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## I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

## REGULATIONS

## COUNCIL REGULATION (EC) No 378/2007

of 27 March 2007

**laying down rules for voluntary modulation of direct payments provided for in Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and amending Regulation (EC) No 1290/2005**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) Certain Member States are facing particular difficulties in financing their rural development programmes pursuant to 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>(1)</sup>. With a view to strengthening their rural development policy, these Member States should be given the possibility to apply a system of voluntary modulation. This possibility should be offered to those Member States where voluntary modulation is already applied according to Commission Regulation (EC) No 1655/2004 of 22 September 2004 laying down rules for the transition from the optional modulation system established by Article 4 of Council Regulation (EC) No 1259/1999 to the mandatory modulation system established by Council Regulation (EC) No 1782/2003 <sup>(2)</sup>, or which were granted a derogation by virtue of Article 70(4a) of Regulation (EC) No 1698/2005 from the requirement to co-finance Community support. The voluntary modulation should take the form of reducing direct payments within the

meaning of Article 2(d) of Regulation (EC) No 1782/2003 <sup>(3)</sup>, using the funds corresponding to that reduction for the financing of rural development programmes pursuant to Regulation (EC) No 1698/2005. Reductions of direct payments applied in respect of voluntary modulation should be additional to those resulting from the application of compulsory modulation provided for in Article 10 of Regulation (EC) No 1782/2003.

(2) In order to facilitate its administrative implementation, the rules applicable to voluntary modulation should be aligned to those applicable to compulsory modulation under Article 10 of Regulation (EC) No 1782/2003, including the calculation basis.

(3) In order to take account of the particular situation of small farmers, an additional amount of aid should be granted in case of application of voluntary modulation as is the case for compulsory modulation. That additional amount should be equal to the amount resulting from the application of voluntary modulation to the first EUR 5 000 of direct payments, within ceilings to be fixed by the Commission.

(4) With regard to Member States where voluntary modulation is already used, the new voluntary modulation arrangements laid down in this Regulation should, to the extent possible, refrain from deviating from the existing mechanism so as to avoid triggering unnecessary administrative burden, interfering with implementing arrangements that have been in place for several years and that farmers have adapted to in practice and in economic terms. Therefore, it appears to be appropriate that Member States applying voluntary modulation upon

<sup>(1)</sup> OJ L 277, 21.10.2005, p. 1. Regulation as last amended by Regulation (EC) No 2012/2006 (OJ L 384, 29.12.2006, p. 8).

<sup>(2)</sup> OJ L 298, 23.9.2004, p. 3.

<sup>(3)</sup> OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 2013/2006 (OJ L 384, 29.12.2006, p. 13).

the entry into force of this Regulation be given the right to maintain certain well-established patterns of their current system, whilst avoiding unjustified unequal treatment between farmers. Moreover, to ensure the new arrangements to be consistent with the implementation patterns of the single payment scheme, the application of regionally differentiated voluntary modulation rates should only be available to Member States which apply the single payment scheme at regional level as foreseen in Article 58 of Regulation (EC) No 1782/2003.

- (5) The use of the funds resulting from the application of voluntary modulation may not be subject to the ceilings of the EAFRD contribution pursuant to Regulation (EC) No 1698/2005. Derogation from that Regulation should therefore be provided for. The prefinancing arrangements applicable to the EAFRD pursuant to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy <sup>(1)</sup> should not apply to those funds.
- (6) In order to take informed decisions on the application of voluntary modulation, Member States should carry out thorough assessments of the potential impact of such modulation, in particular as regards the economic situation of the farmers subject to such modulation and the effect on their comparative position in the agricultural sector. The impact of the implementation of voluntary modulation should be closely monitored by the Member States applying voluntary modulation. The Commission should be informed about the impact assessment and the monitoring results with a view to any further policy developments.
- (7) Voluntary modulation should be considered in the broader context of Community funding for rural development. Its contribution should be analysed among others in the light of Member States' impact assessments. Based on this analysis, the Commission will submit before the end of 2008 a report to the European Parliament and to the Council presenting the experience gained so far with its implementation.
- (8) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(2)</sup>.
- (9) The amounts resulting from the application of voluntary modulation should be taken into consideration when

defining the annual ceiling for the expenditure financed by the European Agricultural Guarantee Fund and the possibility to adopt detailed rules concerning in particular voluntary modulation should be included in Regulation (EC) No 1290/2005.

- (10) Regulation (EC) No 1290/2005 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

### VOLUNTARY MODULATION

#### Article 1

1. Without prejudice to Article 10 of Regulation (EC) No 1782/2003, Member States:

- (a) where at the entry into force of this Regulation the system of additional reductions of direct payments referred to in Article 1 of Regulation (EC) No 1655/2004 is applied; or
- (b) which were granted a derogation by virtue of Article 70(4a) of Regulation (EC) No 1698/2005 from the requirement to co-finance Community support,

may apply a reduction, hereinafter referred to as 'voluntary modulation', to all the amounts of direct payments within the meaning of Article 2(d) of Regulation (EC) No 1782/2003 to be granted in their territory in a given calendar year within the meaning of Article 2(e) of that Regulation, during the period 2007 to 2012.

2. The net amounts resulting from the application of voluntary modulation shall be available in the Member State where they were generated as Community support for measures under rural development programming financed by the European Agricultural Fund for Rural Development in accordance with Regulation (EC) No 1698/2005.

3. Reductions under voluntary modulation shall be made on the same basis of calculation as that applicable to modulation pursuant to Article 10 of Regulation (EC) No 1782/2003. Additional amounts granted to farmers under Article 12 of that Regulation shall not be subject to such reductions.

<sup>(1)</sup> OJ L 209, 11.8.2005, p. 1. Regulation as amended by Regulation (EC) No 320/2006 (OJ L 58, 28.2.2006, p. 42).

<sup>(2)</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

In case of application of reductions under voluntary modulation, farmers receiving direct payments under Regulation (EC) No 1782/2003 shall be granted an additional amount of aid which shall be equal to the amount resulting from the application of the percentage of reduction to the first EUR 5 000 or less of direct payments. That additional amount shall not be subject to the reductions under voluntary modulation or to modulation pursuant to Article 10 of Regulation (EC) No 1782/2003.

The total additional amounts of aid resulting from the application of the second subparagraph which may be granted in a Member State in a calendar year shall not be higher than the ceilings to be fixed by the Commission in accordance with the procedure referred to in Article 144(2) of Regulation (EC) No 1782/2003. Where necessary, Member States shall proceed to a linear percentage adjustment of additional amounts of aid in order to respect those ceilings.

4. Each Member State shall apply a single rate of voluntary modulation per calendar year. The rate may be subject to progressive modifications according to pre-established steps. The maximum rate of reduction shall be 20 %.

#### Article 2

1. Within two months of the entry into force of this Regulation, Member States shall decide on and communicate to the Commission the annual rate of voluntary modulation that will apply for the period 2007 to 2012.

2. Member States intending to apply voluntary modulation shall conduct an assessment in order to gauge the impact of the application of voluntary modulation, in particular on the economic situation of the farmers concerned, taking into account the need to avoid unjustified unequal treatment between farmers.

Member States intending to apply rates that are regionally differentiated according to Article 3(1) shall also gauge the impact of such differentiated rates, taking into account the need to avoid unjustified unequal treatment between farmers.

The Member States concerned shall transmit their impact assessments to the Commission together with the communication referred to in paragraph 1.

#### Article 3

1. Any Member State where at the entry into force of this Regulation the system of additional reductions of direct payments referred to in Article 1 of Regulation (EC) No 1655/2004 is applied and the single payment scheme is applied at regional level as foreseen in Article 58 of Regulation (EC) No 1782/2003 may, for the period 2007 to 2012 choose:

(a) by derogation from Article 1(3) not to apply the provisions of the second subparagraph of that paragraph; and/or

(b) by derogation from Article 1(4), to apply rates that are regionally differentiated according to objective criteria. The maximum rate for any of the regions of each Member State concerned shall be 20 %.

2. By derogation from Article 2(1), any Member State applying regionally differentiated rates of voluntary modulation as provided for in paragraph 1 of this Article shall submit to the Commission, within two months of the entry into force of this Regulation, for the period 2007 to 2012, the following information subject to examination by the Commission:

(a) the annual rates of voluntary modulation for each region and for the whole territory;

(b) the annual total amounts to be reduced under voluntary modulation;

(c) where appropriate, the annual total additional amounts needed to cover the additional amount of aid referred to in the second subparagraph of Article 1(3);

(d) statistical and other supportive data used to establish the amounts referred to in points (b) and (c).

3. If necessary, Member States shall submit to the Commission an update of the amounts referred to in paragraphs 2(b) and (c). That updated data shall be sent to the Commission before 31 December of the year preceding the calendar year to which the amounts refer to within the meaning of Article 2(e) of Regulation (EC) No 1782/2003.

4. If clarifications concerning the data submitted in accordance with paragraphs 2 and 3 are requested by the Commission, Member States shall reply to this request within one month.

#### Article 4

1. The net amounts resulting from the application of voluntary modulation shall be fixed by the Commission based on:

(a) a calculation in case of a single national rate of voluntary modulation;

(b) in the case of Member States applying regionally differentiated rates, the amounts communicated by the Member States in their application as provided for in Article 3(2) or the updated amounts as provided for in Article 3(3).

Those net amounts shall be added to the annual breakdown by Member State referred to in Article 69(4) and (5) of Regulation (EC) No 1698/2005.

2. Member States may decide not to apply the ceilings referred to in Article 70(3) of Regulation (EC) No 1698/2005 to the net amounts added to the annual breakdown by Member State pursuant to paragraph 1 of this Article.

Article 25 of Regulation (EC) No 1290/2005 shall not apply to the net amounts added to the annual breakdown by Member State pursuant to paragraph 1 of this Article.

#### Article 5

The Member States applying voluntary modulation and the Commission shall monitor closely the impact of the implementation of voluntary modulation, in particular as regards the economic situation of the farms, taking into account the need to avoid unjustified unequal treatment between farmers. To this end, those Member States shall submit a report to the Commission by 30 September 2008.

#### Article 6

Detailed rules for the application of this Chapter shall be adopted in accordance:

- (a) with the procedure referred to in Article 90(2) of Regulation (EC) No 1698/2005, which shall cover, in particular, provisions for the integration of voluntary modulation in the rural development programming, or, as appropriate;
- (b) with the procedure referred to in Article 41(2) of Regulation (EC) No 1290/2005, which shall cover, in particular, provisions for the financial management of voluntary modulation and the incorporation of the system of additional reductions of direct payments referred to in Article 1 of Regulation (EC) No 1655/2004 into the scheme provided for by this Regulation.

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

Done at Brussels, 27 March 2007.

#### Article 7

Before 31 December 2008, the Commission shall submit to the European Parliament and to the Council a report on the application of voluntary modulation, accompanied, if needed, by appropriate proposals.

#### CHAPTER II

#### AMENDMENT OF REGULATION (EC) No 1290/2005 AND FINAL PROVISION

#### Article 8

Regulation (EC) No 1290/2005 is amended as follows:

1. in Article 12, paragraph 2 is replaced by the following:
  - '2. The Commission shall set the amounts which, pursuant to Articles 10(2), 143d and 143e of Regulation (EC) No 1782/2003 and Article 4(1) of Council Regulation (EC) No 378/2007 (\*), are made available to the EAFRD.
2. in the introductory terms of Article 42 the second sentence is replaced by the following:

'Those rules shall include in particular:'

#### Article 9

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

For the Council  
The President  
P. STEINBRÜCK

**COMMISSION REGULATION (EC) No 379/2007****of 4 April 2007****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 5 April 2007.

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

Done at Brussels, 4 April 2007.

*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 4 April 2007 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	IL	190,7
	MA	114,8
	SN	320,6
	TN	135,4
	TR	187,5
	ZZ	189,8
0707 00 05	JO	171,8
	MA	108,8
	TR	148,2
	ZZ	142,9
0709 90 70	MA	75,6
	TR	115,6
	ZZ	95,6
0709 90 80	EG	242,2
	ZZ	242,2
0805 10 20	CU	39,6
	EG	45,5
	IL	67,3
	MA	42,8
	TN	64,4
	TR	52,3
	ZZ	52,0
0805 50 10	IL	61,3
	TR	52,8
	ZZ	57,1
0808 10 80	AR	82,3
	BR	74,0
	CA	104,6
	CL	89,5
	CN	97,5
	NZ	126,8
	US	120,8
	UY	80,2
	ZA	87,6
ZZ	95,9	
0808 20 50	AR	76,2
	CL	104,4
	CN	54,2
	UY	68,0
	ZA	87,0
	ZZ	78,0

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 380/2007****of 4 April 2007****establishing that certain limits for issuing import licences for sugar products under tariff quotas and preferential agreements are no longer reached**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 950/2006 of 28 June 2006 laying down detailed rules of application for the 2006/07, 2007/08 and 2008/09 marketing years for the import and refining of sugar products under certain tariff quotas and preferential agreements <sup>(2)</sup>, and in particular Article 5(4) thereof,

Whereas:

- (1) The records referred to in Article 5(2) of Regulation (EC) No 950/2006 show that quantities of sugar are still

available for the obligations laid down under Article 24 of Regulation (EC) No 950/2006 bearing the serial number 09.4318.

- (2) Under these circumstances, the Commission must indicate that the limits concerned are no longer reached,

HAS ADOPTED THIS REGULATION:

*Article 1*

The limits for the obligations laid down under Article 24 of Regulation (EC) No 950/2006 bearing the serial number 09.4318 are no longer reached.

*Article 2*

This Regulation shall enter into force on 6 April 2007.

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

Done at Brussels, 4 April 2007.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Regulation (EC) No 2011/2006 (OJ L 384, 29.12.2006, p. 1).

<sup>(2)</sup> OJ L 178, 1.7.2006, p. 1. Regulation as last amended by Regulation (EC) No 2031/2006 (OJ L 414, 30.12.2006, p. 43).

## COMMISSION REGULATION (EC) No 381/2007

of 4 April 2007

**amending Regulation (EC) No 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and Regulation (EC) No 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 <sup>(1)</sup>, and in particular Articles 52(2) and 145(c), (d) and (j) thereof,

Whereas:

- (1) The definition of eligible hectare within the framework of the single payment scheme established in Article 44 of Regulation (EC) No 1782/2003 was amended by Council Regulation (EC) No 2012/2006 <sup>(2)</sup> so that any area under olive trees is now eligible.
- (2) Article 20 of Regulation (EC) No 1782/2003 as amended by Regulation (EC) No 2012/2006 makes optional the use of the geographical information system for olive cultivation for the Member States not applying the aid for olive groves provided for in Chapter 10b of Title IV of this Regulation. Following that amendment, it is appropriate to amend Article 12 of Commission Regulation (EC) No 796/2004 <sup>(3)</sup>, concerning the contents of the single application as regards olive parcels and Annex XXIV, points 1 and 3 of Commission Regulation (EC) No 1973/2004 <sup>(4)</sup>, as regards the definition of eligible olive trees and the calculation of the number of eligible hectares for the use of payment entitlements.

- (3) Article 33 of Regulation (EC) No 796/2004 lays down the rules for the application of Regulation (EC) No 1782/2003, concerning the conditions for the verification of the tetrahydrocannabinol content in hemp growth. From 2007 onwards, production of hemp for other uses than fibre will, pursuant to Chapter 4 of Title III of Regulation (EC) No 1782/2003, be allowed as a land use under the single payment scheme. As a consequence, Article 33 and Annex II of Regulation (EC) No 796/2004 should be adapted accordingly.

- (4) In accordance with Article 33(2) of Regulation (EC) No 796/2004, the Member States have notified to the Commission the results of the tests to determine the tetrahydrocannabinol levels in the hemp varieties sown in 2006. Those results should be taken into account when drawing up the list of varieties of hemp eligible for direct payments in the coming marketing years and the list of varieties temporarily authorised for the marketing year 2007/2008. For the verification of the tetrahydrocannabinol content, some of those varieties should be submitted to procedure B provided for in Annex I to Regulation (EC) No 796/2004.

- (5) From 2007 onwards the aid for energy crops provided for in Chapter 5 of Title IV of Regulation (EC) No 1782/2003 will be applicable in the new Member States applying the Single Area Payment Scheme. The rules governing crops group concerning aid for energy crops should also apply to those new Member States.

- (6) Article 6(3) of Regulation (EC) No 796/2004 was repealed by Commission Regulation (EC) No 263/2006 <sup>(5)</sup>. Article 136 of Regulation (EC) No 1973/2004 should therefore be adapted accordingly.

- (7) Regulation (EC) No 270/2007 amended the rules for the potential uses of sugarbeet for the production of the energy products. Consequently, it is appropriate to adopt identical conditions for the cultivation of these plants on land eligible for the benefit of the set aside rights.

<sup>(1)</sup> OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 2013/2006 (OJ L 384, 29.12.2006, p. 13).

<sup>(2)</sup> OJ L 384, 29.12.2006, p. 8.

<sup>(3)</sup> OJ L 141, 30.4.2004, p. 18. Regulation as last amended by Regulation (EC) No 2025/2006 (OJ L 384, 29.12.2006, p. 81).

<sup>(4)</sup> OJ L 345, 20.11.2004, p. 1. Regulation as last amended by Regulation (EC) No 270/2007 (OJ L 75, 15.3.2007, p. 8).

<sup>(5)</sup> OJ L 46, 16.2.2006, p. 24.

- (8) Regulation (EC) No 796/2004 and Regulation (EC) No 1973/2004 should therefore be amended accordingly.
- (9) The amendments introduced by Council Regulations (EC) No 953/2006 <sup>(1)</sup>, (EC) No 2012/2006 and (EC) No 270/2007 are applicable as from 1 January 2007. Accordingly, the corresponding amendments provided for in this Regulation should apply as from the same date.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

HAS ADOPTED THIS REGULATION:

#### Article 1

Regulation (EC) No 796/2004 is amended as follows:

1. in Article 12(3), the second subparagraph is replaced by the following:

‘In the Member States which include the geographical information system for olive cultivation in the identification system for the agricultural parcels referred to in Article 20 of Regulation (EC) No 1782/2003, the graphic material supplied to the farmer as regards olive parcels shall include for each olive parcel the number of eligible olive trees and their positioning in the parcel as well as the olive area expressed in olive GIS-ha in accordance with point 3 of Annex XXIV of Regulation (EC) No 1973/2004.’

2. in Articles 33(4) and 33(5), in the first and second subparagraphs, the words ‘grown for fibre’ are deleted;

3. Annex II is replaced by the text in the Annex to this Regulation.

#### Article 2

Regulation (EC) No 1973/2004 is amended as follows:

1. Article 136 is replaced by the following:

‘Article 136

#### **Application of Regulation (EC) No 796/2004**

Without prejudice to the third subparagraph of Article 143b(6) of Regulation (EC) No 1782/2003, Regulation

(EC) No 796/2004 shall apply to the single area payment scheme except for Article 7, Article 8(2)(b) and (c), Article 12(1)(c) and (2), Article 13(2) to (8), Article 14(2) and (3), Articles 16 and 17, Article 21(3), Article 24(1)(b), (d) and (e), Article 26(1)(a), (b) and (c) and (2)(b), (c) and (d), Article 27(2)(g), (h), (i) and (j), Article 28(1)(d), Article 30(3), Article 31, Articles 34 to 40, Article 49(2), Article 50(2), (4), (5) and (6), Articles 51 to 64, Article 69 and Article 71(1) thereof.’

2. in Article 143(2), point a) is replaced by the following:

‘(a) any sugarbeet intermediary product is used for the production of energy-products and that any co-product or by-product containing sugar is used in accordance with Regulation (EC) No 318/2006.’

3. Annex XXIV is amended as follows:

- (a) in point 1(b) the following subparagraph is added:

‘However, any planted olive tree is eligible for the calculation of the number of eligible hectares under Article 44 of Regulation (EC) No 1782/2003 (use of payment entitlements).’

- (b) in point 3, the fourth subparagraph is replaced by the following:

‘The same approach shall be applied by the Member States which include the geographical information system for olive cultivation in the identification system for the agricultural parcels referred to in Article 20 of Regulation (EC) No 1782/2003 for the calculation of the number of eligible hectares under Article 44 of Regulation (EC) No 1782/2003 (use of payment entitlements).’

#### Article 3

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

Article 1(1) and (2) and Article 2 shall apply as from 1 January 2007.

Article 1(3) shall apply from the marketing year 2007/2008.

<sup>(1)</sup> OJ L 175, 29.6.2006, p. 1.

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

Done at Brussels, 4 April 2007.

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

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## ANNEX

## ANNEX II

## VARIETIES OF HEMP ELIGIBLE FOR DIRECT PAYMENTS

(a) **Hemp varieties**

Beniko  
Carmagnola  
CS  
Delta-Llosa  
Delta 405  
Dioica 88  
Epsilon 68  
Fedora 17  
Felina 32  
Felina 34 — Félina 34  
Ferimon — Férimon  
Fibranova  
Fibrimon 24  
Futura 75  
Juso 14  
Kompolti  
Red Petiole  
Santhica 23  
Santhica 27  
Silesia  
Uso-31

(b) **Hemp varieties authorised in the marketing year 2007/2008**

Bialobrzeskie  
Chamaeleon <sup>(1)</sup>  
Cannakomp  
Denise <sup>(2)</sup>  
Diana <sup>(2)</sup>  
Fasamo  
Fibriko TC  
Kompolti hibrid TC  
Lipko  
Tiborszálási <sup>(1)</sup>  
UNIKO-B  
Zenit <sup>(2)</sup>

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<sup>(1)</sup> For the marketing year 2007/2008 procedure B of Annex I shall apply.

<sup>(2)</sup> Only in Romania, as authorised by Commission Decision 2007/69/EC (OJ L 32, 6.2.2007, p. 167):'

## COMMISSION REGULATION (EC) No 382/2007

of 4 April 2007

amending Regulation (EC) No 753/2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on common organisation of the market in wine <sup>(1)</sup>, and in particular Article 53 thereof,

Whereas:

- (1) Certain amendments need to be made to Commission Regulation (EC) No 753/2002 <sup>(2)</sup> on account of the accession of Bulgaria and Romania to the European Union.
- (2) Article 28 of Regulation (EC) No 753/2002 provides for rules specific to table wines with a geographical indication, and lists the terms used in the different regions of the Member States to describe such wines. This list has to be adapted by the appropriate terms used by Bulgaria and Romania.
- (3) The list of the traditional specific terms, set up in Article 29 of Regulation (EC) No 753/2002, and the list of the additional traditional terms, referred to in Article 23 of that Regulation, have to be adapted by the appropriate terms used by Bulgaria and Romania.
- (4) Annex II to Regulation (EC) No 753/2002 lists vine varieties and their synonyms that include a geographical indication and that may appear on the labelling of wines. That Annex has to be adapted by the appropriate terms that have been used by Bulgaria and Romania at the date of application of this Regulation.

(5) The name 'Tokaj' designates a 'quality wine produced in a specified region' originating in a cross border region of Hungary and Slovakia and is also part of the Italian and French vine variety designations: 'Tocai italico', 'Tocai friulano' and 'Tokay pinot gris'. The co-existence of these three vine variety designations and the geographical indication is limited in time, until 31 March 2007 and results from the bilateral agreement of 23 November 1993 between the European Community and Republic of Hungary, which has become part of the *acquis* since 1 May 2004. As from 1 April 2007, these three vine varieties designations are removed from Annex II of Regulation (EC) No 753/2002, and as far as the vine variety designation 'Tocai friulano' is concerned, it is now replaced by the new vine variety designation 'Friulano'.

(6) Finally, Annex III to Regulation (EC) No 753/2002 lists the traditional terms which appear or may appear on the labelling of wines. That Annex has to be adapted in order to take into account, on one hand, new traditional terms from Cyprus and, on the other hand, traditional terms used by Bulgaria and Romania.

(7) Regulation (EC) No 753/2002 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 753/2002 is amended as follows:

1. in Article 28, the first paragraph is amended as follows:

(a) the 10th indent is replaced by the following:

— "Τοπικός Οίνος" or "(Regional Wine)" in the case of table wines originating in Cyprus;

<sup>(1)</sup> OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

<sup>(2)</sup> OJ L 118, 4.5.2002, p. 1. Regulation as last amended by Regulation (EC) No 2016/2006 (OJ L 384, 29.12.2006, p. 38).

(b) the following indents are added:

— “регионално вино” in the case of table wines originating in Bulgaria;

— “Vin cu indicație geografică” in the case of table wines originating in Romania;

2. Article 29 is amended as follows:

(a) in paragraph 1, the following points are added:

‘(q) Bulgaria:

— “Гарантирано наименование за произход” or “ГНП”;

— “Гарантирано и контролирано наименование за произход” or “ТКНП”;

— “Благородно сладко вино” or “БСВ”;

(r) Romania:

— “Vin cu denumire de origine controlată – D.O.C.”, followed by:

— “Cules la maturitate deplină – C.M.D.”,

— “Cules târziu – C.T.”,

— “Cules la înobilarea boabelor – C.I.B.”’;

(b) in paragraph 2, the following points are added:

‘(k) Bulgaria:

— “Гарантирано наименование за произход” or “ГНП”;

— “Гарантирано и контролирано наименование за произход” or “ТКНП”;

(l) Romania:

— “Vin spumant cu denumire de origine controlată – D.O.C.”’.

3. Annex II is replaced by Annex I to this Regulation.

4. Annex III is amended in accordance with Annex II 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 will be applicable from 1 April 2007.

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

Done at Brussels, 4 April 2007.

For the Commission  
Mariann FISCHER BOEL  
Member of the Commission

## ANNEX I

## ANNEX II

**List of vine varieties and their synonyms that include a geographical indication <sup>(1)</sup> and that may appear on the labelling of wines in accordance with Article 19(2)**

	Variety name or its synonyms	Countries that may use the variety name or one of its synonyms (*)
1	<b>Agiorgitiko</b>	<b>Greece°</b>
2	<b>Aglianico</b>	<b>Italy°, Greece°, Malta°</b>
3	<b>Aglianicone</b>	<b>Italy°</b>
4	<b>Alicante Bouschet</b>	<b>Greece°, Italy°, Portugal°, Algeria°, Tunisia°, United States°, Cyprus°, South Africa</b> <i>NB: The name "Alicante" may not be used on its own to designate wine</i>
5	<b>Alicante Branco</b>	<b>Portugal°</b>
6	<b>Alicante Henri Bouschet</b>	<b>France°, Serbia (8), Montenegro (8)</b>
7	<b>Alicante</b>	<b>Italy°</b>
8	Alikant Buse	Serbia (6), Montenegro (6)
9	<b>Auxerrois</b>	<b>South Africa°, Australia°, Canada°, Switzerland°, Belgium°, Germany°, France°, Luxembourg°, Netherlands°, United Kingdom°</b>
10	<b>Barbera Bianca</b>	<b>Italy°</b>
11	<b>Barbera</b>	<b>South Africa°, Argentina°, Australia°, Croatia°, Mexico°, Slovenia°, Uruguay°, United States°, Greece°, Italy°, Malta°</b>
12	<b>Barbera Sarda</b>	<b>Italy°</b>
13	Blauburgunder	Former Yugoslav Republic of Macedonia (16-27-114), Austria (14-16), Canada (16-114), Chile (16-114), Italy (16-114)
14	<b>Blauer Burgunder</b>	<b>Austria (13-16), Serbia (24-114), Montenegro (24-114), Switzerland</b>
15	<b>Blauer Frühburgunder</b>	<b>Germany (57)</b>
16	<b>Blauer Spätburgunder</b>	<b>Germany (114), Former Yugoslav Republic of Macedonia (13-27-114), Austria (13-14), Bulgaria (114), Canada (13-114), Chile (13-114), Romania (114), Italy (13-114)</b>
17	<b>Blaufränkisch</b>	Czech Republic (54), Austria°, Germany, Slovenia ( <b>Modra frankinja</b> , Frankinja), Hungary
18	<b>Borba</b>	<b>Spain°</b>
19	<b>Bosco</b>	<b>Italy°</b>
20	<b>Bragão</b>	<b>Portugal°</b>
21	<b>Budai</b>	<b>Hungary°</b>
22	<b>Burgundac beli</b>	<b>Serbia (135), Montenegro (135)</b>
23	Burgundac Crni	Croatia°
24	<b>Burgundac crni</b>	<b>Serbia (14-114), Montenegro (14-114)</b>

<sup>(1)</sup> These variety names and their synonyms correspond, in full or in part, either in translation or in the form of an adjective, to geographical indications used to describe a wine.

	Variety name or its synonyms	Countries that may use the variety name or one of its synonyms (*)
25	<b>Burgundac sivi</b>	Croatia°, Serbia°, Montenegro°
26	<b>Burgundec bel</b>	Former Yugoslav Republic of Macedonia°
27	<b>Burgundec crn</b>	Former Yugoslav Republic of Macedonia (13-16-114)
28	<b>Burgundec siv</b>	Former Yugoslav Republic of Macedonia°
29	<b>Busuioacă de Bohotin</b>	Romania
30	<b>Cabernet Moravia</b>	Czech Republic°
31	<b>Calabrese</b>	Italy (89)
32	<b>Campanário</b>	Portugal°
33	<b>Canari</b>	Argentina°
34	<b>Carignan Blanc</b>	France°
35	<b>Carignan</b>	South Africa°, Argentina°, Australia (37), Chile (37), Croatia°, Israel°, Morocco°, New Zealand°, Tunisia°, Greece°, France°, Portugal°, Malta°
36	<b>Carignan Noir</b>	Cyprus°
37	<b>Carignane</b>	Australia (35), Chile (35), Mexico, Turkey, United States
38	<b>Carignano</b>	Italy°
39	<b>Chardonnay</b>	South Africa°, Argentina (94), Australia (94), Bulgaria°, Canada (94), Switzerland°, Chile (94), Czech Republic°, Croatia°, Hungary (40), India, Israel°, Moldova°, Mexico (94), New Zealand (94), Romania°, Russia°, San Marino°, Slovakia°, Slovenia°, Tunisia°, United States (94), Uruguay°, Serbia, Montenegro, Zimbabwe°, Germany°, France, Greece (94), Italy (94), Luxembourg° (94), Netherlands (94), United Kingdom, Spain, Portugal, Austria°, Belgium (94), Cyprus°, Malta°
40	Chardonnay Blanc	Former Yugoslav Republic of Macedonia, Hungary (39)
41	<b>Chardonnay Musqué</b>	Canada°
42	<b>Chelva</b>	Spain°
43	<b>Corinto Nero</b>	Italy°
44	<b>Cserszegi fűszeres</b>	Hungary°
45	<b>Děvín</b>	Czech Republic°
46	<b>Devín</b>	Slovakia
47	<b>Duna gyöngye</b>	Hungary
48	<b>Dunaj</b>	Slovakia
49	<b>Durasa</b>	Italy°
50	<b>Early Burgundy</b>	United States°
51	Fehér Burgundi, Burgundi	Hungary (132)
52	<b>Findling</b>	Germany°, United Kingdom°
53	<b>Frâncușă</b>	Romania

	Variety name or its synonyms	Countries that may use the variety name or one of its synonyms (*)
54	<b>Frankovka</b>	<b>Czech Republic</b> ° (17), <b>Slovakia</b> (55)
55	<b>Frankovka modrá</b>	<b>Slovakia</b> (54)
56	Friulano	Italy
57	Frühburgunder	Germany (15), <b>Netherlands</b> °
58	<b>Galbenă de Odobești</b>	<b>Romania</b>
59	Girgenti	Malta (60, 61)
60	Ghirgentina	Malta (59, 61)
61	<b>Girgentina</b>	<b>Malta</b> (59, 60)
62	<b>Graciosa</b>	<b>Portugal</b> °
63	<b>Grașă de Cotnari</b>	<b>Romania</b>
64	Grauburgunder	Germany, Bulgaria, Hungary°, Romania (65)
65	Grauer Burgunder	Canada, Romania (64), Germany, <b>Austria</b>
66	Grossburgunder	Romania
67	<b>Iona</b>	<b>United States</b> °
68	<b>Kanzler</b>	<b>United Kingdom</b> °, Germany
69	<b>Kardinal</b>	<b>Germany</b> °, <b>Bulgaria</b> °
70	<b>Kékfrankos</b>	Hungary
71	Kisburgundi kék	Hungary (114)
72	<b>Korinthiaki</b>	<b>Greece</b> °
73	<b>Leira</b>	<b>Portugal</b> °
74	<b>Limnio</b>	<b>Greece</b> °
75	<b>Maceratino</b>	<b>Italy</b> °
76	<b>Maratheftiko (Μαραθεύτικο)</b>	<b>Cyprus</b>
77	<b>Mátrai muskotály</b>	<b>Hungary</b> °
78	<b>Medina</b>	<b>Hungary</b> °
79	<b>Monemvasia</b>	<b>Greece</b>
80	<b>Montepulciano</b>	<b>Italy</b> °
81	Moravia dulce	<b>Spain</b> °
82	Moravia agria	<b>Spain</b> °
83	Moslavac	Former Yugoslav Republic of Macedonia (84), <b>Serbia</b> °, <b>Montenegro</b> °
84	Mozler	Former Yugoslav Republic of Macedonia (83)
85	<b>Mouratón</b>	<b>Spain</b> °

	Variety name or its synonyms	Countries that may use the variety name or one of its synonyms (*)
86	<b>Müller-Thurgau</b>	<b>South Africa</b> <sup>°</sup> , <b>Austria</b> <sup>°</sup> , <b>Germany</b> , <b>Canada</b> , Croatia <sup>°</sup> , <b>Hungary</b> <sup>°</sup> , Serbia <sup>°</sup> , Montenegro <sup>°</sup> ; <b>Czech Republic</b> <sup>°</sup> , <b>Slovakia</b> <sup>°</sup> , Slovenia <sup>°</sup> , <b>Switzerland</b> <sup>°</sup> , Luxembourg, <b>Netherlands</b> <sup>°</sup> , <b>Italy</b> <sup>°</sup> , <b>Belgium</b> <sup>°</sup> , <b>France</b> <sup>°</sup> , <b>United Kingdom</b> , <b>Australia</b> <sup>°</sup> , <b>Bulgaria</b> <sup>°</sup> , <b>United States</b> <sup>°</sup> , <b>New Zealand</b> <sup>°</sup> , <b>Portugal</b>
87	<b>Muškat moravský</b>	<b>Czech Republic</b> <sup>°</sup> , <b>Slovakia</b>
88	<b>Nagyburgundi</b>	Hungary <sup>°</sup>
89	Nero d'Avola	Italy (31)
90	<b>Olivella nera</b>	<b>Italy</b> <sup>°</sup>
91	<b>Orange Muscat</b>	<b>Australia</b> <sup>°</sup> , <b>United States</b> <sup>°</sup>
92	<b>Pálava</b>	<b>Czech Republic</b> , <b>Slovakia</b>
93	<b>Pau Ferro</b>	<b>Portugal</b> <sup>°</sup>
94	Pinot Chardonnay	Argentina (39), Australia (39), Canada (39), Chile (39), Mexico (39), New Zealand (39), <b>United States</b> (39), <b>Turkey</b> <sup>°</sup> , Belgium (39), Greece (39), <b>Netherlands</b> , Italy (39)
95	Pölöskei muskotály	<b>Hungary</b> <sup>°</sup>
96	<b>Portoghese</b>	<b>Italy</b> <sup>°</sup>
97	<b>Pozsonyi</b>	<b>Hungary</b> (98)
98	Pozsonyi Fehér	Hungary (97)
99	<b>Radgonska ranina</b>	<b>Slovenia</b> <sup>°</sup>
100	<b>Rajnai rizling</b>	<b>Hungary</b> (103)
101	Rajnski rizling	Serbia (102-105-108), Montenegro (102-105-108)
102	Renski rizling	Serbia (101-105-108), Montenegro (101-105-108), <b>Slovenia</b> <sup>°</sup> (103)
103	Rheinriesling	Bulgaria <sup>°</sup> , Austria, Germany (105), Hungary (100), Czech Republic (111), Italy (105), Greece, Portugal, Slovenia (102)
104	Rhine Riesling	South Africa <sup>°</sup> , Australia <sup>°</sup> , Chile (106), Moldova <sup>°</sup> , New Zealand <sup>°</sup> , <b>Cyprus</b> , <b>Hungary</b> <sup>°</sup>
105	Riesling renano	Germany (103), Serbia (101-102-108), Montenegro (101-102-108), <b>Italy</b> (103)
106	<b>Riesling Renano</b>	Chile (104), <b>Malta</b> <sup>°</sup>
107	<b>Riminèse</b>	<b>France</b> <sup>°</sup>
108	<b>Rizling rajnski</b>	<b>Serbia</b> (101-102-105), <b>Montenegro</b> (101-102-105)
109	<b>Rizling Rajnski</b>	<b>Former Yugoslav Republic of Macedonia</b> <sup>°</sup> , <b>Croatia</b> <sup>°</sup>
110	<b>Rizling rýnsky</b>	<b>Slovakia</b> <sup>°</sup>
111	<b>Ryzlink rýnský</b>	<b>Czech Republic</b> (103)
112	<b>Santareno</b>	<b>Portugal</b> <sup>°</sup>
113	<b>Sciaccarello</b>	<b>France</b> <sup>°</sup>

	Variety name or its synonyms	Countries that may use the variety name or one of its synonyms (*)
114	Spätburgunder	Former Yugoslav Republic of Macedonia (13-16- <b>27</b> ), Serbia (14- <b>24</b> ), Montenegro (14- <b>24</b> ), Bulgaria (16), Canada (13-16), Chile, Hungary (71), Moldova°, Romania (16), Italy (13-16), <b>United Kingdom</b> , Germany ( <b>16</b> )
115	Štajerska Belina	Croatia°, Slovenia°
116	<b>Subirat</b>	Spain
117	<b>Terrantez do Pico</b>	Portugal°
118	<b>Tintilla de Rota</b>	Spain°
119	<b>Tinto de Pegões</b>	Portugal°
120	<b>Torrontés riojano</b>	<b>Argentina°</b>
121	<b>Trebbiano</b>	South Africa°, Argentina°, <b>Australia°</b> , <b>Canada°</b> , Cyprus°, <b>Croatia°</b> , <b>Uruguay°</b> , <b>United States</b> , Israel, <b>Italy</b> , <b>Malta</b>
122	<b>Trebbiano Giallo</b>	<b>Italy°</b>
123	<b>Trigueira</b>	Portugal
124	<b>Verdea</b>	<b>Italy°</b>
125	<b>Verdeca</b>	<b>Italy</b>
126	<b>Verdelho</b>	<b>South Africa°</b> , <b>Argentina</b> , <b>Australia</b> , <b>New Zealand</b> , <b>United States</b> , <b>Portugal</b>
127	<b>Verdelho Roxo</b>	<b>Portugal°</b>
128	<b>Verdelho Tinto</b>	<b>Portugal°</b>
129	<b>Verdello</b>	<b>Italy°</b> , <b>Spain°</b>
130	<b>Verdese</b>	<b>Italy°</b>
131	<b>Verdejo</b>	<b>Spain°</b>
132	Weißburgunder	South Africa (134), Canada, Chile (133), Hungary (51), Germany ( <b>133</b> , 134), Austria ( <b>133</b> ), United Kingdom°, Italy
133	<b>Weißer Burgunder</b>	<b>Germany</b> (132, 134), <b>Austria</b> (132), Chile (132), <b>Switzerland°</b> , Slovenia, Italy
134	<b>Weissburgunder</b>	South Africa (132), Germany (132, <b>133</b> ), United Kingdom, Italy
135	Weisser Burgunder	Serbia ( <b>22</b> ), Montenegro ( <b>22</b> )
136	<b>Zalagyöngye</b>	<b>Hungary°</b>

(\*) For the States concerned, the derogations provided for in this Annex are authorised only in the case of wines bearing a geographical indication produced in the administrative units in which the production of the varieties concerned is authorised at the time this Regulation enters into force and in accordance with the conditions laid down by the states concerned for the production and presentation of those wines.

LEGEND:

- terms in brackets: reference to the synonym for the variety
- °: no synonym
- terms in bold: column 2: name of vine variety  
column 3: country where the name corresponds to a variety and reference to the variety
- terms not in bold: column 2: name of the synonym of a vine variety  
column 3: name of country using the synonym of a vine variety.

## ANNEX II

Annex III to Regulation (EC) No 753/2002 is amended as follows:

1. The following rows are inserted before the rows for the Czech Republic:

<b>BULGARIA</b>					
<b>Traditional specific terms referred to in Article 29</b>					
Гарантирано наименование за произход (ГНП) (guaranteed appellation of origin)	All	Quality wine psr, quality semi-sparkling wine psr, quality sparkling wine psr and quality liqueur wine psr	Bulgarian	2007	
Гарантирано и контролирано наименование за произход (ГКНП) (guaranteed and controlled appellation of origin)	All	Quality wine psr, quality semi-sparkling wine psr, quality sparkling wine psr and quality liqueur wine psr	Bulgarian	2007	
Благородно сладко вино (БСВ) (noble sweet wine)	All	Quality liqueur wine psr	Bulgarian	2007	
<b>Terms referred to in Article 28</b>					
регионално вино (Regional wine)	All	Table wine with GI	Bulgarian	2007	
<b>Additional traditional terms referred to in Article 23</b>					
Ново (young)	All	Quality wine psr Table wine with GI	Bulgarian	2007	
Премиум (premium)	All	Table wine with GI	Bulgarian	2007	
Резерва (reserve)	All	Quality wine psr Table wine with GI	Bulgarian	2007	
Премиум резерва (premium reserve)	All	Table wine with GI	Bulgarian	2007	
Специална резерва (special reserve)	All	Quality wine psr	Bulgarian	2007	
Специална селекция (special selection)	All	Quality wine psr	Bulgarian	2007	
Колекционно (collection)	All	Quality wine psr	Bulgarian	2007	
Премиум оук, или първо зареждане в бъчва (premium oak)	All	Quality wine psr	Bulgarian	2007	
Беритба на презряло грозде (vintage of overripe grapes)	All	Quality wine psr	Bulgarian	2007	
Розенталер (Rosenthaler)	All	Quality wine psr	Bulgarian	2007'	

2. The rows for Cyprus are replaced by the following rows:

<b>'CYPRUS</b>					
<b>Traditional specific terms referred to in Article 29</b>					
Οίνος Ελεγχόμενης Ονομασίας Προέλευσης (ΟΕΟΠ)	All	Quality wine psr	Greek		
<b>Terms referred to in Article 28</b>					
Τοπικός Οίνος (Regional Wine)	All	Table wine with GI	Greek		
<b>Additional traditional terms referred to in Article 23</b>					
Μοναστήρι (Monastiri)	All	Quality wine psr and table wine with GI	Greek		
Κτήμα (Ktima)	All	Quality wine psr and table wine with GI	Greek		
Αμπελώνας (-ες) (Ampelonas (-es))	All	Quality wine psr and table wine with GI	Greek	2006	
Μονή (Moni)	All	Quality wine psr and table wine with GI	Greek	2006'	

3. The following rows are inserted after the rows for Portugal:

<b>'ROMANIA</b>					
<b>Traditional specific terms referred to in Article 29</b>					
Vin cu denumire de origine controlată (D.O.C.)	All	Quality wine psr	Romanian	2007	
Cules la maturitate deplină (C.M.D.)	All	Quality wine psr	Romanian	2007	
Cules târziu (C.T.)	All	Quality wine psr	Romanian	2007	
Cules la înnobilarea boabelor (C.I.B.)	All	Quality wine psr	Romanian	2007	
<b>Terms referred to in Article 28</b>					
Vin cu indicație geografică	All	Table wine with GI	Romanian	2007	
<b>Additional traditional terms referred to in Article 23</b>					
Rezervă	All	Quality wine psr	Romanian	2007	
Vin de vinotecă	All	Quality wine psr	Romanian	2007'	

## II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

## DECISIONS

## COUNCIL

## COUNCIL DECISION

of 29 January 2007

**amending Decision 2004/676/EC concerning the Staff Regulations of the European Defence Agency**

(2007/215/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Council Joint Action 2004/551/CFSP of 12 July 2004 on the establishment of the European Defence Agency <sup>(1)</sup>, and in particular Article 11(3)(3.1.) thereof,

Having regard to the Council Decision 2004/676/EC of 24 September 2004 concerning the Staff Regulations of the European Defence Agency <sup>(2)</sup>, and in particular Article 170(2) thereof,

Having regard to the proposal from the Steering Board of the European Defence Agency,

Whereas:

(1) In order to ensure a more harmonised approach to human resources in a European civil service, it is appropriate to align provisions of the Staff Regulations of the European Defence Agency with equivalent provisions of the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities, in particular as regards provisions concerning resettlement allowance, severance grant, dependent child allowance, respect of principle of non-discrimination and benefits for agents appointed head of unit, director or director-general. For the same reason, it is necessary to take into account the experience acquired in the application of those provisions of the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities.

- (2) It is appropriate to proceed to the alignment of provisions of the Staff Regulations of the European Defence Agency with equivalent provisions of the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants, whilst respecting the acquired rights of the staff of the European Defence Agency before the entry into force of these amendments and taking account of their legitimate expectations.
- (3) Since the initial adoption of the Staff Regulations of the European Defence Agency in 2004, several inconsistencies have been discovered in the text. It is necessary to correct them.
- (4) The Staff Regulations of the European Defence Agency, laid down in Decision 2004/676/EC, should therefore be amended accordingly,

HAS DECIDED AS FOLLOWS:

*Article 1*

Decision 2004/676/EC is hereby amended as follows:

1. in Article 5(4), the first subparagraph is replaced by the following:

‘4. For the purposes of paragraph 1, a person has a disability if he has a physical or mental impairment that is, or is likely to be, permanent. The impairment shall be determined according to the procedure set out in Article 37.’;

<sup>(1)</sup> OJ L 245, 17.7.2004, p. 17.

<sup>(2)</sup> OJ L 310, 7.10.2004, p. 9.

2. Article 10(2) is replaced by the following:

'2. A member of temporary staff shall not without the permission of the AACC accept from any government or from any other source outside the Agency any honour, decoration, favour, gift or payment of any kind whatever, except for services rendered either before his appointment or during special leave for military or other national service and in respect of such service.'

3. in Article 21, the second subparagraph is replaced by the following:

'The provisions of the preceding subparagraph shall not apply to a member of temporary staff or former member of temporary staff giving evidence before the Appeal Board or before the Disciplinary Board on a matter concerning a member of temporary staff or former member of temporary staff.'

4. Article 27(1) point (b) is replaced by the following:

'(b) the member of temporary staff has previously disclosed the same information to the Agency and has allowed the Agency the period of time set by it, given the complexity of the case, to take appropriate action. The member of temporary staff shall be duly informed of that period of time within 60 days.'

5. Article 36 is amended as follows:

(a) the following subparagraph is added to paragraph 1:

'No posts shall be reserved for nationals of any specific Member State.'

(b) in paragraph 2, point (e) is replaced by the following:

'(e) he produces evidence of a thorough knowledge of one of the languages of the participating Member States and of a satisfactory knowledge of another language of the participating Member States to the extent necessary for the performance of his duties.'

6. Article 39 is amended as follows:

(a) the existing paragraph 2 is renumbered paragraph 3;

(b) the following new paragraph 2 is inserted:

'2. A member of temporary staff who has been at one step in his grade for two years shall automatically advance to the next step in that grade.'

If a member of temporary staff is appointed head of unit, director or director-general, and provided that he has performed his new duties satisfactorily during the first nine months, he shall retroactively benefit from advancement by one step in his grade at the time the appointment comes into effect. This advancement shall lead to an increase in his basic monthly salary corresponding to the percentage between the first and the second step in each grade.'

7. in Article 40, the second subparagraph is deleted;

8. in Article 59, paragraph 9 is deleted;

9. Article 63(2) is replaced by the following:

'2. The resettlement allowance provided for in Article 6 of Annex V shall be granted to temporary staff who have completed four years' service. A member of the temporary staff who has completed more than one year's, but less than four years' service shall receive a resettlement allowance proportionate to his length of service, incomplete years being disregarded.'

10. in Annex V, the following Article is added:

'Article 2a

Notwithstanding Article 2(1), the dependent child allowance is replaced by the following amounts for the following periods:

1.2.2007-31.12.2007 EUR 302,35;

1.1.2008-31.12.2008 EUR 315,53.

The above scale shall be reviewed each time remuneration is revised pursuant to Article 59 of the Staff Regulations.'

11. in Annex V, Article 3(2) is replaced by the following:

'2. For each dependent child within the meaning of Article 2(2) who is less than five years old or is not yet in regular full-time attendance at a primary or secondary school, the amount of this allowance is fixed as follows:

1.2.2007-31.8.2007 EUR 48,17;

1.9.2007-31.8.2008 EUR 64,24;

1.9.2008 and beyond EUR 80,30.

The above scale shall be reviewed each time remuneration is revised pursuant to Article 59 of the Staff Regulations.'

12. in Annex VI, Article 1 is replaced by the following:

*'Article 1*

1. A staff member whose service terminates otherwise than by reason of death or invalidity shall be entitled on leaving the service:

(a) where he has completed less than one year's service, to payment of a severance grant equal to three times the amounts withheld from his basic salary in respect of his pension contributions, after deduction of any amounts paid under Articles 90 and 131 of the Staff Regulations;

(b) in other cases, he shall be entitled:

1. to have the actuarial equivalent of his retirement pension rights in the Agency, updated to the actual date of transfer, transferred to the pension fund of an administration or organisation or to the pension fund under which he acquires retirement pension rights by virtue of the activity pursued in an employed or self-employed capacity, or

2. to the payment of the actuarial equivalent of such benefits to a private insurance company or pension fund of their choice, on condition such company or fund guarantees that:

(i) the capital will not be repaid;

(ii) a monthly income will be paid from age 60 at the earliest, and age 65 at the latest;

(iii) provisions are included for reversion or survivors' pensions;

(iv) transfer to another insurance company or other fund will be authorised only if such fund fulfils the conditions laid down in points (i), (ii) and (iii).

2. By way of derogation from paragraph 1(b), a staff member who, since taking up his duties, has, in order to establish or maintain pension rights, paid into a national pension scheme, a private insurance scheme or a pension fund of his choice which satisfies the requirements set out in paragraph 1, and whose service terminates for reasons other than death or invalidity, shall be entitled, on leaving the service, to a severance grant equal to the actuarial value of his pension rights acquired during service in the Agency. In these cases the payments made in order to establish or maintain his pension rights under the national pension scheme in application of Articles 90 or 131 shall be deducted from the severance grant.

3. Where a staff member's service has been terminated by removal from his post, the severance grant to be paid or, as the case may be, the actuarial equivalent to be transferred shall be determined by reference to the Decision taken in accordance with Article 146 of the Staff Regulations.'

*Article 2*

This decision shall take effect on the day of its adoption. It shall be published in the *Official Journal of the European Union*.

Done at Brussels, 29 January 2007.

*For the Council*  
*The President*  
Horst SEEHOFER

**COUNCIL DECISION****of 29 January 2007****amending Decision 2004/677/EC with regard to a minimal period of secondment of national experts and military staff seconded to the European Defence Agency**

(2007/216/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Council Decision 2004/677/EC of 24 September 2004 concerning the Rules applicable to national experts and military staff on secondment to the European Defence Agency <sup>(1)</sup>, and in particular Article 33, second subparagraph, thereof,

Having regard to the proposal from the Steering Board of the European Defence Agency,

Whereas:

Article 11(3)(3.2.) of the Council Joint Action 2004/551/CFSP of 12 July 2004 on the establishment of the European Defence Agency <sup>(2)</sup> provides that the European Defence Agency's staff consists of national experts seconded by participating Member States either to posts within the Agency organisational structure or for specific tasks and projects. Since a minimum period of six months of secondment appears to be longer than that necessary in the case of national experts seconded for specific tasks and projects, Council Decision 2004/677/EC should be amended with a view to providing the necessary flexibility regarding the minimum length of secondment,

*Article 1*

Article 2(1) of Decision 2004/677/EC shall be replaced by the following:

'1. The period of secondment may not be less than two months nor exceed three years and may be renewed successively up to a total period not exceeding four years.'

*Article 2*

This Decision shall take effect on the day of its adoption. It shall be published in the *Official Journal of the European Union*.

Done at Brussels, 29 January 2007.

*For the Council*  
*The President*  
Horst SEEHOFER

<sup>(1)</sup> OJ L 310, 7.10.2004, p. 64.

<sup>(2)</sup> OJ L 245, 17.7.2004, p. 17.

# COMMISSION

## COMMISSION DECISION

of 22 November 2006

on State aid implemented by France for the Laboratoire national de métrologie et d'essais (C24/2005)

(notified under document number C(2006) 5477)

(Only the French version is authentic)

(Text with EEA relevance)

(2007/217/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having called on interested parties to submit their comments pursuant to the provisions cited above <sup>(1)</sup> and having regard to their comments,

Whereas:

### 1. PROCEDURE

- (1) Following a complaint from a competitor, the Commission was informed that France had implemented State aid for the Laboratoire national de métrologie et d'essais (hereinafter referred to as 'LNE') <sup>(2)</sup>.
- (2) By letters dated 3 September 2003, 11 February 2004 and 7 June 2004, the Commission requested the French authorities to submit information about the State's financial assistance for the LNE. The French authorities provided the Commission with information by letters dated 7 November 2003, 5 April 2004 and 6 August 2004.
- (3) By letter dated 5 July 2005, the Commission informed France that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of certain measures by letters dated 4 November 2005 and 19 April 2006. France provided the information requested in the decision to initiate the procedure.

<sup>(1)</sup> OJ C 263, 22.10.2005, p. 22.

<sup>(2)</sup> LNE is the acronym for the Laboratoire national de métrologie et d'essais, established by Decree of 25 January 2005, following the incorporation of the Bureau national de métrologie into the Laboratoire national d'essais.

- (4) The Commission Decision to initiate the procedure was published in the *Official Journal of the European Union* <sup>(3)</sup>. The Commission invited interested parties to submit their comments on the measure.

- (5) The Commission received comments from interested parties. It forwarded them to France, which was given the opportunity to react; its comments were received by letter dated 1 March 2006.

- (6) The Commission sent additional questions on 6 June 2006. The French authorities' replies were sent on 2 August 2006 and were registered as received by the Commission on the same day.

### 2. DETAILED DESCRIPTION OF THE MEASURES

#### 2.1. Recipient

*Status and activities*

- (7) The LNE was set up in 1901 as part of the Conservatoire National des Arts et Métiers. It ranked as a public institution under the supervision of the Ministry of National

<sup>(3)</sup> See footnote 1.

Education. In 1978 it acquired EPIC status (public enterprise of an industrial and commercial nature) pursuant to Law No 78-23 of 10 January 1978 on consumer protection and information (products and services), under which, the LNE was made responsible for performing all analysis, research, consultation, expertise, testing and supervisory services and providing technical assistance to protect and inform consumers or to improve product quality. The LNE was also authorised, as and when requested by the Ministries, to study on their behalf the test methods for drawing up regulations and standards and to issue quality certificates. Its tasks also included liaising on the public authorities' behalf with the international bodies responsible for these areas. In 2005 the LNE was given the additional task of heading up the national scientific metrology service (a role previously played by the public interest group Bureau national de métrologie — 'BNM' and it became the Laboratoire national de métrologie et d'essais.

- (8) Besides its public service task, the LNE offers companies a wide range of services covering every stage in the life of their products. Its four core activities are measurement, testing, certification and training. It has the resources to conduct standard or tailor-made testing programmes in many fields <sup>(4)</sup>. Its clients are industrial companies, distribution companies, local and regional authorities, consumer organisations, legal experts and courts of law, insurance companies and government departments <sup>(5)</sup>.
- (9) The LNE uses its premises and equipment both to perform the tasks assigned to it by the State and to provide services to third parties.
- (10) The LNE plays an active part in European and international organisations such as the CEN (European Committee for Standardisation), EUROLAB (European Federation of National Associations of Measurement, Testing and Analytical Laboratories), the EOTC (European Organisation for Conformity Assessment) and the ILAC (*International Laboratory Accreditation Committee*).
- (11) It has 700 staff divided into 30 multidisciplinary teams and 55 000 m<sup>2</sup> of laboratory space, including 10 000 m<sup>2</sup> in Paris and 45 000 m<sup>2</sup> in Trappes.
- (12) The LNE has offices in Asia (LNE-Asia in Hong Kong <sup>(6)</sup>) and in the United States (North America G-MED subsidiary in Washington). These activities are, however, small-scale.

- (13) In 2005 its revenue was EUR 65 million and its profits EUR 0,7 million.

#### *Performance contracts*

- (14) Since 1997 the mandate given to the LNE by the State has been enshrined in performance contracts concluded between the French authorities and the LNE for a period of four years. The first performance contract was in force between 1997 and 2001, the second between 2001 and 2004. The third contract is for the period 2005 to 2008.
- (15) These contracts include tasks as a national metrology laboratory and as a research body, the provisions of technical assistance to the public authorities and support services to businesses in the field of testing and conformity attestation.

#### *The LNE's resources*

- (16) According to Decree No 78-280 of 10 March 1978 on the LNE, the resources accruing to the enterprise include grants from the central government, regional or local authorities, public institutions and public or private bodies of all kinds <sup>(7)</sup>. On this basis, the LNE has to date been awarded operating grants <sup>(8)</sup> and investment grants:

<i>(EUR million)</i>		
	Operating grants	Investment grants
2005	14,7	6,9
2004	13,8	6,1
2003	13,0	5,5
2002	13,6	4,6
2001	12,6	4,6
2000	11,2	4,6
1999	10,8	4,4
1998	10,9	4,1
1997	10,9	4,2
1996	10,4	4,2
1995	10,7	4,1
1994	11,0	4,0
1993	10,6	3,8

<sup>(4)</sup> For example, metrology and instrumentation, materials, consumer products, health and medical apparatus, industrial equipment and components, logistics and packaging, energy and the environment.

<sup>(5)</sup> Source: [www.lne.fr](http://www.lne.fr)

<sup>(6)</sup> In 2001 the LNE set up LNE-Asia, a joint venture between the LNE and the CMA Testing and Certification Laboratories.

<sup>(7)</sup> This decree was amended by Decrees Nos 2005-49 of 25 January 2005 and 2005-436 of 9 May 2005, in particular as regards the financial and accounting arrangements and the supervision of the LNE. The LNE's resources, however, remain exactly the same.

<sup>(8)</sup> The sum of the amounts corresponding to the Metrology Contract and of the operating grants on the profit and loss account.

- (17) According to the French authorities, the operating grants and the investment grants were awarded by the Ministry of Industry and the BNM in return for the LNE's public service tasks. Essentially, they are designed to cover the costs incurred in performing these tasks. The legal basis of these grants is the Finance Law voted on each year by the French Parliament.
- (18) Some of the investment grants are linked to the construction of two new laboratory complexes 'Trappes 3' and 'Trappes 4' (phases 1 and 2), named after their location. These grants were awarded by the Industry and the Environment Ministries, the BNM, the Conseil Régional d'Ile-de-France and the Conseil Général des Yvelines.
- (19) The LNE also obtains resources from its commercial activities. The turnover from the market sector always accounted for over 50 % of the LNE's total resources over the period examined, reaching 63 % in 2005.

## 2.2. The relevant markets

- (20) The LNE operates in the testing, metrology, certification, measurement, training and R & D markets. It provides the above services mainly in the following sectors: consumer products, medical/health, packaging, construction products, and industrial products.
- (21) These markets are open to competition in the European Community. In particular, the LNE competes with other organisations on the market for the certification required by Community Directives and with thousands of conformity assessment bodies, mainly because of its authorisation to award national standards established by other Member States' authorities (for example, the German GS mark).

## 2.3. Grounds for initiating the procedure

- (22) At the end of its preliminary examination, the Commission found that it was not possible at that stage to ascertain accurately whether some of the tasks assigned to the LNE were services of general interest or not and also whether these activities were commercial or not.
- (23) The Commission accordingly expressed doubts about the grounds for the amount of the operating and investment grants awarded to the LNE to compensate for the costs of its activities or investment projects of a non-economic nature or deriving from the fulfilment of a remit conferred by the State. In the absence of separate

accounts for activities of a different nature, which, moreover, could not be precisely demarcated, the LNE could have used part of the public grants to carry out its competitive activities. This would be tantamount to cross-subsidising commercial activities and would constitute State aid within the meaning of Article 87 of the EC Treaty.

- (24) According to the Commission, the advantage gained from cross-subsidising commercial activities would favour the LNE in its activities on markets open to EU-wide competition. Intra-Community trade would therefore be affected.
- (25) The aid would have to be considered unlawful aid within the meaning of Article 1(f) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty<sup>(9)</sup>.
- (26) The exceptions to incompatibility provided for in Article 87(2) and (3) of the EC Treaty would not be applicable in this case.
- (27) Article 86(2) of the EC Treaty applies only to services of general economic interest operated on behalf of the State. After preliminary analysis of the cases, the Commission decided, however, that it was not clear from the information it possessed at that stage that the tasks entrusted to the LNE by the State under a performance contract were of an unconditionally economic nature. Nor did it seem that the services performed by the LNE on a competitive basis were the subject of a separate task of general economic interest. The Commission therefore took the view that, at that stage, Article 86(2) of the Treaty could not be involved in support of the compatibility of the measures in question.

## 3. COMMENTS FROM INTERESTED PARTIES

- (28) Three interested parties submitted comments under the procedure:
- the company Emitech, by letter dated 14 November 2005,
  - the laboratory Intertek Testing Services (France), by letter dated 21 November 2005,
  - the laboratories Pourquery Analyses Industrielles, by letter dated 21 November 2005.

<sup>(9)</sup> OJ L 83, 27.3.1999, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

- (29) These comments, many of which are similar, are summarised and grouped together by topic under recitals 30 to 32.
- (30) Firstly, it is claimed that the public service task entrusted to the LNE was not clearly defined and that it was therefore impossible for its competitors to draw the line between possible public service obligations and commercial activities. They also had no way of objectively and transparently checking whether the LNE used the grants that it received from the State solely for its public service obligations. Grants were paid by the regional authorities, e.g. for the extension of the Trappes site, where commercial activities were carried out. Nor did the LNE perform certain tasks, such as representing the public authorities in international bodies (Intertek, refers, for example, to taking part in AFNOR and CEN committees without any compensation from the public authorities). The aid in question was also granted to the LNE without prior notification — it was therefore illegal and as such invalid.
- (31) Secondly, on account of its public enterprise status, the LNE enjoyed a number of selective advantages, such as self-insurance and, more generally, non-payment of insurance, a special labour legislation scheme, in particular for retirement and unemployment insurance, the right to use documents with the French Republic's header and logos, the use of an official image or an official laboratory image, *de facto* entitlement to the research tax credit, and free archiving. The LNE was also favoured by the customs administration, which used the LNE's services or required firms to use those services, to the exclusion of any other laboratories.
- (32) Thirdly, the Government grants distorted competition, especially at international level. The LNE also had many branches abroad.
- and public undertakings<sup>(10)</sup> are met. This relieves the LNE of the need to keep separate accounts.
- (35) The French authorities stress, however, that the LNE has had an analytical accounting system since 1990. The system was revised in 2005 to comply with the 2005 to 2008 performance contract between the State and the LNE. It allows a complete separation of the accounts for commercial and non-commercial activities and shows, in particular, the profitability of the commercial services performed by the LNE, regardless of the annual grant made to it and assigned to public service tasks.
- (36) The full-cost accounting method is used: the LNE is structured around analysis centres that directly or indirectly contribute to its various tasks and activities. The amount of expenditure and revenue is allocated as precisely as possible:
- there are 80 operational sections or main analysis centres, with a staff of some 500 people,
  - there are some 40 auxiliary centres comprising the functional sections and cost centres, with a staff of some 200 people.
- (37) LNE staff enter their working hours via input software. Depending on the nature of the activity, the hours are direct (operational sections) or indirect (operational and functional sections), given that the overheads are made up of the costs of the auxiliary centres (functional sections and cost centres).
- (38) The costs of the auxiliary centres are then divided between the main centres according to several cost units or allocation keys (staff, payroll, number of IT posts, surface area of premises, quality of their temperature and heat regulation systems).
- (39) The full costs of the main analysis centres are then charged to the activities on the basis of two cost factors:
- the hours of direct labour charged by each staff member,
  - the rate of utilisation of equipment.

#### 4. COMMENTS FROM FRANCE

- (33) By letters dated 4 November 2005 and 19 April 2006, France sent the Commission its comments on the decision to initiate a formal investigation procedure in respect of the aid granted to the LNE and it provided additional information about the LNE's accounts.

##### *Separation of accounts*

- (34) Firstly, France emphasises the fact that the criteria mentioned in Article 4(2)(a) and (b) of Commission Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States

<sup>(10)</sup> OJ L 195, 29.7.1980, p. 35. Directive as last amended by Directive 2005/81/EC (OJ L 312, 29.11.2005, p. 47).

- (40) This second factor is designed to allocate in an appropriate manner depreciation and infrastructure costs to the LNE's activities (infrastructure costs are made up of the indirect costs of the maintenance, workshop and property management units).
- (41) In a main analysis centre (average operational section of six people), a rate of utilisation is calculated for each sector by weighting the rate of utilisation by the value of the equipment. The depreciation and infrastructure costs, directly linked to the equipment, can then be charged, pro rata to these rates, to each of the commercial and public sectors.
- (42) The analysis centre's indirect costs and other overheads are allocated to the commercial or public activities pro rata to the direct hours charged by the section's staff members.
- (43) In 2005 the effective rates of utilisation of equipment in the commercial sector and the public sector allowed an individual breakdown of infrastructure and depreciation costs for each piece of equipment pro rata to its utilisation. The sum of these individual breakdowns gives the total figures for 2005.
- (44) For the years 1993 to 2004, such an individual breakdown was not feasible. An overall indicator for the rate of utilisation was therefore used. It was reached by weighting individual rates of utilisation of each piece of equipment by the value of the equipment. The value of this indicator for 2005 is 44 % for the commercial sector and 56 % for the public sector. These rates of utilisation were calculated, on a team-by-team basis, for the laboratory's main items of equipment with a purchase value of EUR 7 500 or more, i.e. almost 1 200 items of equipment, representing in value 70 % of all the LNE's apparatus and equipment.
- (45) However, for its cost allocation calculations and thus for estimating the results of the public and commercial sectors, France uses a more cautious allocation ratio of 50:50, rather than a 56:44 ratio. This corresponds to a safety margin of about 10 % (in fact, 6 points out of 56).
- (46) Buildings are not included in the above sampling but the utilisation ratios in analytical accounts result in a 2/3-1/3 allocation in favour of the public sector.
- (47) The LNE's accounts for the period 1993 to 2004 have therefore been re-done as requested by the Commission

in order to allocate fixed production overheads to either the commercial or the public sector, whereas they had been entered in the accounts as 'mixed' costs. The method used is based on a principle developed in the IAS 2 international accounting standard, whereby fixed production overheads must be allocated to production costs on the basis of the normal capacity of the production facilities.

#### *Service of general economic interest*

- (48) Secondly, France recalls the activities linked to the public service tasks that were entrusted to the LNE and points out that the LNE is an EPIC subject to compliance with the principle of specification, which applies to any public establishment specifically created to operate a public service. Basing itself on European Court of Justice case-law<sup>(11)</sup>, it goes on to say that the LNE's public service tasks are of general economic interest as the LNE uses resources that it would not commit if it considered only its commercial interest. The tasks identified in the 2005/2008 performance contract are therefore of a clear and specific economic nature. Lastly, the case-law<sup>(12)</sup> states, on the one hand, that undertakings entrusted with the operation of services of general economic interest must have been assigned that task by an act of a public authority which defines precisely the content of the public service obligations and, on the other hand, that the Commission can call into question the definition of services of general economic interest only in a case of manifest error. France maintains that, by definition, EPICs satisfy the above criteria.

#### *Absence of State aid and cross-subsidation*

- (49) Thirdly, according to France, the compensation granted to the LNE for its public service obligations does not constitute unlawful State aid. The four cumulative conditions of the Altmark judgment<sup>(13)</sup> are, in fact, met. Analysis also reveals that the provisions of the Community framework for State aid in the form of public service compensation<sup>(14)</sup> (the framework) are met. In addition, any penalty imposed on France would contravene Commission Decision No 2005/842/EC of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest<sup>(15)</sup>. Article 2(1)(a) of the Decision lays down the compatibility of such compensation under certain conditions that the LNE meets.

<sup>(11)</sup> Including the judgment of the Court of 11 April 1989 in Case 66/86, *Ahmed Saeed Flugreisen et al.* [1989] ECR 803.

<sup>(12)</sup> Judgment of the Court of 15 June 2005 in Case T-17/02 *Fred Olsen, SA v Commission* [2005] ECR II-2031, at paragraphs 186 *et seq.* and 216.

<sup>(13)</sup> Judgment of 24 July 2003, in Case C-280/00 *Altmark Trans and Regierungspräsidium Magdeburg* [2003] ECR I-7747.

<sup>(14)</sup> OJ C 297, 29.11.2005, p. 4.

<sup>(15)</sup> OJ L 312, 29.11.2005, p. 67.

- (50) The grants for the Trappes sites, awarded by the regional authorities and the State, funded the resources needed to perform the public service tasks entrusted to the LNE.
- (51) Using an analysis of the relevant markets, France wishes to prove that, at the date of referral, there had been no irregular cross-subsidies, i.e. enabling the LNE to charge predatory prices in the relevant commercial sectors.
- (52) Lastly, France considers that the LNE does not have a significant market share as it is estimated at 4,2 % nationally and at 1 % Europe-wide.

#### *Other factors*

- (53) Fourthly, France points out that the trade discount granted to small and medium-sized enterprises (SMEs) in the Ile-de-France is consistent with a scheme authorised by the Commission in 1989<sup>(16)</sup>, for which any laboratory was eligible, including the complainants. The subsidies granted by the Conseil Régional d'Ile de France amount to EUR 61 000 since 1995. The real recipients of these subsidies were the SMEs in question. Furthermore, France has found no trace of an alleged subsidy from the Agency for the Environment and Energy Management (ADEME) to the LNE.
- (54) Fifthly, France notes that, to perform their tests, the French customs and indirect taxation authorities (DGDDI) use their own laboratories or those of the Directorate-General for Competition, Consumer Affairs and Prevention of Fraud (DGCCRF) if they possess the ad hoc technical expertise (for example, a large number of tests on toys are carried out by a customs laboratory). If not, the DGDDI uses external laboratories, such as the LNE. The laboratory is chosen on the basis of its expertise in applying the regulations in question. The DGDDI can therefore turn to, for example, the National Research and Safety Institute (INRS) in the cases of protective masks or to the Scientific and Technical Centre for Buildings (CSTB) for construction products.

### 5. ASSESSMENT OF THE MEASURES

- (55) The subject matter of this procedure is the annual operating and investment grants awarded to the LNE by the public authorities between 1993 and 2005.

<sup>(16)</sup> File NN 6/89, regional centres of innovation and technology transfer. Letter to the French authorities, (SEC(1989)814 of 23.5.1989).

### 5.1. Classification as State aid

#### *The LNE's public service tasks are economic activities*

- (56) The competition rules do not apply to non-economic activities. The first matter to be assessed is, therefore, whether the LNE's activities in the public sector<sup>(17)</sup> are economic in nature or not.
- (57) Any activity consisting in supplying goods or services on a given market is an economic activity<sup>(18)</sup>. According to Mr Advocate-General Jacobs, in his conclusions in Case C-222/04, the emphasis when interpreting whether an activity is economic in nature should be placed on whether that activity could, at least in principle, be carried on by a private undertaking in order to make profits.
- (58) In this context, the Commission considers that the study, research, consultation, expertise, testing and control work and all the technical assistance measures designed to protect and inform consumers or improve product quality carried out by the LNE as part of its general interest task, correspond to a supply of services on the relevant markets and that these services could, in principle, be supplied by an undertaking in order to make profits. The tasks entrusted by the State to the LNE are therefore economic in nature<sup>(19)</sup>.

#### *Criteria required to classify a state measure as State aid*

- (59) Under Article 87(1), a measure constitutes State aid if the four following conditions are all met. First, it must be a state measure or involve state resources. Second, the measure must confer an advantage on its recipient. Third, it must distort or threaten to distort competition by favouring certain undertakings. Fourth, it must affect trade between Member States.

#### *State resources*

- (60) State budget allocations are clearly state resources.
- (61) The public interest group 'Bureau national de métrologie' was under state control<sup>(20)</sup>, before being incorporated into the LNE in 2005. The LNE's resources linked to contracts with BNM are therefore state resources.

<sup>(17)</sup> Clearly, activities in the market sector are economic activities within the meaning of the case-law.

<sup>(18)</sup> Judgment of the Court of 10 January 2006 in Case C-222/04 *Cassa di Risparmio di Firenze et al.* [2006] ECR I-289.

<sup>(19)</sup> Subject to what is stated in paragraph 5.4 of this decision.

<sup>(20)</sup> The BNM was a public interest group made up of the French State, represented by the Ministry for Industry and the Ministry for Research and New Technologies, and of public entities, viz. the Commissariat à l'énergie atomique, the Conservatoire national des arts et métiers, the LNE and the Observatoire de Paris. The public interest group was funded by its members.

(62) Aid granted by regional and local bodies of the Member States, whatever their status and description, must be scrutinized to determine whether it complies with Article 87 of the Treaty <sup>(21)</sup>. The grants paid by the Conseil Régional d'Ile de France and by the Conseil Général des Yvelines are state resources.

(63) Therefore, all the measures in question are financed through state resources.

*Advantage conferred on the recipient*

(64) Measures which, in various forms, mitigate the burdens which are normally included in the budget of an undertaking and which are thereby similar to subsidies constitute advantages for the purposes of Article 87(1) <sup>(22)</sup>.

(65) Operating and investment grants mitigate the charges that are normally included in the LNE's budget. These grants therefore confer an advantage on the LNE.

*Distorting or threatening to distort competition by favouring certain undertakings*

(66) Article 87(1) prohibits aid that favours certain undertakings or the production of certain goods, i.e. selective aid.

(67) As the sole beneficiary of the measures that are the subject of this procedure is the LNE, the selectivity condition is clearly met.

(68) It should also be recalled that, in principle, aid intended to relieve an undertaking of the expenses which it would itself normally have had to bear in its day-to-day management or its usual activities distort the conditions of competition <sup>(23)</sup>.

(69) Consequently the measures in question, which favour the LNE, could distort competition.

*Effects on trade*

(70) The Commission notes that the relevant markets are the subject of intra-Community trade. In 2005 the LNE had a turnover within the European Union of EUR 4 million (excluding France) and of EUR 2,35 million outside the European Union. In 2000, according to France, the LNE generated 13 % of its turnover outside France, i.e. 9 % in the European Union and 4 % outside.

<sup>(21)</sup> See the judgment of the Court of 14 October 1987 in Case 248/84 *Federal Republic of Germany v Commission* [1987] ECR. I 4013, at paragraph 17.

<sup>(22)</sup> See the judgment of 19 September 2000 in Case C-156/98 *Germany v Commission* [2003] ECR I-6857 paragraph 30, and the case-law cited.

<sup>(23)</sup> See the judgment of 16 September 2004 in Case T-274/01 *Valmont* ECR II-3145, at paragraph 44, and the case-law cited.

(71) Moreover, for the effect-on-trade condition to be met, the Commission is not required to establish the real impact of this aid on trade between the Member States and an effective distortion of competition but must simply examine whether this aid could affect trade and distort competition.

(72) In this context, it is sufficient to note that the markets on which the LNE operates have a cross-border dimension and that the LNE competes with undertakings located in other Member States and with French undertakings active on these markets at international level. It was argued here that any granting of aid to an undertaking that operates on the Community market would be likely to distort competition and affect trade between Member States <sup>(24)</sup>.

(73) Consequently, France's claims that trade would not be affected because of LNE's small market shares cannot be accepted, especially since the amounts granted are far from negligible.

(74) The measures in question hamper the commercial activities of Community operators <sup>(25)</sup> wishing to expand their activities in France. Without public support, the LNE's operations would be on a smaller scale, enabling the LNE's competitors to increase their turnover.

(75) As the measures in question put the LNE in a stronger position than other operators competing in intra-Community trade, it can be concluded that they affect trade between Member States and are likely to distort competition between these operators.

*Compensation for a public service obligation — the Altmark judgment*

(76) In July 2003 the Court ruled in *Altmark* <sup>(26)</sup> that, where a state measure must be regarded as compensation for the services provided by the recipient undertakings in order to discharge public service obligations, so that those undertakings do not enjoy a real financial advantage and the measure thus does not have the effect of putting them in a more favourable competitive position than the undertakings competing with them, such a measure is not caught by Article 87(1) of the Treaty. To do so, the four conditions referred to in the judgment must all be satisfied.

<sup>(24)</sup> See, for example the judgments of the Court of 17 September 1980 in Case 730/79 *Philip Morris/Commission* [1986] ECR 2671, at paragraphs 11 and 12 and of 30 April 1998 in Case T-214/95 *Vlaams Gewest/Commission* [1998] ECR II-717, at paragraphs 48 to 50.

<sup>(25)</sup> The LNE's competitors are both domestic companies and international groups (Bureau Veritas, Intertek, etc.).

<sup>(26)</sup> See the judgment of 24 July 2003 in Case 280/00 in *Altmark Trans and Regierungspräsidium Magdeburg* [2003] ECR I-7747, at paragraph 87.

(77) France maintains that the compensation paid to the LNE for its public service obligations is not unlawful State aid because the four conditions referred to by the Court are satisfied.

(78) The Commission does not share this opinion.

(79) According to the fourth condition listed in the Altmark judgment, where the undertaking which is to discharge public service obligations in a specific case is not chosen pursuant to a public procurement procedure which would allow for the selection of the tenderer capable of providing those services at the least cost to the community, the level of compensation needed must be determined on the basis of an analysis of the costs which a typical undertaking, well run and adequately equipped so as to be able to meet the necessary public service requirements, would have incurred in discharging those obligations, taking into account the relevant receipts and a reasonable profit for discharging the obligations.

(80) In its arguments to demonstrate compliance with the condition spelt out in the preceding paragraph, France limits itself to saying that the analysis of the costs which a typical undertaking would incur must take into account the range of public service tasks entrusted to the LNE, which concern both regulatory applications and basic research in various sectors (metrology, health, environment, industry, consumer goods, construction and packaging products).

(81) France has not provided any analysis of the costs of 'a typical undertaking, well run'. In addition, no explanation is given as to why it might not be possible to compare LNE to a typical undertaking of this type.

(82) The Commission is unable to conjure up out of nothing the comparison required by Community case-law.

(83) The Commission therefore considers that the fourth criterion listed in the Altmark judgment has not been met.

(84) France's abstract reference to points 13 to 17 of the framework in no way alter this view.

#### *Conclusion*

(85) In the light of all the foregoing considerations, the Commission considers that the budget allocations and the grants paid by the regional authorities in question

constitute aid within the meaning of Article 87(1) of the Treaty.

#### **5.2. Unlawfulness of the aid**

(86) The Commission considers it irrelevant for the purposes of this procedure that the 1978 Decree constituted a financing scheme. This Decree is very general in nature and the decisions on the amount of the grants awarded by the State and the BNM to the LNE were taken annually, on grounds and terms that could vary widely from one year to the next. Annual operating and investment grants awarded to the LNE therefore constitute new individual aid measures.

(87) These aid measures were implemented without prior notification to the Commission. They are therefore illegal.

#### **5.3. Compatibility of the aid with the common market**

##### 5.3.1. The exceptions in Article 87

(88) The exemptions laid down in Article 87(2) of the Treaty concerning aid having a social character, granted to individual consumers, aid to make good the damage caused by natural disasters or exceptional occurrences and aid granted to certain areas of the Federal Republic of Germany are clearly irrelevant to this case.

(89) As for exemptions in Article 87(3) of the Treaty, the Commission notes that the aim of the aid in question is not to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, that it is not designed to promote the execution of an important project of common European interest or to remedy a serious disturbance in the French economy. Nor is it intended to promote culture and heritage conservation. As for the exemption in Article 87(3)(c), the Commission considers that the doubts expressed when the procedure was initiated have not been dispelled: the aid in question does not facilitate the development of certain economic areas or of certain economic activities.

(90) It should be noted in this connection that neither the French authorities nor the interested parties made use of the exemptions in Article 87(2) and (3) during the administrative procedure. In particular, France considered that the provisions of Article 87 would not be applicable as the measures examined would not distort competition or affect trade between the Member States.

## 5.3.2. Article 86(2)

(91) Under Article 86(2), undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly are subject to the rules contained in the Treaty, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Community.

(92) According to point 26 of the framework, the Commission will apply the provisions of the framework to non-notified aid if it was granted after 29 November 2005 and the provisions in force at the time the aid was granted, in all other cases.

(93) This procedure concerns aid granted before 29 November 2005.

(94) The Commission Communication on services of general interest in Europe<sup>(27)</sup>, which was in force when the aid was granted, should therefore be applied. Accordingly, where the rules apply, compatibility with those rules is based on three principles:

— neutrality with regard to the public or private ownership of companies,

— Member States' freedom to define services of general interest, subject to control for manifest error,

— proportionality requiring that restrictions of competition and limitations of the freedoms of the single market do not exceed what is necessary to guarantee effective fulfilment of the task.

*Neutrality*

(95) There is no difficulty with compliance with the principle of neutrality in this case.

*Task of general economic interest*

(96) As regards the definition of the LNE's public service task as a task of general economic interest, it is up to the Commission to assess the economic nature of the activity in question and to check that the Member State has not committed a manifest error of assessment by classifying it as a task of general interest.

(97) It has already been established that the LNE's activities in the public sector are economic activities.

(98) As for the general interest classification, apart from the sectors in which this question is already covered by Community rules, the Member States enjoy wide discretionary powers, subject to a manifest error of assessment detected by the Commission.

(99) In this case, the Commission considers that the definition of the LNE's public service tasks, as it derives from the 1978 text and the additions made in 2005, is sufficiently clear<sup>(28)</sup> and that there is therefore no manifest error of assessment on the part of the French authorities. Moreover, undertakings entrusted with operating a service of general economic interest must have been entrusted with it through an act of public authority. In this case, Law No 78-23 of 10 January 1978 and the 2005 Decrees are official acts of the public authorities. In addition, from 1997, the performance contracts co-signed by the State set out the LNE's tasks clearly and in detail.

(100) The comments from interested parties, which essentially indicate that it would be impossible for the LNE's competitors to draw the line between its public service obligations and its commercial activities, do not invalidate this conclusion. They refer, in practice, to the requirement for separate accounts to be kept for activities that come under the heading of services of general economic interest and for commercial-type activities, in order to avoid any cross-subsidisation incompatible with the EC Treaty. These latter points are discussed below.

*Proportionality*

(101) Proportionality under Article 86(2) implies that the means used to fulfil the general interest task do not create unnecessary distortions of trade. Specifically, it has to be ensured that any restrictions imposed on the rules of the EC Treaty exceed what is necessary to guarantee effective fulfilment of the task. The performance of the service of general economic interest must be ensured and the entrusted undertakings must be able to bear the specific burden and the net extra costs of the particular task assigned to them.

(102) The Commission considers that the aid in question comes under the LNE's general interest task.

<sup>(27)</sup> OJ C 17, 19.1.2001, p. 4.

<sup>(28)</sup> The tasks in question are described in detail in Section 2.

(103) In this context, if the annual compensation paid by the public authorities does not exceed the net extra costs incurred by the LNE in the performance of the service of general economic interest, the principle of proportionality is satisfied. This can be verified if, when income and expenditure in the public and commercial sectors have been correctly entered in the analytical accounts, the result of the public sector including all grants in the financial year is negative or zero or generates a reasonable profit, particularly taking into account the activities and the sector in which LNE operates.

*Validation of the LNE's analytical accounting methodology*

(104) The Commission has examined the methodology used for the LNE's analytical accounts, in order to check whether it was indeed possible to identify all the income and expenditure relating to the service of general economic interest for the period 1993 to 2005 <sup>(29)</sup>.

(105) In 2005 the LNE's analytical accounts were based on full costs, which entails identifying exactly all the activities, by means of a large number of operational sections (80) and functional sections (some 40).

(106) Revenue from the LNE's commercial sector is made up of the turnover from services performed and from other products, including, for example, charging for the provision of staff, charging for carriage to the customer and withdrawals from contingency reserves.

(107) Revenue from the public sector includes the 'studies' turnover, the Metrology contract (ex-BNM), miscellaneous revenue (for example, from international technical cooperation), operating grants and the share of investment grants transferred to the profit and loss account.

(108) The share of investment grants transferred to the profit and loss account includes the investment grants paid by the regional authorities. Consequently, the grants in question, which helped finance the resources needed to perform the public service tasks entrusted to the LNE, are included in the analysis of the amount of compensation granted to the LNE to cover the costs of the general economic interest service tasks. The 2/3-1/3

<sup>(29)</sup> For the purposes of this procedure, it is not necessary to establish whether the LNE has set up separate accounts and has identified public funds made available in accordance with Commission Directive 80/723/EEC. A possible infringement of this Directive would not affect the compatibility of the aid in question with the common market.

breakdown between public and private sectors for the depreciation of buildings is in line with the use made of the 'Trappes 3' and 'Trappes 4' buildings.

(109) Expenditure is similarly divided between the commercial and the public sectors. It is basically split between direct labour, purchases/outsourcing/direct costs, direct task expenses, indirect expenses, overheads, infrastructure and depreciation costs.

(110) As regards the depreciation and infrastructure costs of materials used in both the commercial and the public sector, these are calculated in the analytical accounts using widely accepted methods and on the basis of the rate of utilisation of these materials.

(111) The Commission considers that the sampling carried out, which represents 70 % in value of the LNE's materials and equipment and serves as the basis for calculating the 44/56 allocation ratio, is satisfactory. In addition, the application of this overall allocation ratio to the most costly equipment can be extended to the less expensive equipment, which complements the heavy equipment.

(112) The 44/56 ratio is also acceptable for the whole of the period examined as the commercial sector activities were then on an upward trend <sup>(30)</sup>. It is therefore reasonable to assume that the rate of utilisation recorded for public sector equipment in 2005 represents a minimum for the period 1993 to 2004.

(113) Furthermore, the Commission considers that the upshot of the 10 % safety margin used by the French authorities in their recalculations for the period 1993 to 2004 is that the expenditure charged to the public sector is not overestimated and does not therefore warrant possibly excessive grants. The French authorities' approach is therefore cautious.

(114) The Commission accordingly concludes that the LNE's analytical accounts correspond to normally accepted standards and have no particular specificities and also that the recalculations done to present the accounts by sector <sup>(31)</sup> during the period 1993 to 2004 are acceptable <sup>(32)</sup>.

<sup>(30)</sup> The commercial sector represents the following percentages of the LNE's turnover:  
2005 — 71 %, 2004 — 70 %, 2003 — 69 %, 2002 — 66 %, 2001 — 66 %, 2000 — 66 %, 1999 — 64 %, 1998 — 65 %, 1997 — 61 %, 1996 — 60 %, 1995 — 58 %, 1994 — 60 % and 1993 — 62 %.

<sup>(31)</sup> The revenue and expenditure of the 'mixed' sector mentioned when the procedure was initiated were allocated between the public and commercial sectors according to the methodology set out in the preceding paragraphs.

<sup>(32)</sup> The possibility for the Commission, in the absence of analytical accounts, to rely on an analytical reconstruction of the costs carried out ex post by backward projection was endorsed by the Court (see the judgment of 7 June 2006 in Case T-613/97, Report 2006, p. II-01531, *Union française de l'express (UFEX)*, in particular paragraph 137).

*No overcompensation*

- (115) The annual results of the public sector which include public grants and as established by the LNE's analytical accounts, are as follows:

(EUR '000)

	Result public sector	Result/turnover public sector (*)
2005	(1 414)	(8,4 %)
2004	(851)	(5,1 %)
2003	(321)	(2,2 %)
2002	204	1,3 %
2001	(186)	(1,3 %)
2000	(856)	(6,2 %)
1999	65	0,5 %
1998	(459)	(3,5 %)
1997	271	2,0 %
1996	(223)	(1,7 %)
1995	56	0,4 %
1994	178	1,3 %
1993	(41)	(0,3 %)

(\*) The turnover of the public sector does not include the share of investment grants paid into the profit and loss account.

- (116) Since 1993, the results of the public sector, i.e. activities covered by services of general economic interest, have more often than not shown a loss despite the granting of the aid in question. When a surplus is recorded, it is 2 % or less than the turnover generated in the public sector. The weighted result for the period 1993 to 2005 is a loss of 1,9 %.

- (117) These results, generally negative, are clearly lower than what a reasonable profit would be for a comparable private undertaking.

- (118) Furthermore, the Commission has examined in detail the results and the turnover of the LNE and of the three interested parties, which have comparable activities to those of the LNE, for the period 1998 to 2005<sup>(33)</sup>. This shows that the net result/turnover ratios were lower for the LNE (-3,2 % for the LNE's activities in

<sup>(33)</sup> For the Laboratoires Pourquery, the available data does not go beyond 2004.

the public sector, 0,6 % for all of its activities) than for the interested parties, whose ratios ranged between 0 % and 4 %. This confirms that the profits made by the LNE in the public sector can be considered reasonable profits.

- (119) The Commission therefore concludes that the LNE has not benefited from any overcompensation for the costs of the services of general economic interest since 1993. The public service compensations paid to the LNE during the period 1993 to 2005 constitute State aid that is compatible with Article 86(2) of the Treaty.

- (120) It follows that it is not necessary to check the existence of any cross-subsidisation for the LNE<sup>(34)</sup> for its activities in the commercial sector.

#### 5.4. Non-commercial nature of certain of the LNE's activities in the public sector

- (121) It should be noted that, while some — although not many — of the LNE's activities in the public sector should be considered non-commercial<sup>(35)</sup> and akin to public service tasks, checks should also be made to verify that the compensation paid by the public authorities remains equal to or less than the net costs incurred for the performance of these tasks<sup>(36)</sup>.

- (122) This analysis has already been carried out, for example, in paragraphs 115 to 120 and shows that there is no reason to object to the compensation in question. It implies that the financing of these activities does not constitute State aid.

#### 5.5. Comments from third parties

- (123) In the comments submitted under this procedure, some competitors have mentioned other aid allegedly received by the LNE. These measures have not been the subject of this procedure. In the light of the French authorities' replies, the Commission none the less considers that it sufficiently well informed to take a position on them.

<sup>(34)</sup> After analysing the loan conditions granted by the banks to the LNE, even if the guarantee that is the corollary of its status as a public industrial and commercial enterprise conferred an advantage on the LNE for public sector activities, this advantage would be very small in value, close to the *de minimis* amount, and would not call into question the proportionality tests carried out in paragraphs 101 to 103 in respect of public service compensation.

<sup>(35)</sup> This could be the case, for example, of basic research in metrology.

<sup>(36)</sup> See in this connection Commission Decision 2001/46/EC of 26.7.2000 on the State aid measure implemented by Germany for the SICAN group and its project partners, and in particular paragraphs 87 to 92 (OJ L 18, 19.1.2001, p. 18).

- (124) The total amount of the grants awarded to the LNE by the Conseil Régional d'Ile-de-France to finance the commercial discount granted by the LNE to SMEs in that region was EUR 61 000 in 2003. Since these grants can be regarded as aid to the LNE (and not to the client SMEs) and since they are not part of an existing aid scheme (see paragraph 54), they satisfy the conditions set out in Article 2 of Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid <sup>(37)</sup>. The Commission cannot therefore oppose them.
- (125) The Commission also notes that ADEME has not granted any aid to the LNE.
- (126) Neither the LNE's alleged use of the official logos of the French Republic nor its degree of participation in the work of international bodies seems to be relevant in this case. The LNE's logo is different from the official logo, which can be used only by the public authorities. As for the LNE representing the public authorities in certain European and international organisations (working parties of the International Organisation for Legal Metrology (OIML) and the Committee on European Cooperation in Legal Metrology (WELMEC)), any advantage that the LNE may gain from this in terms of image could not rank as State aid.
- (127) The alleged advantages as regards self-insurance, a special labour legislation scheme for employees or free archiving do not exist in practice. The LNE's insurance policies, which cost over EUR 300 000 in 2004, are similar to those taken out by private undertakings. The LNE's employees do not have special status, like that of the civil service, but instead come under private law both for unemployment insurance and for retirement. Lastly, the LNE is not entitled to free archiving — on the contrary, the direct cost of this was some EUR 80 000 in 2005.
- (128) The LNE's *de facto* entitlement to the research tax credit does not constitute State aid within the meaning of Article 87(1), especially since this *de facto* entitlement does not involve any state resources. It results from the LNE having been the subject of an ad hoc evaluation of its researchers in the context of its public obligations in the research field. Furthermore, the research tax credit is taken into account in the LNE's income and expenditure.
- (129) As for the customs authorities' alleged support for the LNE, this is not backed up by any precise information. It

transpires that the DGDDI uses its own laboratories, those of the DGCCRF or external laboratories, including the LNE, the Institut national de recherche et de sécurité or the Centre scientifique et technique du bâtiment (CSTB) for construction products.

## 6. CONCLUSIONS

- (130) Subject to Section 5.4, public service compensation in the form of budget allocations from the State and the BNM and grants from the regional authorities that were awarded to the LNE between 1993 and 2005 constitute State aid.
- (131) The Commission finds that France has unlawfully implemented the aid in question in breach of Article 88(3) of the Treaty.
- (132) However, this aid is compatible with Article 86(2) of the Treaty.
- (133) This decision does not concern the state guarantee for which the LNE's activities in the commercial sector could qualify because of its EPIC status. This aspect, which has led to a proposal for appropriate measures under Article 88(1) of the Treaty <sup>(38)</sup>, will be the subject of further decisions,

HAS ADOPTED THIS DECISION:

### Article 1

The public service compensation which France implemented unlawfully for the Laboratoire national de métrologie et d'essais between 1993 and 2005 is compatible with the common market.

### Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 22 November 2006.

For the Commission

Neelie KROES

Member of the Commission

<sup>(37)</sup> OJ L 10, 13.1.2001, p. 30.

<sup>(38)</sup> Aid E 24/2004 and letter of 5 July 2005.

**COMMISSION DECISION****of 28 March 2007****on amending Decision C(2006) 4332 final fixing an annual indicative allocation by Member State for the period from 1 January 2007 to 31 December 2013 of the Community commitment appropriations from the European Fisheries Fund***(notified under document number C(2007) 1313)**(2007/218/EC)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund <sup>(1)</sup>, and in particular Article 14 thereof,

Whereas:

(1) Commission Decision C(2006) 4332 final of 4 October 2006, fixed an annual indicative allocation by Member State, for the period from 1 January 2007 to 31 December 2013, of the Community commitment appropriations for the regions eligible for funding from the European Fisheries Fund (hereinafter EFF) under the non-Convergence objective, of the Community commitment appropriations for the regions eligible for funding from the EFF under the Convergence objective and of the total Community commitment appropriations from the European Fisheries Fund.

(2) With a view to allowing Bulgaria and Romania to benefit until 2013 from the EFF, the indicative amounts, concerning Bulgaria and Romania, of the Community commitment appropriations for the regions eligible for

funding from the EFF under the Convergence objective and the total Community commitment appropriations from the EFF should be fixed.

(3) Decision C(2006) 4332 final should be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Annex I to Decision C(2006) 4332 final is replaced by the Annex I to this Decision.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 28 March 2007.

*For the Commission*

Joe BORG

*Member of the Commission*

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<sup>(1)</sup> OJ L 223, 15.8.2006, p. 1.

## ANNEX

## ANNEX I

**Annual indicative breakdown by Member State for the period from 1 January 2007 to 31 December 2013 of the Community commitment appropriations for the regions eligible for funding from the EFF after separating out the amount devoted for technical assistance at the initiative of/and or behalf of the Commission**

Table 1

Member State	Annual indicative breakdown by Member State for the period from 1 January 2007 to 31 December 2013 of the Community commitment appropriations for the regions eligible for funding from the EFF under the non Convergence objective (2004 prices)										Total
	2007	2008	2009	2010	2011	2012	2013				
België/Belgique	3 328 758	3 328 759	3 328 759	3 328 759	3 328 759	3 328 759	3 328 759	3 328 759	3 328 759	3 328 759	23 301 312
Danmark	16 943 811	16 943 812	16 943 811	16 943 812	16 943 812	16 943 812	16 943 812	16 943 812	16 943 812	16 943 812	118 606 682
Deutschland	7 478 994	7 478 994	7 478 993	7 478 992	7 478 992	7 478 993	7 478 993	7 478 993	7 478 993	7 478 993	52 352 951
Ellas	3 928 793	3 928 792	3 928 793	3 928 793	3 928 793	3 928 793	3 928 793	3 928 793	3 928 793	3 928 794	27 501 551
España	23 601 330	23 601 331	23 601 330	23 601 330	23 601 330	23 601 329	23 601 330	23 601 330	23 601 330	23 601 330	165 209 310
France	23 044 156	23 044 156	23 044 156	23 044 156	23 044 155	23 044 156	23 044 155	23 044 155	23 044 155	23 044 155	161 309 090
Ireland	5 357 445	5 357 445	5 357 445	5 357 445	5 357 445	5 357 445	5 357 445	5 357 445	5 357 445	5 357 445	37 502 115
Italia	13 443 614	13 443 614	13 443 614	13 443 615	13 443 615	13 443 615	13 443 615	13 443 615	13 443 615	13 443 615	94 105 302
Kýpros	2 500 142	2 500 142	2 500 141	2 500 141	2 500 141	2 500 141	2 500 141	2 500 141	2 500 141	2 500 141	17 500 989
Magyarország	75 111	69 970	64 013	64 354	71 628	74 181	76 743	76 743	76 743	76 743	496 000
Nederland	6 157 490	6 157 490	6 157 490	6 157 490	6 157 490	6 157 490	6 157 490	6 157 490	6 157 490	6 157 490	43 102 430
Österreich	642 893	642 893	642 893	642 894	642 894	642 893	642 893	642 893	642 893	642 893	4 500 253
Portugal	2 857 304	2 857 304	2 857 303	2 857 305	2 857 304	2 857 304	2 857 304	2 857 304	2 857 304	2 857 304	20 001 128
Slovensko	138 394	130 323	121 389	108 136	114 157	123 797	156 605	156 605	156 605	156 605	892 801
Suomi/Finland	5 000 281	5 000 281	5 000 282	5 000 282	5 000 282	5 000 282	5 000 282	5 000 282	5 000 282	5 000 282	35 001 972
Sverige	6 928 961	6 928 961	6 928 962	6 928 962	6 928 962	6 928 962	6 928 962	6 928 962	6 928 962	6 928 962	48 502 732
United Kingdom	12 000 676	12 000 676	12 000 676	12 000 677	12 000 677	12 000 676	12 000 676	12 000 676	12 000 676	12 000 676	84 004 734
<b>Total</b>	<b>133 428 153</b>	<b>133 414 943</b>	<b>133 400 050</b>	<b>133 387 143</b>	<b>133 400 436</b>	<b>133 412 628</b>	<b>133 447 999</b>	<b>133 447 999</b>	<b>133 447 999</b>	<b>133 447 999</b>	<b>933 891 352</b>

(EUR)

Table 2

(EUR)

Member State	Annual indicative breakdown by Member State of the Community commitment appropriations for the period from 1 January 2007 to 31 December 2013 for the regions eligible for funding from the EFF under the Convergence objective (2004 prices)										
	2007	2008	2009	2010	2011	2012	2013	Total			
Bulgaria	5 483 152	7 869 243	10 504 789	10 852 273	11 390 594	11 907 743	12 398 564	70 406 358			
Česká republika	3 166 216	3 257 932	3 345 482	3 435 308	3 520 381	3 600 235	3 678 137	24 003 691			
Deutschland	13 005 939	12 769 374	12 532 810	12 296 245	12 059 681	11 823 115	11 586 551	86 073 715			
Eesti	8 603 694	9 212 468	9 863 248	10 558 931	11 313 394	12 120 671	12 959 776	74 632 182			
Ellas	24 586 550	23 881 216	23 175 882	22 470 547	21 765 213	21 059 878	20 354 544	157 293 830			
España	126 126 267	124 094 454	122 062 642	120 030 829	117 999 017	115 967 205	113 935 392	840 215 806			
France	4 341 355	4 341 355	4 341 355	4 341 355	4 341 355	4 341 355	4 341 355	30 389 485			
Italia	40 819 468	40 664 853	40 510 238	40 355 621	40 201 006	40 046 391	39 891 775	282 489 352			
Latvija	12 813 269	13 753 955	14 747 241	15 749 323	16 752 804	17 766 933	18 786 289	110 369 814			
Lietuva	6 537 188	6 447 084	6 418 419	6 700 717	7 105 123	7 400 832	7 808 772	48 418 135			
Magyarország	4 603 492	4 288 375	3 923 245	3 944 206	4 389 998	4 546 487	4 703 536	30 399 339			
Malta	1 227 580	1 113 452	1 031 932	917 804	917 804	1 031 932	1 194 972	7 435 476			
Österreich	29 403	27 565	25 728	23 889	22 052	20 214	18 377	167 228			
Polska	95 460 129	95 264 928	95 048 546	91 480 737	91 461 937	91 494 830	91 579 905	651 791 012			
Portugal	28 759 662	28 638 179	28 516 696	28 395 213	28 273 730	28 152 248	28 030 764	198 766 492			
România	14 255 007	20 469 689	27 313 430	32 314 582	34 175 626	36 070 701	35 957 144	202 556 179			
Slovenija	3 465 711	3 230 997	2 996 283	2 761 570	2 526 856	2 292 143	2 057 430	19 330 990			
Slovensko	1 742 715	1 641 095	1 528 588	1 361 693	1 437 517	1 558 903	1 972 041	11 242 552			
United Kingdom	5 738 742	5 651 305	5 563 868	5 476 431	5 388 994	5 301 558	5 214 121	38 335 019			
<b>Total</b>	<b>400 765 539</b>	<b>406 617 519</b>	<b>413 450 422</b>	<b>413 467 274</b>	<b>415 043 082</b>	<b>416 503 374</b>	<b>418 469 445</b>	<b>2 884 316 655</b>			

Table 3

(EUR)

Member State	Annual indicative breakdown by Member State for the period from 1 January 2007 to 31 December 2013 of the total Community commitment appropriations from the EFF (2004 prices)									
	2007	2008	2009	2010	2011	2012	2013	Total		
Bulgaria	5 483 152	7 869 243	10 504 789	10 852 273	11 390 594	11 907 743	12 398 564	70 406 358		
België/Belgique	3 328 758	3 328 759	3 328 759	3 328 759	3 328 759	3 328 759	3 328 759	23 301 312		
Česká republika	3 166 216	3 257 932	3 345 482	3 435 308	3 520 381	3 600 235	3 678 137	24 003 691		
Danmark	16 943 811	16 943 812	16 943 811	16 943 812	16 943 812	16 943 812	16 943 812	118 606 682		
Deutschland	20 484 933	20 248 368	20 011 803	19 775 237	19 538 673	19 302 108	19 065 544	138 426 666		
Eesti	8 603 694	9 212 468	9 863 248	10 558 931	11 313 394	12 120 671	12 959 776	74 632 182		
Ellas	28 515 343	27 810 008	27 104 675	26 399 340	25 694 006	24 988 671	24 283 338	184 795 381		
España	149 727 597	147 695 785	145 663 972	143 632 159	141 600 347	139 568 534	137 536 722	1 005 425 116		
France	27 385 511	27 385 511	27 385 511	27 385 511	27 385 510	27 385 511	27 385 510	191 698 575		
Ireland	5 357 445	5 357 445	5 357 445	5 357 445	5 357 445	5 357 445	5 357 445	37 502 115		
Italia	54 263 082	54 108 467	53 953 852	53 799 236	53 644 621	53 490 006	53 335 390	376 594 654		
Kypros	2 500 142	2 500 142	2 500 141	2 500 141	2 500 141	2 500 141	2 500 141	17 500 989		
Latvija	12 813 269	13 753 955	14 747 241	15 749 323	16 752 804	17 766 933	18 786 289	110 369 814		
Lietuva	6 537 188	6 447 084	6 418 419	6 700 717	7 105 123	7 400 832	7 808 772	48 418 135		
Magyarország	4 678 603	4 358 345	3 987 258	4 008 560	4 461 626	4 620 668	4 780 279	30 895 339		
Malta	1 227 580	1 113 452	1 031 932	917 804	917 804	1 031 932	1 194 972	7 435 476		
Nederland	6 157 490	6 157 490	6 157 490	6 157 490	6 157 490	6 157 490	6 157 490	43 102 430		
Österreich	672 296	670 458	668 621	666 783	664 946	663 107	661 270	4 667 481		
Polska	95 460 129	95 264 928	95 048 546	91 480 737	91 461 937	91 494 830	91 579 905	651 791 012		
Portugal	31 616 966	31 495 483	31 373 999	31 252 518	31 131 034	31 009 552	30 888 068	218 767 620		
România	14 255 007	20 469 689	27 313 430	32 314 582	34 175 626	36 070 701	35 957 144	202 556 179		
Slovenija	3 465 711	3 230 997	2 996 283	2 761 570	2 526 856	2 292 143	2 057 430	19 330 990		
Slovensko	1 881 109	1 771 418	1 649 977	1 469 829	1 551 674	1 682 700	2 128 646	12 135 353		
Suomi/Finland	5 000 281	5 000 281	5 000 282	5 000 282	5 000 282	5 000 282	5 000 282	35 001 972		
Sverige	6 928 961	6 928 961	6 928 962	6 928 962	6 928 962	6 928 962	6 928 962	48 502 732		
United Kingdom	17 739 418	17 651 981	17 564 544	17 477 108	17 389 671	17 302 234	17 214 797	122 339 753		
<b>Total</b>	<b>534 193 692</b>	<b>540 032 462</b>	<b>546 850 472</b>	<b>546 854 417</b>	<b>548 443 518</b>	<b>549 916 002</b>	<b>551 917 444</b>	<b>3 818 208 007</b>		

## COMMISSION DECISION

of 30 March 2007

**concerning a Community financial contribution towards a baseline survey on the prevalence of *Salmonella* in slaughter pigs to be carried out in Bulgaria and in Romania**

(notified under document number C(2007) 1394)

(Only the Bulgarian and Romanian texts are authentic)

(2007/219/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field <sup>(1)</sup>, and in particular Article 20 thereof,

Whereas:

- (1) Decision 90/424/EEC provides for Community financial contributions towards specific veterinary measures. It also provides for the Community to undertake or assist the Member States in undertaking the technical and scientific measures necessary for the development of veterinary legislation and for the development of veterinary education or training.
- (2) Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of *Salmonella* and other specified food-borne zoonotic agents <sup>(2)</sup>, provides that a Community target is to be established for the reduction of the prevalence of *Salmonella* in populations of herds of slaughter pigs by the end of 2007.
- (3) During its meeting of 16 March 2006, the Scientific Panel on Biological Hazards of the European Food Safety Authority (EFSA) adopted an Opinion on the request from the Commission related to 'Risk assessment and mitigation options of *Salmonella* in pig production'. That opinion proposes technical specifications for a baseline study on the prevalence of *Salmonella* in fattening pigs in the Community.

(4) In order to set the Community target, comparable data on the prevalence of *Salmonella* in populations of slaughter pigs in Bulgaria and in Romania needs to be available. Such information is presently not available and a special survey should therefore be carried out to monitor the prevalence of *Salmonella* in slaughter pigs over a suitable period in those Member States.

(5) A baseline study on *Salmonella* in fattening pigs is to be carried out by the other Member States between October 2006 and September 2007 in accordance with Commission Decision 2006/668/EC of 29 September 2006 concerning a financial contribution from the Community towards a baseline survey on the prevalence of *Salmonella* in slaughter pigs to be carried out in the Member States <sup>(3)</sup>. The same procedures should be used in the baseline studies in Bulgaria and in Romania. However, the period of the survey should be shortened in order to enable the analysis of the data of all Member States at the same time.

(6) The EFSA opinion recommends slaughterhouse sampling by taking ileocaecal lymph nodes to reflect the *Salmonella* status of pigs sent to slaughter. Such sampling should therefore be used as a tool to monitor the prevalence of *Salmonella* in slaughter pigs.

(7) The survey is to provide the technical information necessary for the development of Community veterinary legislation. Given the importance of collecting comparable data on the prevalence of *Salmonella* in fattening pigs in Bulgaria and in Romania, those Member States should be granted a Community financial contribution for implementing the specific requirements of the survey. It is therefore appropriate to reimburse 100 % of the costs incurred in the laboratory testing, subject to a ceiling. All other costs, such as those relating to sampling, travel and administration should not be eligible for any Community financial contribution.

<sup>(1)</sup> OJ L 224, 18.8.1990, p. 19. Decision as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

<sup>(2)</sup> OJ L 325, 12.12.2003, p. 1. Regulation as last amended by Council Regulation (EC) No 1791/2006.

<sup>(3)</sup> OJ L 275, 6.10.2006, p. 51.

- (8) The financial contribution from the Community should be granted provided that the survey is carried out in accordance with Community law and subject to compliance with certain other specified conditions. In particular, the financial contribution should be granted in so far as the actions provided for are effectively carried out and provided that the authorities furnish all the necessary information within the time limits provided for.
- (9) It is necessary to clarify the rate to be used for the conversion of payment applications submitted in national currencies as defined in Article 1(d) of Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro <sup>(1)</sup>.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

#### Article 1

##### Subject matter and scope

1. A survey shall be carried out to assess the prevalence of *Salmonella* spp. in Bulgaria and in Romania in slaughter pigs sampled in slaughter houses in those Member States (the survey).
2. The survey shall cover a period from 1 April 2007 to 30 September 2007.
3. For the purposes of this Decision, 'the competent authority' shall be the authority or authorities of a Member State, as designated under Article 3(1) of Regulation (EC) No 2160/2003.

#### Article 2

##### Technical specifications

The sampling and analysis for the purposes of the survey shall be performed by the competent authority or under its supervision in accordance with the technical specifications set out in Annex I.

#### Article 3

##### Collection of data, assessment and reporting

1. The competent authority shall collect and assess the results achieved pursuant to Article 2 of this Decision and shall report all necessary aggregated data and its assessment thereof to the Commission.

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

The Commission shall forward those results together with the national aggregated data and assessments done by the Member States to the European Food Safety authority, which shall examine them.

2. The national aggregated data and results referred to in paragraph 1 shall be made available publicly in a form that ensures confidentiality.

#### Article 4

##### Community financial contribution

1. A Community financial contribution shall be granted to Bulgaria and Romania for the costs incurred by them for laboratory testing, i.e. for the bacteriological detection of *Salmonella* spp., and the serotyping of the relevant isolates and serology.

2. The maximum Community financial contribution shall be:

- (a) EUR 20 per test for bacteriological detection of *Salmonella* spp.;
- (b) EUR 30 per test for serotyping of the relevant isolates.

However, the Community financial contribution shall not exceed the amounts set out in Annex II.

#### Article 5

##### Conditions for granting a Community financial contribution

1. The financial contribution provided for in Article 4 shall be granted to Bulgaria and to Romania provided that the survey is implemented in accordance with the relevant provisions of Community law, including the rules on competition and on the award of public contracts, and subject to compliance with the following conditions:

- (a) the laws, regulations and administrative provisions required to implement the survey shall come into force by 1 April 2007 at the latest;
- (b) a progress report covering the first three months of the survey shall be forwarded by 31 July 2007; the progress report shall contain all information requested in Annex I;

(c) a final report shall be forwarded by 31 October 2007 at the latest, on the technical execution of the survey, together with supporting evidence for the costs incurred and the results attained during the period 1 April 2007 to 30 September 2007; the supporting documents concerning the costs incurred shall comprise at least the information set out in Annex III;

(d) the survey shall be implemented effectively.

2. An advance payment of 50 % of the total amount referred to in Annex II may be paid at the request of Bulgaria or of Romania.

3. Failure to comply with the time limits provided for in paragraph 1(c) shall entail a progressive reduction of the Community financial contribution to be paid, amounting to 25 % of the total amount by 15 November 2007, 50 % by 1 December 2007 and 100 % by 15 December 2007.

#### *Article 6*

#### **Conversion rate for expenditure**

For reasons of administrative efficiency all expenditure presented for a financial contribution by the Community should be expressed in euro. In accordance with Commission Regulation (EC) No 1913/2006 of 20 December 2006 laying

down detailed rules for the application of the agrimonetary system for the euro in agriculture and amending certain regulations <sup>(1)</sup>, the conversion rate for expenditure in a currency other than the euro should be the rate most recently set by the European Central Bank prior to the first day of the month in which the application is submitted by the Member State concerned.

#### *Article 7*

#### **Application**

This Decision shall apply from 1 April 2007.

#### *Article 8*

#### **Addressees**

This Decision is addressed to the Republic of Bulgaria and to Romania.

Done at Brussels, 30 March 2007.

*For the Commission*

Markos KYPRIANOU

*Member of the Commission*

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<sup>(1)</sup> OJ L 365, 21.12.2006, p. 52.

## ANNEX I

**Technical specifications in accordance with Article 2****1. Sampling frame**

A minimum number of pigs, kept during at least the preceding three months in the Member State, shall be sampled, at random, as follows:

Bulgaria: 192

Romania: 300

Bulgaria and Romania shall take a 10 % extra number of samples, to be analyzed in case some samples excluded from the study for various reasons.

Sampling shall be stratified by slaughterhouses that participate and proportional to slaughterhouse capacity. Each of those Member States shall rank all slaughterhouses according to their fattening pig throughput in the previous year. Thus, they shall each identify those plants that accounted for at least 80 % of all slaughtered fattening pigs.

The total number of pigs and carcasses to be sampled in each of the slaughterhouses included in the study shall be estimated by multiplying the sample size (for example, 2 400) by the proportion of fattening pigs processed in the previous year. For example, if one slaughterhouse accounted for 25 % of fattening pigs slaughtered in the selected slaughterhouses (those representing at least 80 % of all fattening pigs slaughtered in the Member State), then (2 400 × 0,25) 600 pigs shall be sampled. These shall be evenly divided so that 50 pigs sampled in every month, for 12 months. A further example is shown in Table 1.

However, if a slaughterhouse is no longer in production, if a new facility has been opened or there is predicted to be a significant change in plant throughput during the survey, then the estimated throughput shall be adjusted accordingly.

Table 1

**Weighing of slaughterhouses for the purpose of allocating the number of fattening pigs to be sampled from each slaughterhouse; calculation of sampled animals per slaughterhouse**

Slaughterhouse ID	Number of fattening pigs processed previous year	Percent of total slaughter included in the study	Number of samples per slaughterhouse	Samples per month (/12)
AXD	88 000	17,6	$0,176 \times 2\,400 = 422,4$	$422,4 : 12 = 36$
SVH	25 000	5,0		
TPB	75 000	15,0		
MLG	100 000	20,0		
GHT	212 000	42,4		
Total	500 000 <sup>(1)</sup>	100,0		

<sup>(1)</sup> This number must represent at least 80 % of slaughtered fattening pigs in a Member State.

For each slaughterhouse each month, a number between 1 and 31 shall be selected at random. If the randomly selected number is a slaughtering day, for that month, then that day is selected for sampling. If not, then a new number shall be selected randomly. This process shall be performed once a month and repeated as many times as there are samples to be collected at the slaughterhouse. For example, in the slaughterhouse AXD the process shall be repeated at least 36 times to select at least 36 working days randomly. Accordingly, there may be more than one carcass to be sampled on the same day.

As the number of animals slaughtered on a specific day may vary enormously, the random selection of the individual animal shall take place at the slaughterhouse at the date randomly selected for sampling. The given day, the total number of animals must be known, and the personnel of the slaughterhouse shall then randomly select a carcass or carcasses using the randomization sheet which has been provided to them and which has been generated using a maximum that exceeds the highest possible number of fattening pigs slaughtered on any given day in any slaughterhouse in the Member State.

A randomization table may then look as shown in Table 2.

Table 2  
Randomization table.

Slaughterhouse	Day of the month	Identity of carcass <sup>(1)</sup>
AXD	19	5
	4	2
	12	124
	12	2
	8	59

<sup>(1)</sup> The 5th carcass to be processed on the 19th day of that month should be sampled for the survey.

The following animals shall be excluded from the baseline study:

- animals with a live weight of less than 50 kg or more than 170 kg,
- animals that have undergone emergency slaughter,
- any carcass that is totally condemned.

## 2. Samples

### 2.1. Sampling in general

- The aggregate of ileocaecal lymph nodes or at least five individual ileocaecal lymph nodes of all selected pigs shall be collected. If possible, at least 25 grams of lymph nodes without fat or connective tissues shall be collected.
- Records shall be kept at the slaughterhouse on the date and time of sampling of each sample and the date and time and name of the courier that takes delivery of the samples.

### 2.2. Details on sampling of ileocaecal lymph nodes

The mesenterium between the caecum and the part of the ileum that is closest to the caecum shall be torn and the ileocaecal lymph nodes are presented at the surface of the torn-open area. Without a knife, but with gloved fingers, the lymph nodes shall be bluntly 'harvested' from such opened mesenterium if individual lymph nodes are collected. The lymph nodes or the aggregate shall be placed in a plastic bag which is marked with date, time, slaughterhouse identification and sample identification code.

## 3. Transport

Samples shall be sent within 36 hours by express mail or courier and shall reach the laboratory no later than 72 hours following sampling. Samples arriving more than 72 hours following sampling shall be discarded unless the analysis is initiated within 96 hours following sampling and the cold chain has not been interrupted.

## 4. Analysis and serotyping of samples

Analysis and serotyping of samples shall take place at the national reference laboratory (NRL). Where the NRL does not have the capacity to perform all analyses or if it is not the laboratory that performs detection routinely, the competent authorities may decide to designate a limited number of other laboratories involved in official controls of *Salmonella* to perform the analyses.

Those laboratories must have proven experience of using the required detection method and have a quality assurance system complying with ISO standard 17025 and be subject to the supervision of the NRL.

At the laboratory, samples shall be kept refrigerated until bacteriological examination, which shall be carried out within 24 hours following receipt of the samples so that analysis is initiated no later than 96 hours following the time of collection of the samples.

#### 4.1. Sample preparation

Lymph nodes shall be surface de-contaminated before analysis by dipping into absolute alcohol and drying by air.

All lymph nodes shall be pooled and closed in a plastic bag and banged with a hammer or by similar means on the plastic bag smashing the lymph nodes.

The homogenized lymph nodes shall be weighed and placed in a sterile container with pre-warmed buffered peptone water (BPW) in dilution 1:10. Containers shall be incubated for a total of  $(18 \pm 2)$  hours at  $(37 \pm 1)$  °C.

#### 4.2. Detection method

The method recommended by the Community Reference Laboratory (CRL) for *Salmonella* in Bilthoven, the Netherlands, shall be used.

That method is described in the current version of draft Annex D of ISO 6579:2002: 'Detection of *Salmonella* spp. in animal faeces and in samples of the primary production stage'. In this method, the modified semi-solid Rappaport-Vassiladis (MSRV) medium shall be used as the single selective enrichment medium.

#### 4.3. Serotyping

All strains isolated and confirmed as *Salmonella* spp. shall be serotyped according to the Kaufmann-White scheme.

For quality assurance, 16 typable strains and 16 non-typable isolates shall be sent to the CRL. If less strains have been isolated, all shall be sent.

#### 4.4. Phage typing

In the case where isolates of *Salmonella* serovar *Typhimurium* and *Salmonella* serovar *Enteritidis* are phage typed (optional), the methods described by WHO reference centre for phage typing of *Salmonella* of the Health Protection Agency (HPA), Colindale, UK, shall be used.

#### 4.5. Testing of anti-microbial susceptibility

In the case of testing for anti-microbial susceptibility (optional), a validated and controlled method for testing shall be used, such as those recommended by the National Committee for Clinical Laboratory Standards (NCCLS, since 1st of January 2005: 'Clinical and Laboratory Standards Institute' — CLSI).

Both agar diffusion and broth dilution methods shall be acceptable. Results shall be reported both as quantitative data (MIC for dilution methods and inhibition zone diameter for diffusion methods) and as qualitative data (proportion resistant isolates).

Qualitative data shall be based on interpretation according to epidemiological cut-off values presented by the European Committee on Antimicrobial Susceptibility Testing (EUCAST) at: <http://www.eucast.org>

The isolates shall be tested for the susceptibility to the antimicrobial substances listed below:

- Ampicillin or Amoxicillin
- Tetracycline
- Chloramphenicol
- Florfenicol
- Nalidixic acid
- Ciprofloxacin (preferably) or Enrofloxacin
- Sulphonamide (preferably Sulfametoxazole)

- Sulphonamide/Trimethoprim or Trimethoprim
- Gentamicin
- Streptomycin
- Kanamycin (preferably) or Neomycin
- 3rd generation cephalosporin, (preferably cefotaxime)
- Colistin (optional)

Before initiation of the study the two Member States shall organise training for the involved parties.

## 5. Records and sample storage

Records of bacteriology shall be kept on all samples processed in a format in accordance with or comparable to the example given in Table 3.

All strains isolated shall be stored at the NRLs of the two Member States as long as it ensures integrity of the strains for a minimum of five years.

All samples of meat juice for serology shall be stored frozen for two years.

Table 3

Example of records to be taken on all processed samples

Sample				Receipt					Analysis			
Sample ID + type	Slaughterhouse ID	Name	Date	Time	Name	Date	Time	Pos or Neg	Serovar	Phagetype	Antibiogram	Storage ID
2 L	EU023	PW	4-10	12:30	AB	4-10	14:00	Pos	Typh	DT104	ASTSu	(IDnr)
3 L	EU083	PW	8-10	16:30	AB	9-10	9:00	Pos	Agona	n.a.	ASTE	(IDnr)
Etc												

## 6. Reporting from Bulgaria and Romania

The competent authority responsible for the preparation of the yearly national report on the monitoring of *Salmonella* in animals pursuant to Article 9 of Directive 2003/99/EC shall collect and evaluate the results and report to the Commission.

Those reports shall include at least the following information:

### 6.1. Overall description on the implementation of the survey programme

- description of the population under study stratified according to slaughterhouses capacity,
- description of randomization procedure, including notification system,
- sample size calculated,
- details of authorities and laboratories involved in sampling/testing/typing,
- overall results of the study (samples analyzed by bacteriology, number of positive, serovar, phage type and antibiotic resistance testing).

#### 6.2. Complete data on each animal sampled and corresponding tests results

The Member States shall submit the results of the survey in the form of raw data using a data dictionary and data collection forms provided by the Commission.

That dictionary and forms shall be established by the Commission and include at least the following:

- reference of the slaughterhouse,
- capacity of the slaughterhouse,
- date and time of sampling,
- reference of the samples (the number),
- type of samples taken: lymph nodes,
- date of dispatch to the laboratory.

The following information shall be collected in the Member States for each sample sent to the laboratory:

- ID of the laboratory (in case several laboratories are involved),
- means of transport of samples,
- date of reception by the laboratory,
- when testing lymph nodes, weight of the specimen,
- results for the individual samples tested: 'negative' or in case positive for *Salmonella* spp., also the results of serotyping '*Salmonella* serovar' or 'untypable',
- results for strains subject to antimicrobial susceptibility testing and/or phagotyping results.

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#### ANNEX II

##### Maximum Community financial contribution to Bulgaria and Romania

(EUR)

Member State	Amount
Bulgaria	4 992
Romania	7 800

## ANNEX III

**Certified financial report on the implementation of a baseline survey on the prevalence of *Salmonella* spp. in herds of slaughter pigs**

Reporting period: 1 April 2007 to 30 September 2007

**Statement on costs incurred on the survey and eligible for Community financial contribution**

Reference number of Commission Decision providing Community financial contribution: .....

.....

Costs incurred related to functions at/by	Number of tests	Total costs of testing incurred during reporting period (national currency)
Bacteriology for <i>Salmonella</i> spp.		
Serotyping <i>Salmonella</i> isolates		

Declaration by the beneficiary

We certify that

- the costs set out in the statement on costs are genuine and have been incurred in carrying out the tasks laid down in Commission Decision 2007/219/EC and were essential for the proper performance of those tasks;
- all supporting documents for those costs are available for audit purposes.

Date: .....

Person financially responsible: .....

Signature: .....

\_\_\_\_\_

## COMMISSION DECISION

of 4 April 2007

**amending Decision 2003/250/EC as regards the extension of the duration of temporary derogations from certain provisions of Council Directive 2000/29/EC in respect of plants of strawberry (*Fragaria* L.), intended for planting, other than seeds, originating in the Republic of South Africa**

(notified under document number C(2007) 1454)

(2007/220/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community <sup>(1)</sup>, and in particular Article 15(1) thereof,

Whereas:

- (1) Under Directive 2000/29/EC, plants of strawberry (*Fragaria* L.), intended for planting, other than seeds, originating in non-European countries, other than Mediterranean countries, Australia, New Zealand, Canada and the continental states of the United States of America, may not in principle be introduced into the Community. However, that Directive permits derogations from that rule, provided that it is established that there is no risk of spreading harmful organisms.
- (2) Commission Decision 2003/250/EC <sup>(2)</sup> authorises Member States to provide for temporary derogations from certain provisions of Directive 2000/29/EC in respect of plants of strawberry (*Fragaria* L.), intended for planting, other than seeds, originating in the Republic of South Africa.
- (3) The circumstances justifying this derogation are still valid and there is no new information giving cause for revision of the specific conditions.
- (4) The Member States should therefore be authorised to permit the introduction into their territory of such

plants subject to specific conditions for a further limited period.

- (5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

*Article 1*

In Article 1, second paragraph, of Decision 2003/250/EC the following points (e) to (h) are added:

- '(e) 1 June 2007 to 30 September 2007;
- (f) 1 June 2008 to 30 September 2008;
- (g) 1 June 2009 to 30 September 2009;
- (h) 1 June 2010 to 30 September 2010.'

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 4 April 2007.

*For the Commission*  
Markos KYPRIANOU  
*Member of the Commission*

<sup>(1)</sup> OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2006/35/EC (OJ L 88, 25.3.2006, p. 9).

<sup>(2)</sup> OJ L 93, 10.4.2003, p. 36.

## COMMISSION DECISION

of 4 April 2007

**amending Decision 2003/249/EC as regards the extension of the duration of temporary derogations from certain provisions of Council Directive 2000/29/EC in respect of plants of strawberry (*Fragaria L.*), intended for planting, other than seeds, originating in Chile**

(notified under document number C(2007) 1455)

(2007/221/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community<sup>(1)</sup>, and in particular Article 15(1) thereof,

Whereas:

- (1) Under Directive 2000/29/EC, plants of strawberry (*Fragaria L.*), intended for planting, other than seeds, originating in non-European countries, other than Mediterranean countries, Australia, New Zealand, Canada and the continental states of the United States of America, may not in principle be introduced into the Community. However, that Directive permits derogations from that rule, provided that it is established that there is no risk of spreading harmful organisms.
- (2) Commission Decision 2003/249/EC<sup>(2)</sup> authorises Member States to provide for temporary derogations from certain provisions of Directive 2000/29/EC in respect of plants of strawberry (*Fragaria L.*), intended for planting, other than seeds, originating in Chile.
- (3) The circumstances justifying this derogation are still valid and there is no new information giving cause for revision of the specific conditions.
- (4) The Member States should therefore be authorised to permit the introduction into their territory of such

plants subject to specific conditions for a further limited period.

- (5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

*Article 1*

In Article 1, second paragraph, of Decision 2003/249/EC, the following points (e) to (h) are added:

- '(e) 1 June 2007 to 30 September 2007;
- (f) 1 June 2008 to 30 September 2008;
- (g) 1 June 2009 to 30 September 2009;
- (h) 1 June 2010 to 30 September 2010.'

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 4 April 2007.

*For the Commission*  
Markos KYPRIANOU  
*Member of the Commission*

<sup>(1)</sup> OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2006/35/EC (OJ L 88, 25.3.2006, p. 9).

<sup>(2)</sup> OJ L 93, 10.4.2003, p. 32.

**COMMISSION DECISION****of 4 April 2007****declaring operational the Regional Advisory Council for the south-western waters under the common fisheries policy**

(2007/222/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2004/585/EC of 19 July 2004 establishing Regional Advisory Councils under the common fisheries policy <sup>(1)</sup>, and in particular Article 3(3) thereof,

Having regard to the recommendation transmitted by France on 9 February 2007 on behalf of Belgium, Spain, France, the Netherlands and Portugal,

Whereas:

- (1) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy <sup>(2)</sup> and Decision 2004/585/EC provide the framework for the establishment and operation of Regional Advisory Councils.
- (2) Article 2 of Decision 2004/585/EC establishes a Regional Advisory Council to cover the south-western waters in International Council for the Exploration of the Seas (ICES) areas VIII, IX and X (waters around Azores) and CECAF divisions 34.1.1, 34.1.2. and 34.2.0 (waters around Madeira and the Canary Islands) <sup>(3)</sup>.
- (3) In accordance with Article 3(1) of Decision 2004/585/EC, representatives of the fisheries sector and other interests groups submitted a request concerning the operation of that Regional Advisory Council to Belgium, Spain, France, the Netherlands and Portugal.

(4) As required by Article 3(2) of Decision 2004/585/EC, the Member States concerned determined whether the application concerning the Regional Advisory Council for the south-western waters was in conformity with the provisions laid down in that Decision. On 9 February 2007, the Member States concerned transmitted a recommendation on that Regional Advisory Council to the Commission.

(5) The Commission has evaluated the application by the interested parties and the recommendation in the light of Decision 2004/585/EC and the aims and principles of the common fisheries policy, and considers that the Regional Advisory Council for the south-western waters is ready to become operational,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The Regional Advisory Council for the south-western waters, established by Article 2(1)(e) of Decision 2004/585/EC, shall be operational as from 9 April 2007.

Done at Brussels, 4 April 2007.

*For the Commission*

Joe BORG

*Member of the Commission*

<sup>(1)</sup> OJ L 256, 3.8.2004, p. 17.

<sup>(2)</sup> OJ L 358, 31.12.2002, p. 59.

<sup>(3)</sup> As defined in Council Regulation (EEC) No 3880/91 (OJ L 365, 31.12.1991, p. 1).

**COMMISSION DECISION****of 4 April 2007****on the inventory of wine production potential presented by Bulgaria under Council Regulation (EC)  
No 1493/1999***(notified under document number C(2007) 1469)***(Only the Bulgarian text is authentic)**

(2007/223/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine <sup>(1)</sup>, and in particular Article 23(4) thereof,

Whereas:

- (1) As a prior condition for access to the increase in planting rights and support for restructuring and conversion, Regulation (EC) No 1493/1999 provides for the compilation of an inventory of wine production potential by the Member State concerned. The inventory must contain the information required by Article 16 of that Regulation.
- (2) Article 19 of Commission Regulation (EC) No 1227/2000 of 31 May 2000 laying down detailed rules for the application of Council Regulation (EC) No 1493/1999 on the common organisation of the market in wine, as regards production potential <sup>(2)</sup> details how the information contained in the inventory is to be presented.
- (3) By letters dated 10 and 17 January 2007, Bulgaria sent the Commission the information referred to in Article 16 of Regulation (EC) No 1493/1999 and Article 19 of Regulation (EC) No 1227/2000. Examination of this information shows that Bulgaria has compiled the inventory.

(4) This Decision does not entail recognition by the Commission of the accuracy of the information contained in the inventory or of the compatibility of the legislation referred to in the inventory with Community law. It is without prejudice to any future Commission Decision on these points.

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

HAS ADOPTED THIS DECISION:

*Article 1*

The Commission notes that Bulgaria has compiled the inventory of wine production potential in accordance with Article 16 of Regulation (EC) No 1493/1999.

*Article 2*

This Decision is addressed to the Republic of Bulgaria.

Done at Brussels, 4 April 2007.

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

<sup>(1)</sup> OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

<sup>(2)</sup> OJ L 143, 16.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1460/2006 (OJ L 272, 3.10.2006, p. 9).