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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 745/2005
of 17 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 18 May 2005.

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

Done at Brussels, 17 May 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 17 May 2005 establishing the standard import values for determining the entry price of certain fruit and vegetables

<i>(EUR/100 kg)</i>		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	109,7
	204	68,9
	212	111,6
	999	96,7
0707 00 05	052	124,4
	999	124,4
0709 90 70	052	97,2
	999	97,2
0805 10 20	052	42,9
	204	42,0
	212	59,6
	220	49,1
	388	61,4
	400	48,6
	624	61,5
	999	52,2
0805 50 10	052	49,0
	382	61,5
	388	64,7
	528	67,7
	624	62,5
	999	61,1
0808 10 80	388	86,6
	400	125,5
	404	85,6
	508	66,4
	512	63,8
	524	57,3
	528	66,8
	720	78,7
	804	110,8
	999	82,4

⁽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 746/2005**of 17 May 2005****on the issuing of system A3 export licences in the fruit and vegetables sector (tomatoes, oranges, lemons and apples)**

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 the third subparagraph of Article 35(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 633/2005 ⁽²⁾ opens an invitation to tender setting the indicative refund rates and indicative quantities for system A3 export licences, which may be issued, other than those tendered for as part of food aid.
- (2) In the light of the tenders submitted, the maximum refund rates and the percentages of quantities to be awarded for tenders quoting those maximum rates should be set.

- (3) In the case of tomatoes, oranges, lemons and apples, the maximum rate necessary to award licences for the indicative quantity up to the quantities tendered for is not more than one-and-a-half times the indicative refund rate,

HAS ADOPTED THIS REGULATION:

Article 1

In the case of tomatoes, oranges, lemons and apples, the maximum refund rates and the percentages for reducing the quantities awarded under the invitation to tender opened by Regulation (EC) No 633/2005 shall be fixed in the Annex.

Article 2

This Regulation shall enter into force on 18 May 2005.

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

Done at Brussels, 17 May 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽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 106, 27.4.2005, p. 4.

ANNEX

Issuing of system A3 export licences in the fruit and vegetable sector (tomatoes, oranges, lemons and apples)

Product	Maximum refund rate (EUR/t net)	Percentage awarded of quantities tendered for quoting the maximum refund rate
Tomatoes	0	100 %
Oranges	50	100 %
Lemons	—	100 %
Apples	46	100 %

COMMISSION DIRECTIVE 2005/34/EC**of 17 May 2005****amending Council Directive 91/414/EEC to include etoxazole and tepraloxymid as active substances****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

of the Commission review reports for etoxazole and tepraloxymid.

Having regard to the Treaty establishing the European Community,

(5) The review of etoxazole and tepraloxymid did not reveal any open questions or concerns, which would have required a consultation of the Scientific Committee on Plants or of the European Food Safety Authority.

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, and in particular Article 6(1) thereof,

(6) It has appeared from the various examinations made that plant protection products containing the active substances concerned may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) and Article 5(3) of Directive 91/414/EEC, in particular with regard to the uses which were examined and detailed in the Commission review report. It is therefore appropriate to include etoxazole and tepraloxymid in Annex I, in order to ensure that in all Member States the authorisations of plant protection products containing these active substances may be granted in accordance with the provisions of that Directive.

Whereas:

(1) In accordance with Article 6(2) of Directive 91/414/EEC, France received on 21 April 1998 an application from Sumitomo Chemical Agro Europe SA for the inclusion of the active substance etoxazole, formerly also called 'etoxazol', in Annex I to Directive 91/414/EEC. Commission Decision 1999/43/EC ⁽²⁾ confirmed that the dossier was 'complete' in the sense that it could be considered as satisfying, in principle, the data and information requirements of Annexes II and III to Directive 91/414/EEC.

(7) After inclusion of etoxazole and tepraloxymid in Annex I to Directive 91/414/EEC, Member States should be allowed a reasonable period to implement the provisions of Directive 91/414/EEC as regards plant protection products containing those substances and in particular to review existing provisional authorisations and, by the end of this period at the latest, to transform those authorisations into full authorisations, to amend them or to withdraw them in accordance with the provisions of Directive 91/414/EEC.

(2) Spain received an application under Article 6(2) of Directive 91/414/EEC on 11 September 1997 from BASF AG for the inclusion of the active substance tepraloxymid in Annex I to Directive 91/414/EEC. Commission Decision 98/512/EC ⁽³⁾ confirmed that the dossier was 'complete' in the sense that it could be considered as satisfying, in principle, the data and information requirements of Annexes II and III to Directive 91/414/EEC.

(8) It is therefore appropriate to amend Directive 91/414/EEC accordingly.

(3) For those active substances, the effects on human health and the environment have been assessed, in accordance with the provisions of Article 6(2) and (4) of Directive 91/414/EEC, for the uses proposed by the applicants. The designated rapporteur Member States submitted draft assessment reports concerning the substances to the Commission on 8 October 2001 (etoxazole) and 21 January 2002 (tepraloxymid).

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

(4) The draft assessment reports have been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health. The review was finalised on 3 December 2004 in the format

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 91/414/EEC is amended as set out in the Annex to this Directive.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Directive 2005/25/EC (OJ L 90, 8.4.2005, p. 1).

⁽²⁾ OJ L 14, 19.1.1999, p. 30.

⁽³⁾ OJ L 228, 15.8.1998, p. 35.

Article 2

1. Member States shall adopt and publish by 30 November 2005 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 December 2005.

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

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

Article 3

1. Member States shall review the authorisation for each plant protection product containing etoxazole or tepraloxymid to ensure that the conditions relating to those active substances set out in Annex I to Directive 91/414/EEC are complied with. Where necessary, they shall amend or withdraw authorisations in accordance with Directive 91/414/EEC by 30 November 2005 at the latest.

2. For each authorised plant protection product containing etoxazole or tepraloxymid as either the only active substance or as one of several active substances all of which were listed in Annex I to Directive 91/414/EEC by 31 May 2005 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles provided for in Annex VI to Directive 91/414/EEC, on the basis of a dossier satisfying the

requirements of Annex III to that Directive. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 4(1)(b), (c), (d) and (e) of Directive 91/414/EEC.

Following that determination Member States shall:

(a) in the case of a product containing etoxazole or tepraloxymid as the only active substance, where necessary, amend or withdraw the authorisation by 30 November 2006 at the latest; or

(b) in the case of a product containing etoxazole or tepraloxymid as one of several active substances, where necessary, amend or withdraw the authorisation by 30 November 2006 or by the date fixed for such an amendment or withdrawal in the respective Directive or Directives which added the relevant substance or substances to Annex I to Directive 91/414/EEC, whichever is the latest.

Article 4

This Directive shall enter into force on 1 June 2005.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 17 May 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX

In Annex I to Directive 91/414/EEC, the following rows are added at the end of the table:

No	Common name, identification numbers	IUPAC name	Purity (*)	Entry into force	Expiration of inclusion	Specific provisions
100	Etozazole CAS No: 153233-91-1 CIPAC No: 623	(RS)-5- <i>tert</i> -butyl-2-[2-(2,6-difluorophenyl)-4,5-dihydro-1,3-oxazol-4-yl] phenetole	≥ 948 g/kg	1 June 2005	31 May 2015	Only uses as acaricide may be authorised. For the implementation of the uniform principles of Annex VI, the conclusions of the review report on etozazole, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 3 December 2004 shall be taken into account. In this overall assessment Member States should pay particular attention to the protection of aquatic organisms. Risk mitigation measures should be applied where appropriate.
101	Tepraloxydim CAS No: 149979-41-9 CIPAC No: 608	(EZ)-(RS)-2-[1-[(2E)-3-chloroallyloxyimino]propyl]-3-hydroxy-5-perhydropyran-4-ylcyclohex-2-en-1-one	≥ 920 g/kg	1 June 2005	31 May 2015	Only uses as herbicide may be authorised. For the implementation of the uniform principles of Annex VI, the conclusions of the review report on tepraloxydim, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 3 December 2004 shall be taken into account. In this overall assessment, Member States should pay particular attention to the protection of terrestrial non-target arthropods. Risk mitigation measures should be applied where appropriate.

(*) Further details on identity and specification of active substances are provided in the review report.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 10 May 2005

amending Decision 1999/70/EC concerning the external auditors of the national central banks, as regards the external auditors of the Nationale Bank van België/Banque Nationale de Belgique and the Bank of Greece

(2005/377/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Belgique (hereinafter NBB/BNB) has expired and will not be renewed. It is therefore necessary to appoint external auditors from the financial year 2005.

Having regard to the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, annexed to the Treaty establishing the European Community, and in particular to Article 27.1 thereof,

- (3) The NBB/BNB has selected Ernst & Young Bedrijfsrevisoren/Réviseurs d'Entreprises as its new external auditors in accordance with its public procurement rules, and the ECB considers that the selected auditors fulfil the necessary requirements for appointment.

Having regard to Recommendations ECB/2005/7 and ECB/2005/8 of the European Central Bank of 7 April 2005 to the Council of the European Union on the external auditors of the Bank of Greece ⁽¹⁾ and of the Nationale Bank van België/Banque Nationale de Belgique ⁽²⁾,

- (4) The Governing Council of the ECB recommended that the mandate of these external auditors should be for three years, renewable once.

Whereas:

- (1) The accounts of the European Central Bank (ECB) and of the national central banks of the Eurosystem are to be audited by independent external auditors recommended by the Governing Council of the ECB and approved by the Council of the European Union.

- (5) Under the law of Greece, the same external auditor may not be appointed for more than four financial years. Accordingly, the mandate of Charalambos Stathakis, who is one of the two current external auditors, may not be renewed. The Bank of Greece may, under the law of Greece, retain Ernst & Young (Hellas) Certified Auditors SA as its external auditors, provided that the partner in charge is rotated.

- (2) The mandate of the current external auditors of the Nationale Bank van België/Banque Nationale de

- (6) The Bank of Greece has decided that Ernst & Young (Hellas) Certified Auditors SA should be its sole external auditor for the financial year 2005, and the ECB considers that this company fulfils the necessary requirements for such appointment.

⁽¹⁾ OJ C 91, 15.4.2005, p. 4.

⁽²⁾ OJ C 91, 15.4.2005, p. 5.

(7) The Governing Council of the ECB recommended that the existing mandate of these external auditors should continue and be for a renewable period of one year.

Article 2

Article 1(12) of Decision 1999/70/EC shall be replaced by the following:

(8) It is appropriate to follow the recommendations of the Governing Council of the ECB and to amend Decision 1999/70/EC ⁽¹⁾ accordingly,

'12. Ernst & Young (Hellas) Certified Auditors SA are hereby approved as the external auditors of the Bank of Greece for the financial year 2005 for a renewable period of one year.'

HAS DECIDED AS FOLLOWS:

Article 3

This Decision shall be notified to the ECB.

Article 1

Article 1(1) of Decision 1999/70/EC shall be replaced by the following:

Article 4

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

'1. Ernst & Young Bedrijfsrevisoren/Réviseurs d'Entreprises are hereby approved as the external auditors of the Nationale Bank van België/Banque Nationale de Belgique from the financial year 2005 for a period of three years, this period being renewable once.'

Done at Brussels, 10 May 2005.

For the Council
The President
J. KRECKÉ

⁽¹⁾ OJ L 22, 29.1.1999, p. 69. Decision as last amended by Decision 2005/266/EC (OJ L 82, 31.3.2005, p. 6).

COMMISSION

COMMISSION DECISION

of 8 September 2004

concerning the aid scheme which Belgium is proposing to implement for coordination centres

(notified under document number C(2004) 3348)

(Only the French and Dutch texts are authentic)

(Text with EEA relevance)

(2005/378/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

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

Whereas:

I. PROCEDURE

- (1) On 1 December 1997 the Council adopted a code of conduct for business taxation ⁽²⁾ and requested the Commission to examine or re-examine the tax systems in force in the Member States. On 11 November 1998 the Commission adopted a notice on the application of the State aid rules to measures relating to direct business taxation ⁽³⁾.
- (2) Belgian Royal Decree No 187 of 30 December 1982 provides for a tax scheme derogating from ordinary law for approved coordination centres (coordination centres or centres). The group set up by the Council in accordance with point H of the code of conduct for business taxation (Council group on the code of

conduct) considered that the scheme constituted a harmful tax competition measure. Similarly, the Commission opened a formal investigation procedure into the scheme on 27 February 2002. The procedure was closed on 17 February 2003 by Commission Decision 2003/755/EC, a final negative decision ⁽⁴⁾.

- (3) Pursuant to Article 88(3) of the Treaty, Belgium notified by letter dated 16 May 2002, the part of a preliminary draft law amending Royal Decree No 187 so as to comply with the criteria laid down by the Council group on the code of conduct. This is therefore a new scheme for coordination centres, which is intended to replace that in force since 1983. The Law amending the system for companies with regard to income taxes and instituting a system of advance decisions on tax matters ⁽⁵⁾ was promulgated on 24 December 2002. According to Article 32 of the Law, the date for the entry into force of Article 29, which contains the amendments to Royal Decree No 187, will be fixed by royal decree at a later stage.

- (4) On 23 April 2003, after several exchanges of correspondence and meetings aimed at obtaining further information ⁽⁶⁾, the Commission ruled on the notified scheme. The Decision authorised certain aspects of the scheme and initiated the procedure laid down in Article 88(2) of the Treaty with regard to three other aspects of the scheme. The authorisation related to: 1. the principle of prior approval for the centres for a 10-year period; 2. the principle that advance decisions valid for five years should be granted to the centres; and 3. the principle that the 'cost plus' flat-rate method should be used for calculating the tax base, provided that the use of this method guarantees comparable taxation to that obtained, for an independent company, by applying the rules of ordinary law ⁽⁷⁾. The procedure was initiated with regard to: 1. the

⁽¹⁾ OJ C 209, 4.9.2003, p. 2.

⁽²⁾ OJ C 2, 6.1.1998, p. 1.

⁽³⁾ OJ C 384, 10.12.1998, p. 3.

⁽⁴⁾ OJ L 282, 30.10.2003, p. 25.

⁽⁵⁾ Moniteur Belge, 31.12.2002 (Ed 2), p. 58 817.

⁽⁶⁾ For details, see the initiating Decision (footnote 1 of this Decision).

⁽⁷⁾ For the detailed considerations underlying this approval, see the initiating Decision (footnote 1 of this Decision).

specific exemption from withholding tax; 2. the specific exemption from capital duty, and 3. the non-taxation of the abnormal and gratuitous advantages accorded to the centres.

- (5) The Commission Decision to initiate the procedure (the initiating Decision) was published in the *Official Journal of the European Union* ⁽⁸⁾. The Commission invited interested parties to submit their comments on the measure in question.
- (6) By letter dated 15 July 2003, forwarded by the Permanent Representation of Belgium to the European Union on 27 July, the Belgian authorities communicated their comments within the time limit, which had been extended in response to their request.
- (7) By letter dated 17 October 2003, the Commission transmitted to Belgium the comments received from third parties. Belgium gave its comments on these by letter dated 14 November 2003.
- (8) By letter dated 24 November 2003, the Commission transmitted to the Belgian authorities its preliminary comments. After four technical meetings ⁽⁹⁾ between Commission officials and representatives of the Belgian tax administration, new proposals were formulated by the Belgian authorities. An additional meeting was held on 6 May 2004 between the Belgian Prime Minister, the Minister for Finance and the Commissioner responsible for competition.
- (9) By letter dated 7 June 2004, Belgium confirmed the terms of the commitments made on 6 May.

II. DETAILED DESCRIPTION OF THE SCHEME

1. Introduction

- (10) As is clear from the procedural summary in section I, the scheme which is the subject of the procedure was notified to the Commission on 16 May 2002. On 23 April 2003, the Commission approved the scheme in part and initiated the procedure with regard to three

exceptional measures (withholding tax, capital duty, exceptional and gratuitous advantages).

- (11) Following the discussions between the Commission and Belgium, the latter undertook to abolish the withholding tax and capital duty exemptions specific to coordination centres as provided for by the Law of 24 December 2002. Belgium considers, moreover, that the alternative measures it is proposing to take with regard to withholding tax and capital duty are general measures, whose scope is consequently wider than just coordination centres, and do not need therefore to be notified to the Commission under Article 88(3) of the Treaty. As regards the exceptional and gratuitous advantages accorded to centres, Belgium undertakes to amend the Law of 24 December 2002 so that such advantages receive the same tax treatment as the similar advantages received by other firms established in Belgium.
- (12) For the purposes of this Decision, the Commission will confine itself to summarising the initial measures contained in the Law of 24 December 2002 and would refer the reader to the initiating Decision for a more detailed description. As to the alternative measures proposed by Belgium, only those are described which adapt the coordination centres scheme as regards the consideration given to exceptional and gratuitous advantages. Since the proposed measures concerning withholding tax and capital duty are more general in scope, they do not constitute an amendment of the scheme. As they have not been notified, these measures are neither described in detail nor evaluated in this Decision.

2. The coordination centres scheme following the Law of 24 December 2002

- (13) The legal basis for the notified scheme is Royal Decree No 187 of 30 December 1982, as last amended by Article 29 of the Law of 24 December 2002 ⁽¹⁰⁾. Only centres individually approved in advance by royal decree are eligible for the scheme. To be approved, a centre must be part of a multinational group that meets certain size criteria. It may conduct certain activities only and must carry them on for the benefit only of group members. Approval, or renewal, is granted to a centre on request and for a period of 10 years. Approval is automatically repealed once the centre no longer satisfies the conditions.

⁽⁸⁾ See footnote 1.

⁽⁹⁾ On 14 January and 2, 6 and 23 February 2004.

⁽¹⁰⁾ Reminder: this Article's entry into force will be determined later by royal decree.

- (14) By derogation from the ordinary tax system⁽¹¹⁾, Royal Decree No 187 as amended provides that the taxable income of approved centres shall be determined at a flat rate and shall correspond to a percentage of the operating expenditure, in accordance with the 'cost plus' method. The exceptional or gratuitous advantages⁽¹²⁾ conferred on the centre by the members of the group are not added to the tax base obtained by the cost plus method. An alternative base including the exceptional and gratuitous advantages is calculated nevertheless, in order to limit exceptional transfers of income to the Belgian coordination centre. Centres' profits are taxed at the full rate of corporation tax. The cost plus method is applied in practice to each centre individually, in accordance with the arrangements laid down by an individual advance decision taken by the Federal Public Service Finance. By 'advance decision' is meant the legal act by which the Federal Public Service Finance determines, in accordance with current provisions, how the law will be applied to a situation or particular operation, described by the taxpayer, which has not yet produced any fiscal effects. It is valid for five years and published anonymously. It binds the tax administration for the future, and cannot entail a tax exemption or reduction. The rules on advance decisions are set out in Articles 20 to 28 of the Law of 24 December 2002.
- (15) Apart from the flat-rate calculation described above, the following exemptions were also provided for in the notified provisions: 1. withholding tax is not due on dividends, income from claims or loans or the yield from the sale of intangible movable assets owed by the centre; 2. contributions to and increases of the centre's capital are exempt from proportional registration tax (capital duty).

III. REASONS LEADING PARTLY TO APPROVAL AND PARTLY TO INITIATION OF THE FORMAL PROCEEDING

1. Approval

- (16) In the initiating Decision the Commission approved the principles in accordance with which advance decisions on the cost plus arrangements will have to be taken. It considered that the framework rules provided for by the Law of 24 December 2002 were not in themselves likely to give rise to State aid.

2. Initiation of the procedure

- (17) The Commission initiated the procedure with regard to three other aspects of the coordination centres scheme. Firstly, it considered that a special advantage seemed to

be conferred on coordination centres and the groups they belong to by exemptions from withholding tax which go beyond the exemptions available to any undertaking under the ordinary tax rules. Secondly, it considered that the exemption, specific to coordination centres, from the proportional tax on contributions seemed to give them an economic advantage compared with undertakings which, in the same circumstances, are subject to it. Thirdly, it considered that the failure to take into account the exceptional and gratuitous advantages accorded to centres in the calculation of their tax base, in addition to the result of applying the cost plus method, seemed to confer a special advantage on them compared with companies whose tax base is calculated in accordance with the traditional analytical method (revenue less expenses).

- (18) The Commission considered, lastly, that these specific advantages did not appear to be justified by the nature or economy of the Belgian tax system and that they distorted competition and affected intra-Community trade. Consequently, the said measures appeared to constitute aid within the meaning of Article 87(1) of the Treaty. In addition, since the exceptions referred to in Article 87(2) and (3) did not apply, the Commission concluded that such aid seemed at this stage to be incompatible with the common market.

IV. COMMENTS AND ALTERNATIVE PROPOSALS FROM THE BELGIAN AUTHORITIES

- (19) Following the initiating Decision, Belgium explained how it interpreted the Commission's approval concerning the cost plus method and undertook to adapt the rules on withholding tax, capital duty and the exceptional and gratuitous advantages received.

1. Withholding tax

- (20) Belgium undertakes to abolish the specific application to coordination centres of the exemption from withholding tax provided for by the Law of 24 December 2002. It announced that it intended to replace the specific exemption by a measure of general scope making it possible to maintain the exemption granted to centres while extending it to other companies established in Belgium.

2. Capital duty

- (21) Belgium undertakes to abolish the specific application to coordination centres of the exemption from capital duty provided for by the Law of 24 December 2002. It announced that it intended to replace the specific exemption by a general measure reducing the rate at which capital duty will be levied.

⁽¹¹⁾ This expression covers all the rules generally applicable for calculating tax on companies, whether resident or not, established in Belgium.

⁽¹²⁾ The concept of exceptional or gratuitous advantage, used in Article 26 of the Code des Impôts sur les Revenus 1992 (Income Tax Code), is explained in No 26/16, Commentaire du Code des Impôts sur les Revenus (Com.IR 1992).

3. Exceptional and gratuitous advantages

- (22) Belgium undertakes to adapt the coordination centres scheme, so that the exceptional and gratuitous advantages accorded to centres are subject to the same tax rules as the similar advantages received by other undertakings established in Belgium. Under current law, all the exceptional and gratuitous advantages received will be added to the taxable income obtained by the cost plus method. The alternative tax base, based in particular on these exceptional and gratuitous advantages (see paragraph 15 of the initiating Decision), will be abandoned.

V. COMMENTS FROM INTERESTED THIRD PARTIES

- (23) Three associations or federations submitted comments on behalf of the undertakings they represent: these were the Fédération des entreprises de Belgique (FEB), the American Chamber of Commerce (AmCham) and the Federation of Coordination, Distribution, Service and Call Centres (Forum 187).
- (24) Apart from these three associations, 53 centres or groups owning a coordination centre each submitted comments to the Commission. Basically, these describe their own situation and refer for the rest to the comments made by Forum 187.
- (25) The third parties consider that the measures concerned, which are part of the new scheme for coordination centres, do not meet any of the four criteria for describing a measure as aid and generally refer to the comments already made in proceeding C 15/2002, which was closed by Decision 2003/755/EC. In short, they consider that the scheme does not confer a selective advantage likely to harm competition, since all multinational groups and hence all their competitors can establish a Belgian coordination centre, or an equivalent structure in another country, and thus benefit from comparable provisions.
- (26) Since Belgium has decided to abolish the exemptions from withholding tax and capital duty in the Law of 24 December 2002, which are the subject of this proceeding, the Commission thinks it is unnecessary to give further details of the arguments supplied by third parties on these points.
- (27) As regards the treatment of exceptional and gratuitous advantages, the interested third parties consider it is appropriate not to take account of these advantages in the cost plus method, since, they are not costs; they are a marginal component of the coordination centres scheme; they are a theoretical advantage which, potentially, does not benefit any centre, and any advantages will be corrected by the international conventions preventing double taxation concluded between Belgium and its principal trading partners.

VI. ASSESSMENT OF THE MEASURES

1. Comment concerning the Belgian authorities' interpretation of the Commission decision authorising use of the cost plus method

- (28) Belgium wanted to give its interpretation of that part of the initiating Decision which authorises use of the cost plus method. The Commission will reply to the Belgian authorities concerning their interpretation in a letter to be sent to them shortly.
- (29) This Decision is concerned only with the measures about which the Commission expressed doubts in the initiating Decision; it does not, therefore, concern the cost plus method. The Commission would consequently refer to the initiating Decision on this point, emphasising that the authorisation given assumes compliance with the principles and arrangements described therein.

2. Aid character

- (30) A measure constitutes an aid when it cumulatively satisfies the four criteria set out in Article 87(1) of the Treaty, namely: 1. the measure must confer on recipients an advantage which relieves them of charges that are normally borne from their budgets; 2. the advantage must be conferred from state resources; 3. it must affect competition and trade between Member States, and 4. it must be granted selectively or specifically, i.e. by favouring certain undertakings or the production of certain goods.
- (31) At the end of the formal investigation procedure, and taking account of the arguments already developed in the initiating Decision, the Commission considered that the doubts expressed at the initiation stage about the notified measures from the Law of 24 December 2002 had not been removed and that the measures constituted aid within the meaning of Article 87(1) of the Treaty. They were advantages (tax exemptions) granted selectively to certain undertakings only (approved coordination centres or groups owning such a centre) through state resources (waiver of tax resources) and affecting competition and intra-Community trade (since certain centres or certain groups to which they belong, whose business is by definition international, operate or may operate in sectors which are the subject of trade between Member States).
- (32) In the meantime, Belgium has undertaken to abolish the provisions specific to coordination centres and to replace them with alternative measures which do more than just amend the notified scheme. The Commission considers that it is not necessary to justify in detail its assessment of the measures originally notified. Only the proposed changes to the scheme are assessed in this Decision.

Withholding tax and capital duty

- (33) The exemptions from withholding tax and capital duty will be removed from the Law of 24 December 2002 (see recitals (20) and (21) of this Decision) and replaced by exemption or reduction measures which the Belgian authorities regard as general. Thus no specific economic advantage is granted any longer to approved coordination centres and there is no longer any aid for such centres within the meaning of Article 87(1) of the Treaty.

Exceptional and gratuitous advantages

- (34) The amendment to the Law of 24 December 2002, see recital (22) of this Decision, will have the effect of taxing all the exceptional and gratuitous advantages received by a coordination centre in the same way as they are taxed when they are received by an undertaking liable to tax under the ordinary system. Under current ordinary tax law, this means that all the exceptional and gratuitous advantages will have to be added to the amount obtained by the cost plus method. Under these conditions the Commission considers that no specific economic advantage is granted any longer to approved coordination centres as regards the tax treatment of the exceptional and gratuitous advantages received. Consequently there is no longer any aid within the meaning of Article 87(1) of the Treaty.
- (35) Belgium has announced that it could, in addition, adopt new provisions exempting, in certain cases, income deriving from exceptional and gratuitous advantages. The Commission draws Belgium's attention to the need to determine the conditions of this exemption in such a way that it does not specifically favour certain undertakings or the production of certain goods, and, as appropriate, to the obligation to notify such measures if they are likely to constitute aid.

VII. CONCLUSIONS

- (36) Belgium has undertaken to abolish the exemptions from withholding tax and capital duty provided by Article 29 of the Law of 24 December 2002 for coordination centres approved under Royal Decree No 187 and to replace them by general exemption or reduction measures which do not favour centres over other undertakings established in Belgium.
- (37) Belgium has also undertaken to adapt its legal and/or administrative rules so as to tax all exceptional and

gratuitous advantages received by a coordination centre in the same way as they are taxed when they are received by an undertaking liable to tax under the ordinary system.

- (38) These changes will have the effect of abolishing the grant of advantages specific to coordination centres as compared with other undertakings and hence the grant of aid to such centres within the meaning of Article 87 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The measures provided for by Article 29 of the Law of 24 December 2002 amending the system for companies with regard to income taxes and instituting a system of advance decisions on tax matters do not constitute aid under Article 87(1) of the Treaty, subject to Belgium keeping the following commitments:

- (a) abolition of the exemptions from withholding tax and capital duty for approved coordination centres;
- (b) amendment of the scheme for approved coordination centres, so that all the exceptional and gratuitous advantages received by a coordination centre are taxed in the same way as when they are received by another undertaking established in Belgium and subject to the ordinary tax system.

Article 2

Belgium shall inform the Commission, within two months of the date of notification of this Decision, of the measures taken to comply with it.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 8 September 2004.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 17 May 2005

on pedigree certificates and particulars for pure-bred breeding animals of the bovine species, their semen, ova and embryos*(notified under document number C(2005) 1436)***(Text with EEA relevance)**

(2005/379/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

lishing a system for the identification and registration of bovine animals and labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 ⁽⁵⁾.

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/504/EEC of 25 July 1977 on pure-bred breeding animals of the bovine species ⁽¹⁾, and in particular the fifth indent of Article 6(1) thereof,

Whereas:

- (1) In accordance with Directive 77/504/EEC Member States may require that pure-bred breeding animals of the bovine species, their semen, ova and embryos should be accompanied, in intra-Community trade, by a pedigree certificate delivered by approved breeders' organisations or associations (the pedigree certificate). The Directive also provides that the particulars to be shown in pedigree certificates should be harmonised.
- (2) The model pedigree certificates and the particulars to be provided either in such models or in equivalent documentation are currently laid down for pure-bred breeding animals of the bovine species in Commission Decision 86/404/EEC ⁽²⁾, for semen and embryos in Commission Decision 88/124/EEC ⁽³⁾ and for ova in Commission Decision 96/80/EC ⁽⁴⁾. In the interests of clarity and rationality of Community legislation, Decisions 86/404/EEC, 88/124/EEC and 96/80/EC should be repealed and replaced by a single Decision.
- (3) Provisions on the identification of bovine animals are laid down in Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 estab-

- (4) Special provisions on the official testing of pure-bred bulls are laid down in Council Directive 87/328/EEC of 18 June 1987 on the acceptance for breeding purposes of pure-bred breeding animals of the bovine species ⁽⁶⁾.
- (5) Pedigree certificates should ensure for customers of an animal or its germinal products the minimum information corresponding to the particulars required by Decisions 86/404/EEC, 88/124/EEC and 96/80/EC. Based on experience with the evolution of information technologies, and taking into account the fact that certain results of genetic evaluation are publicly available, it appears that the recommendation of a harmonised model of certificate is no longer necessary, and that certain particulars may in some instances be sufficiently provided by a reference to their public source.
- (6) Pedigree certificates or statements certifying equivalent documentation are issued by bodies recognised in accordance with Commission Decision 84/247/EEC of 27 April 1984 laying down the criteria for the recognition of breeders' organisations and associations which maintain or establish herd-books for pure-bred breeding animals of the bovine species ⁽⁷⁾. However, it appears appropriate that pedigree certificates for semen may also be issued by collection or storage centres approved in accordance with Council Directive 88/407/EEC of 14 June 1988 laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the bovine species ⁽⁸⁾ and that pedigree certificates for embryos may also be issued by collection teams approved in accordance with Council Directive 89/556/EEC of 25 September 1989 on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species ⁽⁹⁾.

⁽¹⁾ OJ L 206, 12.8.1977, p. 8. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

⁽²⁾ OJ L 233, 20.8.1986, p. 19.

⁽³⁾ OJ L 62, 8.3.1988, p. 32. Decision as amended by Decision 2002/8/EC (OJ L 3, 5.1.2002, p. 53).

⁽⁴⁾ OJ L 19, 25.1.1996, p. 50. Decision as amended by Decision 2002/8/EC.

⁽⁵⁾ OJ L 204, 11.8.2000, p. 1.

⁽⁶⁾ OJ L 167, 26.6.1987, p. 54.

⁽⁷⁾ OJ L 125, 12.5.1984, p. 58.

⁽⁸⁾ OJ L 194, 22.7.1988, p. 10. Directive as last amended by Commission Decision 2004/101/EC (OJ L 30, 4.2.2004, p. 15).

⁽⁹⁾ OJ L 302, 19.10.1989, p. 1. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Zootechnics,

HAS ADOPTED THIS DECISION:

Article 1

This Decision lays down the particulars to be contained either in pedigree certificates or in documents accompanying the purebred breeding animals of the bovine species, their semen, ova and embryos in intra-Community trade. Pedigree certificates pursuant to this Decision shall be issued by approved breeders' organisations or associations (hereafter: 'breeding organisations') officially recognised in accordance with Decision 84/247/EEC. Pedigree certificates for semen may also be issued by collection or storage centres approved in accordance with Directive 88/407/EEC and pedigree certificates for embryos may also be issued by embryo collection teams approved in accordance with Directive 89/556/EEC, on the basis of the particulars provided by the breeding organisation in accordance with Article 3(2), and 5(2) of this Decision.

Article 2

1. Pedigree certificates for animals shall contain the following particulars:

- (a) the following title: 'Pedigree certificate issued in accordance with Commission Decision 2005/379/EC for intra-Community trade';
- (b) the name of the issuing breeding organisation officially recognised in accordance with Decision 84/247/EEC;
- (c) the name of the herd-book;
- (d) the breed;
- (e) the sex;
- (f) the entry number in the herd-book;
- (g) the date of issue of the certificate;
- (h) the system of identification;
- (i) the identification number in accordance with Regulation (EC) No 1760/2000;
- (j) the date of birth;
- (k) the name and address of the breeder;
- (l) the name and address of the owner;

- (m) the pedigree:

Sire	Grandsire	Granddam
Herd-book No	Herd-book No	Herd-book No
Dam	Grandsire	Granddam
Herd-book No	Herd-book No	Herd-book No

- (n) all available results of performance tests and up-to-date results of the genetic evaluation including genetic peculiarities and genetic defects on the animal itself and its parents and grandparents as required in the breeding programme for the category and the animal in question. If the results of the genetic evaluation are publicly available on the Internet, it shall be sufficient to refer to the website where those results can be found;
- (o) in the case of pregnant females, the date of insemination or mating and the identification of the fertilising bull;
- (p) the name and title of the signatory, the date and place of delivery of the certificate and the signature of the individual authorised by the issuing breeding organisation.

2. However, those particulars may be contained in other documents accompanying the animal provided that the breeding organisation keeping the herd-book certifies the documents with the following sentence: 'The undersigned certifies that the particulars required by Article 2 of Commission Decision 2005/379/EC are contained in the documents attached: [...]', completed with an exhaustive list of the relevant attachments.

Article 3

1. Pedigree certificates for semen shall contain the following particulars:

- (a) all the particulars referred to in Article 2 concerning the bull that provided the semen as well as its blood group or test results providing equivalent scientific guarantees to verify the pedigree;
- (b) information allowing identification of the semen, the date of its collection and the names and addresses of the semen collection centre or semen storage centre and of the consignee;
- (c) for semen intended for official testing of purebred bulls, the name and address of the approved organisation or association responsible for carrying out the testing in accordance with Directive 87/328/EEC;

(d) the name and title +/- of the signatory, the date and place of delivery of the certificate and the signature of the individual authorised by the issuing breeding organisation.

2. However, those particulars may be contained in other documents accompanying the semen provided that the breeding organisation keeping the herd-book certifies the documents with the following sentence: 'The undersigned certifies that the particulars required by Article 3 of Commission Decision 2005/379/EC are contained in the documents attached: [...]', completed with an exhaustive list of the relevant attachments.

Article 4

1. Pedigree certificates for ova shall contain the following particulars:

(a) all the particulars referred to in Article 2 concerning the donor female that provided the ova as well as its blood group or test results providing equivalent scientific guarantees to verify the pedigree;

(b) information allowing identification of the ova, the date of its collection and the names and addresses of the ova collection team and of the consignee;

(c) where there is more than one ovum in a straw, a clear indication of the number of ova which must all have the same dam;

(d) the name and title of the signatory, the date and place of delivery of the certificate and the signature of the individual authorised by the issuing breeding organisation.

2. However, those particulars may be contained in other documents accompanying the ova provided that the breeding organisation keeping the herd-book certifies the documents with the following sentence: 'The undersigned certifies that the particulars required by Article 4 of Commission Decision 2005/379/EC are contained in the documents attached: [...]' completed with an exhaustive list of the relevant attachments.

Article 5

1. Pedigree certificates for embryos shall contain the following particulars:

(a) all the particulars referred to in Article 2 concerning the donor female and the fertilising bull as well as both their blood groups or test results providing equivalent scientific guarantees to verify the pedigree;

(b) information allowing identification of the embryo, the date of its collection and the names and addresses of the embryo collection team and of the consignee;

(c) where there is more than one embryo in a straw, a clear indication of the number of embryos which must all have the same parentage;

(d) the name and title of the signatory, the date and place of delivery of the certificate and the signature of the individual authorised by the issuing breeding organisation.

2. However, those particulars may be contained in other documents accompanying the embryos provided that the breeding organisation keeping the herd-book certifies the documents with the following sentence: 'The undersigned certifies that the particulars required by Article 5 of Commission Decision 2005/379/EC are contained in the documents attached: [...]' completed with an exhaustive list of the relevant attachments.

Article 6

Decisions 86/404/EEC, 88/124/EEC and 96/80/EC are repealed.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 17 May 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission