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EN

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 692/2005

of 28 April 2005

amending Regulation (EC) No 2605/2000 imposing definitive anti-dumping duties on imports of certain electronic weighing scales (REWS) originating, *inter alia*, in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

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 members of the European Community [1] (the basic Regulation), and in particular Article 11(4) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. MEASURES IN FORCE

(1) The measures currently in force on imports into the Community of certain electronic weighing scales (REWS) originating in the People's Republic of China (PRC) are definitive anti-dumping duties imposed by Council Regulation (EC) No 2605/2000 [2]. Pursuant to the same Regulation, anti-dumping duties were also imposed on imports of REWS originating in Taiwan and the Republic of Korea.

B. CURRENT INVESTIGATION

1. Request for a review

(2) After the imposition of definitive anti-dumping duties on imports of REWS originating in the PRC, the Commission received a request to initiate a 'new exporter' review of Regulation (EC) No 2605/2000, pursuant to Article 11(4) of the basic Regulation, from two related Chinese companies, Shanghai Excell M&E Enterprise Co., Ltd and Shanghai Adeptech Precision Co., Ltd (the applicant). The applicant claimed that it was not related to any of the exporting producers in the PRC subject to the anti-dumping measures in force with regard to REWS. Furthermore, it claimed that it had not exported REWS to the Community during the original investigation period (the original IP, i.e. the period from 1 September 1998 to 31 August 1999), but had started to export REWS to the Community thereafter.

2. Initiation of a 'new exporter' review

(3) The Commission examined the evidence submitted by the applicant and considered it sufficient to justify the initiation of a review in accordance with Article 11(4) of the basic Regulation. After consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EC) No 1408/2004, a review of Regulation (EC) No 2605/2000 with regard to the applicant and commenced its investigation.

(4) Pursuant to the Commission Regulation initiating the review, the anti-dumping duty of 30,7 % imposed by Regulation (EC) No 2605/2000 on imports of REWS produced by the applicant was repealed. Simultaneously, pursuant to Article 14(5) of the basic Regulation, customs authorities were directed to take appropriate steps to register such imports.

3. Product concerned

(5) The product concerned by the current review is the same as that in the investigation that led to the imposition of the measures in force on imports of REWS originating in the PRC (original investigation), i.e. electronic weighing scales for use in the retail trade, having a maximum weighing capacity not exceeding 30 kg, which incorporate a digital display of the weight, unit price and price to be paid (whether or not including a means of printing this data), normally declared within CN code ex 8423 81 50 (TARIC code 8423 81 50 10) and originating in the PRC.

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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 301, 30.11.2000, p. 42. Regulation as amended by Commission Regulation (EC) No 1408/2004 (OJ L 256, 3.8.2004, p. 8).

4. **Parties concerned**

(6) The Commission officially advised the applicant and the representatives of the exporting country of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to be heard.

(7) The Commission also sent a market economy treatment (MET) claim form and a questionnaire to the applicant and received replies within the deadlines set for that purpose. The Commission sought and verified all the information it deemed necessary for the determination of dumping, including the MET claim, and a verification visit was carried out at the premises of the applicant.

5. **Investigation period**

(8) The investigation of dumping covered the period from 1 July 2003 to 30 June 2004 (the investigation period or IP).

C. **RESULTS OF THE INVESTIGATION**

1. **'New exporter' qualification**

(9) The investigation confirmed that the applicant had not exported the product concerned during the original IP and that it had begun exporting to the Community after this period.

(10) Furthermore, the applicant was able to demonstrate that it was not related to any of the exporters or producers in the PRC which are subject to the anti-dumping measures in force on imports of REWS originating in the PRC.

(11) In this context, it is confirmed that the applicant should be considered a 'new exporter' in accordance with Article 11(4) of the basic Regulation.

2. **Market economy treatment (MET)**

(12) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation, i.e. where it is shown that market economy conditions prevail in respect of the manufacture and sale of the like product. These criteria are set out in a summarised form below:

— business decisions are made in response to market signals, without significant State interference, and costs reflect market values,

— firms have one clear set of basic accounting records which are independently audited in line with international accounting standards (IAS) and are applied for all purposes,

— no distortions carried over from the non-market economy system,

— bankruptcy and property laws guarantee stability and legal certainty,

— exchange rate conversions are carried out at market rates.

(13) The applicant requested MET pursuant to Article 2(7)(b) of the basic Regulation. It is the Community's consistent practice to examine whether a group of related companies as a whole fulfils the conditions for MET. Therefore, Shanghai Adeptech Precision Co., Ltd and Shanghai Excell M&E Enterprise Co., Ltd were invited to complete a MET claim form. Both companies replied to the MET claim form within the given deadline.

(14) The Commission sought all information deemed necessary and verified all information submitted in the MET applications at the premises of the companies in question.

(15) It was considered that MET should not be granted to the applicant on the basis that the two related Chinese companies did not meet the first two criteria laid down in Article 2(7)(c) of the basic Regulation.

(16) As regards the first criterion, the Articles of Association of one of the two related Chinese producers allow its State-controlled partner, which does not hold any capital of the company and was presented as performing the functions of a mere landlord, to claim compensation if the company did not achieve its production, sales and profit targets. Moreover, the approval of the local authorities was necessary to recognise buildings as fixed assets and to start amortising the land use rights. Furthermore, one of the Chinese producers had never paid rent for the land use rights and benefited from bank guarantees provided free of charge by a third party. Under these circumstances and in view of the fact that the company could not show that its business decisions are made in response to market signals, reflecting market values and without significant State-interference, it was found that this criterion is not met.

(17) Concerning the second criterion, the applicant was found to be in breach of certain international accounting standards (IAS). As regards IAS 1, the applicant breached three fundamental accounting concepts: the accrual basis of accounting, prudence and substance over form. The applicant also failed to comply with IAS 2 on inventories, buildings were not recognised and depreciated in line with IAS 16 and the land use rights were not amortised according to IAS 38. Finally, IAS 21 on the effect of changes in foreign exchange rates and IAS 36 on the impairment of assets were also breached. The fact that the audit reports were silent as regards most of the breaches of the IAS indicates that the audit was not carried out in accordance with IAS.

(18) It should also be underlined that the auditor's report concerning the financial year 2001 of one of the two related Chinese producers had already noted the problems regarding inventories, while the auditor's reports concerning the financial years 2002 and 2003 noted that the company had not established the relevant policy on provisions for impairment of assets. These were thus recurrent problems that have been raised year after year by the auditor to no avail. This is another element that clearly indicates that the accounts of the applicant are not reliable.

(19) The applicant and the Community industry were given an opportunity to comment on the above findings. After consultation of the Advisory Committee, the applicant was informed that MET could not be granted. The Community industry made no comments. The applicant claimed that there was no State interference, that costs reflected market values and that the abovementioned IAS were not applicable in its case.

(20) In particular, one of the two related Chinese producers claimed that a compensation claim relating to the performance of a company could normally be found in a joint venture agreement under market economy conditions. The other producer considered that it was normal that a company enjoyed a rent free period during the construction phase of a project. Finally, it considered that depreciation of buildings and amortisation of land use rights were not a company-specific issue and there was not any benefit accruing to the Chinese authorities.

(21) These arguments had to be rejected. Firstly, although the mere existence of a joint venture such as the one in the current investigation does not indicate State interference, the Articles of Association contain mechanisms that allow the State to interfere. In particular, the right of the Chinese partner (i.e. the local authorities) to claim compensation is not limited to the case where rent is not paid. The rights of the Chinese partner are thus wider than those of a mere landlord. Secondly, rent was due to the State for the first years of operation. Any exemption from such payment obligation should have been provided for in the contract. Finally, the fact that the applicant admitted that depreciation of buildings and amortisation of land use rights are not determined by the companies themselves reinforces the conclusion that the State could significantly interfere in the business decisions of the applicant.

(22) The applicant's main argument on criterion 2 was that the IAS have not been adopted by the accounting profession in the People's Republic of China (PRC). The applicant admitted that they were not followed, but considered that the IAS mentioned by the Commission were not applicable in the IP. However, it was found that all the IAS provisions set out in recital 17 were in force during the IP.

(23) In its comments to the final disclosure, the applicant argued that the determination not to grant MET to the two related Chinese producers was not made within three months of the initiation of the investigation as provided for in Article 2(7)(c) of the basic Regulation. According to the applicant, this had an influence on the Commission's decision not to verify the information provided by some of its related companies and by the producer in the analogue country, which had a prejudicial effect on the outcome of the investigation.

(24) As regards the argument concerning the three-month time limit, the non-respect of such time limit does not entail any apparent legal consequences. It should be noted that the MET claims received were deficient and required a number of substantial clarifications and additional information which delayed the investigation. The two related Chinese exporting producers were given, on their own request, extensions of the time limits to submit these clarifications and additional information. Furthermore, as they could not receive the verification team at the beginning of October 2004, the verification visits only took place in the second half of that month, thus further delaying the MET determination. It was, therefore, concluded that a valid MET determination could be made or adopted also after the three-month period.

(25) The Commission verified all information it considered necessary during the on-the-spot investigation at the premises of the applicant and accepted all information provided by its related companies in order to calculate the export price. Therefore, the fact that verification visits were not carried out at the premises of these related companies had no detrimental effect to the applicant. Concerning the producer in the analogue country, the findings are set out in recitals 29 to 41.

(26) In view of the above findings, it was concluded that the conditions set out in Article 2(7)(c) of the basic Regulation were not met by the applicant and, therefore, MET should not be granted.

3. **Individual treatment (IT)**

(27) The applicant also claimed IT in the event that it was not granted MET. On the basis of the information submitted, it was found that the two related Chinese companies met all the requirements for IT as set forth in Article 9(5) of the basic Regulation.

(28) It was therefore concluded that IT should be granted to the applicant.

4. **Dumping**

Normal value

(a) *Analogue country*

(29) According to Article 2(7)(a) of the basic Regulation, for non-market economy countries and, to the extent that MET could not be granted, for countries in transition, normal value has to be established on the basis of the price or constructed value in an analogue country.

(30) In the Regulation initiating this review, the Commission indicated its intention to use Indonesia as an appropriate analogue country for the purpose of establishing normal value for the PRC and invited interested parties to comment on this. Indonesia had already been used as an analogue country in the original investigation.

(31) No objections were raised by any interested party with regard to this choice. The Indonesian producer who had cooperated in the original investigation also cooperated in the current review and completed the Commission's questionnaire.

(32) It should also be noted that, before a decision on the selection of the most appropriate analogue country was made, questionnaires were also sent to producers in the Republic of Korea, Taiwan and Japan, but these producers did not cooperate.

(33) In view of the above, and in particular the fact that Indonesia was used as the analogue country in the original investigation, and that there are no indications that the suitability of Indonesia as analogue country would have changed, it is concluded that Indonesia constitutes an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation.

(34) The applicant considered as a discriminatory change of methodology between the original investigation and this review the fact that no verification visit was carried out at the premises of the Indonesian producer during the review, while such visit was carried out during the original investigation. Furthermore, the applicant considered discriminatory the use of non-verified facts for the calculation of normal value for a non-market economy exporting producer, while this does not happen in 'new exporter' reviews concerning exporting producers in market economy countries. The applicant, based on information in the non-confidential file, argued that the reply to the questionnaire of the Indonesian producer was apparently inadequate and there was only information to make a rough calculation of constructed normal value.

(35) In accordance with Article 16 of the basic Regulation, verification visits are not mandatory. Therefore, not to carry out a verification visit cannot be considered discriminatory. Furthermore, the fact that a verification visit was not carried out at the premises of the Indonesian producer during the review does not mean that the information provided has not been carefully analysed. The information provided by the Indonesian producer was consistent with that provided in the original investigation, which had been verified on the spot, and with the documentary evidence supplied in the reply to the questionnaire. This information was sufficient to perform a detailed calculation of constructed normal value as set out below. The fact that the applicant could not identify in the non-confidential file all confidential details of the information provided by the Indonesian producer does not render such information inadequate to calculate normal value. Finally, the applicant has not claimed that the non-confidential file did not contain summaries in sufficient detail to permit a reasonable understanding of the information submitted in confidence.

(36) In view of the above, the comments of the applicant on verification visit and inadequate information had to be rejected.

(b) *Determination of normal value*

(37) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the two related Chinese exporting producers was established on the basis of the information received from the producer in the analogue country. Although the production and export sales of this producer were significant, its sales to unrelated customers on the Indonesian market were considered not to be made in sufficient quantities. Therefore, normal value had to be determined on the basis of the constructed value for product types comparable to those exported to the Community by the applicant, i.e. on the basis of the cost of production of the REWS manufactured in Indonesia plus a reasonable amount for selling, general and administrative (SGA) expenses and for profits.

(38) The SGA expenses used were those incurred by the Indonesian manufacturer as well as by one related company involved in its domestic sales.

(39) For the calculation of the profit margin, in the absence of sufficient quantities sold by the Indonesian producer to unrelated customers on its domestic market, it was necessary to use information from the original investigation. It was decided to take the profit margin used to construct normal value in the original investigation concerning imports of REWS from Taiwan. This margin was considered reasonable in the absence of any other information on the profitability of the like product sold in Indonesia. It should also be noted that the REWS sold by the Taiwanese exporting producers on the Taiwanese domestic market were all low-range REWS, which is also the case of the REWS manufactured by the producer in the analogue country.

(40) The applicant argued that, in accordance with Article 11(9) of the basic Regulation, the same methodology as in the original investigation should have been applied in determining normal value, i.e. selling prices. It also argued that there is no indication that the SGA of the related company was included in the original investigation, as there is no reference to this issue in the original Regulation. It would thus appear that the methodology used in the original investigation was changed to the detriment of the applicant. Furthermore, it merely argued that it was unusual to choose the profitability in the original IP of a market other than that of the analogue country.

(41) With regard to these arguments, as set out in recital 37 above, constructed normal value with the profit on domestic sales during the original investigation in Taiwan was used because the domestic sales in the Indonesian market during the investigation period were considered insufficient for establishing normal value on the basis of sales prices. This was not the case during the original investigation where sales prices and not constructed value were used. This is the reason why the original Regulation did not contain any details about SGA expenses. Furthermore, it should be noted that if the prices of the few sales of REWS on the Indonesian market had been used, the normal value thus established would have been higher. The same would have happened if in constructing normal value the profit margin from these few domestic sales in Indonesia had been used. It is, therefore, incorrect to argue that the methodology changed to the detriment of the applicant.

Export price

(42) The two related Chinese exporting producers sold their REWS to the Community through related companies (traders) registered in Samoa and Taiwan. The export price was established on the basis of the resale prices paid or payable by the first independent buyer in the Community.

Comparison

(43) The comparison between the normal value and the export price was made on an ex-factory basis and at the same level of trade. In order to ensure a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were demonstrated to affect prices and price comparability. On this basis, allowances for differences in physical characteristics, transport costs, handling costs and commissions were made where applicable.

(44) An adjustment was made to the normal value to exclude the value of any printer interface. Furthermore, as some of the models sold by the two related Chinese exporting producers through their related sales companies to the Community had a pole, an adjustment to the normal value was made to take into account the value of the pole.

(45) As the related traders of the Chinese exporting producers have functions similar to those of an agent working on a commission basis, an adjustment to the export price for a commission was made in accordance with Article 2(10)(i) of the basic Regulation. The level of the commission was calculated based on direct evidence pointing to the existence of such functions. In this context, in the calculation of the commission, the SGA expenses incurred by the related traders to sell the product concerned produced by the two related Chinese producers were taken into account.

(46) The applicant argued that the model sold in the analogue country had higher specifications which affected the price comparability.

(47) As the applicant did not provide a single example of the alleged higher specifications and their alleged impact on the price comparability, this claim could not be accepted.

(48) The applicant claimed that certain information submitted subsequently to the questionnaire reply should have been used to calculate the adjustment for transport and handling costs on the export price.

(49) This claim was accepted and the export price was adjusted upwards.

(50) The applicant argued that an adjustment should be made to the normal value for after-sales costs, guarantees and credit costs. It also claimed that the costs resulting from the agreement signed between one of the Indonesian producer's related companies and a distributor in Indonesia should be deducted from the normal value.

(51) These claims had to be rejected because the costs mentioned by the applicant were not included either in the manufacturing costs or in the SGA expenses used to construct normal value. Therefore, there is no reason to deduct such costs from the normal value.

(52) According to the applicant, Article 2(10)(i) of the basic Regulation does not allow to deduct a commission from the export prices of its related companies because no actual commission was paid. In any event, when making such an adjustment on the export price, a similar adjustment should have been made to the normal value as the company related to the Indonesian producer performed the same functions as those of the applicant's related companies. Furthermore, as regards the sales through Taiwan, the applicant argued that the calculation of the adjustment included costs concerning production and management. The apportionment key used should have been based on the number of employees working in the distribution and sales of REWS in the Taiwanese company instead of the total number of employees working in distribution and sales.

(53) Article 2(10)(i) does not require that a commission in the form of a mark-up has actually been paid, in particular when the trader is related to the exporting producer, if the functions of the trader are similar to those of an agent working on a commission basis. An adjustment for commissions should be made if the parties do not act on the basis of a principal — agent relationship, but achieve the same economic result by acting as buyer and seller. The applicant's related companies invoiced all the export sales to unrelated customers and determined the selling prices, while the latter placed the orders with them. This was not the case of the company related to the Indonesian producer, whose SGA expenses were used to construct normal value. In fact, the sales on the Indonesian market were made by another related company and, as already explained in recital 51, the SGA expenses of this company were not used to construct normal value. It was, therefore, not appropriate to make such an adjustment to the normal value and the applicant's claims could not be accepted.

(54) As regards the calculation of the adjustment for commissions, it should be stressed that the applicant, although specifically requested, has not provided sufficient details which would have allowed a different allocation of its SGA expenses. In this context, the applicant's claim on the calculation of the adjustment for commissions had to be rejected.

Dumping margin

(55) As provided for under Article 2(11) of the basic Regulation, the weighted average normal value by type was compared with the weighted average export price of the corresponding type of the product concerned.

(56) The comparison showed the existence of dumping. In accordance with the consistent practice of the Community, one dumping margin has been calculated for the two related exporting producers. This dumping margin expressed as a percentage of the net, free-at-Community-frontier price, duty unpaid, for the related companies Shanghai Adeptech Precision Co., Ltd and Shanghai Excell M&E Enterprise Co., Ltd is 52,6 %.

D. AMENDMENT OF THE MEASURES BEING REVIEWED

(57) In the light of the results of the investigation, it is considered that a definitive anti-dumping duty should be imposed for the applicant at the level of the dumping margin found. This margin is below the country-wide injury elimination level established for the PRC in the original investigation.

(58) In this context, the amended anti-dumping duty applicable to imports of REWS from Shanghai Adeptech Precision Co., Ltd and Shanghai Excell M&E Enterprise Co., Ltd is 52,6 %.

E. RETROACTIVE LEVYING OF THE ANTI-DUMPING DUTY

(59) In the light of the above findings, the anti-dumping duty applicable to the applicant should be levied retroactively on imports of the product concerned which have been made subject to registration pursuant to Article 3 of Commission Regulation (EC) No 1408/2004.

F. DISCLOSURE

(60) All parties concerned were informed of the essential facts and considerations on the basis of which it was intended to impose on imports of REWS from the applicant an amended definitive anti-dumping duty and to levy this duty retroactively on imports made subject to registration. Their comments were considered and taken into account where appropriate.

(61) This review does not affect the date on which the measures imposed by Regulation (EC) No 2605/2000 will expire pursuant to Article 11(2) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The table in Article 1(2) Regulation (EC) No 2605/2000 is hereby amended by adding the following:

‘Country	Company	Rate of duty	TARIC additional code
The People’s Republic of China	Shanghai Adeptech Precision Co., Ltd No 3217 Hong Mei Road, Shanghai 201103, People’s Republic of China	52,6 %	A561
	Shanghai Excell M&E Enterprise Co., Ltd No 1688 Huateng Road, Huaxin Town, Qingpu District, Shanghai, People’s Republic of China	52,6 %	A561’

2. The duty hereby imposed shall also be levied retroactively on imports of the product concerned which have been registered pursuant to Article 3 of Regulation (EC) No 1408/2004.

The customs authorities are hereby directed to cease the registration of imports of the product concerned originating in the People’s Republic of China and produced by Shanghai Adeptech Precision Co., Ltd and Shanghai Excell M&E Enterprise Co., Ltd.

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

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

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

Done at Brussels, 28 April 2005.

For the Council

The President

J. ASSELBORN

COMMISSION REGULATION (EC) No 693/2005

of 2 May 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 3 May 2005.

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

Done at Brussels, 2 May 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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[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 2 May 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	111,5
	204	99,6
	212	124,2
	999	111,8
0707 00 05	052	140,8
	204	67,7
	999	104,3
0709 90 70	052	101,1
	204	44,2
	624	50,3
	999	65,2
0805 10 20	052	53,9
	204	46,6
	212	59,7
	220	42,3
	388	65,2
	400	40,2
	624	70,8
	999	54,1
0805 50 10	052	46,9
	220	65,0
	388	62,4
	400	51,0
	528	63,0
	624	63,4
	999	58,6
0808 10 80	388	96,8
	400	103,0
	404	95,1
	508	63,2
	512	73,2
	524	52,9
	528	69,1
	720	68,9
	804	107,1
	999	81,0

(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 694/2005

of 2 May 2005

amending Regulation (EC) No 1555/96 as regards the trigger levels for additional duties on cucumbers and cherries, other than sour cherries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables [1], and in particular Article 33(4) thereof,

Whereas:

(1) Commission Regulation (EC) No 1555/96 of 30 July 1996 on rules of application for additional import duties on fruit and vegetables [2] provides for surveillance of imports of the products listed in the Annex thereto. That surveillance is to be carried out in accordance with the rules laid down in Article 308d of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [3].

(2) For the purposes of Article 5(4) of the Agreement on Agriculture [4] concluded during the Uruguay Round of multilateral trade negotiations and in the light of the latest data available for 2002, 2003 and 2004, the trigger levels for additional duties on cucumbers and cherries other than sour cherries should be amended.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

It shall apply from 1 May 2005.

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

Done at Brussels, 2 May 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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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 193, 3.8.1996, p. 1. Regulation as last amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

[3] OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 2286/2003 (OJ L 343, 31.12.2003, p. 1).

[4] OJ L 336, 23.12.1994, p. 22.

ANNEX

'ANNEX

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

Order No	CN Code	Description	Period of application	Trigger level (tonnes)
78.0015	ex 0702 00 00	Tomatoes	— from 1 October to 31 May	596 477
78.0020			— from 1 June to 30 September	552 167
78.0065	ex 0707 00 05	Cucumbers	— from 1 May to 31 October	10 626
78.0075			— from 1 November to 30 April	10 326
78.0085	ex 0709 10 00	Artichokes	— from 1 November to 30 June	2 071
78.0100	0709 90 70	Courgettes	— from 1 January to 31 December	65 658
78.0110	ex 0805 10 20	Oranges	— from 1 December to 31 May	620 166
78.0120	ex 0805 20 10	Clementines	— from 1 November to end February	88 174
78.0130	ex 0805 20 30 ex 0805 20 50 ex 0805 20 70 ex 0805 20 90	Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids	— from 1 November to end February	94 302
78.0155	ex 0805 50 10	Lemons	— from 1 June to 31 December	341 887
78.0160			— from 1 January to 31 May	13 010
78.0170	ex 0806 10 10	Table grapes	— From 21 July to 20 November	227 815
78.0175	ex 0808 10 80	Apples	— from 1 January to 31 August	730 999
78.0180			— from 1 September to 31 December	32 266
78.0220	ex 0808 20 50	Pears	— from 1 January to 30 April	274 921
78.0235			— from 1 July to 31 December	28 009
78.0250	ex 0809 10 00	Apricots	— 1 June to 31 July	4 123
78.0265	ex 0809 20 95	Cherries, other than sour cherries	— from 21 May to 10 August	54 213
78.0270	ex 0809 30	Peaches, including nectarines	— 11 June to 30 September	6 808
78.0280	ex 0809 40 05	Plums	— 11 June to 30 September	51 276'

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 22 December 2004

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

(2005/353/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 94 in conjunction with the first subparagraph of paragraph 2, the first subparagraph of paragraph 3 and paragraph 4 of Article 300 thereof,

Having regard to the proposal of the Commission,

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

Whereas:

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

(2) The text of the Agreement, which is the result of the negotiations, duly reflects the negotiating directives issued by the Council. It is accompanied by a Memorandum of Understanding between the European Community and its Member States, of the one part, and the Principality of Liechtenstein of the other part, the text of which is attached to Council Decision 2004/897/EC of 29 November 2004 [2].

(3) The application of the provisions of Directive 2003/48/EC [3] depends on the application by the Principality of Liechtenstein of measures equivalent to those contained in that Directive, in accordance with an agreement concluded by the Principality of Liechtenstein with the European Community.

(4) In accordance with Decision 2004/897/EC, and subject to the adoption at a later date of a Decision on the conclusion of the Agreement, the Agreement was signed on behalf of the European Community on 7 December 2004.

(5) The Agreement should be approved.

(6) It is necessary to provide for a simple and rapid procedure for possible adaptations of Annexes I and II to the Agreement,

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[1] Opinion of 17 November 2004 (not yet published in the Official Journal).

[2] OJ L 379, 24.12.2004, p. 83.

[3] OJ L 157, 26.6.2003, p. 38. Directive as last amended by Directive 2004/66/EC (OJ L 168, 1.5.2004, p. 35).

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the Principality of Liechtenstein providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments is hereby approved on behalf of the European Community.

The text of the Agreement is attached to this Decision ([1]).

Article 2

The Commission is hereby authorised to approve, on behalf of the Community, the amendments to the Annexes to the Agreement which are required to ensure that they correspond to the information relating to the competent authorities notified under Article 5(a) of Directive 2003/48/EC and to the information in the Annex thereto.

Article 3

The President of the Council shall give the notification provided for in Article 16(1) of the Agreement on behalf of the Community ([2]).

Article 4

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

Done at Brussels, 22 December 2004.

For the Council

The President

C. VEERMAN

([1]) OJ L 379, 24.12.2004, p. 84.

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

COMMISSION

COMMISSION DECISION

of 29 April 2005

excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF)

(notified under document number C(2005) 1307)

(Only the Spanish, Danish, German, Greek, English, French, Italian, Dutch and Portuguese texts are authentic)

(2005/354/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EEC) No 729/70 of the Council of 21 April 1970 on the financing of the common agricultural policy ([1]), and in particular Article 5(2)(c) thereof,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ([2]), and in particular Article 7(4) thereof,

Having consulted the Fund Committee,

Whereas:

(1) Article 5 of Regulation (EEC) No 729/70, Article 7 of Regulation (EC) No 1258/1999, and Article 8(1) and (2) of Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section ([3]) provide that the Commission is to make the necessary verifications, inform the Member States of its findings, take account of the Member States' comments, initiate bilateral discussions and then formally communicate its conclusions to the Member States, referring to Commission Decision 94/442/EC of 1 July 1994 setting up a conciliation procedure in the context of the clearance of the accounts of the European Agricultural Guidance and Guarantee Fund (EAGGF) Guarantee Section ([4]).

(2) The Member States have had an opportunity to request that a conciliation procedure be initiated. That opportunity has been used in some cases and the report issued on the outcome has been examined by the Commission.

(3) Under Articles 2 and 3 of Regulation (EEC) No 729/70 and Article 2 of Regulation (EC) No 1258/1999, only refunds on exports to third countries and intervention to stabilise agricultural markets, respectively granted and undertaken according to Community rules within the framework of the common organisation of the agricultural markets, may be financed.

(4) In the light of the checks carried out, the outcome of the bilateral discussions and the conciliation procedures, part of the expenditure declared by the Member States does not fulfil these requirements and cannot, therefore, be financed under the EAGGF Guarantee Section.

(5) The amounts that are not recognised as being chargeable to the EAGGF Guarantee Section should be indicated. Those amounts do not relate to expenditure incurred more than twenty-four months before the Commission's written notification of the results of the checks to the Member States.

(6) As regards the cases covered by this Decision, the assessment of the amounts to be excluded on grounds of non-compliance with Community rules was notified by the Commission to the Member States in a summary report on the subject.

([1]) OJ L 94, 28.4.1970, p. 13. Regulation as last amended by Regulation (EC) No 1287/95 (OJ L 125, 8.6.1995, p. 1).
([2]) OJ L 160, 26.6.1999, p. 103.
([3]) OJ L 158, 8.7.1995, p. 6. Regulation as last amended by Regulation (EC) No 465/2005 (OJ L 77, 23.3.2005, p. 6).
([4]) OJ L 182, 16.7.1994, p. 45. Decision as last amended by Decision 2001/535/EC (OJ L 193, 17.7.2001, p. 25).

(7) This Decision is without prejudice to any financial conclusions that the Commission may draw from the judgments of the Court of Justice in cases pending on 31 October 2004 and relating to its content,

HAS ADOPTED THIS DECISION:

Article 1

The expenditure itemised in the Annex hereto that has been incurred by the Member States' accredited paying agencies and declared under the EAGGF Guarantee Section shall be excluded from Community financing because it does not comply with Community rules.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Kingdom of the Netherlands, the Portuguese Republic, and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 29 April 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

Sector	Member State	Budget item	Reason	National Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Financial audit	BE	Various	Flat-rate corrections 2 % — Failure to comply with approval criterion laid down in Regulation (EC) No 1663/95	EUR	– 354 172,05	0,00	– 354 172,05	2000-2001
	Total BE				**– 354 172,05**	**0,00**	**– 354 172,05**	
Export refunds	DE	2100-013 to 2100-016	Disallow all expenditure on export refunds of live cattle for rail transport and flat-rate correction of 5 % to exports for road transport — failure to comply with Directive 91/628/EEC and Regulation (EC) No 615/98	EUR	– 13 823 822,23	0,00	– 13 823 822,23	1999-2001
Public storage	DE	2111, 2112, 2113	Shortcomings in tendering procedure + delivery of consignments less than the 10 tonnes required by Article 17(1) of Regulation (EC) No 562/2000	EUR	– 3 860 285,14	0,00	– 3 860 285,14	2001-2002
	Total DE				**– 17 684 107,37**	**0,00**	**– 17 684 107,37**	
Financial audit	DK	Various	Correction — Application of Regulation (EC) No 1258/99 — Failure to comply with payment deadlines	DKK	– 4 910,60	– 346 907,17	341 996,57	2002
	Total DK				**– 4 910,60**	**– 346 907,17**	**341 996,57**	
Livestock premiums	GR	2129	Flat-rate corrections of 2 % — absence of identification and registration system	EUR	– 33 809,35	0,00	– 33 809,35	2001-2002
Arable crops	GR	1041-1060, 1310, 1858	Flat-rate corrections of 5 % — insufficient assurance provided that claims are regular	EUR	– 25 361 283,00	0,00	– 25 361 283,00	2002
Olive oil	GR	1220	Delays withdrawing accreditation and imposing quality penalties	EUR	– 200 146,68	0,00	– 200 146,68	1996-1998
Financial audit	GR	Various	Correction — application of Regulation (EC) No 1258/99 — failure to comply with payment deadlines	EUR	– 875 706,08	– 1 083 685,95	207 979,87	2001
	Total GR				**– 26 470 945,11**	**– 1 083 685,95**	**– 25 387 259,16**	

Sector	Member State	Budget item	Reason	National Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Fruit and vegetables	ES	1508	Flat-rate corrections of 5 % for shortcomings in the key checks/compensation in the banana sector	EUR	– 348 947,00	0,00	– 348 947,00	2000
Flax and hemp	ES	1400, 1402	Flat-rate corrections of 25 % for flax and 10 % and 25 % for hemp — major shortcomings in the control system	EUR	– 21 077 981,00	0,00	– 21 077 981,00	1996-2000
Flax	ES	1400	Flat-rate corrections of 100 % — major shortcomings in the control system + general fraud	EUR	– 113 399 346,00	0,00	– 113 399 346,00	1999-2004
Rural development	ES	4051-4072	Flat-rate corrections of 2 % — Shortcomings in the application of the management and control system — Agri and forestry measures — national level	EUR	– 71 222,00	0,00	– 71 222,00	2001-2002
Rural development	ES	4051	Flat-rate corrections of 2 % and 5 % — Shortcomings in the application of the management and control system — Agri measures (Andalusia)	EUR	– 8 067,00	0,00	– 8 067,00	2001-2002
Rural development	ES	4051	Flat-rate corrections of 5 % — Shortcomings in the application of the management and control system — Agri measures (Castille-La Mancha)	EUR	– 1 186,00	0,00	– 1 186,00	2001-2002
	Total ES				**– 134 906 749,00**	**0,00**	**– 134 906 749,00**	
Export refunds	FR	2100-013 to 2100-016	Flat-rate corrections of 5 % — inadequate controls — and 10 % — weaknesses detected in how the controls laid down by Article 4 of Regulation (EC) No 615/98 are organised	EUR	– 1 649 755,75	0,00	– 1 649 755,75	1999-2001
Livestock premiums	FR	2120, 2122, 2124, 2125, 2128	Flat-rate corrections of 2 % — correction at national level —, 5 % — national database not operational and cross-checks not performed and 10 % — absence of checks despite high level of anomalies noted	EUR	– 293 300,82	0,00	– 293 300,82	2001-2003

Sector	Member State	Budget item	Reason	National Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Fruit and vegetables	FR	1508	Flat-rate corrections of 10 % (Guadeloupe) and 5 % (Martinique) for shortcomings in key checks/ compensation in banana sector	EUR	− 14 216 626,64	0,00	− 14 216 626,64	2001-2003
Financial audit	FR	Various	Certification of 2001 accounts — anomalies and shortcomings in the management of the aid by several paying agencies under various budget lines	EUR	− 1 234 211,49	0,00	− 1 234 211,49	2001
Financial audit	FR	4040-4051	Certification of 2001 accounts — anomalies and shortcomings in the management of the aid by several paying agencies under various budget lines	EUR	− 1 058 464,21	0,00	− 1 058 464,21	2001
	Total FR				**− 18 452 358,91**	**0,00**	**− 18 452 358,91**	
Olive oil	IT	1210	Ceiling for maximum actual production of olive oil exceeded in marketing years 1998/1999 and 1999/2000	EUR	− 68 708 032,11	0,00	− 68 708 032,11	2000-2003
	Total IT				**− 68 708 032,11**	**0,00**	**− 68 708 032,11**	
Fruit and vegetables	NL	1502	Correction for expenditure exceeding the flat rate of 2 %	EUR	− 68 812,25	0,00	− 68 812,25	2003
	Total NL				**− 68 812,25**	**0,00**	**− 68 812,25**	
Fruit and vegetables	PT	1502	Correction — operational programmes — application of Article 4 of Regulation (EC) No 296/96 — payment deadlines	EUR	− 78 935,21	0,00	− 78 935,21	2002
	Total PT				**− 78 935,21**	**0,00**	**− 78 935,21**	

Sector	Member State	Budget item	Reason	National Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Milk	UK	2071	Corrigendum to financial correction in the 1994 Clearance of Accounts Decision 98/358/EC	GBP	76 152,65	0,00	76 152,65	1991-1993
Rural development	UK	40	Correction — error in the application of exchange rate in calculating the advance	GBP	– 151 106,80	0,00	– 151 106,80	2000
Livestock premiums	UK	2120, 2122, 2124, 2125, 2128	Flat-rate correction 2 % and 5 % — weaknesses as regards identification and registration, minimum level of on-site audits provided for in Article 6(3) of Regulation (EEC) No 3887/92 not achieved for claim year 2000	GBP	– 6 822 958,75	0,00	– 6 822 958,75	2000-2001
Livestock Premiums	UK	2126	Flat-rate corrections of 5 % and 10 % — control weaknesses in the initial period of operation	GBP	– 566 921,00	0,00	– 566 921,00	1998
Livestock Premiums	UK	3700	Correction of an amount already reimbursed: irregularity — Decision 2003/481/EC of 27 June 2003	GBP	43 474,18	0,00	43 474,18	1995
	Total UK				**– 7 421 359,72**	**0,00**	**– 7 421 359,72**	

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

COUNCIL JOINT ACTION 2005/355/CFSP

of 2 May 2005

on the European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo (DRC)

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

(1) On 12 April 2005, the Council adopted Common Position 2005/304/CFSP concerning conflict prevention, management and resolution in Africa and repealing Common Position 2004/85/CFSP ([1]).

(2) On 22 November 2004, the Council approved an action plan for ESDP support to Peace and Security in Africa. It approved guidelines for implementing that Action Plan on 13 December 2004.

(3) On 13 December 2004, the Council, in its conclusions, stated the EU's readiness to contribute to security sector reform in the Democratic Republic of the Congo.

(4) On 28 June 2004, the Council adopted Joint Action 2004/530/CFSP ([2]) extending and amending the mandate of Mr Aldo Ajello as the Special Representative of the European Union for the African Great Lakes Region.

(5) On 9 December 2004, the Council adopted Joint Action 2004/874/CFSP on the European Union Police Mission in Kinshasa (DRC) regarding the Integrated Police Unit (EUPOL 'Kinshasa') ([3]).

(6) The Global and Inclusive Agreement signed by the Congolese parties in Pretoria on 17 December 2002, followed by the Final Act signed in Sun City on 2 April 2003, has initiated a transition process in the DRC which includes establishing a restructured and integrated national army.

(7) On 30 March 2005, the United Nations Security Council adopted Resolution 1592 (2005) on the situation in the Democratic Republic of the Congo, in which it reaffirmed, *inter alia*, its support for the transition process in the Democratic Republic of the Congo, urged the Government of National Unity and Transition to carry out reform of the security sector and decided to extend and strengthen the mandate of the United Nations Organisation Mission in the Democratic Republic of the Congo (MONUC), as contained in Resolution 1565 (2004).

(8) On 26 April 2005, the DRC government sent an official invitation to the Secretary-General/High Representative for Common Foreign and Security Policy (SG/HR) with a view to obtaining assistance from the European Union through the establishment of a team to provide the Congolese authorities with advice and assistance for security sector reform.

(9) The current security situation in the DRC may deteriorate, with potentially serious repercussions for the process of strengthening democracy, the rule of law and international and regional security. A continued commitment of EU political effort and resources will help to embed stability in the region.

(10) On 12 April 2005, the Council approved the General Concept for setting up a mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo (DRC).

(11) The status of the mission will be subject to consultation with the DRC government with a view to ensuring that the Status of Mission Agreement relating to EUPOL 'Kinshasa' is applicable to the mission and its staff,

([1]) OJ L 97, 15.4.2005, p. 57.
([2]) OJ L 234, 3.7.2004, p. 13, as amended by Joint Action 2005/96/CFSP (OJ L 31, 4.2.2005, p. 70).
([3]) OJ L 367, 14.12.2004, p. 30.

HAS ADOPTED THIS JOINT ACTION:

Article 1

Mission

1. The European Union hereby establishes a mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo (DRC) called EUSEC DR Congo with the aim of contributing to a successful integration of the army in the DRC. The mission must provide the Congolese authorities responsible for security with advice and assistance, while taking care to promote policies compatible with human rights and international humanitarian law, democratic standards and the principles of good governance, transparency and respect for the rule of law.

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

Article 2

Mission Statement

The mission shall aim, in close cooperation and coordination with the other actors in the international community, to provide practical support for the integration of the Congolese army and good governance in the field of security, as set out in the General Concept, including identifying and contributing to the development of various projects and options that the European Union and/or its Member States may decide to support in this area.

Article 3

Structure of the mission

The mission shall be structured as follows:

(a) an office in Kinshasa, composed of the Head of Mission and staff not attached to the Congolese authorities;

(b) experts assigned, *inter alia*, to the following key posts within the Congolese administration:

— the private office of the Minister for Defence,

— the combined general staff, including the integrated military structure (IMS),

— the army general staff,

— the National Committee for Disarmament, Demobilisation and Reintegration (Conader), and

— the Joint Operational Committee.

Article 4

Preparatory stage

1. The General Secretariat of the Council, assisted by the Head of Mission, shall draw up an implementation plan for the mission.

2. The implementation plan and the launching of the mission shall be approved by the Council.

Article 5

Head of Mission

1. General Pierre Michel JOANA is hereby appointed Head of Mission. The Head of Mission shall assume day-to-day management of the mission and shall be responsible for staff and disciplinary matters.

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

3. All mission experts shall remain under the authority of the appropriate Member State or EU institution, and shall fulfil their duties and act in the interest of the mission. Both during and after the mission, mission experts shall exercise the greatest discretion with regard to all facts and information relating to the mission.

Article 6

Staff

1. Mission experts shall be seconded by Member States and by the EU institutions. Except for the Head of Mission, each Member State or institution shall bear the costs relating to the experts seconded by it, including salaries, medical coverage, travel expenses to and from the DRC and allowances, other than per diem and housing allowances.

2. International civilian staff and local staff shall be recruited on a contractual basis by the mission as required.

Article 7

Chain of command

The mission shall have a unified chain of command:

— The Head of Mission shall lead the advice and assistance team, assume its day-to-day management and report to the SG/HR through the EUSR.

— The EUSR shall report to the Political and Security Committee (PSC) and to the Council through the SG/HR.

— The SG/HR shall give guidance to the Head of Mission through the EUSR.

— The PSC shall exercise political control and strategic direction.

Article 8

Political control and strategic direction

1. Under the responsibility of the Council, the PSC shall exercise the political control and strategic direction of the mission. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 25 of the Treaty. This authorisation shall include the power to amend the implementation plan and the chain of command. It shall also include powers to take subsequent decisions regarding the appointment of the Head of Mission. The power of decision with respect to the objectives and termination of the mission shall remain vested in the Council, assisted by the SG/HR.

2. The EUSR shall provide the Head of Mission with the political guidance required to fulfil his duties at local level.

3. The PSC shall report to the Council at regular intervals, taking into account the EUSR reports.

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

Article 9

Financial arrangements

1. The financial reference amount to cover expenditure relating to the mission shall be EUR 1 600 000.

2. As regards expenditure financed out of the amount stipulated in paragraph 1, the following shall apply:

(a) expenditure shall be managed in accordance with the Community rules and procedures applicable to the budget, with the exception that any pre-financing shall not remain the property of the Community. Nationals of third States shall be allowed to tender for contracts;

(b) the Head of Mission shall report fully to, and be supervised by, the Commission regarding the activities undertaken in the framework of his contract.

3. The financial arrangements shall respect the operational requirements of the mission, including compatibility of equipment.

Article 10

Community action

1. In accordance with his mandate, the EUSR shall be responsible for coordination with other EU players as well as relations with host State authorities.

2. Without prejudice to the chain of command, the Head of Mission shall act in coordination with EUPOL 'Kinshasa' so as to ensure that the two missions are consistent with the broader context of EU activities in the DRC. The Head of Mission shall cooperate with the other international players present, in particular MONUC and the third States involved in the DRC.

3. Without prejudice to the chain of command, the Head of Mission shall also act in coordination with the Commission delegation.

4. The Head of Mission shall cooperate with the other international players present, in particular MONUC and the third States involved in the DRC.

Article 11

Release of classified information

The Council takes note of the Commission's intention to direct its action, where appropriate, towards achieving the objectives of this Joint Action.

Article 12

Release of classified information

1. The SG/HR is authorised to release to the United Nations, third States and the host State, in accordance with the operational needs of the mission, EU classified information and documents generated for the purposes of the mission, in accordance with the Council's security regulations.

2. The SG/HR is authorised to release to the United Nations, third States and the host State EU non-classified documents relating to the deliberations of the Council with regard to the mission covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council Rules of Procedure.

Article 13

Status of the mission and of its staff

1. The status of the mission and of its staff shall be governed by arrangement with the competent authorities of the DRC.

2. The State or Community institution having seconded a staff member shall be responsible for dealing with any complaints linked to the secondment, from or concerning the staff member. The State or Community institution in question shall be responsible for bringing any action against the person seconded.

Article 14

Evaluation of the mission

The PSC shall evaluate the initial results of the mission at the latest six months after the launching of the mission and shall submit its conclusions to the Council, including, if applicable, a recommendation that the Council should take a decision to extend or amend the mandate of the mission.

Article 15

Entry into force, duration and expenditure

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

It shall apply until 2 May 2006.

2. The expenditure shall be eligible after the adoption of the Joint Action.

Article 16

Publication

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

Done at Brussels, 2 May 2005.

For the Council

The President

J. ASSELBORN

CORRIGENDA

Corrigendum to Council Regulation (EC) No 2133/2004 of 13 December 2004 on the requirement for the competent authorities of the Member States to stamp systematically the travel documents of third country nationals when they cross the external borders of the Member States and amending the provisions of the Convention implementing the Schengen agreement and the common manual to this end

(Official Journal of the European Union L 369 of 16 December 2004)

Page 7, Article 6, second subparagraph:

For: ‘It shall apply from 1 December 2005.’

Read: ‘It shall apply from 1 January 2005.’