

Official Journal

of the European Union

L 173

Volume 49

27 June 2006

English edition

Legislation

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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 941/2006
of 1 June 2006
amending Regulation (EC) No 51/2006, as concerns blue whiting and herring

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy ⁽¹⁾, and in particular Article 20 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Council Regulation (EC) No 51/2006 ⁽²⁾ fixes for 2006 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required.
- (2) Pursuant to consultations between the Community and the Faeroe Islands on 23 February 2006 an arrangement on mutual access on blue whiting stock and the herring stock in each other's, fishing zones has been reached. This arrangement should be implemented.

- (3) Since vessels that targeted hake with gill-nets in ICES Divisions VIa, b and VIIb, c, j, k and subarea XII were not implicated in the fishing practices that led to the prohibition of the use of gill-nets in those areas, it is appropriate to allow these fisheries to continue by way of derogation from the prohibition.
- (4) The Community has held consultations with Norway on the management of fisheries on the stock of Norwegian spring spawning (Atlanto-Scandian) herring in the North-East Atlantic, in particular, with regard to licensing arrangements, which should be implemented.
- (5) Regulation (EC) No 51/2006 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes IA, IB and IV to Regulation (EC) No 51/2006 shall be amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Luxembourg, 1 June 2006.

For the Council
The President
U. HAUBNER

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 16, 20.1.2006, p. 1.

ANNEX

The Annexes to Regulation (EC) No 51/2006 shall be amended as follows:

1. in Annex IA, the entry concerning the species Blue whiting in zone I, II, III, IV, V, VI, VII, VIIIabde, XII and XIV (EC and international waters) shall be replaced by the following:

'Species:	Blue whiting <i>Micromesistius poutassou</i>	Zone: I, II, III, IV, V, VI, VII, VIIIabde, XII and XIV (EC and international waters) WHB/1 X 14
Denmark	52 529 ⁽⁵⁾ ⁽⁶⁾	Analytical TAC. Article 3 of Regulation (EC) No 847/96 applies. Article 4 of Regulation (EC) No 847/96 applies. Article 5(2) of Regulation (EC) No 847/96 applies.
Germany	20 424 ⁽⁵⁾ ⁽⁶⁾	
Spain	44 533 ⁽⁵⁾ ⁽⁶⁾	
France	36 556 ⁽⁵⁾ ⁽⁶⁾	
Ireland	40 677 ⁽⁵⁾ ⁽⁶⁾	
The Netherlands	64 053 ⁽⁵⁾ ⁽⁶⁾	
Portugal	4 137 ⁽⁵⁾ ⁽⁶⁾	
Sweden	12 994 ⁽⁵⁾ ⁽⁶⁾	
United Kingdom	68 161 ⁽⁵⁾ ⁽⁶⁾	
EC	344 063 ⁽⁵⁾ ⁽⁶⁾	
Norway	152 442 ⁽¹⁾ ⁽²⁾	
Faeroe Islands	45 000 ⁽³⁾ ⁽⁴⁾	
TAC	2 000 000	

⁽¹⁾ May be fished in EC waters in areas II, IVa, VIa north of 56° 30' N, VIb, VII west of 12° W.

⁽²⁾ Of which up to 500 tonnes may consist of argentine (*Argentina spp.*).

⁽³⁾ Catches of blue whiting may include unavoidable catches of argentine (*Argentina spp.*).

⁽⁴⁾ May be fished in EC waters in areas VIa north of 56° 30' N, VIb, VII west of 12° W.

⁽⁵⁾ Of which up to 61 % may be fished in Norwegian Economic Zone or in the fishery zone around Jan Mayen.

⁽⁶⁾ Of which up to 2,9 % may be fished in Faeroese waters, zone Vb.'

2. in Annex IA, the following entry shall be inserted after the above entry:

'Species:	Blue whiting <i>Micromesistius poutassou</i>	Zone: EC waters of II, IVa ⁽²⁾ , VIa ⁽³⁾ , VIb, VII ⁽⁴⁾ WHB/24A567
Faeroe Islands	10 000 ⁽¹⁾	
TAC	2 000 000	

⁽¹⁾ To be counted against Faeroe Islands' catch limits established under the Coastal States arrangement.

⁽²⁾ The catch in zone IVa shall be no more than 2 500 tonnes.

⁽³⁾ North of 56° 30' N.

⁽⁴⁾ West of 12° W.'

3. in Annex IB, the entry concerning the species Herring in zone I and II (EC and international waters) shall be replaced by the following:

Species:	Herring <i>Clupea harengus</i>	Zone:	EC waters and international waters of I and II HER/1/2.
Belgium	22		
Denmark	21 243		
Germany	3 720		
Spain	70		
France	917		
Ireland	5 499		
The Netherlands	7 602		
Poland	1 075		
Portugal	70		
Finland	329		
Sweden	7 872		
United Kingdom	13 581		
EC	62 000		
Faeroe Islands	6 196 ⁽¹⁾		
TAC	Not relevant		

Articles 3 and 4 of Regulation (EC) No 847/96 do not apply and Article 5(2) of that Regulation applies.

Special conditions:

Within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the zones specified:

	II, Vb north of 62° N (Faeroese waters) (HER/2A5B-F)
Belgium	2
Denmark	2 117
Germany	371
Spain	7
France	91
Ireland	548
The Netherlands	758
Poland	107
Portugal	7
Finland	32
Sweden	784
United Kingdom	1 354

⁽¹⁾ May be fished in EC waters.'

4. in Part A of Annex III the following point shall be added:

'8.5. By way of derogation from points 8.3 and 8.4 vessels targeting hake may deploy gill-nets with a mesh size of 120 mm in the areas concerned at any position where the charted depth is less than 600 metres.'

5. Parts I and II of Annex IV shall be replaced by the following:

PART I

Quantitative limitations of licences and fishing permits for Community vessels fishing in third country waters

Area of fishing	Fishery	Number of licences	Allocation of licences amongst Member States	Maximum number of vessels present at any time
Norwegian waters and fishery zone around Jan Mayen	Herring, north of 62° 00' N	77	DK: 26, DE: 5, FR: 1, IRL: 7, NL: 9, SW: 10, UK: 17	57
	Demersal species, north of 62° 00' N	80	FR: 18, PT: 9, DE: 16, ES: 20, UK: 14, IRL: 1	50
	Mackerel, south of 62° 00' N, purse seine fishery	11	DE: 1 ⁽¹⁾ , DK: 26 ⁽¹⁾ ,	not relevant
	Mackerel, south of 62° 00' N, trawl fishery	19	FR: 2 ⁽¹⁾ , NL: 1 ⁽¹⁾	not relevant
	Mackerel, north of 62° 00' N, purse seine fishery	11 ⁽²⁾	DK: 11	not relevant
	Industrial species, south of 62° 00' N	480	DK: 450, UK: 30	150
Waters of the Faeroe Islands	All trawl fisheries with vessels of not more than 180 feet in the zone between 12 and 21 miles from the Faeroese baselines	26	BE: 0, DE: 4, FR: 4, UK: 18	13
	Directed fishing for cod and haddock with a minimum mesh of 135 mm, restricted to the area south of 62° 28' N and east of 6° 30' W	8 ⁽³⁾		4
	Trawling outside 21 miles from the Faeroese baseline. In the periods 1 March to 31 May and 1 October to 31 December, these vessels may operate in the area between 61° 20' N and 62° 00' N and between 12 and 21 miles from the baselines.	70	BE: 0, DE: 10, FR: 40, UK: 20	26
	Trawl fisheries for blue ling with a minimum mesh of 100 mm in the area south of 61° 30' N and west of 9° 00' W and in the area between 7° 00' W and 9° 00' W south of 60° 30' N and in the area south-west of a line between 60° 30' N, 7° 00' W and 60° 00' N, 6° 00' W.	70	DE: 8 ⁽⁴⁾ , FR: 12 ⁽⁴⁾ , UK: 0 ⁽⁴⁾	20 ⁽⁵⁾
	Directed trawl fishery for saithe with a minimum mesh size of 120 mm and with the possibility to use round-traps around the codend.	70		22 ⁽⁵⁾
	Fisheries for blue whiting. The total number of licences may be increased by four vessels to form pairs, should the Faeroese authorities introduce special rules of access to an area called "main fishing area of blue whiting"	36	DE: 3, DK: 19, FR: 2, UK: 5, NL: 5	20
	Line fishing	10	UK: 10	6
	Fishing for mackerel	12	DK: 12	12
	Herring fisheries north of 62° N	21	DE: 1, DK: 7, FR: 0, UK: 5, IRL: 2, NL: 3, SW: 3	21

Area of fishing	Fishery	Number of licences	Allocation of licences amongst Member States	Maximum number of vessels present at any time
Waters of the Russian Federation	All fisheries	pm		pm
	Fisheries for cod	7 ⁽⁶⁾		pm
	Fisheries for sprat	pm		pm

(¹) This allocation is valid for purse and trawl fisheries.

(²) To be selected from the 11 licences for purse seine fishery for mackerel south of 62° 00' N.

(³) Following the Agreed Record of 1999, the figures for the directed fishing for cod and haddock are included in the figures for "All trawl fisheries with vessels of not more than 180 feet in the zone between 12 and 21 miles from the Faeroese baselines".

(⁴) These figures refer to the maximum number of vessels present at any time.

(⁵) These figures are included in the figures for "Trawling outside 21 miles from the Faeroese baselines".

(⁶) Applies only to vessels flying the flag of Latvia.

PART II

Quantitative limitations of licences and fishing permits for third country fishing vessels in Community waters

Flag State	Fishery	Number of licences	Maximum number of vessels present at any time
Norway	Herring, north of 62° 00' N	18	18
Faeroe Islands	Mackerel, VIa (north of 56° 30' N), VIIe,f,h, horse mackerel, IV, VIa (north of 56° 30' N), VIIe,f,h; herring, VIa (north of 56° 30' N)	14	14
	Herring north of 62° 00' N	21	21
	Herring, IIIa	4	4
	Industrial fishing for Norway pout and sprat, IV, VIa (north of 56° 30' N); sandeel, IV (including unavoidable by-catches of blue whiting)	15	15
	Ling and tusk	20	10
	Blue whiting, II, IVa, VIa (north of 56° 30' N), VIb, VII (west of 12° 00' W)	20	20
	Blue ling	16	16
Russian Federation	Herring, IIIId (Swedish waters)	pm	pm
	Herring, IIIId (Swedish waters, non-fishing mother ships)	pm	pm
	Sprat	4 ⁽¹⁾	pm
Barbados	<i>Penaeus</i> shrimps ⁽²⁾ (French Guyana waters)	5	pm ⁽³⁾
	Snappers ⁽⁴⁾ (French Guyana waters)	5	pm
Guyana	<i>Penaeus</i> shrimps ⁽⁵⁾ (French Guyana waters)	pm	pm ⁽⁶⁾
Surinam	<i>Penaeus</i> shrimps ⁽⁵⁾ (French Guyana waters)	5	pm ⁽⁷⁾
Trinidad and Tobago	<i>Penaeus</i> shrimps ⁽⁵⁾ (French Guyana waters)	8	pm ⁽⁸⁾
Japan	Tuna ⁽⁹⁾ (French Guyana waters)	pm	
Korea	Tuna ⁽¹⁰⁾ (French Guyana waters)	pm	pm ⁽⁵⁾
Venezuela	Snappers ⁽⁵⁾ (French Guyana waters)	41	pm
	Sharks ⁽⁵⁾ (French Guyana waters)	4	pm

⁽¹⁾ Applies only to the Latvian zone of EC waters.

⁽²⁾ The licences concerning fishing for shrimp in the waters of the French Department of Guyana shall be issued on the basis of a fishing plan submitted by the authorities of the third country concerned, approved by the Commission. The period of validity of each of these licences shall be limited to the fishing period provided for in the fishing plan on the basis of which the licence was issued.

⁽³⁾ The annual number of days at sea is limited to 200.

⁽⁴⁾ To be fished exclusively with long lines or traps (snappers) or long lines or mesh nets having a minimum mesh of 100 mm, at depths greater than 30 m (sharks). To issue these licences, proof must be produced that a valid contract exists between the ship owner applying for the licence and a processing undertaking situated in the French Department of Guyana, and that it includes an obligation to land at least 75 % of all snapper catches, or 50 % of all shark catches from the vessel concerned in that department so that they may be processed in that undertaking's plant.

The contract referred to above must be endorsed by the French authorities, which shall ensure that it is consistent both with the actual capacity of the contracting processing undertaking and with the objectives for the development of the Guyanese economy. A copy of the duly endorsed contract shall be appended to the licence application.

Where the endorsement referred to above is refused, the French authorities shall give notification of this refusal and state their reasons for it to the party concerned and to the Commission.

⁽⁵⁾ Applicable from 1 January to 30 April 2006.

⁽⁶⁾ Pending the conclusion of fisheries consultations with Norway for 2006.

⁽⁷⁾ The annual number of days at sea is limited to pm.

⁽⁸⁾ The annual number of days at sea is limited to 350.

⁽⁹⁾ To be fished exclusively with longlines.

⁽¹⁰⁾ Of which at any given time a maximum of 10 for vessels fishing cod with gill-nets.'

COMMISSION REGULATION (EC) No 942/2006**of 26 June 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 27 June 2006.

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

Done at Brussels, 26 June 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 26 June 2006 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	53,8
	096	65,4
	204	33,1
	999	50,8
0707 00 05	052	129,4
	096	30,2
	999	79,8
0709 90 70	052	98,1
	999	98,1
0805 50 10	388	54,1
	528	56,8
	999	55,5
0808 10 80	388	91,9
	400	109,2
	404	104,9
	508	90,9
	512	89,0
	524	50,8
	528	78,5
	720	102,2
	800	180,6
	804	107,0
999	100,5	
0809 10 00	052	219,8
	624	217,3
	999	218,6
0809 20 95	052	331,6
	068	107,3
	999	219,5
0809 40 05	624	193,2
	999	193,2

⁽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 943/2006**of 26 June 2006****amending Regulation (EC) No 2707/2000 laying down rules for applying Council Regulation (EC) No 1255/1999 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments**

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 Articles 15 and 47, second indent, thereof,

Whereas:

- (1) Article 14(3) of Regulation (EC) No 1255/1999 fixes the amounts of aid to be granted for the supplying of milk products to pupils for the period from 1 July 2005 until 30 June 2006.
- (2) In order to facilitate national administrations and those charged with implementing the school milk scheme to process the aid payments, a transitional provision in the case of change of the rate was introduced at the end of the school year 2004/2005 in Commission Regulation (EC) No 2707/2000 ⁽²⁾.
- (3) Member States where the school year 2005/2006 ends in July will still find difficulties in processing the aid payments because of the change of aid rate. It is appro-

priate to extend the same provision to the school year 2005/2006.

- (4) Regulation (EC) No 2707/2000 should therefore be amended accordingly.
- (5) 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

In Article 4(3) of Regulation (EC) No 2707/2000, the second subparagraph is replaced by the following:

'However, for school year 2005/2006, the aid rate in force on the first day of June may be applied during the month of July if a school year in the Member State ends in July.'

*Article 2*This Regulation shall enter into force on the third 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, 26 June 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 311, 12.12.2000, p. 37. Regulation last amended by Regulation (EC) No 2107/2005 (OJ L 337, 22.12.2005, p. 20).

COMMISSION REGULATION (EC) No 944/2006

of 26 June 2006

opening crisis distillation as provided for in Article 30 of Council Regulation (EC) No 1493/1999 for certain wine in Italy

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽¹⁾, and in particular Article 33(1)(f) thereof,

Whereas:

(1) Article 30 of Regulation (EC) No 1493/1999 provides for the possibility of a crisis distillation measure in the event of exceptional market disturbance due to major surpluses. Such measures may be limited to certain categories of wine and/or certain areas of production, and may apply to quality wines produced in specified regions (quality wines psr) at the request of the Member State concerned.

(2) By letter of 14 April 2006, the Italian Government requested that crisis distillation be opened for table wine produced in Italy and for certain quality wines psr.

(3) Considerable surpluses have been recorded on the market in table wine and certain quality wines psr in Italy, which are reflected in a fall in prices and a worrying rise in stocks towards the end of the current marketing year. In order to reverse this negative trend, and so remedy the difficult market situation, stocks of Italian wine should be reduced to a level that can be regarded as normal in terms of covering market requirements.

(4) Since the conditions laid down in Article 30(5) of Regulation (EC) No 1493/1999 are satisfied, a crisis distillation measure should be opened for a maximum of 2 500 000 hectolitres of table wine and 100 000 hectolitres of certain quality wines psr.

(5) The crisis distillation opened by this Regulation must comply with the conditions laid down by Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms ⁽²⁾ as regards the distillation measure provided for in Article 30 of Regulation (EC) No 1493/1999. Other provisions of Regulation (EC) No 1623/2000 must also apply, in particular those concerning the delivery of alcohol to intervention agencies and the payment of advances.

(6) The price distillers must pay producers should be set at a level that permits the market disturbance to be dealt with by allowing producers to take advantage of the possibility afforded by this measure.

(7) The product of crisis distillation must be raw or neutral alcohol only, for compulsory delivery to the intervention agency in order to avoid disturbing the market for potable alcohol, which is supplied largely by the distillation provided for in Article 29 of Regulation (EC) No 1493/1999.

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

HAS ADOPTED THIS REGULATION:

Article 1

Crisis distillation as provided for in Article 30 of Regulation (EC) No 1493/1999 is hereby opened for a maximum of 2 500 000 hectolitres of table wine and 100 000 hectolitres of quality wines produced in specified regions (quality wines psr) with the appellations Barbera d'Asti, Barbera Monferrato, Piemonte Barbera, Dolcetto d'Ovada, Dolcetto d'Acqui, Dolcetto d'Asti, Monferrato Dolcetto, Grignolino d'Asti and Piemonte Grignolino, in accordance with the provisions of Regulation (EC) No 1623/2000 concerning this type of distillation.

Article 2

Producers may conclude contracts as provided for in Article 65 of Regulation (EC) No 1623/2000 (hereinafter referred to as contracts) from 3 July 2006 to 24 July 2006 in the case of table wine and from 3 July 2006 to 14 July 2006 in the case of quality wines psr.

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2165/2005 (OJ L 345, 28.12.2005, p. 1).

⁽²⁾ OJ L 194, 31.7.2000, p. 45. Regulation as last amended by Regulation (EC) No 1820/2005 (OJ L 293, 9.11.2005, p. 8).

Contracts shall be accompanied by proof that a security equal to EUR 5 per hectolitre has been lodged.

Contracts may not be transferred.

Article 3

1. If the total quantities covered by the contracts submitted to the intervention agency exceed the quantities laid down in Article 1, Italy shall determine the rates of reduction to be applied to those contracts.

2. Italy shall take the administrative steps necessary to approve the contracts not later than 13 September 2006 in the case of table wine and 28 July 2006 in the case of quality wines psr. The approval shall specify any rate of reduction applied and the quantity of wine accepted per contract and shall stipulate that the producer may cancel the contract where the quantity to be distilled is reduced.

Italy shall notify the Commission before 20 September 2006 in the case of table wine and 25 August 2006 in the case of quality wines psr of the quantities of wine covered by approved contracts.

3. Italy may limit the number of contracts that individual producers may conclude under this Regulation.

Article 4

1. The quantities of wine covered by approved contracts shall be delivered to the distilleries not later than 15 December 2006 in the case of table wine and 31 August 2006 in the case of quality wines psr. The alcohol obtained shall be delivered to the intervention agency in accordance with Article 6(1) not later than 31 March 2007 in the case of table wine and 30 September 2006 in the case of quality wines psr.

2. The security shall be released in proportion to the quantities delivered when the producer presents proof of delivery to a distillery.

The security shall be forfeit where no delivery is made within the time limit laid down in paragraph 1.

Article 5

The minimum price paid for wine delivered for distillation under this Regulation shall be EUR 1,914/% vol/hl for table wine and EUR 3,00/% vol/hl for quality wines psr.

Article 6

1. Distillers shall deliver the product obtained from distillation to the intervention agency. That product shall be of an alcoholic strength of at least 92 % vol.

2. The price to be paid to the distiller by the intervention agency for the raw alcohol delivered shall be EUR 2,281/% vol/hl where it is produced from table wine and EUR 3,367/% vol/hl where it is produced from quality wines psr. The payment shall be made in accordance with Article 62(5) of Regulation (EC) No 1623/2000.

Distillers may receive an advance on those amounts of EUR 1,122/% vol/hl in the case of alcohol produced from table wine and EUR 2,208/% vol/hl in the case of alcohol produced from quality wines psr. In that case the advances shall be deducted from the prices actually paid. Articles 66 and 67 of Regulation (EC) No 1623/2000 shall apply.

Article 7

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

It shall apply from 3 July 2006.

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

Done at Brussels, 26 June 2006.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 945/2006
of 26 June 2006
amending Regulation (EC) No 1342/2003 laying down special detailed rules for the application of
the system of import and export licences for cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice ⁽¹⁾, and in particular Article 10(2) thereof,

Whereas:

- (1) Articles 11a and 11c of Regulation (EC) No 1785/2003 lay down the mechanisms for calculating and periodically fixing the duties applicable to imports of husked rice falling within CN code 1006 20 and wholly milled rice and semi-milled rice falling within CN code 1006 30.
- (2) In order to prevent the operation of those mechanisms being disrupted by improper import licence applications, Commission Regulation (EC) No 1342/2003 ⁽²⁾ should set the security for import licences for husked rice, wholly milled rice and semi-milled rice at a sufficiently high level.

(3) Regulation (EC) No 1342/2003 should therefore be amended.

(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

In Article 12 of Regulation (EC) No 1342/2003, the following point (a)a is inserted:

'(a)a EUR 30 per tonne, by way of derogation from point (a), for products falling within CN codes 1006 20 and 1006 30 in the case of import licences;'

Article 2

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

It shall apply from 1 July 2006.

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

Done at Brussels, 26 June 2006.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 96. Regulation as amended by Regulation (EC) No 796/2006 (OJ L 144, 31.5.2006, p. 1).

⁽²⁾ OJ L 189, 29.7.2003, p. 12. Regulation as last amended by Regulation (EC) No 830/2006 (OJ L 150, 3.6.2006, p. 3).

COMMISSION REGULATION (EC) No 946/2006**of 23 June 2006****establishing a prohibition of fishing for sprat in ICES zone IIIb, c, d (EC waters) by vessels flying the flag of Germany**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾, and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 52/2006 of 22 December 2005 fixing the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2006 ⁽³⁾, lays down quotas for 2006.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2006.

- (3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

Article 1

Quota exhaustion

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2006 shall be deemed to be exhausted from the date set out in that Annex.

Article 2

Prohibitions

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

Article 3

Entry into force

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

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

Done at Brussels, 23 June 2006.

For the Commission

Jörgen HOLMQUIST

Director-General for Fisheries and Maritime Affairs

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 768/2005 (OJ L 128, 21.5.2005, p. 1).

⁽³⁾ OJ L 16, 20.1.2006, p. 184.

ANNEX

No	11
Member State	Germany
Stock	SPR/3B23.; SPR/3C22.; SPR/3D24.; SPR/3D25.; SPR/3D26.; SPR/3D27.; SPR/3D28.; SPR/3D29.; SPR/3D30.; SPR/3D31.; SPR/3D32.
Species	Sprat (<i>Sprattus sprattus</i>)
Zone	IIIb, c, d (EC waters)
Date	1 June 2006

COMMISSION REGULATION (EC) No 947/2006**of 26 June 2006****specifying the extent to which applications lodged in June 2006 for import certificates in respect of young male bovine animals for fattening as part of a tariff quota provided for in Regulation (EC) No 800/2006 may be accepted**

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⁾,

Having regard to Commission Regulation (EC) No 800/2006 of 30 May 2006 opening and providing for the administration of an import tariff quota for young male bovine animals for fattening (1 July 2006 to 30 June 2007) ⁽²⁾, and in particular Articles 1(4) and 4 thereof,

Whereas:

Article 1(3) of Regulation (EC) No 800/2006 lays down the number of young male bovine animals which may be imported on special terms during the period from 1 July

2006 to 30 June 2007. The quantities covered by import licence applications submitted are such that applications may be accepted in full,

HAS ADOPTED THIS REGULATION:

Article 1

All applications for import certificates made in the month of June 2006 pursuant to Article 3(3), second subparagraph, third indent, of Regulation (EC) No 800/2006 are hereby met in full.

Article 2

This Regulation shall enter into force on 27 June 2006.

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

Done at Brussels, 26 June 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 144, 31.5.2006, p. 7.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 August 2005

declaring a concentration compatible with the common market and the functioning of the EEA Agreement

(Case COMP/M.3687 — Johnson & Johnson/Guidant)

(notified under document number C(2005) 3230)

(Only the English text is authentic)

(Text with EEA relevance)

(2006/430/EC)

On 25 August 2005 the Commission adopted a Decision in a merger case pursuant to Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings⁽¹⁾, and in particular Article 8(1) of that Regulation. A non-confidential version of the full Decision can be found in the authentic language of the case and in the working languages of the Commission on the website of the Directorate-General for Competition, at the following address: http://europa.eu.int/comm/competition/index_en.html

I. INTRODUCTION

- (1) On 15 March 2005, the Commission received a notification of a proposed concentration pursuant to Article 4 of Regulation (EC) No 139/2004 (Merger Regulation) by which the undertaking Johnson & Johnson (J & J, USA) acquires within the meaning of Article 3(1)(b) of that Regulation control of the whole of the undertaking Guidant Corporation (Guidant, USA) by way of purchase of shares.

A. The Parties

- (2) J & J is a company incorporated in the USA. In 2003, it had 111 000 employees worldwide and generated a turnover of around EUR 37 billion. Its activities span over three main businesses: consumer goods (18 % of turnover), pharmaceuticals (47 %) and medical devices and diagnostics (MD & D, 36 % of turnover).
- (3) Guidant is a company incorporated in the United States of America (USA) that is active in the design and development of cardiovascular medical products. In 2003, it

had around 12 000 employees worldwide and a turnover of around EUR 3,3 billion. Guidant's presence covers four main areas within the fast-growing cardiovascular medical products business: cardiac rhythm management, interventional cardiology, endovascular devices and cardiac surgery.

B. The operation

- (4) The concentration is an acquisition of sole control by J & J over Guidant, within the meaning of Article 3(1)(b) of the EC Merger Regulation.

II. THE RELEVANT MARKETS

- (5) The market investigation confirmed that the areas mostly affected by the merger are the following: 1. interventional cardiology devices; 2. endovascular devices; 3. cardiac surgery devices; and 4. cardiac rhythm management devices. In the latter, there are no overlaps, as J & J is currently not active in the business.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

A. The relevant product markets

1. Interventional cardiology devices

(6) Interventional cardiology devices are designed to treat, through minimally invasive procedures, coronary artery diseases. In this area the main device is the stent, a small expandable wire tube that is placed in an occluded coronary artery to remove the plaque and support the walls of the vessel, thus enabling the blood to flow properly.

(7) Bare metal stents (BMS) and drug eluting stents (DES) are two separate product markets for the following reasons: no significant price correlation, no supply side substitutability, very significant differences in clinical outcomes, and different reimbursement systems. Moreover, despite the fact that BMS and DES share the same stent structure and delivery system, a number of components are specifically important to a coronary DES (the drug, drug dosage and rate of release, and polymer coatings).

(8) Concerning the accessories coronary guiding catheters, coronary steerable guidewires, coronary PTCA balloon catheters, the Commission's market inquiry has established that each of these products constitutes a separate relevant product market. Most interventions will require a specific set of accessories, with different dimensions and shape.

2. Endovascular devices

(9) Endovascular devices are used for the minimally invasive treatment of peripheral vascular (or endovascular) diseases such as the build up of plaque (i.e. vessel calcification) in peripheral vessels (peripheral arterial disease) and aneurysm (the enlargement of a weak area of an artery).

(10) Similar to interventional cardiology stents, endovascular stents are small expandable tubes designed to treat a narrowing or blockage in a peripheral artery.

(11) The parties submitted, and the Commission's market inquiry confirmed, that two separate markets should be identified for endovascular stents: a market for balloon expandable stents (BX) (usually made of stainless steel and which come mounted on a PTA balloon catheter), and a market for self-expandable stents (SX), which use a different deployment technology. The Commission inquiry established a clear trend towards more specialisation in the endovascular area, both for BX stents (e.g. segments for renal (BX) stents and for iliac-femoral (BX) stents) and for SX stents (e.g. segments for femoral (SX) stents, iliac (SX) stents and carotid stents).

(12) As far as the accessories are concerned, endovascular guiding catheters, steerable guidewires and PTA balloon catheters perform a similar function to the corresponding products in interventional cardiology. Similarly to the coronary area, a relevant market should be defined for each of these accessories, due to the high degree of supply side substitutability and the fact that all major manufacturers offer, within each accessory, a very broad range of models in terms of dimensions and shapes.

3. Cardiac surgery devices

(13) Coronary artery bypass graft surgery (CABG) is used to treat coronary artery disease; the blocked artery is 'bypassed' by sewing (grafting) another blood vessel to the aorta at one end and to the coronary artery beyond the damaged area the other end. After the operation, blood flows through the new grafted vessel to the heart muscle. The vessel used for the bypass is removed (harvested) from the leg (saphenous vein graft), chest or arm.

(14) The following markets are affected in the cardiac surgery area: (i) beating-heart CABG products (stabilisation systems and accessories as blowers/misters); and (ii) endoscopic vessel harvesting (EVH) devices.

B. The relevant geographic markets

(15) The market investigation confirmed that relevant geographic markets are all national because of significant differences between reimbursement schemes and procurement processes; price variations between countries; need to establish a local sales office; the parties' and competitors' market share variations across Member States.

III. COMPETITIVE ASSESSMENT

A. Interventional cardiology

(16) Interventional cardiology is a relatively recent, innovation driven business which is characterised by significant barriers to entry, i.e. R & D financing, intellectual property rights for product development, long time-to-market for new products, clinical trials, and product range.

(17) In the area of interventional cardiology there are two leagues of players: large global companies competing on a worldwide level (J & J, Guidant, Medtronic, Boston Scientific and Abbott) and 'local players' (Sorin, Biotronik and others).

1. Drug-eluting stents

- (18) In the market for DES, the concentration would result in the removal of a potential competitor given that Guidant is present only in BMS and not yet in DES, while J & J is one of the only two players already active in this segment, the other being Boston Scientific.
- (19) Despite the fact that there is an indication that Guidant would likely have been one of the key players in the market for DES, acting as a major competitive constraint *vis-à-vis* the two current competitors J & J and Boston Scientific, the evidence collected in the investigation also proved that the other new entrants will be likely to exert sufficient competitive constraints on the market for DES, compensating for the loss of competition resulting from J & J's acquisition of Guidant (Medtronic, Abbott, Conor/Biotronik and Sorin).
- (20) The Commission, therefore, concluded that the notified concentration does not raise any serious doubts as to its compatibility with the common market with regard to DES and thus, the concentration will not significantly impede effective competition in the common market for DES.

2. Steerable guidewires

- (21) In the interventional cardiology market for steerable guidewires virtually all national markets are strongly affected by the concentration (above 40 % and with an increment of at least 5 %), and in many of these, including the largest countries of the EU, the parties' combined market shares are above (65 to 75 %) and even (75 to 85 %).

3. Conclusion

- (22) The Commission, therefore, concluded that the notified concentration raises serious doubts as to its compatibility with the common market by enabling the merging parties to strengthen Guidant's uncontested leadership, in so far as it removes one of the only two main competitors in this market. Further, the remaining firms in the market may even be expected to benefit from the reduction in competition which will result from the merger; the increase in concentration will enable them to attain higher prices than would otherwise have been the case.

B. Endovascular devices

- (23) Both J & J and Guidant are leading suppliers in the area of endovascular devices in the EEA. Although there is a fair number of competitors in the endovascular markets (Abbott, Bard, Boston Scientific, B.Braun, Cook, Edwards Lifesciences, ev3, Invatec, Medtronic, Sorin and Terumo), not all players have the same strength or are present in

all product or geographic markets. Moreover, the market investigation has highlighted that the disappearance of Guidant as a competitor will eliminate the closest substitute to J & J stents.

- (24) In the endovascular market for balloon expandable stents, at EEA level, the combined market share of the merging parties amounts to (60 to 70 %), (J & J, (30 to 40 %), Guidant, (25 to 35 %)). Those market shares have been relatively stable for the past four years.
- (25) When looking at the relevant geographic markets, i.e. each Member State, for the purpose of the competitive assessment, there are nine countries more substantially affected, namely: Austria, Belgium, France, Germany, Italy, Luxembourg, Netherlands, Portugal and Spain.
- (26) Having regard to the fact that the merger combines the strongest and second strongest player, it will create a dominant position in virtually all the markets considered and will lead to a significant impediment to effective competition.
- (27) In the endovascular market for Carotid stents in the EEA, the member States most substantially affected are: Austria, Belgium, Finland, France, Germany, Italy, the Netherlands, Portugal and Spain.
- (28) There are three main players in the carotid stent market: J & J, Guidant and Boston Scientific. Together they account for 83 to 96 % of the market. The concentration will either reinforce the leadership of J & J or Guidant (in Austria, Finland, the Netherlands, Portugal and Spain) or combine the second and third player to create a new market leader (Belgium, Germany and Italy).
- (29) In the above national markets, given the degree of concentration, barriers to entry, customer loyalty, closeness of substitution and, as a result of the elimination of a major competitive constraint, the operation will give rise to unilateral adverse effects in those markets and therefore impede effective competition in the common market.
- (30) In the endovascular devices market for non-carotid stents, the Member States most substantially affected are: Austria, Belgium, Germany and the Netherlands. In most of these markets, J & J is market leader and Guidant is one of the leading players and is considered by the majority of the customers as the closest substitute to J & J.
- (31) With regard to non-carotid SX stents in the above national markets, the concentration will give rise to non-coordinated adverse effects in those national markets and therefore impede effective competition in the common market and the EEA as a result of the creation or strengthening of a dominant position.

(32) The Commission, therefore, concluded that the notified concentration raises serious doubts as to its compatibility with the common market with regard to endovascular stents market. The concentration will create a dominant position in balloon expandable stents market and will give rise to unilateral adverse effects in carotid and non-carotid stents markets and therefore will impede effective competition in the common market.

C. Cardiac surgery: endoscopic vessel harvesting systems

(33) The EEA sales of EVH systems are significantly lower than in the United States but show a growing trend. In Europe, traditional vessel harvesting is used in the large majority (98 %) of procedures. J & J and Guidant are virtually the only two suppliers of EVH systems, with market shares estimated at 90 to 95 % by the parties and 100 % by market players across Europe.

(34) The Commission, therefore, concluded that the notified concentration raises serious doubts as to its compatibility with the common market with regard to the EVH systems and will result in creation of a virtual monopoly across Europe.

IV. COMMITMENTS OFFERED BY THE PARTIES

(35) In order to address the aforementioned competition concerns in the steerable guidewires, the endovascular and the cardiac surgery markets, the Parties submitted the undertakings described below:

(a) in the steerable guidewires business, the parties propose to divest the assets associated predominantly with the supply, marketing and sale of J & J steerable guidewires business in the EEA. In essence, the divestiture would consist of the transfer of the inventory and the customer list, the assignment of rights for use of trademarks, the licence of IP rights, the transfer of specifications relating to the design of J & J guidewires. The divestment has a field of use limited to Europe and does not include manufacturing, assembly, sterilisation (these operations are currently outsourced by J & J to a third party), distribution and warehousing;

(b) in the endovascular area, the parties have proposed to divest the entire operations (products, logistics, inventory, customer list, sales force, brand names, and intellectual property) of Guidant's endovascular solutions business in the EEA. The divestment does not include manufacturing, finance, administration, R & D, regulatory, quality and clinical research

teams, which are based in the USA and operate on a worldwide basis. The parties offer to the purchaser an interim OEM supply agreement followed by either the continuation of such agreement or the full assistance to replicate the USA production facility in Europe. The divestment also includes embolic protection devices and endovascular accessories on top of the endovascular stents on which the Commission's analysis was focused;

(c) for the cardiac surgery area, the parties have proposed to divest alternatively either:

(a) J & J's endoscopic vessel harvesting products (EVH) and endoscopic radial artery harvesting (ERA kits); or

(b) GDT worldwide assets and personnel of cardiac surgery business division; or

(c) Guidant's endoscopic vessel harvesting products, namely procedural kits for EVH (EVH kits).

V. ASSESSMENT OF THE COMMITMENTS SUBMITTED

(36) As confirmed by the results of the market test conducted by the Commission, these undertakings can be considered sufficient to properly remedy the competition concerns in the steerable guidewires, the endovascular and the cardiac surgery markets, as outlined above.

(37) The Commission, therefore, reached the conclusion that, on the basis of the commitments submitted by the Parties, the notified concentration will not significantly impede effective competition, in the common market or in a substantial part of it. Consequently, the Decision suggests declaring the concentration compatible with the common market and the EEA Agreement, in accordance with Articles 2(2) and 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.

VI. CONCLUSION

(38) For the reasons set out above, the Commission concluded that the proposed concentration does not significantly impede effective competition in the common market or a substantial part of it. The concentration was therefore declared compatible with the common market and the EEA Agreement in a decision on 25 August 2005, in accordance with Article 8(1) of the Merger Regulation and Article 57 of the EEA Agreement.

COMMISSION DECISION

of 5 October 2005

relating to a proceeding pursuant to Article 81 of the EC Treaty against Automobiles Peugeot SA and Peugeot Nederland NV

(Cases COMP/E2/36623, 36820 and 37275 — SEP and others/Automobiles Peugeot SA)

(notified under document number C(2005) 3683)

(Only the French text is authentic)

(Text with EEA relevance)

(2006/431/EC)

On 5 October 2005, the Commission adopted a decision relating to a proceeding pursuant to Article 81 of the EC Treaty. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 ⁽¹⁾, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets. A non-confidential version of the full text of the decision can be found in the authentic languages 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

1. SUMMARY OF THE INFRINGEMENT

1.2. The facts

1.1. Introduction

- (1) In response to complaints from several French intermediaries, on 5 October 2005 the Commission adopted a decision under Article 7 of Regulation (EC) No 1/2003 (hereinafter the Decision) addressed to Automobiles Peugeot SA, a motor vehicle manufacturer, and Peugeot Nederland NV, its wholly-owned subsidiary responsible for importing Peugeot vehicles into the Netherlands (hereinafter PNE), for infringement of Article 81 of the Treaty. These undertakings had, in collusion with the dealers belonging to the Peugeot network in the Netherlands, infringed Article 81 by implementing two measures aimed at impeding cross-border car sales from that country to final consumers in other Member States, particularly France. The first measure, which was implemented from 1997 until 2003, consisted of a system of bonuses to dealers which discriminated against export sales and which, when viewed from the angle of its objective *modus operandi*, went beyond what was necessary to induce Dutch dealers to devote their best sales efforts to their contract territory. The second measure, which was implemented from 1997 until 2001, consisted of Automobiles Peugeot SA bringing pressure to bear on dealers active in export sales — a direct measure which strengthened the impact of the discriminatory bonus.

1.2.1. The undertakings and the product concerned

1.2.1.1. The undertakings

- (2) Peugeot SA (hereinafter called PSA), the secondlargest European motor manufacturer accounting in 2002 for 15,5 % of all sales (passenger cars and light commercial vehicles), comprises the Peugeot and Citroën makes. Automobiles Peugeot SA is a generalist motor manufacturer, wholly owned by PSA, which develops, produces and distributes cars under the Peugeot name. In each of the 25 Member States, Peugeot products and services are distributed by a national retail distribution network. In the Netherlands the network is organised and run by an importer wholly controlled by Automobiles Peugeot SA, namely PNE, whose headquarters are in Utrecht.
- (3) In the Netherlands, the Peugeot network is made up of dealers and agent resellers contractually tied to those dealers. The number of dealers and agent resellers belonging to the Peugeot network in the Netherlands fell appreciably between 1995 and 2003.

1.2.1.2. The relevant market

- (4) The passenger car market can be divided into a number of segments. The restriction of competition to which the Decision relates is a restriction 'by object', which remains

⁽¹⁾ OJ L 1, 4.1.2003, p. 1. Regulation as amended by Regulation (EC) No 411/2004 (OJ L 68, 6.3.2004, p. 1).

appreciable not only when the market is viewed from the perspective of each of the relevant segments taken individually, but also if it is considered that a segment of relevance to this case and the two neighbouring segments overlap to form a relevant market or if it is considered that the latter is made up of all the segments mentioned in the recitals to the Decision. It is not necessary, therefore, to take a definitive decision here as to which segment is to be considered the relevant market or to settle the question whether the market for passenger cars comprises the Community as a whole or whether each Member State is a distinct geographic market.

- (5) Between 1995 and 2002, the total number of new passenger cars registered each year in the European Union and the European Economic Area went up from 12 034 316 to 14 398 718 units. The Peugeot make on its own accounted for a total of 861 696 registrations in 1995 and 1 277 738 registrations in 2002, jumping from sixth to third place among makes in the European Union with a market share up from 7,2 % in 1995 to 8,9 % in 2002⁽¹⁾. The Peugeot make also experienced strong, steady market share growth in the Netherlands, increasing from 6,5 % in 1997 to 10,7 % in 2003 in the case of passenger cars.

1.2.2. *The agreement at issue*

- (6) The Decision concerns an infringement committed against the background of the exclusive, selective distribution agreements governing relations between Peugeot and its Dutch dealers. The infringement hinged on two specific measures liable to restrict parallel trade: a dealer remuneration system dependent on the vehicle's geographic destination, and pressure on dealers actively involved in exporting.

1.2.2.1. *Discriminatory bonus*

- (7) In the Netherlands, dealers' remuneration was made up of a fixed part (the margin on invoices⁽²⁾) and a part linked to the dealer's results (the bonus⁽³⁾), which the dealer needed in order to earn a profit from his business.

⁽¹⁾ PSA held, with the Peugeot and Citroën makes, a growing market share of between 12 % (in 1995) and 15,3 % (in the first six months of 2003) on the basis of new registrations, making it as from 1999 the secondlargest supplier of passenger cars in Europe behind the Volkswagen group.

⁽²⁾ The dealer's margin is the difference between the net recommended list price of a given model and the price at which the dealer buys the car from his supplier. This amount serves to cover the dealer's distribution costs and overheads as well as the discounts which he has to grant most of the time to final consumers.

⁽³⁾ The bonus consists of a flat-rate payment made to the dealer by his supplier at regular intervals for each vehicle sold in accordance with the terms applicable. Payment of the bonus is subject to the dealer's meeting certain quality and quantity targets.

This bonus could be obtained by a Dutch dealer only if the cars he sold were registered in the Netherlands. The system introduced by Peugeot distinguished between two phases of the bonus grant mechanism. Acquisition of entitlement to the bonus was based on a progressive scale of achievement of a target agreed at year's beginning, being a sales target to be met in the dealer's territory. Subsequently, once the sales target had been met, payment of the entitlement thus gained was also made on the basis of vehicles sold in that territory. Registration in the Netherlands was required by Automobiles Peugeot SA for the purpose of 1. achieving any sales target leading to the acquisition of entitlement to the bonus and the determination of the level of discount per car, and 2. identifying each vehicle sold by Automobiles Peugeot SA eligible for such remuneration (payment of the bonus).

- (8) During the period between 1 January 1997 and 31 December 1999, Automobiles Peugeot SA operated a dealer remuneration system which consisted in paying the dealer a flat-rate additional amount ('bonus' and 'superbonus') for the sale of all passenger car models registered in the Netherlands after 1 January 1997. Subsequently, during the period between 1 January 2000 and 1 October 2003, Automobiles Peugeot SA modified the dealer remuneration system in order to introduce a variable margin component while retaining a 'quantity bonus' paid to dealers who achieved their targets for the registration of Peugeot vehicles in the Netherlands. The principle of the quantity bonus varied little during these two periods. For the purposes of applying the bonus, dealers were divided into categories according to the number of cars in their target. The bonus was determined on the basis of the model of car, the category of dealer and the percentage of target attained.

- (9) From January 1997, the annual circulars to all dealers concerning implementation of the new bonus scheme stipulated — as is borne out by other evidence — that only passenger cars registered in the Dutch market would as a rule count towards payment of the bonus.

1.2.2.2. *Pressure on dealers*

- (10) The second of the two measures referred to above concerns the exerting of pressure on dealers by Automobiles Peugeot SA, which pressure strengthened the impact of the discriminatory bonus scheme through direct action against dealers or attempts to limit, by threatening to restrict supplies, the export business they had plainly developed.

- (11) It should be noted that Automobiles Peugeot SA's strategy of limiting exports from the Netherlands was known to the members of the distribution network, who feared the long-term effects of exports on their profits and who indicated, at three meetings with the importer, that they shared the aim of the measures requested by it. Peugeot was keen to ensure that all members of the Dutch network toed the line: if any exporting took place, the importer would intervene with direct threats and supply restrictions in order to restore discipline.
- (12) To begin with, PNE applied direct pressure by occasionally acting to limit the export sales of certain dealers. It brought such pressure to bear among other things through its Account Managers Dealernet (AMDs), who were employed by its Car Sales Department. In some of the inspection reports drawn up by these AMDs, mention was made of sales of vehicles to consumers living abroad. The comments by these AMDs mentioned in the Decision make sense only if exports were, from Automobile Peugeot SA's point of view, to remain altogether exceptional. There are other examples of pressure being brought to bear with the same end in view, otherwise than through the AMDs. Direct action affected eight dealers between 1997 and 2001.
- (13) From 1997 onwards, the pressure also took the form of threats to reduce supplies, including of the most exported models such as the 806. In 1997 certain models such as the 406 Airline and the 106 Accent were strictly reserved for the Dutch market: their export constituted improper conduct for which the exporting dealer would be held responsible. The threats to restrict supplies, followed by sporadic restrictions, affected among others the 306 Estate model. That the association of Dutch Peugeot Dealers (VPDN) also supported, from 1997 onwards, the adoption of measures to restrict the supply of certain models and remove the most exported models from the range is clear from a number of meeting records. In 1998 dealers in the west of the country put on record their wish to see an end to exports of the 206 model.
- (15) In the present case, as far as the discriminatory bonus is concerned, the agreement was between Automobiles Peugeot SA and the members of its Dutch network. The practical arrangements for operation of the Peugeot network between 1997 and 2003 show that there was tacit acquiescence on the part of the Peugeot dealers in the Netherlands, and therefore a concurrence of wills, when each sales transaction took place⁽¹⁾.
- (16) As far as pressure on dealers is concerned, starting in 1997 at the latest, Automobiles Peugeot SA issued to its Dutch dealers through the VPDN a clear call for discipline in limiting exports to other Member States. The episodes of pressure on dealers described in the Decision show that the call by Automobiles Peugeot/PNE to its dealers to ensure that their exporting activities remained exceptional was endorsed in principle by all members of the network, subject to the occasional action by the manufacturer to maintain the discipline thus brought about.
- (17) Automobiles Peugeot SA and PNE adopted a strategy aimed at limiting export sales from the Netherlands. This strategy, which was implemented in agreement with the dealers and in conjunction with VPDN, had, like each of the measures constituting it, as its object and effect a restriction of competition within the meaning of Article 81(1).

2.2. The object of the infringement involving the two measures

2.2.1. A discriminatory bonus liable to hinder exports

- (18) In its reply to the statement of objections, Automobiles Peugeot SA argued that the quantity bonus introduced in the Netherlands was pro-competitive and had the 'sole, manifest objective' of motivating dealers by offering them the necessary economic incentives, in the form of bonuses, to concentrate their best sales efforts on their contract territory and thereby enable Automobiles Peugeot SA to increase its market share in the Netherlands.

2. LEGAL ASSESSMENT

2.1. The agreement on the measures at issue

- (14) The measures taken by Automobiles Peugeot SA to restrict export sales and intra-brand competition were not unilateral practices. On the contrary, they fell within the scope of Article 81(1) of the Treaty. They formed part of the contractual relations between Automobiles Peugeot SA, on the one hand, and the dealers belonging to its selective, exclusive distribution networks in the Netherlands, on the other, concerning the sale of Peugeot vehicles and other contract goods.

⁽¹⁾ The manufacturer's will was embodied in the circular received by the dealer at the beginning of each year, laying down the conditions for the dealer's remuneration (margin and bonus). Those conditions were accepted by the dealer each time he sought to have a vehicle ordered by him counted towards the sales targets (on which the bonus depended) and asked for payment of the bonus for each vehicle registered (once the sales targets had been achieved). The dealer's acceptance was signified by the action of entering the car's order details in the database by which the manufacturer managed relations with its network (DIALOG). The measure at issue was thus consented to by the dealers concerned since, in any event, they carried out sales within this system.

- (19) It should be noted in this connection that the Decision does not call into question the possibility for the manufacturer to tailor its commercial policy to the requirements of different national markets with a view to achieving better penetration rates in those markets. It challenges neither the manufacturer's freedom to agree with its dealers sales targets set in terms of sales to be achieved in the contract territory nor its freedom to adopt appropriate incentives, in the form of performance bonuses in particular, in order to urge its dealers to increase their sales volumes in the territory allocated to them. This possibility, which stimulates inter-brand competition, is furthermore expressly provided for in Commission Regulation (EC) No 1475/95⁽¹⁾ (the exemption Regulation).
- (20) However, from January 1997, the annual circulars to all dealers concerning implementation of the new bonus scheme stipulated — as is borne out by other evidence — that only passenger cars registered in the Dutch market would count towards payment of the bonus. Consequently, any dealer who had fully achieved his territorial sales targets and had therefore acquired entitlement to the bonus was nevertheless denied the benefit of the bonus thus acquired when it came to payment of that entitlement with respect to sales to non-resident consumers. Such a scheme, viewed from the standpoint of its objective *modus operandi*, therefore went beyond what was necessary to encourage Dutch dealers to devote their best sales efforts to their contract territory. It was in the nature of one of the hardcore restrictions mentioned in Regulation (EC) No 1475/95, Article 6(1)(8) which provides that the exemption does not apply where 'the supplier, without any objective reason, grants dealers remunerations calculated on the basis of the place of destination of the motor vehicles resold or the place of residence of the purchaser'. What is more, PNE made it less easy for dealers to get round the scheme by checking the car order data input by the dealer in the database by which the manufacturer managed its relations with its network (DIALOG) against the data obtained from the national registration authority.
- (21) In its reply to the statement of objections, Automobiles Peugeot SA questioned the effectiveness of such a measure, maintaining that the amount of the bonus was too small for its non-payment to act as a disincentive for dealers to export.
- (22) The defence put forward by Automobiles Peugeot SA is intrinsically contradictory. On the one hand, it argues that the level of the bonus on offer between 1997 and 2003 was too low to have had any effect on dealers' behaviour. On the other, it stresses that the scheme at issue, and in particular the level of the discounts granted to dealers who had achieved their sales targets, was essential to providing appropriate financial incentives to ensure that dealers devoted their best sales efforts to their respective contract territories. Moreover, the evidence gathered during the course of the investigation bears out the objections about the measures' significant impact by showing that the bonus was important to dealers throughout the period and that its loss on export sales significantly affected dealer interest in selling to non-resident consumers.
- 2.2.2. *The exerting of pressure as proof of Peugeot's intention to hinder exports*
- (23) From 1997 onwards and until a more recent period in 2001, Automobiles Peugeot SA occasionally intervened to deter certain Dutch dealers from supplying vehicles to final consumers in other Member States. The pressure put on Dutch dealers, like the aspects of the remuneration system that de facto discriminated against exports, was intended to hinder cross-border trade in cars between dealers in the Netherlands and those in other Member States with a view to walling off the Dutch market from the other markets in the European Union. It is in the context of this strategy that the documents held on file concerning the pressure on dealers should be assessed.
- 2.3. Significant, quantifiable impact of the measures**
- (24) Parallel exports from the Netherlands declined after 1997, the year in which the remuneration system was implemented, falling by about 50 % after 1999. In its reply to the statement of objections, Automobiles Peugeot SA attributes this to factors other than the remuneration system in dispute, namely the 'essential role' played by diminishing price differentials. However, several factors contradict this analysis.
- (25) First, there was no significant variation in the price differential at Community level during the period in question.
- (26) Second, an internal PNE memo dating from 2002 quantified the remuneration system's impact on parallel trade by estimating the volume of additional sales to non-resident final consumers compared with the previous year achievable if the bonus were in fact paid in 2003 in respect of vehicles sold for export.

(1) OJ L 145, 29.6.1995, p. 25. Article 4(1): The exemption shall apply notwithstanding any obligation whereby the dealer undertakes to: ...

(3) endeavour to sell, within the contract territory and during a specified period, a minimum quantity of contract goods, determined by the parties by common agreement or, in the event of disagreement between the parties as to the minimum number of contractual goods to be sold annually, by an expert third party, account being taken in particular of sales previously achieved in the territory and of forecast sales for the territory and at national level.

- (27) Third, in relation to the pressure on dealers, a total of 22 French consumers complained to the Commission about the loss caused by delivery delays coupled with threats from Peugeot.

3. FINE

- (28) The Commission considered that a fine should therefore be imposed commensurate with the gravity of the infringement, the deterrent effect of which would prevent any repeat offending. In fixing the amount of the fine, the Commission took into account all the appropriate circumstances, and in particular the gravity and duration of the infringement, these being criteria explicitly mentioned in Article 23(3) of Regulation (EC) No 1/2003.
- (29) In the light of the above, the infringement of Article 81 committed by Automobiles Peugeot SA and its subsidiary PNE was characterised as very serious, an assessment which held good both for the policy regarding bonuses and for the other pressure exerted by Automobiles Peugeot SA. The Commission and the Court of Justice have already had occasion to rule on remuneration systems that discriminate according to a vehicle's destination ⁽¹⁾. The assessment of the gravity of the infringement is based on the provisions of the Guidelines on the method of setting fines ⁽²⁾.
- (30) The infringement is also one of significant duration. From the beginning of January 1997 to the end of September 2003, Automobiles Peugeot SA renewed each year the discriminatory system of remuneration for exports in its annual circulars. Between 1997 and 2001, Automobiles Peugeot SA also supplemented its

export restriction strategy with direct warnings and instructions to several dealers. As to the termination of the infringement, there is nothing on file to indicate that the infringement continued after November 2001 as far as the pressure on dealers is concerned, or after October 2003, when the remuneration system to which the Decision relates was modified.

- (31) There are neither any mitigating nor any aggravating circumstances in this case.

4. DECISION

- (32) Automobiles Peugeot SA and its subsidiary Peugeot Nederland NV infringed Article 81(1) of the Treaty by concluding agreements with dealers in the Peugeot distribution network in the Netherlands having as their object and effect the impeding of sales to final consumers in other Member States, whether in person or represented by intermediaries acting on their behalf. The infringement commenced at the beginning of January 1997 and continued until the end of September 2003.
- (33) To the extent that they have not already done so, the undertakings referred to in Article 1 must bring the infringement found in that article to an end. They must refrain in future from implementing anew or continuing to implement any measure constituting the said infringement and from taking any measures having an equivalent object or effect.
- (34) For the infringement referred to in Article 1, a fine of EUR 49,5 million is imposed on Automobiles Peugeot SA and its subsidiary Peugeot Nederland NV, which are jointly and severally liable.

⁽¹⁾ Commission Decision 98/273/EC of 28 January 1998 in Case IV/35.733 — *Volkswagen* (OJ L 124, 25.4.1998, p. 60), recital 129; Commission Decision 2001/146/EC of 20 September 2000 in Case COMP/36.653 — *Opel* (OJ L 59, 28.2.2001, p. 1), recital 117.

⁽²⁾ Guidelines on the method of setting fines imposed pursuant to Article 15(2) of Regulation No 17 and Article 65(5) of the ECSC Treaty. Published in OJ C 9, 14.1.1998. Point A defines very serious infringements thus: 'They will generally be ... practices which jeopardise the proper functioning of the single market, such as the partitioning of national markets', which is the case here.

COMMISSION DECISION

of 23 June 2006

establishing the Community's financial contribution to the expenditure incurred in the context of the emergency measures taken to combat classical swine fever in Germany in 2001

(notified under document number C(2006) 2407)

(Only the German text is authentic)

(2006/432/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Article 3(3) thereof,

Whereas:

(1) Outbreaks of classical swine fever occurred in Germany in 2001. The emergence of this disease presented a serious risk for the Community's livestock population.

(2) In order to prevent the spread of the disease and to help eradicate it as quickly as possible, the Community should contribute financially towards the eligible expenditure incurred by the Member State under the emergency measures taken to combat the disease, as provided for in Decision 90/424/EEC.

(3) Commission Decision 2003/492/EC of 3 July 2003 on a financial contribution from the Community towards the eradication of classical swine fever in Germany in 2001 ⁽²⁾ granted a financial contribution from the Community to Germany towards the expenditure incurred under the emergency measures to combat classical swine fever implemented in 2001.

(4) In accordance with that Decision, a first instalment of EUR 440 000 was granted.

(5) Pursuant to that Decision, the balance of the Community contribution is to be based on the application submitted

by Germany, documents setting out the figures quoted in the application, and the results of the *in situ* checks carried out by the Commission. The amount set out in the application submitted by Germany was DEM 3 256 879,80 or EUR 1 665 216,19 as principal costs and DEM 16 978,40 or EUR 8 680,92 as arrears, for which the Community financial contribution may not be higher than 50 % of the eligible expenditure.

(6) In view of the above considerations, the total amount of the Community's financial contribution to the expenditure incurred associated with the eradication of classical swine fever in Germany in 2001 should now be fixed.

(7) The results of the checks carried out by the Commission in compliance with the Community veterinary rules and the conditions for granting Community financial support mean the entire amount of the expenditure submitted cannot be recognised as eligible.

(8) The Commission's observations and method of calculating the eligible expenditure were communicated by letter to Germany.

(9) 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

The total Community financial contribution towards the expenditure associated with eradicating classical swine fever in Germany in 2001 pursuant to Decision 2003/492/EC is fixed at EUR 827 037,06 as principal costs and EUR 4 340,46 as arrears.

⁽¹⁾ OJ L 224, 18.8.1990, p. 19. Decision as last amended by Decision 2006/53/EC (OJ L 29, 2.2.2006, p. 37).

⁽²⁾ OJ L 168, 5.7.2003, p. 28.

Since a first instalment of EUR 440 000 has already been granted in accordance with Decision 2003/492/EC, the balance of the Community financial contribution is fixed at EUR 391 377,52.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 23 June 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

COMMISSION DECISION

of 23 June 2006

establishing the Community's financial contribution to the expenditure incurred in the context of the emergency measures taken to combat classical swine fever in Germany in 2002

(notified under document number C(2006) 2408)

(Only the German text is authentic)

(2006/433/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Article 3(3) thereof,

Whereas:

(1) Outbreaks of classical swine fever occurred in Germany in 2002. The emergence of this disease presented a serious risk for the Community's livestock population.

(2) In order to prevent the spread of the disease and to help eradicate it as quickly as possible, the Community should contribute financially towards the eligible expenditure incurred by the Member State under the emergency measures taken to combat the disease, as provided for in Decision 90/424/EEC.

(3) Commission Decision 2003/745/EC of 13 October 2003 concerning a Community financial contribution towards the eradication of classical swine fever in Germany in 2002 ⁽²⁾ granted a financial contribution from the Community to Germany towards the expenditure incurred under the emergency measures to combat classical swine fever implemented in 2002.

(4) In accordance with that Decision, a first instalment of EUR 460 000 was granted.

(5) Pursuant to that Decision, the balance of the Community contribution is to be based on the application submitted by Germany on 19 November 2003, documents setting out the figures quoted in the application, and the results of the *in situ* checks carried out by the Commission. The

amount set out in the application submitted by Germany for the 2002 expenses was EUR 1 933 695,76, for which the Community financial contribution may not be higher than 50 % of the eligible expenditure.

(6) In view of the above considerations, the total amount of the Community's financial contribution to the expenditure incurred associated with the eradication of classical swine fever in Germany in 2002 should now be fixed.

(7) The results of the checks carried out by the Commission in compliance with the Community veterinary rules and the conditions for granting Community financial support mean the entire amount of the expenditure submitted cannot be recognised as eligible.

(8) The Commission's observations and method of calculating the eligible expenditure were communicated by letter to Germany.

(9) 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

The total Community financial contribution towards the expenditure associated with eradicating classical swine fever in Germany in 2002 pursuant to Decision 2003/745/EC is fixed at EUR 925 808,47.

Since a first instalment of EUR 460 000 has already been granted in accordance with Decision 2003/745/EC, the balance of the Community financial contribution is fixed at EUR 465 808,47.

⁽¹⁾ OJ L 224, 18.8.1990, p. 19. Decision as last amended by Decision 2006/53/EC (OJ L 29, 2.2.2006, p. 37).

⁽²⁾ OJ L 269, 21.10.2003, p. 18.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 23 June 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

COMMISSION DECISION

of 23 June 2006

establishing the Community's financial contribution to the expenditure incurred in the context of the emergency measures taken to combat classical swine fever in Luxembourg in 2002

(notified under document number C(2006) 2410)

(Only the French text is authentic)

(2006/434/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Article 3(3) thereof,

Whereas:

(1) Outbreaks of classical swine fever occurred in Luxembourg in 2002. The emergence of this disease presented a serious risk for the Community's livestock population.

(2) In order to prevent the spread of the disease and to help eradicate it as quickly as possible, the Community should contribute financially towards the eligible expenditure incurred by the Member State under the emergency measures taken to combat the disease, as provided for in Decision 90/424/EEC.

(3) Commission Decision 2003/491/EC of 3 July 2003 on a financial contribution from the Community towards the eradication of classical swine fever in Luxembourg in 2002 ⁽²⁾ granted a financial contribution from the Community to Luxembourg towards the expenditure incurred under the emergency measures to combat classical swine fever implemented in 2002.

(4) In accordance with that Decision, a first instalment of EUR 500 000 was granted.

(5) Pursuant to that Decision, the balance of the Community contribution is to be based on the application submitted by Luxembourg on 17 July 2003, documents setting out the figures quoted in the application, and the results of the *in situ* checks carried out by the Commission. The amount set out in the application submitted by Luxembourg was EUR 3 253 235, for which the Community financial contribution may not be higher than 50 % of the total eligible expenditure.

(6) In view of those considerations, the total amount of the Community's financial contribution to the eligible expenditure incurred associated with the eradication of classical swine fever in Luxembourg in 2002 should now be fixed.

(7) The results of the checks carried out by the Commission in compliance with the Community veterinary rules and the conditions for granting Community financial support mean the entire amount of the expenditure submitted cannot be recognised as eligible for a Community financial contribution.

(8) The Commission's observations and method of calculating the eligible expenditure were communicated to Luxembourg in a letter dated 4 November 2005.

(9) The Commission's final conclusions were sent to Luxembourg on 18 January 2006, taking into account the additional information sent by Luxembourg to the Commission on 15 December 2005.

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

⁽¹⁾ OJ L 224, 18.8.1990, p. 19. Decision as last amended by Decision 2006/53/EC (OJ L 29, 2.2.2006, p. 37).

⁽²⁾ OJ L 168, 5.7.2003, p. 23.

HAS ADOPTED THIS DECISION:

Article 2

Article 1

This Decision is addressed to the Grand Duchy of Luxembourg.

The total Community financial contribution towards the expenditure associated with eradicating classical swine fever in Luxembourg in 2002 pursuant to Decision 2003/491/EC is fixed at EUR 1 589 734.

Done at Brussels, 23 June 2006.

Since a first instalment of EUR 500 000 has already been paid pursuant to Decision 2003/491/EC, the balance of EUR 1 089 734 shall be paid to Luxembourg.

For the Commission
Markos KYPRIANOU
Member of the Commission

COMMISSION DECISION

of 23 June 2006

amending Decision 2005/710/EC as regards certain protection measures in relation to highly pathogenic avian influenza in poultry in Romania

(notified under document number C(2006) 2421)

(Text with EEA relevance)

(2006/435/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

of those species and certain other products of birds
(the relevant imports).

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) Following the outbreak of avian influenza, caused by a highly pathogenic H5N1 virus strain, in south-east Asia starting in December 2003, the Commission adopted several protection measures in relation to that disease, 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⁾.

(2) Decision 2005/710/EC provides for the suspension of imports into the Community from certain parts of Romania, affected by that disease, of live poultry, raptorial birds, farmed and wild feathered game and live birds other than poultry, including pet birds, hatching eggs

(3) Romania has now transmitted further information to the Commission on the avian influenza situation in that country, which shows that an outbreak of that disease has recently been detected outside the area of Romania currently regionalised by Decision 2005/710/EC.

(4) In light of the rapidity of the spread of avian influenza in Romania in the last few weeks, it is necessary to extend the suspension of relevant imports from Romania, into the Community, to the whole territory of that country.

(5) Decision 2005/710/EC should therefore be amended accordingly.

(6) In the light of the information communicated to the Commission on the disease situation and the control measures taken by the competent authorities in Romania, the provisions of this Decision will be reviewed at the meeting of the Standing Committee on the Food Chain and Animal Health in July 2006.

(7) 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

The Annex to Decision 2005/710/EC is replaced by the text in the Annex to this Decision.

⁽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 by OJ L 191, 28.5.2004, p. 1).

⁽³⁾ OJ L 269, 14.10.2005, p. 42. Decision as last amended by Decision 2006/405/EC (OJ L 158, 10.6.2006, p. 14).

Article 2

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 3

This Decision is addressed to the Member States.

Done at Brussels, 23 June 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

'ANNEX

Parts of the territory of Romania referred to in Article 1(a) and (b)

PART A

ISO country code	Name of country	Description of part of territory
RO	Romania	— Whole of the territory of Romania

PART B

ISO country code	Name of country	Description of part of territory
RO	Romania	— Whole of the territory of Romania'

COMMISSION DECISION

of 23 June 2006

establishing the Community's financial contribution to the expenditure incurred in the context of the emergency measures taken to combat avian influenza in Belgium in 2003

(notified under document number C(2006) 2422)

(Only the French and Dutch texts are authentic)

(2006/436/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Article 3(3) thereof,

Whereas:

(1) Outbreaks of avian influenza occurred in Belgium in 2003. The emergence of this disease presented a serious risk for the Community's livestock population.

(2) In order to prevent the spread of the disease and to help eradicate it as quickly as possible, the Community should contribute financially towards the eligible expenditure incurred by the Member State under the emergency measures taken to combat the disease, as provided for in Decision 90/424/EEC.

(3) Commission Decision 2003/749/EC of 10 October 2003 on the financial contribution from the Community towards the eligible costs of the eradication of avian influenza in Belgium in 2003 ⁽²⁾ granted a financial contribution from the Community to Belgium towards the expenditure incurred under the emergency measures to combat avian influenza implemented in 2003.

(4) In accordance with that Decision, a first instalment of EUR 3 000 000 was granted.

(5) Pursuant to that Decision, the balance of the Community contribution is to be based on the claims submitted by Belgium on 13 January and 24 March 2004, documents

confirming the figures in the claims, and the results of the on the spot checks carried out by the Commission. The amount set out in these claims submitted by Belgium was EUR 18 035 727,78 for which the Community financial contribution may not be higher than 50 % of the total eligible expenditure.

(6) In view of these considerations, the total amount of the Community's financial contribution to the eligible expenditure incurred associated with the eradication of avian influenza in Belgium in 2003 should now be fixed.

(7) The results of the checks carried out by the Commission in compliance with the Community veterinary rules and the conditions for granting Community financial support mean the entire amount of the expenditure submitted cannot be recognised as eligible for a Community financial contribution.

(8) The last Commission's observations, final conclusions and method of calculating the eligible expenditure were communicated to Belgium on 21 February 2006.

(9) 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

The total Community financial contribution towards the expenditure associated with eradicating avian influenza in Belgium in 2003 pursuant to Decision 2003/749/EC is fixed at EUR 8 088 508,16.

Since a first instalment of EUR 3 000 000 has already been granted in accordance with Decision 2003/749/EC, the balance of the Community financial contribution is fixed at EUR 5 088 508,16.

⁽¹⁾ OJ L 224, 18.8.1990, p. 19. Decision as last amended by Decision 2006/53/EC (OJ L 29, 2.2.2006, p. 37).

⁽²⁾ OJ L 271, 22.10.2003, p. 19. Decision as amended by Decision 2004/18/EC (OJ L 5, 9.1.2004, p. 81).

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 23 June 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission
