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Contents

I Acts whose publication is obligatory

Commission Regulation (EC) No 675/2006 of 2 May 2006 establishing the standard import values for determining the entry price of certain fruit and vegetables	1
★ Commission Regulation (EC) No 676/2006 of 2 May 2006 amending Regulation (EC) No 1980/2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards definitions and updated definitions ⁽¹⁾	3
Commission Regulation (EC) No 677/2006 of 2 May 2006 determining the allocation of export licences for certain milk products to be exported to the Dominican Republic under the quota referred to in Article 20a of Regulation (EC) No 174/1999	4
Commission Regulation (EC) No 678/2006 of 2 May 2006 amending the import duties in the cereals sector applicable from 3 May 2006	5

II Acts whose publication is not obligatory

Commission

2006/320/EC:

- ★ **Commission Decision of 30 June 2004 on the measures notified by Italy in favour of the publishing industry (notified under document number C(2004) 2215) ⁽¹⁾**

8

2006/321/EC:

- ★ **Commission Decision of 28 April 2006 amending Decisions 2005/710/EC, 2005/733/EC and 2005/758/EC as regards an extension of their period of application for certain protection measures in relation to highly pathogenic avian influenza in Romania, Turkey and Croatia (notified under document number C(2006) 1710) ⁽¹⁾**

18

2006/322/EC:

- ★ **Commission Decision of 28 April 2006 on the clearance of the accounts of the paying agencies of Member States concerning expenditure financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, for the 2005 financial year (notified under document number C(2006) 1750)**

20

⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 675/2006
of 2 May 2006
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables⁽¹⁾, and in particular Article 4(1) thereof,

Whereas:

(1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the

standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

(2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 3 May 2006.

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

Done at Brussels, 2 May 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 2 May 2006 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	136,2
	204	92,3
	212	139,0
	999	122,5
0707 00 05	052	129,4
	628	155,5
	999	142,5
0709 90 70	052	122,2
	204	92,6
	999	107,4
0805 10 20	052	46,6
	204	38,6
	212	56,9
	220	39,3
	624	56,8
	999	47,6
0805 50 10	508	30,4
	624	58,1
	999	44,3
0808 10 80	388	89,7
	400	113,7
	404	102,1
	508	81,4
	512	82,2
	528	88,5
	720	100,9
	804	107,3
	999	95,7

⁽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 676/2006

of 2 May 2006

amending Regulation (EC) No 1980/2003 implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards definitions and updated definitions

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1177/2003 of the European Parliament and the Council of 16 June 2003 concerning Community statistics on income and living conditions (EU-SILC) ⁽¹⁾, and in particular Article 15(2)(c) thereof,

Whereas:

- (1) Regulation (EC) No 1177/2003 establishes a common framework for the systematic production of Community statistics on income and living conditions encompassing comparable and timely cross-sectional and longitudinal data on income and on the level and composition of poverty and social exclusion at national and European levels.
- (2) As a result of the accession of new Member States to the European Union on 1 May 2004, Regulation (EC) No 1177/2003 has been amended by Regulation (EC) No 1553/2005 of European Parliament and of the Council ⁽²⁾, in order to adapt the sample sizes and to give time to new Member States to adapt their respective systems to harmonised methods and definitions when compiling Community statistics.

(3) Furthermore, it appears that some new Member States in the same way as some existing Member States, need additional time to deliver all gross income data as specified in Commission Regulation (EC) No 1980/2003 ⁽³⁾.

(4) Regulation (EC) No 1980/2003 should therefore be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Statistical Programme Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The first subparagraph of paragraph 3 of Annex II to Regulation (EC) No 1980/2003 is replaced by the following:

'By way of derogation from paragraph 2, Greece, Spain, France, Italy, Portugal, Poland and Latvia shall be authorised not to deliver any gross income data as from the first year of their operation. These countries shall, however, deliver these data as soon as possible and in any case no later than 2007.'

Article 2

This Regulation shall enter into force on the twentieth 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, 2 May 2006.

For the Commission

Joaquín ALMUNIA

Member of the Commission

⁽¹⁾ OJ L 165, 3.7.2003, p. 1. Regulation amended by Regulation (EC) No 1553/2005 (OJ L 255, 30.9.2005, p. 6).

⁽²⁾ OJ L 255, 30.9.2005, p. 6.

⁽³⁾ OJ L 298, 17.11.2003, p. 1.

COMMISSION REGULATION (EC) No 677/2006**of 2 May 2006****determining the allocation of export licences for certain milk products to be exported to the Dominican Republic under the quota referred to in Article 20a of Regulation (EC) No 174/1999**

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⁾,

Having regard to Commission Regulation (EC) No 174/1999 of 26 January 1999 laying down detailed rules for the application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case of milk and milk products ⁽²⁾, and in particular Article 20a(11) thereof,

Whereas:

Article 20a of Regulation (EC) No 174/1999 determines the procedure for allocating export licences for certain milk products to be exported to the Dominican Republic under a quota opened for that country. Applications submitted for the 2006/2007 quota year cover quantities greater than those available. As a result, allocation coefficients should be set for the quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities covered by export licence applications for the products referred to in Article 20a(3) of Regulation (EC) No 174/1999 submitted for the period 1 July 2006 to 30 June 2007 shall be multiplied by the following allocation coefficients:

- 0,621034 for applications submitted for the part of the quota referred to in Article 20a(4)(a) of Regulation (EC) No 174/1999,
- 0,063817 for applications submitted for the part of the quota referred to in Article 20a(4)(b) of Regulation (EC) No 174/1999.

Article 2

This Regulation shall enter into force on 3 May 2006.

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

Done at Brussels, 2 May 2006.

For the Commission

J. L. DEMARTY

*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 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 20, 27.1.1999, p. 8. Regulation as last amended by Regulation (EC) No 508/2006 (OJ L 92, 30.3.2006, p. 10).

COMMISSION REGULATION (EC) No 678/2006
of 2 May 2006
amending the import duties in the cereals sector applicable from 3 May 2006

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) The import duties in the cereals sector are fixed by Commission Regulation (EC) No 665/2006 ⁽³⁾.

- (2) Article 2(1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by EUR 5 per tonne from the duty fixed, a corresponding adjustment is to be made. Such a difference has arisen. It is therefore necessary to adjust the import duties fixed in Regulation (EC) No 665/2006,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 665/2006 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 3 May 2006.

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

Done at Brussels, 2 May 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 29.9.2003, p. 78. Regulation as amended by Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽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).

⁽³⁾ OJ L 116, 29.4.2006, p. 41.

ANNEX I

**Import duties for the products covered by Article 10(2) of Regulation (EC) No 1784/2003 applicable from
3 May 2006**

CN code	Description	Import duty ⁽¹⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	16,14
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	54,48
1005 10 90	Maize seed other than hybrid	57,64
1005 90 00	Maize other than seed ⁽²⁾	57,64
1007 00 90	Grain sorghum other than hybrids for sowing	54,48

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

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

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

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

ANNEX II

Factors for calculating duties

(for 1.5.2006)

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)	138,64 (***)	74,97	155,54	145,54	125,54	87,13
Gulf premium (EUR/t)	—	12,74	—			—
Great Lakes premium (EUR/t)	26,30	—	—			—

(*) 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: 16,35 EUR/t; Great Lakes–Rotterdam: 20,34 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).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 30 June 2004

on the measures notified by Italy in favour of the publishing industry

*(notified under document number C(2004) 2215)***(Only the Italian text is authentic)****(Text with EEA relevance)**

(2006/320/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

The Commission invited interested parties to submit their comments on the measures.

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

(4) By letter dated 2 December 2003, the Italian authorities requested an extension of the response deadline to submit their comments to the Commission's decision to initiate proceedings, which the Commission granted by letter dated 10 December 2003.

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

Having called on interested parties to submit their comments ⁽¹⁾, and having regard to their comments,

(5) The Italian authorities submitted their comments and provided additional information by letter dated 9 January 2004, registered on 14 January 2004.

Whereas:

(6) The Commission received comments from interested parties. It forwarded them to Italy, which was given the opportunity to react; its comments were received by letter dated 3 March 2004, registered on 4 March 2004.

1. PROCEDURE

- (1) By letters No 15808 and No 15809 of 19 December 2002, registered on 31 December 2002, pursuant to Article 88(3) of the EC Treaty, the Italian authorities notified the Commission of the above measures to support the Italian publishing industry.
- (2) By letter dated 29 October 2003, the Commission notified Italy of its decision to initiate proceedings under Article 88(2) of the EC Treaty in respect of the two notified measures.
- (3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Union* ⁽²⁾.

2. DESCRIPTION OF THE AID MEASURES

(7) The two aid measures notified by the Italian authorities concern respectively aid in the form of interest rate subsidies on bank loans in favour of companies active in the publishing industry and tax credits in favour of undertakings producing publishing products ⁽³⁾.

⁽¹⁾ OJ C 285, 28.11.2003, p. 14.

⁽²⁾ See footnote 1.

⁽³⁾ The eligible products consist of paper-based products, including books or electronic-based products, which are to be published or used to disseminate information to the public through any means, including electronic, or through radio or television broadcasting. Products reproducing sounds and voices, moving pictures including documentaries; and corporate information documentation whether for internal or external use are explicitly excluded from the list of eligible products.

2.1. Aid in the form of interest subsidy

(8) The first aid scheme is introduced by Articles 4 to 7 of Law 62 of 7 March 2001⁽⁴⁾, concerning 'Nuove norme sull'editoria e sui prodotti editoriali e modifiche alla legge 5 agosto 1981, n. 416' (hereinafter Law 62/2001) and Decree 142 of the President of the Republic of 30 May 2002 concerning 'Regolamento concernente le agevolazioni di credito alle imprese operanti nel settore editoriale'⁽⁵⁾ (hereinafter DPR 142/2002).

(9) The aid consists of contributions on interest payments on 10-year loans granted by banking institutions for projects concerning technical and economic restructuring; acquisition, extension and modernisation of equipment, with particular reference to information technology hardware and software networks also in conjunction with the utilisation of the international telematic networks and satellites for the improvement of distribution; and expenditure for vocational training.

(10) Some 90 % of the project's total cost is eligible for aid⁽⁶⁾. The contribution amounts to the difference in the amortisation plan calculated on the basis of a reference rate established by the Treasury and the payments due on the same amortisation plan calculated on the basis of half such a rate. In practice, using a reference rate of 5 %, the State contributes around 13 % of the project's total expenditure, and this is reduced to about 10 % if the contribution is requested in the discounted form.

(11) The beneficiaries are undertakings active in the whole publishing cycle⁽⁷⁾. This explicitly includes: press agencies; publishing companies; printing companies; distribution undertakings of daily press, periodicals, and books — published on paper, or on electronic or

informatic support — radio and television broadcasters; undertakings which are mainly or exclusively selling publishing products and the undertakings which publish Italian newspapers abroad. The scheme is open to beneficiaries which have their headquarters in one of the Member States of the European Union. The number of expected beneficiaries is between 101 and 500.

(12) A 10-year limit for the aid scheme is foreseen⁽⁸⁾. The total budget allocation for the years 2001, 2002 and 2003 is equal to about EUR 26,3 million⁽⁹⁾, increased by EUR 50,8 million of previously unspent appropriations. The aid granted under this scheme can only be cumulated with that introduced by Article 8 of the same law described hereinafter⁽¹⁰⁾.

(13) The benefits foreseen in Articles 5 to 7 of Law 62/2001 will be awarded by a bespoke fund instituted and administered by the Presidency of the Council of Ministers⁽¹¹⁾. The aid will be granted either pursuant to an automatic procedure⁽¹²⁾ or through an individual evaluation procedure. Under the automated procedure, the funding of the project must not exceed about EUR 0,5 million⁽¹³⁾ and the eligible project must be completed within two years of the granting of the benefit. The projects involving larger funding amounts are subject to an individual evaluation procedure conducted by a bespoke committee instituted by Presidency of the Council of Ministers. The maximum benefit allowed under this scheme is capped at about EUR 15,5 million⁽¹⁴⁾, whilst projects valued under this procedure are also subject to the two-year limit requirement concerning their completion. Both granting procedures require, *inter alia*, the submission of detailed information and documents proving the existence and needs of the project, the eligibility of the recipient, proof of the

⁽⁴⁾ The Italian authorities indicate that the measure under review would replace existing aid measures introduced by respectively Law 416 of 5.8.1981 and Law 67 of 25.2.1987, both of which were approved by the Commission, respectively on 18.11.1983 with letter No 1398 and on 7.7.1988 with letter No 8232 under aid C-25/87.

⁽⁵⁾ The terms, amount of resources available and the eligibility conditions of publishing undertakings to the aid measures defined in Article 6 of Law 62/2001 are specified in the decree of the Capo dipartimento per l'informazione e l'editoria della presidenza del Consiglio of 13 December 2002, GU 297, 19.12.2002, p. 29.

⁽⁶⁾ Further, the draft law — atto camera 4163, 'Disposizioni in materia di editoria e di diffusione della stampa quotidiana e periodica' — introduces an amendment to Article 5 of Law 62 of 7 March 2001, which explicitly rules out from the eligible costs all the costs which are not incurred for the production of publishing products, in particular promotional and advertising costs. The eligible costs can be 100 % only in the case of cooperatives of journalists foreseen at Article 6 of Law 416 of 5.8.1981.

⁽⁷⁾ Firms in difficulty are explicitly excluded pursuant to the aforementioned decree of the Capo dipartimento per l'informazione e l'editoria della presidenza del Consiglio of 13 December 2002 concerning Law 62/2001.

⁽⁸⁾ The 10-year limit to the scheme has been explicitly introduced, after the notification, in the draft law presented to the Italian Parliament on 16 July 2003, atto camera 4163, 'Disposizioni in materia di editoria e di diffusione della stampa quotidiana e periodica'. This draft law is currently being discussed in the Culture Commission of the Parliament.

⁽⁹⁾ The funds budgeted by the State are respectively about EUR 4,1 million in 2001, EUR 12,6 million in 2002, and EUR 9,7 million in 2003.

⁽¹⁰⁾ Pursuant to Article 8 of DPR 142/2002, aid granted pursuant to Articles 4 to 7 of Law 62/2001 cannot be cumulated with other aid granted by the State, regions, autonomous provinces of Trento and Bolzano, the European Community or by any public body or institution to finance the same investment programme. However aid granted under Articles 4 to 7 of Law 62/2001 can be cumulated with the tax credit introduced by Article 8 of the same law.

⁽¹¹⁾ Pursuant to Article 5 of Law 62/2001, the fund is called 'Fondo per le agevolazioni di credito alle imprese del settore editoriale'.

⁽¹²⁾ Article 1 of DPR 142/2002 states that undertakings can only present one project at the time under the automatic procedure.

⁽¹³⁾ The funding must not exceed ITL 1 billion pursuant to Article 6, paragraph 1(a) of Law 62/2001.

⁽¹⁴⁾ The maximum aid cannot exceed ITL 30 billion pursuant to Article 7, paragraph 1(a) of Law 62/2001.

eligible expenses incurred⁽¹⁵⁾, and a copy of the bank loan contract. This measure also contains dispositions for the recovery of unduly granted benefits.

- (14) Aid granted under this scheme aims at preserving the information pluralism within the meaning of Article 21 of the Italian Constitution.

2.2. Aid in the form of tax credit

- (15) The second notified scheme is introduced by Article 8 of Law 62 of 7 March 2001 concerning 'Nuove norme sull'editoria e sui prodotti editoriali e modifiche alla legge 5 agosto 1981, n. 416' and Decree 143 of the President of the Council of Ministers of 6 June 2002 concerning 'Disciplina del credito di imposta in favore delle imprese produttrici di prodotti editoriali' (hereinafter Decree 143/2002).

- (16) The scheme foresees the granting of a tax credit by the State to undertakings producing publishing products. The aid consists of a total tax credit equal to 15 % of the total cost of the investment, divided into equal yearly instalments during five consecutive fiscal years⁽¹⁶⁾. The credit is to be deducted from fiscal liabilities and can be carried forward for four years.

- (17) The aid is granted for the acquisition of instrumental goods for the production of publications in the Italian language, including newspapers, magazines, periodicals, books and multimedia products. Investments in plant, equipment and patents destined to all phases of the production cycle as part of technical and economic restructuring are also eligible for aid under the reviewed scheme.

- (18) The aid scheme is limited to investment taking place before 31 December 2004. The allocated budget for the entire period is about EUR 102 million⁽¹⁷⁾. The aid granted under this scheme can only be cumulated with that introduced by Articles 4 to 7 of the aforementioned law⁽¹⁸⁾. The measure contains dispositions for the verification concerning the existence and reliability of the projects as well as for the recovery of unduly granted benefits.

⁽¹⁵⁾ The procedures and requirements giving access to the benefit are detailed at paragraphs 2 to 6 of Article 7 of Law 62/2001, and in DPR 142/2002.

⁽¹⁶⁾ Under this scheme the maximum amount is set as a percentage of the investment value rather than per beneficiary, nonetheless it is capped by the total funds available.

⁽¹⁷⁾ The funds budgeted by the State are respectively about EUR 5,7 million in 2001, EUR 11,3 million in 2002 and EUR 28,4 million for each year from 2003 to 2005.

⁽¹⁸⁾ See footnote 11.

- (19) The tax credit is granted to undertakings producing publishing products⁽¹⁹⁾. The latter undertakings include press agencies, publishing undertakings, printers of daily newspapers, periodicals and books — published on paper, in electronic or informatic format — radio and television broadcasting companies and undertakings publishing Italian newspapers abroad. The scheme is open to beneficiaries which have their headquarters in one of the Member States of the European Union. The number of expected beneficiaries is between 101 and 500.

- (20) Aid granted under this scheme aims at promoting culture and preserving the information pluralism within the meaning of Article 21 of the Italian Constitution.

3. GROUNDS FOR OPENING

- (21) In its decision to initiate the proceedings, the Commission concluded that the two aid measures constituted State aid within the meaning of Article 87(1) of the EC Treaty and expressed its doubts concerning respectively the effect on trade of the notified measures and their compatibility with the common market.

- (22) Furthermore, the Commission regarded the opening as a means to allow the submission of the relevant information and comments to allay its abovementioned doubts.

4. COMMENTS FROM INTERESTED PARTIES

- (23) Following the initiation of the investigation procedure, several interested parties sent their comments on the measures. An overview of the relevant comments from these parties is outlined in the following paragraphs.

- (24) In its letter of 18 December 2003, the Federation of European Publishers (FEP-FEE) considered that the aid measures are not in violation with EU legislation because:

- (i) publishing, unlike other industrial activities, is extremely language dependent and thus State support to publishing is unlikely to affect cross-border trade in the European Union;

⁽¹⁹⁾ The definition of an undertaking producing publishing products is more restrictive than the one used under Articles 4, 5 and 7 of the law under review. Firstly, it only concerns publications in the Italian language. Secondly, it only concerns undertakings producing publishing content whereas, under the other scheme, the eligible beneficiaries are all the undertakings active in the production and distribution cycle of the publishing product.

- (ii) the amount of aid provided is very modest;
- (iii) the support is addressed to types of investments that are tailored to linguistic areas and the publications benefiting from State aid are only those in the Italian language. The rationale of State support is to stimulate private investments in order to cope with competition between publishers and other companies in the same competitive arena, which is a national one.
- (25) In its letter of 19 December 2003, the Association of Portuguese Book Publishers (APEL) considered that the aid measures under review are not in violation with EU legislation because:
- (i) of the reasons identical to those outlined above by the FEE; and
- (ii) the eligible investments are not directed to export or to actions in the international environment.
- (26) In addition, the Commission received the following comments from interested parties in the course of the investigation more than a month after the publication of the opening decision.
- (27) In their letter of 8 January 2004, the Spanish Federation of Publishers (FGEE) considered that the aid measures under review are not in violation of EU legislation for the identical reasons invoked above by the Association of Portuguese Book Publishers.
- (28) In their letter of 12 January 2004, the European Newspaper Publishers' Association (ENPA) considered that the aid measures under review are not in violation with EU legislation because:
- (i) newspapers' cross-border trade is negligible and should not cause competition concerns between Member States. This especially applies to regional newspapers which operate only within well-defined areas on the domestic market. The notable nature of competition in this sector remains on the national market;
- (ii) the minority of newspapers which are sold abroad are largely bought by expatriate nationals who wish to keep up to date on current affairs in their home country. For this relatively small number of consumers, to have access to an Italian language source of information and to be able to have access to a familiar brand is both linguistically and culturally highly important in value and this could only be provided by Italian publishers;
- (iii) in order for newspapers to remain competitive with other newer forms of media, e.g. internet, the industry desperately needs resources which are provided through the two schemes under review. If it did not receive this support, then sharp economic downturns such as the latest one, which has damaged most of Europe's newspaper sector because of the decline in advertising sales, will seriously jeopardise the future of the national industry.
- (29) In its letter of 7 January 2004, the Federation of Italian Newspapers' Publishers (FIEG) submitted a detailed argumentation to support its view that the measures under review are not to be considered as violating EU legislation because:
- (i) the support measures do not constitute State aid;
- (ii) the support measures do not constitute aid in relation to activities for which there is no cross-border trade or competition between Member States and the EEA;
- (iii) the measures are compatible with the common market pursuant to Article 87(3)(d) of the EC Treaty.

5. COMMENTS OF THE ITALIAN AUTHORITIES

5.1. Comments to the opening of the procedure

- (30) In order to allay the doubts expressed by the Commission in the opening decision, the Italian authorities submitted additional explanations and data supporting their view concerning the marginal incidence and the compatibility of the measures at hand.

- (31) The Italian authorities maintain aid to the publishing sector will have very limited effects on intra-EU trade due to the virtually non-existent diffusion of publishing products in Italian language outside their domestic market. In particular they derive support for their analysis from the interpretation of the general principles outlined in the CELF judgment⁽²⁰⁾ as well as from statistical evidence and explanations submitted in response to the opening of the procedure.
- (32) Concerning the principles outlined in the CELF judgment, in relation to books, the Italian authorities maintain that those principles should also be applicable to the other publishing products due to their similar characteristics and to the fact that readership of publishing products in the Italian language in the EU is even more limited than that in French. The two principles referred to are:
- (i) 'Competition in the book sector (can) be limited by linguistic and cultural barriers and consequently, the effect on intra-EU trade should be limited'⁽²¹⁾;
- (ii) 'The European sector of typography and publishing continues to be more a juxtaposition of national markets than an integrated market at the European level, as indicated by the share of exports in the sector as a percentage of turnover. The multitude of languages spoken inside the Community constitutes an additional barrier to the 'Europeanisation' of the sector'⁽²²⁾.
- (33) Concerning the situation of the Italian publishing market and the limited intra-EU trade in publishing products, the Italian authorities submitted statistical data to support their assertion and additional clarifications concerning the beneficiaries. In particular, the statistical data submitted indicates that:
- (i) in the last 20 years the daily newspaper market in the Italian language has been characterised by a relative stagnation despite the fact that the Italian production system has significantly changed during that period⁽²³⁾. In 2003 the number of copies sold daily has fallen back to the 1984 level;
- (ii) the average daily diffusion of daily newspapers and the number of copies sold per 1 000 inhabitants in Italy, France, Germany and Great Britain indicate that Italy lags significantly behind the other large EU Member States⁽²⁴⁾ and that the potential demand for publishing products is inferior to what could be reached by a country with the revenue per capita level of Italy;
- (iii) in 2001 the diffusion of Italian daily newspapers to the EU stands at 1,3 % of the total production, whereas for weekly and monthly publications the number stands at 0,8 % of the total production;
- (iv) between 1996 and 2001, the statistical data submitted to the Commission indicates that *total* exports (to both outside and inside EU) of daily, weekly and monthly publications represent between 0,7 % and 2,5 % of the total production;
- (v) with regards to the multimedia publishing products, the Italian authorities submitted data concerning the aggregate exports of books and multimedia publishing products and services, to both outside and inside the EU in 2001, which shows that total exports are equal to 5 % of the total sales for these products. However, the Italian authorities specify that exports to the EU represent only a fraction of the aforementioned number and that the CD-ROMs and publishing services, as well as multimedia publishing products, account only for a very small part of the latter fraction. Hence, the Italian authorities conclude that the diffusion of Italian multimedia publishing products in the EU is of negligible proportion;
- (vi) concerning the printing of newspapers and books, the Italian authorities underline that publishing products are typically printed close to their market so as not to penalise them with lateness as well as the importance of transportation costs in comparison to the value of the product;
- (vii) concerning press agencies, the Italian authorities initially observe that international competition in this market can only be referred to foreign language news reports. Further, they note that the only Italian player producing such reports is ANSA, for which the turnover for this type of report accounts for 0,3 % of the company's total turnover;

⁽²⁰⁾ Judgment of the European Court of Justice, 22.6.2000, in case C-332/98, *French Republic v European Commission 'Aides à la Coopérative d'Exportation du Livre Français (CELF)'* ECR I-4833.

⁽²¹⁾ See note 20. Point VIII of the Judgment.

⁽²²⁾ Comments made by the Commission in the document 'Panorama of the Community industry' of 1997.

⁽²³⁾ Statistical data submitted by Italy indicates that sales of daily newspapers in Italy fell again in 2003, continuing their consistent decline since 1990, and are back to their 1984 level at about 5,8 million copies.

⁽²⁴⁾ Data from the Osservatorio Tecnico per i Quotidiani e le Agenzie d'Informazione — 'L'industria dei quotidiani in Italia — Monografia macro settoriale' — 2000.

- (viii) to conclude on the issue of the limited trade affectation of the measures under review, the Italian authorities indicate that the aggregate share of Italian publishing products diffused in the EU is 0,3 % to 0,5 % of the EU market.
- (34) Pursuant to the information above, and in line with the principles outlined in the CFI judgment in the SIDE case ⁽²⁵⁾, the Italian authorities maintain that the market for publishing products in the Italian language should be considered as distinct ⁽²⁶⁾.
- (35) Moreover, to underscore the fact that in their view both measures should be compatible with the common market pursuant to Article 87(3)(d) of the EC Treaty, the Italian authorities make reference to:
- (i) Article 151(1) of the EC Treaty, which state that ‘the Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore’;
- (ii) the Council Resolution of 12 February 2001 ⁽²⁷⁾ and in particular the Council invitation to the Commission ‘when applying competition rules and rules on the free taking movement of goods, to take account of the specific value of the book as a cultural object and the importance of books in promoting cultural diversity, and of the cross-border dimension of the book market’ ⁽²⁸⁾. Further, reference is also made to another recital from the aforementioned resolution which states that ‘homogeneous linguistic areas are an important area for distributing books and add a cross-border dimension to the book market, which needs to be taken into account’ ⁽²⁹⁾;
- (iii) the Council Resolution of 14 February 2002 ⁽³⁰⁾ concerning the promotion of language diversity and language learning in the framework of the implementation of the objectives of the European Year of Languages 2001;
- (iv) Article 22 of the Charter of Fundamental Rights of the European Union ⁽³¹⁾, which reaffirmed the principle that the EU respects cultural, religious and linguistic diversity in Member States;
- (v) Article 21 of the Italian Constitution, which guarantees the freedom of expression and pluralism as right to exert a fundamental democratic liberty; and the Italian authorities state that publishing products are a means to exert this right ⁽³²⁾.
- (vi) the Treaty of Maastricht which introduced the culture derogation under Article 87(3)(d) of the EC Treaty in order to overcome the limitations to the application of Article 87(3)(c) for the incentives to the culture sector.
- (36) In conclusion the Italian authorities state that, in the framework of the present procedure, given the absolute peculiarity of the publishing market, the need for public intervention to reverse a consolidated declining trend in the diffusion of publishing products on the domestic market, and the limited diffusion of the Italian language at the EU level, the Commission could only conclude that the maximum valorisation of the linguistic specificity is one of the key factors underpinning the culture derogation contemplated by Article 87(3)(d). Hence, the measures under review, which favour the diffusion of publishing products in the Italian language in the domestic market, should be deemed to be compatible with the common market.

5.2. Comments to the interested parties’ observations

- (37) By letter dated 24 February 2004, the Italian authorities submitted their comments to the interested parties’ observations to the opening of the procedure. The Italian authorities noted the overall convergence with their own assessment of the trade affectation and compatibility of the measures under review. Their main comments can be summarised by the following four considerations:

- (i) the observations received further to the Commission’s invitation were submitted by the five parties indicated in Section 4 of the present decision, which represent book and newspaper publishers in the 15 EU Member States as well as Cyprus, the Republic of Croatia, Lithuania, Norway and Slovenia;

⁽²⁵⁾ Judgment of the European Court of First Instance, 28.2.2002, in case T-155/98, page II-1179.

⁽²⁶⁾ Judgment of the European Court of First Instance, 21.10.1997, in case T-229/94, *Deutsche Bahn v Commission*, page II-1689 paragraph 54 and the jurisprudence cited therein.

⁽²⁷⁾ OJ C 73, 6.3.2001, p. 5.

⁽²⁸⁾ The Italian authorities underline that despite the fact that the EC Council Resolution of 12.2.2001 explicitly refers to books, the principles outlined therein, and in particular those at recital 2, should be extended to all cases in which goods have a dual character as the bearers of cultural values and as merchandise, e.g. publishing products ‘tout-court’.

⁽²⁹⁾ See recital 7 of EC Resolution of 12.2.2001.

⁽³⁰⁾ OJ C 50, 23.2.2002, p. 1.

⁽³¹⁾ OJ C 364, 18.12.2000, p. 1.

⁽³²⁾ See Judgment of the Constitutional Court in cases 348/1990, 105/1972, 225/1974 and 94/1997.

(ii) the comments received from the interested parties are in line with those of Italy concerning the non-violation of EU competition law;

(iii) as outlined by ENPA, the market for periodical papers is essentially a national market and the proportionality of the measure is fulfilled since, given the structure of the market for publishing products, the latter is not able to produce any significant distortion to trade between Member States;

(iv) as stated by FGEE, the aid amounts under consideration are limited. Further, the aid measures will have a very limited impact on trade between Member States because the economic activity is by definition centred on homogeneous linguistic areas which are subject to limited cross-border trade.

6. ASSESSMENT OF THE AID MEASURES

6.1. Existence of State aid

(38) According to Article 87(1) of the EC Treaty 'any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, shall, in so far as it affects trade between Member States, be incompatible with the common market'.

6.1.1. State resources and favouring of undertakings/economic activity

(39) The Commission notes that the resources to fund both notified aid schemes come from the central government's budget and can thus be considered as State resources. Moreover, on the basis of their definition, the schemes favour specific economic sectors, namely the publishing sector in which the beneficiaries perform an economic activity and can be regarded as undertakings within the meaning of Article 87(1) of the EC Treaty.

6.1.2. Selectivity

(40) Both notified schemes are selective in that they are addressed respectively to undertakings active in the publishing sector and to undertakings producing publishing products. Both schemes therefore provide sectoral aid.

6.1.3. Economic advantage

(41) The two notified schemes both confer an economic advantage to their beneficiaries.

(42) Under the first scheme, the beneficiaries receive a subsidisation of the interest payable on bank loans for specific projects, which effectively reduces the financing costs of the beneficiary undertaking.

(43) Under the second scheme the eligible undertakings benefit from a fiscal advantage in the form of a tax credit for investments, thereby relieving the beneficiaries from fiscal charges that they would normally have to incur⁽³³⁾.

6.1.4. Trade affectation between Member States and distortion of competition

(44) The Commission notes that competition rules generally apply to all economic activities involving trade between Member States and that the production of publishing products can be considered as an economic activity. The issue is whether aid to this activity really or potentially affects trade between Member States, given the alleged domestic and thus internal nature of the Italian market for publishing products in the Italian language. It can be noted that the publishing market includes the market for royalties, advertising, printing and distribution. Aid to a publisher may affect one or the other of those activities.

(45) Further, on the basis of the information submitted by the Italian authorities, the Commission notes that there is trade between Member States in the publishing products concerned by the aid measures under review⁽³⁴⁾. Thus, the aid measures under review could distort competition between firms inasmuch as, for instance, publishing firms can pursue their activity in different Member States, producing publications in different languages and competing for publishing rights and advertising.

(46) The Commission acknowledges the information and clarifications submitted by the Italian authorities documenting the fact that the amount of intra-EU trade, in the publishing products in Italian language concerned by the two measures under review, is limited.

⁽³³⁾ See Commission notice on the application of the State aid rules to measures relating to direct business taxation, OJ C 384, 10.12.1998, p. 3.

⁽³⁴⁾ Moreover, the cross-border dimension of publishing, namely for books, has been recognised by the Resolution of 12 February 2001, and the statistical data submitted by the Italian authorities.

- (47) Notwithstanding the above consideration, in light of the foregoing, the Commission considers that, however limited, the effect on trade of the measures under review cannot be excluded. Hence, the two schemes under review constitute State aid within the meaning of Article 87(1) of the EC Treaty.

6.2. Compatibility

- (48) In those cases where the measures constitute State aid within the meaning of Article 87(1) of the EC Treaty, it is foreseen that aid which fulfils the conditions set forth respectively in Article 87(2) and Article 87(3) of the EC Treaty shall be compatible or may be deemed compatible with the common market.

- (49) The Commission notes that the conditions foreseen in Article 87(2), Article 87(3)(a) and Article 87(3)(b) of the EC Treaty are evidently not applicable to the measures at hand.

- (50) Further to the opening, additional information and clarifications were submitted by the Italian authorities and comments were received from interested parties. On the basis of the above, it appears that intra-EU trade in publishing products in the Italian language is limited and the measures could be deemed to be compatible under Article 87(3)(c) or Article 87(3)(d) of the EC Treaty.

6.2.1. Compatibility *ex Article 87(3)(d) of the EC Treaty*

- (51) Concerning the compatibility of the measures pursuant to Article 87(3)(d), the Commission does not concur with the assessment made by the Italian authorities, and is of the opinion that the cultural derogation is not applicable to the aid schemes in point.

- (52) In fact, although Article 151 of the EC Treaty⁽³⁵⁾ indeed foresees that the Community should contribute to cultural diversity, under the terms of Article 8 of Law 62/2001 no dispositions have been outlined concerning the appropriation of funds for the explicit promotion of culture but rather the funds are entirely used for the more general support of investment by undertakings producing publishing products in the Italian language.

Concerning the interest subsidy measure, pursuant to the terms⁽³⁶⁾ of Article 5 of Law 62/2001, only 5 % of the total funds available under the interest subsidy scheme under examination are explicitly set aside 'for undertakings involved in projects of specific relevance for the diffusion of readership in Italy or the for the diffusion of publishing products in Italian abroad'. Further, the Commission notes that in the event that the above 5 % share is not utilised for the original purpose, it can be reallocated to fund the other actions contemplated by the measures under review. The latter include, *inter alia*, aid for training and for investment. Further, the eligible publications in the Italian language include newspapers, magazines, periodicals, books and multimedia products. However, the Commission notes that the two schemes contain no specifications concerning the allocation of resources to the individual types of publications, concerning the content of the eligible publishing products, or any mention concerning the cultural values to be contained or promoted⁽³⁷⁾.

- (53) By the same token, it can be noted that the Italian language appears to be the common denominator of the two schemes. Nonetheless, despite the fact that those measures might as a last resort ultimately favour learning or the diffusion of the Italian language and culture, given the absence of any pedagogical or language learning specifications or focus in the measures, considering them as culture-based measures would imply giving an unduly broad meaning to culture.

- (54) Moreover, in response to the Italian authorities' argument tying the promotion of culture and that of the promotion of information pluralism foreseen by the measures under review, the Commission has already stated in past decisions⁽³⁸⁾ that the educational and democratic needs of a Member State have to be regarded as distinct from the promotion of culture.

- (55) Thus, given the breadth of the scope of the measures under review and of the very generic description of the eligible publications, the measures under examination would appear to primarily aim at fostering the diffusion of publishing products in the Italian language, which is the common denominator of the two schemes, rather than promoting the Italian culture and language.

⁽³⁶⁾ In particular paragraph 6 of Article 5 of Law 62/2001.

⁽³⁷⁾ In practice, products including sports and other publishing products which do not necessarily bear any cultural content or features would be eligible to the benefits.

⁽³⁸⁾ Commission decisions in State aid cases: NN 88/98, 'Financing of a 24-hours advertising-free news channel with license fee by BBC', OJ C 78, 18.3.2000, p. 6; and NN 70/98 'State aid to public broadcasting channels "Kinderkanal and Phoenix"', OJ C 238, 21.8.1999, p. 3.

⁽³⁵⁾ See in particular paragraphs contained in paragraphs 1 and 4 of Article 151 of the EC Treaty.

(56) In light of the foregoing, the Commission is of the opinion that the measures under review do not satisfy the restrictive interpretation warranted for the application of the provision set forth at Article 87(3)(d) and outlined in the Communication on State aid to public service broadcasting⁽³⁹⁾. Further, accepting the culture derogation would also run counter to the Commission's interpretation outlined in the relevant case-law⁽⁴⁰⁾.

6.2.2. Compatibility *ex Article 87(3)(c) of the EC Treaty*

(57) Pursuant to the planned objectives, the measures under review would ultimately aim at promoting the diffusion of publishing products in the Italian language and at contributing to the preservation of the information pluralism, whilst public intervention would appear to be needed to reverse a consolidated declining trend in the diffusion of publishing products on the domestic market.

(58) The Commission acknowledges that there are no frameworks or guidelines which can be applied to assess measures such as those under review. Hence, no other specific compatibility clause seems to be applicable to the notified schemes as currently specified apart from the always possible general application of Article 87(3)(c) of the EC Treaty. The latter provides that, 'aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, may be considered to be compatible with the common market'.

(59) As established in the CELF judgment, the Commission notes that linguistic and cultural barriers limiting competition and cross-border trade between Member States in the book sector would appear to exist. Similarly, it would seem that 'the European sector of typography and publishing continues to be more a juxtaposition of national markets than an integrated market at the European level, as indicated by the share of exports in the sector as percentage of turnover. The multitude of languages spoken inside the Community constitutes an additional barrier to the 'Europeanisation' of the sector'⁽⁴¹⁾.

(60) Nonetheless, with regards to both books and the other publishing products concerned by the aid measures at hand, it should be emphasised that the existence of the

abovementioned limitations is underpinned by the statistical data submitted by Italy which documents the limited incidence of cross-border trade in the EU in the relevant products.

(61) In addition, since the aid is primarily aimed at publications in the Italian language, it is unlikely that publications in another language would be real substitutes and in turn that subscribers and/or advertisers would switch between them due to the subsidy. It would thus seem that the distortion of intra-EU trade and competition is likely to be very limited. Further, the Community interest is also ensured by the eligibility and equal treatment of applicants based in other Member States.

(62) Furthermore, the stated aim of the aid is to preserve information pluralism, which is an objective enshrined in Article 11 paragraph 2 of the Charter of Fundamental Rights of the European Union⁽⁴²⁾.

(63) Finally, the evaluation concerning the potentially limited trade and competition distortion of the measures under review and, in particular, their proportionality to the stated objectives is also underpinned by the combination of factors including: the duration of the schemes, which are of five and 10 years; the high number of beneficiaries, which is expected to reach 500 undertakings for each measure; and the overall limited funds available, which amount to a grand total of about EUR 179,3 million, for the entire period.

7. CONCLUSIONS

(64) In the light of the foregoing, the Commission has found that the measures under review constitute State aid in the meaning of Article 87(1) of the EC Treaty.

(65) The factual and statistical information submitted by the Italian authorities has documented the likely limited effect on trade of the measures under review.

(66) The limited distortion of trade and competition, and the proportionality of the measures to the objective of promoting publishing products in the Italian language are underpinned by the duration of the schemes, the large number of beneficiaries, and the overall limited funds available,

⁽³⁹⁾ OJ C 320, 15.11.2001, p. 5.

⁽⁴⁰⁾ See footnote 38.

⁽⁴¹⁾ Comments made by the Commission in the document 'Panorama of the Community industry' of 1997.

⁽⁴²⁾ See footnote 31.

HAS ADOPTED THIS DECISION:

Article 1

The State aid measure in the form of interest subsidy in favour of undertakings active in the publishing sector and the State aid measure in the form of tax credit in favour of undertakings producing publishing products are compatible with the common market pursuant to Article 87(3)(c) of the EC Treaty.

Article 2

Annual reports containing detailed information of the application of each measure shall be submitted to the Commission. The information reported should include: a summary of the application of the respective measures during the calendar year; a list and description of the eligible projects aided, the publishing products supported, the amounts granted per project, and the identity of the beneficiaries.

An update of the statistics concerning intra-EU trade in the relevant publishing products shall also be submitted to the Commission in order to allow the monitoring of the developments in the markets.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 30 June 2004.

For the Commission
Mario MONTI
Member of the Commission

COMMISSION DECISION

of 28 April 2006

amending Decisions 2005/710/EC, 2005/733/EC and 2005/758/EC as regards an extension of their period of application for certain protection measures in relation to highly pathogenic avian influenza in Romania, Turkey and Croatia

(notified under document number C(2006) 1710)

(Text with EEA relevance)

(2006/321/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC ⁽¹⁾, and in particular Article 18(7) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries ⁽²⁾, and in particular Article 22(6) thereof,

Whereas:

(1) Avian influenza is an infectious viral disease in poultry and birds, causing mortality and disturbances which can quickly take epizootic proportions liable to present a serious threat to animal and public health and to reduce sharply the profitability of poultry farming. There is a risk that the disease agent might be introduced into the Community via international trade in live poultry, live birds other than poultry and certain products thereof.

(2) Following the outbreak of avian influenza, caused by a highly pathogenic H5N1 virus strain, in south-eastern Asia starting in December 2003, the Commission adopted several protection measures in relation to avian influenza. Those measures included, in particular, Commission Decision 2005/710/EC of 13 October 2005 concerning certain protection measures in relation to highly pathogenic avian influenza in Romania ⁽³⁾, Commission Decision 2005/733/EC of 19

October 2005 concerning certain protection measures in relation to a suspicion of highly pathogenic avian influenza in Turkey and repealing Decision 2005/705/EC ⁽⁴⁾ and Commission Decision 2005/758/EC of 27 October 2005 concerning certain protection measures in relation to a suspicion of highly pathogenic avian influenza in Croatia and repealing Decision 2005/749/EC ⁽⁵⁾.

(3) Since Decisions 2005/710/EC, 2005/733/EC and 2005/758/EC were adopted, new cases of avian influenza have been confirmed several times during surveillance in Romania, Turkey and Croatia. Accordingly, the restrictions contained in those Decisions concerning those countries should be continued by extending their period of application to 31 July 2006.

(4) Decisions 2005/710/EC, 2005/733/EC and 2005/758/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

In Article 4 of Decision 2005/710/EC, the date '30 April 2006' is replaced by '31 July 2006'.

Article 2

In Article 6 of Decision 2005/733/EC, the date '30 April 2006' is replaced by '31 July 2006'.

Article 3

In Article 5 of Decision 2005/758/EC, the date '30 April 2006' is replaced by '31 July 2006'.

⁽¹⁾ OJ L 268, 24.9.1991, p. 56. Directive as last amended by the 2003 Act of Accession.

⁽²⁾ OJ L 24, 30.1.1998, p. 9. Directive as last amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council (OJ L 165, 30.4.2004, p. 1); corrected version (OJ L 191, 28.5.2004, p. 1).

⁽³⁾ OJ L 269, 14.10.2005, p. 42. Decision as last amended by Decision 2006/24/EC (OJ L 17, 21.1.2006, p. 30).

⁽⁴⁾ OJ L 274, 20.10.2005, p. 102.

⁽⁵⁾ OJ L 285, 28.10.2005, p. 50. Decision as last amended by Decision 2006/256/EC (OJ L 92, 30.3.2006, p. 15).

Article 4

The Member States shall immediately take the necessary measures to comply with this Decision and publish those measures. They shall immediately inform the Commission thereof.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 28 April 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

COMMISSION DECISION

of 28 April 2006

on the clearance of the accounts of the paying agencies of Member States concerning expenditure financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, for the 2005 financial year*(notified under document number C(2006) 1750)*

(2006/322/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽¹⁾, and in particular Article 7(3) thereof,

After consulting the Fund Committee,

Whereas:

- (1) On the basis of the annual accounts submitted by the Member States, accompanied by the information required, the accounts of the paying agencies referred to in Article 4(1) of Regulation (EC) No 1258/1999 are to be cleared. The clearance covers the integrality, accuracy and veracity of the accounts transmitted in the light of the reports established by the certification bodies.
- (2) Pursuant to Article 7(1) of Commission Regulation (EC) No 296/96 of 16 February 1996 on data to be transmitted by the Member States and the monthly booking of expenditure financed under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) ⁽²⁾, account is taken for the 2005 financial year of expenditure incurred by the Member States between 16 October 2004 and 15 October 2005.
- (3) The time limits granted to the Member States for the submission to the Commission of the documents referred to in Article 6(1)(b) of Regulation (EC) 1258/1999 and in Article 4(1) of Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of accounts of the EAGGF Guarantee Section ⁽³⁾, have expired.

- (4) The Commission has checked the information submitted and communicated to the Member States before the 31 March 2006 the results of its verifications, along with the necessary amendments.

- (5) In accordance with the first subparagraph of Article 7(1) of Regulation (EC) No 1663/95, the accounts clearance decision referred to in Article 7(3) of Regulation (EC) No 1258/1999 determines, without prejudice to decisions taken subsequently in accordance with Article 7(4) of the Regulation, the amount of expenditure effected in each Member State during the financial year in question recognised as being chargeable to the EAGGF Guarantee Section, on the basis of the accounts referred to in Article 6(1)(b) of Regulation (EC) No 1258/1999 and the reductions and suspensions of advances for the financial year concerned, including the reductions referred to in the second subparagraph of Article 4(3) of Regulation (EC) No 296/96. Pursuant to Article 154 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾, the outcome of the clearance decision, that is to say any discrepancy which may occur between the total expenditure booked to the accounts for a financial year pursuant to Article 151(1) and Article 152 of that Regulation and the total expenditure taken into consideration by the Commission in the clearance decision, is to be booked, under a single article, as additional expenditure or a reduction in expenditure. For the rural development expenditure covered by Article 7(2) of Commission Regulation (EC) No 27/2004 of 5 January 2004 laying down transitional detailed rules for the application of Council Regulation (EC) No 1257/1999 as regards the financing by the EAGGF Guarantee Section of rural development measures in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia ⁽⁵⁾ the outcome of the clearance decision is to be deducted from or added to subsequent payments made by the Commission.

- (6) In the light of the verifications made, the annual accounts and the accompanying documents permit the Commission to take, for certain paying agencies, a decision on the integrality, accuracy and veracity of the accounts submitted. The details of these amounts were described in the Summary Report that was presented to the Fund Committee at the same time as this Decision.

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.⁽²⁾ OJ L 39, 17.2.1996, p. 5. Regulation as last amended by Regulation (EC) No 1607/2005 (OJ L 256, 1.10.2005, p. 12).⁽³⁾ OJ L 158, 8.7.1995, p. 6. Regulation as last amended by Regulation (EC) No 465/2005 (OJ L 77, 23.3.2005, p. 6).⁽⁴⁾ OJ L 248, 16.9.2002, p. 1.⁽⁵⁾ OJ L 5, 9.1.2004, p. 36.

- (7) In the light of the verifications made, the information submitted by certain paying agencies requires additional inquiries and their accounts cannot be therefore cleared in this Decision.
- (8) Article 4(2) of Regulation (EC) No 296/96, lays down that advances against booking are to be reduced for expenditure effected by the Member States after the deadlines laid down therein, in accordance with Article 14 of Council Regulation (EC) No 2040/2000 of 26 September 2000 on budgetary discipline⁽¹⁾. However, under Article 4(3) of Regulation (EC) No 296/96, any overrun of deadlines during August, September and October is to be taken into account in the accounts clearance decision except where noted before the last decision of the financial year relating to advances. Some of the expenditure declared by certain Member States during the abovementioned period was effected after the deadlines and for some measures the Commission did not accept any extenuating circumstances. This Decision should therefore fix the relevant reductions. In accordance with Article 7(4) of Regulation (EC) No 1258/1999, a decision will be taken at a later date, fixing definitively the expenditure for which Community financing will not be granted regarding those reductions and any other expenditure which may be found to have been effected after the fixed deadlines.
- (9) The Commission, in accordance with Article 14 of Regulation (EC) No 2040/2000 and Article 4(2) of Regulation (EC) No 296/96, has already reduced or suspended a number of monthly advances on entry into the accounts of expenditure for the 2005 financial year. In the light of the above, to avoid any premature or merely a temporary reimbursement of the amounts in question, they should not be recognised in this Decision, without prejudice to further examination under Article 7(4) of Regulation (EC) No 1258/1999.
- (10) The second subparagraph of Article 7(1) of Regulation (EC) No 1663/95 lays down that the amounts that are recoverable from, or payable to, each Member State, in accordance with the accounts clearance decision referred to in the first subparagraph, shall be determined by deducting advances paid during the financial year in question, i.e. 2005, from expenditure recognised for that year in accordance with the first subparagraph. Such amounts are to be deducted from, or added to, advances against expenditure from the second month following that in which the accounts clearance decision is taken. For the rural development expenditure covered by Regulation (EC) No 27/2004, the amounts recoverable or payable under the clearance of accounts decision are to be deducted from or added to subsequent payments.

- (11) In accordance with the second subparagraph of Article 7(3) of Regulation (EC) No 1258/1999 and Article 7(1) of Regulation (EC) No 1663/95, this Decision, does not prejudice decisions taken subsequently by the Commission excluding from Community financing expenditure not effected in accordance with Community rules,

HAS ADOPTED THIS DECISION:

Article 1

Without prejudice to Article 2, the accounts of the paying agencies of the Member States concerning expenditure financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, in respect of the 2005 financial year are hereby cleared.

The amounts which are recoverable from, or payable to, each Member State pursuant to this Decision are set out in Annex I.

The amounts which are recoverable from, or payable to, each Member State pursuant to this Decision in the field of rural development measures applicable in Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia are set out in Annex II.

Article 2

For the 2005 financial year, the accounts of the Member States' paying agencies in respect of expenditure financed by the EAGGF, Guarantee Section, set out in Annex III, are disjoined from this Decision and shall be the subject of a future clearance Decision.

For the 2005 financial year, the accounts of the Member States' paying agencies in respect of rural development measures applicable in Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, set out in Annex IV, are disjoined from this Decision and shall be the subject of a future clearance Decision.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 28 April 2006.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ OJ L 244, 29.9.2000, p. 27.

ANNEX I
CLEARANCE OF THE PAYING AGENCIES' ACCOUNTS
Financial year 2005
Amount to be recovered from or paid to the Member State.

MS	2005 — Expenditure for the Paying Agencies for which the accounts are		Total a + b c = a + b	Reductions and suspensions for the whole financial year ⁽²⁾ d	Total including reductions and suspensions e = c + d	Advances paid to the Member State for the financial year f	Amount to be recovered from (-) or paid to (+) the Member State ⁽¹⁾ g = e - f
	cleared = expenditure declared in the annual declaration a	disjoined = total of the expenditure in the monthly declarations b					
AT	EUR	1 235 678 100,68	0,00	- 577,47	1 235 677 523,21	1 235 677 523,21	0,00
BE	EUR	1 034 501 918,71	0,00	- 45 406,30	1 034 456 512,41	1 034 518 724,44	- 62 212,03
CY	CYP	19 368 736,27	0,00	0,00	19 368 736,27	19 368 736,27	0,00
CZ	CZK	8 436 717 595,53	0,00	0,00	8 436 717 595,53	8 437 379 327,77	- 661 732,24
DE	EUR	6 476 183 914,94	26 602 227,25	- 189 199,45	6 502 596 942,74	6 503 133 482,71	- 536 539,97
DK	DKK	9 111 733 318,84	0,00	- 939 910,00	9 110 793 408,84	9 109 588 541,01	1 204 867,83
EE	EK	423 453 085,44	0,00	0,00	423 453 085,44	423 237 451,97	215 633,47
EL	EUR	2 756 080 246,12	0,00	- 4 686 597,76	2 751 393 648,36	2 753 988 810,29	- 2 595 161,93
ES	EUR	6 410 489 074,04	0,00	- 7 601 145,47	6 402 887 928,57	6 406 487 931,36	- 3 600 002,79
FI	EUR	901 479 761,41	0,00	- 930 760,36	900 549 001,05	902 887 172,34	- 2 338 171,29
FR	EUR	9 969 472 798,46	0,00	- 935 034,13	9 968 537 764,33	9 968 932 409,11	- 394 644,78
HU	HUF	0,00	127 438 017 534,00	- 10 699 420,33	127 427 318 113,67	127 427 318 113,67	0,00
IE	EUR	1 807 166 374,14	0,00	- 3 495 598,23	1 803 670 775,91	1 806 207 799,03	- 2 537 023,12
IT	EUR	1 676 725 661,88	3 832 317 956,68	- 12 280 400,87	5 496 763 217,69	5 499 732 003,37	- 2 968 785,68
LT	LTL	438 876 923,13	0,00	0,00	438 876 923,13	438 873 203,94	3 719,19
LU	EUR	0,00	45 072 490,21	- 103 737,13	44 968 753,08	44 968 753,08	0,00
LV	LVL	19 175 999,48	0,00	0,00	19 175 999,48	19 175 999,48	0,00
MT	MTL	0,00	372 670,01	0,00	372 670,01	372 670,01	0,00
NL	EUR	1 256 378 655,27	0,00	- 266 960,04	1 256 111 695,23	1 256 334 767,29	- 223 072,06
PL	PLN	3 552 993 325,28	0,00	0,00	3 552 993 325,28	3 553 194 048,50	- 200 733,22
PT	EUR	801 251 123,20	91 524 070,22	- 521 198,20	892 253 995,22	891 857 592,63	396 402,59
SE	SEK	8 759 589 454,05	0,00	0,00	8 759 589 454,05	8 759 589 995,32	- 541,27
SI	SIT	7 892 952 269,55	0,00	0,00	7 892 952 269,55	7 892 952 269,55	0,00
SK	SKK	4 408 731 468,27	0,00	0,00	4 408 731 468,27	4 408 731 468,27	0,00
UK	GBP	2 911 077 146,20	0,00	- 6 934 201,25	2 904 142 944,95	2 903 870 049,01	272 895,94

⁽¹⁾ For the calculation of the amount to be recovered from or paid to the Member State the amount taken into account is, the total of the annual declaration for the expenditure cleared (col.a) or, the total of the monthly declarations for the expenditure disjoined (col.b).

⁽²⁾ The reductions and suspensions are those taken into account in the advance system, to which are added in particular the corrections for the non respect of payment deadlines established in August, September and October 2005.

ANNEX II
CLEARANCE OF THE PAYING AGENCIES' ACCOUNTS
Financial year 2005 — Rural Development Expenditure in New Member States
Amount to be recovered from or paid to the Member State

MS	Expenditure for the Paying Agencies for which the accounts are		Total a + b	Reductions	Total	Interim Payments reimbursed to the Member State for the financial year	Amount to be recovered from (-) or paid to (+) the Member State
	cleared	disjoined = total of Interim Payments reimbursed to the Member State for the financial year					
	a	b	c = a + b	d	e = c + d	f	g = e - f
CZ ⁽¹⁾	145 160 424,74		145 160 424,74	- 200,74	145 160 224,00	138 765 552,00	6 394 672,00
CY	5 089 164,79		5 089 164,79	- 0,47	5 089 164,32	0,00	5 089 164,32
EE	40 256 477,53		40 256 477,53	- 6 140,53	40 250 337,00	39 166 211,00	1 084 126,00
HU ⁽²⁾		0,00	0,00	0,00	0,00	0,00	0,00
LT	108 795 353,62		108 795 353,62	- 2,40	108 795 351,22	100 100 908,00	8 694 443,22
LV	71 209 927,88		71 209 927,88	- 375,88	71 209 552,00	58 883 374,00	12 326 178,00
MT ⁽³⁾		6 295 789,00	6 295 789,00	0,00	6 295 789,00	6 295 789,00	0,00
PL	490 144 049,15		490 144 049,15	- 28 310,27	490 115 738,88	459 432 020,00	30 683 718,88
SI	73 713 041,59		73 713 041,59	- 74 188,40	73 638 853,19	72 971 254,00	667 599,19
SK	91 911 345,08		91 911 345,08	- 176 761,62	91 734 583,46	81 245 095,00	10 489 488,46

⁽¹⁾ The amount is the total of expenditure for the 2004 and 2005 financial years.

⁽²⁾ No interim payment was reimbursed to the Member State for the 2005 financial year. The expenditure declared was 37 275 229,64 EUR.

⁽³⁾ Interim payment of 6 295 789 EUR was reimbursed to the MS for the 2005 financial year. The expenditure declared amounted to 6 464 227,06 EUR.

MS	Advances paid but still to be cleared for the programme implementation [Article 32 of Council Regulation No 1260/1999] (Annex 4)
CZ	86 848 000,00
CY	11 968 000,00
EE	24 080 000,00
HU	96 368 000,00
LT	78 320 000,00
LV	52 496 000,00
MT	4 304 000,00
PL	458 624 000,00
SI	45 056 000,00
SK	63 536 000,00

ANNEX III

CLEARANCE OF THE PAYING AGENCIES' ACCOUNTS

Financial year 2005

List of the Paying Agencies for which the accounts are disjoined and are subject of a later clearance decision

Member State	Paying Agency
Germany	Bayern Umwelt
Hungary	ARDA
Italy	AGEA
Luxembourg	Ministère de l'Agriculture
Malta	MRAE
Portugal	IFADAP

ANNEX IV

CLEARANCE OF THE PAYING AGENCIES' ACCOUNTS

Financial year 2005 — Rural Development Expenditure

List of the Paying Agencies for which the accounts are disjoined and are subject of a later clearance decision

Member State	Paying Agency
Hungary	ARDA
Malta	MRAE