [1], and in particular Articles 14(1)(b) and 14(1)(c) 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

I. THE PARTIES

(1) Tetra Laval B.V. (Tetra) of the Netherlands, is a privately held group of companies, which is active in the design and manufacture of equipment, consumables and ancillary services for the processing, packaging and distribution of liquid food. Sidel S.A., (Sidel) is a French company involved in the design and production of packaging equipment and systems, in particular, stretch blow moulding machinery, barrier technology and filling machines for polyethylene terephthalate plastic bottles (PET bottles).

II. THE TRANSACTION

(2) On 18 May 2001, the Commission received a notification (the Original Notification) pursuant to Article 4 of Council Regulation (EEC) No 4064/89 (the Merger Regulation) of a concentration whereby Tetra acquired within the meaning of Article 3(1)(b) of the Merger Regulation, control of Sidel by public bid announced on 27 March 2001.

III. PROCEDURE

(3) After examination of the Original Notification, the Commission concluded that the notified operation fell within the scope of the Merger Regulation and that it raised serious doubts as to its compatibility with the common market and the EEA Agreement. On 5 July 2001, the Commission decided in accordance with Article 6(1)(c) of the Merger Regulation to initiate proceedings in this case.

(4) On 30 October 2001, the Commission declared the operation incompatible with the common market, following an in-depth investigation (Tetra I). By judgment (the Judgment) delivered on 25 October 2002, the Court of First Instance of the European Communities (CFI) annulled the Commission's Decision in its entirety. Following the judgment, the Commission re-commenced its examination of the notified concentration pursuant to Article 10(1) and 10(5) Merger Regulation. On 13 January 2003, the Commission decided not to oppose the notified

[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).

operation and to declare it compatible with the common market and with the EEA Agreement, pursuant to Article 6(1)(b) and 6(2) of the Merger Regulation subject to full compliance with a commitment and obligations (Tetra II).

(5) During the examination of the proposed concentration following the judgment of the CFI it became apparent that Tetra had failed to disclose pertinent information regarding the development of Tetra Fast which was being actively pursued, including its potential impact on the conditions of competition in the SBM market. Tetra had failed to disclose such information

(i) in the Original Notification of 18 May 2001; and

(ii) in a reply to a request for information made pursuant to Article 11 of the Merger Regulation on 13 July 2001 (the Article 11 Reply).

(6) The Tetra Fast technology is a technology developed and patented by Tetra. It allows stretch blow moulding machines (SBM machines) to blow plastic PET bottles through a new method using explosive materials. The commercial advantages of this new method are significant as found by the Commission in Tetra II, which explained (at point 63) that: '*… the technology appears to offer a range of economic, operational and environmental advantages over conventional stretch blow moulding*'.

(7) During the Tetra I proceedings, Tetra failed to disclose the existence of the Tetra Fast technology in the Form CO itself as well as in replies to at least one Article 11 letter seeking information on PET packaging markets. The Commission was completely unaware of the technology's existence and hence of its importance.

(8) The Commission discovered the existence of Tetra Fast for the first time several months after the adoption of Tetra I. The matter came to the Commission's attention through the monitoring work of the Commission's Trustee. Tetra subsequently disclosed information on Tetra Fast during the Tetra II proceedings.

(9) Tetra's failure to disclose the relevant information falls within Article 14(1)(b) and (c) of the Merger Regulation which provides that the Commission may impose fines of EUR 1 000 to 50 000 on undertakings where intentionally or negligently they supply incorrect or misleading information in a notification or where they supply incorrect information in response to a request made pursuant to Article 11.

(10) The infringements on which the Commission bases the fines decision are:

(a) infringement of Article 14(1)(b) Merger Regulation due to Tetra's failure to disclose the Tetra Fast technology in Section 8.10 of Form CO requiring the disclosure of R&D in affected markets;

(b) infringement of Article 14(1)(c) Merger Regulation due to Tetra's failure to disclose the Tetra Fast technology in replying to the Commission's Article 11 request of 13 July 2001 in which:

(i) question 4 requested Tetra to describe developments regarding PET packaging for juice and liquid dairy products (LDP) (Tetra knew about the aseptic quality of Tetra Fast which is of particular relevance to packaging juice and LDP); and

(ii) question 5 asked for ongoing development in PET barrier technologies (Tetra had filed a coating patent based on the Tetra Fast technology).

(11) Tetra's infringements are particularly serious as the information was important for the Commission's assessment and Tetra ought to have known of this importance. Had the Tetra Fast information been disclosed during the Commission's Tetra I proceedings, it would have been an important element to the Commission's assessment. The Commission was thus seriously misinformed in its first analysis.

IV. **INFRINGEMENT OF ARTICLE 14(1)(b) IN THE ORIGINAL NOTIFICATION**

(12) Tetra started developing Tetra Fast as early as in 1996. Tetra had obtained a Swiss patent (1996) and a European patent (1997) for the new technology and by the time of the Original Notification in Tetra I (18 May 2001) had filed at least four other patent applications. More than EUR [0-10] million had been spent in developing Tetra Fast by the end of 2000 and a further investment of EUR [0-10] million was foreseen for the year of the Original Notification. Tetra's had carried out or commissioned studies in respect of the technology in 2000. Tests had also been carried out at or by university centres and institutes in 2000 and 2001. Tetra obtained safety approval requirements for the technology in 2000 and started field tests a few months before the Form CO was submitted to the Commission.

(13) The Form CO, in its section 8.10, requests the notifying party(ies) to supply information about R&D in the affected markets, in particular as carried out by the parties themselves. It requests:

'Explain the nature of the research and development in affected markets carried out by parties to the concentration.'

In doing so the parties are to take account of: *'(b) the course of technological development for these markets over an appropriate time period (including developments in products and/or services, production processes, distribution systems, etc.)' and '(c) the major innovations that have been made in these markets and the undertakings responsible for these innovations;'*

(14) The notification does not contain any reference to the Tetra Fast technology.

(15) Tetra's principal argument is that Tetra Fast does not form part of any market affected by the operation and does not closely relate to the affected market for SBM machines and that it was therefore not necessary for Tetra Fast to be mentioned in Section 8.10 of Form CO. Tetra considers that the Tetra Fast technology replaces an external piece of equipment supplying the pressure necessary for blowing the bottle within the SBM machine. The traditional means of achieving this pressure relies on compressed air produced by a compressor (most often supplied by a party other than the SBM machine suppliers), whilst the Tetra Fast technology relies on the pressure generated by explosive combustion of a hydrogen/oxygen mixture.

(16) The Commission considers that this argument is manifestly wrong. It is evident that a technology which brings about a major change in the performance of SBM machines belongs to the affected market for SBM machines as long as the technology is not actually marketed separately (in which case Tetra would have had to submit the information on the basis of a separate technology market). Tetra's R&D overview for 2000, disclosed only during the Tetra II procedure, shows that Tetra itself saw Tetra Fast as part of the SBM machine market.

(17) The Commission also rejects Tetra's argument that the technology was irrelevant as it would not bring about a significant improvement to the way SBM machines operate. Tetra's internal documents clearly show that it saw a significant potential for, *inter alia*, reductions in power consumption.

Legal assessment

(18) Under Article 14(1)(b) of the Merger Regulation the Commission may by decision impose fines from EUR 1 000 to 50 000 where, intentionally or negligently, an undertaking supplies incorrect or misleading information in a notification pursuant to Article 4.

(19) It is evident that in not disclosing the information on Tetra Fast in Section 8.10 of Form CO Tetra submitted incorrect information. While the Commission has no proof of Tetra acting intentionally Tetra's infringement must be considered grossly negligent.

(20) During the Commission's Tetra I investigation, field tests were being carried out and several management meetings were held. By the time of the adoption of the Commission's prohibition decision, millions of bottles were produced using the Tetra Fast technology. Even if Tetra had not been aware of the importance of the technology at the time of the notification, it had plenty of occasions during the administrative procedure of Tetra I to realise the incorrectness of the information it had provided in Form CO. It should be noted in this context that Article 4(3) of the Implementing Regulation contains an obligation to inform the Commission of any *'material changes in the facts'* arising during the administrative procedure.

V. INFRINGEMENT OF ARTICLE 14(1)(c) IN REPLY TO THE ARTICLE 11 REQUEST OF 13 JULY 2001

(21) In an Article 11 request of 13 July 2001, the Commission required the parties to:

'Q4. Please provide all available information on the future potential use of PET in the LDPs and juice segments. Provide all studies and internal documents discussing this possibility. Explain in detail what technologies would be needed to enable PET to be used successfully for the packaging of LDPs and juice. Discuss your activities and others' activities in this area.

Q5. Please provide all documents in your possession relating to the development of a barrier technology. In particular, please provide all studies, internal documents, technical and economic analyses and scientific documents relating to PET barrier.'

(22) The parties submitted six annexes in response to the previous questions including many technical documents. However, in its answer of 26 July 2002 Tetra did not provide any document that contained any reference to Tetra Fast itself or to the barrier or coating technology (PCT/EP02/02160) that Tetra Laval had developed for use with its Tetra Fast technology.

(23) Tetra Fast is not only a method of blowing a PET bottle in a novel way (through explosion) but has two extra advantages: (i) the explosion has a sterilising effect on the bottle and (ii) by introducing special gases into the explosive process, the inside of the bottle may be coated by substances acting as a barrier.

(24) Tetra was fully aware of both. It had submitted a patent application for a new barrier technology related to Tetra Fast on 23 March 2001, which underlined both the aseptic quality of the Tetra Fast blown bottle and sought to patent the gas barrier enhancing properties of the new technology. Also, a Tetra internal analysis underlined these aseptic qualities.

(25) Tetra relies on what it considers to be the different character between Form CO and a Request for Information. In Tetra's opinion, Form CO sets out a series of pre-defined factual questions to allow for an assessment of the completeness of the notification, whereas the contents of Requests for Information, are drawn up depending on the Commission's information requirements at a given moment in its decision-making process and must be construed taking into account this context and typically requires the addressees to express subjective views as to the issues raised. In addition, Tetra considers that Requests for Information are of a less formal character and provide a means of discussion and exchange of views, for the Commission and the parties. According to Tetra, this is recognised in Article 14(1)(c) which sanctions the provision of incorrect information but not of misleading information whereas Article 14(1)(b) sanctions the provision of incorrect or misleading information. On this basis, Tetra considers that the scope for imposing sanctions under Article 14(1)(c) is significantly more limited than under Article 14(1)(b).

(26) The Commission considers that Tetra's arguments must be rejected on the basis that the standard required by Form CO and by an Article 11 request is no different at least in respect to the provision of correct information. For the same reason Tetra's claim that the scope for imposing sanctions under Article 14 (1)(c) is more limited is unfounded.

(27) Regarding question 4, Tetra holds that the technology 'would not be needed' for the packaging of juice and LDP and therefore it was not required to disclose its existence in response to this question. However, the Commission notes the question requested all studies and internal documents discussing the potential use of PET in the LDPs and juice segments and asked what was needed to package LDPs and juice in order to compete successfully on the market. It also requested Tetra to discuss its, and its competitors' activities in this area. This necessitated a discussion of the technologies that the parties and their competitors possessed or were developing in order to compete effectively in future.

(28) As outlined above, Tetra had submitted a patent application for a new barrier technology related to Tetra Fast which, mentioning juice explicitly, underlined the gas barrier enhancing properties of the new technology and stressed its aseptic qualities, the latter being of high importance for commercially successful packaging of both juice and LDPs. Tetra itself outlines that improvements in gas barrier technologies are of high relevance for future packaging of juice and that aseptic filling is of high potential relevance for packaging juice and LDP. Consequently, it should have discussed Tetra Fast in its reply to Question 4 which asked for technologies which would be needed to enable PET to be used successfully for the packaging of LDPs and juice and requested Tetra to discuss its own activities.

(29) Regarding question 5, Tetra argues that Tetra Fast is not a barrier technology as such and therefore, it was not required to mention its existence in response to the question. The Commission notes that Tetra's coating technology patent application of 23 March 2001, unambiguously links Tetra Fast to barrier technologies. The patent application describes a method of blowing bottles using a precursor gas mixture to coat the inner side of the bottle at the same time as blowing the bottle which while also relating to the blowing of the bottle is still a technology for applying a barrier to the inner surface of the bottle. The fact that it is not sprayed or applied on to the surface of the bottle in the same way as other barrier technologies does not make it any less related to PET barrier technologies.

Legal assessment

(30) Under Article 14(1)(c) of the Merger Regulation the Commission may by decision impose fines from EUR 1 000 to 50 000 where, intentionally or negligently, an undertaking supplies incorrect information in response to a request made pursuant to Article 11.

(31) Regarding Question 4, it is clear that a full discussion of the future potential competitive environment should have included a detailed explanation of Tetra Fast for both its potential for the application of barrier coatings through the Tetra Fast technology and for their enhanced aseptic quality. Gas barrier technology, as acknowledged by Tetra is of relevance for packaging of juices and aseptic filling is of importance for both the packaging of juices and LDP. Tetra's response was incorrect in that it did not give the Commission a full picture of the future potential for development of competition on the market.

(32) Regarding Question 5, Tetra was aware at this time of the potential of Tetra Fast to be used as a means of applying a coating to the inner side of the PET bottle. Tetra's failure to mention Tetra Fast renders its reply incorrect.

VI. **GRAVITY OF THE INFRINGEMENT AND AMOUNT OF THE FINE**

(33) While there are no indications that Tetra acted intentionally, Tetra's infringement must be considered grossly negligent. In its response to the Statement of Objections Tetra did not make comments as to the gravity of the infringement. Neither did Tetra identify any mitigating factors.

(34) In the Commission's view, the infringements in this case are very serious. A notification is the basis and the starting point for the Commission's investigation of a concentration. It determines to a large extent the approach of the Commission towards the case and the areas and focal points of its investigation. Incorrect information creates the risk that important aspects relevant for the competitive assessment of the transaction are neither investigated nor analysed by the Commission resulting in its final decision being flawed since it is based on incorrect or incomplete information. The same may be said of the failure to provide correct information in the Article 11 Reply which prevented the Commission from making a full and proper assessment of the merger.

(35) The development of Tetra Fast was important for the Commission's analysis of the conditions of competition on PET packaging markets. The undisclosed information was highly significant for the assessment of Tetra's acquisition of Sidel in Tetra I. The potential of the technology would have had a significant impact on the Commission's assessment of: (a) PET packaging markets and in particular on SBM markets; and (b) the future position of the merged entity on PET packaging markets, in particular on the relevant SBM markets.

(36) Another factor to be taken into account in concluding that the infringement of Article 14(1)(c) is very serious is that Tetra gave incorrect replies to two questions in the Commission's Article 11 request having a different scope, whereas in response to each of these two questions information on Tetra Fast, should have been disclosed for different reasons.

(37) For infringements of Article 14(1)(b) and Article 14(1)(c) the Commission may impose fines from EUR 1 000 to 50 000.

(38) In light of the foregoing, the Commission considers that a fine of EUR 45 000 for each of Tetra's two infringements, i.e. of Article 14(1)(b) and of Article 14(1)(c), is appropriate.

VII. **CONCLUSION**

(39) The Commission imposes two fines each of EUR 45 000 (totalling EUR 90 000) on Tetra for its infringement of Article 14(1)(b) and of Article 14(1)(c).

COMMISSION DECISION

of 16 February 2005

approving on behalf of the European Community amendments to the Annexes to the Agreement between the European Community and the Government of Canada on sanitary measures applicable to trade in live animals and animal products

(notified under document number C(2005) 336)

(Text with EEA relevance)

(2005/306/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 1999/201/EC of 14 December 1998 on the conclusion of the Agreement between the European Community and the Government of Canada on sanitary measures to protect public and animal health in respect of trade in live animals and animal products [1], and in particular Article 4, third paragraph thereof,

Whereas:

(1) The Agreement between the European Community and the Government of Canada on sanitary measures to protect public and animal health applicable to trade in live animals and animal products (hereafter the Agreement) provides for the possibility of recognising equivalence for sanitary measures after the exporting Party has objectively demonstrated that its measures achieve the importing Party's appropriate level of protection. The determination of equivalence was carried out and concluded with Canada on animal health measures concerning bovine semen, and on public health measures concerning pig meat. Equivalence has been concluded on a reciprocal basis.

(2) As regards equivalence for Canadian exports of pig meat to the EU *ante-* and *post-mortem* provisions, the definition of market hogs and other hygiene requirements are to be reviewed when the new EU Food Hygiene Regulations will be applied. Similarly, as regards equivalence for EU exports of pig meat to Canada, some provisions are to be reviewed when the Canadian Meat Inspection Regulation will be amended.

(3) The Joint Management Committee for the Agreement, at its meeting on 16 and 17 February 2004, issued a recommendation concerning the determination of equivalence for bovine semen and pig meat. At the same meeting, the Committee recommended to update the references to EU and Canadian legislation in the annexes to the Agreement. The Committee, at its meeting on 16 and 17 July 2003, based on recent amendments of the Canadian legislation, issued a recommendation to delete paragraph 2 of Chapter I of footnote B in Annex V to the Agreement as regards automatic temperature recorders in frozen fish storage areas and non-hand operated wash-basins in processing areas. At the same meeting, the Committee, based on the Community experience with imports of certain Canadian fish and fishery products from Canada and animal welfare considerations, issued a recommendation for reducing the frequency of the EC identity and physical import checks for such consignments.

(4) As a result of these recommendations it is appropriate to modify the relevant parts in Annex V and Annex VIII to the Agreement.

(5) Pursuant to Article 16(3) of the Agreement, amendments to the Annexes shall be agreed upon by an Exchange of Notes between the Parties.

(6) Those modifications should be approved on behalf of the Community.

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

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to the recommendations made by the Joint Management Committee established under Article 16 of the Agreement between the European Community and the Government of Canada on sanitary measures applicable to trade in live animals and animal products the modifications to Annex V and Annex VIII to the said Agreement are hereby approved on behalf of the Community. The text of an Exchange of Letters constituting an agreement with the Government of Canada, including the modifications to the Annexes to the Agreement, is attached to this Decision.

[1] OJ L 71, 18.3.1999, p. 1.

Article 2

The Director-General for Health and Consumer Protection is hereby empowered to sign the agreement in the form of an Exchange of Letters in order to bind the Community.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 16 February 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

with the Government of Canada on the modifications of Annex V and Annex VIII to the Agreement between the European Community and the Government of Canada on sanitary measures to protect public and animal health in respect of trade in live animals and animal products

A. *Letter from the European Community*

Brussels, 7 March 2005

Sir,

With reference to Article 16(2) and (3) of the Agreement between the European Community and the Government of Canada on sanitary measures to protect public and animal health in respect of trade in live animals and animal products, done at Ottawa on 17 December 1998, hereafter called the Agreement, I have the honour to propose modifications to Annex V and Annex VIII to the Agreement in accordance with the recommendations of the Joint Management Committee established under Article 16(1) of the Agreement, as follows:

1. The table at point 3 concerning Semen in Annex V to the Agreement is replaced by the table in Appendix I.

2. The table at point 6 concerning Fresh meat in Annex V to the Agreement is replaced by the table in Appendix II.

3. Footnote A in Annex V to the Agreement is replaced by the text in Appendix III.

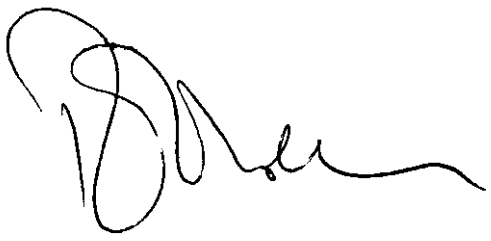
4. Paragraph 2 of Chapter I of footnote B in Annex V to the Agreement is deleted.

5. Annex VIII to the Agreement is replaced by the text in Appendix IV.

I have the honour to propose that if this letter and the Appendices thereto are acceptable to your Government, this letter and your confirmation shall together constitute an agreement to amend the Agreement between the European Community and Canada, which shall enter into force on the date of your reply.

Please accept, Sir, the assurance of my highest consideration.

For the European Community
Robert MADELIN
Director-General for Health and Consumer Protection



B. *Letter from the Government of Canada*

Brussels, 15 March 2005

Sir,

I have the honour to acknowledge receipt of your letter of 7 March 2005 which reads as follows:

'Sir,

With reference to Article 16(2) and (3) of the Agreement between the European Community and the Government of Canada on sanitary measures to protect public and animal health in respect of trade in live animals and animal products, done at Ottawa on 17 December 1998, hereafter called the Agreement, I have the honour to propose modifications to Annex V and Annex VIII to the Agreement in accordance with the recommendations of the Joint Management Committee established under Article 16(1) of the Agreement, as follows:

1. The table at point 3 concerning Semen in Annex V to the Agreement is replaced by the table in Appendix I.

2. The table at point 6 concerning Fresh meat in Annex V to the Agreement is replaced by the table in Appendix II.

3. Footnote A in Annex V to the Agreement is replaced by the text in Appendix III.

4. Paragraph 2 of Chapter I of footnote B in Annex V to the Agreement is deleted.

5. Annex VIII to the Agreement is replaced by the text in Appendix IV.

I have the honour to propose that if this letter and the Appendices thereto are acceptable to your Government, this letter and your confirmation shall together constitute an agreement to amend the Agreement between the European Community and Canada, which shall enter into force on the date of your reply.'

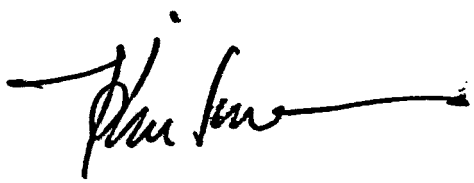
I have the honour to confirm that the above is acceptable to my Government and that your letter, and this reply and the attached Appendices, which are equally authentic in English and French, together shall constitute an agreement to amend the Agreement between Canada and the European Community, in accordance with your proposal, which shall come into force on the date of this letter.

Please accept, Sir, the assurances of my highest consideration.

For the Government of Canada

Jeremy KINSMAN

Ambassador of the Canadian Mission to the EU



APPENDIX I

'3. **Semen**

Commodity	EC exports to Canada					Canada exports to EC				
	Trade conditions		Equivalence	Special conditions	Action	Trade conditions		Equivalence	Special conditions	Action
	EC standards	Canadian standards				Canadian standards	EC standards			
Animal health										
— Cattle	88/407/EEC	H of A Act and Regs. Permit conditions	Yes 1	Semen collection centre clinically free of paratuberculosis	EC requests Canada to review the special condition for the semen collection centre to be clinically free of paratuberculosis	H of A Act and Regs. DC Manual of Procedures, Section 15	88/407/EEC 94/577/EC	Yes 1	Subsections (1.5.6) on EBL and (3.6.6) on IBR of section 15.4.1 of the Artificial Insemination Program, version March 2004	Canada requests that EC: I. provides justification for the requirement that all bulls standing in an approved centre need to be IBR/IPV seronegative.
—Sheep/goats	92/65/EEC	H of A Act and Regs. Permit conditions	E		Canada intends to establish generic conditions	H of A Act and Regs. DC Manual of Procedures, Section 15	92/65/EEC	Yes 3		Canada requests that EC: I. harmonises zoosanitary conditions for imports; II. removes the requirement for mycoplasma testing (done in bovine); III. accepts regionalisation of bluetongue and EHD and removes the test requirement; IV. updates test requirement for MV/CAE to ELISA; V. deletes the requirement for post collection test for MV/CAE

Commodity	EC exports to Canada					Canada exports to EC				
	Trade conditions		Equivalence	Special conditions	Action	Trade conditions		Equivalence	Special conditions	Action
	EC standards	Canadian standards				Canadian standards	EC standards			
— Pigs	90/429/EEC	H of A Act and Regs. Permit conditions	E		EC requests Canada to: I. review the requirement for leptospirosis sero-negativity II. establish generic conditions	H of A Act and Regs. DC Manual of Procedures, Sec.15	90/429/EEC 2002/613/EC	E	Footnote E	Canada requests that EC: I. harmonises for third country importation; II. reviews requirement to test all boars for CSF and AD.
— Canine	92/65/EEC	H of A Act and Regs.	E		EC requests Canada to establish generic conditions	H of A Act and Regs.	92/65/EEC	Yes 3		Canada requests that EC produces certificate
— Feline	92/65/EEC		(No trade)				92/65/EEC'			

APPENDIX II

'6. **Fresh meat**

Commodity	EC exports to Canada					Canada exports to EC				
	Trade conditions		Equivalence	Special conditions	Action	Trade conditions		Equivalence	Special conditions	Action
	EC standards	Canadian standards				Canadian standards	EC standards			
Animal health										
— Ruminants	2002/99/EC Regulation (EC) No 999/2001	H of A Act and Regs. Sections 40, 41	Yes 2	Statement of origin		H of A Act and Regs.	2002/99/EC Regulation (EC) No 999/2001	Yes 3		
— Equidae	2002/99/EC	H of A Act and Regs. Sections 40, 41	Yes 2	Statement of origin		H of A Act and Regs.	2002/99/EC	Yes 3		
— Pigs	2002/99/EC	H of A Act and Regs. Sections 40, 41	Yes 2	Statement of origin		H of A Act and Regs.	2002/99/EC	Yes 3		
Public health	64/433/EEC	Meat Inspection Act and Regs. Food and Drugs Act and Regs. Consumer Packaging and Labelling Act and Regs. (if packaged for retail sale) Canada Agricultural Products Act and Livestock and Poultry Carcase Grading Regs. (if beef)	Yes 1		Some provisions to be reviewed when the Meat Inspection Regulation will be amended.	Meat Inspection Act and Regs. Food and Drugs Act and Regs. Consumer Packaging and Labelling Act and Regs. (if packaged for retail sale) Canada Agricultural Products Act and Livestock and Poultry Carcase Grading Regs. (if beef)	2002/477/EC	Yes 1	Subsections (2) and (3) of section 11.7.3 on the European Union of Chapter 11 of the Meat Hygiene Manual as prescribed in the meat hygiene Directive (No 2005-3) [1]	*Ante-* and *post-mortem* provisions, the definition of market hogs and other hygiene requirements to be reviewed when the new EU Food Hygiene Regulations will be applied'

[1] http://www.inspection.gc.ca/francais/anima/meavia/mmopmmhv/chap11/eu-uef.shtml for the French version and http://www.inspection.gc.ca/english/anima/meavia/mmopmmhv/chap11/eu-uee.shtml for the English version.

APPENDIX III

'FOOTNOTES

Footnote A

Fresh meat, meat products, poultry meat, game meat

I. CANADIAN EXPORTS TO THE EC:

1. Hides must be removed from veal.

2. Shrouds not to be used on carcases.

3. Compliance with EC rules on counter-flow chillers (Directive 71/118/EEC).

4. Compliance with EC rules on decontamination.

II. EC EXPORTS TO CANADA:

1. Compliance with Canada rules on *post-mortem* inspection for poultry.'

APPENDIX IV

'ANNEX VIII

FRONTIER CHECKS

Frequencies of frontier checks on consignments of live animals and animal products

The Parties may modify any frequency rate, within their responsibilities, as appropriate, taking into account the nature of any checks applied by the exporting Party prior to export, the importing Party's past experience with products imported from the exporting Party, any progress made toward the recognition of equivalence, or as a result of other actions or consultations provided for in this Agreement.

Type of frontier check	Normal rate as per Article 11(2)
1. **Documentary and identity** Both Parties will perform documentary and identity checks on all consignments except for live crustaceans or fresh headed and degutted fish without other manual processing for which the identity check will be performed at the same rate as the physical check.	
2. **Physical checks**	
Live animals	100 %
Semen/embryos/ova	10 %
Animal products for human consumption	
Fresh meat including offal, and products of the bovine, ovine, caprine, porcine and equine species defined in Council Directive 92/5/EEC	10 %
Whole eggs	
Lard and rendered fats	
Animal casings	
Gelatin	
Poultry meat and poultry meat products	
Rabbit meat, game meat (wild/farmed) and products	
Milk and milk products	
Egg products	
Honey	
Bone and bone products	
Meat preparations and minced meat	
Frogs' legs and snails	

Type of frontier check	Normal rate as per Article 11(2)
Animal products not for human consumption	
Lard and rendered fats	10 %
Animal casings	
Milk and milk products	
Gelatin	
Bone and bone products	
Hides and skins of ungulates	
Game trophies	
Processed petfood	
Raw material for the manufacture of petfood	
Raw material, blood, blood products, glands and organs for pharmaceutical/technical use	
Processed animal protein (packaged)	
Bristles, wool, hair and feathers	
Horns, horn products, hooves and hoof products	
Apiculture products	
Hatching eggs	
Manure	
Hay and straw	
Processed animal protein not for human consumption (bulked)	100 % for six consecutive consignments (as per Regulation (EC) No 1774/2002), if these consecutive tests prove negative, random sampling shall be reduced to 20 % of subsequent bulk consignments from the same source. If one of these random sampling proves positive, the competent authority must sample each consignment from the same source until six consecutive tests again prove negative.
Live bivalve molluscs (shellfish)	15 %
Fish and fishery products for human consumption	
Fish products in hermetically sealed containers intended to render them stable at ambient temperatures, frozen fish and dry and/or salted fisheries products. Other fishery products.	15 %
Live crustaceans or fresh headed and degutted fish without other manual processing	2 %

For the purposes of this Agreement, "consignment" means a quantity of products of the same type, covered by the same health certificate or document, conveyed by the same means of transport, consigned by a single consignee and originating from the same exporting Party or part of such Party.'

COMMISSION DECISION

of 12 April 2005

authorising a method for grading pig carcases in Latvia

(notified under document number C(2005) 1098)

(Only the Latvian text is authentic)

(2005/307/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3220/84 of 13 November 1984 determining the Community scale for grading pig carcases [1], and in particular Article 5(2) thereof,

Whereas:

(1) Article 2(3) of Regulation (EEC) No 3220/84 provides that the grading of pig carcases must be determined by estimating the content of lean meat in accordance with statistically proven assessment methods based on the physical measurement of one or more anatomical parts of the pig carcase. The authorisation of grading methods is subject to compliance with a maximum tolerance for statistical error in assessment. This tolerance was defined in Article 3 of Commission Regulation (EEC) No 2967/85 of 24 October 1985 laying down detailed rules for the application of the Community scale for grading pig carcases [2].

(2) The Government of Latvia has requested the Commission to authorise one method for grading pig carcases and has submitted the results of its dissection trial which was executed before the day of accession, by presenting part two of the protocol provided for in Article 3 of Regulation (EEC) No 2967/85.

(3) The evaluation of this request has revealed that the conditions for authorising this grading method are fulfilled.

(4) In Latvia commercial practice may require that the head, the hind feet and the tail are removed from the pig carcase. This should be taken into account in adjusting the weight for standard presentation.

(5) No modification of the apparatus or the grading method may be authorised except by means of a new Commission Decision adopted in the light of experience gained. For this reason, the present authorisation may be revoked.

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

HAS ADOPTED THIS DECISION:

Article 1

The use of the apparatus termed 'Intrascope (Optical Probe)' and assessment methods related thereto, details of which are given in the Annex, is hereby authorised for grading pig carcases pursuant to Regulation (EEC) No 3220/84 in Latvia.

Article 2

Notwithstanding the standard presentation referred to in Article 2 of Regulation (EEC) No 3220/84, pig carcases may be presented in Latvia without the head, the hind feet and the tail before being weighed and graded. In order to establish quotations for pig carcases on a comparable basis, the recorded hot weight shall be increased by:

— 7,61 % for the missing head

— 1,61 % for the missing hind feet

— 0,11 % for the missing tail.

Article 3

Modifications of the apparatus or the assessment method shall not be authorised.

[1] OJ L 301, 20.11.1984, p. 1. Regulation as last amended by Regulation (EC) No 3513/93 (OJ L 320, 22.12.1993, p. 5).

[2] OJ L 285, 25.10.1985, p. 39. Regulation as amended by Regulation (EC) No 3127/94 (OJ L 330, 21.12.1994, p. 43).

Article 4

This Decision is addressed to the Republic of Latvia.

Done at Brussels, 12 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

METHODS FOR GRADING PIG CARCASES IN LATVIA

Intrascope (Optical Probe)

1. Grading of pig carcases shall be carried out by means of the apparatus termed 'Intrascope (Optical Probe)'.

2. The apparatus shall be equipped with a hexagonal-shaped probe of a maximum width of 12 millimetres (and of 19 millimetres at the blade at the top of the probe) containing a viewing window and a light source, a sliding barrel calibrated in millimetres, and having an operating distance of between 3 and 45 millimetres.

3. The lean meat content of the carcase shall be calculated according to the following formula:

   $\hat{y} = 65{,}073 - 0{,}686_X$

   Where:

   $\hat{y}$ = the estimated percentage of lean meat in the carcase,

   x = the thickness of back-fat (including rind) in millimetres, measured at 6 centimetres off the midline of the carcase at the last rib.

   The formula shall be valid for carcases weighing between 55 and 120 kilograms.

COMMISSION DECISION

of 12 April 2005

authorising methods for grading pig carcases in Estonia

(notified under document number C(2005) 1099)

(Only the Estonian text is authentic)

(2005/308/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3220/84 of 13 November 1984 determining the Community scale for grading pig carcases [1], and in particular Article 5(2) thereof,

Whereas:

(1) Article 2(3) of Regulation (EEC) No 3220/84 provides that the grading of pig carcases must be determined by estimating the content of lean meat in accordance with statistically proven assessment methods based on the physical measurement of one or more anatomical parts of the pig carcase; the authorisation of grading methods is subject to compliance with a maximum tolerance for statistical error in assessment; this tolerance was defined in Article 3 of Commission Regulation (EEC) No 2967/85 of 24 October 1985 laying down detailed rules for the application of the Community scale for grading pig carcases [2].

(2) The Government of Estonia has requested the Commission to authorise two methods for grading pig carcases and has submitted the results of its dissection trial which was executed before the day of accession, by presenting part two of the protocol provided for in Article 3 of Regulation (EEC) No 2967/85.

(3) The evaluation of this request has revealed that the conditions for authorising these grading methods are fulfilled.

(4) In Estonia commercial practice may require that the head, the fore feet and the tail are removed from the pig carcase; this should be taken into account in adjusting the weight for standard presentation.

(5) No modification of the apparata or the grading methods may be authorised except by means of a new Commission Decision adopted in the light of experience gained; for this reason, the present authorisation may be revoked.

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

HAS ADOPTED THIS DECISION:

Article 1

The use of the following methods is hereby authorised for grading pig carcases pursuant to Regulation (EEC) No 3220/84 in Estonia:

(a) the apparatus termed 'Intrascope (Optical Probe)' and the assessment methods related thereto, details of which are given in Part 1 of the Annex;

(b) the apparatus termed 'Ultra-FOM 300' and the assessment methods related thereto, details of which are given in Part 2 of the Annex.

As regards the apparatus 'Ultra-FOM 300', referred to in the first paragraph, point (b), it is laid down that after the end of the measurement procedure it must be possible to verify on the carcase that the apparatus measured the values of measurement X_2 and X_4 on the site provided for in the Annex, Part 2, point 3. The corresponding marking of the measurement site must be made at the same time as the measurement procedure.

Article 2

Notwithstanding the standard presentation referred to in Article 2(1) of Regulation (EEC) No 3220/84, pig carcases may be presented in Estonia without the head, the fore feet and the tail before being weighed and graded. In order to establish quotations for pig carcases on a comparable basis, the recorded hot weight shall be multiplied by 1,07.

[1] OJ L 301, 20.11.1984, p. 1. Regulation as last amended by Regulation (EC) No 3513/93 (OJ L 320, 22.12.1993, p. 5).

[2] OJ L 285, 25.10.1985, p. 39. Regulation as amended by Regulation (EC) No 3127/94 (OJ L 330, 21.12.1994, p. 43).

Article 3

Modifications of the apparatus or the assessment method shall not be authorised.

Article 4

This Decision is addressed to the Republic of Estonia.

Done at Brussels, 12 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

METHODS FOR GRADING PIG CARCASES IN ESTONIA

Part 1

INTRASCOPE (OPTICAL PROBE)

1. Grading of pig carcases shall be carried out by means of the apparatus termed 'Intrascope (Optical Probe)'.
2. The apparatus shall be equipped with a hexagonal-shaped probe of a maximum width of 12 millimetres (and of 19 millimetres at the blade at the top of the probe) containing a viewing window and a light source, a sliding barrel calibrated in millimetres, and having an operating distance of between 3 and 45 millimetres.
3. The lean meat content of the carcase shall be calculated according to the following formula:

   $\hat{y} = 69{,}09083 - 0{,}74785X$

   Where:

   $\hat{y}$ = the estimated percentage of lean meat in the carcase,

   X = the thickness of back-fat (including rind) in millimetres, measured at 7 centimetres off the midline of the carcase at the last rib.

   The formula shall be valid for carcases weighing between 60 and 120 kilograms.

Part 2

ULTRA-FOM 300

1. Grading of pig carcases shall be carried out by means of the apparatus termed 'Ultra-FOM 300'.
2. The apparatus shall be equipped with an ultrasonic probe at 3,5 MHz (Krautkrämer MB 4 SE). The ultrasonic signal is digitised, stored and processed by a microprocessor.

   The results of the measurements shall be converted into estimated lean meat content by means of the Ultra-FOM apparatus itself.
3. The lean meat content of the carcase should be calculated according to the following formula:

   $\hat{y} = 64{,}19701 - 0{,}39379X_2 + 0{,}08082X_3 - 0{,}33910X_4$

   Where:

   $\hat{y}$ = the estimated percentage of lean meat in the carcase,

   X_2 = the thickness of back-fat (including rind) in millimetres, measured at 7 cm off the midline of the carcase, at the last rib,

   X_3 = the thickness of muscle in millimetres, measured at the same time and in the same place as X_2,

   X_4 = the thickness of back-fat (including rind) in millimetres, measured at 7 cm off the midline of the carcase, between the third and the fourth last rib.

   The formula shall be valid for carcases weighing between 60 and 120 kilograms.

COMMISSION RECOMMENDATION

of 12 July 2004

on the transposition into national law of Directives affecting the internal market

(Text with EEA relevance)

(2005/309/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211 thereof,

Whereas:

(1) Member States transposing Directives into national law can choose the form and methods for such transposition, but are bound by the terms of the Directive as to the result to be achieved and the deadline by which transposition should take place.

(2) At several summit meetings, including those held in Stockholm in March 2001, Barcelona in March 2002 and Brussels in March 2003 and 2004, the European Council, recognising the importance of a properly functioning internal market [1] for the competitiveness of the European economy, has repeatedly urged Member States to accord high priority to the transposition into national law of Directives affecting the internal market.

(3) The European Parliament [2], the European Economic and Social Committee [3] and the Committee of the Regions [4] have repeatedly expressed concern about the poor records of Member States in transposing internal market Directives correctly and on time. The Interinstitutional Agreement on better law-making of 16 December 2003 [5] also emphasised the need for Member States to comply with Article 10 of the Treaty and called upon Member States to ensure that Community law is properly and promptly transposed into national law within the prescribed deadlines.

(4) Despite these calls and the fact that timely and correct transposition is a legal obligation, Member States regularly do not transpose internal market Directives correctly by the deadlines they themselves have agreed, most Member States do not even meet the interim transposition targets set by the European Council, and many such Directives have still not been transposed into national law in all Member States long after the deadline for transposition has passed.

(5) Late or incorrect transposition of internal market Directives is causing harm to businesses and citizens, as it often deprives them of their rights.

(6) Late or incorrect transposition also deprives businesses and consumers of the full economic benefits of a properly functioning internal market and harms the competitiveness of the European economy as a whole, undermining the ability of the Community to generate economic growth while sustaining a high level of social cohesion.

(7) In a European Union of 25 or more Member States, there is an increased risk that late or incorrect transposition of Directives will cause fragmentation of the internal market and a consequent dwindling of its economic benefits.

(8) The Commission will continue, as a matter of priority, to take vigorous legal action against Member States for late or incorrect transposition, and to encourage peer pressure through the regular publication of the transposition records of Member States in the Internal Market Scoreboard; however, while these actions have had some success in the past, transposition deficits nevertheless persist and a more proactive approach by the Commission and Member States is therefore necessary.

(9) The Commission indicated, in its 2002 Communication on better monitoring of the application of European Community law [6], how it can and does assist Member States with transposition of Directives into national law.

(10) It is up to Member States, however, to ensure that they transpose Directives correctly and on time.

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[1] The Internal Market also covers three EFTA States, Iceland, Liechtenstein and Norway, as a result of their membership of the European Economic Area Agreement.

[2] Harbour Report, A5 0026/2003 (OJ C 234, 30.9.2003, p. 55); Miller Report, A5 0116/2004.

[3] OJ C 221, 7.8.2001, p. 25; OJ C 241, 7.10.2002, p. 180; OJ C 234, 30.9.2003, p. 55.

[4] OJ C 128, 29.5.2003, p. 48.

[5] OJ C 321, 31.12.2003, p. 1.

[6] COM(2002) 725 final of 11.12.2002.

(11) Article 10 of the Treaty requires Member States to take all appropriate measures, whether general or particular, to ensure fulfilment of their obligations arising out of the Treaty or resulting from action taken by the institutions of the Community.

(12) The Court of Justice of the European Communities has consistently held that Member States may not plead provisions, practices or circumstances existing in their own internal legal systems to justify failure to comply with obligations and time limits laid down in Directives.

(13) There is a need for Member States, given the repetitive nature of their failure to transpose Directives correctly and on time, to re-examine their procedures and practices to ensure that they consistently meet this legal obligation.

(14) Some Member States have consistently much better transposition records than others, reflecting the existence or adoption of more effective structures, procedures and practices; however, the fact that no Member State has a perfect record suggests that all need to look to improve. In accordance with the Inter-institutional Agreement on better law-making, the Member States should draw up, for themselves and in the interests of the Community, correlation tables illustrating as far as possible the correspondence between Directives and transposition measures, and should make those tables public.

(15) The Commission announced in its Communication 'Internal Market Strategy 2003-2006' [1] that it would issue a Recommendation setting out a number of good practices which should be followed by Member States to ensure better and faster transposition of internal market Directives.

(16) Member States have expressed an interest in learning from one another's practices, and have been consulted, through the Internal Market Advisory Committee, on their good transposition practices and their different national constitutional, legal and administrative rules and practices insofar as they may affect transposition.

(17) A number of good practices have been identified that help Member States to transpose internal market Directives into national law in a timely and correct way.

(18) It is for each Member State to choose the procedures and practices best designed to ensure the correct and timely transposition of internal market Directives, having regard to what would be most effective in the context of that Member State, since procedures and practices that are effective in one Member State may not be as effective in another.

(19) In view of the legal uncertainty and confusion engendered by the late transposition of internal market Directives, businesses and citizens should be informed when Directives are not transposed on time and of their legal rights in such cases.

(20) Where draft implementing provisions are submitted to national Parliaments, they should be accompanied by a declaration concerning their compliance with Community law and informing the Parliament whether they transpose in full or in part the Directive concerned.

(21) Without prejudice to the Commission's role and obligations as guardian of the Treaty, the Commission should be informed, when national implementing provisions are notified to it, whether the Directive concerned is thus fully or partly transposed into national law and whether the provisions are believed to comply with Community law.

(22) Where Member States decide to include the transposition of a Directive as part of a wider legislative exercise, this can lead to their not meeting the transposition deadline; the insertion of conditions and requirements additional to those necessary to transpose a Directive can also hinder the objectives pursued by the Directive concerned,

HEREBY RECOMMENDS THAT THE MEMBER STATES:

1. Take the steps, organisational or otherwise, that are necessary to deal promptly and effectively with the underlying causes of their persistent breaches of their legal obligation to transpose internal market Directives correctly and on time;

[1] COM(2003) 238 final of 7.5.2003.

2. Examine the best practices set out in the Annex and, having regard to their national institutional traditions, adopt those practices that will, or can be expected to, lead to an improvement in the speed or quality of transposition of internal market Directives;

3. In a timely manner, publish a list of the internal market Directives which have not been fully transposed into national law on time and inform business and citizens that, notwithstanding non-transposition, they may in certain circumstances have legal rights under non-transposed Directives; this information should be made available at least on a Government website;

4. Ensure that, where draft national implementing provisions are submitted to national Parliaments, they are accompanied by a declaration that they are believed to comply with Community law and that they transpose a particular Directive in full or in part;

5. Declare to the Commission, when notifying national implementing provisions that, to the best of their knowledge, such provisions comply with Community law and declare whether they transpose the Directive concerned in full or in part;

6. Refrain from adding to national implementing legislation conditions or requirements that are not necessary to transpose the Directive concerned, where such conditions or requirements may hinder attainment of the objectives pursued by the Directive;

7. Ensure, when transposition of a Directive is included in a wider legislative exercise at national level, that this does not lead to missing the deadline for transposition.

Done at Brussels, 12 July 2004.

For the Commission

Frederik BOLKESTEIN

Member of the Commission

ANNEX

IDENTIFIED PRACTICES OF MEMBER STATES THAT FACILITATE THE CORRECT AND TIMELY TRANSPOSITION INTO NATIONAL LAW OF DIRECTIVES AFFECTING THE INTERNAL MARKET

1. **Making correct and timely transposition a permanent political and operational priority**

1.1. One senior member of government, at Minister or Secretary of State level, is designated as being responsible for monitoring the transposition of all internal market Directives into national law and for improving the transposition record of the Member State. This member of government has the visible support of the Head of Government in this task and it is clear to Ministers and the administration that the government considers correct and timely transposition to be a priority.

1.2. All Ministers receive a report regularly (for example, once a month) on the transposition records of all Ministries/-governmental bodies. Transposition records are discussed regularly at meetings of Ministers.

1.3. Sufficient resources are allocated to ensure correct and timely transposition.

2. **Ensuring permanent monitoring and coordination of the transposition of internal market Directives at administrative and political level**

2.1. One Ministry or government body is responsible for monitoring transposition as a whole. It coordinates transposition with the Ministries and sub-federal, regional and devolved government bodies responsible for transposition, and is sent the planning schedule for transposition. It ensures that progress on transposition is discussed with Ministries at high administrative level regularly (for example, once a month). It reports regularly (for example, once a month) to the Minister or Secretary of State responsible for monitoring transposition. It also acts as national coordinator for dealing with the Commission concerning the transposition record of the Member State.

2.2. Each Ministry and each sub-federal, regional and devolved government body that carries out transposition designates officials who are responsible for monitoring transposition in the Ministry or body and for acting as a contact point. A national network is established among these officials.

2.3. Guidelines are issued, setting out how transposition should be carried out and ensuring that there is a common approach to transposition throughout the administration.

2.4. A central national database is maintained on transposition. This database is accessible to all Ministries and sub-federal, regional and devolved government bodies involved in transposition. For each Directive, it contains: the references and subject-matter of the Directive; the Ministry or other government body responsible for transposition, and the persons responsible within the Ministry or government body; a list of other Ministries and government bodies involved in transposition and the persons responsible; the resources needed for transposition; the deadline for transposition; the measures to be taken to transpose the Directive; the planned time-schedule for transposition (including any parliamentary deliberations); the state of progress; any difficulties in transposition; and whether infringement proceedings have started for late or incorrect transposition. It is possible to establish at any time the transposition record of the Member State as a whole and by Ministry.

2.5. Reminders are sent to the Ministry or other government body responsible before the deadline for transposition (for example, three months and again one month before the deadline).

2.6. When a deadline has passed, a reminder is sent immediately at both administrative and Ministerial level, and the national Parliament is informed.

2.7. Member States are proactive in seeking the advice and assistance of the Commission on transposition issues in a timely way. The contact point database set up by the Commission is used to identify the officials responsible.

3. **Ensuring that preparations for transposition take place at an early stage and that they have as their aim correct and timely transposition**

3.1. A planning schedule for transposition is prepared during negotiations of the Directive by the Ministry or other government body responsible for negotiations, and in any event before the Directive is adopted. For each Directive, the planning schedule includes: the references and subject-matter of the Directive; the Ministry or other government body responsible for transposition, and the persons responsible within the Ministry or government body; a list of other Ministries and government bodies involved in transposition and the persons responsible; the resources needed for transposition; the deadline for transposition; a comparison of existing national law and the terms of the proposed directive; the measures to be taken to transpose the directive; and the planned time-schedule for transposition (including any parliamentary deliberations). This planning schedule is sent to the Ministry or government body responsible for monitoring transposition as a whole, a short time (for example, four weeks) after publication of the directive in the *Official Journal of the European Union*, to ensure that the transposition database is kept up to date.

3.2. Drafting of legislation starts before or as soon as the Directive is published in the *Official Journal of the European Union*.

3.3. A correlation table is prepared by the Ministry or other government body responsible for transposition, setting out how each provision of a Directive is being transposed into national law. This table accompanies any draft national implementing legislation when it is sent to the Parliament or government to facilitate their deliberations, and accompanies any notification of the national implementing legislation to the Commission.

3.4. The addition of supplementary provisions that are not necessary to transpose a Directive is avoided. Where it happens, the Ministry or other government body responsible justifies why it is considered necessary and establishes that it will not result in delays in transposition.

3.5. To the extent possible, national officials responsible for negotiating a Directive are involved in its transposition into national law. If this is not possible, they cooperate closely with those that are responsible for transposition. In any event, officials who are negotiating a Directive keep those officials who will transpose it informed throughout negotiations of the Directive to ensure that any potential transposition problems are raised and dealt with before the Directive is adopted.

3.6. Representatives of any sub-federal, regional or devolved government body that will have to transpose a Directive are kept informed during negotiation of the Directive.

3.7. National implementing legislation is notified to the Commission electronically.

4. **Working closely with national, regional and devolved Parliaments involved in transposition of internal market Directives to ensure correct and timely transposition**

4.1. Parliaments are sent proposals for Directives as soon as they are presented by the Commission, and are kept advised of progress in negotiation of Directives.

4.2. Parliaments receive reports on a regular basis (for example, every three months) on progress in transposition, on Directives whose transposition is late and on infringement proceedings initiated by the Commission for late or incorrect transposition.

4.3. Together with draft national legislation, Parliaments are sent a timetable for transposition, a clear indication of the deadline, any correlation tables that have been prepared and a Government declaration that the national implementing measure is believed to comply with Community law.

4.4. Parliaments receive early warning (for example, three months before the transposition deadline) from government that the deadline for transposition is approaching. They are advised when the deadline has passed.

4.5. The government encourages Parliaments to set aside time to transpose Directives in good time.

5. **Taking action quickly, visibly and effectively to transpose Directives whose transposition is late**

5.1. All necessary measures are taken to ensure that any directives that have not been transposed on time are transposed as soon as possible after the deadline for transposition.

5.2. Where the transposition of one or more directives is late, Parliaments are encouraged to set aside additional time to transpose such directives as soon as possible and to deal with any procedural cause of delays.

5.3. Member States publish the list of directives they have not transposed on time and advise business and citizens that, notwithstanding non-transposition, they may in certain circumstances have legal rights under non-transposed Directives.

5.4. Where there is a persistent failure to transpose directives on time, Member States examine to what extent the legislative procedure before Parliament may be shortened for transposition of directives. Adoption in one reading or under an accelerated procedure is envisaged.

5.5. Where there is a persistent failure to transpose directives on time, and where this is permitted by a Member State's Constitution or internal legal order, the use of governmental decrees or regulations to transpose is considered if it will speed up transposition.