

Official Journal

of the European Union

L 132

Volume 48

26 May 2005

English edition

Legislation

Contents

I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 785/2005 of 23 May 2005 terminating the partial interim review of the anti-dumping measures applicable to imports of silicon originating in the People's Republic of China** 1
- Commission Regulation (EC) No 786/2005 of 25 May 2005 establishing the standard import values for determining the entry price of certain fruit and vegetables 6
- Commission Regulation (EC) No 787/2005 of 25 May 2005 on granting of import licences for cane sugar for the purposes of certain tariff quotas and preferential agreements 8
- Commission Regulation (EC) No 788/2005 of 25 May 2005 fixing the definitive rate of refund and the percentage of system B export licences to be issued in the fruit and vegetables sector (tomatoes, oranges, lemons and apples) 11
- ★ **Commission Regulation (EC) No 789/2005 of 25 May 2005 amending Regulation (EEC) No 1858/93 laying down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the aid scheme to compensate for loss of income from marketing in the banana sector** 13
- ★ **Commission Regulation (EC) No 790/2005 of 25 May 2005 amending Council Regulation (EC) No 2406/96 laying down common marketing standards for certain fishery products** 15

Acts adopted under Title V of the Treaty on European Union

- ★ **Council Decision 2005/395/CFSP of 10 May 2005 amending Decision 2001/80/CFSP on the establishment of the Military Staff of the European Union** 17

1

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 785/2005**of 23 May 2005****terminating the partial interim review of the anti-dumping measures applicable to imports of silicon originating 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⁾ (basic Regulation), and in particular Articles 11(3) and 22(c) thereof,

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

Whereas:

A. PROCEDURE**1. Measures in force**

- (1) In March 2004 following an expiry review, the Council, by Regulation (EC) No 398/2004 ⁽²⁾, imposed a definitive anti-dumping duty on imports of silicon metal (silicon) originating in the People's Republic of China (the PRC). The rate of the definitive duty applicable to the net, free-at-Community frontier price, before duty, was 49 %.

2. Initiation

- (2) On 20 March 2004 the Commission announced through the publication of a notice ⁽³⁾ in the *Official Journal of the European Union*, the initiation of a partial interim review of the measures applicable to, *inter alia*, imports of silicon originating in the PRC pursuant to Articles 11(3) and 22(c) of the basic Regulation.
- (3) The review was launched on the initiative of the Commission in order to examine whether, as a consequence of the enlargement of the European Union on 1 May 2004 (enlargement), and bearing in mind the aspect of Community interest, there was a need to adapt the measures in order to avoid a sudden and excessively negative effect on interested parties, including users, distributors and consumers.

3. Product under consideration

- (4) The product under consideration is the same as in the investigation which led to the imposition of the existing measures, i.e. silicon metal originating in the PRC, classifiable within CN code 2804 69 00 (silicon content less than 99,99 % by weight). Purely by reason of the current classification set out in the Customs nomenclature, it should read 'silicon'. Silicon with a higher purity, that is containing by weight not less than 99,99 % of silicon, used mostly in the electronic semiconductor industry, falls under a different CN code and is not covered by this proceeding.

⁽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 66, 4.3.2004, p. 15.

⁽³⁾ OJ C 70, 20.3.2004, p. 15.

4. Investigation

- (5) The Commission officially advised the importers, the users and the exporters known to be concerned and their associations, the representatives of the exporting country concerned and the Community producers about the initiation of the investigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.
- (6) China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (CCCMC), the Community industry association (Euroalliages), importers/traders, the authorities of some new Member States which joined the European Union on 1 May 2004 (the EU-10) and users of silicon in the EU-10 made their views known in writing. All parties which so requested within the time limit, and which demonstrated that there were particular reasons why they should be heard, were granted the opportunity to be heard.
- (7) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of the appropriateness of the measures in force.

B. FINDINGS OF THE INVESTIGATION AND TERMINATION OF THE PARTIAL INTERIM REVIEW

1. Imports of silicon from the PRC to the EU-10

- (8) The investigation has shown that an average yearly increase in import volumes of silicon from the PRC into the EU-10, as reported by Eurostat, was around 13 % in 2001 and 2002. In 2003 import volumes increased by around 54 % due to the significant increase in the period October to December.
- (9) Furthermore, an abnormal increase in import volumes of around 120 % as compared to the same period of the previous year was found just before enlargement, that is to say January to April 2004.
- (10) The investigation has further shown that imports of silicon from the PRC into the EU-10 have decreased after enlargement. The decrease could be explained by the abnormal increases in import volumes prior to enlargement.
- (11) Moreover, statistics on imports into the EU-10 in the post-enlargement period show that the decrease of import volumes from the PRC coincides with a progressive increase of imports originating in Norway and Brazil, as well as sales from the 15 Member States which composed the European Union before enlargement (the EU-15).

2. Demand of silicon in the EU-10

- (12) Demand for silicon in the EU-10 has been established on the basis of the total imports less total exports. It is to be noted that there is no declared production of silicon in the EU-10.
- (13) Taking into account the abnormal increases in import volumes from the PRC before enlargement, it was considered necessary to make some adjustments to the import volumes during 2003 and 2004 in order to determine what would normally be the import levels during these periods in the absence of enlargement.

- (14) In this regard, an average yearly increase in import volumes from the PRC in 2001 and 2002 was found to have been 13 %. On this basis, the level of normal imports from the PRC in 2003 and 2004 was determined by applying a 13 % yearly increase to the import volumes in the previous years, which could normally have been expected to be the import levels during these periods in the absence of enlargement.
- (15) Following the same methodology, exports from the EU-10 in 2004 were estimated by adding to the total exports in 2003 a normal increase of 80 % which was found to be the average yearly increase in export volumes in 2002 and 2003.

Table 1

Demand of silicon in the EU-10

Year	(tonnes)				
	2000	2001	2002	2003	2004 (estimated)
Import to the EU-10	18 815	19 802	22 661	23 855 (estimated)	26 957
Export from the EU-10	37	6	84	153	275
Total demand in the EU-10	18 778	19 795	22 576	23 703	26 682

Source: Eurostat and estimated data for 2003 and 2004.

- (16) In the light of the above, it was found that demand in the EU-10 is around 6 % of the level of demand in the EU-15 as estimated in the last expiry review investigation of the anti-dumping measures on imports of silicon originating in the PRC made in Regulation (EC) No 398/2004.

3. Alternative sources of supply to meet the demand in the EU-10

- (17) The investigation has shown that there are enough potential sources of supply, alternative to the supply from the PRC, available to meet the demand in the EU-10 even if the extension of the anti-dumping duty from the EU-15 to the 10 new Member States would completely eliminate or result in a decrease in imports from the PRC.
- (18) There are around 18 000 tonnes of potential supply of silicon from the EU-15. This calculation has been made on the basis of the last expiry review investigation of the anti-dumping measures on imports of silicon originating in the PRC. It was found that production in the EU-15 of silicon amounted to around 148 000 tonnes in 2001. The same expiry review investigation found that there were around 166 000 tonnes of production capacity in the EU-15, indicating spare capacities of around 18 000 tonnes.
- (19) Furthermore, other potential sources of supply of silicon (not subject to anti-dumping duties) are, among others, Norway (with spare capacity of 18 000 tonnes), Brazil, Canada and the USA.
- (20) As outlined in recital 11, it was also found that in the post-enlargement period, that is to say May to November 2004, for which reliable data has already been reported by Eurostat, imports from other sources, in particular Norway and Brazil, as well as sales from the EU-15 gradually increased. Sales from the EU-15 increased four-fold, import volumes from Norway increased five-fold and from Brazil six-fold, as compared to the same period in 2003.

Table 2

Import volumes to the EU-10 from Norway, Brazil and sales from the EU-15

(tonnes)

Period of the year	Sales from the EU-15	Import volumes from Norway	Import volumes from Brazil
May-November 2003	2 070	238	152
May-November 2004	7 772	1 144	975

- (21) In the light of the above, there is no compelling reason to believe that there will be a shortage of silicon on the EU-10 market.

4. Cost impact assessment

- (22) As stated by various interested parties, silicon is an intermediary product used by only a handful of processing industries in the new Member States, in particular for the production of secondary aluminium alloys.
- (23) Aluminium producers in the EU-10 confirm that the average proportion of silicon consumed in the production process of secondary aluminium alloys ranges between 3 % and 13,5 %.
- (24) The investigation has shown that the increase in the price of silicon in the EU-10 or a switch to other alternative sources of supply is likely to have a minor effect on the production cost for the users in the EU-10.

Increase in price of silicon from the PRC

- (25) In light of the abovementioned percentages of consumption of silicon in the production of secondary aluminium alloys and given that the anti-dumping duty on imports of silicon from the PRC is 49 %, the cost impact on secondary aluminium alloys producers would only range from 1,47 % to 6,6 % of the total cost of production of secondary aluminium alloys.

Switch to other alternative sources of supply

- (26) Some interested parties indicated that, by extending the anti-dumping measures to imports in the EU-10, alternative sources of supply of silicon had been sought but that such alternative sources had resulted in an increase of silicon prices of around 34 %. In this regard, it was found that the cost impact for secondary aluminium alloys producers would be even less and would fall in the range of 1 % to 4,6 % of the total cost of secondary aluminium alloys production.

5. Comments received from the interested parties

- (27) Several importers and users argued that there will be a lack of supply of silicon on the EU-10 market. However, as outlined in recitals 11, 19 and 20, after enlargement import volumes from the PRC into the EU-10 are progressively being replaced by silicon originating in the EU-15, Norway and Brazil. There is therefore no reason to believe that there will be a shortage of silicon on the EU-10 market.

- (28) One of the users in the EU-10 as well as the Slovakian and Slovene authorities claimed that silicon from other sources is different in terms of quality to that of the PRC. In this regard it is noted that Regulation (EC) No 398/2004 in concluding the expiry review of the anti-dumping measures imposed on imports of silicon originating in the PRC stated that the silicon produced in the PRC and exported to the Community, as well as the silicon produced in Norway and that manufactured in the Community by the Community producers had the same basic physical and chemical characteristics, and the same basic uses. Therefore they are considered to be like products within the meaning of Article 1(4) of the basic Regulation. It was noted that no adjustments in the terms of quality of the product had to be made. Therefore, there is no reason to believe that Chinese imports to the EU-10 replaced by the countries named above would differ in terms of quality. In addition, the increase of the imports from other countries, as outlined in recitals 11, 19 and 20 of this Regulation, indicates that the products are substitutable.
- (29) The same user also argued that the cost impact for secondary aluminium alloys producers is not negligible given the low profit margins of the same industry. In this regard it is recalled that in recital 25 and 26 it was concluded that there will be a limited impact of the extension of anti-dumping measures on the users of silicon metal in the EU-10 with a maximum 6,6 % increase in the total cost of secondary aluminium alloys production. However, this was not a compelling reason to such extent as to modify the existing measures by introducing transitional arrangements. Indeed, this impact was not materially different from the impact estimated in the EU-15 during the investigation leading to the imposition of the definitive measures in 2004, where it was concluded that the measures in force would not have a significant effect on users.

6. Conclusion

- (30) Given the limited impact of the duty on the cost of manufacturing of aluminium alloys in the EU-10 and the existence of alternative sources of supply to the EU-10, it is concluded that the extension of the existing measures from the EU-15 to the EU-10 would not likely cause a sudden and excessively negative effect on interested parties, including users, distributors and consumers. Therefore, no transitional arrangements are warranted,

HAS ADOPTED THIS REGULATION:

Article 1

The partial interim review of the anti-dumping measures applicable to imports of silicon originating in the People's Republic of China, initiated pursuant to Article 11(3) and 22(c) of Regulation (EC) No 384/96, is hereby terminated.

Article 2

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

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

Done at Brussels, 23 May 2005.

For the Council
The President
J.-L. SCHILTZ

COMMISSION REGULATION (EC) No 786/2005**of 25 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 26 May 2005.

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

Done at Brussels, 25 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 25 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	77,3
	204	85,3
	212	97,2
	999	86,6
0707 00 05	052	98,3
	204	30,3
	999	64,3
0709 90 70	052	91,9
	624	50,3
	999	71,1
0805 10 20	052	40,8
	204	37,6
	212	108,2
	220	46,5
	388	63,6
	400	48,8
	528	45,4
	624	59,1
	999	56,3
0805 50 10	052	107,2
	388	60,1
	524	56,8
	528	64,4
	624	64,9
	999	70,7
0808 10 80	388	92,2
	400	94,3
	404	78,7
	508	57,3
	512	70,0
	524	64,3
	528	66,5
	720	49,9
	804	96,5
	999	74,4
0809 20 95	400	432,0
	999	432,0

⁽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 787/2005**of 25 May 2005****on granting of import licences for cane sugar for the purposes of certain tariff quotas and preferential agreements**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations ⁽²⁾,

Having regard to Commission Regulation (EC) No 1159/2003 of 30 June 2003 laying down detailed rules of application for the 2003/04, 2004/05 and 2005/06 marketing years for the import of cane sugar under certain tariff quotas and preferential agreements and amending Regulations (EC) No 1464/95 and (EC) No 779/96 ⁽³⁾, and in particular Article 5(3) thereof,

Whereas:

- (1) Article 9 of Regulation (EC) No 1159/2003 stipulates how the delivery obligations at zero duty of products of CN code 1701, expressed in white sugar equivalent, are to be determined for imports originating in signatory countries to the ACP Protocol and the Agreement with India.
- (2) Article 16 of Regulation (EC) No 1159/2003 stipulates how the zero duty tariff quotas for products of CN code 1701 11 10, expressed in white sugar equivalent, are to be determined for imports originating in signatory

countries to the ACP Protocol and the Agreement with India.

- (3) Article 22 of Regulation (EC) No 1159/2003 opens tariff quotas at a duty of EUR 98 per tonne for products of CN code 1701 11 10 for imports originating in Brazil, Cuba and other third countries.
- (4) In the week of 16 to 20 May 2005 applications were presented to the competent authorities in line with Article 5(1) of Regulation (EC) No 1159/2003 for import licences for a total quantity exceeding a country's delivery obligation quantity of ACP-India preferential sugar determined pursuant to Article 9 of that Regulation.
- (5) In these circumstances the Commission must set reduction coefficients to be used so that licences are issued for quantities scaled down in proportion to the total available and must indicate that the limit in question has been reached,

HAS ADOPTED THIS REGULATION:

Article 1

In the case of import licence applications presented from 16 to 20 May 2005 in line with Article 5(1) of Regulation (EC) No 1159/2003 licences shall be issued for the quantities indicated in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 26 May 2005.

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

Done at Brussels, 25 May 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 2).

⁽²⁾ OJ L 146, 20.6.1996, p. 1.

⁽³⁾ OJ L 162, 1.7.2003, p. 25. Regulation as last amended by Regulation (EC) No 568/2005 (OJ L 97, 15.4.2005, p. 9).

ANNEX

ACP-INDIA preferential sugar
Title II of Regulation (EC) No 1159/2003
2004/05 marketing year

Country	Week of 16.-20.5.2005: percentage of requested quantity to be granted	Limit
Barbados	100	
Belize	0	reached
Congo	100	
Fiji	0	reached
Guyana	0	reached
India	100	
Côte d'Ivoire	26,3398	reached
Jamaica	100	
Kenya	100	
Madagascar	100	
Malawi	0	reached
Mauritius	0	reached
Mozambique	0	reached
Saint Kitts and Nevis	100	
Swaziland	0	reached
Tanzania	100	
Trinidad and Tobago	100	
Zambia	100	
Zimbabwe	0	reached

2005/06 marketing year

Country	Week of 16.-20.5.2005: percentage of requested quantity to be granted	Limit
Barbados	—	
Belize	100	
Congo	—	
Fiji	100	
Guyana	100	
India	—	
Côte d'Ivoire	—	
Jamaica	—	
Kenya	—	
Madagascar	—	
Malawi	100	
Mauritius	100	
Mozambique	100	
Saint Kitts and Nevis	—	
Swaziland	100	
Tanzania	—	
Trinidad and Tobago	—	
Zambia	—	
Zimbabwe	100	

Special preferential sugar**Title III of Regulation (EC) No 1159/2003****2004/05 marketing year**

Country	Week of 16.-20.5.2005: percentage of requested quantity to be granted	Limit
India	0	reached
ACP	100	

CXL concessions sugar**Title IV of Regulation (EC) No 1159/2003****2004/05 marketing year**

Country	Week of 16.-20.5.2005: percentage of requested quantity to be granted	Limit
Brazil	0	reached
Cuba	0	reached
Other third countries	0	reached

COMMISSION REGULATION (EC) No 788/2005**of 25 May 2005****fixing the definitive rate of refund and the percentage of system B export licences to be issued 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⁾,

Having regard to Commission Regulation (EC) No 1961/2001 of 8 October 2001 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables ⁽²⁾, and in particular Article 6(7) thereof,

Whereas:

(1) Commission Regulation (EC) No 291/2005 ⁽³⁾ fixed the indicative quantities for the issue of B system export licences.

(2) The definitive rate of refund for tomatoes, oranges, lemons and apples covered by licences applied for under system B between 16 March 2005 to 13 May 2005, should be fixed at the indicative rate, and the percentage of licences to be issued for the quantities applied for should be laid down,

HAS ADOPTED THIS REGULATION:

Article 1

For applications for system B export licences submitted pursuant to Article 1 of Regulation (EC) No 291/2005 between 16 March 2005 and 13 May 2005, the percentages of licences to be issued and the rates of refund applicable are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 26 May 2005.

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

Done at Brussels, 25 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. 1).

⁽²⁾ OJ L 268, 9.10.2001, p. 8. Regulation as amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

⁽³⁾ OJ L 49, 22.2.2005, p. 4.

ANNEX

Percentages for the issuing of licences and rates of refund applicable to system B licences applied for between 16 March 2005 to 13 May 2005 (tomatoes, oranges, lemons and apples)

Product	Rate of refund (EUR/t net)	Percentages of licences to be issued for the quan- tities applied for
Tomatoes	30	100 %
Oranges	35	100 %
Lemons	55	100 %
Apples	37	100 %

COMMISSION REGULATION (EC) No 789/2005

of 25 May 2005

amending Regulation (EEC) No 1858/93 laying down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the aid scheme to compensate for loss of income from marketing in the banana sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas ⁽¹⁾, and in particular Article 14 thereof,

Whereas:

(1) Article 7 of Commission Regulation (EEC) No 1858/93 ⁽²⁾ lays down the detailed rules for applying Regulation (EEC) No 404/93 as regards the submission of applications for advances and payment of the balance of the compensatory aid for loss of income from marketing in the banana sector, as provided for by Article 12 of Regulation (EEC) No 404/93. With a view to sound management and to obtaining by year-end all the data and information needed to fix the aid in particular, penalties should be provided for where there is a delay in the submission of applications for payment of the balance.

(2) The supporting documents that must accompany the payment applications should also be specified and these documents must include proof of the goods' actual sale, in particular their acceptance by the buyer.

(3) Regulation (EEC) No 1858/93 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 7 of Regulation (EEC) No 1858/93 is hereby amended as follows:

⁽¹⁾ OJ L 47, 25.2.1993, p. 1. Regulation as last amended by the 2003 Act of Accession.

⁽²⁾ OJ L 170, 13.7.1993, p. 5. Regulation as last amended by Commission Regulation (EC) No 471/2001 (OJ L 67, 9.3.2001, p. 52).

1. The third subparagraph of paragraph 2(b) is replaced by the following:

'Where applications for payment of the balance are submitted after the date referred to in point (b) of the first subparagraph, a 1 % reduction per working day shall be applied to the amount of the balance to which the producer would have been entitled had the application been submitted in time. Where the delay exceeds 15 days, the application shall be inadmissible.

In duly justified exceptional cases, the competent authority may accept applications for payment of the balance after the date referred to in point (b) of the first subparagraph, if this delay does not prevent the checks under Article 10(1) from going ahead. In such cases the provisions of the preceding subparagraph shall not apply.'

2. Paragraph (4) is replaced by the following:

'4. Applications shall be accompanied by the following:

— the certificates of conformity or, if appropriate, the certificate of exemption referred to in Article 7 of Commission Regulation (EC) No 2898/95 ^(*),

— sales invoices,

— the transport documents, in the case of bananas marketed outside the production region.

The documents submitted must prove that the goods have been accepted by the buyer.

^(*) OJ L 304, 16.12.1995, p. 17.'

3. The following paragraph 4a is inserted:

'4a. Applications without the information referred to in paragraph 3 and not accompanied by the supporting documents and proofs mentioned in paragraph 4 shall be inadmissible.'

Article 2

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

However, Article 1(2) and (3) shall apply for the first time to applications for advances relating to the quantities marketed in May and June 2005.

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

Done at Brussels, 25 May 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 790/2005**of 25 May 2005****amending Council Regulation (EC) No 2406/96 laying down common marketing standards for certain fishery products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products ⁽¹⁾, and in particular Article 2(3) thereof,

Whereas:

- (1) Article 2(1) of Regulation (EC) No 104/2000 provides that common marketing standards may be determined for the products or groups of these products listed in Article 1 of that Regulation.
- (2) Annex IV to Regulation (EC) No 104/2000 lists certain species which are subject to intervention mechanisms. The 2003 Act of Accession provided for sprat to be added to that Annex.
- (3) The setting of common marketing standards, harmonised throughout the Community, is of particular importance for the proper operation of the intervention mechanisms laid down in Regulation (EC) No 104/2000.
- (4) Council Regulation (EC) No 2406/96 of 26 November 1996 laying down common marketing standards for

certain fishery products ⁽²⁾, does not fix standards for sprat. That Regulation should be amended in order to cover sprat.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2406/96 is amended as follows:

1. in Article 3(1)(a), the following indent is added:

‘— Sprat (*Sprattus sprattus*)’;

2. Annexes I and II are amended as follows:

- (a) in Annex I, point B (Bluefish), the word ‘sprat’ is added;
- (b) in Annex II, the entry set out in the text in the Annex to this Regulation is added.

Article 2

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

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

Done at Brussels, 25 May 2005.

For the Commission

Joe BORG

Member of the Commission

⁽¹⁾ OJ L 17, 21.1.2000, p. 22. Regulation as last amended by the 2003 Act of Accession.

⁽²⁾ OJ L 334, 23.12.1996, p. 1. Regulation as last amended by the 2003 Act of Accession.

ANNEX

Scale of weights				Minimum sizes to be observed in the conditions laid down in the Regulations referred to in Article 7		
Species	Size	Kg/fish	No of fish/kg	Region	Geographical area	Minimum size
Sprat (<i>Sprattus sprattus</i>)	1	0,004 and over	250 or less			

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

COUNCIL DECISION 2005/395/CFSP
of 10 May 2005
amending Decision 2001/80/CFSP on the establishment of the Military Staff of the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28(1) thereof,

Having regard to the Treaty establishing the European Community, in particular Article 207(2) thereof,

Whereas:

- (1) The current organisation and structure of the Military Staff of the European Union (EUMS) do not take account of a number of its new tasks.
- (2) Furthermore, regarding the conduct of autonomous military operations, in certain circumstances the Council may decide, upon the advice of the EU Military Committee, to draw on the collective capacity of the EUMS, in particular where a joint civil-military response is required and where no national Headquarters is identified.
- (3) As a result, it is necessary to amend the terms of reference and organisation of the EUMS.
- (4) On 12 April 2005 the Political and Security Committee recommended that the terms of reference and organisation of the EUMS be amended.
- (5) Consequently, Decision 2001/80/CFSP ⁽¹⁾ should be amended,

HAS DECIDED AS FOLLOWS:

Article 1

Council Decision 2001/80/CFSP is hereby amended as follows:

1. Article 2 shall be replaced by the following:

'Article 2

The terms of reference and organisation of the Military Staff of the European Union are defined in the Annex to this Decision.;

2. Article 4 shall be replaced by the following:

'Article 4

Members of the Military Staff of the European Union shall be subject to rules established in Council Decision 2003/479/EC of 16 June 2003 concerning the rules applicable to national experts and military staff on secondment to the General Secretariat of the Council (*);

(*) OJ L 160, 28.6.2003, p. 72.;

3. The Annex to Decision 2001/80/CFSP shall be replaced by the Annex to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Article 3

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

Done at Brussels, 10 May 2005.

For the Council
The President
 J. KRECKÉ

⁽¹⁾ OJ L 27, 30.1.2001, p. 7.

ANNEX

EUROPEAN UNION MILITARY STAFF (EUMS) TERMS OF REFERENCE AND ORGANISATION**1. Introduction**

At Helsinki, the EU Member States decided to establish within the Council new permanent political and military bodies enabling the EU to assume its responsibilities for the full range of conflict prevention and crisis management tasks defined in the EU Treaty (TEU). As provided for in the Helsinki report, the EUMS, 'within the Council structures provides military expertise and support to the CESDP, including the conduct of EU-led military crisis management operations'.

At its meeting of 12 and 13 December 2003, the European Council welcomed the document entitled 'European Defence, NATO/EU consultation, planning and operations'. On 16 and 17 December 2004 the European Council endorsed the detailed proposals for the implementation of this document. The Terms of Reference of the EUMS are defined as follows:

2. Mission

The Military Staff is to perform early warning, situation assessment and strategic planning for missions and tasks referred to in Article 17(2) of the TEU, including those identified in the European Security Strategy. This also encompasses the identification of European national and multinational forces and to implement policies and decisions as directed by the European Union Military Committee (EUMC).

3. Role

- It is the source of the EU's military expertise;
- It assures the link between the EUMC on the one hand and the military resources available to the EU on the other, and it provides military expertise to EU bodies as directed by the EUMC;
- It performs three main operational functions: early warning, situation assessment and strategic planning;
- It provides an early warning capability. It plans, assesses and makes recommendations regarding the concept of crisis management and the general military strategy and implements the decisions and guidance of the EUMC;
- It supports the EUMC regarding situation assessment and military aspects of strategic planning⁽¹⁾, over the full range of missions and tasks referred to in Article 17(2) of the TEU, including those identified in the European Security Strategy, for all cases of EU-led operations, whether or not the EU draws on NATO assets and capabilities;
- It supports (upon request of the SG/HR or the Political and Security Committee (PSC)) temporary missions to third countries or international organisations, in order to provide, as required, advice and assistance on military aspects of conflict prevention, crisis management and post-conflict stabilisation;
- It contributes to the process of elaboration, assessment and review of the capability goals, taking into account the need, for those Member States concerned, to ensure consistency with NATO's Defence Planning Process (DPP) and the Planning and Review Process (PARP) of the Partnership for Peace (PfP) in accordance with agreed procedures;

⁽¹⁾ Preliminary definitions:

Strategic planning: planning activities that start as soon as a crisis emerges and end when the EU political authorities approve a military strategic option or a set of military strategic options. The strategic process encompasses military situation assessment, definition of a POL/MIL framework and development of military strategic options.

Military strategic option: a possible military action designed to achieve the POL/MIL objectives outlined in the POL/MIL framework. A military strategic option will describe the outline military solution, the required resource and constraints and recommendations on the choice of the operations commander and OHQ.

- It works in close coordination with the European Defence Agency;
- It has the responsibility of monitoring, assessing and making recommendations on training, exercises and interoperability in connection with the forces and capabilities made available to the EU by the Member States;
- It maintains the capacity to reinforce the national HQ designated to conduct an EU autonomous operation, primarily through the Civ/Mil Cell;
- It has the responsibility, through the Civ/Mil Cell, of generating the capacity to plan and run an autonomous EU military operation, and maintains the capacity within EUMS rapidly to set up an operations centre for a specific operation, in particular where a joint civil/military response is required and where no national HQ is identified, once a decision on such an operation has been taken by the Council, upon the advice of the EUMC.

4. Tasks

- It provides military expertise to the Secretary-General/High Representative and to EU bodies, under the direction of the EUMC;
- It monitors potential crises by relying on appropriate national and multinational intelligence capabilities;
- It supplies the Situation Centre with military information and receives its output;
- It carries out the military aspects of strategic advance planning;
- It identifies and lists European national and multinational forces for EU-led operations coordinating with NATO;
- It contributes to the development and preparation (including training and exercises) of national and multinational forces made available by the Member States to the EU. The modalities of the relationship with NATO are defined in the relevant documents;
- It organises and coordinates the procedures with national and multinational HQs including those NATO HQs available to the EU, ensuring, as far as possible, compatibility with NATO procedures;
- It contributes to the military aspects of the ESDP dimension of the fight against terrorism;
- It contributes to the development of concepts, doctrine, plans and procedures for the use of military assets and capabilities for natural or man-made disaster consequence management operations;
- It programmes, plans, conducts and evaluates the military aspects of the EU's crisis management procedures, including the exercising of EU/NATO procedures;
- It participates in the financial estimation of operations and exercises;
- It liaises with the national HQs and the multinational HQs of the multinational forces;
- It establishes permanent relations with NATO according to 'EU/NATO Permanent arrangements';
- It hosts a NATO Liaison Team at the EUMS and it maintains an EU Cell at SHAPE in accordance with ESDP Presidency Report adopted by the Council on 13 December 2004;
- It establishes appropriate relations with identified correspondents within the UN as well as other international organisations, including the OSCE and the AU, subject to an agreement from these organisations;
- It contributes to the necessary comprehensive lessons learned process;

- Tasks undertaken through the Civ/Mil Cell:
 - It undertakes strategic contingency planning at the initiative of the SG/HR or the PSC;
 - It contributes to the development of a body of doctrine/concepts, learning lessons from civilian/military operations and exercises;
 - It prepares concepts and procedures for the EU Ops Centre and ensures the availability and readiness of the manpower, facilities and equipment of the operations centre for operations, exercises and training;
 - It maintains, updates and replaces the equipment of the EU Ops Centre and maintains the premises.
- (a) Additional tasks in crisis management situations
 - It requests and processes specific information from the intelligence organisations and other relevant information from all available sources;
 - It supports the EUMC in its contributions to Initial Planning Guidance and Planning Directives of the PSC;
 - It develops and prioritises military strategic options as the basis for the military advice given by the EUMC to the PSC by:
 - defining initial broad options;
 - drawing, as appropriate, on planning support from external sources which will analyse and further develop these options in more detail;
 - evaluating the results of this more detailed work and commissioning any further work that might be necessary;
 - presenting an overall assessment, with an indication of priorities and recommendations as appropriate, to the EUMC;
 - It identifies in coordination with national planning staffs and, as appropriate, NATO, the forces that might participate in possible EU-led operations;
 - It assists the operation commander in technical exchanges with third countries offering military contributions to an EU-led operation, and in the preparation of the force generation conference;
 - It continues to monitor crisis situations;
- Tasks undertaken through the Civ/Mil Cell:
 - Upon a request from DG E to DGEUMS, it provides assistance to crisis response political-military strategic planning carried out under the responsibility of DG E (preparation of CMC, joint action ...);
 - It contributes to crisis response strategic planning for joint civil/military operations through the development of strategic options as foreseen in crisis management procedures. This planning falls under the direct responsibility of the DGEUMS and the DG E and the overall authority of the SG/HR;
 - Upon a request of DG E to DGEUMS, it provides assistance to crisis response civilian strategic planning carried out under the responsibility of the DG E (preparation of PSO, CSO, etc.).

(b) Additional tasks during operations

- The EUMS, acting under the direction of the EUMC, continuously monitors all the military aspects of operations. It conducts strategic analysis in liaison with the designated operation commander to support the EUMC in its advisory role to the PSC in charge of the strategic direction;
- In the light of political and operational developments, it provides new options to the EUMC as a basis for EUMC's military advice to the PSC;
- It contributes to the key nucleus reinforced, and to further augmentation, as required, of the EU Ops Centre;
- Tasks undertaken through the Civ/Mil Cell:
 - It provides the permanent key nucleus of the EU Ops Centre;
 - It assists in coordinating civilian operations. Such operations are carried out under DG E authority. It assists with planning, support (including the possible use of military means) and conduct of civilian operations (strategic level remains with DG E).

5. Organisation

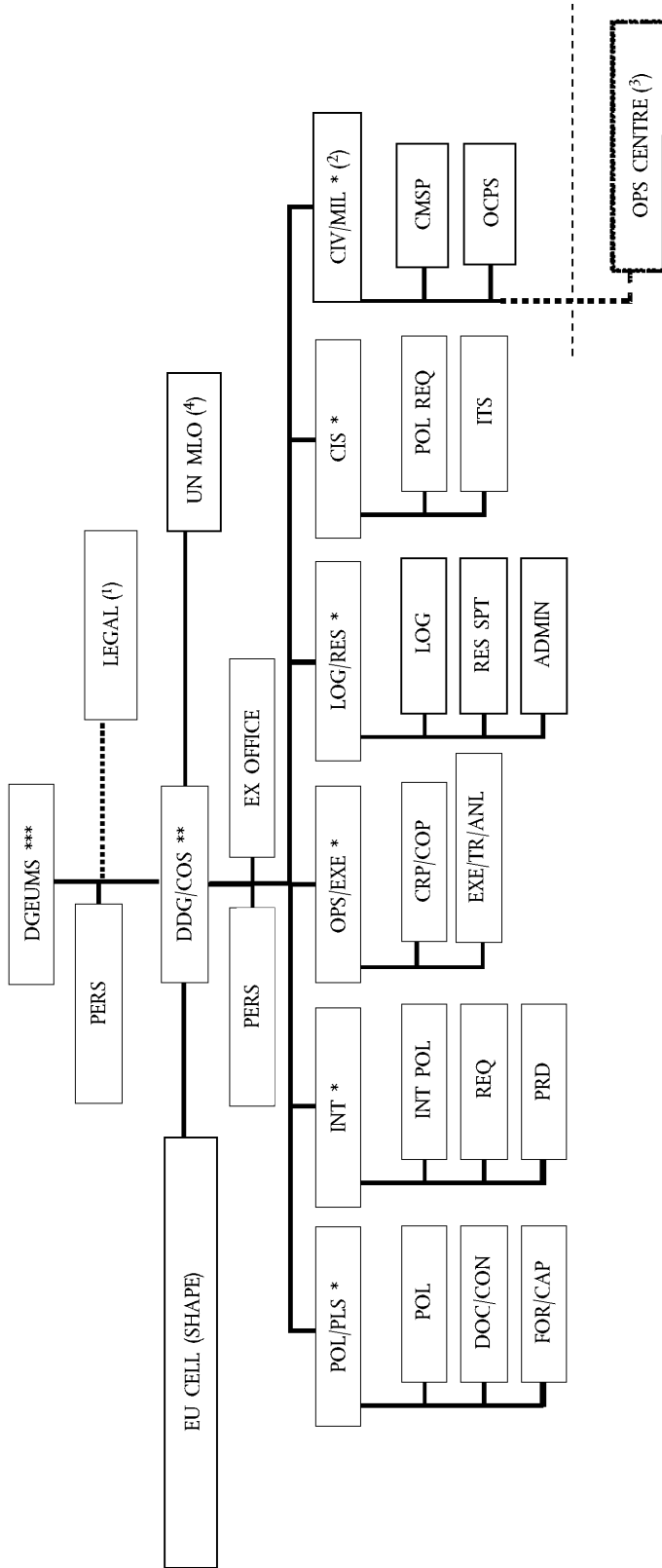
- The EUMS works under the military direction of the EUMC, to which it reports;
- It is a Council Secretariat department directly attached to the SG/HR and it works in close cooperation with other departments of the Council Secretariat;
- It is headed by the DGEUMS, a 3-star flag officer;
- It is composed of personnel seconded from the Member States acting in an international capacity, in accordance with the rules applicable to national experts and military staff on secondment to the General Secretariat of the Council, as well as civil servants seconded from the GSC and the Commission. With the aim of improving the EUMS selection process, Member States are encouraged to present more than one candidate for each of the posts applied for;
- In order to cope with the full spectrum of missions and tasks the EUMS is organised as in Annex 'A';
- In crisis management situations or exercises, the EUMS may set up Crisis Action Teams (CAT), drawing upon its own expertise, manpower and infrastructure. In addition, it could, if necessary, request through the EUMC, manpower for temporary augmentation from the EU Member States;
- The mission, function and organisation of the Civ/Mil Cell, as well as the operations centre configuration were approved by the Council on 13 December and endorsed by the European Council on 16-17 December 2004. The EUMC will provide guidance, through DGEUMS, on the military activities undertaken by the Civ/Mil Cell. Contributions by the Cell for civilian aspects of crisis management remain under the functional responsibility of DG E. Reporting on these activities to the CIVCOM will be in accordance with established procedures on civilian aspects of crisis management.

6. Relations with third countries

The relations between the EUMS and the non-EU European NATO members, other third States, and candidates for accession to the EU are defined in the relevant documents on the relations of the EU with third countries.

APPENDIX

OUTLINE ORGANISATION OF EUMS



(1) Member of the Council Legal Service.

(2) Linkage with DG E.

(3) Independent if activated.

(4) EUMS officer working in the liaison office of the General Secretariat of the Council to the UN in New York.

ABBREVIATIONS**A**

ACOS	Assistant Chief of Staff
ADMIN	Administration Branch

C

CEUMC	Chairman of the European Union Military Committee
CIS	Communications and Information Systems Division
Civ/Mil Cell	Civilian/Military Cell
CIVCOM	Committee for Civilian Aspects of Crisis Management
CMC SPT	Support to Chairman of the European Union Military Committee
CMSP	Civilian/Military Strategic Planning Branch
CONOPS	Concept of Operations
CRP/COP	Crisis Response Planning/Current Operations Branch

D

DDG/COS	Deputy Director-General and Chief of Staff of the European Union Military Staff
DGEUMS	Director-General of the European Union Military Staff
DOC/CON	Doctrine and Concepts Branch

E

EUMC	European Union Military Committee
EUMS	European Union Military Staff
EXE/TRG/ANL	Exercises, Training and Analysis Branch
EX OFFICE	Executive Office

F

FOR/CAP	Force and Capability Development Branch
---------	-----------------------------------------

I

INT	Intelligence Division
INT POL	Intelligence Policy Branch
ITS	Information Technology and Security Branch

L

LEGAL	Legal Adviser
LOG	Logistics Branch
LOG/RES	Logistics and Resources Division

O

OCPS	Operations Centre Permanent Staff
OHQ	Operations Headquarters
OPLAN	Operations Plan
OPSCEN	Operations Centre
OPS/EXE	Operations and Exercises Division

P

PERS	Personal Staff
POL	Policy Branch
POL/PLS	Policy and Plans Division
POL/REQ	Policy and Requirements Branch
PRD	Production Branch

R

REQ	Requirements Branch
RES/SPT	Resources Support Branch

U

UN MLO	United Nations Military Liaison Officer
--------	-----------------------------------------
