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### Legislation

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## I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 1856/2006**  
**of 15 December 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<sup>(1)</sup>, 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 16 December 2006.

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

Done at Brussels, 15 December 2006.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> 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 15 December 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 <sup>(1)</sup>	Standard import value
0702 00 00	052	118,3
	204	77,5
	999	97,9
0707 00 05	052	104,5
	204	59,2
	628	155,5
	999	106,4
0709 90 70	052	134,0
	204	70,1
	999	102,1
0805 10 20	052	56,3
	388	72,8
	999	64,6
0805 20 10	052	30,7
	204	61,3
	999	46,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	69,1
	624	71,9
	999	70,5
0805 50 10	052	48,9
	528	35,4
	999	42,2
0808 10 80	388	107,5
	400	86,4
	404	94,2
	720	73,3
	999	90,4
0808 20 50	052	63,8
	400	98,6
	720	46,8
	999	69,7

<sup>(1)</sup> 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 1857/2006****of 15 December 2006****on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid<sup>(1)</sup>, and in particular Article 1(1)(a)(i) thereof,

Having published a draft of this Regulation,

Having consulted the Advisory Committee on State Aid,

Whereas:

- (1) Regulation (EC) No 994/98 empowers the Commission to declare, in accordance with Article 87 of the Treaty, that, under certain conditions, aid to small and medium-sized enterprises is compatible with the common market and not subject to the notification requirement of Article 88(3) of the Treaty.
- (2) Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises<sup>(2)</sup> does not apply to activities linked to the production, processing or marketing of products listed in Annex I to the Treaty.
- (3) The Commission has applied Articles 87 and 88 of the Treaty to small and medium-sized enterprises active in the production, processing and marketing of agricultural products in numerous decisions and has also stated its policy, most recently in the Community guidelines for State aid in the agriculture sector<sup>(3)</sup>. In the light of the Commission's considerable experience in applying those Articles to small and medium-sized enterprises active in the production of agricultural products, it is appropriate,

with a view to ensuring efficient supervision and simplifying administration without weakening Commission monitoring, that the Commission should also make use of the powers conferred by Regulation (EC) No 994/98 for small and medium-sized enterprises active in the production of agricultural products, insofar as Article 89 of the Treaty has been declared applicable to such products.

- (4) Over the coming years, agriculture will have to adapt to new realities and further changes in terms of market evolution, market policy and trade rules, consumer demand and preferences and the enlargement of the Community. These changes will affect not only agricultural markets but also local economies in rural areas in general. Rural development policy should aim at restoring and enhancing the competitiveness of rural areas and, therefore, contribute to the maintenance and creation of employment in those areas.
- (5) Small and medium-sized enterprises play a decisive role in job creation and, more generally, act as a factor of social stability and economic drive. However, their development may be limited by market imperfections. They often have difficulties in obtaining capital or credit, given the risk-shy nature of certain financial markets and the limited guarantees that they may be able to offer. Their limited resources may also restrict their access to information, notably regarding new technology and potential markets. Having regard to those considerations, the purpose of the aid exempted by this Regulation should be to facilitate the development of the economic activities of small and medium-sized enterprises, provided that such aid does not adversely affect trading conditions to an extent contrary to the common interest. These developments should be encouraged and supported by simplification of the existing rules, as far as they apply to small and medium-sized enterprises.
- (6) The production, processing and marketing of agricultural products in the Community is largely dominated by small and medium-sized enterprises. However, there are considerable differences between the structure of primary production, on the one hand, and processing and marketing of agricultural products, on the other hand. The processing and marketing of agricultural products would often appear similar to that of industrial products. Therefore, it would appear more appropriate to have a different approach for processing and marketing of agricultural products and include those activities in the rules for industrial products. Consequently, and contrary to the approach taken in

<sup>(1)</sup> OJ L 142, 14.5.1998, p. 1.

<sup>(2)</sup> OJ L 10, 13.1.2001, p. 33. Regulation as last amended by Regulation (EC) No 1040/2006 (OJ L 187, 8.7.2006, p. 8).

<sup>(3)</sup> OJ C 28, 1.2.2000, p. 2. Corrected version (OJ C 232, 12.8.2000, p. 17).

- Commission Regulation (EC) No 1/2004 of 23 December 2003 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises active in the production, processing and marketing of agricultural products <sup>(4)</sup>, it appears useful to set up an exemption regulation targeted at the specific needs of primary agricultural production.
- (7) Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations <sup>(5)</sup> and Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) <sup>(6)</sup> have introduced specific State aid rules for certain rural development measures receiving Member State support without any Community financing.
- (8) This Regulation should exempt any aid that meets all the requirements it lays down, and any aid scheme, provided that any aid that could be granted under such scheme meets all the requirements of this Regulation. With a view to ensuring efficient supervision and simplifying administration without weakening Commission monitoring, aid schemes and individual grants outside any aid scheme should contain an express reference to this Regulation.
- (9) In view of the need to strike the appropriate balance between minimising distortions of competition in the aided sector and the objectives of this Regulation, it should not exempt individual grants which exceed a fixed maximum amount, whether or not made under an aid scheme exempted by this Regulation.
- (10) This Regulation should not exempt export aid or aid contingent upon the use of domestic over imported products. Such aid may be incompatible with the Community's international obligations. Aid towards the costs of participation in trade fairs or of studies or consultancy services needed for the launch of a new or existing product on a new market should not normally constitute export aid.
- (11) In order to eliminate differences that might give rise to distortions of competition, to facilitate coordination between different Community and national initiatives concerning small and medium-sized enterprises and for reasons of administrative clarity and legal certainty, the definition of 'small and medium-sized enterprises' used in this Regulation should be that set out in Annex I to Regulation (EC) No 70/2001.
- (12) In accordance with established practice of the Commission, and with a view to ensuring that aid is proportionate and limited to the amount necessary, thresholds should normally be expressed in terms of aid intensities in relation to a set of eligible costs, rather than in terms of maximum aid amounts.
- (13) In order to determine whether or not aid is compatible with the common market pursuant to this Regulation, it is necessary to take into consideration the aid intensity and thus the aid amount expressed as a grant equivalent. The calculation of the grant equivalent of aid payable in several instalments requires the use of market interest rates prevailing at the time of grant. With a view to a uniform, transparent, and simple application of the State aid rules, the market rates for the purposes of this Regulation should be deemed to be the reference rates periodically fixed by the Commission on the basis of objective criteria and published in the *Official Journal of the European Union* and on the Internet.
- (14) In order to ensure transparency and effective monitoring, this Regulation should apply only to aid measures which are transparent. These are aid measures in which it is possible to calculate precisely the gross grant equivalent as a percentage of eligible expenditure *ex ante* without a need to undertake a risk assessment (for example, grants, interest rate subsidies and capped fiscal measures). Public loans should be considered to be transparent provided that they are backed by normal security and do not involve abnormal risk and are therefore not considered to contain a State guarantee element. In principle, aid measures involving State guarantees or public loans with a State guarantee element should not be considered as transparent. However, such aid measures should be considered as transparent if, before the implementation of the measure, the methodology used to calculate the aid intensity of the State guarantee has been accepted by the Commission following notification to the Commission after adoption of this Regulation. The methodology will be assessed by the Commission in line with the Notice on the application of Article 87 and 88 of the EC Treaty to State aid in the Forms of Guarantees <sup>(7)</sup>. Public participation and aid comprised in risk capital measures should not be considered as transparent aid. Aid measures which are not transparent should always be notified to the Commission. Notifications of non-transparent aid measures will be assessed by the Commission in particular in the light of the criteria set out in the Community guidelines for State aid in the agriculture and forestry sector 2007-2013.
- (15) In accordance with established practice of the Commission for the evaluation of State aid in the agricultural sector, no differentiation between small enterprises and medium-sized enterprises is necessary. For certain types of aid, the establishment of maximum amounts of aid which a beneficiary may receive is appropriate.

<sup>(4)</sup> OJ L 1, 3.1.2004, p. 1.

<sup>(5)</sup> OJ L 160, 26.6.1999, p. 80.

<sup>(6)</sup> OJ L 277, 21.10.2005, p. 1. Regulation as last amended by Regulation (EC) No 1698/2005 (OJ L 277, 21.10.2005, p. 1).

<sup>(7)</sup> OJ C 71, 11.3.2000, p. 14.

- (16) Aid ceilings should be fixed, in the light of the Commission's experience, at a level that strikes the appropriate balance between minimising distortions of competition in the aided sector and the objective of facilitating the development of the economic activities of small and medium-sized enterprises in the agriculture sector. In the interests of coherence with Community-financed support measures, the ceilings should be harmonised with those fixed in Regulation (EC) No 1257/1999 and in Regulation (EC) No 1698/2005.
- (17) It is appropriate to establish further conditions that should be fulfilled by any aid scheme or individual aid exempted by this Regulation. Any restrictions on production or limitations of Community support under the common market organisations should be taken into account. Having regard to Article 87(3)(c) of the Treaty, aid should not have the sole effect of continuously or periodically reducing the operating costs which the beneficiary would normally have to bear, and should be proportionate to the handicaps that have to be overcome in order to secure the socio-economic benefits deemed to be in the Community interest. Unilateral State aid measures which simply seek to improve the financial situation of producers but which in no way contribute to the development of the sector, and in particular aids which are granted solely on the basis of price, quantity, unit of production or unit of the means of production are considered to constitute operating aids which are incompatible with the common market. Furthermore, such aids are also likely to interfere with the mechanisms of the common organisations of the markets. It is therefore appropriate to limit the scope of this Regulation to certain types of aid.
- (18) This Regulation should exempt aid to small and medium-sized agricultural holdings (farms) regardless of location. Investment and job creation can contribute to the economic development of less favoured regions and areas as referred to in Article 36(a)(i), (ii) and (iii) of Regulation (EC) No 1698/2005. Small and medium-sized agricultural holdings (farms) in those areas suffer from both the structural disadvantage of the location and the difficulties deriving from their size. It is therefore appropriate that small and medium-sized enterprises in such areas should benefit from higher ceilings.
- (19) Because of the risk of distortions resulting from targeted investment aid and in order to offer farmers freedom to decide about products invested in, investment aid exempted under this Regulation should not be limited to specific agricultural products. This condition should not prevent a Member State from excluding certain agricultural products from such aid or aid schemes, notably where no normal market outlets can be found. Also, certain types of investment should per se be excluded from this Regulation.
- (20) Where aid is granted to adapt to newly introduced standards at Community level, Member States should not be able to lengthen the adaptation period for farmers by delaying implementation of such rules. Therefore, the date from which new legislation can no longer be considered new should be clearly set out.
- (21) Certain Council Regulations in the field of agriculture provide for specific authorisations for the payment of aid by Member States, often in combination with or in addition to Community financing. However, those provisions usually do not provide for an exemption from the duty to notify under Article 88 of the Treaty, insofar as such aid fulfils the conditions of Article 87(1) of the Treaty. Since the conditions for such aids are clearly specified in those Regulations, and/or there is a duty to communicate such measures to the Commission under the special provisions of those Regulations, no further and separate notification under Article 88(3) of the Treaty is necessary in order to allow for an assessment of these measures by the Commission. For reasons of legal certainty, a reference to those provisions should be included in this Regulation, and therefore notification of those measures under Article 88 of the Treaty should not be necessary, insofar as it can be ascertained in advance that such aid is exclusively granted to small and medium-sized enterprises.
- (22) In order to ensure that the aid is necessary and acts as an incentive to develop certain activities, this Regulation should not exempt aid for activities in which the beneficiary would already engage under market conditions alone. No aid should be granted retroactively in respect of activities which have already been undertaken by the beneficiary.
- (23) This Regulation should not exempt aid cumulated with other State aid, including aid granted by national, regional or local authorities, with public support granted within the framework of Regulation (EC) No 1698/2005 or with Community assistance, in relation to the same eligible costs, when such cumulation exceeds the thresholds fixed in this Regulation. Aid exempted under this Regulation should not be cumulated with *de minimis* support within the meaning of Commission Regulation (EC) No 1860/2004 of 6 October 2004 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the agriculture and fisheries sectors<sup>(8)</sup> in respect of the same eligible expenditure or investment project, if such cumulation would result in an aid intensity exceeding that fixed by this Regulation.

<sup>(8)</sup> OJ L 325, 28.10.2004, p. 4.



- (24) In order to ensure transparency and effective monitoring, in accordance with Article 3 of Regulation (EC) No 994/98, it is appropriate to establish a standard format in which Member States should provide the Commission with summary information whenever, in accordance with this Regulation, an aid scheme is implemented or individual aid is granted outside such a scheme, with a view to publication in the *Official Journal of the European Union*. For the same reasons, it is appropriate to establish rules concerning the records that Member States should keep regarding the aid exempted by this Regulation. For the purposes of the annual report to be submitted to the Commission by Member States, it is appropriate for the Commission to establish its specific requirements. In view of the wide availability of the necessary technology, the summary information and the annual report should be in computerised form.
- (25) Failure by a Member State to comply with the reporting obligations established in this Regulation may make it impossible for the Commission to perform its monitoring task under Article 88(1) of the Treaty and, in particular, to assess whether the cumulative economic effect of the aids exempted under this Regulation is such as to adversely affect trading conditions to an extent contrary to the common interest. The need to evaluate the cumulative effect of State aid is particularly high where the same beneficiary may receive aid granted by several sources, as is increasingly the case in the field of agriculture. It is therefore of primary importance that the Member State rapidly submits appropriate information before implementing aid under this Regulation.
- (26) Aid to companies active in the processing and marketing of agricultural products should be covered by the rules governing aid to small and medium-sized enterprises in other sectors laid down in Regulation (EC) No 70/2001. Regulation (EC) No 70/2001 should therefore be amended accordingly.
- (27) State aid exempted under Regulation (EC) No 1/2004 should continue to be exempted if it fulfils all the conditions of this Regulation.
- (28) It is appropriate to lay down transitional provisions for aid which was granted before the entry into force of this Regulation and was not notified in breach of the obligation in Article 88(3) of the Treaty.
- (29) This Regulation is without prejudice to the possibility for Member States to notify aid to small and medium-sized enterprises active in the production of agricultural products. Such notifications will be assessed by the Commission in the light of this Regulation and on the basis of the Community guidelines for State aid in the agriculture and forestry sector 2007-2013. Notifications pending on the date of entry into force of this Regulation should be assessed first in the light of this Regulation and, if the conditions it lays down are not fulfilled, then on the basis of the Community guidelines for State aid in the agriculture and forestry sector 2007-2013.
- (30) In the light of the Commission's experience in this area, and in particular the frequency with which it is generally necessary to revise State aid policy, it is appropriate to limit the period of application of this Regulation. Should this Regulation expire without being extended, aid schemes already exempted by this Regulation should continue to be exempt for a further period of six months, in order to give Member States time to adapt,

HAS ADOPTED THIS REGULATION:

#### CHAPTER 1

#### SCOPE, DEFINITIONS AND CONDITIONS

##### Article 1

##### Scope

1. This Regulation shall apply to transparent aid granted to small and medium-sized agricultural holdings (farms) active in the primary production of agricultural products. Without prejudice to Article 9, it shall not apply to aid granted for expenditure linked to the processing or marketing of agricultural products.

2. Without prejudice to Article 16(1)(a), this Regulation shall not apply to:

(a) aid to export-related activities, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;

(b) aid contingent upon the use of domestic over imported goods.

## Article 2

**Definitions**

For the purpose of this Regulation:

1. 'aid' means any measure fulfilling all the criteria laid down in Article 87(1) of the Treaty;
2. 'agricultural product' means:
  - (a) the products listed in Annex I of the Treaty, except fishery and aquaculture products covered by Council Regulation (EC) No 104/2000 <sup>(9)</sup>;
  - (b) products falling under CN codes 4502, 4503 and 4504 (cork products);
  - (c) products intended to imitate or substitute milk and milk products, as referred to in Article 3(2) of Council Regulation (EEC) No 1898/87 <sup>(10)</sup>;
3. 'processing of agricultural products' means any operation on an agricultural product resulting in a product which is also an agricultural product, except on farm activities necessary for preparing an animal or plant product for the first sale;
4. 'marketing of agricultural products' means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered as marketing if it takes place in separate premises reserved for that purpose;
5. 'small and medium-sized enterprises' (SME) means small and medium-sized enterprises as defined in Annex I to Regulation (EC) No 70/2001;
6. 'gross aid intensity' means the aid amount expressed as a percentage of the project's eligible costs. All figures used shall be taken before any deduction for direct taxation. Where aid is awarded in a form other than a grant, the aid amount shall be the grant equivalent of the aid. Aid payable in several instalments shall be discounted to its value at the moment of granting. The interest rate to be used for discounting purposes and for calculating the aid amount in a soft loan shall be the reference rate applicable at the time of grant;
7. 'quality product' is a product fulfilling the criteria to be defined pursuant to Article 32 of Regulation (EC) No 1698/2005;
8. 'adverse climatic event which can be assimilated to a natural disaster' means weather conditions such as frost, hail, ice, rain or drought which destroy more than 30 % of the average of annual production of a given farmer in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry;
9. 'less favoured areas' means areas as defined by Member States on the basis of Article 17 of Regulation (EC) No 1257/1999;
10. 'investment made to comply with newly introduced minimum standards' means:
  - (a) in the case of standards which do not provide for any transitional period, investments actually started not more than two years after the date on which the standards are to be made compulsory vis-à-vis operators; or
  - (b) in the case of standards which provides for a transitional period, investments actually started before the date on which the standards are to be made compulsory vis-à-vis operators;
11. 'young farmers' means producers of agricultural products fulfilling the criteria laid down in Article 22 of Regulation (EC) No 1698/2005;
12. 'producer group' means a group which is set up for the purpose of jointly adapting, within the objectives of the common market organisations, the production and output of its members to market requirements, in particular by concentrating supply;
13. 'producer association' means an association which consists of recognised producer groups and pursues the same objectives on a larger scale;
14. 'fallen stock' means animals which have been killed by euthanasia with or without definite diagnosis or have died (including stillborn and unborn animals) on a farm or any premise or during transport, but have not been slaughtered for human consumption;

<sup>(9)</sup> OJ L 17, 21.1.2000, p. 22.

<sup>(10)</sup> OJ L 182, 3.7.1987, p. 36.

15. 'TSE and BSE test costs' means all costs, including those for test kits, taking, transporting, testing, storing and destruction of samples necessary for tests undertaken in accordance with Annex X, Chapter C to Regulation (EC) No 999/2001 of the European Parliament and of the Council <sup>(11)</sup>;
16. 'enterprises in difficulty' means enterprises considered in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty <sup>(12)</sup>;
17. 'replacement investment' means an investment that simply replaces an existing building or machine, or parts of it, by a new up-to date building or machine, without expanding the production capacity by at least 25 % or without fundamentally changing the nature of production or the technology involved. Neither the complete demolition of a farm building at least 30 years old and replacement by an up-to date building, nor the fundamental renovation of a farm building, are considered as replacement investments. Renovation is considered as fundamental when its cost amounts to at least 50 % of the value of the new building.
18. 'transparent aid' means aid measures in which it is possible to calculate precisely the gross grant equivalent as a percentage of eligible expenditure ex ante without need to undertake a risk assessment (for example measures which use grants, interest rate subsidies, capped fiscal measures).

#### Article 3

##### Conditions for exemption

1. Transparent individual aid outside any scheme, fulfilling all the conditions of this Regulation, shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that the summary information provided for in Article 20(1) has been submitted and that the aid contains an express reference to this Regulation, by citing its title and publication reference in the *Official Journal of the European Union*.
2. Transparent aid schemes fulfilling all the conditions set out in this Regulation shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that:
- (a) any aid that could be awarded under such scheme fulfils all the conditions set out in this Regulation;

(b) the scheme contains an express reference to this Regulation, citing its title and publication reference in the *Official Journal of the European Union*;

(c) the summary information provided for in Article 20(1) has been submitted.

3. Aid granted under the schemes referred to in paragraph 2 shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that the aid granted directly fulfils all the conditions of this Regulation.

4. Aid which does not fall within the scope of this Regulation, or of other Regulations adopted pursuant to Article 1 of Regulation (EC) No 994/98 or Regulations listed in Article 17 of this Regulation, shall be notified to the Commission in accordance with Article 88(3) of the Treaty. Such aid shall be assessed in accordance with the criteria laid down in the Community guidelines for State aid in the agriculture and forestry sector 2007-2013.

#### CHAPTER 2

##### CATEGORIES OF AID

##### Article 4

##### Investment in agricultural holdings

1. Aid for investments in agricultural holdings within the Community for primary production of agricultural products, shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it fulfils the conditions set out in paragraphs 2 to 10 of this Article.
2. The gross aid intensity must not exceed:
- (a) 50 % of eligible investments in less favoured areas or in areas referred to in Article 36(a)(i), (ii) and (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation;
- (b) 40 % of eligible investments in other regions;
- (c) 60 % of eligible investments in less-favoured areas or in areas referred to in Article 36(a)(i), (ii) and (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation, and 50 % in other regions, in the case of investments made by young farmers within five years of setting up;

<sup>(11)</sup> OJ L 147, 31.5.2001, p. 1.

<sup>(12)</sup> OJ C 244, 1.10.2004, p. 2.

(d) 75 % of eligible investments in the outermost regions and the small Aegean Islands within the meaning of Council Regulation (EEC) No 2019/93 <sup>(13)</sup>;

(e) 75 % of eligible investments in regions referred to in point (a) and 60 % in other regions where investments result in extra costs relating to the protection and improvement of the environment, the improvement of hygiene conditions of livestock enterprises or the welfare of farm animals. This increase may only be granted for investments which go beyond the minimum Community requirements in force, or for investments made to comply with newly introduced minimum standards. The increase must be limited to the extra eligible costs necessary and must not apply in the case of investments which result in an increase in production capacity.

3. The investment must pursue notably the following objectives:

- (a) reduction of production costs;
- (b) improvement and re-deployment of production;
- (c) improvement in quality;
- (d) preservation and improvement of the natural environment, or the improvement of hygiene conditions or animal welfare standards.

4. The eligible expenses may include:

- (a) the construction, acquisition or improvement of immovable property;
- (b) the purchase or lease-purchase of machinery and equipment, including computer software up to the market value of the asset;
- (c) general costs linked to expenditure under points (a) and (b), such as architects, engineers and consultation fees, feasibility studies, the acquisition of patents and licences.

Costs connected with a leasing contract other than those listed in point (b) of the first subparagraph, such as tax, lessor's margin, interest refinancing costs, overheads insurance, charges, etc. are not eligible expenditure.

5. Aid may only be granted to agricultural holdings which are not enterprises in difficulty.

Aid may be granted in order to enable the beneficiary to reach newly introduced minimum standards regarding the environment, hygiene and animal welfare.

6. The aid must not be granted in contravention of any prohibitions or restrictions laid down in Council Regulations establishing common organisations of the market, even where such prohibitions and restrictions only refer to Community support.

7. The aid must not be limited to specific agricultural products and must therefore be open to all sectors of agriculture, unless a Member State excludes certain products because of overcapacity or a lack of market outlets. Aid must not be granted in respect of the following:

- (a) the purchase of production rights, animals and annual plants;
- (b) the planting of annual plants;
- (c) drainage works or irrigation equipment and irrigation works, unless such investment leads to a reduction of previous water use of at least 25 %;
- (d) simple replacement investments.

8. Aid may be granted for a purchase of land other than land for construction purposes costing up to 10 % of the eligible expenses of the investment.

9. The maximum amount of aid granted to an individual enterprise must not exceed EUR 400 000 over any period of three fiscal years, or EUR 500 000 if the enterprise is situated in a less favoured area or in an area referred to in Article 36(a)(i), (ii) or (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation.

10. The aid must not be granted in respect of the manufacture of products which imitate or substitute for milk and milk products.

#### Article 5

#### Conservation of traditional landscapes and buildings

1. Aid for conservation of traditional landscapes and buildings shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it complies with the provisions of paragraphs 2 and 3 of this Article.

2. Aid may be granted up to 100 % of the real costs incurred as regards investments or capital works intended for the conservation of non-productive heritage features located on agricultural holdings, such as archaeological or historical features. These costs may include reasonable compensation for the work undertaken by the farmer himself, or his workers, up to a limit of EUR 10 000 a year.

<sup>(13)</sup> OJ L 184, 27.7.1993, p. 1.

3. Aid may be granted up to 60 %, or 75 % in less favoured areas or in areas referred to in Article 36(a)(i), (ii) or (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation, of the real costs incurred as regards investments or capital works intended for the conservation of heritage features of productive assets on farms, such as farm buildings, provided that the investment does not entail any increase in the production capacity of the farm.

Where there is an increase in production capacity, the aid rates for investment established in Article 4(2) shall apply as regards eligible expenses resulting from undertaking the relevant work using normal contemporary materials. Additional aid may be granted at a rate of up to 100 % to cover the extra costs incurred by using traditional materials necessary to maintain the heritage features of the building.

#### Article 6

##### **Relocation of farm buildings in the public interest**

1. Aid for the relocation of farm buildings shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it is in the public interest and fulfils the conditions set out in paragraphs 2, 3 and 4 of this Article.

The public interest invoked to justify the granting of aid under this Article shall be specified in the relevant provisions of the Member State.

2. Aid may be granted up to 100 % of the actual costs incurred where a relocation in the public interest simply consists of the dismantling, removal and re-erection of existing facilities.

3. Where the relocation in the public interest results in the farmer benefiting from more modern facilities, the farmer must contribute at least 60 %, or 50 % in less favoured areas or in areas referred to in Article 36(a)(i), (ii) or (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation, of the increase in the value of the facilities concerned after relocation. If the beneficiary is a young farmer, this contribution shall be at least 55 % or 45 % respectively.

4. Where the relocation in the public interest results in an increase in production capacity, the contribution from the beneficiary must be at least equal to 60 %, or 50 % in less favoured areas or in areas referred to in Article 36(a)(i), (ii) or (iii) of

Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation, of the expenses relating to this increase. If the beneficiary is a young farmer, this contribution shall be at least 55 % or 45 %.

#### Article 7

##### **Aid for setting up of young farmers**

Aid for the setting up of young farmers shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if the criteria set out in Article 22 of Regulation (EC) No 1698/2005 are fulfilled.

#### Article 8

##### **Aid for early retirement**

Aid for early retirement of farmers shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty under the following conditions:

- (a) the criteria set out in Article 23 of Regulation (EC) No 1698/2005 and any rules adopted by the Commission to implement that Article must be fulfilled;
- (b) the cessation of commercial farming activities must be permanent and definitive.

#### Article 9

##### **Aid for producer groups**

1. Start-up aid for the constitution of producer groups or producer associations shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it complies with the provisions of paragraphs 2 to 8 of this Article.

2. The following shall be eligible for the aid referred to in paragraph 1, provided that they are entitled to financial assistance under the legislation of the Member State concerned:

- (a) producer groups or producer associations involved in the production of agricultural products; and/or
- (b) associations of producers responsible for the supervision of the use of geographical indications and designations of origin or quality marks in conformity with Community law.

The internal rules of the producer group or association must provide an obligation on members to market production in accordance with the rules on supply and placing on the market drawn up by the group or association. Those rules may permit a proportion of the production to be marketed directly by the producer. They must require producers joining the group or association to remain members for at least three years and to give at least 12 months notice of withdrawal. In addition they must provide common rules on production, in particular relating to product quality, or use of organic practices or other practices designed to protect the environment, common rules for placing goods on the market and rules on product information, with particular regard to harvesting and availability. However, producers must remain responsible for managing their holdings. The agreements concluded in the framework of the producer group or association must comply fully with all relevant provisions of competition law, in particular Articles 81 and 82 of the Treaty.

3. The eligible expenses may include the rental of suitable premises, the acquisition of office equipment, including computer hardware and software, administrative staff costs, overheads and legal and administrative fees. If premises are purchased, the eligible expenses for premises must be limited to rental costs at market rates.

4. The aid must not be paid in respect of costs incurred after the fifth year, or paid following the seventh year after recognition of the producer organisation. This is without prejudice to grant aid towards eligible expenses limited to and resulting from a year-on-year increase in turnover of a beneficiary of at least 30 % where this is due to the accession of new members and/or the coverage of new products.

5. The aid must not be granted to production organisations such as companies or co-operatives, the objective of which is the management of one or more agricultural holdings and which are therefore in effect single producers.

6. The aid must not be granted to other agricultural associations, which undertake tasks at the level of agricultural production, such as mutual support and farm relief and farm management services, in the members' holdings without being involved in the joint adaptation of supply to the market.

7. The total amount of aid granted to a producer group or association under this Article must not exceed EUR 400 000.

8. The aid must not be granted to producer groups or associations the objectives of which are incompatible with a Council Regulation setting up a common market organisation.

#### Article 10

##### **Aid in respect of animal and plant diseases and pest infestations**

1. Aid to compensate farmers for the costs of prevention and eradication of animal or plant diseases or pest infestations incurred for the costs of health checks, tests and other screening measures, purchase and administration of vaccines, medicines and plant protection products, slaughter and destruction costs of animals and costs of destruction of crops shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it fulfils the following conditions and the conditions set out in paragraphs 4 to 8 of this Article:

- (a) the gross aid intensity must not exceed 100 %;
- (b) the aid shall be granted in kind by means of subsidised services and must not involve direct payments of money to producers.

2. Aid to compensate farmers for losses caused by animal or plant diseases or pest infestations shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it fulfils the following conditions and the conditions set out in paragraphs 4 to 8 of this Article:

- (a) compensation must be calculated only in relation to:
  - (i) the market value of animals killed or plants destroyed by the disease or pest infestation or of animals killed or plants destroyed by public order as part of a compulsory public prevention or eradication programme;
  - (ii) income losses due to quarantine obligations and difficulties in restocking or replanting;

- (b) the gross aid intensity must not exceed 100 %;
- (c) the aid must be limited to losses caused by diseases for which an outbreak has been formally recognised by public authorities.

3. The maximum amount of costs or loss eligible for aid pursuant to paragraphs 1 and 2 must be reduced by:

- (a) any amount received under insurance schemes; and
- (b) costs not incurred because of the disease, which would otherwise have been incurred.

4. Payments must be made in relation to diseases or pests for which Community or national provisions exist, whether laid down by law, regulation or administrative action. Payments must thus be made as part of a public programme at Community, national or regional level for the prevention, control or eradication of the disease or pest concerned. The diseases or pest infestation must be clearly identified in the programme, which must also contain a description of the measures concerned.

5. The aid must not relate to a disease in respect of which Community legislation provides for specific charges for control measures.

6. The aid must not relate to measures in respect of which Community legislation provides that the cost of such measures is to be borne by the agricultural holding, unless the cost of such aid measures is entirely offset by compulsory charges on producers.

7. As regards animal diseases, the aid must be granted in respect of diseases mentioned in the list of animal diseases established by the World Organisation for Animal Health and/or in the Annex to Council Decision 90/424/EEC <sup>(14)</sup>.

8. Aid schemes must be introduced within three years following the occurrence of the expense or loss. Aid must be paid out within four years following the occurrence.

#### Article 11

##### Aid for losses due to adverse climatic events

1. Aid to compensate farmers for losses of plants or animals or farm buildings caused by adverse climatic events which can be assimilated to natural disasters shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it fulfils the conditions set out in paragraphs 2 to 6, 9 and 10 of this Article as far as plants or animals are concerned, and paragraphs 3 to 8 and 10 of this Article as far as farm buildings are concerned.

2. Gross aid intensity must not exceed 80 %, and 90 % in less favoured areas or in areas referred to in Article 36(a)(i), (ii) or (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation, of the reduction in income from the sale of the product resulting from the adverse climatic event. That reduction in income shall be calculated by subtracting:

- (a) the result of multiplying the quantity of product produced in the year of the adverse climatic event by the average selling price obtained during that year;
- (b) the result of multiplying the average annual quantity produced in the preceding three-year period (or a three-year average based on the preceding five-year period, excluding the highest and lowest entry) by the average selling price obtained.

The amount thus eligible for aid may be increased by other costs specifically incurred by the farmer because of non-harvesting due to the adverse event.

3. The maximum amount of loss eligible for aid pursuant to paragraph 1 must be reduced by:

- (a) any amount received under insurance schemes; and
- (b) costs not incurred because of the adverse climatic event.

4. The calculation of loss must be made at the level of the individual holding.

5. Aid must be paid directly to the farmer concerned or to a producer organisation of which the farmer is a member. If the aid is paid to a producer organisation, the amount of aid must not exceed the amount of aid that could be granted to the farmer.

6. Compensation for damages to farm buildings and farm equipment caused by adverse climatic events which can be assimilated to natural disasters must not exceed gross aid intensity of 80 %, and 90 % in less favoured areas or in areas referred to in Article 36(a)(i), (ii) or (iii) of Regulation (EC) No 1698/2005, as designated by Member States in accordance with Articles 50 and 94 of that Regulation.

7. The adverse climatic event which can be assimilated to a natural disaster must be formally recognised as such by public authorities.

8. From 1 January 2010, compensation offered must be reduced by 50 % unless it is given to farmers who have taken out insurance covering at least 50 % of their average annual production or production-related income and the statistically most frequent climatic risks in the Member State or region concerned.

<sup>(14)</sup> OJ L 224, 18.8.1990, p. 19.

9. From 1 January 2011, aid for losses caused by drought may be paid only by a Member State which has fully implemented Article 9 of Directive 2000/60/EC of the European Parliament and of the Council<sup>(15)</sup> in respect of agriculture, and ensures that the costs of water services provided to agriculture are recovered through an adequate contribution from that sector.

10. Aid schemes must be introduced within three years following the occurrence of the expense or loss. Aid must be paid out within four years following the occurrence.

#### Article 12

##### **Aid towards the payment of insurance premiums**

1. Aid for insurance premiums shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it fulfils the conditions set out in paragraphs 2 and 3 of this Article.

2. The gross aid intensity must not exceed:

(a) 80 % of the cost of insurance premiums, where the policy specifies that it provides cover only against losses caused by adverse climatic events which can be assimilated to natural disasters;

(b) 50 % of the cost of insurance premiums, where the policy specifies that it provides cover against:

(i) losses referred to in point (a) and against other losses caused by climatic events; and/or

(ii) losses caused by animal or plant diseases or pest infestations.

3. The aid must not constitute a barrier to the operation of the internal market for insurance services. The aid must not be limited to insurance provided by a single insurance company or group of companies, or be made subject to the condition that the insurance contract be taken out with a company established in the Member State concerned.

#### Article 13

##### **Aid for land reparcelling**

Aid for land reparcelling shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article

88(3) of the Treaty if it is granted towards and limited to the legal and administrative costs, including survey costs, up to 100 % of actual costs incurred.

#### Article 14

##### **Aid to encourage the production of quality agricultural products**

1. Aid to encourage the production of quality agricultural products shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it is granted towards the eligible costs listed in paragraph 2 and fulfils the conditions set out in paragraphs 3 to 6 of this Article.

2. Aid may be granted to cover the costs of the following service activities, insofar as they are related to the development of quality agricultural products:

(a) up to 100 % of the costs of market research activities, product conception and design, including aid granted for the preparation of applications for recognition of geographical indications and designations of origin or certificates of specific character in accordance with the relevant Community regulations;

(b) up to 100 % of the costs of the introduction of quality assurance schemes such as ISO 9000 or 14000 series, systems based on hazard analysis and critical control points (HACCP), traceability systems, systems to assure respect of authenticity and marketing norms or environmental audit systems;

(c) up to 100 % of the costs of training personnel to apply schemes and systems as referred to in point (b);

(d) up to 100 % of the costs of the charges levied by recognised certifying bodies for the initial certification of quality assurance and similar systems;

(e) up to 100 % of the costs of compulsory control measures undertaken pursuant to Community or national legislation by or on behalf of the competent authorities, unless Community legislation requires enterprises to bear such costs;

(f) up to the amounts laid down in the Annex to Regulation (EC) No 1698/2005 for support concerning measures referred to in Article 32 of that Regulation.

<sup>(15)</sup> OJ L 327, 22.12.2000, p. 1.



3. The aid may be granted only in respect of costs of services provided by third parties and/or controls undertaken by or on behalf of third parties, such as the competent regulatory authorities, or bodies acting on their behalf, or independent organisms responsible for the control and supervision of the use of geographical indications and designations of origin, organic labels, or quality labels, provided these denominations and labels are in conformity with Community legislation. The aid must not be granted towards expenditure for investment.

4. The aid must not be granted towards the cost of controls undertaken by the farmer or manufacturer himself, or where Community legislation provides that the cost of control is to be met by producers, without specifying the actual level of charges.

5. With the exception of the aid referred to in paragraph 2(f), the aid shall be granted in kind by means of subsidised services and must not involve direct payments of money to producers.

6. The aid must be accessible to all those eligible in the area concerned, based on objectively defined conditions. Where the provision of services listed in paragraph 2 is undertaken by producer groups or other agricultural mutual support organisations, membership of such groups or organisations must not be a condition for access to the service. Any contribution of non-members towards the administrative costs of the group or organisation concerned must be limited to the proportional costs of providing the service.

#### Article 15

##### Provision of technical support in the agricultural sector

1. Aid shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty if it is granted towards the eligible costs of the technical support activities listed in paragraph 2 and fulfils the conditions set out in paragraphs 3 and 4 of this Article.

2. Aid may be granted to cover the following eligible costs:

(a) concerning education and training of farmers and farm workers:

(i) costs of organising the training programme;

(ii) travel and subsistence expenses of participants;

(iii) cost of the provision of replacement services during the absence of the farmer or the farm worker;

(b) concerning farm replacement services, the actual costs of the replacement of a farmer, the farmer's partner, or a farm worker, during illness and holidays;

(c) concerning consultancy services provided by third parties, the fees for services which do not constitute a continuous or periodic activity nor relate to the enterprise's usual operating expenditure, such as routine tax consultancy services, regular legal services, or advertising;

(d) concerning the organisation of and participation in forums to share knowledge between businesses, competitions, exhibitions and fairs:

(i) participation fees;

(ii) travel costs;

(iii) costs of publications;

(iv) the rent of exhibition premises;

(v) symbolic prizes awarded in the framework of competitions, up to a value of EUR 250 per prize and winner;

(e) provided that individual companies, brands or origin are not named:

(i) the vulgarisation of scientific knowledge;

(ii) factual information on quality systems open to products from other countries, on generic products and on the nutritional benefits of generic products and suggested uses for them.

Aid may also be granted to cover the costs referred to in point (e) if the origin of products covered by Council Regulation (EC) No 510/2006<sup>(16)</sup> and by Articles 54 to 58 of Council Regulation (EC) No 1493/1999<sup>(17)</sup> is indicated, provided that the references to the origin correspond exactly to those references which have been registered by the Community.

(f) publications such as catalogues or websites presenting factual information about producers from a given region or producers of a given product, provided the information and presentation is neutral and that all producers concerned have equal opportunities to be represented in the publication.

3. The aid may cover 100 % of the costs listed in paragraph 2. The aid must be granted in kind by means of subsidised services and must not involve direct payments of money to producers.

<sup>(16)</sup> OJ L 93, 31.3.2006, p. 12.

<sup>(17)</sup> OJ L 179, 14.7.1999, p. 1.

4. The aid must be accessible to all those eligible in the area concerned, based on objectively defined conditions. Where the provision of technical support is undertaken by producer groups or other organisations, membership of such groups or organisations must not be a condition for access to the service. Any contribution of non-members towards the administrative costs of the group or organisation concerned must be limited to the costs of providing the service.

#### Article 16

##### Support for the livestock sector

1. The following aid to enterprises active in the livestock sector shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty:

- (a) aid at a rate of up to 100 % to cover the administrative costs of the establishment and maintenance of herd books;
- (b) aid at a rate of up to 70 % of the costs of tests performed by or on behalf of third parties, to determine the genetic quality or yield of livestock, with the exception of controls undertaken by the owner of the livestock and routine controls of milk quality;
- (c) until 31 December 2011, aid at a rate of up to 40 % for the introduction at farm level of innovative animal breeding techniques or practices, with the exception of costs relating to the introduction or performance of artificial insemination;
- (d) aid at a rate of up to 100 % of costs of removal of fallen stock, and 75 % of the costs of destruction of such carcasses; alternatively, aid up to an equivalent amount towards the costs of premiums paid by farmers for insurance covering the costs of removal and destruction of fallen stock;
- (e) aid at a rate of up to 100 % for costs of removal and destruction of carcasses where the aid is financed through fees or through compulsory contributions destined for the financing of the destruction of such carcasses, provided that such fees or contributions are limited to and directly imposed on the meat sector;
- (f) aid of 100 % for the costs of removal and destruction of fallen stock where there is an obligation to perform TSE tests on the fallen stock concerned;
- (g) aid at a rate of up to 100 % towards the costs of TSE tests.

As far as compulsory BSE testing of bovine animals slaughtered for human consumption is concerned, total direct and indirect support, including Community payments, must not be more than EUR 40 per test. This amount refers to the total costs of testing, comprising test-kit, taking, transporting, testing, storing and destruction of the sample. The obligation to test may be based on Community or national legislation.

2. The exemption provided for in paragraph 1(d), (e), (f) and (g) shall be conditional upon the existence of a consistent programme monitoring and ensuring safe disposal of all fallen stock in the Member State. In order to facilitate administration of such State aid, payment may be made to economic operators active downstream from the farmer, providing services linked to the removal and/or destruction of fallen stock, if it can be properly demonstrated that the full amount of State aid paid is passed on to the farmer.

3. The aid shall not involve direct payments of money to producers.

#### Article 17

##### Aid provided for in certain Council Regulations

The following aid to small and medium-sized enterprises shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty:

- (a) aid granted by Member States fulfilling all the conditions laid down in Council Regulation (EC) No 1255/1999<sup>(18)</sup>, in particular Article 14(2) thereof;
- (b) aid granted by Member States fulfilling all the conditions laid down in Council Regulation (EC) No 1782/2003<sup>(19)</sup>, in particular Article 87, Article 107(3) and the first subparagraph of Article 125(5) thereof;
- (c) aid granted by Member States in accordance with Article 15(6) of Council Regulation (EC) No 2200/96<sup>(20)</sup>.

#### CHAPTER 3

##### COMMON AND FINAL PROVISIONS

#### Article 18

##### Steps preceding grant of aid

1. In order to qualify for exemption under this Regulation, aid shall only be granted under an aid scheme in respect of activities undertaken or services received after the aid scheme has been set up and published in accordance with this Regulation.

<sup>(18)</sup> OJ L 160, 26.6.1999, p. 48.

<sup>(19)</sup> OJ L 270, 21.10.2003, p. 1.

<sup>(20)</sup> OJ L 297, 21.11.1996, p. 1.

If the aid scheme creates an automatic right to receive the aid, requiring no further action at administrative level, the aid itself shall only be granted in respect of activities undertaken or services received after the aid scheme has been set up and published in accordance with this Regulation.

If the aid scheme requires an application to be submitted to the competent authority concerned, the aid itself shall only be granted in respect of activities undertaken or services received after the following conditions have been fulfilled:

- (a) the aid scheme must have been set up and published in accordance with this Regulation;
- (b) an application for the aid must have been properly submitted to the competent authority concerned;
- (c) the application must have been accepted by the competent authority concerned in a manner which obliges that authority to grant the aid, clearly indicating the amount of aid to be granted or how this amount will be calculated; such acceptance by the competent authority may only be made if the budget available for the aid or aid scheme not exhausted.

2. In order to qualify for exemption under this Regulation, individual aid outside any aid scheme shall only be granted in respect of activities undertaken or services received after the criteria in points (b) and (c) of the third subparagraph of paragraph 1 have been satisfied.

3. This Article shall not apply to aid covered by Article 17.

#### Article 19

##### Cumulation

1. The aid ceilings fixed in Articles 4 to 16 shall apply regardless of whether the support for the aided project or activity is financed entirely from State resources or is partly financed by the Community.

2. Aid exempted by this Regulation shall not be cumulated with any other State aid within the meaning of Article 87(1) of the Treaty, or financial contributions provided by Member States, including those covered by the second subparagraph of Article 88(1) of Regulation (EC) No 1698/2005, or financial contributions by the Community in relation to the same eligible costs, if such cumulation would result in an aid intensity exceeding the maximum laid down in this Regulation.

3. Aid exempted by this Regulation shall not be cumulated with *de minimis* support within the meaning of Regulation (EC) No 1860/2004 in respect of the same eligible expenditure or investment project, if such cumulation would result in an aid intensity exceeding that fixed by this Regulation.

#### Article 20

##### Transparency and monitoring

1. At the latest 10 working days before the entry into force of an aid scheme exempted by this Regulation, or the granting of individual aid exempted by this Regulation outside any scheme, Member States shall forward to the Commission, with a view to its publication in the *Official Journal of the European Union*, a summary of the information regarding such aid scheme or individual aid in the form laid down in Annex I. This shall be provided in computerised form. Within 10 working days of receipt of that summary, the Commission will send a notice of receipt with an identification number and publish the summary on the internet.

2. Member States shall maintain detailed records regarding the aid schemes exempted by this Regulation, the individual aid granted under those schemes, and the individual aid exempted by this Regulation that is granted outside any existing aid scheme. Such records shall contain all information necessary to establish that the conditions for exemption, as laid down in this Regulation, are fulfilled, including information on the status of the company as an SME. Member States shall keep a record regarding each individual aid for 10 years from the date on which it was granted and, regarding an aid scheme, for 10 years from the date on which the last individual aid was granted under such scheme. On written request, the Member State concerned shall provide the Commission, within a period of 20 working days or such longer period as may be fixed in the request, with all the information which the Commission considers necessary to assess whether the conditions of this Regulation have been complied with.

3. Member States shall compile a report on the application of this Regulation in respect of each whole or part calendar year during which this Regulation applies, in the form laid down in Annex II. This report may be integrated into the annual report to be submitted by Member States pursuant to Article 21(1) of Council Regulation (EC) No 659/1999<sup>(21)</sup>, and shall be submitted by 30 June of the year following the calendar year covered by the report. By the same date, the Member State shall submit a separate report relating to payments made under Articles 10 and 11 of this Regulation, describing the amounts paid in that calendar year, the conditions for payment, the diseases concerned under Article 10 and, in relation to Article 11, the appropriate meteorological information proofing type, timing, relative magnitude and location of the climatic events and on its consequences on the production for which compensation has been granted.

<sup>(21)</sup> OJ L 83, 27.3.1999, p. 1.

4. As soon as an aid scheme exempted by this Regulation enters into force, or an individual aid exempted by this Regulation is granted outside an aid scheme, Member States shall publish on the internet the full text of such aid scheme, or the criteria and conditions under which such individual aid is granted.

The address of the web-sites including a direct link to the text of the scheme shall be communicated to the Commission together with the summary of the information regarding the aid required pursuant to paragraph 1. It shall also be contained in the annual report submitted pursuant to paragraph 3.

5. Paragraph 1 shall not apply to aid covered by Article 17.

#### Article 21

#### Amendment of Regulation (EC) No 70/2001

Regulation (EC) No 70/2001 is amended as follows:

1. In Article 1(2), point (a) is replaced by the following:

‘(a) to fishery and aquaculture products covered by Council Regulation (EC) No 104/2000 (\*) and to activities linked to the primary production (farming) of agricultural products; to the manufacture and marketing of products intended to imitate or substitute for milk and milk products;

(\*) OJ L 17, 21.1.2000, p. 22.’

2. Article 2 is amended as follows:

the following points (k) to (n) are added:

‘(k) “agricultural product” means:

(i) the products listed in Annex I of the Treaty, except fishery and aquaculture products covered by Regulation (EC) No 104/2000;

(ii) products falling under CN codes 4502, 4503 and 4505 (cork products);

(iii) products intended to imitate or substitute milk and milk products, as referred to in Article 3(2) of Council Regulation (EEC) No 1898/87 (\*);

(l) “products intended to imitate or substitute milk and milk products” means products which could be confused with milk and/or milk products but whose composition differs from such products in that they contain fat and/or protein of non-milk origin with or without protein derived from milk (“products other than

milk products” as referred to in Article 3(2) of Regulation (EEC) No 1898/87);

(m) “processing of agricultural products” means any operation on an agricultural product resulting in a product which is also an agricultural product, except on farm activities necessary for preparing an animal or plant product for the first sale;

(n) “marketing of agricultural products” means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered as marketing if it takes place in separate premises reserved for that purpose.

(\*) OJ L 182, 3.7.1987, p. 36.’

3. In Article 4, the following paragraph 7 is added:

‘7. Where the investment concerns the processing and marketing of agricultural products listed in Annex I to the Treaty, the gross aid intensity may not exceed:

(a) 75 % of eligible investments in the outermost regions;

(b) 65 % of eligible investments in the smaller Aegean Islands within the meaning of Council Regulation (EEC) No 2019/93 (\*);

(c) 50 % of eligible investments in regions eligible under Article 87(3)(a) EC;

(d) 40 % of eligible investments in all other regions.

(\*) OJ L 184, 27.7.1993, p. 1.’

4. In Annex II, the following is added after ‘Other manufacturing’, at the same level as ‘All manufacturing’:

Processing and marketing of agricultural products (\*)

(\*) As defined in Article 2(k) of this Regulation.’

#### Article 22

#### Transitional measures

Aid schemes exempted under Regulation (EC) No 1/2004 which fulfil all the conditions of this Regulation shall continue to be exempted until the date mentioned in Article 23(1) of this Regulation

*Article 23***Entry into force and applicability**

1. This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2007 until 31 December 2013.

2. Notifications pending at the time of entry into force of this Regulation shall be assessed in accordance with its provisions. Where the conditions of this Regulation are not fulfilled, the Commission will examine such pending notifications under the Community guidelines for State aid in the agriculture sector.

Individual aid and aid schemes implemented before the date of entry into force of this Regulation and aid granted under those schemes in the absence of a Commission authorisation and in breach of the notification requirement of Article 88(3) of the Treaty shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt if they fulfil the conditions laid down in Article 3 of this Regulation, except the requirements in paragraph 1 and paragraph 2 (b) and (c) of that Article that express reference be made to this Regulation, and that the summary provided for in Article 20(1) has been submitted before granting aid. Any aid which does not fulfil those conditions will be assessed by the Commission in accordance with the relevant frameworks, guidelines, communications and notices.

3. Aid schemes exempted under this Regulation shall remain exempt for a period of six months following the date of expiry of this Regulation.

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

Done at Brussels, 15 December 2006.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

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## ANNEX I

**Form of summary information to be provided whenever an aid scheme exempted by this Regulation is implemented and whenever an individual aid exempted by this Regulation is granted outside any aid scheme**

Summary information on State aid granted in conformity with Commission Regulation (EC) No 1857/2006

**Member State**

**Region** (Indicate the name of the region if the aid is granted by a subcentral authority).

**Title of aid scheme or name of company receiving an individual aid** (Indicate the name of the aid scheme or in case of individual aid, the name of the beneficiary).

**Legal basis** (Indicate the precise national legal reference for the aid scheme or for the individual aid).

**Annual expenditure planned under the scheme or overall amount of individual aid granted to the company** (Amounts are to be given in euros or, if applicable, national currency. In case of an aid scheme, indicate the annual overall amount of the budget appropriation(s) or the estimated tax loss per year for all aid instruments contained in the scheme. In case of an individual aid award: indicate the overall aid amount/tax loss. If appropriate, indicate also for how many years the aid will be paid in instalments or over how many years tax losses will be incurred. For guarantees in both cases, indicate the (maximum) amount of loans guaranteed).

**Maximum aid intensity** (Indicate the maximum aid intensity or the maximum aid amount per eligible item).

**Date of implementation** (Indicate the date from which aid may be granted under the scheme or when the individual aid is granted).

**Duration of scheme or individual aid award** (Indicate the date (year and month) until which aid may be granted under the scheme or in case of an individual aid and if appropriate the expected date (year and month) of the last instalment to be paid).

**Objective of aid** (It is understood that the primary objective is aid to SME. Indicate the further (secondary) objectives pursued. Indicate which one of (Articles(s) 4 to 17) is used and the eligible costs covered by the scheme or individual aid.

**Sector(s) concerned** (Indicate the subsectors by mentioning the type of animal production (e.g. pig/poultry) or type of plant production (e.g. apple/tomato) concerned).

**Name and address of the granting authority**

**Web-address** (Indicate the internet address where the full text of the scheme or the criteria and conditions under which individual aid is granted outside of an aid scheme can be found).

**Other information.**

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## ANNEX II

**Form of the periodic report to be provided to the Commission****Annual reporting format on aid schemes exempted under a group exemption regulation adopted pursuant to Article 1 of Council Regulation (EC) No 994/98**

Member States are required to use the format below for their reporting obligations to the Commission under group exemption regulations adopted on the basis of Regulation (EC) No 994/98.

The reports shall be provided in computerised form.

Information required for all aid schemes exempted under group exemption regulations adopted pursuant to Article 1 of Regulation (EC) No 994/98.

1. *Title of aid scheme*
2. *Commission exemption regulation applicable*
3. *Expenditure*

(Separate figures have to be provided for each aid instrument within a scheme or individual aid (e.g. grant, soft loans, etc.)). The figures have to be expressed in euros or, if applicable, national currency. In the case of tax expenditure, annual tax losses have to be reported. If precise figures are not available, such losses may be estimated.

These expenditure figures should be provided on the following basis.

For the year under review indicate separately for each aid instrument within the scheme (e.g. grant, soft loan, guarantee, etc.):

- 3.1. amounts committed, (estimated) tax losses or other revenue forgone, data on guarantees, etc. for new assisted projects. In the case of guarantee schemes, the total amount of new guarantees handed out should be provided;
- 3.2. actual payments, (estimated) tax losses or other revenue forgone, data on guarantees, etc. for new and current projects. In the case of guarantee schemes, the following should be provided: total amount of outstanding guarantees, premium income, recoveries, indemnities paid out, operating result of the scheme under the year under review;
- 3.3. number of assisted projects and/or enterprises;
- 3.4. [Leave blank]
- 3.5. estimated overall amount of:
  - investment aided,
  - expenditure for conservation of traditional landscapes and buildings aided,
  - expenditure for relocation of farm buildings in the public interest aided,
  - aid granted for setting up of young farmers,
  - aid granted for early retirement,
  - expenditure of producer groups aided,
  - expenditure for diseases,
  - expenditure for bad weather compensation,
  - expenditure for insurance premiums aided,

- 
- aid granted for land reparation,
  - aid granted to encourage the production of quality agricultural products,
  - expenditure for technical support aided,
  - expenditure for support for the animal sector;
- 3.6. regional breakdown of amounts under points 3.1. by less favoured areas or by areas referred to in Article 36(a)(i), (ii) and (iii) of Council Regulation (EC) No 1698/2005 and other areas;
- 3.7. sectoral breakdown of amounts under 3.1. by beneficiaries' sectors of activity (if more than one sector is covered, indicate the share of each):
- type of animal product,
  - type of plant product.
4. *Other information and remarks.*
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**COMMISSION REGULATION (EC) No 1858/2006****of 15 December 2006****opening a tendering procedure for the sale of wine alcohol for use as bioethanol in the Community**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

*Article 1*

1. Tendering procedure No 8/2006 EC is hereby opened for the sale of wine alcohol for use as bioethanol in the Community.

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

The alcohol concerned has been produced from distillation under Articles 27, 28 and 30 of Regulation (EC) No 1493/1999 and is held by the intervention agencies of the Member States.

Whereas:

(1) 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 <sup>(2)</sup>, lays down, among other things, detailed rules for disposing of stocks of alcohol obtained from distillation under Articles 35, 36 and 39 of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine <sup>(3)</sup> and referred to in Articles 27, 28 and 30 of Regulation (EC) No 1493/1999 and held by the intervention agencies.

2. The total volume put up for sale is 685 562,74 hectolitres of alcohol at 100 % vol., broken down as follows:

(2) A tendering procedure for the sale of wine alcohol for exclusive use as bioethanol in the fuel sector in the Community should be organised in accordance with Article 92 of Regulation (EC) No 1623/2000 with a view to reducing Community stocks of wine alcohol and ensuring the continuity of supplies to firms approved under that Article.

(a) one lot with the number 82/2006 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;

(b) one lot with the number 83/2006 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;

(3) Since 1 January 1999, in accordance with Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro <sup>(4)</sup>, the selling price and securities must be expressed, and payments made, in euro.

(c) one lot with the number 84/2006 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;

(d) one lot with the number 85/2006 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;

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

(e) one lot with the number 86/2006 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;

(f) one lot with the number 87/2006 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;

(g) one lot with the number 88/2006 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;

(h) one lot with the number 89/2006 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;

(i) one lot with the number 90/2006 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;

<sup>(1)</sup> 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).

<sup>(2)</sup> OJ L 194, 31.7.2000, p. 45. Regulation as last amended by Regulation (EC) No 1713/2006 (OJ L 321, 21.11.2006, p. 11).

<sup>(3)</sup> OJ L 84, 27.3.1987, p. 1. Regulation repealed by Regulation (EC) No 1493/1999.

<sup>(4)</sup> OJ L 349, 24.12.1998, p. 1.

- (j) one lot with the number 91/2006 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
  - (k) one lot with the number 92/2006 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
  - (l) one lot with the number 93/2006 EC for a quantity of 50 000 hectolitres of alcohol at 100 % vol.;
  - (m) one lot with the number 94/2006 EC for a quantity of 53 380,74 hectolitres of alcohol at 100 % vol.;
  - (n) one lot with the number 95/2006 EC for a quantity of 32 182 hectolitres of alcohol at 100 % vol.
- (c) an undertaking by tenderers that they will comply with all the rules applicable to this tendering procedure;
  - (d) a statement by tenderers to the effect that:
    - (i) they waive all claims in respect of the quality and characteristics of any alcohol awarded to them;
    - (ii) they agree to submit to any checks made on the destination and use made of the alcohol;
    - (iii) they accept that it is their responsibility to provide evidence that the alcohol is used as specified in the notice of invitation to tender in question.

3. The location and references of the vats making up the lots, the quantity of alcohol in each vat, the alcoholic strength and the characteristics of the alcohol are as set out in Annex I to this Regulation.

4. Only firms approved under Article 92 of Regulation (EC) No 1623/2000 may take part in the tendering procedure.

#### Article 2

The sale shall be conducted in accordance with Articles 93, 94, 94b, 94c, 94d, 95, 96, 97, 98, 100 and 101 of Regulation (EC) No 1623/2000 and Article 2 of Regulation (EC) No 2799/98.

#### Article 3

1. Tenders shall be delivered to the intervention agencies holding the alcohol listed in Annex II or sent by registered mail to the address of the intervention agency.

2. Tenders shall be placed in a sealed double envelope, the inside envelope marked 'Tender under procedure No 8/2006 EC for use as bioethanol in the Community', the outer envelope bearing the address of the intervention agency concerned.

3. Tenders must reach the intervention agency concerned not later than 12 noon Brussels time on 10 January 2007.

#### Article 4

1. To be eligible for consideration, tenders must comply with Articles 94 and 97 of Regulation (EC) No 1623/2000.

2. To be eligible for consideration, when they are presented, tenders must be accompanied by:

- (a) proof that a tendering security of EUR 4 per hectolitre of alcohol at 100 % vol. has been lodged with the intervention agency holding the alcohol concerned;
- (b) the name and address of the tenderer, the reference number of the notice of invitation to tender and the price proposed, expressed in euro per hectolitre of alcohol at 100 % vol.;

#### Article 5

The notifications provided for in Article 94a of Regulation (EC) No 1623/2000 relating to the tendering procedure opened by this Regulation shall be sent to the Commission at the address given in Annex III to this Regulation.

#### Article 6

The formalities for sampling shall be as set out in Article 98 of Regulation (EC) No 1623/2000.

The intervention agency shall provide all the necessary information on the characteristics of the alcohol put up for sale.

On application to the intervention agency concerned, interested parties may obtain samples of the alcohol put up for sale, taken by a representative of the intervention agency concerned.

#### Article 7

1. The intervention agencies in the Member States in which the alcohol put up for sale is stored shall carry out appropriate checks to verify the nature of the alcohol at the time of end-use. To that end, they may:

- (a) apply Article 102 of Regulation (EC) No 1623/2000 *mutatis mutandis*;
- (b) carry out checks on samples using nuclear magnetic resonance analysis to verify the nature of the alcohol at the time of end-use.

2. The costs of the checks referred to in paragraph 1 shall be borne by the firms to which the alcohol is sold.

#### Article 8

This Regulation shall enter into force on the day 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, 15 December 2006.

*For the Commission*  
Mariann FISCHER BOEL  
*Member of the Commission*

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## ANNEX I

Member State and lot number	Location	Vat No	Quantity in hectolitres of alcohol at 100 % vol.	Regulation (EC) No 1493/1999 (Article)	Type of alcohol
Spain Lot No 82/2006 EC	Tarancón	C-3	25 239	27	raw
		C-4	24 761	27	raw
	Total		50 000		
Spain Lot No 83/2006 EC	Tarancón	C-4	572	27	raw
		D-1	25 575	27	raw
		D-2	23 853	27	raw
	Total		50 000		
Spain Lot No 84/2006 EC	Tarancón	B-2	12 450	30	raw
		B-7	11 880	30	raw
		C-5	24 742	30	raw
		C-6	928	30	raw
	Total		50 000		
Spain Lot No 85/2006 EC	Tarancón	C-6	24 376	30	raw
		D-5	24 880	30	raw
		D-6	744	30	raw
	Total		50 000		
France Lot No 86/2006 EC	Viniflor-Port la Nouvelle Entrepot d'Alcool Av. Adolphe Turrel BP 62 11210 Port la Nouvelle	1	44 610	27	raw
		25	1 140	30	raw
		1B	2 480	30	raw
		1B	1 770	30	raw
	Total		50 000		
France Lot No 87/2006 EC	Viniflor-Port la Nouvelle Entrepot d'Alcool Av. Adolphe Turrel BP 62 11210 Port la Nouvelle	9	14 755	27	raw
		24	5 320	30	raw
		9B	6 595	30	raw
		9B	755	30	raw
		9B	555	28	raw
		24B	6 485	27	raw
		24	870	30	raw
		21	11 590	27	raw
		25B	3 075	27	raw
	Total		50 000		
France Lot No 88/2006 EC	Deulep-PSL 13230 Port Saint Louis du Rhône	B3	24 025	27	raw
		B3B	8 775	30	raw
		B3B	10 965	30	raw
	Deulep Bld Chanzy 30800 Saint Gilles du Gard	72	5 280	30	raw
		72	955	28	raw
	Total		50 000		

Member State and lot number	Location	Vat No	Quantity in hectolitres of alcohol at 100 % vol.	Regulation (EC) No 1493/1999 (Article)	Type of alcohol
France Lot No 89/2006 EC	Deulep Bld Chanzy 30800 Saint Gilles du Gard	71B	11 190	30	raw
		72	3 590	30	raw
		71B	16 030	30	raw
		71	19 190	27	raw
	Total		50 000		
Italy Lot No 90/2006 EC	Cipriani-Chizzola d'Ala (TN)	18A-20A-25A	6 400	27	raw
	Dister-Faenza (RA)	124A-127A	6 000	27/30	raw
	I.C.V. — Borgoriccio (PD)	6A	2 860	27	raw
	Mazzari-S.Agata sul Santerno (RA)	15A-8A-5A	10 007,50	27	raw
	Tampieri-Faenza (RA)	13A-14A-16A	1 500	27	raw
	Villapana-Faenza (RA)	9A-4A	10 000	27	raw
	Deta-Barberino Val d'Elsa (FI)	8A	3 100	27	raw
	Caviro-Faenza (RA)	15A	10 132,50	27	raw
	Total		50 000		
Italy Lot No 91/2006 EC	Bonollo-Paduni (FR)	15A-34A-35A	26 669,32	27/30	raw
	Bonollo-Torrita di Siena (SI)	12C-13C-16C-17C-19C-22C-23C-24C	2 138,18	27	raw
	Mazzari-S.Agata sul Santerno (RA)	15A-8A-5A	21 192,50	27	raw
	Total		50 000		
Italy Lot No 92/2006 EC	Balice Distill-San Basilio Mottola (TA)	3A-4A	2 600	27	raw
	Balice S.n.c.-Valenzano (BA)	8A-9A-40A-43A-44A	9 600	27	raw
	Bonollo-Torrita di Siena (SI)	12C-13C-16C-17C-19C-22C-23C-24C	2 192,50	27	raw
	D'Auria-Ortona (CH)	1A-2A-3A-4A-17A-25A-26A-27A-28A-29A	7 500	27	raw
	De Luca-Novoli (LE)	6A-8A	4 000	27	raw
	Di Lorenzo — Ponte Valleceppi (PG) — Pontenuovo di Torgiano (PG)	18A-3B	13 000	30	raw
	S.V.A.-Ortona (CH)	17A-19A-20A	2 600	27/30	raw
	Caviro-Carapelle (FG)	3C-6C	8 507,50	27/30	raw
	Total		50 000		
Italy Lot No 93/2006 EC	Bertolino-Partinico (PA)	6A-20A-24A	31 000	30	raw
	S.V.M.-Sciaccà (AG)	29A-41A	5 000	27/30	raw
	GE.DIS.-Marsala (TP)	13B-14B	14 000	30	raw
	Total		50 000		
Greece Lot No 94/2006 EC	Οινοποιητικός συνεταιρισμός Μεσσηνίας Πύργος τριφυλίας (Οινοποιητικός Συνεταιρισμός Messinias)	76	454,96	30	raw
		77	432,94	30	raw
		85	1 782,89	30	raw
		86	1 684,51	30	raw
		87	1 756,59	30	raw

Member State and lot number	Location	Vat No	Quantity in hectolitres of alcohol at 100 % vol.	Regulation (EC) No 1493/1999 (Article)	Type of alcohol
		88	1 753,86	30	raw
		95	873,44	30	raw
		75	444,79	30	raw
		28	904,89	30	raw
		80	463,46	30	raw
		73	387,14	30	raw
		78	27,72	30	raw
		15	1 747,04	30	raw
		16	1 713,67	30	raw
		26	853,18	30	raw
		74	427,35	30	raw
		17	1 743,76	30	raw
		94	887,65	30	raw
		84	1 786,52	30	raw
		79	439,47	30	raw
		93	908,63	30	raw
		83	1 795,78	30	raw
		82	1 758,86	30	raw
		12	1 800,87	30	raw
		11	1 744,16	30	raw
		18	1 707,83	30	raw
		13	1 788,73	30	raw
		96	827,49	30	raw
		81	1 805,07	30	raw
		14	1 800,04	30	raw
		97	915,07	30	raw
		92	908,96	30	raw
		99	911,94	30	raw
		25	905,06	30	raw
		108	432,18	30	raw
		107	432,77	30	raw
		105	448,22	30	raw
		106	441,22	30	raw
		27	897,73	30	raw
		29	579,19	30	raw
		30	667,69	30	raw
		19	901,65	27	raw
		20	892,07	27	raw
		21	900,28	27	raw
		22	899,54	27	raw

Member State and lot number	Location	Vat No	Quantity in hectolitres of alcohol at 100 % vol.	Regulation (EC) No 1493/1999 (Article)	Type of alcohol
		23	882,32	27	raw
		24	653,58	27	raw
		89	847,09	27	raw
		90	880,83	27	raw
		91	856,22	27	raw
		98	878,23	27	raw
		100	745,61	27	raw
	Total		53 380,74		
Portugal Lot No 95/2006 EC	S. João da Pesqueira	Inox 6	5 002,98	27	raw
		Inox 13	10 323,33	27	raw
		Inox 14	10 230,70	27	raw
		Inox 15	6 624,99	27	raw
	Total		32 182		

## ANNEX II

**Intervention agencies holding the alcohol referred to in Article 3**

Viniflor — Libourne	Délégation nationale, 17 avenue de la Ballastière, BP 231, F-33505 Libourne Cedex [Tél. (33-5) 57 55 20 00; télex 57 20 25; fax (33) 557 55 20 59]
FEGA	Beneficencia, 8, E-28004 Madrid [Tél. (34-91) 347 64 66; fax (34-91) 347 64 65]
AGEA	Via Torino, 45, I-00184 Rome [Tél. (39) 06 49 49 97 14; fax (39) 06 49 49 97 61]
Ο.Π.Ε.Κ.Ε.Π.Ε.	Αχαρνών (Acharmon) 241, 10446 Athènes, Grèce (Tél. 210 212 4799; fax 210 212 4791)
IVV — Instituto da Vinha e do Vinho	R. Mouzinho da Silveira, 5, P-1250-165 Lisboa [Tél. (351) 21 350 67 00, fax (351) 21 356 12 25]

## ANNEX III

**Address referred to in Article 5**

European Commission

Directorate-General for Agriculture and Rural Development, Unit D-2

B-1049 Brussels

Fax (32-2) 292 17 75

E-mail: [agri-market-tenders@cec.eu.int](mailto:agri-market-tenders@cec.eu.int)



**COMMISSION REGULATION (EC) No 1859/2006****of 15 December 2006****fixing the standard fee per farm return for the 2007 accounting year of the farm accountancy data network**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 79/65/EEC of 15 June 1965 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Economic Community <sup>(1)</sup>,

Having regard to Commission Regulation (EEC) No 1915/83 of 13 July 1983 on certain detailed implementing rules concerning the keeping of accounts for the purpose of determining the incomes of agricultural holdings <sup>(2)</sup>, and in particular Article 5(3) thereof,

Whereas:

- (1) Article 5(1) of Regulation (EEC) No 1915/83 provides that a standard fee shall be paid by the Commission to the Member States for each duly completed farm returns forwarded to it within the period prescribed in Article 3 of that Regulation.

- (2) Commission Regulation (EC) No 118/2006 <sup>(3)</sup> fixed the amount of the standard fee for the 2006 accounting year at EUR 145 per farm return. The trend in costs and its effects on the costs of completing the farm return justify a revision of the fee.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Community Committee for the Farm Accountancy Data Network,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard fee provided for in Article 5(1) of Regulation (EEC) No 1915/83 shall be fixed at EUR 148.

*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 for the 2007 accounting year.

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

Done at Brussels, 15 December 2006.

*For the Commission*  
Mariann FISCHER BOEL  
*Member of the Commission*

<sup>(1)</sup> OJ 109, 23.6.1965, p. 1859/65. Regulation as last amended by Commission Regulation (EC) No 660/2004 (OJ L 104, 8.4.2004, p. 97).

<sup>(2)</sup> OJ L 190, 14.7.1983, p. 25. Regulation as last amended by Regulation (EC) No 803/2006 (OJ L 144, 31.5.2006, p. 18).

<sup>(3)</sup> OJ L 21, 25.1.2006, p. 12.

**COMMISSION REGULATION (EC) No 1860/2006****of 15 December 2006****amending Regulation (EEC) No 1859/82 concerning the selection of returning holdings for the purpose of determining incomes of agricultural holdings**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 79/65/EEC of 15 June 1965 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Economic Community <sup>(1)</sup>, and in particular Articles 4(4) and 6(2) thereof,

Whereas:

- (1) Annex I to Commission Regulation (EEC) No 1859/82 <sup>(2)</sup> fixes the number of returning holdings per division.
- (2) The number of returning holdings per division in Sweden should be adjusted so that the sample may better represent all the types of farm that are present in the field of observation.
- (3) Regulation (EEC) No 1859/82 should therefore be amended accordingly.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Community Committee for the Farm Accountancy Data Network,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I to Regulation (EEC) No 1859/82 is amended in accordance with the Annex to this Regulation.

*Article 2*

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

It shall apply from the 2007 accounting year.

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

Done at Brussels, 15 December 2006.

*For the Commission*  
Mariann FISCHER BOEL  
*Member of the Commission*

<sup>(1)</sup> OJ 109, 23.6.1965, p. 1859/65. Regulation as last amended by Commission Regulation (EC) No 660/2204 (OJ L 104, 8.4.2004, p. 97).

<sup>(2)</sup> OJ L 205, 13.7.1982, p. 5. Regulation as last amended by Regulation (EC) No 1187/2005 (OJ L 193, 23.7.2005, p 20).

## ANNEX

In Annex I to Regulation (EEC) No 1859/82, the part concerning Sweden is replaced by the following:

	'SWEDEN	
710	Plains of southern and central Sweden	702
720	Forest and mixed agricultural and forest areas of southern and central Sweden	217
730	Areas of northern Sweden	106
	Total Sweden	1 025'

**COMMISSION REGULATION (EC) No 1861/2006****of 15 December 2006****amending Regulation (ECC) No 2237/77 on the form of the farm return to be used for the purpose of determining incomes of agricultural holdings**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation No 79/65/EEC of the Council of 15 June 1965 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Economic Community <sup>(1)</sup>, and in particular Article 7(3) thereof,

Whereas:

(1) Commission Regulation (ECC) No 2237/77 of 23 September 1977 amending Regulation No 118/66/EEC on the form of farm return to be used for the purpose of determining incomes of agricultural holdings <sup>(2)</sup> lays down the type of accountancy data to be given in the farm return.

(2) It is appropriate to adapt the contents of the farm return to the new provisions on the Structural Funds and on

rural development, and to clarify, simplify or make more coherent some elements of the farm return.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Community Committee for the Farm Accountancy Data Network,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annexes I and II to Regulation (ECC) No 2237/77 are amended in accordance with the Annex to this Regulation.

*Article 2*

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

It shall apply with effect from the 2007 accounting year beginning during the period between 1 January and 1 July 2007.

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

Done at Brussels, 15 December 2006.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ 109, 23.6.1965, p. 1859. Regulation as last amended by Commission Regulation (EC) No 660/2004. (OJ L 104, 8.4.2004, p. 97).

<sup>(2)</sup> OJ L 263, 17.10.1977, p. 1. Regulation as last amended by Regulation (EC) No 2253/2004 (OJ L 385, 29.12.2004, p. 7).

## ANNEX

The Annexes to Regulation (EEC) No 2237/77 are amended as follows:

1) Annex I is amended as follows:

- (a) In Table A (GENERAL INFORMATION ON THE HOLDING) under heading number 2, the words '— Number of the accounting office (optional)' are replaced by '— Number of the accounting office'.
- (b) In Table H, in the headings of columns 4 and 8 the words 'working capital' are replaced by 'Other assets'.

(2) Annex II is amended as follows:

(a) Serial No 44 is replaced by the following:

'Serial No 44 — Structural Funds Area: an indication is to be given of whether the majority of the utilised agricultural area of the holding is situated in an area covered by provisions of Articles 5, 6, or 8 of Council Regulation (EC) No 1083/2006 (OJ L 210, 31.7.2006, p. 25). The following code numbers are to be used:

- 6 = the majority of the utilised agricultural area of the holding is situated in a Convergence objective area, within the meaning of Regulation (EC) No 1083/2006, in particular Article 5 thereof;
- 7 = the majority of the utilised agricultural area of the holding is situated in a Regional competitiveness and employment objective area, within the meaning of Regulation (EC) No 1083/2006, in particular Article 6 thereof;
- 8 = the majority of the utilised agricultural area of the holding is situated in an area eligible for transitional support, within the meaning of Article 8 of Regulation (EC) No 1083/2006.'

(b) Serial No 45 is replaced by the following:

'Serial No 45 — Areas with environmental restrictions: an indication is to be given of whether the majority of the utilised agricultural area of the holding is situated in an area covered by provisions of Article 38 of Regulation (EC) No 1698/2005. The following code numbers are to be used:

- 1 = the majority of the utilised agricultural area of the holding is not situated in an area eligible to Natura 2000 payments or payments linked to Directive 2000/60/EC, within the meaning of Article 38 of Regulation (EC) No 1698/2005;
- 2 = the majority of the utilised agricultural area of the holding is situated in an area eligible to Natura 2000 payments or payments linked to Directive 2000/60/EC, within the meaning of Article 38 of Regulation (EC) No 1698/2005.'

(c) Point 23 is replaced by the following:

'23. CALVES FOR FATTENING

Calves for fattening usually slaughtered at the age of about six months.'

(d) In point 106, the second indent is replaced by the following:

'— loans for other assets (columns 4 and 8).'

(e) In point 107 VAT system, under LITHUANIA, the words 'VAT not applicable' are replaced by 'Special.'

(f) Point 138 is replaced by the following:

'138. Fresh vegetables, melons, strawberries under shelter (including pineapple and sweetcorn): crops grown under shelter (greenhouses, permanent frames, accessible plastic tunnels) during the whole or greater part of the growing season. Crops grown in not accessible plastic tunnels, under cloches or portable frames are not considered as crops under shelter. In the case of a multistorey greenhouse, only the basic area is counted.'

(g) Point 169 is replaced by the following:

'169. Hens' eggs (including eggs for hatching).'

(h) In section L. QUOTAS AND OTHER RIGHTS, under COLUMNS IN TABLE L and under Taxes, additional levy (column 10), the last sentence 'Enter "0" if there is quota but no payment' is deleted.

(i) In point 601, Area payments for non-irrigated land, the sentence 'Sum of headings 602 to 618' is replaced by the following:

'In column 4, Number of basic units for payments: sum of headings 602 to 618 excluding headings 608, 614 and 618 when the same basic units are also registered under any other heading in table M. In column 5 Total aid: sum of headings 602 to 618.'

(j) In point 621, Area payments for irrigated land, the sentence 'Sum of headings 622 to 638' is replaced by the following:

'In column 4, Number of basic units for payments: sum of headings 622 to 638 excluding headings 628, 634 and 638 when the same basic units are also registered under any other heading in table M. In column 5 Total aid: sum of headings 622 to 638.'

(k) Point 700 is replaced by the following:

'700. Direct payments to beef production pursuant to Council Regulation (EC) No 1254/1999 and (EC) No 1782/2003.

The total of direct payments to beef is also to be entered in Table J, with code 700.

The following table indicates headings for direct payments to beef, according to Regulation (EC) No 1254/1999 and (EC) No 1782/2003,

Headings		Number of basic units for payments	Total aid
700	Total beef payments (sum of headings 710, 720, 730, 740, 750, 760)	—	Compulsory
710	Special premium (sum of headings 711 and 715)	Compulsory	Compulsory
711	Special premium for bulls	Compulsory	Compulsory
715	Special premium for steers	Compulsory	Compulsory
730	Suckler cow premium (sum of headings 731 and 735)	—	Compulsory
731	Suckler cow premium for suckler cows and heifers	Compulsory	Compulsory
735	Suckler cow premium: additional national premium	Compulsory	Compulsory
740	Slaughter premium (sum of headings 741 and 742)	—	Compulsory
741	Slaughter premium: 1 to 7 months	Optional	Compulsory
742	Slaughter premium: 8 months and over	Compulsory	Compulsory
750	Extensification payment, total	Compulsory	Compulsory
760	Additional payments (national envelope)	—	Compulsory'

**COMMISSION REGULATION (EC) No 1862/2006****of 15 December 2006****amending Regulation (EC) No 622/2003 laying down measures for the implementation of the common basic standards on aviation security****(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 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security<sup>(1)</sup> and in particular Article 4(2) thereof,

Whereas:

- (1) The Commission is required, by virtue of Regulation (EC) No 2320/2002, to adopt measures for the implementation of common basic standards for aviation security throughout the Community. Commission Regulation (EC) No 622/2003 of 4 April 2003 laying down measures for the implementation of the common basic standards on aviation security<sup>(2)</sup> was the first act laying down such measures.
- (2) There is a need for measures to make the common basic standards more precise.
- (3) As regards walk-through metal detection equipment (WTMD) performance requirements should be laid down in an act. The standards should, however, be reviewed on a regular basis and at least every 2 years to ensure that they continue to reflect technical developments.
- (4) The performance requirements for WTMD should be considered as a first step in the full harmonisation of

technical specifications for such equipment. It should be complemented as swiftly as possible by harmonised procedures for the classification, including test conditions, of WTMD.

- (5) In accordance with Regulation (EC) No 2320/2002 and in order to prevent acts of unlawful interference, the measures laid down in the Annex to Regulation (EC) No 622/2003 should be secret and should not be published. The same rule necessarily applies to any amending act.
- (6) Regulation (EC) No 622/2003 should be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Civil Aviation Security,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Annex to Regulation (EC) No 622/2003 is amended as set out in the Annex to this Regulation.

Article 3 of that Regulation shall apply as regards the confidential nature of this Annex.

*Article 2*

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 15 December 2006.

*For the Commission*  
Jacques BARROT  
Vice-President

<sup>(1)</sup> OJ L 355, 30.12.2002, p. 1. Regulation as amended by Regulation (EC) No 849/2004 (OJ L 158, 30.4.2004, p. 1).

<sup>(2)</sup> OJ L 89, 5.4.2003, p. 9. Regulation as last amended by Regulation (EC) No 1546/2006 (OJ L 286, 17.10.2006, p. 6).

## ANNEX

In accordance with Article 1 the Annex is secret and shall not be published in the *Official Journal of the European Union*.

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**COMMISSION REGULATION (EC) No 1863/2006****of 15 December 2006****fixing the minimum selling prices for butter for the 22nd individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005**

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 <sup>(1)</sup>, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/99 as regards measures for the disposal of cream, butter and concentrated butter on the Community market <sup>(2)</sup>, the intervention agencies may sell by standing invitation to tender certain quantities of butter from intervention stocks that they hold and may grant aid for cream, butter and concentrated butter. Article 25 of that Regulation lays down that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further laid down

that the price or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure. The amount of the processing security as referred to in Article 28 of Regulation (EC) No 1898/2005 should be fixed accordingly.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 22nd individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005 the minimum selling prices for butter from intervention stocks and the amount of the processing security, as referred to in Articles 25 and 28 of that Regulation respectively, are fixed as set out in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 16 December 2006.

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

Done at Brussels, 15 December 2006.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 308, 25.11.2005, p. 1. Regulation as last amended by Regulation (EC) No 2107/2005 (OJ L 337, 22.12.2005, p. 20).

## ANNEX

**Minimum selling prices for butter and processing security for the 22nd individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005***(EUR/100 kg)*

Formula			A		B	
Incorporation procedure			With tracers	Without tracers	With tracers	Without tracers
Minimum selling price	Butter ≥ 82 %	Unaltered	—	213,7	—	213,7
		Concentrated	206,1	—	—	—
Processing security		Unaltered	—	45	—	45
		Concentrated	45	—	—	—

**COMMISSION REGULATION (EC) No 1864/2006**  
**of 15 December 2006**

**fixing the maximum aid for cream, butter and concentrated butter for the 22nd individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005**

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 <sup>(1)</sup>, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/99 as regards measures for the disposal of cream, butter and concentrated butter on the Community market <sup>(2)</sup>, the intervention agencies may sell by standing invitation to tender certain quantities of butter of intervention stocks that they hold and may grant aid for cream, butter and concentrated butter. Article 25 of that Regulation lays down that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further laid down

that the price or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure. The amount of the processing security as referred to in Article 28 of Regulation (EC) No 1898/2005 should be fixed accordingly.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 22nd individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005 the amount of the maximum aid for cream, butter and concentrated butter and the amount the processing security, as referred to in Articles 25 and 28 of that Regulation respectively, are fixed as set out in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 16 December 2006.

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

Done at Brussels, 15 December 2006.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 308, 25.11.2005, p. 1. Regulation as last amended by Regulation (EC) No 2107/2005 (OJ L 337, 22.12.2005, p. 20).

## ANNEX

**Maximum aid for cream, butter and concentrated butter and processing security for the 22nd individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005***(EUR/100 kg)*

Formula		A		B	
		With tracers	Without tracers	With tracers	Without tracers
Incorporation procedure					
Maximum aid	Butter ≥ 82 %	17,5	14	—	14
	Butter < 82 %	—	13,65	—	—
	Concentrated butter	20	16,58	20	16,5
	Cream	—	—	9	6
Processing security	Butter	19	—	—	—
	Concentrated butter	22	—	22	—
	Cream	—	—	10	—

**COMMISSION REGULATION (EC) No 1865/2006****of 15 December 2006****fixing the maximum aid for concentrated butter for the 22nd individual invitation to tender opened under the standing invitation to tender provided for in Regulation (EC) No 1898/2005**

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 <sup>(1)</sup>, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Article 47 of Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/99 as regards measures for the disposal of cream, butter and concentrated butter on the Community market <sup>(2)</sup>, the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter. Article 54 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 %.
- (2) An end-use security provided for in Article 53(4) of Regulation (EC) No 1898/2005 is to be lodged to

ensure the taking over of the concentrated butter by the retail trade.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 22nd individual tender under the standing invitation to tender opened in accordance with Regulation (EC) No 1898/2005 the maximum amount of the aid for concentrated butter with a minimum fat content of 96 %, as referred to in Article 47(1) of that Regulation, is fixed at 19,27 EUR/100 kg,

The end-use security provided for in Article 53(4) of Regulation (EC) No 1898/2005 is fixed at 21 EUR/100 kg.

*Article 2*

This Regulation shall enter into force on 16 December 2006.

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

Done at Brussels, 15 December 2006.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 308, 25.11.2005, p. 1. Regulation as last amended by Regulation (EC) No 2107/2005 (OJ L 337, 22.12.2005, p. 20).

**COMMISSION REGULATION (EC) No 1866/2006****of 15 December 2006****fixing the minimum selling price for butter for the 54th individual invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 2771/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Pursuant to Article 21 of Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream <sup>(2)</sup>, intervention agencies have put up for sale by standing invitation to tender certain quantities of butter held by them.
- (2) In the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no

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

- (3) In the light of the tenders received, a minimum selling price should be fixed.
- (4) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 54th individual invitation to tender pursuant to Regulation (EC) No 2771/1999, in respect of which the time limit for the submission of tenders expired on 12 December 2006, the minimum selling price for butter is fixed at 236,00 EUR/100 kg.

*Article 2*

This Regulation shall enter into force on 16 December 2006.

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

Done at Brussels, 15 December 2006.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> 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).

<sup>(2)</sup> OJ L 333, 24.12.1999, p. 11. Regulation as last amended by Regulation (EC) No 1802/2005 (OJ L 290, 4.11.2005, p. 3).

**COMMISSION REGULATION (EC) No 1867/2006****of 15 December 2006****fixing the import duties in the cereals sector applicable from 16 December 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 <sup>(1)</sup>,

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 <sup>(2)</sup>, and in particular Article 2(1) thereof,

Whereas:

- (1) Article 10 of Regulation (EC) No 1784/2003 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.
- (2) Pursuant to Article 10(3) of Regulation (EC) No 1784/2003, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market.
- (3) Regulation (EC) No 1249/96 lays down detailed rules for the application of Regulation (EC) No 1784/2003 as regards import duties in the cereals sector.
- (4) The import duties are applicable until new duties are fixed and enter into force.
- (5) In order to allow the import duty system to function normally, the representative market rates recorded during a reference period should be used for calculating the duties.
- (6) Application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in Annex I to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 16 December 2006.

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

Done at Brussels, 15 December 2006.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

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

## ANNEX I

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

CN code	Description	Import duty <sup>(1)</sup> (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	Common high quality wheat other than for sowing	0,00
1002 00 00	Rye	0,00
1005 10 90	Maize seed other than hybrid	9,34
1005 90 00	Maize other than seed <sup>(2)</sup>	9,34
1007 00 90	Grain sorghum other than hybrids for sowing	0,00

<sup>(1)</sup> 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.

<sup>(2)</sup> 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**

(1.12.2006-15.12.2006)

## 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)	155,50 (***)	110,77	173,74	163,74	143,74	156,10
Gulf premium (EUR/t)	—	13,47	—			—
Great Lakes premium (EUR/t)	10,82	—	—			—

(\*) 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: 24,89 EUR/t; Great Lakes–Rotterdam: 28,94 EUR/t.

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

## COMMISSION REGULATION (EC) No 1868/2006

of 15 December 2006

**amending Regulation (EC) No 2247/2003 laying down detailed rules for the application in the beef and veal sector of Council Regulation (EC) No 2286/2002 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2286/2002 of 10 December 2002 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EC) No 1706/98 <sup>(1)</sup>, and in particular Article 5 thereof,

Whereas:

- (1) Commission Regulation (EC) No 2247/2003 <sup>(2)</sup> opens, on a multi-annual basis for periods from 1 January to 31 December, a quota for the import of certain products in the beef and veal sector originating from the ACP States.
- (2) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences <sup>(3)</sup> applies to import licences for import tariff quota periods starting from 1 January 2007. Regulation (EC) No 1301/2006 lays down in particular detailed provisions on applications for import licences, the status of applicants and the issue of licences. That Regulation limits the period of validity of licences to the last day of the import tariff quota period. The provisions of Regulation (EC) No 1301/2006 should apply to imports licences issued pursuant to Regulation (EC) No 2247/2003, without prejudice to additional conditions laid down in that Regulation. It is necessary to align the provisions of Regulation (EC) No 2247/2003 on Regulation (EC) No 1301/2006 where appropriate.
- (3) For the sake of clarity, Article 2(2) of Regulation (EC) No 2247/2003 should be deleted as this provision is merely

a repetition of the provision in Article 50(1) of Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products <sup>(4)</sup>.

- (4) Regulation (EC) No 2247/2003 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 2247/2003 is amended as follows:

1. In Article 2, paragraph 2 is deleted.

2. Article 3 is replaced by the following:

*'Article 3*

Except as otherwise provided for in this Regulation, Regulations (EC) No 1445/95 and (EC) No 1291/2000 and Commission Regulation (EC) No 1301/2006 <sup>(\*)</sup> shall apply.

<sup>(\*)</sup> OJ L 238, 1.9.2006, p. 13.'

3. Article 4 is amended as follows:

(a) in paragraph 1, point (b) is replaced by the following:

'(b) in section 8, the country of origin and the mention "yes" is marked by a cross. Licences shall carry with them an obligation to import from the country indicated;'

<sup>(1)</sup> OJ L 348, 21.12.2002, p. 5.

<sup>(2)</sup> OJ L 333, 20.12.2003, p. 37. Regulation as amended by Regulation (EC) No 1118/2004 (OJ L 217, 17.6.2004, p. 10).

<sup>(3)</sup> OJ L 238, 1.9.2006, p. 13.

<sup>(4)</sup> OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1282/2006 (OJ L 234, 29.8.2006, p. 4).

(b) paragraph 3 is replaced by the following:

'3. Member States shall notify to the Commission, no later than the third working day following the end of the period for the submission of applications, the quantities applied for, broken down by origin and by CN code or group of CN codes as necessary, and expressed in kilogram.'

(c) paragraph 4 is deleted.

4. Article 5 is amended as follows:

(a) paragraph 1 is deleted;

(b) paragraph 2 is replaced by the following:

'2. Import licences shall be issued on the 21st day of each month.'

5. Article 7 is replaced by the following:

'Article 7

The import licences issued in accordance with this Regulation shall be valid for 90 days from their actual date of issue within the meaning of Article 23(2) of Regulation (EC) No 1291/2000.'

*Article 2*

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

It shall apply from 1 January 2007.

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

Done at Brussels, 15 December 2006.

*For the Commission*  
Mariann FISCHER BOEL  
*Member of the Commission*

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## COMMISSION REGULATION (EC) No 1869/2006

of 15 December 2006

**amending Regulation (EC) No 2172/2005 laying down detailed rules for the application of an import tariff quota for live bovine animals of a weight exceeding 160 kg and originating in Switzerland provided for in the Agreement between the European Community and the Swiss Confederation on trade in agricultural products**

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 <sup>(1)</sup>, and in particular the first subparagraph of Article 32(1) thereof,

Whereas,

- (1) Commission Regulation (EC) No 2172/2005 <sup>(2)</sup> opens, on a multi-annual basis for periods from 1 January to 31 December, a duty-free tariff quota for the import of 4 600 live bovine animals originating in Switzerland. In view of the accession of Bulgaria and Romania to the European Union on 1 January 2007, the deadline for the submission of applications for the import tariff quota period 1 January to 31 December 2007 was extended to 8 January 2007 by Commission Regulation (EC) No 1677/2006 of 14 November 2006 derogating from Regulation (EC) No 2172/2005, as regards the date of application for import rights for the tariff quota period 1 January to 31 December 2007 <sup>(3)</sup>.
- (2) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences <sup>(4)</sup> applies to import licences for import tariff quota periods starting from 1 January 2007. Regulation (EC) No 1301/2006 lays down in particular detailed provisions on applications for import licences, the status of applicants and the issue of licences. That Regulation provides that import tariff quotas shall be opened for a period of 12 consecutive months and limits the period of validity of licences to the last day of the import tariff quota period. The provisions of Regulation (EC) No 1301/2006 should apply to imports licences issued pursuant to Regulation (EC) No 2172/2005, without prejudice to additional conditions or derogations laid down in that Regulation. It is necessary to align the provisions of Regulation (EC) No 2172/2005 on Regulation (EC) No 1301/2006 where appropriate.

- (3) With a view to preventing speculation, the quantities available within the quota should be made accessible to operators able to show that they are genuinely engaged in trade of a significant scale with third countries. In consideration of this and in order to ensure efficient management, the traders concerned should be required to have imported a minimum of 50 animals during both reference periods referred to in Article 5 of Regulation (EC) No 1301/2006. Moreover, for administrative reasons, Member States should be allowed to accept certified copies of the documents proving the existence of trade with third countries.
- (4) In case the application of the allocation coefficient referred to in Article 7(2) of Regulation (EC) No 1301/2006 gives a figure of less than 50 head per application, the quantity available should be awarded by the Member States concerned by drawing lots for import rights covering 50 head each, in order to ensure a commercially viable number of animals per application.
- (5) Regulation (EC) No 2172/2005 should therefore be amended accordingly.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 2172/2005 is amended as follows:

1. In Article 1(1), the first sub-paragraph is replaced by the following:

'A duty-free Community import tariff quota is hereby opened every year for periods from 1 January to 31 December for the import of 4 600 live bovine animals originating in Switzerland weighing more than 160 kg, falling within CN codes 0102 90 41, 0102 90 49, 0102 90 51, 0102 90 59, 0102 90 61, 0102 90 69, 0102 90 71 or 0102 90 79.'

<sup>(1)</sup> 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).

<sup>(2)</sup> OJ L 346, 29.12.2005, p. 10.

<sup>(3)</sup> OJ L 314, 15.11.2006, p. 3.

<sup>(4)</sup> OJ L 238, 1.9.2006, p. 13.

2. Article 2 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. For the purposes of application of Article 5 of Regulation (EC) No 1301/2006, engagement in trade with third countries as referred to in that Article shall mean that applicants have imported at least 50 animals covered by CN codes 0102 10 and 0102 90.

Member States may accept as proof of trade with third countries copies of the documents referred to in the second sub-paragraph of Article 5 of Regulation (EC) No 1301/2006, duly certified by the competent authority.'

(b) paragraphs 2 and 3 are deleted.

3. Article 3 is amended as follows:

(a) paragraphs 1 and 4 are deleted;

(b) paragraph 5 is replaced by the following:

'5. After verification of the documents presented, Member States shall forward to the Commission, by the 10th working day following the end of the period for the submission of applications at the latest, the total quantities applied for.

Notwithstanding Article 6(3) of Regulation (EC) No 1301/2006, Article 11 of that Regulation shall apply.'

4. In Article 4, paragraph 2 is replaced by the following:

'2. Where application of the allocation coefficient referred to in Article 7(2) of Regulation (EC) No 1301/2006 gives a figure of less than 50 head per application, the quantity available shall be awarded by the Member States concerned

by drawing lots for import rights covering 50 head each. Where the remainder is less than 50 head, a single import right shall be awarded for that quantity.'

5. In Article 6(4), point (a) is replaced by the following:

'(a) in Box 8, the country of origin and the mention "yes" is marked by a cross;'

6. Article 7 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. By way of derogation from Article 9(1) of Regulation (EC) No 1291/2000, import licences issued pursuant to this Regulation shall not be transferable.'

(b) paragraphs 2 and 4 are deleted.

7. Article 8 is replaced by the following:

'Article 8

Regulations (EC) No 1445/95 and (EC) No 1291/2000 and Commission Regulation (EC) No 1301/2006 (\*) shall apply, subject to this Regulation.

(\*) OJ L 238, 1.9.2006, p. 13.'

8. Annex I is deleted.

#### Article 2

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

It shall apply from 1 January 2007.

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

Done at Brussels, 15 December 2006.

For the Commission  
Mariann FISCHER BOEL  
Member of the Commission

## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 18 July 2006

**on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and Barbados, Belize, the Republic of Congo, the Republic of Fiji, the Republic of Guyana, the Republic of Côte d'Ivoire, Jamaica, the Republic of Kenya, the Republic of Madagascar, the Republic of Malawi, the Republic of Mauritius, the Republic of Mozambique, the Republic of Suriname, Saint Kitts and Nevis, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Trinidad and Tobago, the Republic of Uganda, the Republic of Zambia and the Republic of Zimbabwe on the guaranteed prices for cane sugar for the 2005/2006 delivery period and of an Agreement in the form of an Exchange of Letters between the European Community and the Republic of India on the guaranteed prices for cane sugar for the 2005/2006 delivery period**

(2006/942/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 133, in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Implementation of Protocol 3 on ACP Sugar attached to Annex V to the ACP-EC Partnership Agreement <sup>(1)</sup> and of the Agreement between the European Economic Community and the Republic of India on cane sugar <sup>(2)</sup> is carried out, in accordance with Article 1(2) of each, within the framework of the management of the common organisation of the sugar market.
- (2) It is appropriate to approve the Agreements in the form of an Exchange of Letters between the Community and, of the one part, the States referred to in the Protocol and, of the other part, the Republic of India on the guaranteed prices for cane sugar for the 2005/2006 delivery period,

*Article 1*

The Agreement in the form of an Exchange of Letters between the European Community and Barbados, Belize, the Republic of Congo, the Republic of Fiji, the Republic of Guyana, the Republic of Côte d'Ivoire, Jamaica, the Republic of Kenya, the Republic of Madagascar, the Republic of Malawi, the Republic of Mauritius, the Republic of Mozambique, the Republic of Suriname, Saint Kitts and Nevis, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Trinidad and Tobago, the Republic of Uganda, the Republic of Zambia and the Republic of Zimbabwe on the guaranteed prices for cane sugar for the 2005/2006 delivery period and the Agreement in the form of an Exchange of Letters between the European Community and the Republic of India on the guaranteed prices for cane sugar for the 2005/2006 delivery period are hereby approved on behalf of the Community.

The texts of the Agreements are set out in Annex I and Annex II to this Decision.

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreements referred to in Article 1 in order to bind the Community.

<sup>(1)</sup> OJ L 317, 15.12.2000, p. 3. Agreement as last amended by the Agreement signed in Luxembourg on 25 June 2005 (OJ L 209, 11.8.2005, p. 27).

<sup>(2)</sup> OJ L 190, 23.7.1975, p. 35.

*Article 3*

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

Done at Brussels, 18 July 2006.

*For the Council*  
*The President*  
J. KORKEAOJA

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## ANNEX I

## AGREEMENT

**in the form of an Exchange of Letters between the European Community and Barbados, Belize, the Republic of Congo, the Republic of Fiji, the Republic of Guyana, the Republic of Côte d'Ivoire, Jamaica, the Republic of Kenya, the Republic of Madagascar, the Republic of Malawi, the Republic of Mauritius, the Republic of Mozambique, the Republic of Suriname, Saint Kitts and Nevis, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Trinidad and Tobago, the Republic of Uganda, the Republic of Zambia and the Republic of Zimbabwe on the guaranteed prices for cane sugar for the 2005/2006 delivery period**

## A. Letter No 1

Brussels, 21 November 2006

Sir,

The representatives of the ACP States referred to in Protocol 3 on ACP sugar attached to Annex V to the ACP-EC Partnership Agreement and of the Commission, acting on behalf of the European Community, have agreed, pursuant to the provisions of the said Protocol, on the following:

For the delivery period 1 July 2005 to 30 June 2006, the guaranteed prices referred to in Article 5(4) of the Protocol shall, for the purpose of intervention within the terms of Article 6 of the Protocol, be:

- (a) for raw sugar: EUR 52,37 per 100 kilograms;
- (b) for white sugar: EUR 64,65 per 100 kilograms.

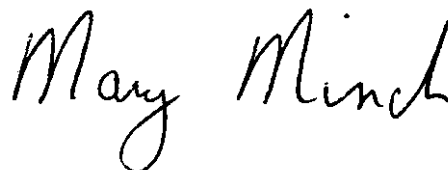
These prices shall refer to sugar of standard quality as defined in Community legislation, unpacked, cif, free out of European ports of the Community. The introduction of these prices in no way prejudices the respective positions of the Contracting Parties in respect of the principles appertaining to the determination of the guaranteed prices.

I should be obliged if you would acknowledge receipt of this letter and confirm that this letter and your reply constitute an Agreement between the Governments of the abovementioned ACP States and the Community.

Please accept, Sir, the assurance of my highest consideration.

*On behalf of the Council  
of the European Union*

Por la Comunidad Europea  
Za Evropské společenství  
For Det Europæiske Fællesskab  
Für die Europäische Gemeinschaft  
Euroopa Ühenduse nimel  
Για την Ευρωπαϊκή Κοινότητα  
For the European Community  
Pour la Communauté européenne  
Per la Comunità europea  
Eiropas Kopienas vārdā  
Europos bendrijos vardu  
Az Európai Közösség részéről  
Għall-Komunità Ewropea  
Voor de Europese Gemeenschap  
W imieniu Wspólnoty Europejskiej  
Pela Comunidade Europeia  
Za Európske spoločenstvo  
Za Evropsko skupnost  
Euroopan yhteisön puolesta  
För Europeiska gemenskapens vägnar





B. Letter No 2

Brussels, 21 November 2006

Sir,

I have the honour to acknowledge receipt of your letter of today which reads as follows:

'The representatives of the ACP States referred to in Protocol 3 on ACP sugar attached to Annex V to the ACP-EC Partnership Agreement and of the Commission, acting on behalf of the European Community, have agreed, pursuant to the provisions of the said Protocol, on the following:

For the delivery period 1 July 2005 to 30 June 2006, the guaranteed prices referred to in Article 5(4) of the Protocol shall, for the purpose of intervention within the terms of Article 6 of the Protocol, be:

(a) for raw sugar: EUR 52,37 per 100 kilograms;

(b) for white sugar: EUR 64,65 per 100 kilograms.

These prices shall refer to sugar of standard quality as defined in Community legislation, unpacked, cif, free out of European ports of the Community. The introduction of these prices in no way prejudices the respective positions of the Contracting Parties in respect of the principles appertaining to the determination of the guaranteed prices.

I should be obliged if you would acknowledge receipt of this letter and confirm that this letter and your reply constitute an Agreement between the Governments of the abovementioned ACP States and the Community.'

I have the honour to confirm the agreement of the Governments of the ACP States referred to in this letter with the foregoing.

Please accept, Sir, the assurance of my highest consideration.

*For the Governments of the  
ACP States referred to in Protocol 3*

For the Government of Barbados



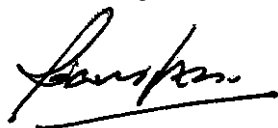
For the Government of Belize



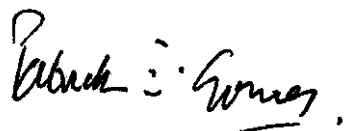
Pour le gouvernement de la République du Congo



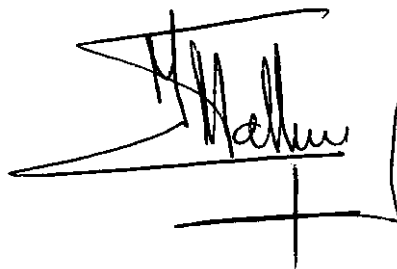
For the Government of the Sovereign Democratic Republic of Fiji



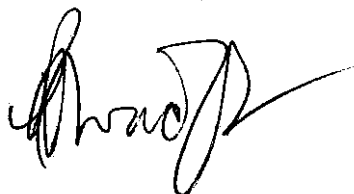
For the Government of the Cooperative Republic of Guyana



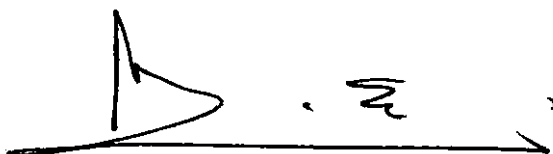
Pour le gouvernement de la République de Côte d'Ivoire



For the Government of Jamaica



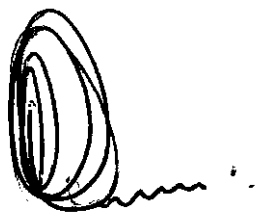
For the Government of the Republic of Kenya



Pour le gouvernement de la République de Madagascar



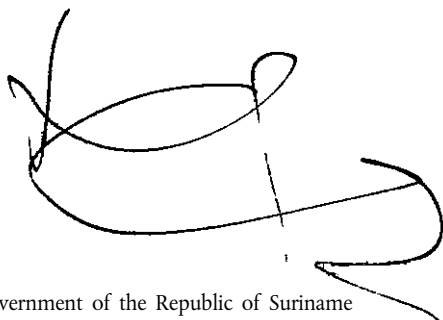
For the Government of the Republic of Malawi

A handwritten signature consisting of a large, circular, scribbled loop followed by a short, wavy horizontal line.

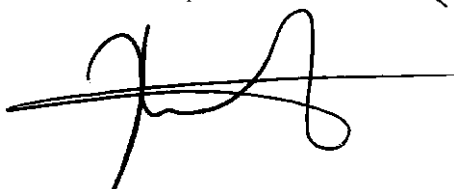
Pour le gouvernement de la République de Maurice

A handwritten signature consisting of a long, diagonal stroke that curves downwards and ends with a small, wavy horizontal line.

For the Government of the Republic of Mozambique

A complex handwritten signature with multiple overlapping loops and a long, sweeping horizontal line extending to the right.

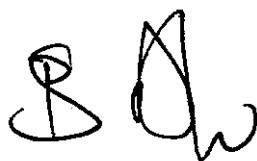
For the Government of the Republic of Suriname

A handwritten signature featuring a prominent horizontal line across the middle, with several loops above and below it.

For the Government of Saint Kitts and Nevis

A handwritten signature that appears to read 'A. Bullen' in a cursive script.

For the Government of the Kingdom of Swaziland

A handwritten signature consisting of two distinct, stylized characters or symbols.

For the Government of the United Republic of Tanzania



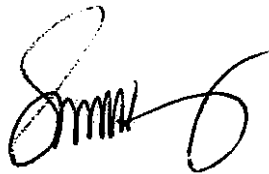
For the Government of the Republic of Trinidad and Tobago



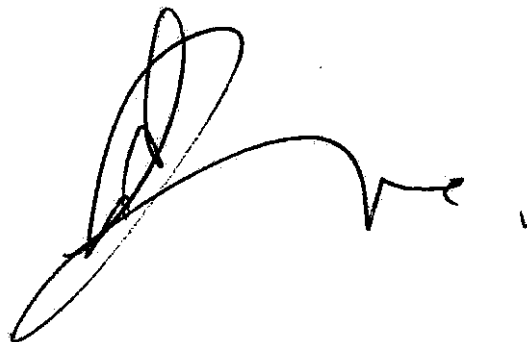
For the Government of the Republic of Uganda



For the Government of the Republic of Zambia



For the Government of the Republic of Zimbabwe



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## ANNEX II

## AGREEMENT

**in the form of an Exchange of Letters between the European Community and the Republic of India on the guaranteed prices for cane sugar for the 2005/2006 delivery period**

## A. Letter No 1

Brussels, 27 October 2006

Sir,

The Representatives of India and of the Commission, acting on behalf of the European Community, have agreed, within the framework of the negotiations provided for in Article 5(4) of the Agreement between the European Community and the Republic of India on cane sugar, on the following:

For the delivery period 1 July 2005 to 30 June 2006, the guaranteed prices referred to in Article 5(4) of the Agreement shall, for the purpose of intervention within the terms of Article 6 of the Agreement, be:

- (a) for raw sugar: EUR 52,37 per 100 kilograms;
- (b) for white sugar: EUR 64,65 per 100 kilograms.

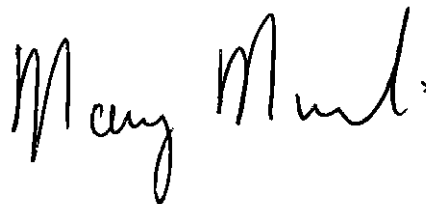
These prices shall refer to sugar of standard quality as defined in Community legislation, unpacked, cif, free out of European ports of the Community. The introduction of these prices in no way prejudices the respective positions of the Contracting Parties in respect of the principles appertaining to the determination of the guaranteed prices.

I should be obliged if you would acknowledge receipt of this letter and confirm that this letter and your reply constitute an Agreement between your Government and the Community.

Please accept, Sir, the assurance of my highest consideration.

*On behalf of the Council  
of the European Union*

Por la Comunidad Europea  
Za Evropské společenství  
For Det Europæiske Fællesskab  
Für die Europäische Gemeinschaft  
Euroopa Ühenduse nimel  
Για την Ευρωπαϊκή Κοινότητα  
On behalf of the European Community  
Au nom de la Communauté européenne  
Per la Comunità europea  
Eiropas Kopienas vārdā  
Europos bendrijos vardu  
Az Európai Közösség részéről  
Għall-Komunità Ewropea  
Voor de Europese Gemeenschap  
W imieniu Wspólnoty Europejskiej  
Pela Comunidade Europeia  
Za Európske spoločenstvo  
Za Evropsko skupnost  
Euroopan yhteisön puolesta  
På Europeiska gemenskapens vägnar



B. Letter No 2

Brussels, 27 October 2006

Sir,

I have the honour to acknowledge receipt of your letter of today which reads as follows:

The Representatives of India and of the Commission, acting on behalf of the European Community, have agreed, within the framework of the negotiations provided for in Article 5(4) of the Agreement between the European Community and the Republic of India on cane sugar, on the following:

For the delivery period 1 July 2005 to 30 June 2006, the guaranteed prices referred to in Article 5(4) of the Agreement shall, for the purpose of intervention within the terms of Article 6 of the Agreement, be:

(a) for raw sugar: EUR 52,37 per 100 kilograms;

(b) for white sugar: EUR 64,65 per 100 kilograms.

These prices shall refer to sugar of standard quality as defined in Community legislation, unpacked, cif, free out of European ports of the Community. The introduction of these prices in no way prejudices the respective positions of the Contracting Parties in respect of the principles appertaining to the determination of the guaranteed prices.

I should be obliged if you would acknowledge receipt of this letter and confirm that this letter and your reply constitute an Agreement between your Government and the Community.'

I have the honour to confirm the agreement of my Government with the foregoing.

Please accept, Sir, the assurance of my highest consideration.

*For the Government of  
the Republic of India*

For the Government of the Republic of India  
Por el Gobierno de la República de la India  
Za vládu Indické republiky  
For regeringen for Republikken Indien  
Für die Regierung der Republik Indien  
India Vabariigi valitsuse nimel  
Για την κυβέρνηση της Δημοκρατίας της Ινδίας  
Au nom du gouvernement de la République de l'Inde  
Per il governo della Repubblica dell'India  
Indijas Republikas valdības vārdā  
Indijos Respublikos Vyriausybės vardu  
Az Indiai Köztársaság kormánya részéről  
Għall-Gvern tar-Repubblika ta' l-Indja  
Voor de Regering van de Republiek India  
W imieniu Rządu Republiki Indii  
Pelo Governo da República da Índia  
Za vládu Indické republiky  
Za Vlado Republike Indije  
Intian tasavallan hallituksen puolesta  
På Republiken Indiens regerings vägnar



# COMMISSION

## COMMISSION DECISION

of 17 November 2006

### on Provisional Application of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project and of the Agreement on Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project

(notified under document number C(2006) 5557)

(2006/943/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

(‘the ITER Organization’) shall be at St Paul-lez-Durance, Bouches-du-Rhône, France.

Having regard to the Treaty establishing the European Atomic Energy Community, and, in particular, Articles 101, 124 and 192 thereof,

(5) As the ITER Host Party, Euratom has special responsibilities for ensuring the timely implementation of the ITER Project.

Whereas:

(1) The Council, in its Decision of 25 September 2006, approved the conclusion by the Commission of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (‘the ITER Agreement’), of the Arrangement on Provisional Application of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (‘the Arrangement on Provisional Application’) and of the Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project.

(6) Agreements concluded by the Community are binding on the institutions of the Community and on Member States.

(7) In accordance with Article 192 of the Treaty, Member States shall facilitate the achievement of the Community’s tasks.

(8) The power to conclude international agreements is vested in the Commission under Article 101 of the Treaty, whereas it is also for the Commission to ensure the provisional application of such agreements in accordance with the approval given by Council,

(2) Article 3 of the Arrangement on Provisional Application expresses the desire of the Signatories of the ITER Agreement (‘the Signatories’) to pursue co-operation as provided for in the ITER Agreement to the fullest possible extent, pending completion by each of them of all domestic actions required prior to ratification, acceptance or approval of the ITER Agreement.

HAS ADOPTED THIS DECISION:

*Sole Article*

The ITER Organization in its provisional capacity shall in the Community:

(3) Article 4 of the Arrangement on Provisional Application expresses the undertaking of the Signatories, to the fullest extent possible consistent with their domestic laws and regulations, to abide by the terms of the ITER Agreement until it enters into force.

(a) enjoy the legal capacity it requires to (i) conclude contracts, in particular for hiring of staff, (ii) acquire, hold and dispose of property, (iii) obtain licenses and (iv) institute legal proceedings to the extent required to carry out necessary actions for a timely implementation of the ITER Project in anticipation of the formal establishment of the ITER Organization; noting that all rights and obligations assumed by the ITER Organization in a provisional capacity shall persist as those of the ITER Organization in accordance with the terms of the ITER Agreement upon the formal establishment of the ITER Organization;

(4) Article 1 of the ITER Agreement provides that the Headquarters of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project

(b) enjoy, together with its staff and representatives of the Signatories, in the territories of the Member States, the privileges and immunities provided for under the Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project, in particular with regard to taxation, immigration and registration, in anticipation of the formal establishment of the ITER Organization;

(c) abide by the provisions of the ITER Agreement; and in particular to observe the applicable national laws and regulations of the Host State in the fields of public and occupational health and safety, nuclear safety, radiation protection,

licensing, nuclear substances, environmental protection and protection from acts of malevolence.

This Decision is addressed to the Member States.

Done at Brussels, 17 November 2006.

*For the Commission*  
Janez POTOČNIK  
*Member of the Commission*



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### Preamble

The European Atomic Energy Community (hereinafter 'Euratom'), the Government of the People's Republic of China, the Government of the Republic of India, the Government of Japan, the Government of the Republic of Korea, the Government of the Russian Federation and the Government of the United States of America,

RECALLING that the successful completion of the ITER Engineering Design Activities under the auspices of the International Atomic Energy Agency (hereinafter 'the IAEA') has placed at the disposal of the Parties a detailed, complete and fully integrated engineering design of a research facility aimed to demonstrate the feasibility of fusion as an energy source;

EMPHASIZING the long term potential of fusion energy as a virtually limitless, environmentally acceptable and economically competitive source of energy;

CONVINCED that ITER is the next important step on the path to develop fusion energy and that now is the appropriate time to initiate the implementation of the ITER Project on the basis of progress of research and development in the field of fusion energy;

HAVING REGARD to the joint declaration by the Representatives of the Parties to the ITER negotiations, on the occasion of the ministerial meeting for ITER on 28 June 2005 in Moscow;

RECOGNIZING that the World Summit on Sustainable Development of 2002 called upon governments to promote increased research and development in the field of various energy technologies, including renewable energy, energy efficiency and advanced energy technologies;

EMPHASIZING the importance of the joint implementation of the ITER Project to demonstrate the scientific and technological feasibility of fusion energy for peaceful purposes and to stimulate the interest of young generations in fusion;

DETERMINED that the ITER Project's overall programmatic objective will be pursued by the ITER International Fusion Energy Organization through a common international research programme organized around scientific and technological goals, developed and executed with participation of leading researchers from all Parties;

EMPHASIZING the importance of safe and reliable implementation of construction, operation, exploitation, de-activation and decommissioning of the ITER facilities with a view to demonstrating safety and promoting social acceptability of fusion as an energy source;

AFFIRMING the importance of genuine partnership in implementing this long term and large scale project for the purpose of fusion energy research and development;

RECOGNIZING that while scientific and technological benefits will be shared equally among the Parties for fusion energy research purposes, other benefits associated with the implementation of the Project will be shared on an equitable basis;

DESIRING to continue the fruitful cooperation with the IAEA in this endeavour,

HAVE AGREED AS FOLLOWS:

#### Article 1

### Establishment of the ITER International Fusion Energy Organization

1. The ITER International Fusion Energy Organization (hereinafter 'the ITER Organization') is hereby established.

2. The headquarters of the ITER Organization (hereinafter 'the Headquarters') shall be at St Paul-lez-Durance, Bouches-du-Rhône, France. For the purposes of this Agreement,

Euratom shall be referred to as 'the Host Party' and France as 'the Host State'.

#### Article 2

### Purpose of the ITER Organization

The purpose of the ITER Organization shall be to provide for and to promote cooperation among the Members referred to in Article 4 (hereinafter 'the Members') on the ITER Project, an international project that aims to demonstrate the scientific and technological feasibility of fusion energy for peaceful purposes, an essential feature of which would be achieving sustained fusion power generation.

*Article 3***Functions of the ITER Organization**

1. The ITER Organization shall:
  - (a) construct, operate, exploit, and de-activate the ITER facilities in accordance with the technical objectives and the general design presented in the Final Report of the ITER Engineering Design Activities (ITER EDA Documentation Series No. 21) and such supplemental technical documents as may be adopted, as necessary, in accordance with this Agreement, and provide for the decommissioning of the ITER facilities;
  - (b) encourage the exploitation of the ITER facilities by the laboratories, other institutions and personnel participating in the fusion energy research and development programmes of the Members;
  - (c) promote public understanding and acceptance of fusion energy; and
  - (d) undertake, in accordance with this Agreement, any other activities that are necessary to achieve its purpose.
2. In the performance of its functions, the ITER Organization shall give special regard to the maintenance of good relations with local communities.

*Article 4***Members of the ITER Organization**

The Parties to this Agreement shall be the Members of the ITER Organization.

*Article 5***Legal Personality**

1. The ITER Organization shall have international legal personality, including the capacity to conclude agreements with States and/or international organizations.
2. The ITER Organization shall have legal personality and enjoy, in the territories of the Members, the legal capacity it requires, including to:
  - (a) conclude contracts;
  - (b) acquire, hold and dispose of property;
  - (c) obtain licenses; and
  - (d) institute legal proceedings.

*Article 6***Council**

1. The Council shall be the principal organ of the ITER Organization and shall be composed of Representatives of the Members. Each Member shall appoint up to four Representatives to the Council.

2. The Depositary referred to in Article 29 (hereinafter 'the Depositary') shall convene the first session of the Council no later than three months after the entry into force of this Agreement, provided that the notifications referred to in Article 12(5) have been received from all Parties.

3. The Council shall elect from among its Members a Chair and a Vice-Chair who shall each serve for a term of one year and who may be re-elected up to three times for a maximum period of four years.

4. The Council shall adopt its Rules of Procedure by unanimity.

5. The Council shall meet twice a year, unless it decides otherwise. The Council may decide to hold an extraordinary session at the request of a Member or of the Director-General. Sessions of the Council shall take place at the Headquarters, unless the Council decides otherwise.

6. When appropriate, the Council may decide to hold a session at the ministerial level.

7. The Council shall be responsible, in accordance with this Agreement, for the promotion, overall direction and supervision of the activities of the ITER Organization in pursuit of its purpose. The Council may take decisions and make recommendations on any questions, matters or issues in accordance with this Agreement. In particular, the Council shall:

- (a) decide on the appointment, replacement and extension of the term of office of the Director-General;
- (b) adopt and amend where necessary, on the proposal of the Director-General, the Staff Regulations and the Project Resource Management Regulations of the ITER Organization;
- (c) decide, on the proposal of the Director-General, the main management structure of the ITER Organization and complement of the Staff;
- (d) appoint senior Staff on the proposal of the Director-General;
- (e) appoint the Members of the Financial Audit Board as referred to in Article 17;
- (f) decide, in accordance with Article 18, on the terms of reference for the undertaking of an assessment of the management of the ITER Organization and appoint a Management Assessor for that purpose;

- (g) decide, on the proposal of the Director-General, the total budget for the various phases of the ITER Project and allowable ranges for adjustment for the purpose of the annual updates referred to in subparagraph (j), and approve the initial ITER Project Plan and Resource Estimates referred to in Article 9;
- (h) approve changes to the overall cost sharing;
- (i) approve, with the consent of the Members concerned, modifications to the procurement allocation without changing the overall cost sharing;
- (j) approve the annual updates of the ITER Project Plan and Resource Estimates and, correspondingly, approve the annual programme and adopt the annual budget of the ITER Organization;
- (k) approve the annual accounts of the ITER Organization;
- (l) adopt the annual reports;
- (m) adopt, as necessary, the supplemental technical documents referred to in Article 3(1)(a);
- (n) establish such subsidiary bodies of the Council as may be necessary;
- (o) approve the conclusion of agreements or arrangements for international cooperation in accordance with Article 19;
- (p) decide on acquisition, sale and mortgaging of land and other titles of real property;
- (q) adopt the rules on Intellectual Property management and the dissemination of information in accordance with Article 10 on the proposal of the Director-General;
- (r) approve, on the proposal of the Director-General, the details of setting up of Field Teams with consent of the Members concerned, in accordance with Article 13. The Council shall review, on a periodic basis, the continuation of any Field Teams established;
- (s) approve, on the proposal of the Director-General, agreements or arrangements governing relations between the ITER Organization and the Members or States on whose territory the Headquarters and Field Teams of the ITER Organization are located;
- (t) approve, on the proposal of the Director-General, efforts to promote collaboration among the relevant domestic fusion research programmes of the Members and between such programmes and the ITER Organization;
- (u) decide on the accession of States or international organizations to this Agreement in accordance with Article 23;
- (v) recommend to the Parties, in accordance with Article 28, amendments to this Agreement;
- (w) decide on the taking or granting of loans, provision of assurances and guarantees and furnishing collateral and security in respect thereto;
- (x) decide whether to propose material, equipment and technology for consideration by international export control for a inclusion on their control lists, and establish a policy supporting peaceful uses and non-proliferation in accordance with Article 20;
- (y) approve compensation arrangements referred to in Article 15; and
- (z) decide on waivers of immunity in accordance with Article 12(3) and have such other powers as may be necessary to fulfill the purpose and to carry out the functions of the ITER Organization, consistent with this Agreement.
8. The Council shall decide issues under subparagraphs (a), (b), (c), (g), (h), (o), (u), (v), (w), (x), (y) and (z) of paragraph 7, and on the weighted voting system referred to in paragraph 10, by unanimity.
9. On all issues other than as specified in paragraph 8, the Members shall use their best efforts to achieve consensus. Failing consensus, the Council shall decide the issue in accordance with the weighted voting system referred to in paragraph 10. Decisions on issues related to Article 14 shall require the concurrence of the Host Party.
10. The respective weights of the votes of the Members shall reflect their contributions to the ITER Organization. The weighted voting system, which shall include both the distribution of votes and the decision making rules, shall be set out in the Council Rules of Procedure.

#### Article 7

#### The Director-General and the Staff

1. The Director-General shall be the chief executive officer and the representative of the ITER Organization in the exercise of its legal capacity. The Director-General shall act in a manner consistent with this Agreement and decisions of the Council, and shall be responsible to the Council for the execution of his/her duties.

2. The Director-General shall be assisted by the Staff. The Staff shall consist of direct employees of the ITER Organization and personnel seconded by the Members.

3. The Director-General shall be appointed for a term of five years. The appointment of the Director-General may be extended once for an additional period of up to five years.

4. The Director-General shall take all measures necessary for the management of the ITER Organization, the execution of its activities, the implementation of its policies and the fulfillment of its purpose. In particular, the Director-General shall:

(a) prepare and submit to the Council:

- the total budget for the various phases of the ITER Project and allowable ranges for adjustment;
- the ITER Project Plan and Resource Estimates and their annual updates;
- the annual budget within the agreed total budget, including the annual contributions, and annual accounts;
- proposals on senior Staff appointments and main management structure of the ITER Organization;
- the Staff Regulations;
- the Project Resource Management Regulations; and
- the annual reports;

(b) appoint, direct and supervise the Staff;

(c) be responsible for safety and undertake all organizational measures needed to observe the laws and regulations referred to in Article 14;

(d) undertake, where necessary in conjunction with the Host State, to obtain the permits and licenses required for the construction, operation and exploitation of the ITER facilities;

(e) promote collaboration among the relevant domestic fusion research programmes of the Members and between such programmes and the ITER Organization;

(f) ensure the quality and fitness of components and systems procured for use by the ITER Organization;

(g) submit to the Council, as necessary, the supplemental technical documents referred to in Article 3(1)(a);

(h) conclude, subject to prior approval of the Council, agreements or arrangements for international cooperation in accordance with Article 19 and supervise their implementation;

(i) make arrangements for the sessions of the Council;

(j) as requested by the Council, assist subsidiary bodies of the Council in the performance of their tasks; and

(k) monitor and control the execution of the annual programmes with respect to timing, results and quality, and accept the completion of the tasks.

5. The Director-General shall attend meetings of the Council unless the Council decides otherwise.

6. Without prejudice to Article 14, the responsibilities of the Director-General and the Staff in respect of the ITER Organization shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any government or from any authority external to the ITER Organization. Each Member shall respect the international character of the responsibilities of the Director-General and the Staff, and shall not seek to influence them in the discharge of their duties.

7. The Staff shall support the Director-General in the performance of his/her duties and shall be under his/her management authority.

8. The Director-General shall appoint the Staff in accordance with the Staff Regulations.

9. The term of the appointment of each Member of the Staff shall be up to five years.

10. The Staff of the ITER Organization shall consist of such qualified scientific, technical and administrative personnel as shall be required for the implementation of the activities of the ITER Organization.

11. The Staff shall be appointed on the basis of their qualifications, taking into account an adequate distribution of posts among the Members in relation to their contributions.

12. In accordance with this Agreement and the relevant regulations, the Members may second personnel and send visiting researchers to the ITER Organization.

## Article 8

**Resources of the ITER Organization**

1. The resources of the ITER Organization shall comprise:

(a) contributions in kind, as referred to in the document 'Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions', comprising: (i) specific components, equipment, materials and other goods and services in accordance with the agreed technical specifications and (ii) staff seconded by the Members;

(b) financial contributions to the budget of the ITER Organization by the Members (hereinafter 'contributions in cash'), as referred to in the document 'Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions';

(c) additional resources received either in cash or in kind within limits and under terms approved by the Council.

2. The respective Members' contributions over the duration of this Agreement shall be as referred to in the documents 'Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions' and 'Cost Sharing for all Phases of the ITER Project' and may be updated by unanimous decision of the Council.

3. The resources of the ITER Organization shall be solely used to promote the purpose and to exercise the functions of the ITER Organization in accordance with Articles 2 and 3.

4. Each Member shall provide its contributions to the ITER Organization through an appropriate legal entity, hereinafter 'the Domestic Agency' of that Member, except where otherwise agreed by the Council. The approval of the Council shall not be required for Members to provide cash contributions directly to the ITER Organization.

## Article 9

**Project Resource Management Regulations**

1. The purpose of the Project Resource Management Regulations is to ensure the sound financial management of the ITER Organization. These Regulations shall include, *inter alia*, the principal rules relating to:

(a) the Financial Year;

(b) the unit of account and the currency that the ITER Organization shall use for accounting, budget and resource evaluation purposes;

(c) the presentation and structure of the ITER Project Plan and Resource Estimates;

(d) the procedure for the preparation and adoption of the annual budget, the implementation of the annual budget and internal financial control;

(e) the contributions by the Members;

(f) the awarding of contracts;

(g) the management of contributions; and

(h) the management of the decommissioning fund.

2. The Director-General shall prepare each year, and submit to the Council, an update of the ITER Project Plan and Resource Estimates.

3. The ITER Project Plan shall specify the plan for the execution of all functions of the ITER Organization and shall cover the duration of this Agreement. It shall:

(a) outline an overall plan including time schedule and major milestones, for the fulfilment of the purpose of the ITER Organization and summarise the progress of the ITER Project in relation to the overall plan;

(b) present specific objectives and schedules of the programme of activities of the ITER Organization for the coming five years or for the period of construction, whichever will last longer; and

(c) provide appropriate commentaries, including assessment of the risks to the ITER Project and descriptions of risk avoidance or mitigation measures.

4. The ITER Resource Estimates shall provide a comprehensive analysis of the resources already expended and required in the future to undertake the ITER Project Plan and of the plans for the provision of the resources.

## Article 10

**Information and Intellectual Property**

1. Subject to this Agreement and the Annex on Information and Intellectual Property, the ITER Organization and the Members shall support the widest appropriate dissemination of information and intellectual property they generate in the execution of this Agreement. The implementation of this Article and the Annex on Information and Intellectual Property shall be equal and non-discriminatory for all Members and the ITER Organization.

2. In carrying out its activities, the ITER Organization shall ensure that any scientific results shall be published or otherwise made widely available after a reasonable period of time to allow for the obtaining of appropriate protection. Any copyright on works based on those results shall be owned by the ITER Organization unless otherwise provided in specific provisions of this Agreement and the Annex on Information and Intellectual Property.

3. When placing contracts for work to be performed pursuant to this Agreement, the ITER Organization and the Members shall include provisions in such contracts on any resulting intellectual property. These provisions shall address, *inter alia*, rights of access to, as well as disclosure and use of, such intellectual property, and shall be consistent with this Agreement and the Annex on Information and Intellectual Property.

4. Intellectual property generated or incorporated pursuant to this Agreement shall be treated in accordance with the provisions of the Annex on Information and Intellectual Property.

#### Article 11

##### Site Support

1. The Host Party shall make available or cause to be made available to the ITER Organization the site support required for the implementation of the ITER Project as summarized and under the terms outlined in the Annex on Site Support. The Host Party may designate an entity to act on its behalf for this purpose. Such designation shall not affect the obligations of the Host Party under this Article.

2. Subject to the approval of the Council, the details of and the procedures for cooperation on site support between the ITER Organization and the Host Party or its designated entity shall be covered by a Site Support Agreement to be concluded between them.

#### Article 12

##### Privileges and Immunities

1. The ITER Organization, its property and assets, shall enjoy in the territory of each Member such privileges and immunities as are necessary for the exercise of its functions.

2. The Director-General and the Staff of the ITER Organization and the representatives of the Members in the Council and subsidiary bodies, together with their alternates and experts, shall enjoy in the territory of each of the Members such privileges and immunities as are necessary for the exercise of their functions in connection with the ITER Organization.

3. The immunities provided for in paragraphs 1 and 2 shall be waived in any case where the authority competent to waive

the immunity considers that such immunity would impede the course of justice and that waiver would not prejudice the purposes for which it was accorded and where, in the case of the ITER Organization, the Director-General, and the Staff, the Council determines that such a waiver would not be contrary to the interests of the ITER Organization and its Members.

4. The privileges and immunities conferred in accordance with this Agreement shall not diminish or affect the duty of the ITER Organization, the Director-General or the Staff to comply with the laws and regulations referred to in Article 14.

5. Each Party shall notify the Depositary in writing upon having given effect to paragraphs 1 and 2.

6. The Depositary shall notify the Parties when notifications have been received from all Parties in accordance with paragraph 5.

7. A Headquarters Agreement shall be concluded between the ITER Organization and the Host State.

#### Article 13

##### Field Teams

Each Member shall host a Field Team established and operated by the ITER Organization as required for the exercise of the ITER Organization's functions and the fulfillment of its purpose. A Field Team Agreement shall be concluded between the ITER Organization and each Member.

#### Article 14

##### Public Health, Safety, Licensing and Environmental Protection

The ITER Organization shall observe applicable national laws and regulations of the Host State in the fields of public and occupational health and safety, nuclear safety, radiation protection, licensing, nuclear substances, environmental protection and protection from acts of malevolence.

#### Article 15

##### Liability

1. The contractual liability of the ITER Organization shall be governed by the relevant contractual provisions, which shall be construed in accordance with the law applicable to the contract.

2. In the case of non-contractual liability, the ITER Organization shall compensate appropriately or provide other remedies for any damage caused by it, to such extent as the ITER Organization is subject to a legal liability under the relevant law, with the details of compensation arrangements to be approved by the Council. This paragraph shall not be construed as a waiver of immunity by the ITER Organization.

3. Any payment by the ITER Organization to compensate for the liability referred to in paragraphs 1 and 2 and any costs and expenses incurred in connection therewith shall be considered as 'operational cost' as defined in the Project Resource Management Regulations.

4. In case the costs of compensation for damage referred to in paragraph 2 exceed funds available to the ITER Organization in the annual budget for operations and/or through insurance, the Members shall consult, through the Council, so that the ITER Organization can compensate, according to paragraph 2 by seeking to increase the overall budget by unanimous decision of the Council in accordance with Article 6(8).

5. Membership in the ITER Organization shall not result in liability for Members for acts, omissions, or obligations of the ITER Organization.

6. Nothing in this Agreement shall impair, or shall be construed as a waiver of, immunity that Members enjoy in the territory of other States or in their territory.

#### Article 16

##### Decommissioning

1. During the period of operation of ITER, the ITER Organization shall generate a Fund (hereinafter 'the Fund') to provide for the decommissioning of the ITER facilities. The modalities for the generation of the Fund, its estimation and updating, the conditions for changes and for its transfer to the Host State shall be set out in the Project Resource Management Regulations referred to in Article 9.

2. Following the final phase of experimental operations of ITER, the ITER Organization shall, within a period of five years, or shorter if agreed with the Host State, bring the ITER facilities into such conditions as are to be agreed and updated as necessary between the ITER Organization and the Host State, following which the ITER Organization shall hand over to the Host State the Fund and the ITER facilities for their decommissioning.

3. Following the acceptance by the Host State of the Fund together with the ITER facilities, the ITER Organization shall bear no responsibilities or liabilities for the ITER facilities, except when otherwise agreed between the ITER Organization and the Host State.

4. The respective rights and obligations of the ITER Organization and the Host State and the modalities of their interactions in respect of the decommissioning shall be set out in the Headquarters Agreement referred to in Article 12, under which the ITER Organization and the Host State shall, *inter alia*, agree that:

(a) after the handing over of the ITER facilities, the Host State shall continue to be bound by the provisions of Article 20; and

(b) the Host State shall make regular reports to all Members that have contributed to the Fund on the progress of the decommissioning and on the procedures and technologies that have been used or generated for the decommissioning.

#### Article 17

##### Financial Audit

1. A Financial Audit Board (hereinafter 'the Board') shall be established to undertake the audit of the annual accounts of the ITER Organization in accordance with this Article and the Project Resource Management Regulations.

2. Each Member shall be represented on the Board by one Member. The Members of the Board shall be appointed by the Council on the recommendation of the respective Members for a period of three years. The appointment may be extended once for an additional period of three years. The Council shall appoint from among the members the Chair of the Board, who shall serve for a period of two years.

3. The members of the Board shall be independent and shall not seek or take instructions from any Member or any other person and shall report only to the Council.

4. The purposes of the audit shall be to:

(a) determine whether all income/expenditure has been received/incurred in a lawful and regular manner and has been accounted for;

(b) determine whether the financial management has been sound;

(c) provide a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the underlying transactions;

(d) determine whether expenditures are in conformity with the budget; and

(e) examine any matter having potential financial implications for the ITER Organization.

5. The audit shall be based on recognized international principles and standards for accounting.

#### Article 18

##### Management Assessment

1. Every two years, the Council shall appoint a Management Assessor who shall assess the management of the activities of the ITER Organization. The scope of the assessment shall be decided by the Council.



2. The Director-General may also call for such assessments following consultation with the Council.

3. The Management Assessor shall be independent and shall not seek or take instructions from any Member or any person and shall report only to the Council.

4. The purpose of the assessment shall be to determine whether the management of the ITER Organization has been sound, in particular with respect to management effectiveness and efficiency in terms of scale of staff.

5. The assessment shall be based on records of the ITER Organization. The Management Assessor shall be granted full access to personnel, books and records as he/she may deem appropriate for this purpose.

6. The ITER Organization shall ensure that the Management Assessor shall abide by its requirements relating to the treatment of sensitive and/or business confidential information, in particular its policies concerning Intellectual Property, Peaceful Uses and Non-Proliferation.

#### Article 19

### International Cooperation

Consistent with this Agreement and upon a unanimous decision of the Council, the ITER Organization may, in furtherance of its purpose, cooperate with other international organizations and institutions, non-Parties, and with organizations and institutions of non-Parties, and conclude agreements or arrangements with them to this effect. The detailed arrangements for such cooperation shall be determined in each case by the Council.

#### Article 20

### Peaceful Uses and Non-Proliferation

1. The ITER Organization and the Members shall use any material, equipment or technology generated or received pursuant to this Agreement solely for peaceful purposes. Nothing in this paragraph shall be interpreted as affecting the rights of the Members to use material, equipment or technology acquired or developed by them independent of this Agreement for their own purposes.

2. Material, equipment or technology received or generated pursuant to this Agreement by the ITER Organization and the Members shall not be transferred to any third party to be used to manufacture or otherwise to acquire nuclear weapons or other nuclear explosive devices or for any non-peaceful purposes.

3. The ITER Organization and the Members shall take appropriate measures to implement this Article in an efficient and transparent manner. To this end, the Council shall interface

with appropriate international fora and establish a policy supporting peaceful uses and non-proliferation.

4. In order to support the success of the ITER Project and its non-proliferation policy, the Parties agree to consult on any issues associated with the implementation of this Article.

5. Nothing in this Agreement shall require the Members to transfer material, equipment or technology contrary to national export control or related laws and regulations.

6. Nothing in this Agreement shall affect the rights and obligations of the Parties that arise from other international agreements concerning non-proliferation of nuclear weapons or other nuclear explosive devices.

#### Article 21

### Application with regard to Euratom

In accordance with the Treaty establishing Euratom, this Agreement shall apply to the territories covered by that Treaty. In accordance with that Treaty and other relevant agreements, it shall also apply to the Republic of Bulgaria, Romania and the Swiss Confederation, participating in the Euratom fusion programme as fully associated third States.

#### Article 22

### Entry into Force

1. This Agreement is subject to ratification, acceptance or approval in accordance with the procedures of each Signatory.

2. This Agreement shall enter into force 30 days after the deposit of instruments of ratification, acceptance or approval of this Agreement by the People's Republic of China, Euratom, the Republic of India, Japan, the Republic of Korea, the Russian Federation and the United States of America.

3. If this Agreement has not entered into force within one year after signature, a meeting of the Signatories shall be convened by the Depository to decide what course of action shall be undertaken to facilitate its entering into force.

#### Article 23

### Accession

1. After the entry into force of this Agreement, any State or international organization may accede to and become a Party to this Agreement following a unanimous decision of the Council.

2. Any State or international organization that wishes to accede to this Agreement shall notify the Director-General, who shall inform the Members of this request at least six months before it is submitted to the Council for decision.

3. The Council shall determine the conditions of accession of any State or international organization.

4. Accession to this Agreement by a State or international organization shall take effect 30 days after the Depositary has received both the instrument of accession and the notification referred to in Article 12(5).

#### Article 24

##### Duration and Termination

1. This Agreement shall have an initial duration of 35 years. The last five years of this period, or shorter if agreed with the Host State, shall be dedicated to the de-activation of the ITER facilities.

2. The Council shall, at least eight years before the expiry of this Agreement, establish a Special Committee, chaired by the Director-General, that shall advise it on whether the duration of this Agreement should be extended having regard to the progress of the ITER Project. The Special Committee shall assess the technical and scientific state of the ITER facilities and reasons for the possible extension of this Agreement and, before recommending to extend this Agreement, the financial aspects in terms of required budget and impact on the de-activation and decommissioning costs. The Special Committee shall submit its report to the Council within one year after its establishment.

3. On the basis of the report, the Council shall decide by unanimity at least six years before the expiry whether to extend the duration of this Agreement.

4. The Council may not extend the duration of this Agreement for a period of more than 10 years in total, nor may the Council extend this Agreement if such extension would alter the nature of the activities of the ITER Organization or the framework of financial contribution of the Members.

5. At least six years before the expiry of this Agreement, the Council shall confirm the foreseen end of this Agreement and decide the arrangements for the de-activation phase and the dissolution of the ITER Organization.

6. This Agreement may be terminated by agreement of all Parties, allowing the necessary time for de-activation and ensuring the necessary funds for decommissioning.

#### Article 25

##### Settlement of Disputes

1. Any issue arising among the Parties or between one or more Parties and the ITER Organization out of or in connection

with this Agreement shall be settled by consultation, mediation or other procedures to be agreed, such as arbitration. The parties concerned shall meet to discuss the nature of any such issue with a view to an early resolution.

2. If the parties concerned are unable to resolve their dispute in consultation, either party may request the Chair of the Council (or if the Chair has been elected from a Member that is a party to the dispute, a Member of the Council representing a Member that is not a party to the dispute) to act as a mediator at a meeting to attempt to resolve the dispute. Such meeting shall be convened within 30 days following a request by a party for mediation and concluded within 60 days thereafter, immediately following which the mediator shall provide a report of the mediation, which report shall be prepared in consultation with the Members other than the parties to the dispute with a recommendation for resolution of the dispute.

3. If the parties concerned are unable to resolve their dispute through consultations or mediation, they may agree to submit the dispute to an agreed form of dispute resolution in accordance with procedures to be agreed.

#### Article 26

##### Withdrawal

1. After this Agreement has been in force for ten years, any Party other than the Host Party may notify the Depositary of its intention to withdraw.

2. Withdrawal shall not affect the withdrawing Party's contribution to the construction cost of the ITER facilities. If a Party withdraws during the period of operation of ITER, it shall also contribute its agreed share of the cost of decommissioning the ITER facilities.

3. Withdrawal shall not affect any continuing right, obligation, or legal situation of a Party created through the execution of this Agreement prior to its withdrawal.

4. The withdrawal shall take effect at the end of the Financial Year following the year the notification referred to in paragraph 1 is given.

5. The details of withdrawal shall be documented by the ITER Organization in consultation with the withdrawing Party.

#### Article 27

##### Annexes

The Annex on Information and Intellectual Property and the Annex on Site Support shall form an integral part of this Agreement.

*Article 28***Amendments**

1. Any Party may propose an amendment to this Agreement.
2. Proposed amendments shall be considered by the Council, for recommendation to the Parties by unanimity.
3. Amendments are subject to ratification, acceptance or approval in accordance with the procedures of each Party and shall enter into force 30 days after the deposit of the instruments of ratification, acceptance or approval by all Parties.

*Article 29***Depositary**

1. The Director-General of the IAEA shall be the Depositary of this Agreement.
2. The original of this Agreement shall be deposited with the Depositary, who shall send certified copies thereof to the Signa-

tories, and to the Secretary-General of the United Nations for registration and publication pursuant to Article 102 of the Charter of the United Nations.

3. The Depositary shall notify all Signatory and acceding States and international organizations of:

- (a) the date of deposit of each instrument of ratification, acceptance, approval or accession;
- (b) the date of deposit of each notification received in accordance with Article 12(5);
- (c) the date of entry into force of this Agreement and of amendments as provided for under Article 28;
- (d) any notification by a Party of its intention to withdraw from this Agreement; and
- (e) the termination of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Paris on 21 November 2006, in a single original, in the English language.

*For the European Atomic Energy Community*

*For the Government of the Republic of India*

*For the Government of the Republic of Korea*

*For the Government of the United States of America*

*For the Government of the People's Republic of China*

*For the Government of Japan*

*For the Government of the Russian Federation*

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## ANNEX I

**Annex on Information and Intellectual Property***Article 1***Subject Matter and Definitions**

- 1.1. This Annex covers the dissemination, exchange, use and protection of information and intellectual property pertaining to protectable subject matter, in the execution of this Agreement. Unless otherwise provided, the terms used in this Annex shall have the same meaning as in this Agreement.
- 1.2. **Information** shall mean published data, drawings, designs, computations, reports and other documents, documented data or methods of research and development, as well as the description of inventions and discoveries, whether or not protectable, which are not covered by the term Intellectual Property as defined in paragraph 1.3 below.
- 1.3. **Intellectual Property** shall have the meaning defined in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm on July 14, 1967. For the purposes of this Annex, Intellectual Property may include confidential information such as know-how or trade secrets provided that they are unpublished, and in written or otherwise documented form, and
  - (a) have been held in confidence by their owner,
  - (b) are not generally known or available to the public from other sources, and/or are not generally available to the public in printed publications and/or other readable documents,
  - (c) have not been made available by their owner to other parties without an obligation concerning confidentiality, and
  - (d) are not available to the receiving party without an obligation concerning confidentiality.
- 1.4. **Background Intellectual Property** shall mean Intellectual Property that has been or is acquired, developed or produced, before the entry into force of this Agreement, or outside of the scope of this Agreement.
- 1.5. **Generated Intellectual Property** shall mean Intellectual Property that is generated or acquired with full ownership by a Member, acting through a Domestic Agency or Entity, or by the ITER Organization or jointly pursuant to and in the course of the performance of this Agreement.
- 1.6. **Improvements** shall mean any technological advancement to existing Intellectual Property, including derivative works.
- 1.7. **Entity** or **Entities** shall mean any entity with which a Domestic Agency or the ITER Organization has entered into a contract for the supply of goods or services for the purposes of this Agreement.

*Article 2***General Provisions**

- 2.1. Subject to the provisions of this Annex, the Members support the widest possible dissemination of Generated Intellectual Property.
- 2.2. Each Member shall ensure that the other Members and the ITER Organization can obtain the rights to Intellectual Property allocated in accordance with this Annex. Contracts placed by each Member or the ITER Organization with any Entity shall be consistent with the provisions of this Annex. In particular, appropriate public procurement procedures must be followed by all Members and the ITER Organization in order to ensure compliance with this Annex.

The ITER Organization shall properly identify in a timely manner the Background Intellectual Property of the contracting Entities with a view to obtaining for the ITER Organization and the Members access to this Background Intellectual Property in conformity with this Annex.

Each Member shall properly identify in a timely manner the Background Intellectual Property of the contracting Entities with a view to obtaining for the ITER Organization and the Members access to this Background Intellectual Property in conformity with this Annex.

Each Member and the ITER Organization shall ensure access for the ITER Organization and the other Members to inventions and other Intellectual Property generated or incorporated in the execution of the contracts provided that inventors' rights are respected, in conformity with this Annex.

- 2.3. This Annex does not alter or prejudice the allocation of rights between a Member and its nationals. Whether the rights concerning Intellectual Property shall be held by a Member or its nationals shall be determined as between themselves in accordance with their applicable laws and regulations.
- 2.4. If a Member generates or acquires full ownership of Intellectual Property in the course of the execution of this Agreement, the Member shall notify all other Members and the ITER Organization in a timely manner and provide details of such Intellectual Property.

#### Article 3

##### **Dissemination of Information and Scientific Publications whether or not Copyrighted**

Each Member shall be entitled, for non-commercial uses, to translate, reproduce, and publicly distribute Information directly arising from the execution of this Agreement. All publicly distributed copies of a copyrighted work prepared under this provision shall indicate the names of the authors of the work unless an author explicitly declines to be named.

#### Article 4

##### **Intellectual Property Generated or Incorporated by a Member, a Domestic Agency or Entity**

- 4.1. Generated Intellectual Property:
  - 4.1.1. If protectable subject matter is generated by a Member, a Domestic Agency or Entity in the course of the execution of this Agreement, the Member, the Domestic Agency or Entity shall be entitled to acquire all rights, title and interest in all countries in and to such intellectual property according to applicable laws and regulations.
  - 4.1.2. Any Member, acting through a Domestic Agency or Entity, which has generated Intellectual Property in the course of the execution of this Agreement shall grant on an equal and non-discriminatory basis an irrevocable, non-exclusive, royalty-free license to such Generated Intellectual Property to other Members and the ITER Organization, with the right of the ITER Organization to sub-license, and the right of the other Members to sub-license within their respective territory, for the purposes of publicly sponsored fusion research and development programmes.
  - 4.1.3. Any Member, acting through a Domestic Agency or Entity, which has generated Intellectual Property in the course of the execution of this Agreement shall make available on an equal and non-discriminatory basis a non-exclusive license to such Generated Intellectual Property to the other Members for commercial fusion use, with the right to sub-license for such use by such Members' own domestic third parties within such Members' own territory on terms no less favorable than the basis upon which such Member licenses such Generated Intellectual Property to third parties within or outside such Member's own territory. As long as such terms have been offered such license shall not be denied. The above license may be revoked only in case the licensee does not fulfil its contractual obligations.
  - 4.1.4. Any Member, acting through a Domestic Agency or Entity, which has generated Intellectual Property pursuant to this Agreement is encouraged to enter into commercial arrangements with the other Members, Domestic Agencies, Entities and third parties in order to allow use of Generated Intellectual Property in fields other than fusion.
  - 4.1.5. Members, and their Domestic Agencies or Entities, that license or sub-license Generated or Background Intellectual Property pursuant to this Annex, will maintain records of any such licensing, which records will be available to other Members, such as through the ITER Organization.
- 4.2. Background Intellectual Property:
  - 4.2.1. Background Intellectual Property shall remain the property of the party that owns this intellectual property.

4.2.2. Any Member, acting through a Domestic Agency or Entity, which has incorporated Background Intellectual Property, except confidential information such as know-how and trade secrets into the items provided to the ITER Organization which Background Intellectual Property is required:

- to construct, operate, use or integrate technology for research and development in relation to the ITER facilities,
- to maintain or repair the item provided, or
- when decided necessary by the Council, in advance of any public procurement,

shall grant on an equal and non-discriminatory basis an irrevocable, non-exclusive, royalty-free license to such Background Intellectual Property to other Members and to the ITER Organization, with the right of the ITER Organization to sub-license and the right of Members to sub-license to their research institutes and institutes of higher education within their respective territory for the purposes of publicly sponsored fusion research and development programmes.

4.2.3. (a) Any Member, acting through a Domestic Agency or Entity, which has incorporated background confidential information into the items provided to the ITER Organization which background confidential information is required:

- to construct, operate, use or integrate technology for research and development in relation to the ITER facilities,
- to maintain or repair the item,
- when decided necessary by the Council, in advance of any public procurement, or
- for safety, for quality assurance and quality control reasons as required by regulatory authorities,

shall ensure that the ITER Organization has an irrevocable, non-exclusive, royalty-free license available to use such background confidential information including manuals or instructional training materials for the construction, operation, maintenance and repair of the ITER facilities.

(b) When confidential information is made available to the ITER Organization, it must be clearly marked so, and transmitted pursuant to an arrangement for confidentiality. The recipient of such information shall use it only for purposes set forth in 4.2.3 (a) and shall preserve its confidentiality to the extent provided in that arrangement. Compensation for damages arising from the misuse of such background confidential information by the ITER Organization shall be paid by the ITER Organization.

4.2.4. Any Member, acting through a Domestic Agency or Entity, which has incorporated background confidential information such as know how or trade secrets into the items provided to the ITER Organization which background confidential information is required:

- to construct, operate, use or integrate technology for research and development in relation to the ITER facilities,
- to maintain or repair the item provided, or
- when decided necessary by the Council, in advance of any public procurement,

shall use its best efforts to either grant a commercial license to such background confidential information or supply the same items incorporating the background confidential information to the receiving party by means of private contracts with financial compensation for publicly sponsored fusion research and development programmes of a Member on terms no less favorable than the basis upon which such Member licenses such background confidential information or supplies the same items to third parties within or outside such Member's own territory. As long as such terms have been offered, such license or supply of such item shall not be denied. The license, if granted, may be revoked only in case the licensee does not fulfil its contractual obligations.

4.2.5. Any Member, acting through a Domestic Agency or Entity, which has incorporated Background Intellectual Property, including background confidential information, in the execution of this Agreement shall use its best efforts to make sure that the component incorporating the Background Intellectual Property is available on reasonable terms and conditions, or use its best efforts to grant on an equal and non-discriminatory basis a non-exclusive license to the other Members for commercial fusion use, with the right to sub-license for such use by such Members' own domestic third parties within such Members' own territory, on terms no less favorable than the basis upon which such Member licenses such Background Intellectual Property to third parties within or outside such Member's own territory. As long as such terms have been offered, such license shall not be denied. The above license may be revoked only in case the licensee does not fulfil its contractual obligations.

4.2.6. Any Member, acting through a Domestic Agency or Entity, is encouraged to make available for commercial purposes other than those set out in Article 4.2.5 to the other Members, any Background Intellectual Property incorporated into the items provided to the ITER Organization which Background Intellectual Property was required:

- to construct, operate, use or integrate technology for research and development in relation to the ITER facilities,
- to maintain or repair the item provided, or
- when decided necessary by the Council, in advance of any public procurement.

Such Background Intellectual Property, if licensed by the owners to the Members, shall be licensed on an equal and non-discriminatory basis.

4.3. Licensing to Third Parties of Non-Members:

Any license on Generated Intellectual Property granted by the Members to third parties of non-Members shall be subject to the rules on licensing to third parties determined by the Council. Such rules shall be determined by unanimous decision of the Council.

#### Article 5

##### **Intellectual Property Generated or Incorporated by the ITER Organization**

5.1. Generated Intellectual Property:

5.1.1. Where intellectual property is generated by the ITER Organization, in the course of the execution of this Agreement, it shall be owned by the ITER Organization. The ITER Organization shall develop appropriate procedures for the recording, reporting and protection of the Intellectual Property.

5.1.2. Such intellectual property shall be licensed by the ITER Organization to the Members on an equal, non-discriminatory, irrevocable, non-exclusive, royalty-free basis, with the right of the Members to sub-license within their territory for the purpose of fusion research and development.

5.1.3. Generated Intellectual Property that has been developed or acquired by the ITER Organization in the course of the execution of this Agreement shall be licensed to the Members on an equal, non-discriminatory, non-exclusive basis for commercial use, with the right to sub-license for such use by such Members' own domestic third parties within such Members' own territory on terms no less favorable than the basis upon which the ITER Organization licenses such Generated Intellectual Property to third parties. As long as such terms have been offered, such license shall not be denied. The above license may be revoked only in case the licensee does not fulfil its contractual obligations.

5.2. Background Intellectual Property:

5.2.1. Provided that it has the pertinent rights, when the ITER Organization incorporates Background Intellectual Property which is required:

- to construct, operate, use or integrate technology for research and development in relation to the ITER facilities,
- to create improvements and derivative works,
- to repair and maintain the ITER facilities, or
- when decided necessary by the Council, in advance of any public procurement,

the ITER Organization shall make the necessary arrangements in order to sub-license that Background Intellectual Property on an equal and non-discriminatory basis by an irrevocable, non-exclusive, royalty-free license to the Members, with the right of the Members to sub-license within their respective territory for the purpose of fusion research and development. The ITER Organization shall make its best efforts to acquire the pertinent rights.

- 5.2.2. For Background Intellectual Property, including background confidential information, incorporated by the ITER Organization in the course of the execution of this Agreement, the ITER Organization shall use its best efforts to make available on an equal and non-discriminatory basis a non-exclusive license to the Members for commercial fusion use, with the right to sub-license for such use by such Members' own domestic third parties within such Members' own territory on terms no less favorable than the basis upon which the ITER Organization licenses such Background Intellectual Property to third parties. As long as such terms have been offered, such license shall not be denied. The above license may be revoked only in case the licensee does not fulfil its contractual obligations.
- 5.2.3. The ITER Organization shall use its best efforts to make available to the Members any Background Intellectual Property, including background confidential information, for purposes other than those set out in Article 5.2.2. Such Background Intellectual Property, if licensed by the ITER Organization to the Members, shall be licensed on an equal and non-discriminatory basis.
- 5.3. Licensing to third parties of a non-Member:

Any license granted by the ITER Organization to third parties of a non-Member shall be subject to the rules on licensing to third parties determined by the Council. Such rules shall be determined by unanimous decision of the Council.

#### Article 6

##### **Intellectual Property Generated by the ITER Organization's Staff and other Researchers**

- 6.1. Intellectual Property generated by directly employed and seconded staff of the ITER Organization shall be owned by the ITER Organization and treated in corresponding employment contracts or regulations consistent with the provisions set out herein.
- 6.2. Intellectual Property generated by visiting researchers who are participating in the activities of the ITER Organization through an arrangement with the ITER Organization for undertaking specific activities and who are directly involved in general programmes of the ITER Organization exploitation, shall be owned by the ITER Organization unless otherwise agreed by the Council.
- 6.3. Intellectual Property generated by visiting researchers not involved in general programmes of the ITER Organization exploitation shall be subject to an arrangement with the ITER Organization pursuant to conditions established by the Council.

#### Article 7

##### **Protection of Intellectual Property**

- 7.1. When a Member acquires or seeks protection for Generated Intellectual Property developed or acquired by that Member, such Member shall notify in a timely manner and provide details of such protection to all other Members and to the ITER Organization. If a Member decides not to exercise its right to seek protection for Generated Intellectual Property in any country or region, it shall notify the ITER Organization in a timely manner of its decision, and the ITER Organization may then seek to obtain such protection either directly or via the Members.
- 7.2. For Generated Intellectual Property developed or acquired by the ITER Organization, the Council shall adopt, as soon as practicable, appropriate procedures for the reporting, protection and recording of such Intellectual Property for example through the creation of a database to which the Members may have access.
- 7.3. In the event of a joint creation, the participating Members and/or the ITER Organization shall have the right to seek to obtain in co-ownership Intellectual Property in any State they choose.
- 7.4. There shall be co-ownership of Intellectual Property when created by two or more Members or by one or more Members together with the ITER Organization and when the features of such intellectual property are not capable of being separated for the purpose of applying for, obtaining and/or maintaining in force the protection of the relevant intellectual property right. In such a case the joint creators shall agree among themselves by means of a co-ownership arrangement on the allocation of and the terms of exercising the ownership of the said Intellectual Property.



*Article 8***Decommissioning**

- 8.1. For the decommissioning phase after the transfer of the facilities to the Host State, the Host Party shall provide to the other Members all relevant information, whether published or not, generated or used during the decommissioning of the ITER facilities.
- 8.2. Intellectual Property generated by the Host State during the decommissioning phase shall not be affected by this Annex.

*Article 9***Termination and Withdrawal**

- 9.1. The Council shall, as necessary, address any issues relating to the termination of this Agreement or the withdrawal of a Party in so far as they relate to Intellectual Property, that are not fully addressed in this Agreement.
- 9.2. The Intellectual Property rights conferred and obligations imposed upon the Members and the ITER Organization by the provisions of this Annex, in particular all granted licenses, shall subsist after the termination of this Agreement, or after the withdrawal of a Party.

*Article 10***Royalties**

Royalties received from the licensing of Intellectual Property by the ITER Organization shall be a resource of the ITER Organization.

*Article 11***Settlement of Disputes**

Any dispute arising out of or in connection with this Annex shall be settled in accordance with Article 25 of this Agreement.

*Article 12***Awards to Inventors**

The Council shall determine appropriate terms and conditions for the remuneration of the Staff when such Staff generates Intellectual Property.

*Article 13***Liability**

When negotiating license arrangements, the ITER Organization and the Members shall, as appropriate, include suitable provisions governing their respective liabilities, rights and obligations arising from the execution of those license arrangements.

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## ANNEX II

**Annex on Site Support**

## Article 1

**Site Support Agreement**

1. The Host Party shall make or cause to be made available to the ITER Organization land, facilities, buildings, goods and services in support of the site as summarized in this Annex. The Host Party may designate an entity to act on its behalf for this purpose.

2. The details of such support, as well as the procedures for cooperation between the ITER Organization and the Host Party or its designated entity (hereinafter 'the Host'), shall be covered by an agreement (hereinafter 'the Site Support Agreement') to be concluded between them.

## Article 2

**Duration of the Agreement**

The Host shall provide the site support to the ITER Organization throughout the period from the establishment of the ITER Organization to the expiry or termination of this Agreement.

## Article 3

**Liaison Committee**

The ITER Organization and the Host shall establish a liaison committee to ensure the effective provision of the support covered by this Annex under the terms of the Site Support Agreement.

## Article 4

**Land, Buildings, Facilities and Access**

The Host shall at its own expense provide the ITER site under the conditions set out in the ITER Site Requirements and Site Design Assumptions as adopted in 2000 (hereinafter the 'Reference Conditions') by the Council established under the Agreement among the European Atomic Energy Community, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America on Cooperation in the Engineering Design Activities for the International Thermonuclear Experimental Reactor (hereinafter 'the ITER EDA') and other specific facilities and services as set out below:

- (a) *Land* to be put at the disposal free of charge to the ITER Organization allowing for the construction, use and possible extension of all the ITER buildings and auxiliary services which are referred to in the Final Report of the ITER EDA;
- (b) *Main services* to be supplied to the site boundary:- water, electricity, sewage and drainage, alarm systems;
- (c) *Roads, Paths and Bridges*, including adaptations, as necessary, to the route between the Port Autonome de Marseille and the ITER site to provide access to the site boundary for the maximum size and weights of equipment to be delivered for the ITER Project and for Staff and visitors;
- (d) *Transportation services* from the Port Autonome de Marseille or in case of air transport the Marignane airport to the ITER site of components contributed by the Parties;
- (e) *Temporary accommodation* as required for the ITER Organization at or near the ITER site until the final buildings and facilities of the ITER Organization are ready for occupation;
- (f) *Power supplies*: installation and maintenance up to the site boundary of power supplies able to provide up to 500 MW for pulsed loads as well as a capability to draw from the grid 120 MW continuous electrical power without interruption because of connection maintenance;
- (g) *Water cooling supply* to dissipate on average 450 MW (thermal) energy to the environment; and
- (h) *Connection to computer network and telecommunication lines* with large capacity.

*Article 5***Services**

In addition to the items referred to in Article 4 of this Annex, the Host shall supply at its own expense or charged at proven cost, in accordance with the Site Support Agreement, such technical, administrative and general services as are required by the ITER Organization. Such services shall include, but are not limited to:

- (a) support staff, in addition to Staff assigned from the Host to the ITER Organization under Article 8 of this Agreement;
- (b) medical services facilities;
- (c) emergency services;
- (d) security-alarm system and its facilities;
- (e) cafeteria;
- (f) support to licensing process;
- (g) support to safety management;
- (h) support to language courses;
- (i) services for the management and disposal of radioactive wastes arising from ITER operations;
- (j) relocation and settlement support;
- (k) bus service to and from work;
- (l) recreation, social and welfare facilities;
- (m) utility services and supplies;
- (n) library and multi-media services;
- (o) environmental monitoring, including radiation monitoring; and
- (p) site services (waste disposal, cleaning and gardening).

*Article 6***Education**

The Host shall, at its own expense, establish an international school for the education of the children of Staff and provide pre-university education according to an international core curriculum to be developed in consultation with the educational authorities of the non-Host Parties, and shall facilitate the implementation of additional curricular elements specific to and supported by non-Host Parties. The non-Host Parties shall use their best efforts to assist the development of the school and the accreditation of its curriculum by their respective authorities.

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**Arrangement on Provisional Application of the Agreement on the Establishment of the ITER  
International Fusion Energy Organization for the Joint Implementation of the ITER Project**

*Article 1*

The Parties to this Arrangement are all signatories to the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (hereinafter referred to as 'the ITER Agreement') among the European Atomic Energy Community (hereinafter referred to as 'Euratom'), the Government of the People's Republic of China, the Government of the Republic of India, the Government of Japan, the Government of the Republic of Korea, the Government of the Russian Federation and the Government of the United States of America.

*Article 2*

In accordance with its terms, the ITER Agreement will enter into force thirty days after its deposit of instruments of ratification, acceptance or approval by the People's Republic of China, Euratom, Republic of India, Japan, the Republic of Korea, the Russian Federation and the United States of America.

*Article 3*

The Parties to this Arrangement desire to pursue co-operation as provided in the ITER Agreement to the fullest possible extent, pending completion by each of them of all domestic actions required prior to ratification, acceptance or approval of the ITER Agreement.

*Article 4*

The Parties to this Arrangement therefore undertake, to the fullest extent possible consistent with their domestic laws and regulations, to abide by the terms of the ITER Agreement until it enters into force.

*Article 5*

A Party may withdraw from this Arrangement upon 120 days' written notice to the other Parties.

*Article 6*

This Arrangement will be effective upon signature.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Arrangement.

Done at Paris on 21 November 2006, in a single original, in the English language.

*for the European Atomic Energy Community*

*for the Government of the People's Republic of China*

*for the Government of the Republic of India*

*for the Government of Japan*

*for the Government of the Republic of Korea*

*for the Government of the Russian Federation*

*for the Government of the United States of America*

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## AGREEMENT

### on the privileges and immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project

The European Atomic Energy Community (hereinafter 'Euratom'), the Government of the People's Republic of China, the Government of the Republic of India, the Government of Japan, the Government of the Republic of Korea and the Government of the Russian Federation (hereinafter 'the Parties'),

WHEREAS Article 12 of the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (hereinafter 'the ITER Agreement') requires the parties to that Agreement to give effect to privileges and immunities;

WHEREAS it is the purpose of this Agreement to define for the Parties to this Agreement the content and scope of such privileges and immunities in accordance with Article 12 of the ITER Agreement;

WHEREAS the Parties have confirmed their intention to conclude this Agreement on the occasion of the Ministerial Meeting for ITER in Brussels on 24 May 2006,

HAVE AGREED AS FOLLOWS:

#### Article 1

1. In accordance with Article 5 of the ITER Agreement, the ITER International Fusion Energy Organization (hereinafter 'the ITER Organization') shall have international legal personality, including the capacity to conclude agreements with States and/or international organizations.

2. The ITER Organization shall have legal personality and enjoy, in the territories of the Members, the legal capacity it requires, including to:

- (a) conclude contracts;
- (b) acquire, hold and dispose of property;
- (c) obtain licenses; and
- (d) institute legal proceedings.

#### Article 2

The buildings and premises of the ITER Organization shall be inviolable.

#### Article 3

The archives and documents of the ITER Organization shall be inviolable.

#### Article 4

1. The ITER Organization shall enjoy immunity from jurisdiction and execution except:

- (a) to the extent that it has expressly waived such immunity in a particular case;
- (b) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to, or operated on behalf of, the ITER Organization, or in respect of a motor traffic offence involving such a vehicle;
- (c) in respect of an enforcement of an arbitration award made under Article 23; and
- (d) in the event of an attachment of salary, enforced for a debt of a staff member of the ITER Organization, provided that such attachment results from a final and enforceable legal decision in accordance with the rules in force on the territory of enforcement.

2. The ITER Organization's property and assets, wherever situated, shall be immune from any form of requisition, confiscation, expropriation and sequestration except:

- (a) to the extent that it has expressly waived such immunity in a particular case;
- (b) in respect of a civil action provided for in paragraph 1(b); and
- (c) in respect of the enforcement of an arbitration award made under Article 23.

3. The ITER Organization shall also be immune from any form of administrative or provisional judicial constraint, except to the extent that it has expressly waived such immunity in a particular case and insofar as may be necessary in connection with or in respect of:

- (a) the prevention and investigation of accidents involving motor vehicles belonging to, or operated on behalf of, the ITER Organization; and
- (b) the enforcement of an arbitration award made under Article 23.

#### Article 5

1. Within the scope of its official activities, the ITER Organization, its property and income shall be exempt from direct taxes.

2. When goods or services, strictly necessary for the exercise of the official activities of the ITER Organization, are purchased or used by or on behalf of the ITER Organization, and when the price of such goods or services includes taxes or duties, appropriate measures shall, whenever possible, be taken by the Party to grant exemption from such taxes or duties or to provide for their reimbursement.

#### Article 6

1. Goods imported or exported by the ITER Organization, or on its behalf, for its official activities shall be exempt from all duties and taxes. Goods imported or exported by the ITER Organization for its official activities shall be exempt from prohibitions and restrictions on imports and exports except where such prohibitions or restrictions are consistent with the laws, regulations and policies referred to in Articles 14 and 20 of the ITER Agreement.

2. Goods which have benefited from the exemption provided for in Article 5 or imported under paragraph 1 shall not be sold or given away except in accordance with conditions laid down by the Parties which have granted exemptions.

#### Article 7

1. For the purposes of Articles 5 and 6, the official activities of the ITER Organization shall include its administrative activities, including its operations in connection with any social security scheme it establishes, and activities undertaken in pursuance of the purpose of the ITER Organization as defined in the ITER Agreement.

2. The provisions of Articles 5 and 6 shall not apply to taxes and duties that are no more than charges for public utility services.

#### Article 8

No exemption shall be granted under Articles 5 or 6 in respect of goods purchased or imported, or services provided for the personal benefit of the staff of the ITER Organization.

#### Article 9

Without prejudice to the laws, regulations and policies referred to in Articles 14 and 20 of the ITER Agreement, the circulation of publications and other information material sent by or to the ITER Organization shall not be restricted in any way.

#### Article 10

1. The ITER Organization may receive and hold any kind of funds, currency, cash or securities; it may dispose of them freely for any purpose provided for in the ITER Agreement and hold accounts in any currency to the extent required to meet its obligations.

2. In exercising its rights referred to in paragraph 1, the ITER Organization shall pay due regard to any representations by any of its Members insofar as it is considered that effect can be given to such representations without detriment to the interests of the ITER Organization.

#### Article 11

1. For its official communications and the transfer of all its documents, the ITER Organization shall enjoy treatment no less favourable than that accorded by each Party to other international organizations.

2. No censorship shall be applied to official communications of the ITER Organization by whatever means of communication.

#### Article 12

Parties shall take all appropriate measures to facilitate the entry into, stay in, or departure from their territories of staff of the ITER Organization.

#### Article 13

1. Representatives of the Parties shall, while exercising their functions as a representative and in the course of their journeys to and from the place of meeting convened by the ITER Organization, enjoy the following privileges and immunities:

- (a) immunity from arrest and detention, and from seizure of their personal luggage;

- (b) immunity from jurisdiction, even after the termination of their mission, in respect of acts, including words spoken and written, done by them in the exercise of their functions; this immunity shall not apply, however, in the case of a motor traffic offence committed by a Representative of a Party, nor in the case of damage caused by a motor vehicle belonging to or driven by him;
  - (c) inviolability for all their official papers and documents;
  - (d) the right to receive documents or correspondence by special courier or sealed bag;
  - (e) exemption for themselves and their spouses from measures restricting immigration and from aliens' registration formalities;
  - (f) the same facilities in the matter of currency and exchange control as are accorded to the representatives of foreign governments on temporary official missions;
  - (g) the same customs facilities as regards their personal luggage as are accorded to diplomatic agents.
- (d) the same facilities as regards exemption from measures restricting immigration and governing aliens' registration as are normally accorded to staff members of international organizations, and members of their families forming part of their households shall enjoy the same facilities;
  - (e) the same privileges in respect of exchange regulations comparably to those accorded to staff of international organizations;
  - (f) in time of international crisis, the same facilities as to repatriation as diplomatic agents, and the members of their families forming part of their households shall enjoy the same facilities;
  - (g) the right to import duty-free furniture and personal effects at the time of first taking up their post in the State concerned, and the right on the termination of their functions in that State to export free of duty their furniture and personal effects, subject, in both cases, to the conditions considered necessary by the State on whose territory the right is exercised.

2. Privileges and immunities are accorded to Representatives of a Party not for their personal advantage, but in order to ensure complete independence in the exercise of their functions in connection with the ITER Organization. In accordance with Article 12 of the ITER Agreement, each Party shall waive the immunity of its Representatives in any case where it considers that retaining it would impede the course of justice and that it can be waived without prejudicing the purposes for which it was accorded.

#### Article 14

The staff of the ITER Organization shall enjoy the following privileges and immunities:

- (a) immunity from jurisdiction, even after they have left the service of the ITER Organization, in respect of acts, including words spoken and written, done by them in the exercise of their functions; this immunity shall not apply, however, in the case of a motor traffic offence committed by a staff member of the ITER Organization, nor in the case of damage caused by a motor vehicle belonging to or driven by him;
  - (b) exemption in respect of all obligations in respect of military service;
  - (c) inviolability for all their official papers and documents;
- (a) immunity from jurisdiction, even after they have ceased to exercise their function of expert for the ITER Organization, in respect of acts, including words spoken and written, done by them in the exercise of their functions, this immunity shall not apply, however, in the case of a motor traffic offence committed by an expert, nor in the case of damage caused by a motor vehicle belonging to or driven by him;
  - (b) inviolability for all their official papers and documents;
  - (c) the same facilities as regards monetary and exchange regulations and as regards their personal luggage as are accorded to the officials of foreign governments on temporary official missions.

#### Article 15

In addition to the privileges and immunities provided for in Article 14, the Director-General of the ITER Organization and, when the office is vacant, the person appointed to act in his place, shall enjoy the privileges and immunities to which diplomatic agents of comparable rank are entitled.

#### Article 16

Experts, in the exercise of their functions in connection with the ITER Organization or in carrying out missions for the ITER Organization, shall enjoy the following privileges and immunities, to the extent that these are necessary for the exercise of their functions, including during journeys made in the exercise of their functions and in the course of such missions:

*Article 17*

1. The salaries and emoluments paid by the ITER Organization shall be exempt from income tax to the extent that they are subject to a tax for the benefit of the ITER Organization. The Parties shall retain the right to take these salaries and emoluments into account for the purpose of assessing the amount of taxation to be applied to income from other sources.

2. The provisions of paragraph 1 above shall not apply to annuities and pensions paid by the ITER Organization to its former Directors General and staff.

*Article 18*

Articles 14 and 17 shall apply to all categories of staff to which the Staff Regulations of the ITER Organization apply. The Council of the ITER Organization (hereinafter 'the Council') shall decide the categories of experts to which Article 16 shall apply. The names, titles and addresses of the staff and experts referred to in this Article shall be communicated from time to time to the Members of the ITER Organization.

*Article 19*

In the event that it establishes its own social security scheme, the ITER Organization, its Director-General and staff shall be exempt from all compulsory contributions to national social security bodies, subject to agreements concluded with the Parties and/or the Host State.

*Article 20*

No Party shall be obliged to accord the privileges and immunities referred to in Articles 13, 14b, d, e, f and g, 15, 16c and 19 to its own nationals or persons who, at the moment of taking up their posts as staff of the ITER Organization in that Party, are permanent residents thereof.

*Article 21*

1. The privileges and immunities provided for in this Agreement are not granted to the Director-General, staff and experts of the ITER Organization for their personal advantage. They are provided solely to ensure, in all circumstances, the unimpeded functioning of the ITER Organization and the complete independence of the persons to whom they are accorded.

2. In accordance with Article 12 of the ITER Agreement, the Council shall waive any relevant immunity in any case where the Council considers that retaining it would impede the course of justice and that such a waiver would not be contrary to the interests of the ITER Organization and its Members.

*Article 22*

The ITER Organization shall cooperate at all times with the competent authorities of the Parties and the Host State as defined in Article 1(2) of the ITER Agreement in order to facilitate the proper administration of justice, to ensure the observance of police regulations and regulations concerning public health and safety, licensing, environmental protection, labour inspection or other similar national legislation, and to prevent any abuse of the privileges and immunities provided for in this Agreement. The procedure for the cooperation referred to in this Article may be laid down in the Headquarters and the Field Team agreements or supplementary agreements.

*Article 23*

1. When concluding written contracts, other than those concluded in accordance with the Staff Regulations, the ITER Organization may provide for arbitration. The arbitration clause or the special arbitration agreement concluded to this end shall specify the law applicable and the State where the arbitrators sit.

2. The enforcement of the arbitration award shall be governed by the rules in force in the State on whose territory the award is to be executed.

*Article 24*

In accordance with the Treaty establishing Euratom, this Agreement shall apply to the territories covered by that Treaty. In accordance with that Treaty and other relevant agreements, it shall also apply to the Republic of Bulgaria, Romania and the Swiss Confederation, participating in the Euratom fusion programme as fully associated third States.

*Article 25*

1. This Agreement is subject to ratification, acceptance or approval in accordance with the procedures of each Signatory.

2. This Agreement shall enter into force thirty days after the deposit of instruments of ratification, acceptance or approval of this Agreement by the People's Republic of China, Euratom, the Republic of India, Japan, the Republic of Korea and the Russian Federation.

3. If this Agreement has not entered into force within one year after signature, a meeting of the Signatories shall be convened by the Depositary to decide what course of action shall be undertaken to facilitate its entering into force.



*Article 26*

1. Once the Council has adopted a decision in accordance with Article 23(1) of the ITER Agreement, the State or international organization concerned may accede to and become a Party to this Agreement.
2. Accession shall take effect on the date of deposit of the instrument of accession with the Depositary.

*Article 27*

This Agreement shall have the same duration as the ITER Agreement. The expiry of this Agreement shall not affect the immunity provided for in Article 13(1)(b), Article 14(a) and Article 16(a).

*Article 28*

Any issue arising among the Parties or between one or more Parties and the ITER Organization out of or in connection with this Agreement shall be settled by consultation, mediation or other procedures to be agreed, such as arbitration. The parties

concerned shall meet to discuss the nature of any such issue with a view to an early resolution.

*Article 29*

1. The Director General of the IAEA shall be the Depositary of this Agreement.
2. The original of this Agreement shall be deposited with the Depositary, who shall send certified copies thereof to the Signatories, and to the Secretary General of the United Nations for registration and publication pursuant to Article 102 of the Charter of the United Nations.
3. The Depositary shall notify all Signatory and acceding States and international organizations of:
  - (a) the date of deposit of each instrument of ratification, acceptance, approval or accession; and
  - (b) the date of entry into force of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Paris on 21 November 2006, in a single original, in the English language.

*for the European Atomic Energy Community*

*for the Government of the Republic of India*

*for the Government of the Republic of Korea*

*for the Government of the People's Republic of China*

*for the Government of Japan*

*for the Government of the Russian Federation*

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## COMMISSION DECISION

of 14 December 2006

**determining the respective emission levels allocated to the Community and each of its Member States under the Kyoto Protocol pursuant to Council Decision 2002/358/EC***(notified under document number C(2006) 6468)*

(2006/944/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Member State have to be equal to their respective emission level determined in the Annex to this Decision.

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2002/358/EC of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder<sup>(1)</sup>, and in particular Article 3 thereof,

Whereas:

(1) Annex II to Decision 2002/358/EC sets quantified emission limitation or reduction commitments for the purpose of determining the emission levels allocated to the Community and its Member States subject to Article 4 of the Kyoto Protocol. Annex B to the Kyoto Protocol sets quantified emission limitation or reduction commitments for the purpose of determining the emission levels allocated to the Member States that acceded to the Community after 25 April 2002, except Cyprus and Malta which do not yet have quantified emission limitation or reduction commitments under the Kyoto Protocol.

(2) The emission levels allocated to the Community and its Member States, expressed in tonnes of carbon dioxide equivalent, are determined in the Annex to this Decision. These emission levels are calculated on the basis of the revised base-year emissions data submitted by Member States pursuant to Article 23 of Commission Decision 2005/166/EC of 10 February 2005 laying down rules implementing Decision 280/2004/EC of the European Parliament and of the Council concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol<sup>(2)</sup>, multiplied by the quantified emission limitation or reduction commitments set out in Annex II to Decision 2002/358/EC and Annex B to the Kyoto Protocol, multiplied by five, to represent the five years of the Protocol's first commitment period.

(3) In accordance with Article 3 of Decision 2002/358/EC, the assigned amounts of the Community and of each

(4) The revision of emissions data for the base-year under the Kyoto Protocol, submitted by Member States pursuant to Article 23 of Decision 2005/166/EC, required a recalculation resulting in an arithmetic difference of 11 393 397 tonnes of carbon dioxide equivalent between the assigned amount for the European Community and the sum of the assigned amounts of the Member States listed in Annex II to Decision 2002/358/EC. This difference should be issued as assigned amount units by the Community.

(5) Denmark has consistently expressed assumptions concerning its base-year emissions. These assumptions are supported by the information on its exceptionally low base year emissions provided in its report submitted pursuant to Article 23 of Decision 2005/166/EC. In recognition of Denmark's special situation, resulting from its unusually low base-year emissions and having one of the highest quantified emission reduction obligations pursuant to Annex II to Decision 2002/358/EC, the Community should forward 5 million assigned amount units to Denmark.

(6) Any changes in the final emission levels of the Community and its Member States resulting from the review of the emission levels pursuant to Article 8 of the Kyoto Protocol should be specified through an amendment to this Decision.

(7) The measures provided for in this Decision are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS DECISION:

*Article 1*

The emission levels in terms of tonnes of carbon dioxide equivalent allocated to the Community and to Member States for the first quantified emission limitation and reduction commitment period under the Kyoto Protocol are set out in the Annex.

<sup>(1)</sup> OJ L 130, 15.5.2002, p. 1.

<sup>(2)</sup> OJ L 55, 1.3.2005, p. 57.

*Article 2*

The difference of 11 393 397 tonnes of carbon dioxide equivalent between the emission levels of the Community and the sum of the emission levels of the Member States listed in Annex II to Decision 2002/358/EC shall be issued as assigned amount units by the Community.

The Commission shall instruct the Central Administrator of the Community registry to transfer five million (5 000 000) of these assigned amount units to the Party to the Kyoto Protocol holding account in the registry of Denmark.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 14 December 2006.

*For the Commission*  
Stavros DIMAS  
*Member of the Commission*

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## ANNEX

**Emission levels allocated to the European Community and Member States in terms of tonnes of carbon dioxide equivalent for the first quantified emission limitation and reduction commitment period under the Kyoto Protocol**

European Community <sup>(1)</sup>	19 683 181 601
Belgium	679 368 682
Denmark	273 827 177
Germany	4 868 520 955
Greece	694 087 947
Spain	1 663 967 412
France	2 819 626 640
Ireland	315 158 338
Italy	2 429 132 197
Luxembourg	45 677 304
Netherlands	1 008 565 720
Austria	343 405 392
Portugal	386 956 503
Finland	355 480 975
Sweden	375 864 317
United Kingdom	3 412 080 630
Cyprus	Not applicable
Czech Republic	902 890 649
Estonia	197 902 558
Latvia	119 113 402
Lithuania	221 275 934
Hungary	578 260 222
Malta	Not applicable
Poland	2 673 496 300
Slovenia	92 934 961
Slovakia	337 456 459

<sup>(1)</sup> For the purpose of the joint fulfilment of the commitments under Article 3(1) of the Kyoto Protocol in accordance with the provisions of Article 4 thereof, pursuant to Decision 2002/358/EC and applying to the Member States listed in Annex II to that Decision.