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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1236/2005**of 27 June 2005****concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Pursuant to Article 6 of the Treaty on European Union, respect for human rights and fundamental freedoms constitutes one of the principles common to the Member States. In view of this, the Community resolved in 1995 to make respect for human rights and fundamental freedoms an essential element of its relations with third countries. It was decided to insert a clause to that end in any new trade, cooperation and association agreement of a general nature that it concludes with third countries.
- (2) Article 5 of the Universal Declaration of Human Rights, Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms all lay down an unconditional, comprehensive prohibition on torture and other cruel, inhuman or degrading treatment or punishment. Other provisions, in particular the United Nations Declaration Against Torture⁽¹⁾ and the 1984 United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, place an obligation on States to prevent torture.
- (3) Article 2(2) of the Charter of Fundamental Rights of the European Union⁽²⁾ states that no one shall be

condemned to the death penalty or executed. On 29 June 1998, the Council approved 'Guidelines on EU policy towards third countries on the death penalty' and resolved that the European Union would work towards the universal abolition of the death penalty.

- (4) Article 4 of the said Charter states that no one shall be subjected to torture or to inhuman or degrading treatment or punishment. On 9 April 2001, the Council approved 'Guidelines to the EU policy toward third countries, on torture and other cruel, inhuman or degrading treatment or punishment'. These guidelines refer to both the adoption of the EU Code of Conduct on Arms Exports in 1998 and the ongoing work to introduce EU-wide controls on the exports of paramilitary equipment as examples of measures to work effectively towards the prevention of torture and other cruel, inhuman or degrading treatment or punishment within the Common Foreign and Security Policy. These guidelines also provide for third countries to be urged to prevent the use and production of, and trade in, equipment which is designed to inflict torture or other cruel, inhuman or degrading treatment or punishment and prevent the abuse of any other equipment to these ends. They also make the point that the prohibition of cruel, inhuman or degrading punishment imposes clear limits on the use of the death penalty. Therefore and in line with these texts, capital punishment is not to be considered a lawful penalty under any circumstances.
- (5) In its Resolution on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 25 April 2001 and supported by the EU Member States, the United Nations Commission on Human Rights called upon United Nations Members to take appropriate steps, including legislative measures, to prevent and prohibit, *inter alia*, the export of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment. This point was confirmed by Resolutions adopted on 16 April 2002, 23 April 2003, 19 April 2004 and 19 April 2005.

⁽¹⁾ Resolution 3452 (XXX) of 9.12.1975 of the General Assembly of the United Nations.

⁽²⁾ OJ C 364, 18.12.2000, p. 1.

- (6) On 3 October 2001, the European Parliament adopted a Resolution ⁽¹⁾ on the Council's second Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, urging the Commission to act swiftly to bring forward an appropriate Community instrument banning the promotion, trade and export of police and security equipment the use of which is inherently cruel, inhuman or degrading, and to ensure that that Community instrument would suspend the transfer of police and security equipment the medical effects of which are not fully known, and of such equipment where its use in practice has revealed a substantial risk of abuse or unwarranted injury.
- (7) It is therefore appropriate to lay down Community rules on trade with third countries in goods which could be used for the purpose of capital punishment and in goods which could be used for the purpose of torture and other cruel, inhuman or degrading treatment or punishment. These rules are instrumental in promoting respect for human life and for fundamental human rights and thus serve the purpose of protecting public morals. Such rules should ensure that Community economic operators do not derive any benefits from trade which either promotes or otherwise facilitates the implementation of policies on capital punishment or on torture and other cruel, inhuman or degrading treatment or punishment, which are not compatible with the relevant EU Guidelines, the Charter of Fundamental Rights of the European Union and international conventions and treaties.
- (8) For the purpose of this Regulation, it is considered appropriate to apply the definitions of torture and other cruel, inhuman or degrading treatment or punishment laid down in the 1984 United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and in Resolution 3452 (XXX) of the General Assembly of the United Nations. These definitions should be interpreted taking into account the case law on the interpretation of the corresponding terms in the European Convention on Human Rights and in relevant texts adopted by the EU or its Member States.
- (9) It is considered necessary to prohibit exports and imports of equipment which has no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.
- (10) It is also necessary to impose controls on exports of certain goods which could be used not only for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, but also for legitimate purposes. These controls should apply to goods that are primarily used for law enforcement purposes and, unless such controls prove disproportionate, to any other equipment or product that could be abused for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, taking into account its design and technical features.
- (11) As regards law enforcement equipment, it should be noted that Article 3 of the Code of Conduct for Law Enforcement Officials ⁽²⁾ provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990, provide that, in carrying out their duty, law enforcement officials should, as far as possible, apply non-violent means before resorting to the use of force and firearms.
- (12) In view of this, the Basic Principles advocate the development of non-lethal incapacitating weapons for use in appropriate situations, while admitting that the use of such weapons should be carefully controlled. In this context, certain equipment traditionally used by the police for self-defence and riot-control purposes has been modified in such a way that it can be used to apply electric shocks and chemical substances to incapacitate persons. There are indications that, in several countries, such weapons are abused for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.
- (13) The Basic Principles stress that law enforcement officials should be equipped with equipment for self-defence. Therefore, this Regulation should not apply to trade in traditional equipment for self-defence, such as shields.
- (14) This Regulation should also apply to trade in some specific chemical substances used to incapacitate persons.
- (15) As regards leg-irons, gang-chains and shackles and cuffs, it should be noted that Article 33 of the United Nations Standard Minimum Rules for the Treatment of Prisoners ⁽³⁾ provides that instruments of restraint shall never be applied as a punishment. Furthermore, chains and irons are not to be used as restraints. It should also be noted that the United Nations Standard Minimum Rules for the Treatment of Prisoners provide that other instruments of restraint shall not be used except as a precaution against escape during a transfer, on medical grounds as directed by a medical officer, or, if other methods of control fail, in order to prevent a prisoner from injuring himself or others, or from damaging property.

⁽¹⁾ OJ C 87 E, 11.4.2002, p. 136.

⁽²⁾ Resolution 34/169 of 17.12.1979 of the General Assembly of the United Nations.

⁽³⁾ Approved by Resolutions 663 C (XXIV) of 31.7.1957 and 2076 (LXII) of 13.5.1977 of the Economic and Social Council of the United Nations.

- (16) Taking into account the fact that some Member States have already prohibited exports and imports of such goods, it is appropriate to grant Member States the right to prohibit exports and imports of leg-irons, gang-chains and portable electric shock devices other than electric shock belts. Member States should also be empowered to apply export controls on handcuffs having an overall dimension, including chain, exceeding 240 mm when locked, if they so wish.
- (17) This Regulation shall be construed as not affecting the existing rules on export of tear gases and riot control agents ⁽¹⁾, of firearms, of chemical weapons and of toxic chemicals.
- (18) It is appropriate to provide for specific exemptions from the export controls in order not to impede the functioning of the police forces of the Member States and the execution of peace keeping or crisis management operations and, subject to review at a later stage, in order to allow transit of foreign goods.
- (19) The Guidelines to the EU Policy toward third countries on torture and other cruel, inhuman or degrading treatment or punishment provide, *inter alia*, that the Heads of Mission in third countries will include in their periodic reports an analysis of the occurrence of torture and other cruel, inhuman or degrading treatment or punishment in the State of their accreditation, and the measures taken to combat it. It is appropriate for the competent authorities to take these and similar reports made by relevant international and civil society organisations into account when deciding on requests for authorisations. Such reports should also describe any equipment used in third countries for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.
- (20) In order to contribute to the abolition of the death penalty in third countries and to the prevention of torture and other cruel, inhuman or degrading treatment or punishment, it is considered necessary to prohibit the supply to third countries of technical assistance related to goods which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.
- (21) The measures of this Regulation are intended to prevent both capital punishment and torture and other cruel, inhuman or degrading treatment or punishment in
- third countries. They comprise restrictions on trade with third countries in goods that could be used for the purpose of capital punishment or for the purpose of torture and other cruel, degrading or inhuman treatment or punishment. It is not considered necessary to establish similar controls on transactions within the Community as, in the Member States, capital punishment does not exist and Member States will have adopted appropriate measures to outlaw and prevent torture and other cruel, inhuman or degrading treatment or punishment.
- (22) The aforementioned Guidelines state that, in order to meet the objective of taking effective measures against torture and other cruel, inhuman or degrading treatment or punishment, measures should be taken to prevent the use, production and trade of equipment which is designed to inflict torture or other cruel, inhuman or degrading treatment or punishment. It is up to the Member States to impose and enforce the necessary restrictions on the use and production of such equipment.
- (23) In order to take into account new data and technological developments, the lists of goods covered by this Regulation should be kept under review and provision should be made for a specific procedure to amend these lists.
- (24) The Commission and the Member States should inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation.
- (25) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (26) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (27) Nothing in this Regulation constrains any powers under and pursuant to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽³⁾ and its implementing provisions, as laid down in Commission Regulation (EEC) No 2454/93 ⁽⁴⁾.

⁽¹⁾ See item ML 7(c) of the Common Military List of the European Union, OJ C 127, 25.5.2005, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

⁽³⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by (EC) No 648/2005 of the European Parliament and of the Council (OJ L 117, 4.5.2005, p. 13).

⁽⁴⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 883/2005 (OJ L 148, 11.6.2005, p. 5).

(28) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union,

authority, any public or private prison authority and, where appropriate, any of the state security forces and military authorities;

HAS ADOPTED THIS REGULATION:

CHAPTER I

Subject matter, scope and definitions

Article 1

Subject matter and scope

1. This Regulation lays down Community rules governing trade with third countries in goods that could be used for the purpose of capital punishment or for the purpose of torture and other cruel, degrading or inhuman treatment or punishment, and in related technical assistance.

2. This Regulation does not apply to the supply of related technical assistance if that supply involves cross-border movement of natural persons.

Article 2

Definitions

For the purposes of this Regulation:

(a) 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from that person or from a third person information or a confession, punishing that person for an act that either that person or a third person has committed or is suspected of having committed, or intimidating or coercing that person or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted either by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. It does not, however, include pain or suffering arising only from, inherent in or incidental to, lawful penalties;

(b) 'other cruel, inhuman or degrading treatment or punishment' means any act by which significant pain or suffering, whether physical or mental, is inflicted on a person, when such pain or suffering is inflicted either by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. It does not, however, include pain or suffering arising only from, inherent in or incidental to, lawful penalties;

(c) 'law enforcement authority' means any authority in a third country responsible for preventing, detecting, investigating, combating and punishing criminal offences, including, but not limited to, the police, any prosecutor, any judicial

(d) 'export' means any departure of goods from the customs territory of the Community, including the departure of goods that requires a customs declaration and the departure of goods after their storage in a free zone of control type I or free warehouse within the meaning of Regulation (EEC) No 2913/92;

(e) 'import' means any entry of goods into the customs territory of the Community, including temporary storage, the placing in a free zone or free warehouse, the placing under a suspensive procedure and the release for free circulation within the meaning of Regulation (EEC) No 2913/92;

(f) 'technical assistance' means any technical support related to repairs, development, manufacture, testing, maintenance, assembly or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services. Technical assistance includes verbal forms of assistance and assistance provided by electronic means;

(g) 'museum' means a non-profit making, permanent institution in the service of society and of its development, and open to the public, which acquires, conserves, researches, communicates and exhibits, for purposes of study, education and enjoyment, material evidence of people and their environment;

(h) 'competent authority' means an authority of one of the Member States, as listed in Annex I, which in accordance with Article 8(1) is entitled to make a decision on an application for an authorisation;

(i) 'applicant' means

1. in the case of exports referred to in Article 3 or 5, any natural or legal person that holds a contract with a consignee in a country to which the goods will be exported and that has the power for determining the sending of goods controlled by this Regulation out of the customs territory of the Community at the time when the customs declaration is accepted. If no export contract has been concluded or if the holder of the contract does not act on its own behalf, the power for determining the sending of the item out of the customs territory of the Community shall be decisive;

2. where, in the case of such exports, the benefit of a right to dispose of the goods belongs to a person established outside the Community pursuant to the contract on which the exports are based, the contracting party established in the Community;

3. in the case of supplies of technical assistance referred to in Article 3, the natural or legal person that will supply the service; and

4. in the case of imports and supplies of technical assistance referred to in Article 4, the museum that will display the goods.

CHAPTER II

Goods which have no practical use other than for the purposes of capital punishment, torture and other cruel, inhuman or degrading treatment or punishment

Article 3

Export prohibition

1. Any export of goods which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, listed in Annex II, shall be prohibited, irrespective of the origin of such equipment.

The supply of technical assistance related to goods listed in Annex II, whether for consideration or not, from the customs territory of the Community, to any person, entity or body in a third country shall be prohibited.

2. By way of derogation from paragraph 1, the competent authority may authorise an export of goods listed in Annex II, and the supply of related technical assistance, if it is demonstrated that, in the country to which the goods will be exported, such goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.

Article 4

Import prohibition

1. Any import of goods listed in Annex II shall be prohibited, irrespective of the origin of such goods.

The acceptance by a person, entity or body in the customs territory of the Community of technical assistance related to goods listed in Annex II, supplied from a third country, whether for consideration or not, by any person, entity or body shall be prohibited.

2. By way of derogation from paragraph 1, the competent authority may authorise an import of goods listed in Annex II, and the supply of related technical assistance, if it is demonstrated that, in the Member State of destination, such goods will be used for the exclusive purpose of public display in a museum in view of its historic significance.

CHAPTER III

Goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment

Article 5

Export authorisation requirement

1. For any export of goods that could be used for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, listed in Annex III, an authorisation shall be required, irrespective of the origin of such goods. However no authorisation shall be required for goods which only pass through the customs territory of the Community, namely those which are not assigned a customs-approved treatment or use other than the external transit procedure within Article 91 of Regulation (EEC) No 2913/92, including storage of non-Community goods in a free zone of control type I or a free warehouse.

2. Paragraph 1 shall not apply to exports to those territories of Member States which are both listed in Annex IV and are not part of the customs territory of the Community, provided that the goods are used by an authority in charge of law enforcement in both the country or territory of destination and the metropolitan part of the Member State to which that territory belongs. Customs or other relevant authorities shall have the right to verify whether this condition is met and may decide that, pending such verification, the export shall not take place.

3. Paragraph 1 shall not apply to exports to third countries, provided that the goods are used by military or civil personnel of a Member State, if such personnel is taking part in an EU or UN peace keeping or crisis management operation in the third country concerned or in an operation based on agreements between Member States and third countries in the field of defence. Customs and other relevant authorities shall have the right to verify whether this condition is met. Pending such verification, the export shall not take place.

Article 6

Criteria for granting export authorisations

1. Decisions on applications for authorisation for the export of goods listed in Annex III shall be taken by the competent authority on a case by case basis, taking into account all relevant considerations, including in particular, whether an application for authorisation of an essentially identical export has been dismissed by another Member State in the preceding three years.

2. The competent authority shall not grant any authorisation when there are reasonable grounds to believe that goods listed in Annex III might be used for torture or other cruel, inhuman or degrading treatment or punishment, including judicial corporal punishment, by a law enforcement authority or any natural or legal person in a third country.

The competent authority shall take into account:

- available international court judgements,
- findings of the competent bodies of the UN, the Council of Europe and the EU, and reports of the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment and of the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment.

Other relevant information, including available national court judgements, reports or other information prepared by civil society organisations and information on restrictions on exports of goods listed in Annexes II and III applied by the country of destination, may be taken into account.

Article 7

National measures

1. Notwithstanding the provisions in Articles 5 and 6, a Member State may adopt or maintain a prohibition on the export and import of leg irons, gang chains and portable electric shock devices.
2. A Member State may impose an authorisation requirement on the export of handcuffs which have an overall dimension including chains, measured from the outer edge of one cuff to the outer edge of the other cuff, exceeding 240 mm when locked. The Member State concerned shall apply Chapter III and IV to such handcuffs.
3. Member States shall notify the Commission of any measures adopted pursuant to paragraphs 1 and 2. Existing measures shall be notified by 30 July 2006. Subsequent measures shall be notified before they enter into force.

CHAPTER IV

Authorisation procedures

Article 8

Applications for authorisations

1. An authorisation for export and import and for the supply of technical assistance shall be granted only by the competent authority of the Member State listed in Annex I where the applicant is established.
2. Applicants shall supply the competent authority with all relevant information on the activities for which an authorisation is required.

Article 9

Authorisations

1. Authorisations for export and import shall be issued on a form consistent with the model set out in Annex V and shall be valid throughout the Community. The period of validity of an authorisation shall be from three to twelve months with a possible extension of up to 12 months.
2. The authorisation may be issued by electronic means. The specific procedures shall be established on a national basis. Member States availing themselves of this option shall inform the Commission.
3. Authorisations for export and import shall be subject to any requirements and conditions the competent authority deems appropriate.
4. The competent authorities, acting in accordance with this Regulation, may refuse to grant an export authorisation and may annul, suspend, modify or revoke an export authorisation which they have already granted.

Article 10

Customs formalities

1. When completing customs formalities, the exporter or importer shall submit the duly completed form set out in Annex V as proof that the necessary authorisation for the export or import concerned has been obtained. If the document is not filled out in an official language of the Member State where the customs formalities are being completed, the exporter or importer may be required to provide a translation into such official language.
2. If a customs declaration is made concerning goods listed in Annexes II or III, and it is confirmed that no authorisation has been granted pursuant to this Regulation for the intended export or import, the customs authorities shall detain the goods declared and draw attention to the possibility to apply for an authorisation pursuant to this Regulation. If no application for an authorisation is made within six months of time after the detention, or if the competent authority dismisses such an application, the customs authorities shall dispose of the detained goods in accordance with applicable national legislation.

Article 11

Notification and consultation requirement

1. The authorities of the Member States, as listed in Annex I, shall notify all other authorities of the Member States and the Commission, as listed in that Annex, if they take a decision dismissing an application for an authorisation under this Regulation and if they annul an authorisation they have granted. The notification shall be made not later than 30 days of the date of the decision.

2. The competent authority shall consult the authority or authorities which, in the preceding three years, dismissed an application for authorisation of an import or export or the supply of technical assistance under this Regulation, if it receives an application concerning an import or export or the supply of technical assistance involving an essentially identical transaction referred to in such earlier application and considers that an authorisation should, nevertheless, be granted.

3. If, after such consultations, the competent authority decides to grant an authorisation, it shall immediately inform all the authorities listed in Annex I of its decision and explain the reasons for its decision, submitting supporting information as appropriate.

4. The refusal to grant an authorisation, if it is based on a national prohibition in accordance with Article 7(1), shall not constitute a decision dismissing an application within the meaning of paragraph 1.

CHAPTER V

General and final provisions

Article 12

Amendment of Annexes

1. The Commission shall be empowered to amend Annex I. The data regarding competent authorities of the Member States shall be amended on the basis of information supplied by the Member States.

2. In accordance with the procedure referred to in Article 15(2), the Commission shall be empowered to amend Annexes II, III, IV and V.

Article 13

Exchange of information between Member States' authorities and the Commission

1. Without prejudice to Article 11, the Commission and the Member States shall, upon request, inform each other of the measures taken under this Regulation and supply each other with any relevant information at their disposal in connection with this Regulation, in particular information on authorisations granted and refused.

2. Relevant information on authorisations granted and refused shall comprise at least the type of decision, the grounds for the decision or a summary thereof, the names of

the consignees and, if they are not the same, of the end-users as well as the goods concerned.

3. Member States, if possible in cooperation with the Commission, shall make a public, annual activity report, providing information on the number of applications received, on the goods and countries concerned by these applications, and on the decisions they have taken on these applications. This report shall not include information the disclosure of which a Member State considers to be contrary to the essential interests of its security.

4. Except for the supply of information mentioned in paragraph 2 to the authorities of the other Member State and to the Commission, this Article shall be without prejudice to applicable national rules concerning confidentiality and professional secrecy.

5. The refusal to grant an authorisation, if it is based on a national prohibition adopted in accordance with Article 7(1), shall not constitute an authorisation refused within the meaning of paragraphs 1, 2 and 3 of this Article.

Article 14

Use of information

Without prejudice to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents⁽¹⁾ and national legislation on public access to documents, information received pursuant to this Regulation shall be used only for the purpose for which it was requested.

Article 15

Committee procedure

1. The Commission shall be assisted by the committee on common rules for exports of products, set up by Article 4(1) of Regulation (EEC) No 2603/69⁽²⁾.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.

3. The Committee shall adopt its rules of procedure.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

⁽²⁾ OJ L 324, 27.12.1969, p. 25. Regulation as last amended by Regulation (EEC) No 3918/91 (OJ L 372, 31.12.1991, p. 31).

*Article 16***Implementation**

The Committee referred to in Article 15 shall examine any question concerning the implementation of this Regulation raised by its chairman either on his or her own initiative or at the request of a representative of a Member State.

*Article 17***Penalties**

1. Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

2. Member States shall notify the Commission of those rules by 29 August 2006 and shall notify it without delay of any subsequent amendment affecting them.

*Article 18***Territorial scope**

1. This Regulation shall apply to:

- the customs territory of the Community, as defined in Regulation (EEC) No 2913/92,
- the Spanish territories Ceuta and Melilla,
- the German territory of Helgoland.

2. For the purpose of this Regulation Ceuta, Helgoland and Melilla shall be treated as part of the customs territory of the Community.

*Article 19***Entry into force**

This Regulation shall enter into force on 30 July 2006.

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

Done at Luxembourg, 27 June 2005.

For the Council
The President
L. LUX

ANNEX I

LIST OF AUTHORITIES REFERRED TO IN ARTICLES 8 AND 11

A. Authorities of the Member States

BELGIUM

Ministerie van Economie, Energie, Handel en Wetenschapsbeleid
 Directoraat E4: Economisch Potentieel, Markttoegangsbeleid, Tarifaire en Non-tarifaire Maatregelen
 Vooruitgangsstraat 50c
 B-1210 Brussel
 Tel. (32-2) 277 51 11
 Fax (32-2) 277 53 03
 E-mail: Charles.godart@mineco.fgovv.be

Ministère de l'économie, de l'énergie, du commerce et de la politique scientifique
 Directorat, E4: potentiel économique, politique d'accès aux marchés, mesures tarifaires et non-tarifaires
 Rue du Progrès 50c
 B-1210 Bruxelles
 Téléphone: 32 (2) 277 51 11
 Télécopie: 32 (2) 277 53 03
 E-mail: Charles.godart@mineco.fgovv.be

CZECH REPUBLIC

Ministerstvo průmyslu a obchodu
 Licenční správa
 Na Františku 32
 110 15 Praha 1
 Česká republika
 Tel.: (420) 224 90 76 41
 Fax: (420) 224 22 18 81
 E-mail: osm@mpo.cz

DENMARK

Annex III, No 2 and 3

Justitsministeriet
 Slotsholmsgade 10
 DK-1216 København K
 Denmark
 Telephone: (45) 33 92 33 40
 Telefax: (45) 33 93 35 10
 E-mail: jm@jm.dk

Annex II and Annex III, No 1

Økonomi- og Erhvervsministeriet
 Erhvervs- og Byggestyrelsen
 Eksportkontroladministrationen
 Langelinie Allé 17
 DK-2100 København Ø
 Denmark
 Telephone: (45) 35 46 60 00
 Telefax: (45) 35 46 60 01
 E-mail: ebst@ebst.dk

GERMANY

Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA)
 Frankfurter Straße 29—35
 D-65760 Eschborn
 Tel.: (+49) 6196 908-0
 Fax: (+49) 6196 908 800
 E-Mail: ausfuhrkontrolle@bafa.bund.de

ΕΛΛΑΔΑ

GREECE

Υπουργείο Οικονομίας και Οικονομικών
 Γενική Διεύθυνση Σχεδιασμού και Διαχείρισης Πολιτικής
 Διεύθυνση Διεθνών Οικονομικών Ροών
 Κορνάρου 1
 GR-105 63 Αθήνα
 Τηλ. (30-210) 328 60 47, (30-210) 328 60 31
 Φαξ (30-210) 328 60 94
 E-mail: e3c@mnec.gr

ESTONIA

Eesti Välisministeerium
 Välismajanduse ja arengukoostöö osakond
 Strateegilise kauba kontrolli büroo
 Islandi väljak 1
 15049 Tallinn
 Eesti
 Tel: +372 631 7200
 Faks: +372 631 7288
 E-post: stratkom@mfa.ee

SPAIN

Secretaría General de Comercio Exterior
 Secretaría de Estado de Turismo y Comercio
 Ministerio de Industria, Turismo y Comercio
 Paseo de la Castellana, 162
 E-28046 Madrid
 Telephone: (34) 915 83 52 84
 Telefax: (34) 915 83 56 19
 E-mail: Buzon.Oficial@SGDEFENSA.SECGCOMEX.SSCC.
 MCX.ES

Departamento de Aduanas e Impuestos Especiales de la
 Agencia Estatal de Administración Tributaria
 Avda. Llano Castellano, 17
 28071 Madrid
 España
 Telephone: +34 91 7289450
 Telefax: +34 91 7292065

FRANCE

Ministère de l'économie, des finances et de l'industrie
 Direction générale des douanes et droits indirects
 Service des titres du commerce extérieur (SETICE)
 8, rue de la Tour-des-Dames
 F-75436 PARIS CEDEX 09
 Téléphone: 01 55 07 46 73/- 46 42/- 48 64/- 47 64
 Télécopie: 01 55 07 46 67/- 46 91
 Courrier électronique: dg-setice@douane.finances.gouv.fr

IRELAND

Licensing Unit
 Department of Enterprise, Trade and Employment
 Earlsfort Centre
 Lower Hatch Street
 Dublin 2
 Ireland
 Telephone (353-1) 631 21 21
 Telefax (353-1) 631 25 62

ITALY

Ministero delle attività produttive
 Direzione generale per la politica commerciale
 Viale Boston, 25
 I-00144 Roma
 Telephone: +39 06 59 93 25 79
 Telefax: +39 06 59 93 26 34
 E-mail: polcomsegr@mincomes.it

ΚΥΠΡΟΣ

CYPRUS

Υπουργείο Εμπορίου, Βιομηχανίας και Τουρισμού
 Υπηρεσία Εμπορίου
 Τμήμα έκδοσης αδειών εισαγωγών/εξαγωγών
 Ανδρέα Αραούζου 6
 CY-1421 Λευκωσία
 Τηλ. (357-22) 86 71 00
 Φαξ (357-22) 37 51 20
 E-mail: perm.sec@mcit.gov.cygr

Ministry of Commerce, Industry and Tourism
 Trade Service
 Import/Export Licensing Unit
 6 Andreas Araouzos Street
 CY-1421 Nicosia
 Telephone: (357- 22) 86 71 00
 Telefax: (357-22) 37 51 20
 E-mail: perm.sec@mcit.gov.cy

LATVIA

Ekonomikas ministrija
 Brīvības iela 55
 LV-1519 Rīga
 Latvija
 Telefax.: +371 7 280 882

LITHUANIA

Policijos departamento prie Vidaus reikalų ministerijos
 Licencijavimo skyrius
 Saltoniškių g. 19
 LT-08105 Vilnius
 Lietuva
 Telephone: +370 8 271 97 67
 Telefax: +370 5 271 99 76
 E-mail: leidimai.pd@policija.lt

LUXEMBOURG

Commerce extérieur
 Office des licences
 B. P. 113
 L-2011 Luxembourg
 Téléphone: 352 4782370
 Télécopie: 352 466138
 Courrier électronique: office.licences@mae.etat.lu

HUNGARY

Magyar Kereskedelmi
 Engedélyezési Hivatal
 Margit krt. 85.
 H-1024 Budapest
 Magyarország
 Telephone: +36 1 336 74 30
 Telefax: +36 1 336 74 28
 E-mail: spectrade@mkeh.hu

MALTA

Divizjoni għall-Kummerċ
 Servizzi Kummerċjali
 Lascaris
 Valletta CMR02
 Telephone: +356 25 69 02 09
 Telefax: +356 21 24 05 16

NETHERLANDS (to be determined)

AUSTRIA

Bundesministerium für Wirtschaft und Arbeit
 Abteilung für Aus- und Einfuhrkontrolle
 A-1011 Wien
 Stubenring 1
 Tel.: (+43) 1 71100 8327
 Fax: (+43) 1 71100 8386
 E-Mail: post@C22.bmwa.gv.at

POLAND

Ministerstwo Gospodarki i Pracy
 plac Trzech Krzyży 3/5
 00-507 Warszawa
 Polska
 Telephone: (+48-22) 693 50 00
 Telefax: (+48-22) 693 40 48

PORTUGAL

Ministério das Finanças
Direcção-Geral das Alfândegas e dos Impostos Especiais
de Consumo
Direcção de Serviços de Licenciamento
Rua Terreiro do Trigo, edifício da Alfândega
P-1149-060 Lisboa
Tel.: (351-21) 881 42 63
Fax: (351-21) 881 42 61

SLOVENIA

Ministrstvo za gospodarstvo
Direktorat za ekonomske odnose s tujino
Kotnikova 5
1000 Ljubljana
Republika Slovenija
Telephone: +386 1 478 35 42
Telefax: +386 1 478 36 11

SLOVAKIA

Ministerstvo hospodárstva Slovenskej republiky
Odbor riadenia obchodovania s citlivými tovarmi
Mierová 19
827 15 Bratislava
Slovenská republika
Telephone: +421 2 48 54 20 53
Telefax: +421 2 43 42 39 15

SUOMI

Sisäasiainministeriö
Arpajais- ja asehallintoyksikkö
PL 50
FI-11101 RIIHIMÄKI
Puhelin (358-9) 160 01
Faksi (358-19) 72 06 68
Sähköposti: aahy@poliisi.fi

SWEDEN

Kommerskollegium
PO Box 6803
S-113 86 Stockholm
Tfn (46-8) 690 48 00
Fax (46-8) 30 67 59
E-post: registrator@kommers.se

UNITED KINGDOM

Department of Trade and Industry
Export Control Organisation
4 Abbey Orchard Street
London
SW1P 2HT
United Kingdom
Telephone (44) 207 215 05 85
Telefax (44) 207 215 05 72
E-mail: mevlyn.tompkins@dti.gsi.gov.uk

B. Address for notifications to the Commission:

COMMISSION OF THE EUROPEAN COMMUNITIES
Directorate-General for External Relations
Directorate A: Common Foreign and Security Policy
(CFSP) and European Security and Defence Policy
(ESDP): Commission Coordination and contribution
Unit A 2: Legal and institutional matters, CFSP Joint
Actions, Sanctions, Kimberley Process
CHAR 12/163
B-1049 Bruxelles/Brussel
Telephone (32-2) 296 25 56
Telefax (32-2) 296 75 63
E-mail: relex-sanctions@cec.eu.int

ANNEX II

List of goods referred to in Articles 3 and 4

Note: this list does not cover medical-technical goods

CN code	Description
	1. Goods designed for the execution of human beings, as follows:
ex 4421 90 98	1.1. Gallows and guillotines
ex 8208 90 00	
ex 8543 89 95	1.2. Electric chairs for the purpose of execution of human beings
ex 9401 79 00	
ex 9401 80 00	
ex 9402 10 00	
ex 9402 90 00	
ex 9406 00 38	1.3. Air-tight vaults, made of e.g. steel and glass, designed for the purpose of execution of human beings by the administration of a lethal gas or substance
ex 9406 00 80	
ex 8413 81 90	1.4. Automatic drug injection systems designed for the purpose of execution of human beings by the administration of a lethal chemical substance
ex 9018 90 50	
ex 9018 90 60	
ex 9018 90 85	
	2. Goods designed for restraining human beings, as follows:
ex 8543 89 95	2.1. Electric-shock belts designed for restraining human beings by the administration of electric shocks having a no-load voltage exceeding 10 000 V

ANNEX III

List of goods referred to in Article 5

CN code	Description
	1. Goods designed for restraining human beings, as follows:
ex 9401 61 00	1.1. Restraint chairs and shackle boards
ex 9401 69 00	Note:
ex 9401 71 00	This item does not control restraint chairs designed for disabled persons.
ex 9401 79 00	
ex 9402 90 00	
ex 9403 20 91	
ex 9403 20 99	
ex 9403 50 00	
ex 9403 70 90	
ex 9403 80 00	
ex 7326 90 98	1.2. Leg-irons, gang-chains, shackles and individual cuffs or shackle bracelets
ex 8301 50 00	Note:
ex 3926 90 99	This item does not control 'ordinary handcuffs'. Ordinary handcuffs are handcuffs which have an overall dimension including chain, measured from the outer edge of one cuff to the outer edge of the other cuff, between 150 and 280 mm when locked and have not been modified to cause physical pain or suffering.
ex 7326 90 98	1.3. Thumb-cuffs and thumb-screws, including serrated thumb-cuffs
ex 8301 50 00	
ex 3926 90 99	
	2. Portable devices designed for the purpose of riot control or self-protection, as follows:
ex 8543 89 95	2.1. Portable electric shock devices, including but not limited to, electric shock batons, electric shock shields, stun guns and electric shock dart guns having a no-load voltage exceeding 10 000 V
ex 9304 00 00	Notes:
	1. This item does not control electric shock belts as described in item 2.1 of Annex II.
	2. This item does not control individual electronic shock devices when accompanying their user for the user's own personal protection.
	3. Substances for the purpose of riot control or self-protection and related portable dissemination equipment, as follows:
ex 8424 20 00	3.1. Portable devices for the purpose of riot control or self-protection by the administration or dissemination of an incapacitating chemical substance
ex 9304 00 00	Note:
	This item does not control individual portable devices, even if containing a chemical substance, when accompanying their user for the user's own personal protection.
ex 2924 29 95	3.2. Pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4)
ex 2939 99 00	3.3. Oleoresin capsicum (OC) (CAS 8023-77-6)

ANNEX IV

List of territories of Member States referred to in Article 5(2)

DENMARK:

- Greenland

FRANCE:

- New Caledonia and Dependencies,
- French Polynesia,
- French Southern and Antarctic Territories,
- Wallis and Futuna Islands,
- Mayotte,
- St Pierre and Miquelon.

GERMANY:

- Büsingen
-

ANNEX V

Export or import authorisation form referred to in Article 9(1)*Technical specification:*

The following form shall measure 210 × 297 mm with a maximum tolerance of 5 mm less and 8 mm more. The boxes are based on a unit of measurement of one tenth of an inch horizontally and one sixth of an inch vertically. The subdivisions are based on a unit of measurement of one tenth of an inch horizontally.

EUROPEAN COMMUNITY

1 Applicant (full name, address, customs number) Type: <input type="checkbox"/> <input type="checkbox"/>		AUTHORISATION FOR EXPORT OR IMPORT OF GOODS THAT COULD BE USED FOR TORTURE (REGULATION (EC) No 1236/2005)	
2 Consignee (full name and address)		3 Authorisation No <input type="checkbox"/> Export <input type="checkbox"/> Import	
		4 Expiry date <input type="text"/> <input type="text"/> <input type="text"/>	
5 Agent/Representative (if different from applicant)		6 Country where the goods are located Code	
		7 Country of destination Code	
		8 Member State where a Customs procedure will take place	
9 End-user (full name and address)		Issuing authority	
10 Description of Item		11 Item No 1	12 CN code
		13 Quantity	
14 Specific requirements and conditions			
10 Description of item		11 Item No 2	12 CN code
		13 Quantity	
14 Specific requirements and conditions			
10 Description of item		11 Item No 3	12 CN code
		13 Quantity	
14 Specific requirements and conditions			
15 The undersigned certifies that, pursuant to Article 9(1) of Regulation 1236/2005 and subject to the requirements, conditions and procedures setout in this form and the attachment(s) to which it refers, the competent authority has authorised [an export] [an import] (delete as not appropriate) concerning the goods described in box 10.			
16 Number of attachments			
Done at (place, date)			
Name (typed or capitals)			
Signature:		(Stamp of issuing authority)	

Explanatory notes to the form

'Authorisation for export or import of goods that could be used for torture (Regulation (EC) No 1236/2005'

This authorisation form shall be used to issue an authorisation for an export or import of goods in accordance with Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. It should not be used to authorise the supply of technical assistance.

Issuing authority is the authority defined in Article 2(h) of Council Regulation No 1236/2005 which is set out in Annex I to this Regulation.

Authorisations shall be issued on this single page form, which should be printed on both sides. The competent customs office deducts the exported quantities from the total quantity available. It has to make sure that the different items subject to the authorisation are clearly separated for this purpose.

Where national procedures of the Member States require additional copies of the form (as for example for the application) this authorisation form may be included in a form set containing the necessary copies following the national rules applicable. In the box above box 3 of each specimen and in the margin on the left it should be clearly indicated for which purpose (e.g. application, copy for applicant) the relevant copies are intended. One specimen only shall be the authorisation form set out in Annex V to Regulation (EC) No 1236/2005.

Box 1:	<i>Applicant:</i>	Please indicate the applicant's name and the full address. The applicant's customs number may also be indicated (optional in most cases). The type of applicant should be indicated (optional) in the relevant box, using the numbers 1, 2 or 4 referring to the points set out in the definition in Article 2(i) of Regulation (EC) No 1236/2005.
Box 3:	<i>Authorisation No:</i>	Please fill out the number and tick either the export or the import box. See Article 2(d) and 2(e) and Article 17 of the Regulation for the definitions of the terms 'export' and 'import'.
Box 4:	<i>Expiry date:</i>	Please state day (two digits), month (two digits) and year (four digits).
Box 5:	<i>Agent/representative:</i>	Please indicate the name of a duly authorised representative or (customs) agent acting on behalf of the applicant, if the application is not presented by the applicant. See also Article 5 of Council Regulation (EEC) No 2913/92.
Box 6:	<i>Country where the goods are located:</i>	Please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Council Regulation (EC) No 1172/95 (OJ L 118, 25.5.1995, p. 10). See Commission Regulation (EC) No 1779/2002 (OJ L 296, 5.10.2002, p. 6).
Box 7:	<i>Country of destination:</i>	Please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Council Regulation (EC) No 1172/95, (OJ L 118, 25.5.1995, p. 10). See Commission Regulation (EC) No 1779/2002, OJ L 296, 5.10.2002, p. 6.
Box 10:	<i>Description of item:</i>	Please consider including data on packaging of the goods concerned. Note that the value of the goods may also be indicated in box 10. If there is not sufficient space in box 10, please continue on an attached blank sheet, mentioning the authorisation number. Please indicate the number of attachments in box 16. This form is designed for use for up to three different types of goods (see Annexes II and III to the Regulation). If it is necessary to authorise the export or import of more than three types of goods, please grant two authorisations.

Box 11	<i>Item No:</i>	This box needs to be completed on the back of the form only. Please ensure that the Item No corresponds to the printed item number in Box 11 found next to the description of the relevant item on the view side.
Box 14:	<i>Specific requirements and conditions:</i>	If there is not sufficient space in box 14, please continue on an attached blank sheet, mentioning the authorisation number. Please indicate the number of attachments in box 16.
Box 16:	<i>Number of attachments:</i>	Please indicate the number of attachments, if any (see explanations to boxes 10 and 14).

COMMISSION REGULATION (EC) No 1237/2005
of 29 July 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 30 July 2005.

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

Done at Brussels, 29 July 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 29 July 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	71,8
	096	21,9
	999	46,9
0707 00 05	052	61,9
	999	61,9
0709 90 70	052	75,7
	999	75,7
0805 50 10	388	72,5
	508	58,8
	524	69,1
	528	72,2
	999	68,2
0806 10 10	052	111,3
	204	80,3
	220	126,8
	334	91,2
	624	162,7
	999	114,5
0808 10 80	388	92,3
	400	101,0
	508	69,1
	512	63,3
	528	88,5
	720	73,3
	804	85,4
999	81,8	
0808 20 50	052	125,8
	388	63,0
	512	47,0
	528	35,6
	999	67,9
0809 10 00	052	141,4
	999	141,4
0809 20 95	052	280,0
	400	336,4
	999	308,2
0809 30 10, 0809 30 90	052	109,8
	999	109,8
0809 40 05	624	87,6
	999	87,6

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1238/2005**of 28 July 2005****amending Regulation (EC) No 85/2004 laying down the marketing standard for 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 Article 2(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 85/2004 ⁽²⁾ provides, *inter alia*, for a reduction in the minimum size from 1 August 2005 identical to the size laid down in United Nations Economic Commission for Europe (UN/ECE) standard FFV-50.
- (2) The inclusion of a ripeness criterion based on sugar content in UN/ECE standard FFV-50 has been proposed in the UN/ECE working party on agricultural quality standards.
- (3) As the minimum size is also a ripeness criterion, the possibility of incorporating these two ripeness criteria to the greatest extent possible into the marketing standard for apples should be studied.
- (4) Since this study must be conducted over at least three marketing years, application of the size reduction should be postponed to 1 June 2008 and the transitional provisions on sizing extended to 31 May 2008.
- (5) Steps should be taken however to protect the legitimate expectations of operators who have concluded contracts on the basis of the presumption of the application from 1 August 2005 of new standards providing for a reduction in size.

- (6) For the sake of clarity, it should be laid down that when a trade name is used to sell a product, the name of the variety or its synonym should also be mentioned.
- (7) A number of errors have arisen in the list of varieties in the Annex to the marketing standard.
- (8) Regulation (EC) No 85/2004 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fresh Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 85/2004 is hereby amended as follows:

1. In the first sentence of Article 2, '31 July 2005' is replaced by '31 May 2008'.
2. In the second paragraph of Article 4, '1 August 2005' is replaced by '1 June 2008'.
3. The Annex is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 August 2005.

However, operators who, to the satisfaction of the Member States' authorities, concluded before 1 August 2005 contracts on the basis of the second and third paragraphs of point III of the Annex to Regulation (EC) No 85/2004, may market the apples covered by those contracts in accordance with the provisions of those paragraphs.

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

Done at Brussels, 28 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 13, 20.1.2004, p. 3. Regulation as amended by Regulation (EC) No 907/2004 (OJ L 163, 30.4.2004, p. 50).

ANNEX

Title 4 of the Appendix to the Annex to Regulation (EC) No 85/2004 is amended as follows:

1. The first sentence in the second paragraph is replaced by the following:

'Some varieties in the following list may be marketed under trade names for which an application for protection has been made or protection has been granted in one or more country, provided that the name of the variety, or the synonym thereof, appears on the labelling.';

2. The table showing the non-exhaustive list of varieties is replaced by the following:

Variety	Synonyms	Trade name	Colour group	Russeting	Size
African Red		African Carmine™	B		
Akane	Tohoku 3	Primerouge®	B		
Alborz Seedling			C		
Aldas			B		L
Alice			B		
Alkmene	Early Windsor		C		
Alwa			B		
Angold			C		L
Apollo	Beauty of Blackmoor		C		L
Arkcharm	Arkansas No 18, A 18		C		L
Arlet			B	R	
Aroma			C		
Red coloured mutants of Aroma, for example Aroma Amorosa			B		
Auksis			B		
Belfort	Pella		B		
Belle de Boskoop and mutants			D	R	L
Belle fleur double			D		L
Berlepsch	Freiherr von Berlepsch		C		
Berlepsch rouge	Red Berlepsch, Roter Berlepsch		B		
Blushed Golden					L
Bohemia			B		L
Boskoop rouge	Red Boskoop, Roter Boskoop		B	R	L

Variety	Synonyms	Trade name	Colour group	Russetting	Size
Braeburn			B		L
Red coloured mutants of Braeburn, for example: Hidala Joburn		Hilwell® Aurora™, Red Braeburn™, Southern Rose™	A		L
Lochbuie Red Braeburn Mahana Red Mariri Red		Redfield® Eve™, Red Braeburn™, Southern Rose™			
Redfield		Red Braeburn™, Southern Rose™			
Royal Braeburn					
Bramley's Seedling	Bramley, Triomphe de Kiel		D		L
Brettacher Sämling			D		L
Calville (group of ...)			D		L
Cardinal			B		
Carola	Kalco		C		L
Caudle		Cameo™	B		
Charden			D		L
Charles Ross			D		L
Civni		Rubens®	B		
Coromandel Red	Corodel		A		
Cortland			B		L
Cox's orange pippin and mutants	Cox Orange		C	R	
Red coloured mutants of Cox's Orange Pippin for example: Cherry Cox			B	R	
Crimson Bramley			D		L
Cripps Pink		Pink Lady®	C		
Cripps Red		Sundowner™	C (1)		
Dalinbel			B		
Delblush		Tentation®	D		L
Delcorf and mutants, for example: Dalili Monidel		Delbarestivale® Ambassy®	C		L
Delgollune		Delbard Jubilé®	B		L
Delicious ordinaire	Ordinary Delicious		B		

Variety	Synonyms	Trade name	Colour group	Russetting	Size
Deljeni		Primgold®	D		L
Delikates			B		
Delor			C		L
Discovery			C		
Dunn's Seedling			D	R	
Dykman's Zoet			C		
Egremont Russet			D	R	
Elan			D		L
Elise	Red Delight	Roblos®	A		L
Ellison's orange	Ellison		C		L
Elstar and mutants, for example: Daliter Elshof Elstar Armhold Elstar Reinhardt Red coloured mutants of Elstar, for example: Bel-El Daliest Goedhof Red Elstar Valstar		Elton™ Red Elswout™ Elista™ Elnica™	C B		
Empire			A		
Falstaff			C		
Fiesta	Red Pippin		C		
Florina		Querina®	B		L
Fortune			D	R	
Fuji and mutants			B		L
Gala Red coloured mutants of Gala, for example: Annaglo Baigent Galaxy Mitchgla Obrogala Regala Regal Prince Tenroy		Brookfield® Mondial Gala® Delbard Gala® Gala Must® Royal Gala®	C A		
Garcia			D		L
Gloster			B		L
Goldbohemia			D		L
Golden Delicious and mutants			D		L

Variety	Synonyms	Trade name	Colour group	Russetting	Size
Golden Russet			D	R	
Goldrush	Coop 38		D		L
Goldstar			D		L
Gradigold		Golden Extreme® Golden Supreme®	D		L
Granny Smith			D		L
Gravenstein rouge	Red Gravenstein, Roter Gravensteiner		B		L
Gravensteiner	Gravenstein		D		L
Greensleeves			D		L
Holsteiner Cox and mutants	Holstein		D	R	
Holstein rouge	Red Holstein, Roter Holsteiner Cox		C	R	
Honeycrisp		Honeycrunch®	C		L
Honeygold			D		L
Horneburger			D		L
Howgate Wonder	Manga		D		L
Idared			B		L
Ingrid Marie			B	R	
Isbranica	Izbranica		C		
Jacob Fisher			D		L
Jacques Lebel			D		L
Jamba			C		L
James Grieve and mutants			D		L
James Grieve rouge	Red James Grieve		B		L
Jarka			C		L
Jerseymac			B		
Jester			D		L
Jonagold (2) and mutants, for example Crowngold Daligo Daliguy Dalijean Jonagold 2000 Jonabel Jonabres King Jonagold New Jonagold Novajo Schneica Wilmuta	Jonasty Jonamel Excel Fukushima Veulemanns	Jonica®	C		L

Variety	Synonyms	Trade name	Colour group	Russetting	Size
Jonagored and mutants, for example: Decosta Jomured Jonagold Boerekamp Jomar Jonagored Supra Jonaveld Primo Romagold Rubinstar Red Jonaprince	Van de Poel Surkijn	Early Queen® Marnica® First Red® Wilton's®, Red Prince®	A		L
Jonalord			C		
Jonathan			B		
Julia			B		
Jupiter			D		L
Karmijn de Sonnaville			C	R	L
Katy	Katja		B		
Kent			D	R	
Kidd's orange red			C	R	
Kim			B		
Koit			C		L
Krameri Tuvion			B		
Kukikovskoje			B		
Lady Williams			B		L
Lane's Prince Albert			D		L
Laxton's Superb	Laxtons Superb		C	R	
Ligol			B		L
Lobo			B		
Lodel			A		
Lord Lambourne			C		
Maigold			B		
Mc Intosh			B		
Meelis			B		L
Melba			B		
Melodie			B		L
Melrose			C		L
Meridian			C		

Variety	Synonyms	Trade name	Colour group	Russetting	Size
Moonglo			C		
Morgenduft	Imperatore		B		L
Mountain Cove		Ginger Gold™	D		L
Mutsu		Crispin®	D		L
Normanda			C		L
Nueva Europa			C		
Nueva Orleans			B		L
Odin			B		
Ontario			B		L
Orlovskoje Polosatoje			C		
Ozark Gold			D		L
Paula Red			B		
Pero de Cirio			D		L
Piglos			B		L
Pikant			B		L
Pikkolo			C		
Pilot			C		
Pimona			C		
Pinova		Corail®	C		
Pirella		Pirol®	B		L
Piros			C		L
Rafzubex		RubINETTE® Rosso	A		
Rafzubin		RubINETTE®	C		
Rajka			B		
Rambour d'hiver			D		L
Rambour Franc			B		
Reanda			B		L
Rebella			C		L

Variety	Synonyms	Trade name	Colour group	Russetting	Size
Red Delicious and mutants, for example: Campspur Erovan Evasni Flatrar Fortuna Delicious Otago Red King Red Spur Red York Richared Royal Red Sandidge Shotwell Delicious Stark Delicious Starking Starkrimson Starkspur Topred Trumdor Well Spur		Redchief® Early Red One® Scarlet Spur® Starkspur Ultra Red® Super Chief® Oregon Spur Delicious®	A		L
Red Dougherty			A		
Red Rome			A		
Redkroft			A		
Regal			A		
Regina			B		L
Reglindis			C		L
Reine des Reinettes	Goldparmäne, Gold Parmoné		C		
Reineta Encarnada			B		
Reinette Rouge du Canada			B		L
Reinette d'Orléans			D		L
Reinette Blanche du Canada	Reinette du Canada, Canada Blanc, Kanadarenette		D	R	L
Reinette de France			D		L
Reinette de Landsberg			D		L
Reinette grise du Canada	Graue Kanadarenette		D	R	L
Relinda			C		
Remo			B		
Renora			B		L
Resi			B		
Resista			D		L
Retina			B		L

Variety	Synonyms	Trade name	Colour group	Russetting	Size
Rewena			B		L
Roja de Benejama	Verruga, Roja del Valle, Clavelina		A		
Rome Beauty	Belle de Rome, Rome		B		
Rosana	Berner Rosenapfel		B		L
Royal Beaut			A		L
Rubin			C		L
Rubinola			B		L
Sciearly		Pacific Beauty™	A		
Scifresh		Jazz™	B		
Sciglo		Southern Snap™	A		
Sciray	GS48		A		
Scired		Pacific Queen™	A	R	
Sciros		Pacific Rose™	A		L
Selena			B		L
Shampion			B		L
Sidrunkollane Talioun			D		L
Sinap Orlovskij	Orlovski Sinap		D		L
Snygold	Earlygold		D		L
Sommerregent			C		
Spartan			A		
Splendour			A		
St. Edmunds Pippin			D	R	
Stark's Earliest			C		
Štaris	Staris		A		
Sturmer Pippin			D	R	
Sügisdessert			C		L
Sügisjoonik			C		L
Summerred			B		
Sunrise			A		
Sunset			D	R	
Suntan			D	R	L
Sweet Caroline			C		L
Talvenauding			B		
Tellisaare			B		

Variety	Synonyms	Trade name	Colour group	Russeting	Size
Tiina			B		L
Topaz			B		
Tydeman's Early Worcester	Tydeman's Early		B		L
Veteran			B		
Vista Bella	Bellavista		B		
Wealthy			B		
Worcester Pearmain			B		
York			B		

(¹) With minimum 20 % red colouring for Class I and Class II.

(²) However, for the variety Jonagold, at least one tenth of the surface of the fruit in Class II must be streaked with red colouring.

COMMISSION REGULATION (EC) No 1239/2005

of 29 July 2005

amending Regulation (EC) No 581/2004 opening a standing invitation to tender for exports refunds concerning certain types of butter and Regulation (EC) No 582/2004 opening a standing invitation to tender for exports refunds concerning skimmed milk powder

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Treaty establishing the European Community,

HAS ADOPTED THIS REGULATION:

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 31(3)(b) and (14) thereof,

Article 1

In Article 1(1) of Regulation (EC) No 581/2004, the second subparagraph is replaced by the following:

Whereas:

'The products referred to in the first subparagraph are intended for export for all destinations except Andorra, Ceuta and Melilla, Gibraltar, the United States of America and Vatican City.'

(1) According to Article 1(1) of Commission Regulation (EC) No 581/2004 ⁽²⁾ and to Article 1(1) of Commission Regulation (EC) No 582/2004 ⁽³⁾, certain destinations are excluded from the granting of an export refund.

Article 2

In Article 1 of Regulation (EC) No 582/2004, paragraph 1 is replaced by the following:

(2) Commission Regulation (EC) No 909/2005 of 16 June 2005 fixing the export refunds for milk and milk products ⁽⁴⁾ has included Ceuta and Melilla, as from 17 June 2005, under the destination zones L 01 and L 03, listing the destinations not eligible for export refunds and has aligned the refund rate for butter applied to Russia to the rate applicable for all other destinations. It is therefore necessary to exclude these destinations from the export refunds fixed under Regulations (EC) No 581/2004 and (EC) No 582/2004.

'1. A permanent tender is opened in order to determine the export refund on skimmed milk powder referred to in Section 9 of Annex I to Commission Regulation (EEC) No 3846/87 (*) in bags of at least 25 kilograms net weight and containing no more than 0,5 % by weight of added non-lactic matter falling under product code ex 0402 10 19 9000, intended for export to all destinations except Andorra, Bulgaria, Ceuta and Melilla, Gibraltar, the United States of America and Vatican City.

(3) Regulations (EC) No 581/2004 and (EC) No 582/2004 should be amended accordingly.

(*) OJ L 366, 24.12.1987, p. 1.'

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

⁽²⁾ OJ L 90, 27.3.2004, p. 64. Regulation last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

⁽³⁾ OJ L 90, 27.3.2004, p. 67. Regulation last amended by Regulation (EC) No 2250/2004.

⁽⁴⁾ OJ L 154, 17.6.2005, p. 10.

Article 3

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, 29 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 1240/2005**of 29 July 2005****amending Regulation (EC) No 1279/98 as regards certain tariff quotas for beef and veal products originating in Romania**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, and in particular the first subparagraph of Article 32(1) thereof,

Whereas,

(1) Council Decision 2003/18/EC of 19 December 2002 concerning the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, to take account of the outcome of negotiations between the Parties on new mutual agricultural concessions ⁽²⁾ provided for concessions as regards the importation of beef and veal products under the tariff quota opened by this Agreement.

(2) Provisions implementing this tariff quota were adopted by Commission Regulation (EC) No 1279/98 of 19 June 1998 laying down detailed rules for applying the tariff quotas for beef and veal provided for in Council Decisions 2003/286/EC and 2003/18/EC for Bulgaria and Romania ⁽³⁾.

(3) Council and Commission Decision 2005/431/EC of 25 April 2005 on the conclusion of the Additional Protocol

to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union ⁽⁴⁾, provides for concessions as regards beef and veal products.

(4) The measures which are necessary to open the concessions concerning beef and veal products should be adopted and Regulation (EC) No 1279/98 be amended accordingly.

(5) Moreover, Article 4(1) of Regulation (EC) No 1279/98 provides that licence applications may only be submitted during the first ten days of each period referred to in Article 2 of that Regulation. In view of the date of entry into force of the Additional Protocol, it is necessary to derogate from this provision for the period from the entry into force of this Regulation until 31 December 2005.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

1. By way of derogation from Article 4(1) of Regulation (EC) No 1279/98, applications for import licences for the period from the entry into force of the present Regulation until 31 December 2005 shall be lodged during the first ten working days following the date of publication of this Regulation in the *Official Journal of the European Union* but before 13:00, Brussels time, on the 10th working day.

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

⁽²⁾ OJ L 8, 14.1.2003, p. 18.

⁽³⁾ OJ L 176, 20.6.1998, p. 12. Regulation as last amended by Regulation (EC) No 1220/2005 (OJ L 199, 29.7.2005, p. 47).

⁽⁴⁾ OJ L 155, 17.6.2005, p. 26.

2. Licence applications submitted during the first 10 days of July 2005 in accordance with Article 4(1) of Regulation (EC) No 1279/98 shall be counted as applications under paragraph 1.

3. Annexes I and II of Regulation (EC) No 1279/98 are replaced by the text in the Annex to this Regulation.

Article 2

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

It shall apply from 1 August 2005.

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

Done at Brussels, 29 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

ANNEX I

Concessions applicable to imports into the Community of certain products originating in certain countries

(MFN = most favoured nation duty)

Country of origin	Serial No	CN code	Description	Rate of duty applicable (% of MFN)	Annual quantity from 1.7.2005 (tonnes) ⁽¹⁾	Annual increase from 1.7.2006 (tonnes)
Romania	09.4753	0201 0202	Meat of bovine animals, fresh, chilled or frozen	Free	4 000	0
	09.4765	0206 10 95	Edible thick skirt and thin skirt of bovine animals, fresh or chilled	Free	100	0
		0206 29 91	Edible thick skirt and thin skirt of bovine animals, frozen			
		0210 20	Meat of bovine animals, salted or in brine, dried or smoked			
	0210 99 51	Thick and thin skirt of bovine animals				
	09.4768	1602 50	Prepared or preserved meat or offal of bovine animals	Free	500	0
Bulgaria	09.4651	0201 0202	Meat of bovine animals, fresh, chilled or frozen	Free	2 500	0
	09.4784	1602 50	Prepared or preserved meat or offal of bovine animals	Free	660	60

⁽¹⁾ For Romania, annual quantity from 1.8.2005 (tonnes).

ANNEX II

EC Fax (32 2) 292 17 34

E-mail: AGRI-Bovins-Import@cec.eu.int

Application of Regulation (EC) No 1279/98

COMMISSION OF THE EUROPEAN COMMUNITIES DG AGRI D.2 — IMPLEMENTATION OF MARKET MEASURES

APPLICATION FOR IMPORT RIGHTS

Date: Quota period:

Member State:

Country of origin	Number of applicant ⁽¹⁾	Applicant (name and address)	Quantity (in tonnes)	CN code(s)
Total				

Member State: Fax No:

Tel. No:

E-mail:

⁽¹⁾ Continuous numbering.

COMMISSION REGULATION (EC) No 1241/2005**of 29 July 2005****laying down detailed rules for the application of a tariff quota for certain live bovine animals originating in Romania, provided for in Council Decision 2003/18/EC**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, and in particular the first subparagraph of Article 32(1) thereof,

Whereas,

- (1) Council Decision 2003/18/EC of 19 December 2002 concerning the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, to take account of the outcome of negotiations between the Parties on new mutual agricultural concessions ⁽²⁾ provided for concessions as regards the opening of tariff import quotas of certain live bovine animals originating from Romania.
- (2) Council and Commission Decision 2005/431/EC of 25 April 2005 on the conclusion of the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union ⁽³⁾, provides for additional concessions as regards imports of certain live bovine animals originating from Romania.
- (3) Detailed rules should be adopted for the opening and administration of the tariff quota concerning live bovine animals, on a multi-annual basis beginning on 1 August 2005.
- (4) With a view to preventing speculation, the quantities available within the quota should be made accessible to operators able to show that they are genuinely engaged in trade of a significant scale with third countries. In consideration of this and in order to ensure efficient management, the traders concerned should be required to have imported a certain minimum number of animals during the year previous to the annual quota period in question which, at the same time, should guarantee a fair access to the concessions. Given that the present concessions only apply to imports of animals from Romania and considering the imports which are carried out from this country, a consignment of 50 animals may be considered to be a normal load. Experience shows that the purchase of a single consignment is a minimum requirement for a transaction to be considered real and viable.
- (5) If such criteria are to be checked, applications should be presented in the Member State where the importer is entered in a VAT register.
- (6) Furthermore, in order to prevent speculation, importers no longer involved in trade in live bovine animals at 1 January previous to the beginning of the annual quota period in question should be denied access to the quota. Moreover, a security relating to import rights should be submitted in the Member States where the operator is entered in the national VAT register. Import licences should not be transferable and should be issued to traders solely for the quantities for which they have been allocated import rights.
- (7) To provide a more equal access to the quota while ensuring a commercially viable number of animals per application, maximum and minimum limits should be fixed for the number of animals covered in each application.
- (8) It should be established that import rights are to be allocated after a reflection period and where necessary with a fixed percentage reduction applied.

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

⁽²⁾ OJ L 8, 14.1.2003, p. 18.

⁽³⁾ OJ L 155, 17.6.2005, p. 26.

(9) Pursuant to Article 29(1) of Regulation (EC) No 1254/1999, the arrangements should be managed using import licences. To this end, rules should be laid down on the submission of applications and the information to be given on applications and licences, where necessary in addition to or by way of derogation from certain provisions of Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80⁽¹⁾ and of Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽²⁾.

(10) To oblige operators to apply for import licences for all import rights allocated, it should be established that the application should constitute, with regard to the import rights security, a primary requirement within the meaning of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products⁽³⁾.

(11) A proper management of the quota also requires that the titular holder of the licence is a genuine importer. Therefore, such importer should actively participate in the purchase, transport and import of the animals concerned. Presentation of proof of those activities should thus also be a primary requirement with regard to the licence security.

(12) With a view to ensuring a strict statistical control of the animals imported under the quota, the tolerance referred to in Article 8(4) of Regulation (EC) No 1291/2000 should not apply.

(13) Commission Regulation (EC) No 1143/1998 of 2 June 1998 laying down detailed rules for a tariff quota for cows and heifers of specified mountain breeds originating in various third countries, other than for slaughter, and amending Regulation (EC) No 1012/98⁽⁴⁾ has finally become redundant with the adoption of Decision 2005/431/EC and of Council and Commission Decision 2005/430/EC of 18 April 2005 on the conclusion of the Additional Protocol to the Europe Agreement estab-

lishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union⁽⁵⁾. That Regulation should, therefore, be repealed.

(14) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

46 000 live bovine animals falling within CN codes 0102 90 05, 0102 90 21, 0102 90 29, 0102 90 41, 0102 90 49, 0102 90 51, 0102 90 59, 0102 90 61 or 0102 90 71 and originating in Romania may be imported into the Community free of duty on a multi-annual basis for periods from 1 July to 30 June of the following year.

However, for the quota year 2005-2006, the quota period referred to in the first sub-paragraph shall be 1 August 2005 to 30 June 2006.

The quota referred to in the first sub-paragraph shall have the order number 09.4769.

Article 2

1. Applications for import rights under the quota provided for in Article 1 may only be submitted by applicants which are natural or legal persons. Applicants must prove to the satisfaction of the competent authorities of the Member State concerned, at the time they submit their applications, that they have imported at least 50 animals covered by CN code 0102 90 during the year previous to the annual quota period in question.

Applicants must be listed in a national VAT register.

2. Proof of import shall be furnished exclusively by means of the customs document of release for free circulation, duly endorsed by the customs authorities and containing a reference to the applicant concerned as being the consignee.

⁽¹⁾ OJ L 143, 27.6.1995, p. 35. Regulation as last amended by Regulation (EC) No 1118/2004 (OJ L 217, 17.6.2004, p. 10).

⁽²⁾ OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1741/2004 (OJ L 311, 8.10.2004, p. 17).

⁽³⁾ OJ L 205, 3.8.1985, p. 5. Regulation as last amended by Regulation (EC) No 673/2004 (OJ L 105, 14.4.2004, p. 17).

⁽⁴⁾ OJ L 159, 3.6.1998, p. 14. Regulation as last amended by Regulation (EC) No 1118/2004.

⁽⁵⁾ OJ L 155, 17.6.2005, p. 1.

Member States may accept copies of the documents referred to in the first subparagraph, duly certified by the competent authority. Where such copies are accepted, notification hereof shall be made in the communication from Member States referred to in Article 3(5) in respect of each applicant concerned.

3. Operators who at 1 January previous to the annual quota period in question have ceased their activities in trade with third countries in the beef and veal sector shall not qualify for any allocation.

4. A company formed by the merger of companies each having reference imports complying with the minimum quantity referred to in paragraph 1 may use those reference imports as a basis for its application.

Article 3

1. Applications for import rights may be presented only in the Member State in which the applicant is registered for VAT purposes.

2. Applications for import rights must cover at least 50 animals and may not cover more than 5 % of the quantity available.

Where applications exceed the percentage referred to in the first subparagraph, the excess shall be disregarded.

3. Applications for import rights shall be lodged before 13:00, Brussels time, on 15 June preceding the annual quota period in question.

However, for the quota period from 1 August 2005 to 30 June 2006, applications for import rights shall be lodged before 13:00, Brussels time, on the 10th working day following the date of publication of this Regulation in the *Official Journal of the European Union*.

4. Applicants may lodge no more than one application each for the quota referred to in Article 1. Where the same applicant lodges more than one application, all applications from that applicant shall be inadmissible.

5. After verification of the documents presented, Member States shall forward to the Commission, by the 10th working

day following the end of the period for the submission of applications at the latest, the list of applicants and their addresses as well as the quantities applied for.

All notifications, including 'nil' returns, shall be forwarded by fax or e-mail using the model form in Annex I or in another form communicated by the Commission to the Member States.

Article 4

1. Following the notification referred to in Article 3(5), the Commission shall decide as soon as possible to which extent the applications can be met.

2. If the quantities covered by applications as referred to in Article 3 exceed those available, the Commission shall fix a single reduction coefficient to be applied to the quantities applied for.

Where application of the reduction coefficient provided for in the first subparagraph gives a figure of less than 50 head per application, the quantity available shall be awarded by the Member States concerned by drawing lots for import rights covering 50 head each. Where the remainder is less than 50 head, a single import right shall be awarded for that quantity.

Article 5

1. The security relating to the import rights shall be EUR 3 per head. It shall be deposited with the competent authority together with the application for import rights.

2. Import licence applications shall be made for the quantity allocated. This obligation shall constitute a primary requirement within the meaning of Article 20(2) of Regulation (EEC) No 2220/85.

3. Where the application of the reduction coefficient referred to in Article 4(2) causes less import rights to be allocated than had been applied for, the security lodged shall be released proportionally without delay.

Article 6

1. The quantities awarded shall be imported subject to presentation of one or more import licences.

2. Licence applications may be lodged solely in the Member State where the applicant has applied and obtained import rights under the quota.

Each issuing of import licence shall result in a corresponding reduction of the import rights obtained.

3. Import licences shall be issued on application by and in the name of the operator who have obtained the import rights.

4. Licence applications and licences shall show the following:

(a) in box 8, the country of origin;

(b) in box 16, one or several of the following groups of CN codes:

0102 90 05, 0102 90 21, 0102 90 29, 0102 90 41,
0102 90 49, 0102 90 51, 0102 90 59, 0102 90 61 or
0102 90 71;

(c) in box 20, the order number of the quota concerned and at least one of the entries listed in Annex II.

Licences shall carry with them an obligation to import from the country indicated in box 8.

Article 7

1. By way of derogation from Article 9(1) of Regulation (EC) No 1291/2000, import licences issued pursuant to this Regulation shall not be transferable and shall confer rights under the tariff quotas only if made out in the same name and address as the one entered as consignee in the customs declaration of release for free circulation accompanying them.

2. By way of derogation from Article 3 of Regulation (EC) No 1445/95 import licences shall be valid for 150 days from their actual day of issue within the meaning of Article 6(3) of this Regulation. No import licences shall be valid after 30 June of each annual quota period.

3. The grant of the import licence shall be conditional on the lodging of a security of EUR 20 per head which shall be composed of:

(a) the security of EUR 3 referred to in Article 5(1) and

(b) an amount of EUR 17 which the applicant shall lodge together with the licence application.

4. Licences issued shall be valid throughout the Community.

5. Article 8(4) of Regulation (EC) No 1291/2000 shall not apply. To that end, the figure '0' (zero) shall be entered in box 19 of licences.

6. Notwithstanding the provisions of Section 4 of Title III of Regulation (EC) No 1291/2000 concerning the release of securities, the security referred to in paragraph 3 shall not be released until proof has been produced that the titular holder of the licence has been commercially and logistically responsible for the purchase, transport and clearance for free circulation of the animals concerned. Such proof shall at least consist of:

(a) the original commercial invoice or authenticated copy made out in the name of the titular holder by the seller or his representative, both established in the third country of export, and proof of payment by the titular holder or the opening by the titular holder of an irrevocable documentary credit in favour of the seller,

(b) the bill of lading or, where applicable, the road or air transport document, drawn up in the name of the titular holder, for the animals concerned,

(c) a document according to which the goods have been declared for release for free circulation with the indication of the name and address of the titular holder as consignee.

Article 8

Imported animals shall qualify for the exemption from duties in accordance with Article 1 on presentation of either an EUR 1 movement certificate issued by the exporting country in accordance with Protocol 4 annexed to the Europe Agreement with Romania, or a invoice-declaration drawn up by the exporter in accordance with this Protocol.

Article 9

Regulations (EC) No 1445/95 and (EC) No 1291/2000 shall apply, subject to this Regulation.

Article 10

Regulation (EC) No 1143/1998 is repealed.

Article 11

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

It shall apply as from 1 August 2005.

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

Done at Brussels, 29 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX I

EC Fax (32 2) 292 17 34

E-mail: AGRI-Bovins-Import@cec.eu.int

Application of Regulation (EC) No 1241/2005

Order No: ...

COMMISSION OF THE EUROPEAN COMMUNITIES DG AGRI D.2 — IMPLEMENTATION OF MARKET MEASURES

APPLICATION FOR IMPORT RIGHTS

Date: Quota period:

Member State:

Number of applicant ⁽¹⁾ ⁽²⁾	Applicant (name and address)	Quantity (Heads)
Total		

Member State: Fax No:

Tel. No:

E-mail:

⁽¹⁾ Continuous numbering.

⁽²⁾ Indicate with an asterix where application is made in accordance with the second subparagraph of Article 2(2).

ANNEX II

Entries referred to in Article 6(4)(c)

- *In Spanish:* Reglamento (CE) n^o 1241/2005
- *In Czech:* Nařízení (ES) č. 1241/2005
- *In Danish:* Forordning (EF) nr. 1241/2005
- *In German:* Verordnung (EG) Nr. 1241/2005
- *In Estonian:* Määrus (EÜ) nr 1241/2005
- *In Greek:* Κανονισμός (ΕΚ) αριθ. 1241/2005
- *In English:* Regulation (EC) No 1241/2005
- *In French:* Règlement (CE) n^o 1241/2005
- *In Italian:* Regolamento (CE) n. 1241/2005
- *In Latvian:* Regula (EK) Nr. 1241/2005
- *In Lithuanian:* Reglamentas (EB) Nr. 1241/2005
- *In Hungarian:* 1241/2005/EK rendelet
- *In Dutch:* Verordening (EG) nr. 1241/2005
- *In Polish:* Rozporządzenie (WE) nr 1241/2005
- *In Portuguese:* Regulamento (CE) n.º 1241/2005
- *In Slovakian:* Nariadenie (ES) č. 1241/2005
- *In Slovenian:* Uredba (ES) št. 1241/2005
- *In Finnish:* Asetus (EY) N:o 1241/2005
- *In Swedish:* Förordning (EG) nr 1241/2005

COMMISSION REGULATION (EC) No 1242/2005**of 29 July 2005****fixing the minimum selling prices for butter for the 168th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs ⁽²⁾, to sell by invitation to tender certain quantities of butter from intervention stocks that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further stipulated that the price or aid may vary according to the

intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

The minimum selling prices of butter from intervention stocks and processing securities applying for the 168th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 30 July 2005.

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

Done at Brussels, 29 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

ANNEX

to the Commission Regulation of 29 July 2005 fixing the minimum selling prices for butter for the 168th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula		A		B		
Incorporation procedure		With tracers	Without tracers	With tracers	Without tracers	
Minimum selling price	Butter \geq 82 %	Unaltered	206	210	—	—
		Concentrated	204,1	208,1	—	—
Processing security		Unaltered	79	79	—	—
		Concentrated	79	79	—	—

COMMISSION REGULATION (EC) No 1243/2005**of 29 July 2005****fixing the maximum aid for cream, butter and concentrated butter for the 168th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice cream and other foodstuffs ⁽²⁾, to sell by invitation to tender certain quantities of butter of intervention stocks that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further

stipulated that the price or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum aid and processing securities applying for the 168th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 30 July 2005.

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

Done at Brussels, 29 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

ANNEX

to the Commission Regulation of 29 July 2005 fixing the maximum aid for cream, butter and concentrated butter for the 168th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula		A		B	
		With tracers	Without tracers	With tracers	Without tracers
Incorporation procedure					
Maximum aid	Butter \geq 82 %	41	37	41	37
	Butter < 82 %	39	36,1	—	—
	Concentrated butter	49	45,1	49	45
	Cream	—	—	20	16
Processing security	Butter	45	—	45	—
	Concentrated butter	54	—	54	—
	Cream	—	—	22	—

COMMISSION REGULATION (EC) No 1244/2005**of 29 July 2005****fixing the maximum aid for concentrated butter for the 340th special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

- (2) In the light of the tenders received, the maximum aid should be fixed at the level specified below and the end-use security determined accordingly.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 340th tender under the standing invitation to tender opened by Regulation (EEC) No 429/90 the maximum aid and the end-use security are fixed as follows:

- | | |
|---------------------|----------------|
| — maximum aid: | 48 EUR/100 kg, |
| — end-use security: | 53 EUR/100 kg. |

Article 2

This Regulation shall enter into force on 30 July 2005.

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

Done at Brussels, 29 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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

⁽²⁾ OJ L 45, 21.2.1990, p. 8. Regulation as last amended by Commission Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

COMMISSION REGULATION (EC) No 1245/2005
of 29 July 2005
suspending the buying-in of butter in certain Member States

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

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

- (2) Commission Regulation (EC) No 1186/2005 ⁽³⁾ establishes the most recent list of Member States in which intervention is suspended. This list must be adjusted as a result of the market prices communicated by Poland pursuant to Article 8 of Regulation (EC) No 2771/1999. In the interests of clarity, the list in question should be replaced and Regulation (EC) No 1186/2005 should be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Buying-in of butter as provided for in Article 6(1) of Regulation (EC) No 1255/1999 is hereby suspended in Belgium, the Czech Republic, Denmark, Germany, Estonia, France, Ireland, Italy, Cyprus, Latvia, Hungary, Malta, Greece, Luxembourg, the Netherlands, Austria, Portugal, Slovenia, Slovakia, Finland, Sweden and the United Kingdom.

Article 2

Regulation (EC) No 1186/2005 is hereby repealed.

Article 3

This Regulation shall enter into force on 30 July 2005.

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

Done at Brussels, 29 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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

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

⁽³⁾ OJ L 193, 23.7.2005, p. 19.

COMMISSION REGULATION (EC) No 1246/2005**of 29 July 2005****concerning the 87th special invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 2799/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Pursuant to Article 26 of Commission Regulation (EC) No 2799/1999 of 17 December 1999 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the grant of aid for skimmed-milk and skimmed-milk powder intended for animal feed and the sale of such skimmed-milk powder ⁽²⁾, intervention agencies have put up for sale by standing invitation to tender certain quantities of skimmed-milk powder held by them.

(2) According to Article 30 of Regulation (EC) No 2799/1999, in the light of the tenders received in

response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no award.

(3) On the basis of the examination of the offers received, the tendering procedure should not be proceeded with.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 87th individual invitation to tender pursuant to Regulation (EC) No 2799/1999, in respect of which the time limit for the submission of tenders expired on 26 July 2005, no award shall be made.

Article 2

This Regulation shall enter into force on 30 July 2005.

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

Done at Brussels, 29 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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

⁽²⁾ OJ L 340, 31.12.1999, p. 3. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

COMMISSION REGULATION (EC) No 1247/2005**of 29 July 2005****fixing the minimum selling price for butter for the 24th individual invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 2771/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

(2) In the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no

award, in accordance with Article 24a of Regulation (EC) No 2771/1999.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 24rd individual invitation to tender pursuant to Regulation (EC) No 2771/1999, in respect of which the time limit for the submission of tenders expired on 26 July 2005, the minimum selling price for butter is fixed at 265 EUR/100 kg.

Article 2

This Regulation shall enter into force on 30 July 2005.

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

Done at Brussels, 29 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

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

COMMISSION REGULATION (EC) No 1248/2005**of 29 July 2005****fixing the minimum selling price for skimmed-milk powder for the 23rd individual invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 214/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

(2) In the light of the tenders received in response to each individual invitation to tender a minimum selling price

shall be fixed or a decision shall be taken to make no award, in accordance with Article 24a of Regulation (EC) No 214/2001.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 23rd individual invitation to tender pursuant to Regulation (EC) No 214/2001, in respect of which the time limit for the submission of tenders expired on 26 July 2005, the minimum selling price for skimmed milk is fixed at 195,24 EUR/100 kg.

Article 2

This Regulation shall enter into force on 30 July 2005.

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

Done at Brussels, 29 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 37, 7.2.2001, p. 100. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

COMMISSION REGULATION (EC) No 1249/2005
of 29 July 2005
fixing the corrective amount applicable to the refund on cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 15(2) thereof,

Whereas:

- (1) Article 14(2) of Regulation (EC) No 1784/2003 provides that the export refund applicable to cereals on the day on which an application for an export licence is made must be applied on request to exports to be effected during the period of validity of the export licence. In this case, a corrective amount may be applied to the refund.
- (2) Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽²⁾, allows for the fixing of a corrective amount for the products listed in Article 1(1)(c) of Regulation (EEC) No 1766/92 ⁽³⁾. That corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95.

- (3) The world market situation or the specific requirements of certain markets may make it necessary to vary the corrective amount according to destination.
- (4) The corrective amount must be fixed at the same time as the refund and according to the same procedure; it may be altered in the period between fixings.
- (5) It follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 1(1)(a), (b) and (c) of Regulation (EC) No 1784/2003 which is applicable to export refunds fixed in advance except for malt shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 August 2005.

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

Done at Brussels, 29 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 1431/2003 (OJ L 203, 12.8.2003, p. 16).

⁽³⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

ANNEX

to the Commission Regulation of 29 July 2005 fixing the corrective amount applicable to the refund on cereals

(EUR/t)

Product code	Destination	Current 8	1st period 9	2nd period 10	3rd period 11	4th period 12	5th period 1	6th period 2
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	A00	0	0	0	0	0	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	C01	0	-0,46	-0,92	-1,38	-1,84	—	—
1002 00 00 9000	A00	0	0	0	0	0	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	C02	0	-0,46	-0,92	-1,38	-1,84	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	C03	0	-0,46	-0,92	-1,38	-1,84	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	A00	0	0	0	0	0	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	C01	0	-0,63	-1,26	-1,89	-2,52	—	—
1101 00 15 9130	C01	0	-0,59	-1,18	-1,76	-2,36	—	—
1101 00 15 9150	C01	0	-0,54	-1,09	-1,63	-2,17	—	—
1101 00 15 9170	C01	0	-0,50	-1,00	-1,50	-2,00	—	—
1101 00 15 9180	C01	0	-0,47	-0,94	-1,41	-1,88	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	A00	0	0	0	0	0	—	—
1102 10 00 9700	A00	0	0	0	0	0	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	A00	0	0	0	0	0	—	—
1103 11 10 9400	A00	0	0	0	0	0	—	—
1103 11 10 9900	—	—	—	—	—	—	—	—
1103 11 90 9200	A00	0	0	0	0	0	—	—
1103 11 90 9800	—	—	—	—	—	—	—	—

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended. The numeric destination codes are set out in Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

C01: All third countries with the exception of Albania, Bulgaria, Romania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro, the former Yugoslav Republic of Macedonia, Lichtenstein and Switzerland.

C02: Algeria, Saudi Arabia, Bahrain, Egypt, United Arab Emirates, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Lybia, Morocco, Mauritania, Oman, Qatar, Syria, Tunisia and Yemen.

C03: All third countries with the exception of Bulgaria, Norway, Romania, Switzerland and Lichtenstein.

COMMISSION REGULATION (EC) No 1250/2005
of 29 July 2005
fixing the export refunds on malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13 of Regulation (EC) No 1784/2003 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) The refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽²⁾.
- (3) The refund applicable in the case of malts must be calculated with amount taken of the quantity of cereals required to manufacture the products in question. The said quantities are laid down in Regulation (EC) No 1501/95.

- (4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.
- (5) The refund must be fixed once a month. It may be altered in the intervening period.
- (6) It follows from applying these rules to the present situation on markets in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto.
- (7) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on malt listed in Article 1(1)(c) of Regulation (EC) No 1784/2003 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 August 2005.

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

Done at Brussels, 29 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 1431/2003 (OJ L 203, 12.8.2003, p. 16).

ANNEX

to the Commission Regulation of 29 July 2005 fixing the export refunds on malt

Product code	Destination	Unit of measurement	Amount of refunds
1107 10 19 9000	A00	EUR/t	0,00
1107 10 99 9000	A00	EUR/t	0,00
1107 20 00 9000	A00	EUR/t	0,00

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

COMMISSION REGULATION (EC) No 1251/2005
of 29 July 2005
fixing the corrective amount applicable to the refund on malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organization of the market in cereals ⁽¹⁾, and in particular Article 15(2),

Whereas:

- (1) Article 14(2) of Regulation (EC) No 1784/2003 provides that the export refund applicable to cereals on the day on which application for an export licence is made must be applied on request to exports to be effected during the period of validity of the export licence. In this case, a corrective amount may be applied to the refund.
- (2) Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽²⁾ allows for the fixing of a corrective amount for the malt referred

to in Article 1(1)(c) of Regulation (EEC) No 1766/92 ⁽³⁾. That corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95.

- (3) It follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 15(3) of Regulation (EC) No 1784/2003 which is applicable to export refunds fixed in advance in respect of malt shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 August 2005.

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

Done at Brussels, 29 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 1431/2003 (OJ L 203, 12.8.2003, p. 16).

⁽³⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

ANNEX

to the Commission Regulation of 29 July 2005 fixing the corrective amount applicable to the refund on malt

(EUR/t)

Product code	Destination	Current 8	1st period 9	2nd period 10	3rd period 11	4th period 12	5th period 1
1107 10 11 9000	A00	0	0	0	0	0	0
1107 10 19 9000	A00	0	0	0	0	0	0
1107 10 91 9000	A00	0	0	0	0	0	0
1107 10 99 9000	A00	0	0	0	0	0	0
1107 20 00 9000	A00	0	0	0	0	0	0

(EUR/t)

Product code	Destination	6th period 2	7th period 3	8th period 4	9th period 5	10th period 6	11th period 7
1107 10 11 9000	A00	0	0	0	0	0	0
1107 10 19 9000	A00	0	0	0	0	0	0
1107 10 91 9000	A00	0	0	0	0	0	0
1107 10 99 9000	A00	0	0	0	0	0	0
1107 20 00 9000	A00	0	0	0	0	0	0

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

COMMISSION REGULATION (EC) No 1252/2005
of 29 July 2005
fixing the export refunds on cereal-based compound feedingstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 september 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13 of Regulation (EC) No 1784/2003 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1517/95 of 29 June 1995 laying down detailed rules for the application of Regulation (EC) No 1784/2003 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ⁽²⁾ in Article 2 lays down general rules for fixing the amount of such refunds.
- (3) That calculation must also take account of the cereal products content. In the interest of simplification, the refund should be paid in respect of two categories of 'cereal products', namely for maize, the most commonly used cereal in exported compound feeds

and maize products, and for 'other cereals', these being eligible cereal products excluding maize and maize products. A refund should be granted in respect of the quantity of cereal products present in the compound feedingstuff.

- (4) Furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export.
- (5) The current situation on the cereals market and, in particular, the supply prospects mean that the export refunds should be abolished.
- (6) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the compound feedingstuffs covered by Regulation (EC) No 1784/2003 and subject to Regulation (EC) No 1517/95 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 August 2005.

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

Done at Brussels, 29 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 147, 30.6.1995, p. 51.

ANNEX

to the Commission Regulation of 29 July 2005 fixing the export refunds on cereal-based compound feedingstuffs

Product codes benefiting from export refund:

2309 10 11 9000, 2309 10 13 9000, 2309 10 31 9000,
2309 10 33 9000, 2309 10 51 9000, 2309 10 53 9000,
2309 90 31 9000, 2309 90 33 9000, 2309 90 41 9000,
2309 90 43 9000, 2309 90 51 9000, 2309 90 53 9000.

Cereal products	Destination	Unit of measurement	Amount of refunds
Maize and maize products: CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10	C10	EUR/t	0,00
Cereal products excluding maize and maize products	C10	EUR/t	0,00

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

C10: All destinations.

COMMISSION REGULATION (EC) No 1253/2005**of 29 July 2005****fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾ and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽²⁾ and in particular Article 13(3) thereof,

Whereas:

- (1) Article 2 of Council Regulation (EEC) No 2681/74 of 21 October 1974 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid ⁽³⁾ lays down that the portion of the expenditure corresponding to the export refunds on the products in question fixed under Community rules is to be charged to the European Agricultural Guidance and Guarantee Fund, Guarantee Section.
- (2) In order to make it easier to draw up and manage the budget for Community food aid actions and to enable the Member States to know the extent of Community participation in the financing of national food aid actions, the level of the refunds granted for these actions should be determined.
- (3) The general and implementing rules provided for in Article 13 of Regulation (EC) No 1784/2003 and in Article 13 of Regulation (EC) No 3072/95 on export refunds are applicable *mutatis mutandis* to the abovementioned operations.
- (4) The specific criteria to be used for calculating the export refund on rice are set out in Article 13 of Regulation (EC) No 3072/95.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For Community and national food aid operations under international agreements or other supplementary programmes, and other Community free supply measures, the refunds applicable to cereals and rice sector products shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 1 August 2005.

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

Done at Brussels, 29 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).

⁽³⁾ OJ L 288, 25.10.1974, p. 1.

ANNEX

to the Commission Regulation of 29 July 2005 fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid

(EUR/t)

Product code	Refund
1001 10 00 9400	0,00
1001 90 99 9000	0,00
1002 00 00 9000	0,00
1003 00 90 9000	0,00
1005 90 00 9000	0,00
1006 30 92 9100	0,00
1006 30 92 9900	0,00
1006 30 94 9100	0,00
1006 30 94 9900	0,00
1006 30 96 9100	0,00
1006 30 96 9900	0,00
1006 30 98 9100	0,00
1006 30 98 9900	0,00
1006 30 65 9900	0,00
1007 00 90 9000	0,00
1101 00 15 9100	5,48
1101 00 15 9130	5,12
1102 10 00 9500	0,00
1102 20 10 9200	53,30
1102 20 10 9400	45,68
1103 11 10 9200	0,00
1103 13 10 9100	68,53
1104 12 90 9100	0,00

NB: The product codes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), amended.

COMMISSION REGULATION (EC) No 1254/2005**of 29 July 2005****fixing the production refund on white sugar used in the chemical industry for the period from 1 to 31 August 2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, and in particular the fifth indent of Article 7(5) thereof,

Whereas:

- (1) Pursuant to Article 7(3) of Regulation (EC) No 1260/2001, production refunds may be granted on the products listed in Article 1(1)(a) and (f) of that Regulation, on syrups listed in Article 1(1)(d) thereof and on chemically pure fructose covered by CN code 1702 50 00 as an intermediate product, that are in one of the situations referred to in Article 23(2) of the Treaty and are used in the manufacture of certain products of the chemical industry.
- (2) Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of

Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry ⁽²⁾ provides that these refunds shall be determined according to the refund fixed for white sugar.

- (3) Article 9 of Regulation (EC) No 1265/2001 provides that the production refund on white sugar is to be fixed at monthly intervals commencing on the first day of each month.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The production refund on white sugar referred to in Article 4 of Regulation (EC) No 1265/2001 shall be equal to 31,325 EUR/100 kg net for the period from 1 to 31 August 2005.

Article 2

This Regulation shall enter into force on 1 August 2005.

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

Done at Brussels, 29 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽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. 16).

⁽²⁾ OJ L 178, 30.6.2001, p. 63.

COMMISSION REGULATION (EC) No 1255/2005**of 29 July 2005****determining the extent to which the applications for import licences submitted in July 2005 for certain dairy products under certain tariff quotas opened by Regulation (EC) No 2535/2001 can be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾,Having regard to Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas ⁽²⁾, and in particular Article 16(2) thereof,

Whereas:

Applications lodged from 1 to 10 July 2005 for certain quotas referred to in Annex I to Regulation (EC) No 2535/2001 concern quantities greater than those

available; therefore, the allocation factors should be fixed for the quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

The allocation coefficients set out in the Annex to this Regulation shall be applied to the quantities for which import licences have been sought for the period from 1 to 10 July 2005 in respect of products falling within the quotas referred to in parts I.A, I.B, points 1 and 2, and parts I.C, I.D, I.E, I.F, I.G and I.H, of Annex I to Regulation (EC) No 2535/2001.

Article 2

This Regulation shall enter into force on 30 July 2005.

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

Done at Brussels, 29 July 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

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

⁽²⁾ OJ L 341, 22.12.2001, p. 29. Regulation as last amended by Regulation (EC) No 1036/2005 (OJ L 178, 2.7.2005, p. 19).

ANNEX I.A

Quota number	Allocation coefficient
09.4590	—
09.4599	1,0000
09.4591	—
09.4592	—
09.4593	—
09.4594	—
09.4595	0,0083
09.4596	1,0000

ANNEX I.B

5. Products originating in Roumania

Quota number	Allocation coefficient
09.4771	0,0502
09.4772	—
09.4758	0,3024

6. Products originating in Bulgaria

Quota number	Allocation coefficient
09.4773	—
09.4660	0,4123
09.4675	—

ANNEX I.C

Products originating in ACP countries

Quota number	Quantity (t)
09.4026	—
09.4027	—

ANNEX I.D

Products originating in Turkey

Quota number	Quantity (t)
09.4101	—

ANNEX I.E

Products originating from South Africa

Quota number	Quantity (t)
09.4151	—

ANNEX I.F

Products originating from Switzerland

Quota number	Allocation coefficient
09.4155	0,9283
09.4156	1,0000

ANNEX I.G

Products originating in Jordan

Quota number	Quantity (t)
09.4159	—

ANNEX I.H

Products originating in Norway

Quota number	Allocation coefficient
09.4781	1,0000
09.4782	0,9189

COMMISSION REGULATION (EC) No 1256/2005**of 29 July 2005****fixing the import duties in the cereals sector applicable from 1 August 2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

- (1) Article 10 of Regulation (EC) No 1784/2003 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.
- (2) Pursuant to Article 10(3) of Regulation (EC) No 1784/2003, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market.

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 1 August 2005.

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

Done at Brussels, 29 July 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

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

ANNEX I

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

CN code	Description	Import duty ⁽¹⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	Common high quality wheat other than for sowing	0,00
1002 00 00	Rye	37,12
1005 10 90	Maize seed other than hybrid	55,50
1005 90 00	Maize other than seed ⁽²⁾	55,50
1007 00 90	Grain sorghum other than hybrids for sowing	42,11

⁽¹⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— EUR 3/t, where the port of unloading is on the Mediterranean Sea, or

— EUR 2/t, where the port of unloading is in Ireland, the United Kingdom, Denmark, Estonia, Latvia, Lithuania, Poland, Finland, Sweden or the Atlantic coasts of the Iberian peninsula.

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

ANNEX II

Factors for calculating duties

period from 15.7.2005-28.7.2005

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

Exchange quotations	Minneapolis	Chicago	Minneapolis	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2	YC3	HAD2	Medium quality (*)	Low quality (**)	US barley 2
Quotation (EUR/t)	120,54 (***)	78,92	173,01	163,01	143,01	94,14
Gulf premium (EUR/t)	—	11,02	—			—
Great Lakes premium (EUR/t)	24,66	—	—			—

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

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

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

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

Freight/cost: Gulf of Mexico–Rotterdam: 16,58 EUR/t; Great Lakes–Rotterdam: 25,77 EUR/t.

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

COMMISSION REGULATION (EC) No 1257/2005**of 29 July 2005****on the issue of system B export licences in the fruit and vegetables sector (peaches)**

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(6) thereof,

Whereas:

- (1) Commission Regulation (EC) No 951/2005 ⁽³⁾ fixes the indicative quantities for which system B export licences may be issued.
- (2) In the light of the information available to the Commission today, there is a risk that the indicative

quantities laid down for the current export period for peaches will shortly be exceeded. This overrun will prejudice the proper working of the export refund scheme in the fruit and vegetables sector.

- (3) To avoid this situation, applications for system B licences for peaches after 1 August 2005 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for system B export licences for peaches submitted pursuant to Article 1 of Regulation (EC) No 951/2005, export declarations for which are accepted after 1 August and before 16 September 2005, are hereby rejected.

Article 2

This Regulation shall enter into force on 1 August 2005.

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

Done at Brussels, 29 July 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 268, 9.10.2001, p. 8. Regulation as last amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

⁽³⁾ OJ L 160, 23.6.2005, p. 19. Regulation as amended by Regulation (EC) No 1078/2005 (OJ L 177, 9.7.2005, p. 3).

COMMISSION REGULATION (EC) No 1258/2005
of 29 July 2005
determining the world market price for unginmed cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Protocol 4 on cotton, annexed to the Act of Accession of Greece, as last amended by Council Regulation (EC) No 1050/2001 ⁽¹⁾,

Having regard to Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton ⁽²⁾, and in particular Article 4 thereof,

Whereas:

- (1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for unginmed cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for unginmed cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 laying down detailed rules for applying the cotton aid scheme ⁽³⁾. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.
- (2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginmed

cotton is to be determined in respect of a product of specific characteristics and by reference to the most favourable offers and quotations on the world market among those considered representative of the real market trend. To that end, an average is to be calculated of offers and quotations recorded on one or more European exchanges for a product delivered cif to a port in the Community and coming from the various supplier countries considered the most representative in terms of international trade. However, there is provision for adjusting the criteria for determining the world market price for ginned cotton to reflect differences justified by the quality of the product delivered and the offers and quotations concerned. Those adjustments are specified in Article 3(2) of Regulation (EC) No 1591/2001.

- (3) The application of the above criteria gives the world market price for unginmed cotton determined hereinafter,

HAS ADOPTED THIS REGULATION:

Article 1

The world price for unginmed cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling 20,850 EUR/100 kg.

Article 2

This Regulation shall enter into force on 1 August 2005.

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

Done at Brussels, 29 July 2005.

For the Commission
J. M. SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development

⁽¹⁾ OJ L 148, 1.6.2001, p. 1.

⁽²⁾ OJ L 148, 1.6.2001, p. 3.

⁽³⁾ OJ L 210, 3.8.2001, p. 10. Regulation as amended by Regulation (EC) No 1486/2002 (OJ L 223, 20.8.2002, p. 3).

COMMISSION REGULATION (EC) No 1259/2005**of 27 July 2005****imposing a provisional anti-dumping duty on imports of tartaric acid originating in the People's Republic of China**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ ('the basic Regulation') and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE**1.1. Initiation**

- (1) On 24 September 2004, the Commission received a complaint lodged pursuant to Article 5 of Council Regulation (EC) No 384/96 on protection of dumped imports from countries non-members of the European Communities ('the basic Regulation') by the following producers ('the complainant'): Legré-Manté SA, Industria Chimica Valenzana S.p.A, Distilleries Mazzari S.p.a., Alcoholera Vinicola Europea S.A. and Comercial Quimica Sarasa s.l., representing a major proportion, in this case more than 50 %, of the total Community production of tartaric acid.
- (2) This complaint contained evidence of dumping of tartaric acid from the People's Republic of China ('PRC') and of material injury resulting there from, which was considered sufficient to justify the opening of a proceeding.
- (3) On 30 October 2004, the proceeding was opened by the publication of a notice of initiation⁽²⁾ in the *Official Journal of the European Union*.

1.2. Parties concerned by the proceeding

- (4) The Commission officially advised the complainants, other Community producers, the exporting producers, importers, suppliers and users as well as user associations known to be concerned, and representatives of the PRC of the opening of the proceeding. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time-limit set in the notice of initiation.
- (5) The complainant producers, other co-operating Community producers, exporting producers, importers, suppliers, users and user associations made their views known. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.
- (6) In order to allow exporting producers in the PRC to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned. Claims for MET, or for IT in case the investigation establishes that they do not meet the conditions for MET, were received from three exporting producers.
- (7) Questionnaires were sent to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from three exporting producers in the PRC, one producer in the analogue country, Argentina, seven Community producers and two Community users.

⁽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 C 267, 30.10.2004, p. 4.

(8) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Community interest and carried out verifications at the premises of the following companies:

(a) *Community producers*

- Alcoholera Vinicola Europea 'Alvinesa' SA, Ciudad Real, Spain
- Comercial Quimica Sarasa 'Tydsa' SL, Girona, Spain
- Distillerie Bonollo Srl, Frosinone, Italy
- Distillerie Mazzari SpA, Ravenna, Italy
- Etablissements Legré-Mante SA, Marseille, France
- Industria Chimica Valenzana 'I.C.V.' SpA, Palermo, Italy
- Tartarica Treviso Srl, Faenza, Italy

(b) *Exporting producers in the PRC*

- Hangzhou Bioking Biochemical Engineering Co., Ltd, Hangzhou, PRC.
- Changmao Biochemical Engineering Co., Ltd, Changzhou City, PRC.
- Ninghai Organic Chemical Factory, Ninghai, PRC.

(9) In view of the need to establish a normal value for exporting producers in the PRC to which MET might not be granted, a verification to establish normal value on the basis of data from an analogue country, Argentina in this case, took place at the premises of the following company:

(c) *Producers in the analogue country*

- Tarcol S.A., Buenos Aires, Argentina.

1.3. Investigation period

(10) The investigation of dumping and injury covered the period from 1 July 2003 to 30 June 2004 ('investigation period' or 'IP'). With respect to the trends relevant for the injury assessment, the Commission analysed data covering the period from 1 January 2001 to 30 June 2004 ('period considered'). The period used for the findings on undercutting, underselling and injury elimination is the aforementioned IP.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(11) The product concerned is tartaric acid ('TA'). The product is currently classifiable within CN code 2918 12 00. The product concerned is used mainly by wine producers, the food industry and numerous other industries, either as an ingredient in the final product or as an additive to speed up or slow chemical processes. The product can be obtained either from the by-products of wine making or, via chemical synthesis, from petrochemical compounds. Based on the physical characteristics, the production process and the substitutability of the different types of the product from the perspective of the user, all TA is considered to constitute a single product for the purpose of the proceeding.

2.2. Like product

- (12) The investigation showed that the basic physical characteristics of TA produced and sold by the Community industry in the Community, TA produced and sold on the domestic Chinese market, and TA imported into the Community from the PRC, as well as that produced and sold in Argentina, are the same and that these products have largely the same use.
- (13) It was therefore provisionally concluded that the product concerned and the TA sold on the domestic market of the PRC, the TA produced and sold in Argentina, as well as the TA produced and sold in the Community by the Community industry have the same basic physical characteristics and uses and are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Market economy treatment (MET)

- (14) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.
- (15) Briefly, and for ease of reference only, the MET criteria are set out in summarised form below:
1. Business decisions and costs are made in response to market conditions and without significant State interference;
 2. Accounting records are independently audited in line with international accounting standards and applied for all purposes;
 3. There are no significant distortions carried over from the former non-market economy system;
 4. Legal certainty and stability is provided by bankruptcy and property laws;
 5. Currency exchanges are carried out at the market rate.
- (16) In the present investigation, three exporting producers in the PRC made themselves known and requested MET pursuant to Article 2(7)(c) of the basic Regulation. Each MET application was analysed, and on-spot investigations were carried out at the premises of these co-operating companies (see recital (7)). As a result it was found that the three producers fulfilled all of the conditions for MET.
- (17) On this basis, the exporting producers in the PRC which obtained MET are the following:
1. Hangzhou Bioking Biochemical Engineering Co., Ltd, Hangzhou.
 2. Changmao Biochemical Engineering Co., Ltd, Changzhou City.
 3. Ninghai Organic Chemical Factory, Ninghai.

3.2. Normal value

3.2.1. Determination of normal value for exporting producers granted MET

- (18) As far as the determination of normal value is concerned, the Commission first established, for each exporting producer concerned, whether its total domestic sales of TA were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume of each exporting producer was at least 5 % of its total export sales volume to the Community.

- (19) For the exporting producers having overall representative domestic sales, the Commission subsequently identified the types of TA sold domestically which were identical or directly comparable to the types sold for export to the Community.
- (20) For each of those types, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type exported to the Community.
- (21) An examination was also made as to whether the domestic sales of each type of the product concerned could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the type in question.
- (22) In cases where the sales volume of a type of TA, sold at a net sales price equal to or above its cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above its cost of production, normal value was based on the actual domestic price. This price was calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not.
- (23) Where the volume of profitable sales of a type of TA represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below its cost of production, normal value was based on the actual domestic price, which was calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type.
- (24) Finally, where the volume of profitable sales of any type of TA represented less than 10 % of the total sales volume of that type, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.
- (25) Wherever domestic prices of a particular type sold by an exporting producer could not be used, constructed normal value was used.
- (26) Consequently, in accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to each exporter's manufacturing costs of the exported types a reasonable amount for selling, general and administrative expenses ('SG&A') and a reasonable margin of profit. To this end, the Commission examined whether the SG&A incurred and the profit realised by each of the exporting producers concerned on the domestic market constituted reliable data.
- (27) Actual domestic SG&A expenses were considered reliable when the total domestic sales volume of the company concerned could be regarded as representative as compared to the volume of export sales to the Community. The domestic profit margin was determined on the basis of domestic sales of those types that were sold in the ordinary course of trade. For this purpose, the methodology set out in recitals (21) to (23) was applied.
- (28) All companies had overall representative sales and it was found that most types of the product concerned, which were exported, were sold on the domestic market in the ordinary course of trade. For those types where this was not the case, normal value was constructed using the methodology set out in recital (26), using the SG&A and profit information for each company concerned.

3.2.2. Determination of normal value for exporting producers not granted MET

(a) Analogue country

- (29) According to Article 2(7) of the basic Regulation, normal value for companies to which MET could not be granted, was established on the basis of the prices or constructed value in an analogue country.
- (30) In the Notice of Initiation, the Commission indicated its intention to use Argentina as an appropriate analogue country for the purpose of establishing normal value for the PRC and interested parties were invited to comment on this.
- (31) No exporting producers in the PRC not granted MET objected to this proposal. In addition, the investigation revealed that Argentina is a competitive market for the product concerned with at least two domestic producers, of different sizes, and with imports from third countries. The domestic producers were found to produce TA similar to that from the PRC albeit with different production methods. The Argentinean market was therefore deemed sufficiently representative for the purpose of establishing normal value.
- (32) All known exporting producers in Argentina were contacted, and one company agreed to co-operate. A questionnaire was therefore sent to this producer and the data submitted in its reply was verified on the spot.

(b) Normal value

- (33) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET was established on the basis of verified information received from the producer in the analogue country, i.e. on the basis of prices paid or payable on the domestic market of Argentina, for product types which were found to be made in the ordinary course of trade, in accordance with the methodology set out in recital (23). Where necessary, those prices were adjusted so as to ensure a fair comparison with those product types exported to the Community by the Chinese producers concerned.
- (34) As a result, normal value was established as the weighted average domestic sales price to unrelated customers by the co-operating producer in Argentina.

3.3. Export price

- (35) In all cases the product concerned was exported to independent customers in the Community. The export price was therefore established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

3.4. Comparison

- (36) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments concerning transport and insurance, credit, commission and bank charges were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.
- (37) Adjustments were also made for differences in VAT reimbursement, as it was found that a lower level of VAT was reimbursed on export sales than that which is reimbursed for domestic sales.

3.5. Dumping margin

3.5.1. For the co-operating exporting producers granted MET

- (38) For the three companies which were granted MET, the weighted average normal value of each type of the product concerned exported to the Community was compared with the weighted average export price of the corresponding type of the product concerned, as provided for under Article 2(11) of the basic Regulation.
- (39) On this basis, the provisional weighted average dumping margins expressed as a percentage of the CIF Community frontier price duty unpaid are:

Company	Provisional dumping margin
Hangzhou Bioking Biochemical Engineering Co., Ltd, Hangzhou	2,4 %
Changmao Biochemical Engineering Co., Ltd, Changzhou City	13,8 %
Ninghai Organic Chemical Factory, Ninghai.	6,6 %

3.5.2. For all other exporting producers

- (40) In order to calculate the countrywide dumping margin applicable to all other exporters in the PRC, the Commission first established the level of co-operation. A comparison was made between the total imports of the product concerned originating in the PRC calculated on the basis of Eurostat and the actual questionnaire replies received from exporters in the PRC. On this basis, it was established that the level of co-operation was low, i.e. 63 % of the overall Chinese exports to the Community.
- (41) The dumping margin was consequently calculated by using export prices and volumes as obtained from Eurostat having first deducted export prices and volumes reported by the co-operating exporters to which MET was granted. The use of Eurostat as facts available pursuant to Article 18 of the basic Regulation was necessary in the absence of more information on export prices for determining the country-wide duty. The export prices obtained in this way were compared with the weighted average normal value established for the analogue country for comparable product types.
- (42) On this basis the countrywide level of dumping was provisionally established at 34,9 % of the CIF Community frontier price.

4. INJURY

4.1. Community production

- (43) The investigation established in the framework of the sampling exercise that the like product is at present manufactured by eight producers in the Community. However, one of them has not cooperated further with the investigation. Furthermore, during the period considered another four Community producers are known to have ceased production, and have not been included in the investigation.
- (44) Hence, the volume of Community production for the purpose of Article 4(1) of the basic Regulation has been provisionally calculated by adding the production of the seven cooperating Community producers plus the volume of production of the other producers as estimated by the complainants.

4.2. Definition of the Community industry

- (45) The complaint was supported by seven Community producers who co-operated fully in the investigation. These producers are estimated to have produced over 95 % of the tartaric acid produced in the Community. It is therefore considered that they constitute the Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation

4.3. Community consumption

- (46) Consumption was estimated by adding the EC sales of the co-operating EC producers, the estimated sales of the non-cooperating EC producers plus total imports. The sales of the non-cooperating EC producers, including some companies who have ceased production, were based on the complaint, in the absence of other sources of information. This shows that demand for the product concerned in the Community increased by 15 % over the period considered.

	2001	2002	2003	IP
Community consumption	20 930	21 016	21 717	24 048
Index 2001 = 100	100	100	104	115

4.4. Imports into the Community from the country concerned

4.4.1. Volume and Market share of imports concerned

- (47) The evolution of imports from the country concerned was analysed on the basis of Eurostat data, since the volumes reported by the co-operating exporting producers represented substantially less than those reported in Eurostat for the period considered.

- (48) In terms of volume and market share, the evolution of imports has been the following:

	2001	2002	2003	IP
Import volumes PRC	1 769	1 266	1 570	2 763
Index 2001 = 100	100	72	89	156
Market shares PRC	8,5 %	6,0 %	7,2 %	11,5 %

- (49) While consumption of tartaric acid increased by 15 % during the period considered, imports from the country concerned rose by over 50 % during the same period. After a relatively high volume of imports in 2001 due to the high prices and scarcity in the European market, imports from the PRC returned to a lower level in 2002, but have more than doubled since then thanks to aggressively low prices. Consequently, the market share of the PRC during the period considered increased from 6,0 % to 11,5 % in less than two years.

4.4.2. Prices of imports and undercutting

- (50) The following table shows the development of average import prices from the PRC. Over the period considered these prices fell by nearly 50 %.

	2001	2002	2003	IP
Import prices from the PRC EUR/kg	3,49	1,74	1,83	1,78
Index 2001 = 100	100	50	52	51

- (51) Concerning the selling price on the Community market of the product concerned during the IP, a comparison was made between the prices of the Community industry and those of the exporting producers in the PRC. The relevant sales prices of the Community industry were those to independent customers, adjusted where necessary to an ex-works level, i.e. excluding freight costs in the Community and after deduction of discounts and rebates. These prices were compared with the sales prices charged by the Chinese exporting producers net of discounts and adjusted where necessary to CIF Community frontier with an appropriate adjustment for the customs clearance costs and post-importation costs.
- (52) The comparison showed that, during the IP, imports of the product concerned were sold in the Community at prices which undercut the Community industry's prices, when expressed as a percentage of the latter, by 22 %.

4.5. Situation of the Community industry

- (53) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports from the PRC on the Community industry included an analysis of all economic factors and indices having a bearing on the state of the industry from 2001 to the IP.
- (54) The Community industry data below represent the aggregated information of the seven co-operating Community producers. However, two of those companies started operations during the period considered, in 2001 and 2003 respectively. It was considered that, given their particular situation, the data for those companies might distort the overall trends, particularly with regard to costs, profitability, cash flow, investment and return on investment. Therefore, where appropriate, the figures for those two companies were excluded from the corresponding aggregate indicators and looked at separately in order to give a correct and representative picture.

4.5.1. Production, production capacity and capacity utilisation

- (55) The evolution of production, production capacity and capacity utilisation for the seven co-operating companies was the following:

	2001	2002	2003	IP
Production (tonnes)	25 341	23 576	25 602	27 324
Index 2001 = 100	100	93	101	108
Production capacity (tonnes)	31 350	33 000	36 000	35 205
Index 2001 = 100	100	105	115	112
Capacity utilisation	81 %	71 %	71 %	78 %
Index 2001 = 100	100	88	88	96

- (56) Total production increased by 8 % between 2001 and the IP. It should be noted, however, that this increase can be attributed exclusively to the two newcomer companies, while for the remaining five companies, production decreased by 6 % in the same period.
- (57) Production capacity increased by 12 %, which is also due to the two newcomers. The figures do not, however, reflect the reduction of several thousand tonnes caused by four Community producers known to have ceased production during the period considered (see recital (43)). Although no precise figures for those producers have been found by the investigation, it is estimated on the basis of the complaint data that overall capacity in the Community remained broadly constant between 2001 and the IP.
- (58) Capacity utilisation decreased over the period, from 81 % in 2001 to 78 % in the IP.

4.5.2. Stocks

- (59) The figures below represent the volume of stocks at the end of each period.

	2001	2002	2003	IP
Stocks (tonnes)	3 464	2 743	3 967	4 087
Index 2001 = 100	100	79	115	118

- (60) Stocks increased by 18 % during the period considered. It should be noted that the IP figure partly reflects a seasonal high in the stock levels during the summer. However, for at least one of the companies investigated, there was an abnormally high level of stocks, which the company attributed to its commercial decision not to sell at unprofitably low market prices.

4.5.3. Sales volume, market shares, growth and average unit prices in the Community

- (61) The figures below represent the Community industry's sales to independent customers in the Community.

	2001	2002	2003	IP
Sales volume in the EC market (tonnes)	16 148	16 848	18 294	20 034
Index 2001 = 100	100	104	113	124
Market share (five established companies)	71,0 %	66,9 %	66,3 %	60,9 %
Index 2001 = 100	100	94	93	86
Market share (all seven companies)	77,2 %	80,2 %	84,2 %	83,3 %
Index 2001 = 100	100	104	109	108
Average sales prices (EUR/tonne)	5 392	3 214	2 618	2 513
Index 2001 = 100	100	60	49	47

- (62) The Community industry's sales volumes increased by 24 % and its market share by 8 % during the period considered.

- (63) The market share of the five established companies decreased significantly, by more than 10 percentage points in the period considered. If the two companies who started production during the period are added, the total market share increases by 6 %. However, as noted under recital (57), these figures do not take into account the four Community producers who ceased production during the same period. Although exact figures concerning the latter are not available, it is estimated by the complainants that these producers could have represented a production of several thousand tonnes. This implies that, if the producers which ceased production were taken into account, the overall market share of the Community producers declined by at least 2,5 % between 2001 and the IP.
- (64) Average sales prices to unrelated buyers in the Community market suffered a sharp decrease of more than 50 % between 2001 and the IP.
- (65) It was pointed out by one importer that in the past, and over a longer period than the period considered, the prices of tartaric acid had known similar fluctuations and that they peaked in 2000-2001. However, after examination, it was found that even by historical standards the price levels in the IP were extremely low, once inflation was taken into account.
- (66) Given the decline in market share, when taking into account Community producers which ceased production, and the sharp drop of sales prices, it was found that the Community industry could not participate in the growth of the market, resulting from the increase in Community consumption of 15 % during the period considered.

4.5.4. Profitability

- (67) The profitability shown below is expressed as a percentage of turnover, in terms of sales to independent buyers on the Community market. The figures are also given for the five co-operating companies which were already operating at the beginning of the period considered ('the established companies'). During this period the other two companies were in a transitory situation regarding costs and revenues, which strongly impacts the evolution of overall profitability.

	2001	2002	2003	IP
Profitability of sales (five established companies)	1,9 %	- 3,5 %	- 3,6 %	- 6,7 %
Profitability of sales (all seven companies)	1,8 %	- 9,7 %	0,5 %	- 5,9 %

- (68) For the five established companies, profitability decreased substantially between 2001 and 2003 due to the strongly reduced prices, which coincided with increases of dumped imports from the PRC. The trends for the total Community industry, i.e. including the two producers established during the period considered, are largely similar. After seeing profits fall dramatically in 2002, the industry overall saw an improvement in 2003 when the producer established in 2001 was well-established and the other new producer arrived on the market. However, in the IP the two new producers saw their profits fall back into losses at a comparable rate to that of the five established companies.
- (69) This decline in prices was, to a large extent, also reflected in the prices of the suppliers of raw materials, given that the contracts for supply of raw material are often indexed to the price of tartaric acid. However this reduction in costs of raw materials was not enough to prevent a decline in the profitability of the Community industry, from 1,9 % to - 6,7 % over the period considered.

4.5.5. Return on investments, cash flow, investments and ability to raise capital

- (70) The trends for the return on investments (net assets in this case), cash flow and investments are shown in the following table. For the reasons evoked under recital (67), the figures are given for the five co-operating producers active in 2001.

	2001	2002	2003	IP
Return on net assets (five established companies)	4,2 %	- 4,4 %	- 3,9 %	- 7,0 %
Return on net assets (all seven companies)	3,4 %	- 11,7 %	0,5 %	- 6,3 %
Cash flow (EUR) (five established companies)	2 076 591	6 020 127	6 413 005	- 278 607
Cash flow (EUR) (all seven companies)	2 076 591	788 732	9 045 219	22 835
Investments (EUR) (five established companies)	5 285 432	7 078 796	8 794 719	7 255 251
Investments (EUR) (all seven companies)	14 394 918	7 390 503	9 282 258	8 944 785

- (71) The trend for return on net assets reflects to a large extent that on profitability of sales. The cash flow deteriorated between 2001 and the IP, although there are some fluctuations due mainly to stock variations. For the two new companies the cash flow experienced particularly strong fluctuations due to the starting of operations which coincided with a rapidly changing market situation. For all the companies, the falling return on investments and cash flow resulted from the fact that average sales prices were falling more quickly than the average costs for products sold.
- (72) The Community industry has maintained a high level of investment throughout the period considered and there was even an increase compared to 2001 for the five established companies. These investments were mostly related to modernisation, replacement of obsolete equipment and technical upgrades required by environmental legislation. As for the fixed investments of the two new companies, they are felt mostly in 2001 and the IP.
- (73) The Community industry's ability to raise capital, either from external providers of finance or parent companies, was not found to be seriously affected during the period considered. In most cases, particularly those of the two new companies, this was because the companies belong to larger groups, who take a longer term view of the business and believe that a recovery from the current difficult situation in which the industry finds itself will be possible.

4.5.6. Employment, productivity and wages

- (74) The following table gives the evolution of employment, productivity and labour costs in the seven Community producers investigated.

	2001	2002	2003	IP
Number of employees	210	203	220	217
Productivity (tonne/employee)	100	97	105	103
Labour costs	29 717	34 297	31 822	34 323

- (75) As seen above, the number of employees in the seven Community producers investigated increased between 2001 and the IP. This increase is due, as mentioned in paragraphs 5.1 and 5.3, to the fact that these figures include two companies who started production during the period considered and do not take into account the four Community producers who ceased production during the same period. Even so, a decline in employment levels was beginning to be felt towards the end of the IP.
- (76) Productivity was relatively stable over the period, with a slight overall increase between 2001 and the IP. Labour costs increased between 2001 and the IP, despite some fluctuations. These fluctuations were due to temporary costs associated with restructuring in some of the companies.

4.5.7. *Magnitude of the actual margin of dumping*

- (77) The dumping margins are specified above in the dumping section. These margins are clearly above *de minimis*. Furthermore, given the volume and the price of the dumped imports, the impact of the actual margin of dumping cannot be considered to be negligible.

4.5.8. *Conclusion on injury*

- (78) It is recalled that import volumes from the PRC have increased considerably, both in volume terms and market share. Furthermore, the average unit price of those imports decreased by almost 50 %, which is reflected in the price undercutting found in the investigation.
- (79) While sales volumes and market share in the Community increased for the seven companies investigated, they remained relatively stable if the two newcomer companies are not included. On the other hand, the Community industry suffered average price decreases of 51 % in the period considered. Notwithstanding the decline in the prices of raw materials and the efforts made to increase productivity, profit levels became strongly negative in the IP.
- (80) The deteriorating situation of the Community industry in the period considered is also confirmed by the negative development of indicators regarding capacity utilisation, stock levels, return on investment and cash-flow. It has also to be noted that four Community producers went out of business in recent years. While two new producers have also commenced trading since 2001, these producers have been established on the basis of business plans that were taking account of the growing consumption in the Community. However, it was found that, in terms of the trends in prices, profitability, and return on investments the situation of these companies is comparable to that of the other Community producers.
- (81) The above negative developments occurred at a time of fairly stable productivity, increased investments and expanding EC consumption.
- (82) Bearing in mind all indicators it is concluded that the Community industry suffered material injury during the IP within the meaning of Article 3 of the basic Regulation.

5. CAUSATION

5.1. **Preliminary remark**

- (83) In accordance with Article 3(6) and (7) of the basic Regulation, it was examined whether there was a causal link between the dumped imports from the PRC and the material injury suffered by the Community industry. Known factors other than the dumped imports, which could at the same time have injured the Community industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

5.2. Impact of the imports from the PRC

- (84) Volumes of imports from the PRC increased by 56 % and their market share increased by 3 percentage points during the period considered. In addition, the prices of imports from the PRC fell by around 50 % and substantial price undercutting took place. The Community industry was forced to react to these imports by lowering its prices in parallel by 53 %, in order to maintain its sales volume. The reduction in the costs of raw materials was not enough to prevent a decline in the profitability of the Community industry of around 8 % to a negative figure of around - 6 %. This profitability was well below that expected for this type of industry but, most of all, being negative, is no longer sustainable.
- (85) It is therefore provisionally concluded that the pressure exerted by the dumped imports, which significantly increased their volume and market share from 2001 onwards, and which were made at sharply decreasing, dumped prices, played a determining role in the price decreases and price depression for the Community industry and, as a consequence, its negative profitability and ensuing deteriorating financial situation.

5.3. Impact of imports from third countries

- (86) Apart from the PRC, the two next largest suppliers of tartaric acid to the Community market were Argentina and Chile.

	2001	2002	2003	IP
Market share of Argentina	1,9 %	1,8 %	0,1 %	0,8 %
Argentina unit selling price (EUR/tonne)	5,33	2,75	2,47	2,09
Market share of Chile	0,5 %	0,4 %	1,1 %	0,9 %
Chile unit selling price (EUR/tonne)	6,21	3,24	3,39	3,55
Market share of other countries	0,1 %	0,7 %	1,4 %	0,2 %
Other countries unit selling price (EUR/tonne)	10,82	2,91	4,78	5,36

- (87) These figures show that all suppliers other than the PRC accounted together for only 2,5 % of Community consumption and that their market share declined between 2001 and the IP. Their average prices were also higher than those of the PRC, although Argentinean prices dropped to a rather low level in the IP. The pressure of Chinese imports on the market is certain to have played a role in the drop in the prices of these exporting countries.
- (88) In view of the above, it is considered that the evolution of imports originating in other third countries such as Argentina and Chile were not sufficiently important to have contributed to the injury suffered by the Community industry.

5.4. Impact of the regulatory framework

- (89) Some interested parties have pointed out that the industry's profitability is affected by the EC regulatory framework, which establishes a minimum purchasing price for the main raw materials as well as a selling price for alcohol, as part of the Common Agricultural Policy in this sector. While the regulatory parameters may influence the situation of the industry as a whole, they have remained stable throughout the period and cannot account for the deterioration in the industry's situation.

5.5. Impact of exports by the Community industry

- (90) During the IP around 25 % of Community industry production volume was exported outside the Community. The volume of exports increased slightly over the period considered.
- (91) It was found that the profitability of these exports was somewhat higher than that of sales on the Community market, despite the fact that they had also suffered from declining prices and competition from Chinese exports to third country markets.
- (92) In view of the above it is considered that the evolution of export performance cannot have been a substantial cause of the injury suffered by the Community industry.

5.6. Impact of sales by other Community producers

- (93) Sales by other Community producers, including those who went out of business during the period considered, have decreased sharply between 2001 and the IP. Accordingly, those sales cannot have been responsible for the injury suffered by the Community industry.

5.7. Conclusion on causation

- (94) It must be underlined that the injury in this case was primarily in the form of price depression causing reduced profitability. This coincided with the rapidly increasing imports at dumped prices from the PRC which undercut substantially the Community industry prices. There is no indication that the above-mentioned other factors could have been a significant cause of the material injury suffered by the Community industry. No further other factors have been found in the course of the investigation that could have caused material injury.
- (95) Based on the above analysis of the effects of all known factors on the situation of the Community industry, it is provisionally concluded that there is a causal link between the dumped imports from the PRC and the material injury suffered by the Community industry.

6. COMMUNITY INTEREST

6.1. General considerations

- (96) It has been examined whether compelling reasons exist that could lead to the conclusion that it would not be in the Community interest to impose anti-dumping duties against imports from the country concerned. The Commission sent questionnaires to importers, traders and industrial users. Partial replies to the questionnaire were received from two users. Other users did not submit a reply to the questionnaire but made their views known in writing.
- (97) On the basis of the information received from the co-operating parties, the following conclusions were reached.

6.2. Interest of the Community industry

- (98) It is recalled that the Community industry consisted of seven producers employing over 200 people in the production and sale of the product concerned. It is also recalled that the economic indicators of the Community industry showed deteriorating financial results during the period considered, leading to the closure of four Community producers in recent years.

- (99) If measures are not imposed it is likely that following the price pressure from the dumped imports, the financial situation of the Community industry will continue to deteriorate and more Community producers will be forced to cease production, with adverse consequences for the broader wine-making sector (see below). If however measures are imposed, it can be expected that prices and profitability will reach a more sustainable level, and that the economic viability of the European industry will be ensured.
- (100) It is therefore clear that anti-dumping measures would be in the interests of the Community industry.

6.3. Interest of suppliers

- (101) Two suppliers of raw materials wrote to the Commission in support of the proceeding. Some of the complainants also have related companies in the wine industry, and took the opportunity of expressing the interest of those companies during the investigation.
- (102) All these parties stressed the economic importance of the tartaric acid industry from the point of view of the Community wine-makers.
- (103) First, the wine industry needs a reliable source of tartaric acid of guaranteed quality.
- (104) Second, by using such by-products as wine marc and wine lees, the tartaric acid industry is a significant source of income for the wine sector. It is recalled that this sector is covered by the Common Agricultural Policy and is currently experiencing serious economic difficulties.
- (105) Third, should there be no viable tartaric acid industry in the Community, the wine sector would be forced to incur extra costs in order to dispose of those by-products in the face of ever more stringent environmental regulations.
- (106) It is therefore concluded that the imposition of anti-dumping measures would be in the interests of Community suppliers.

6.4. Interest of users

- (107) Questionnaires were initially sent to all the parties named as users in the complaint. Information obtained during the investigation has allowed the Commission to identify the most important industrial sectors which use tartaric acid. As a result, additional questionnaires were sent to a number of food, drink and gypsum producers, as well as to the pharmaceutical industries' federation.
- (108) One gypsum and one food industry company reacted by stating that tartaric acid was too unimportant a cost for them to reply to the questionnaire.
- (109) One gypsum company co-operated by submitting a reply to the questionnaire. Another gypsum company submitted a partial reply. From these data, it may be concluded that the product concerned represents less than 2 % of the costs of the gypsum products produced by the co-operating companies. It may therefore be concluded that the proposed anti-dumping duties would have relatively little influence on the costs and competitive position of those user industries. Given that this is a major gypsum group, the information can be considered fairly representative for the whole sector. It should also be noted that building materials are produced mainly for local or national markets, and are not exposed to global competition thereby allowing companies in the building sector to pass on any cost increases to their customers.
- (110) Comments were also received from two food industry companies who manufacture emulsifiers for the baking industry. These companies opposed the investigation and indicated that tartaric acid was an important cost in their products. However, these companies did not submit a reply to the questionnaire so their claims could not be verified on the basis of quantified data.

- (111) In the comments received, the user industries emphasised the instability of the natural tartaric acid market and recurrent shortages in the European market in the past. Security of supply, more than the costs of tartaric acid appear to be the primary concern for those industries.
- (112) In view of the above it is not likely that anti-dumping measures would lead to a shortage of supply or to a non-competitive situation of the user industries. The proposed measures would merely contribute to restoring European market prices to a level closer to the long-term trend and preventing further companies going out of business. As regards the cost increase, it was found that it would only be marginal and would not affect the competitiveness of the user industries materially. It is therefore provisionally considered that users' interests are not such as to prohibit the imposition of measures.

6.5. Conclusion on Community interest

- (113) The imposition of measures on imports of tartaric acid originating in the PRC would clearly be in the interests of the Community industry. As regards both the importers/traders and the user industries, any impact on prices of tartaric acid is expected to be only marginal. In contrast, the losses suffered by the Community industry and the supplier industries, and the risks of further closures are clearly of greater magnitude.
- (114) In view of the above, it is provisionally concluded that there are no compelling reasons not to impose anti-dumping duties on imports of tartaric acid originating in the PRC.

7. ANTI-DUMPING MEASURES

7.1. Injury elimination level

- (115) In view of the conclusions reached with regard to dumping, resulting injury and Community interest, provisional measures should be imposed in order to prevent further injury being caused to the Community industry by the dumped imports.
- (116) The measures should be imposed at a level sufficient to eliminate the injury caused by these imports without exceeding the dumping margin found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs of production and to obtain overall a profit before tax that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on the sales of the like product in the Community. The pre-tax profit margin used for this calculation was 8 % of turnover based on profit levels obtained prior to the existence of dumped imports. On this basis, a non-injurious price was calculated for the Community industry of the like product. The non-injurious price was obtained by adding the above-mentioned profit margin of 8 % to the cost of production. One product type exported from the PRC in the IP was not produced and sold by the Community industry during the IP. In calculating the level sufficient to eliminate the injury caused by these imports without exceeding the dumping margin found, account was taken of the relationship in price between this type and other types exported by Chinese exporters.
- (117) The necessary price increase was then determined on the basis of a comparison of the weighted average import price with the weighted average non-injurious price of the like product sold by the Community industry on the Community market.
- (118) Any difference resulting from this comparison was then expressed as a percentage of the average import CIF value.

7.2. Provisional measures

- (119) In light of the foregoing, it is considered that a provisional anti-dumping duty should be imposed at the level of the dumping margin found, but should not, in accordance with Article 7(2) of the basic Regulation, be higher than the injury margin calculated above.
- (120) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this document with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (121) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission ⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.
- (122) On the basis of the above, the provisional duty rates are:

Hangzhou Bioking Biochemical Engineering Co., Ltd, Hangzhou	2,4 %
Changmao Biochemical Engineering Co., Ltd, Changzou City	13,8 %
Ninghai Organic Chemical Factory, Ninghai.	6,6 %
All other companies	34,9 %

8. FINAL PROVISION

- (123) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time-limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty.

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of tartaric acid, falling within CN code 2918 12 00, originating in the People's Republic of China.

⁽¹⁾ European Commission, Directorate-General for Trade, Direction B, B-1049 Brussels, Belgium.

2. The rate of the provisional anti-dumping duty applicable, before duty, to the net free-at-Community-frontier price shall be:

Company	Anti-Dumping Duty	TARIC Additional Code
Hangzhou Bioking Biochemical Engineering Co., Ltd, Hangzhou, People's Republic of China.	2,4 %	A687
Changmao Biochemical Engineering Co., Ltd, Changzhou City, People's Republic of China.	13,8 %	A688
Ninghai Organic Chemical Factory, Ninghai, People's Republic of China.	6,6 %	A689
All other companies	34,9 %	A999

3. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

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

Article 2

Without prejudice to Article 20 of Council Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 27 July 2005.

For the Commission
Peter MANDELSON
Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

Notice concerning the entry into force of the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union

The Additional Protocol to the Europe Agreement with Romania, to take account of the accession of ten new Member States to the European Union, which the Council and the Commission decided to conclude on 25 April 2005 ⁽¹⁾, enters into force on 1 August 2005, the last notifications of the completion of procedures under Article 10 of that Protocol having been received on 14 July 2005.

⁽¹⁾ OJ L 155, 17.6.2005, p. 26.

COMMISSION

COMMISSION DECISION

of 30 October 2002

relating to a proceeding pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement

(Case COMP/E-2/37.784 — Fine art auction houses)

(Notified under document number C(2002) 4283 final and corrigenda C(2002) 4283/7 and C(2002) 4283/8)

(Only the English text is authentic)

(Text with EEA relevance)

(2005/590/EC)

On 30 October 2002, the Commission adopted a Decision (C(2002) 4283 final) relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement. On 6 November 2002, the Commission approved by written procedure C(2002) 4283/7, a corrigendum to the C(2002) 4283/5 version of Decision C(2002) 4283 final, and C(2002) 4283/8, a corrigendum to the C(2002) 4283/6 version of Decision C(2002) 4283 final. In accordance with the provisions of Article 21 of Regulation 17⁽¹⁾, the Commission herewith publishes the names of the parties and the main content of the decision, having regard to the legitimate interest of undertakings in the protection of their business interests. A non-confidential version of the full text of the decision can be found in the authentic language of the case and in the Commission's working languages at DG COMP's website at http://europa.eu.int/comm/competition/index_en.html

I. SUMMARY OF THE INFRINGEMENT

1. Addressees

- (1) This Decision is addressed to the following undertakings and/or associations of undertakings:

- Christie's International plc,
- Sotheby's Holdings Inc.

2. Time and nature of the infringement

- (2) From 30 April 1993 and lasting at least until 7 February 2000, Christie's International plc (hereinafter: Christie's) and Sotheby's Holdings, Inc. (hereinafter: Sotheby's), the

two main world-wide competitors for the sale on commission by auction of so-called fine art objects, antiques, furniture, collectibles and memorabilia (hereinafter also generically referred to as: fine arts), entered into and participated in a continuing agreement and/or concerted practice contrary to Article 81(1) of the Treaty and Article 53 of the EEA Agreement, relating to prices and other conditions of sale for auctions.

- (3) The companies agreed, amongst others, to adopt identical commission structures for vendors, to move to a non-negotiable scale of vendor commission rates (replacing the previously negotiable commission), to increase vendor commission charges and refrain from granting special conditions to sellers. They also fixed certain other terms and conditions of business, thereby preventing or restricting competition between them in the fine arts auction business. Furthermore they introduced a monitoring mechanism to ensure their agreement and/or concerted practice was being respected.

⁽¹⁾ OJ L 13, 21.2.1962, p. 204/62. Regulation as last amended by Regulation (EC) No 1216/1999 (OJ L 148, 15.6.1999, p. 5).

3. The market for fine arts auction services

- (4) Fine art objects, antiques, furniture, collectibles and memorabilia are commonly put up for sale at auctions. There is no particular limit as to what sort of items may be sold at auction, nor is there any particular minimum value that the goods must have. Auctions may be conducted of a particular individual collection, or centred on a particular theme, category of merchandise or period or type of art.
- (5) The principal fine art auction locations for both houses are in London and New York, but regular auctions are held in centres like Geneva, Zurich, Amsterdam, Rome, Milan, Hong Kong and Melbourne. The major fine art sales are planned and conducted as glamorous and exclusive social events frequented by wealthy individuals.
- (6) Sales are arranged well in advance according to an international 'season'. The main sales are traditionally conducted in the spring and autumn; revenues and operating income of the auction houses therefore peak in the second and fourth quarters.
- (7) The owners of the goods who wish to sell 'consign' the merchandise to the auction house, which provides selling expertise, arranges the auction, produces a catalogue and arranges advance publicity. Goods are usually offered for sale as individual items (so-called lots). Even items that form part of an entire collection are usually split up for sale into individual lots. The auction house sells the property as the agent of the consignor, billing the buyer for the goods purchased and remitting to the consignor the monies received after deduction of commission, expenses and taxes. The percent commission charged to the consignor/seller is commonly referred to as the 'vendor's commission' (or 'seller's commission'); this commission is usually calculated on the 'hammer price', the price at which the merchandise is knocked down to the final bidder. Persons buying at auctions are also charged a percentage of the hammer price (known as the 'buyer's premium').

4. Functioning of the cartel

- (8) From April 1993 onwards Christie's and Sotheby's entered into a common plan aiming at restricting competition on a number of competitive parameters. These were foremost related to the conditions applicable to sellers, but also included conditions for buyers, as well as other elements. The different elements of the plan were modified and enhanced in high-level management meetings during the years that followed, and lasted until February 2000.

- (9) In more detail, the agreement and/or concerted practices between Christie's and Sotheby's contained the following elements:

(a) Regarding the vendors:

- agreeing to introduce a new 'sliding scale' for the vendor's commission ⁽¹⁾,
- agreeing to the terms applicable to the scale, including making the scale non-negotiable, that is, to allow no exceptions (save as agreed) to the scale,
- agreeing the modalities, as well as the timing of its introduction,
- agreeing to monitor the adherence to the scale by exchanging lists of the permitted exceptions in order to monitor the implementation of the agreement and to deter and discuss any deviations,
- agreeing not to give vendors at auction guarantees as to the minimum price,
- agreeing on a formula for the sharing with vendors of the 'upside' benefit where goods are sold more than the guaranteed price,
- agreeing to make no advances to vendors on single lots,
- agreeing and/or concerting on the terms and conditions of advances for particular auction sales,
- agreeing the minimum interest rate for loans,
- agreeing to limit the commission paid to trade vendors/dealers and to restrict the practice of providing insurance for trade vendors,
- agreeing on limiting the payment of introductory commission (to 1 % of the buyer's premium in cases where there was no vendor's commission).

(b) Regarding the buyers:

- agreeing to limit credit terms to trade buyers to 90 days.

⁽¹⁾ A sliding scale means that the percentage that is charged to sellers as a commission on the sale is changed at certain thresholds. In practice, the higher the price obtained for a consignment, the lower the percentage that a seller has to pay.

(c) Other elements:

- agreeing to limit their marketing efforts (avoiding claims/statements regarding market share or claiming 'leadership' in the art market or in a particular segment).

- (10) Furthermore, in order to implement and/or modify the agreements as required, the parties concerted and exchanged information during regular meetings or (telephone) contacts on any subject or matter (auctions, vendors, dealers, buyers) which might give rise to or encourage competition between them or otherwise conflict with or endanger their agreement not to compete.

II. FINES

1. Basic amount of the fine

Gravity of the infringement

- (11) Taking into account the nature of the behaviour under scrutiny, its actual impact on the fine arts auction market, and the fact that it covered the whole of the Common market and, following its creation, the whole EEA, the Commission considers that the undertakings concerned by this Decision have committed a very serious infringement of Article 81(1) of the EC Treaty and 53(1) of the EEA Agreement.

Nature of the infringement

- (12) The cartel constituted a deliberate infringement of Articles 81(1) EC and 53(1) EEA. With full knowledge of the illegality of their actions, the participants combined to set up a secret and institutionalised illegal scheme designed to prevent competition between the two most important fine arts auction houses. This infringement consisted mainly of price fixing practices, which are by their very nature the worst kind of violations of Article 81(1) of the EC Treaty and 53(1) of the EEA Agreement.

- (13) The cartel arrangements involved were conceived, directed and encouraged at the highest levels in each participating company. By its very nature it leads to an important distortion of competition, which is of exclusive benefit to the companies participating in the cartel and is highly detrimental to customers.

The impact of the infringement within the EEA

- (14) The infringement was committed by the two most important undertakings on the market for fine arts

auctions and applied to their sales in the EEA and elsewhere. The common plan to increase revenues was implemented by both companies. Given the high market shares of the companies involved and the fact that the agreement covered all sales in the EEA by the companies, it had an actual impact on the EEA market.

The size of the relevant geographic market

- (15) For the purposes of calculating gravity, the Commission therefore considers the entirety of the Community and, following its creation, the EEA to have been affected by the cartel.

- (16) The Commission thus sets the starting amount of the fine for both undertakings at EUR 25.2 million.

Duration of the infringement

- (17) The Commission considers that the duration to be taken into account is from 30 April 1993 until 7 February 2000. The duration of the infringement therefore comprises a period of six years and nine months. As a result, the infringement can be classified as one of long duration, leading to an increase of the amount established for gravity of 65 %.

- (18) On the basis of the above, the Commission sets the basic amount of the fine as follows:

- Christie's: EUR 41,58 million,
- Sotheby's: EUR 41,58 million.

2. Aggravating or attenuating circumstances

- (19) The Commission does not consider that any separate aggravating or attenuating circumstances apply in this case.

3. Application of the 10 % turnover limit

- (20) Given that the amount thus calculated for Sotheby's exceeds 10 % of worldwide turnover in the year prior to this Decision, the basic amount for Sotheby's will be limited to EUR 34,05 million according to Article 15(2) of Regulation 17.

4. Application of the '1996 Leniency Notice' ⁽¹⁾

- (21) Given that the applications for leniency were made in the year 2000, under the Leniency Notice then applicable, it is the 1996 Leniency Notice that applies to this case, as opposed to the revised Leniency Notice adopted in 2002.

Non-imposition of a fine or a very substantial reduction of its amount (Section B)

- (22) Christie's was the first to inform the Commission of the existence of the cartel and to adduce decisive evidence, without which the cartel might not have been disclosed. At the time of disclosure of this information, the Commission had not undertaken an investigation nor did it have in its possession sufficient information to establish the existence of the cartel. Further, Christie's had ended its involvement in the cartel, by confirming to the Commission that no contacts with Sotheby's were taking place in relation to the reported conduct and by issuing its public announcement about the new vendor's commission scheme only a few days after submitting the evidence to the Commission. Furthermore, it has continuously cooperated with the Commission and it has not been determined that it has compelled Sotheby's to take part in the cartel or played, as compared to the participation of Sotheby's, a determining role in the cartel.

- (23) The Commission considers that Christie's therefore does meet the relevant conditions set out in section B of the Leniency Note.

Significant reduction in a fine (Section D)

- (24) The Commission notes that Sotheby's has fully cooperated with the Commission in the course of the investigation. Furthermore, it provided the Commission with

information and evidence that materially contributed to establishing the existence of the infringement. Also, it did not materially contest the facts on which the Commission bases its allegations. It admitted the existence of a number of elements of the infringement as described by the Commission in this decision.

- (25) Sotheby's therefore meets the condition of section D, first and second indent, of the Notice.

Conclusion as regards the application of the Leniency Notice

- (26) In conclusion, with regard to the nature of their cooperation and in the light of the conditions set out in the Leniency Notice, the Commission will grant to the addressees of this Decision the following reductions of the respective fines:

— to Christie's: 100 %,

— to Sotheby's: 40 %.

5. Decision

- (27) The following fines are imposed:

— Christie's International plc: EUR 0 million,

— Sotheby's Holdings Inc.: EUR 20,4 million.

- (28) The undertakings listed shall immediately bring the infringements to an end, in so far as they have not already done so. They shall refrain from repeating any act or conduct as the infringement found in this case and from adopting any measure having equivalent object or effect.

⁽¹⁾ Commission Notice on the non-imposition or the reduction of fines in cartel cases, OJ C 207, 18.7.1996, p. 4.

COMMISSION DECISION

of 26 July 2005

amending the Appendix B to Annex XII to the 2003 Act of Accession as regards certain establishments in the fish, meat and milk sectors in Poland

(notified under document number C(2005) 2813)

(Text with EEA relevance)

(2005/591/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession to the European Union of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic ⁽¹⁾, and in particular Annex XII, Chapter 6, Section B, Subsection I(1), paragraph (e) thereto,

Whereas:

- (1) Poland has been granted transitional periods for certain establishments listed in Appendix B to Annex XII to the 2003 Act of Accession.
- (2) The Appendix B to Annex XII to the 2003 Act of Accession has been amended by Commission Decisions 2004/458/EC ⁽²⁾, 2004/471/EC ⁽³⁾, 2004/474/EC ⁽⁴⁾ and 2005/271/EC ⁽⁵⁾.
- (3) According to an official declaration from the Polish competent authority four more establishments in the fish, meat and fish sectors have completed their upgrading process and are now in full compliance with Community legislation.

(4) Appendix B to Annex XII to the 2003 Act of Accession should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

The establishments listed in the Annex to this Decision are deleted from Appendix B to Annex XII to the 2003 Act of Accession.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 26 July 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

⁽¹⁾ OJ L 236, 23.9.2003, p. 33.

⁽²⁾ OJ L 156, 30.4.2004, p. 53; Corrigendum OJ L 202 7.6.2004, p. 39.

⁽³⁾ OJ L 160, 30.4.2004, p. 56; Corrigendum OJ L 212 12.6.2004, p. 31.

⁽⁴⁾ OJ L 160, 30.4.2004, p. 73; Corrigendum OJ L 212 12.6.2004, p. 44.

⁽⁵⁾ OJ L 86, 5.4.2005, p. 13.

ANNEX

List of establishments to be deleted from Appendix B to Annex XII to the 2003 Act of Accession

MEAT ESTABLISHMENTS

Initial list

No	Veterinary No	Name of the establishment
103	14250301	Radomskie Zakłady Drobiarskie 'Imperson' Sp. z o.o.

WHITE MEAT

Initial list

No	Veterinary No	Name of the establishment
30	18030501	'Animex-Południe' Sp. z o.o.

FISH SECTOR

Initial list

No	Veterinary No	Name of the establishment
13	22111807	'Laguna' s.j.

MILK SECTOR

Supplementary list

No	Veterinary No	Name of the establishment
11	14031601	Okregowa Spółdzielnia Mleczarska w Garwolinie

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

COUNCIL DECISION 2005/592/CFSP
of 29 July 2005
implementing Common Position 2004/161/CFSP renewing restrictive measures against Zimbabwe

THE COUNCIL OF THE EUROPEAN UNION,

current human rights violations known under the name 'Operation Murambatsvina' (forcible demolition and internal displacement),

Having regard to Common Position 2004/161/CFSP⁽¹⁾ and in particular Article 6 thereof, in conjunction with Article 23(2) of the Treaty on European Union,

HAS DECIDED AS FOLLOWS:

Whereas:

Article 1

The list of persons set out in the Annex to Common Position 2004/161/CFSP shall be replaced by the list set out in the Annex to this Decision.

(1) By Common Position 2004/161/CFSP the Council adopted measures, *inter alia*, to prevent the entry into, or transit through, the territories of Member States of individuals who engage in activities which seriously undermine democracy, respect for human rights and the rule of law in Zimbabwe and to freeze their funds and economic resources.

Article 2

This Decision shall take effect on the date of its adoption.

(2) On 13 June 2005 the Council adopted Council Decision 2005/444/CFSP⁽²⁾ implementing Common Position 2004/161/CFSP renewing restrictive measures against Zimbabwe following a government reshuffle.

Article 3

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

(3) The list of persons subject to the restrictive measures annexed to Common Position 2004/161/CFSP should be updated to incorporate those responsible for the

Done at Brussels, 29 July 2005.

For the Council

The President

J. STRAW

⁽¹⁾ OJ L 50, 20.2.2004, p. 66.

⁽²⁾ OJ L 153, 16.6.2005, p. 37.

ANNEX

List of persons referred to in Articles 4 and 5 of Common Position 2004/161/CFSP

- | | |
|--|--|
| 1. Mugabe, Robert Gabriel | President, born 21.2.1924 |
| 2. Bonyongwe, Happyton | Director-General Central Intelligence Organisation, born 6.11.1960 |
| 3. Buka (a.k.a. Bhuka), Flora | Minister for Special Affairs responsible for Land and Resettlement Programmes (Former Minister of State in the Vice-President's Office and former Minister of State for the Land Reform Programme in the President's Office), born 25.2.1968 |
| 4. Bvudzijena, Wayne | Assistant Police Commissioner, Police Spokesman |
| 5. Chapfika, David | Deputy Minister of Finance (former Deputy Minister of Finance and Economic Development), born 7.4.1957 |
| 6. Charamba, George | Permanent Secretary Department for Information and Publicity, born 4.4.1963 |
| 7. Charumbira, Fortune Zefanaya | Former Deputy Minister for Local Government, Public Works and National Housing, born 10.6.1962 |
| 8. Chigudu, Tinaye | Provincial Governor: Manicaland |
| 9. Chigwedere, Aeneas Soko | Minister of Education, Sports and Culture, born 25.11.1939 |
| 10. Chihota, Phineas | Deputy Minister for Industry and International Trade |
| 11. Chihuri, Augustine | Police Commissioner, born 10.3.1953 |
| 12. Chimbudzi, Alice | ZANU (PF) Politburo Committee Member |
| 13. Chimutengwende, Chen | Minister of State for Public and Interactive Affairs (former Minister of Post and Telecommunications), born 28.8.1943 |
| 14. Chinamasa, Patrick Anthony | Minister of Justice, Legal and Parliamentary Affairs, born 25.1.1947 |
| 15. Chindori-Chininga, Edward Takaruza | Former Minister of Mines and Mining Development, born 14.3.1955 |
| 16. Chipanga, Tongesai Shadreck | Former Deputy Minister of Home Affairs, born 10.10.1946 |
| 17. Chitepo, Victoria | ZANU (PF) Politburo Committee Member, born 27.3.1928 |
| 18. Chiwenga, Constantine | Commander Zimbabwe Defence Forces, General (former Army Commander, Lieutenant General), born 25.8.1956 |
| 19. Chiweshe, George | Chairman, ZEC (Supreme Court Judge and Chairman of the controversial delimitation committee), born 4.6.1953 |
| 20. Chiwewe, Willard | Provincial Governor: Masvingo (former Senior Secretary responsible for Special Affairs in the President's Office), born 19.3.1949 |
| 21. Chombo, Ignatius Morgan Chininya | Minister of Local Government, Public Works and National Housing, born 1.8.1952 |

22. Dabengwa, Dumiso ZANU (PF) Politburo Senior Committee Member, born 1939
23. Damasane, Abigail Deputy Minister for Women's Affairs, Gender and Community Development
24. Goche, Nicholas Tasunungurwa Minister of Public Service, Labour and Social Welfare (former Minister of State for National Security in the President's Office), born 1.8.1946
25. Gombe, G Chairman, Electoral Supervisory Commission
26. Gula-Ndebele, Sobuza Former Chairman of Electoral Supervisory Commission
27. Gumbo, Rugare Eleck Ngidi Minister of Economic Development (former Minister of State for State Enterprises and Parastatals in the President's Office), born 8.3.1940
28. Hove, Richard ZANU (PF) Politburo Secretary for Economic Affairs, born 1935
29. Hungwe, Josaya (a.k.a. Josiah) Dunira Former Provincial Governor: Masvingo, born 7.11.1935
30. Jokonya, Tichaona Minister of Information and Publicity, born 27.12.1938
31. Kangai, Kumbirai ZANU (PF) Politburo Committee Member, born 17.2.1938
32. Karimanzira, David Ishemunyoro Godi Provincial Governor: Harare and ZANU (PF) Politburo Secretary for Finance, born 25.5.1947
33. Kasukuwere, Saviour Deputy Minister for Youth Development & Employment Creation and ZANU (PF) Politburo Deputy-Secretary for Youth Affairs, born 23.10.1970
34. Kaukonde, Ray Provincial Governor: Mashonaland East, born 4.3.1963
35. Kuruneri, Christopher Tichaona Former Minister of Finance and Economic Development, born 4.4.1949. NB currently in remand
36. Langa, Andrew Deputy Minister of Environment and Tourism and former Deputy Minister of Transport and Communications
37. Lesabe, Thenjiwe V. ZANU (PF) Politburo Secretary for Women's Affairs, born 1933
38. Machaya, Jason (a.k.a. Jaison) Max Kokerai Former Deputy Minister of Mines and Mining Development, born 13.6.1952
39. Made, Joseph Mtakwese Minister of Agriculture and Rural Development (former Minister of Lands, Agricultural and Rural Resettlement), born 21.11.1954
40. Madzongwe, Edna (a.k.a. Edina) ZANU (PF) Politburo Deputy Secretary for Production and Labour, born 11.7.1943
41. Mahofa, Shuvai Ben Former Deputy Minister for Youth Development, Gender and Employment Creation, born 4.4.1941
42. Mahoso, Tafataona Chair, Media Information Commission

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| 43. Makoni, Simbarashe | ZANU (PF) Politburo Deputy Secretary General for Economic Affairs (former Minister of Finance), born 22.3.1950 |
| 44. Makwarara, Sekesai | Acting Mayor of Harare (ZANU-PF) |
| 45. Malinga, Joshua | ZANU (PF) Politburo Deputy Secretary for Disabled and Disadvantaged, born 28.4.1944 |
| 46. Mangwana, Paul Munyaradzi | Minister of State (former Minister of Public Service, Labour and Social Welfare), born 10.8.1961 |
| 47. Manyika, Elliot Tapfumanei | Minister without Portfolio (former Minister of Youth Development, Gender and Employment Creation), born 30.7.1955 |
| 48. Manyonda, Kenneth Vhundukai | Former Deputy Minister of Industry and International Trade, born 10.8.1934 |
| 49. Marumahoko, Rueben | Deputy Minister for Home Affairs (former Deputy Minister of Energy and Power Development), born 4.4.1948 |
| 50. Masawi, Ephraim Sango | Provincial Governor: Mashonaland Central |
| 51. Masuku, Angeline | Provincial Governor: Matabeleland South (ZANU (PF) Politburo Secretary for Disabled and Disadvantaged), born 14.10.1936 |
| 52. Mathema, Cain | Provincial Governor: Bulawayo |
| 53. Mathuthu, Thokozile | Provincial Governor: Matabeleland North and ZANU (PF) Politburo Deputy Secretary for Transport and Social Welfare |
| 54. Matiza, Joel Biggie | Deputy Minister for Rural Housing and Social Amenities, born 17.8.1960 |
| 55. Matonga, Brighton | Deputy Minister for Information and Publicity, born 1969 |
| 56. Matshalaga, Obert | Deputy Minister of Foreign Affairs |
| 57. Matshiya, Melusi (Mike) | Permanent Secretary, Ministry of Home Affairs |
| 58. Mbiriri, Partson | Permanent Secretary, Ministry of Local Government, Public Works and Urban Development |
| 59. Midzi, Amos Bernard (Mugenva) | Minister of Mines and Mining Development (former Minister of Energy and Power Development), born 4.7.1952 |
| 60. Mngangwa, Emmerson Dambudzo | Minister of Rural Housing and Social Amenities (former Speaker of Parliament), born 15.9.1946 |
| 61. Mohadi, Kembo Campbell Dugishi | Minister of Home Affairs (former Deputy Minister of Local Government, Public Works and National Housing), born 15.11.1949 |
| 62. Moyo, Jonathan | Former Minister of State for Information and Publicity in the President's Office, born 12.1.1957 |
| 63. Moyo, July Gabarari | Former Minister of Energy and Power Development (former Minister of Public Service, Labour and Social Welfare), born 7.5.1950 |

64. Moyo, Simon Khaya
ZANU (PF) Politburo Deputy Secretary for Legal Affairs, born 1945. NB
Ambassador to South Africa
65. Mpfu, Obert Moses
Minister for Industry and International Trade (former Provincial
Governor: Matabeleland North) (ZANU (PF) Politburo Deputy
Secretary for National Security), born 12.10.1951
66. Msika, Joseph W.
Vice-President, born 6.12.1923
67. Msipa, Cephas George
Provincial Governor: Midlands, born 7.7.1931
68. Muchena, Olivia Nyembesi
(a.k.a. Nyembezi)
Minister of State for Science and Technology in the President's Office
(former Minister of State in Vice-President Msika's Office), born
18.8.1946
69. Muchinguri, Oppah Chamu Zvipange
Minister for Women's Affairs, Gender and Community Development
ZANU (PF) Politburo Secretary for Gender and Culture, born
14.12.1958
70. Mudede, Tobaiwa (Tonnethe)
Registrar General, born 22.12.1942
71. Mudenge, Isack Stanilaus Gorerazvo
Minister of Higher Tertiary Education (former Minister of Foreign
Affairs), born 17.12.1941
72. Mugabe, Grace
Spouse of Robert Gabriel Mugabe, born 23.7.1965
73. Mugabe, Sabina
ZANU (PF) Politburo Senior Committee Member, born 14.10.1934
74. Muguti, Edwin
Deputy Minister for Health and Child Welfare, born 1965
75. Mujuru, Joyce Teurai Ropa
Vice-President (former Minister of Water Resources and Infrastructural
Development), born 15.4.1955
76. Mujuru, Solomon T.R.
ZANU (PF) Politburo Senior Committee Member, born 1.5.1949
77. Mumbengegwi, Samuel Creighton
Former Minister of Industry and International Trade, born 23.10.1942
78. Mumbengegwi, Simbarashe
Minister of Foreign Affairs, born 20.7.1945
79. Murerwa, Herbert Muchemwa
Minister of Finance (former Minister of Higher and Tertiary Education),
born 31.7.1941
80. Musariri, Munyaradzi
Assistant Police Commissioner
81. Mushohwe, Christopher Chindoti
Minister of Transport and Communications (former Deputy Minister of
Transport and Communications), born 6.2.1954
82. Mutasa, Didymus Noel Edwin
Minister for National Security (former Minister of Special Affairs in the
President's Office in charge of the Anti-Corruption and Anti-Mono-
polies Programme and former ZANU (PF) Politburo Secretary for
External Relations), born 27.7.1935
83. Mutezo, Munacho
Minister for Water Resources and Infrastructural Development
84. Mutinhiri, Ambros (a.k.a. Ambrose)
Minister of Youth Development, Gender and Employment Creation,
Retired Brigadier

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| 85. Mutiwekuziva, Kenneth Kaparadza | Deputy Minister of Small and Medium Enterprises Development and Employment Creation, (former Deputy Minister of Small and Medium Enterprises Development, born 27.5.1948) |
| 86. Muzenda, Tsitsi V. | ZANU (PF) Politburo Senior Committee Member, born 28.10.1922 |
| 87. Muzonzini, Elisha | Brigadier (former Director-General Central Intelligence Organisation), born 24.6.1957 |
| 88. Ncube, Abedinico | Deputy Minister of Public Service, Labour and Social Welfare (former Deputy Minister of Foreign Affairs), born 13.10.1954 |
| 89. Ndlovu, Naison K. | ZANU (PF) Politburo Secretary for Production and Labour, born 22.10.1930 |
| 90. Ndlovu, Richard | ZANU (PF) Politburo Deputy Commissariat, born 20.6.1942 |
| 91. Ndlovu, Sikhanyiso | ZANU (PF) Politburo Deputy Secretary for Commissariat, born 20.9.1949 |
| 92. Nguni, Sylvester | Deputy Minister for Agriculture, born 4.8.1955 |
| 93. Nhema, Francis | Minister of Environment and Tourism, born 17.4.1959 |
| 94. Nkomo, John Landa | Speaker of Parliament (former Minister of Special Affairs in the President's Office), born 22.8.1934 |
| 95. Nyambuya, Michael Reuben | Minister for Energy and Power Development (former Lieutenant General, Provincial Governor: Manicaland), born 23.7.1955 |
| 96. Nyanhongo, Magadzire Hubert | Deputy Minister of Transport and Communications |
| 97. Nyathi, George | ZANU (PF) Politburo Deputy Secretary of Science and Technology |
| 98. Nyoni, Sithembiso Gile Glad | Minister of Small and Medium Enterprises Development and Employment Creation (former Minister of Small and Medium Enterprises Development), born 20.9.1949 |
| 99. Parirenyatwa, David Pagwese | Minister of Health and Child Welfare (former Deputy Minister), born 2.8.1950 |
| 100. Patel, Khantibhal | ZANU (PF) Politburo Deputy Secretary for Finance, born 28.10.1928 |
| 101. Pote, Selina M. | ZANU (PF) Politburo Deputy Secretary for Gender and Culture |
| 102. Rusere, Tino | Deputy Minister for Mines and Mining Development (former Deputy Minister for Water Resources and Infrastructural Development), born 10.5.1945 |
| 103. Sakabuya, Morris | Deputy Minister for Local Government, Public Works and Urban Development |
| 104. Sakupwanya, Stanley | ZANU (PF) Politburo Deputy Secretary for Health and Child Welfare |
| 105. Samkange, Nelson Tapera Crispen | Provincial Governor: Mashonaland West |

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| 106. Sandi ou Sachi, E. (?) | ZANU (PF) Politburo Deputy Secretary for Women's Affairs |
| 107. Savanhu, Tendai | ZANU (PF) Deputy Secretary for Transport and Social Welfare, born 21.3.1968 |
| 108. Sekeramayi, Sydney (a.k.a. Sidney) Tigere | Minister of Defence, born 30.3.1944 |
| 109. Sekeramayi, Lovemore | Chief Elections Officer |
| 110. Shamu, Webster | Minister of State for Policy Implementation (former Minister of State for Policy Implementation in the President's Office), born 6.6.1945 |
| 111. Shamuyarira, Nathan Marwirakuwa | ZANU (PF) Politburo Secretary for Information and Publicity, born 29.9.1928 |
| 112. Shiri, Perence | Air Marshal (Air Force), born 1.11.1955 |
| 113. Shumba, Isaiah Masvayamwando | Deputy Minister of Education, Sports and Culture, born 3.1.1949 |
| 114. Sibanda, Jabulani | Former Chair, National War Veterans Association, born 31.12.1970 |
| 115. Sibanda, Misheck Julius Mpande | Cabinet Secretary (successor to No.122 Charles Utete), born 3.5.1949 |
| 116. Sibanda, Phillip Valerio (a.k.a. Valentine) | Commander Zimbabwe National Army, Lieutenant General, born 25.8.1956 |
| 117. Sikosana, Absalom | ZANU (PF) Politburo Secretary for Youth Affairs |
| 118. Stamps, Timothy | Health Advisor in the Office of the President, born 15.10.1936 |
| 119. Tawengwa, Solomon Chirume | ZANU (PF) Politburo Deputy Secretary for Finance, born 15.6.1940 |
| 120. Tungamirai, Josiah T. | Minister of State for Indigenisation and Empowerment, Retired Air Marshall (former ZANU (PF) Politburo Secretary for Empowerment and Indigenisation), born 8.10.1948 |
| 121. Udenge, Samuel | Deputy Minister of Economic Development |
| 122. Utete, Charles | Chairman of the Presidential Land Review Committee (former Cabinet Secretary), born 30.10.1938 |
| 123. Veterai, Edmore | Senior Assistant Police Commissioner, Officer Commanding Harare |
| 124. Zimonte, Paradzai | Prisons Director, born 4.3.1947 |
| 125. Zhuwao, Patrick | Deputy Minister for Science and Technology (NB Mugabe's nephew) |
| 126. Zvinavashe, Vitalis | Retired General (former Chief of Defence Staff), born 27.9.1943 |
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