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### Legislation

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<sup>(1)</sup> Text with EEA relevance

## I

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

## REGULATIONS

## COUNCIL REGULATION (EC) No 671/2007

of 11 June 2007

**amending Regulation (EC) No 1868/94 establishing a quota system in relation to the production of potato starch**

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 <sup>(1)</sup>,

Whereas:

(1) The Annex to Council Regulation (EC) No 1868/94 <sup>(2)</sup> fixes the potato starch quotas for producer Member States for the 2005/2006 and 2006/2007 marketing years.

(2) In accordance with Article 3(2) of Regulation (EC) No 1868/94 the allocation of quotas within the Community is based on a report from the Commission to the Council. According to the report presented to the Council, the recent reform of the common market organisation in the sugar sector should be taken into account in the analysis of developments on the starch market. However, the sugar reform would become fully applicable gradually over a transitional period. Therefore, pending indication of the initial effects of this reform on the potato starch sector, the quotas for the 2006/2007 marketing year should be rolled over for two more years.

(3) Producer Member States should allocate their quotas for a period of two years among all potato starch manufacturers on the basis of the quotas for the 2006/2007 marketing year.

(4) Quantities used by potato starch manufacturers in excess of the sub-quotas available in the 2006/2007 marketing year should be deducted in the 2007/2008 marketing year in accordance with Article 6(2) of Regulation (EC) No 1868/94.

(5) Regulation (EC) No 1868/94 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 1868/94 is hereby amended as follows:

1. Articles 2 and 3 shall be replaced by the following:

*'Article 2*

1. The potato starch producing Member States shall be allocated quotas for the 2007/2008 and 2008/2009 marketing years in accordance with the Annex.

2. Each producer Member State referred to in the Annex shall allocate its quota among potato starch manufacturers for use in the 2007/2008 and 2008/2009 marketing years on the basis of the sub-quotas available to each manufacturer in 2006/2007, subject to application of the second subparagraph.

<sup>(1)</sup> Opinion of 24 April 2007 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 197, 30.7.1994, p. 4. Regulation as last amended by Regulation (EC) No 941/2005 (OJ L 159, 22.6.2005, p. 1).

The sub-quotas available for each manufacturer for the 2007/2008 marketing year shall be adjusted to take account of any amount used in excess of quota during the 2006/2007 marketing year in accordance with Article 6(2).

*Article 3*

The Commission shall present the Council, before 1 January 2009, with a report on the functioning of the quota system within the Community, accompanied by appropriate proposals. This report shall take account of developments on the potato starch and cereal starch markets.'

2. The Annex shall be replaced by the text appearing in the Annex to this Regulation.

*Article 2*

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

It shall apply from 1 July 2007.

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

Done at Luxembourg, 11 June 2007.

*For the Council*  
*The President*  
H. SEEHOFER

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## ANNEX

## 'ANNEX

**Potato starch quotas for the 2007/2008 and 2008/2009 marketing years**

|                | <i>(tonnes)</i> |
|----------------|-----------------|
| Czech Republic | 33 660          |
| Denmark        | 168 215         |
| Germany        | 656 298         |
| Estonia        | 250             |
| Spain          | 1 943           |
| France         | 265 354         |
| Latvia         | 5 778           |
| Lithuania      | 1 211           |
| Netherlands    | 507 403         |
| Austria        | 47 691          |
| Poland         | 144 985         |
| Slovakia       | 729             |
| Finland        | 53 178          |
| Sweden         | 62 066          |
| Total          | 1 948 761'      |

**COMMISSION REGULATION (EC) No 672/2007****of 15 June 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 16 June 2007.

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

Done at Brussels, 15 June 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 15 June 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             | MA                                | 46,7                  |
|                        | TR                                | 89,0                  |
|                        | ZZ                                | 67,9                  |
| 0707 00 05             | JO                                | 151,2                 |
|                        | TR                                | 94,6                  |
|                        | ZZ                                | 122,9                 |
| 0709 90 70             | TR                                | 95,0                  |
|                        | ZZ                                | 95,0                  |
| 0805 50 10             | AR                                | 51,4                  |
|                        | ZA                                | 64,2                  |
|                        | ZZ                                | 57,8                  |
| 0808 10 80             | AR                                | 92,0                  |
|                        | BR                                | 82,0                  |
|                        | CL                                | 93,2                  |
|                        | CN                                | 94,6                  |
|                        | NZ                                | 99,4                  |
|                        | US                                | 101,5                 |
|                        | ZA                                | 97,0                  |
|                        | ZZ                                | 94,2                  |
| 0809 10 00             | IL                                | 156,1                 |
|                        | TR                                | 217,4                 |
|                        | ZZ                                | 186,8                 |
| 0809 20 95             | TR                                | 287,0                 |
|                        | US                                | 329,7                 |
|                        | ZZ                                | 308,4                 |
| 0809 30 10, 0809 30 90 | CL                                | 101,3                 |
|                        | US                                | 206,5                 |
|                        | ZA                                | 88,3                  |
|                        | ZZ                                | 132,0                 |
| 0809 40 05             | CL                                | 134,4                 |
|                        | IL                                | 164,9                 |
|                        | ZZ                                | 149,7                 |

<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 673/2007****of 15 June 2007****concerning the 33rd special invitation to tender opened under the standing invitation to tender provided for in Regulation (EC) No 1898/2005, Chapter II**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

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

- (2) On the basis of the examination of the offers received, the tendering procedure should not proceed.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 33rd individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 1898/2005 Chapter II, the tendering procedure should not proceed.

*Article 2*

This Regulation shall enter into force on 16 June 2007.

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

Done at Brussels, 15 June 2007.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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

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



**COMMISSION REGULATION (EC) No 674/2007****of 15 June 2007****fixing the import duties in the cereals sector applicable from 16 June 2007**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 on rules of application (cereal sector import duties) for Council Regulation (EEC) No 1766/92 <sup>(2)</sup>, and in particular Article 2(1) thereof,

Whereas:

- (1) Article 10(2) of Regulation (EC) No 1784/2003 states that the import duty on products falling within CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002, ex 1005 other than hybrid seed, and ex 1007 other than hybrids for sowing, is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.
- (2) Article 10(3) of Regulation (EC) No 1784/2003 lays down that, for the purposes of calculating the import

duty referred to in paragraph 2 of that Article, representative cif import prices are to be established on a regular basis for the products in question.

- (3) Under Article 2(2) of Regulation (EC) No 1249/96, the price to be used for the calculation of the import duty on products of CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002 00, 1005 10 90, 1005 90 00 and 1007 00 90 is the daily cif representative import price determined as specified in Article 4 of that Regulation.
- (4) Import duties should be fixed for the period from 16 June 2007, and should apply until new import duties are fixed and enter into force,

HAS ADOPTED THIS REGULATION:

*Article 1*

From 16 June 2007, the import duties in the cereals sector referred to in Article 10(2) of Regulation (EC) No 1784/2003 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

*Article 2*

This Regulation shall enter into force on 16 June 2007.

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

Done at Brussels, 15 June 2007.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 161, 29.6.1996, p. 125. Regulation as last amended by Regulation (EC) No 1816/2005 (OJ L 292, 8.11.2005, p. 5).

## ANNEX I

**Import duties on the products referred to in Article 10(2) of Regulation (EC) No 1784/2003 applicable from 16 June 2007**

| CN code       | Description                                      | Import duties <sup>(1)</sup><br>(EUR/t) |
|---------------|--|---|
| 1001 10 00    | Durum wheat, high quality                        | 0,00                                    |
|               | medium quality                                   | 0,00                                    |
|               | low quality                                      | 0,00                                    |
| 1001 90 91    | Common wheat seed                                | 0,00                                    |
| ex 1001 90 99 | High quality common wheat, other than for sowing | 0,00                                    |
| 1002 00 00    | Rye  | 0,00                                    |
| 1005 10 90    | Maize seed other than hybrid                     | 0,00                                    |
| 1005 90 00    | Maize, other than seed <sup>(2)</sup>            | 0,00                                    |
| 1007 00 90    | Grain sorghum other than hybrids for sowing      | 0,00                                    |

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

- 3 EUR/t, where the port of unloading is on the Mediterranean Sea, or
- 2 EUR/t, where the port of unloading is in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or the Atlantic coast of the Iberian peninsula.

<sup>(2)</sup> The importer may benefit from a flatrate reduction of EUR 24 per tonne where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

## ANNEX II

## Factors for calculating the duties laid down in Annex I

1.6.2007-14.6.2007

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

(EUR/t)

|                        | Common wheat (*) | Maize   | Durum wheat, high quality | Durum wheat, medium quality (**) | Durum wheat, low quality (***) | Barley |
|------------------------|------------------|---------|---------------------------|----------------------------------|--------------------------------|--------|
| Exchange               | Minneapolis      | Chicago | —                         | —                                | —                              | —      |
| Quotation              | 164,25           | 114,42  | —                         | —                                | —                              | —      |
| Fob price USA          | —                | —       | 180,51                    | 170,51                           | 150,51                         | 151,47 |
| Gulf of Mexico premium | —                | 12,63   | —                         | —                                | —                              | —      |
| Great Lakes premium    | 10,96            | —       | —                         | —                                | —                              | —      |

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

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

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

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

Freight costs: Gulf of Mexico–Rotterdam: 36,68 EUR/tonne

Freight costs: Great Lakes–Rotterdam: 36,77 EUR/tonne

**COMMISSION REGULATION (EC) No 675/2007****of 15 June 2007****determining the extent to which the applications for import licences lodged during the first 10 days of June 2007 for butter originating in New Zealand under quota numbers 09.4195 and 09.4182 can be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products <sup>(1)</sup>,Having regard to Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas <sup>(2)</sup>, and in particular Article 35a(3) thereof,

Whereas:

Applications for import licences, lodged from 1 to 10 June 2007 for butter originating in New Zealand under quotas numbers 09.4195 and 09.4182 referred to in Annex IIIA to

Regulation (EC) No 2535/2001 and notified to the Commission by 13 June 2007, concern quantities greater than those available. Allocation coefficients should therefore be fixed for the quantities applied for,

HAS ADOPTED THIS REGULATION:

*Article 1*

Applications for import licences for butter originating in New Zealand under the quota numbers 09.4195 and 09.4182 lodged pursuant to Regulation (EC) No 2535/2001 from 1 to 10 June 2007 and notified to the Commission by 13 June 2007 shall be accepted subject to the application of the allocation coefficients set out in the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 15 June 2007.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 341, 22.12.2001, p. 29. Regulation as last amended by Regulation (EC) No 487/2007 (OJ L 114, 1.5.2007, p. 8).

## ANNEX

| Quota number | Allocation coefficient |
|--------------|------------------------|
| 09.4195      | 20,172164 %            |
| 09.4182      | 100 %                  |

## DIRECTIVES

## COUNCIL DIRECTIVE 2007/33/EC

of 11 June 2007

## on the control of potato cyst nematodes and repealing Directive 69/465/EEC

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) Since the adoption of Council Directive 69/465/EEC of 8 December 1969 on control of Potato Cyst Eelworm <sup>(1)</sup>, there have been significant developments in the nomenclature, biology and epidemiology of potato cyst nematode species and populations and their distribution pattern.
- (2) Potato cyst nematodes (*Globodera pallida* (Stone) Behrens (European populations) and *Globodera rostochiensis* (Wollenweber) Behrens (European populations)) are recognised as harmful organisms of potatoes.
- (3) The provisions of Directive 69/465/EEC have been re-examined and, as a result of this re-examination, have been found insufficient. Therefore, the adoption of more comprehensive provisions is necessary.
- (4) The provisions should take into account that official investigations are necessary to ensure that no potato cyst nematodes are found in fields in which seed potatoes intended for the production of seed potatoes, and certain plants intended for the production of plants for planting, are planted or stored.
- (5) Official surveys should be carried out on fields used for the production of potatoes other than those used for the production of seed potatoes in order to determine the distribution of the potato cyst nematodes.
- (6) Sampling and testing procedures should be set out for conducting such official investigations and surveys.
- (7) Account should be taken of the means of spread of the pathogen.
- (8) The provisions should take into account that the control of potato cyst nematodes is traditionally by crop rotation as it is recognised that several years in the absence of potato cultivation will reduce the population of nematodes by a significant degree. More recently crop rotation has been supplemented by the use of resistant potato varieties.
- (9) Furthermore, Member States should be able to take additional or stricter measures where necessary, provided that there is no hindrance to the movement of potatoes within the Community, except insofar as laid down in 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>(2)</sup>. Such measures should be notified to the Commission and to the other Member States.
- (10) Directive 69/465/EEC should therefore be repealed.
- (11) Since the objectives of this Directive, namely to determine the distribution of potato cyst nematodes to prevent their spread and to control them, cannot be sufficiently achieved by the Member States and can therefore by reason of the scale and effects of this Directive be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

<sup>(1)</sup> OJ L 323, 24.12.1969, p. 3. Directive as last amended by the Act of Accession of 1994.

<sup>(2)</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).

- (12) The measures necessary for the implementation of this Directive 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>(1)</sup>,

officially notified to the Commission and to the other Member States.

2. Further provisions related to the criteria for the definition of a field may be adopted in accordance with the procedure referred to in Article 17(2).

HAS ADOPTED THIS DIRECTIVE:

#### CHAPTER I

##### SUBJECT-MATTER AND DEFINITIONS

###### Article 1

This Directive establishes the measures to be taken by the Member States against *Globodera pallida* (Stone) Behrens (European populations) and *Globodera rostochiensis* (Wollenweber) Behrens (European populations), hereinafter referred to as 'potato cyst nematodes', in order to determine their distribution, to prevent their spread and to control them.

###### Article 2

For the purpose of this Directive, the following definitions shall apply:

- (a) 'official' or 'officially' means established, authorised or performed by the responsible official bodies of a Member State as defined in Article 2(1)(g) of Directive 2000/29/EC;
- (b) 'resistant potato variety' means a variety that when grown significantly inhibits the development of a particular population of potato cyst nematodes;
- (c) 'investigation' means a methodical procedure to determine the presence of potato cyst nematodes in a field;
- (d) 'survey means' a methodical procedure conducted over a defined period of time to determine the distribution of potato cyst nematodes in the territory of a Member State.

###### Article 3

1. The responsible official bodies of the Member State shall define what constitutes a field for the purposes of this Directive in order to ensure that phytosanitary conditions within a field are homogeneous as regards the risk of potato cyst nematodes. In doing so, they shall take into account sound scientific and statistical principles, the biology of the potato cyst nematode, the cultivation of the field and the particular production systems of the host plants of potato cyst nematodes in that Member State. The detailed criteria for the definition of a field shall be

#### CHAPTER II

##### DETECTION

###### Article 4

1. Member States shall prescribe that an official investigation for the presence of potato cyst nematodes shall be carried out on the field in which the plants listed in Annex I, intended for the production of plants for planting, or seed potatoes intended for the production of seed potatoes, are to be planted or stored.

2. The official investigation provided for in paragraph 1 shall be carried out in the period between the harvesting of the last crop in the field and the planting of the plants or seed potatoes mentioned in paragraph 1. It may be carried out earlier, in which case documentary evidence shall be available of the results of that investigation confirming that potato cyst nematodes have not been found and that potatoes and other host plants listed in point 1 of Annex I were not present at the time of the investigation and have not been grown since the investigation.

3. Results of official investigations other than those referred to in paragraph 1 and carried out before 1 July 2010 may be considered as evidence as referred to in paragraph 2.

4. If the responsible official bodies of a Member State have established that there is no risk of spreading potato cyst nematodes, the official investigation referred to in paragraph 1 shall not be required for:

- (a) the planting of plants listed in Annex I, intended for the production of plants for planting to be used within the same place of production situated in an officially defined area;
- (b) the planting of seed potatoes, intended for the production of seed potatoes to be used within the same place of production situated in an officially defined area;
- (c) the planting of plants listed in point 2 of Annex I, intended for the production of plants for planting where the harvested plants are to be subject to the officially approved measures referred to in Section III(A) of Annex III.

<sup>(1)</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).

5. Member States shall ensure that the results of the investigations referred to in paragraphs 1 and 3 are officially recorded and are accessible to the Commission.

#### Article 5

1. In the case of fields in which seed potatoes or plants listed in point 1 of Annex I intended for the production of plants for planting, are to be planted or stored, the official investigation referred to in Article 4(1) shall involve sampling and testing for the presence of potato cyst nematodes in accordance with Annex II.

2. In the case of fields in which the plants listed in point 2 of Annex I, intended for the production of plants for planting, are to be planted or stored, the official investigation referred to in Article 4(1) shall involve sampling and testing for the presence of potato cyst nematodes in accordance with Annex II or verification as set out in Section I of Annex III.

#### Article 6

1. Member States shall provide that official surveys are carried out on fields used for the production of potatoes, other than those intended for the production of seed potatoes, in order to determine the distribution of potato cyst nematodes.

2. The official surveys shall involve sampling and testing for the presence of potato cyst nematodes in accordance with paragraph 2 of Annex II and shall be carried out in accordance with Section II of Annex III.

3. The results of the official surveys shall be notified in writing to the Commission in accordance with Section II of Annex III.

#### Article 7

If, as a result of the official investigation referred to in Article 4(1) and the other official investigations referred to in Article 4(3), no potato cyst nematodes are found, the responsible official bodies of a Member State shall ensure that this information is officially recorded.

#### Article 8

1. When a field is found infested with potato cyst nematodes during the official investigation referred to in Article 4(1), the responsible official bodies of a Member State shall ensure that this information is officially recorded.

2. When a field is found infested with potato cyst nematodes during the official survey referred to in Article 6(1), the responsible official bodies of a Member State shall ensure that this information is officially recorded.

3. Potatoes or plants listed in Annex I which come from a field officially recorded as infested with potato cyst nematodes as referred to in paragraph 1 or paragraph 2 of this Article, or have been in contact with soil in which potato cyst nematodes have been found, shall be officially designated as contaminated.

### CHAPTER III

#### CONTROL MEASURES

##### Article 9

1. Member States shall prescribe that in a field which has been officially recorded as infested as referred to in Article 8(1) or 8(2):

(a) no potatoes intended for the production of seed potatoes shall be planted; and

(b) no plants listed in Annex I, intended for replanting, shall be planted or stored. However, plants listed in point 2 of Annex I may be planted in that field provided that these plants are to be subject to the officially approved measures referred to in Section III(A) of Annex III, such that there is no identifiable risk of spreading potato cyst nematodes.

2. In the case of fields to be used for planting potatoes, other than those intended for the production of seed potatoes, officially recorded as infested as referred to in Article 8(1) or 8(2), the responsible official bodies of the Member States shall prescribe that these fields shall be subject to an official control programme aiming at least at the suppression of potato cyst nematodes.

The programme referred to in paragraph 2 of this Article shall take into account the particular production and marketing systems for host plants of potato cyst nematodes in the relevant Member State, the characteristics of the population of potato cyst nematodes present, the use of resistant potato varieties of the highest levels of resistance available as specified in Section I of Annex IV and, where appropriate, other measures. This programme shall be notified in writing to the Commission and to the other Member States with a view to ensuring comparable levels of assurance between the Member States.

The degree of resistance of potato varieties, other than those already notified under Article 10(1) of Directive 69/465/EEC shall be quantified according to the standard scoring notation table set out in Section I of Annex IV of this Directive. Testing for resistance shall be carried out according to the protocol set out in Section II of Annex IV of this Directive.



#### Article 10

1. Member States shall prescribe that for potatoes or plants listed in Annex I, which have been designated as contaminated under Article 8(3):

- (a) in the case of seed potatoes and the host plants listed in point 1 of Annex I, they shall not be planted unless they have been decontaminated under the supervision of the responsible official bodies of a Member State using an appropriate method adopted under paragraph 2 of this Article, based on scientific evidence that there is no risk of spreading potato cyst nematodes;
- (b) in the case of potatoes intended for industrial processing or grading, they shall be subject to officially approved measures in accordance with Section III(B) of Annex III;
- (c) in the case of plants listed in point 2 of Annex I, they shall not be planted unless they have been subject to the officially approved measures as referred to in Section III(A) of Annex III, such that they are no longer contaminated.

2. Specifications of the methods referred to in paragraph 1(a) of this Article shall be adopted in accordance with the procedure referred to in Article 17(2).

#### Article 11

1. Without prejudice to Article 16(1) of Directive 2000/29/EC, Member States shall prescribe that the suspected occurrence or confirmed presence of potato cyst nematodes in their territory resulting from a breakdown or change in the effectiveness of a resistant potato variety which relates to an exceptional change in the composition of nematode species, pathotype or virulence group shall be reported to their own responsible official bodies.

2. For all cases reported under paragraph 1, Member States shall provide that the potato cyst nematode species and, where applicable, the pathotype or virulence group involved, are investigated and confirmed by appropriate methods.

3. The details of the confirmations referred to in paragraph 2 shall be sent in writing each year by 31 December at the latest to the Commission and to the other Member States.

4. The appropriate methods referred to in paragraph 2 of this Article may be adopted in accordance with the procedure referred to in Article 17(2).

#### Article 12

Member States shall notify in writing to the Commission and to the other Member States each year by 31 January at the latest, a

list of all new varieties of potatoes which they have found by official testing to be resistant to potato cyst nematodes. They shall state the species, pathotypes, virulence groups or populations to which the varieties are resistant, the degree of resistance and the year of its determination.

#### Article 13

If, after the officially approved measures referred to in Section III(C) of Annex III have been taken, the presence of potato cyst nematodes is not confirmed, the responsible official bodies of the Member State shall ensure that the official record referred to in Article 4(5), Article 8(1) and Article 8(2) is updated and any restrictions imposed on the field are revoked.

#### Article 14

Without prejudice to Articles 3 and 5 of Directive 2000/29/EC, Member States may authorise derogations from the measures referred to in Articles 9 and 10 of this Directive in accordance with the provisions laid down in Commission Directive 95/44/EC of 26 July 1995 establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 77/93/EEC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections<sup>(1)</sup>.

### CHAPTER IV

#### GENERAL AND FINAL PROVISIONS

#### Article 15

Member States may adopt in relation to their own production such additional or stricter measures as may be required to control potato cyst nematodes or to prevent them spreading in so far as they are in compliance with Directive 2000/29/EC.

Those measures shall be notified in writing to the Commission and to the other Member States.

#### Article 16

Amendments to the Annexes, to be made in the light of developments in scientific or technical knowledge, shall be adopted in accordance with the procedure referred to in Article 17(2).

#### Article 17

1. The Commission shall be assisted by the Standing Committee on Plant Health, hereinafter referred to as 'the Committee'.

<sup>(1)</sup> OJ L 184, 3.8.1995, p. 34. Directive as last amended by Commission Directive 97/46/EC (OJ L 204, 31.7.1997, p. 43).

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

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

*Article 18*

1. Member States shall adopt and publish by 30 June 2010 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 July 2010.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law, which they adopt in the field governed by this Directive.

*Article 19*

Directive 69/465/EEC is repealed with effect from 1 July 2010.

*Article 20*

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

This Directive is addressed to the Member States.

Done at Luxembourg, 11 June 2007.

*For the Council*

*The President*

H. SEEHOFER

## ANNEX I

List of plants referred to in Articles 4(1), 4(2), 4(4), 5(1), 5(2), 8(3), 9(1)(b), and 10(1)

1. Host plants with roots:

*Capsicum* spp.,

*Lycopersicon lycopersicum* (L.) Karsten ex Farw.,

*Solanum melongena* L.

2. (a) Other plants with roots:

*Allium porrum* L.,

*Beta vulgaris* L.,

*Brassica* spp.,

*Fragaria* L.,

*Asparagus officinalis* L.

(b) Bulbs, tubers and rhizomes, not subjected to the officially approved measures as referred to in Section III(A) of Annex III, grown in soil and intended for planting, other than those for which there shall be evidence by their packaging or by other means that they are intended for sale to final consumers not involved in professional plant or cut flower production, of:

*Allium ascalonicum* L.,

*Allium cepa* L.,

*Dahlia* spp.,

*Gladiolus* Tourn. Ex L.,

*Hyacinthus* spp.,

*Iris* spp.,

*Lilium* spp.,

*Narcissus* L.,

*Tulipa* L.

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## ANNEX II

1. With reference to the sampling and testing for the official investigation referred to in Article 5(1) and 5(2):
  - (a) sampling shall involve a soil sample with a standard rate of at least 1 500 ml soil/ha collected from at least 100 cores/ha preferably in a rectangular grid of not less than 5 metres in width and not more than 20 metres in length between sampling points covering the entire field. The whole sample shall be used for further examination, i.e. extraction of cysts, species identification and, if applicable, pathotype/virulence group determination;
  - (b) testing shall involve methods for the extraction of potato cyst nematodes described in the relevant Phytosanitary Procedures or Diagnostic Protocols for *Globodera pallida* and *Globodera rostochiensis*: EPPO standards.
  
2. With reference to the sampling and testing for the official survey referred to in Article 6(2):
  - (a) sampling shall be:
    - the sampling described in paragraph 1 with a minimum sampling rate of soil of at least 400 ml/ha,
    - or
    - targeted sampling of at least 400 ml of soil after visual examination of roots where there are visual symptoms,
    - or
    - sampling of at least 400 ml of soil associated with the potatoes after harvesting provided that the field where the potatoes were grown is traceable;
  - (b) testing shall be the testing referred to in paragraph 1.
  
3. By way of derogation the standard sampling rate referred to in paragraph 1 may be reduced to a minimum of 400 ml of soil/ha provided that:
  - (a) there is documentary evidence that no potatoes or other host plants listed in point 1 of Annex I have been grown and were present in the field in the six years prior to the official investigation;
  - or
  - (b) no potato cyst nematodes have been found during the last two successive official investigations in samples of 1 500 ml soil/ha and no potatoes or other host plants listed in point 1 of Annex I, other than those for which an official investigation is required according to Article 4(1), have been grown after the first official investigation;
  - or
  - (c) no potato cyst nematodes or potato cyst nematode cysts without live content have been found in the last official investigation which must have consisted of a sample size of at least 1 500 ml soil/ha and no potatoes or other host plants listed in point 1 of Annex I, other than those for which an official investigation is required according to Article 4(1), have been grown in the field since the last official investigation.

Results of other official investigations carried out before 1 July 2010 may be considered as official investigations as referred to in subparagraphs (b) and (c).
  
4. By way of derogation the sampling rate referred to at paragraphs 1 and 3 may be reduced for fields larger than 8 ha and 4 ha respectively:
  - (a) in the case of the standard rate referred to in paragraph 1, the first 8 ha shall be sampled at the rate specified therein, but may be reduced for each additional hectare to a minimum of 400 ml of soil/ha;
  - (b) in the case of the reduced rate referred to in paragraph 3, the first 4 ha shall be sampled at the rate specified therein, but may be further reduced for each additional hectare to a minimum of 200 ml of soil/ha.

5. The use of the reduced sample size as referred to at paragraphs 3 and 4 may be continued in the subsequent official investigations referred to in Article 4(1) until potato cyst nematodes have been found in the field concerned.
  6. By way of derogation the standard size of the soil sample referred to in paragraph 1 may be reduced to a minimum of 200 ml of soil/ha provided that the field is situated in an area declared free from potato cyst nematodes, and designated, maintained and surveyed in accordance with the relevant International Standards for Phytosanitary Measures. Details of such areas shall be officially notified in writing to the Commission and the other Member States.
  7. The minimum size of the soil sample in all cases shall be 100 ml of soil per field.
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## ANNEX III

## SECTION I

**VERIFICATION**

With reference to Article 5(2), the official investigation referred to in Article 4(1) shall establish that at the time of verification one of the following criteria are met:

— no history of potato cyst nematodes in the field during the last 12 years, based on the results of appropriate officially approved testing,

or

— a known cropping history in which no potatoes or other hosts plants listed in point 1 of Annex I have been grown in the field in the past 12 years.

## SECTION II

**SURVEYS**

The official surveys referred to in Article 6(1), shall be conducted on at least 0,5 % of the acreage used in the relevant year for the production of potatoes, other than that intended for the production of seed potatoes. The results of the surveys shall be notified to the Commission by 1 April for the previous 12 month period.

## SECTION III

**OFFICIAL MEASURES**

(A) The officially approved measures referred to in Article 4(4)(c), 9(1)(b) Article 10(1)(c) and in paragraph 2b of Annex I are:

1. disinfestation by appropriate methods such that there is no identifiable risk of the potato cyst nematodes spreading;
2. removal of soil by washing or brushing until practically free of soil such that there is no identifiable risk of the potato cyst nematodes spreading.

(B) The officially approved measures referred to in Article 10(1)(b) are delivery to a processing or grading plant with appropriate and officially approved waste disposal procedures for which it has been established that there is no risk of the potato cyst nematodes spreading.

(C) The officially approved measures referred to in Article 13 are an official re-sampling of the field officially recorded as infested as referred to in Article 8(1) or 8(2), and testing using one of the methods specified in Annex II, after a minimum period of six years counting from the positive confirmation of potato cyst nematodes, or counting from the growing of the last potato crop. This period may be reduced to a minimum of three years if appropriate officially approved control measures have been taken.

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## ANNEX IV

## SECTION I

**DEGREE OF RESISTANCE**

The degree of susceptibility of potatoes to potato cyst nematodes shall be quantified according to the following standard scoring notation as referred to in Article 9(2).

The score 9 indicates the highest level of resistance.

| Relative susceptibility (%) | Score |
|-----------------------------|-------|
| < 1                         | 9     |
| 1,1-3                       | 8     |
| 3,1-5                       | 7     |
| 5,1-10                      | 6     |
| 10,1-15                     | 5     |
| 15,1-25                     | 4     |
| 25,1-50                     | 3     |
| 50,1-100                    | 2     |
| > 100                       | 1     |

## SECTION II

**PROTOCOL FOR RESISTANCE TESTING**

1. The test shall be performed in a quarantine facility either outside, in glasshouses, or in climate chambers.
2. The test shall be performed in pots each containing at least one litre of soil (or suitable substrate).
3. The soil temperature during the course of the test shall not exceed 25 °C and adequate watering shall be provided.
4. When planting the test or control variety one potato eye plug of each test or control variety shall be used. Removal of all stems except one is recommended.
5. The potato variety 'Désirée' shall be used as a standard susceptible control variety in every test. Additional fully susceptible control varieties of local relevance may be added as internal checks. The standard susceptible control variety may be changed if research indicates that other varieties are either more suitable or more accessible.
6. The following standard populations of potato cyst nematodes shall be used against pathotypes Ro1, Ro5, Pa1 and Pa3:
  - Ro1: population Ecosse
  - Ro5: population Harmerz
  - Pa1: population Scottish
  - Pa3: population Chavornay

Other potato cyst nematode populations of local relevance may be added.
7. The identity of the standard population used shall be checked using appropriate methods. It is recommended that at least two resistant varieties or two differential standard clones of known resistance capacity are used in the test experiments.

8. The potato cyst nematode inoculum (Pi) shall consist in total of five infective eggs and juveniles per ml of soil. It is recommended that the number of potato cyst nematodes to be inoculated per ml of soil is determined in hatching experiments. The potato cyst nematodes may be inoculated as cysts, or combined as eggs and juveniles in a suspension.
  9. The viability of the potato cyst nematode cyst content used as the inoculum source shall be at least 70 %. It is recommended that the cysts are 6-24 months old and are kept for at least four months at 4 °C immediately prior to use.
  10. There shall be at least four replicates (pots) per combination of potato cyst nematode population and potato variety tested. It is recommended to use at least 10 replicates for the standard susceptible control variety.
  11. The duration of the test shall be at least three months and the maturity of developing females shall be checked before breaking up the experiment.
  12. Potato cyst nematode cysts from the four replicates shall be extracted and counted separately for each pot.
  13. The final population (Pf) on the standard susceptible control variety at the end of the resistance test shall be determined by counting all cysts from all replicates and the eggs and juveniles from at least four replicates.
  14. A multiplication rate of at least  $20 \times (Pf/Pi)$  on the standard susceptible control variety shall be achieved.
  15. The coefficient of variation (CV) on the standard susceptible control variety shall not exceed 35 %.
  16. The relative susceptibility of the tested potato variety to the standard susceptible control variety shall be determined and expressed as a percentage according to the formula:  
$$Pf_{\text{test variety}}/Pf_{\text{standard susceptible control variety}} \times 100 \%$$
  17. If a tested potato variety has a relative susceptibility of more than 3 %, cyst counts will suffice. In cases where the relative susceptibility is less than 3 %, eggs and juveniles shall be counted in addition to cyst counts.
  18. Where the results of tests in the first year indicate that a variety is fully susceptible to a pathotype, there is no requirement to repeat these tests in a second year.
  19. The results of the tests shall be confirmed by at least one other trial performed in another year. The arithmetic mean of the relative susceptibility in the two years shall be used to derive the score according to the standard scoring notation.
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## II

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

## DECISIONS

## COMMISSION

## COMMISSION DECISION

of 21 February 2007

on State aid — C 36/2004 (ex N 220/2004) — Portugal — Foreign direct investment aid for  
CORDEX, Companhia Industrial Têxtil S.A.

(notified under document number C(2007) 474)

(Only the Portuguese text is authentic)

(Text with EEA relevance)

(2007/414/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 those provisions<sup>(1)</sup> and having regard to their comments,

Whereas:

## I. PROCEDURE

(1) By letter of 5 May 2004 (registered as received on 19 May), Portugal notified the Commission of its intention to provide aid to CORDEX, Companhia Industrial Têxtil S.A. (hereinafter CORDEX) in order to help finance an investment by the company in Brazil. At the Commission's request, Portugal provided further information by letters of 31 August 2004 (registered as received on 6 September) and 13 September 2004 (registered as received on 16 September).

(2) By letter of 19 November 2004, the Commission informed Portugal that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid.

(3) By letter of 7 January 2005 (registered as received on 11 January), the Portuguese authorities presented their comments in the context of the abovementioned procedure.

(4) The Commission decision to initiate the procedure was published in the *Official Journal of the European Union*<sup>(2)</sup>. The Commission called on interested parties to submit their comments.

(5) The Commission received comments from interested parties. It forwarded them to Portugal, which was given the opportunity to react; its comments were received by letter of 20 May 2005 (registered as received on 25 May).

(6) The Commission requested further information from Portugal by letter of 26 September 2005, to which Portugal replied by letter of 9 November 2005 (registered as received on 10 November). The Portuguese authorities provided the final additional information by letter of 22 December 2005 (registered as received on 23 December).

<sup>(1)</sup> OJ C 35, 10.2.2005, p. 2.

<sup>(2)</sup> See footnote 1.

## II. DETAILED DESCRIPTION OF THE AID

### The recipient

- (7) CORDEX is a producer of ropes located in Ovar, a region falling under Article 87(3)(a) of the Treaty. It was set up in 1969 and specialises in the production of synthetic fibre ropes (polypropylene and polyethylene) as well as *binder* and *baler twine* and other sisal products. At the time the aid was notified, CORDEX had 259 employees. Its turnover in the same year (2004) was some EUR 25 million. CORDEX is affiliated to two other companies located in the same region: FLEX 2000, set up in 2001, and CORDENET, set up in 2003. Together, the three companies have 415 employees <sup>(3)</sup>.

### The project

- (8) The project consists in the establishment of a new company in Brazil — *Cordebrás Lda.* — that will be engaged exclusively in producing *baler twine*, which is used mainly in agriculture. With this investment, CORDEX expects to step up its production of sisal products and to take advantage of the lower costs and availability of the raw material and labour in Brazil, which is considered to be the world's leading producer of the raw material (sisal fibre) and labour costs there are about 1/3 of those in Portugal.
- (9) With this project, CORDEX is also planning to gain a foothold on new markets, in particular in the United States, Canada and the Mercosur countries. In addition, some of the sisal produced in Brazil will be imported into Portugal either as a finished or semi-finished product <sup>(4)</sup>. In the latter case, the product will be subject to oil-based processing as well as to rewinding and packaging before being sold on the market.
- (10) The eligible costs of this investment amount to EUR 2 678 630, which is equivalent to the nominal capital of the new company, *Cordebrás Lda.* The project was completed in 2002 and is now operational.

### The aid

- (11) CORDEX applied for aid from the Portuguese authorities under a Portuguese scheme that aims to promote the internationalisation of Portuguese companies <sup>(5)</sup>. Under the scheme, aid to large companies must be notified to the Commission. Although CORDEX requested the aid in 2000 before initiating the project, internal delays meant

that Portugal notified the aid to the Commission only in January 2004.

- (12) The notified measure consists of a tax incentive of EUR 401 795, representing 15 % of eligible investment costs.

## III. GROUNDS FOR INITIATING THE PROCEDURE

- (13) The Commission, in its decision to initiate the procedure in the present case, stated that it would examine the measure in the light of Article 87(3)(c) of the Treaty in order to determine whether the aid would facilitate the development of an economic activity without adversely affecting trading conditions to an extent contrary to the common interest.
- (14) The Commission also considered the following criteria, which have been applied in previous cases of aid to large companies to finance foreign direct investment projects <sup>(6)</sup>: whether the aid contains disguised export elements; any effects on employment in the country of origin and in the host country; the risk of relocation; the impact of the measure on the region where the aid recipient is located; the necessity of the aid, including the envisaged aid intensity, given the international competitiveness of the EU industry and/or in view of the risks associated with investment projects in certain third countries.
- (15) The Commission concluded in this connection that the aid was granted for initial productive investment and did not contain disguised export elements. Nor would it lead to the relocation of jobs from Portugal to Brazil in so far as CORDEX intended to maintain employment levels in Portugal. The fact that the new company in Brazil was equipped with new production plant and that labour was recruited locally further limited the risk of relocation.
- (16) The Commission also noted the arguments of the Portuguese authorities that this is the first internationalisation experience of CORDEX, which is not familiar with the Brazilian market and that investing in an unknown market may entail high risks. It can be reasonably assumed that, if the project failed, this would have a significant financial impact on the company, given that the investment costs accounted for some 12 % of its turnover. Moreover, the company applied for aid before initiating the project, and this would seem to indicate that the measure fulfils the 'incentive criteria' as normally required by the Guidelines on national regional aid <sup>(7)</sup>.

<sup>(3)</sup> Figure for 2005.

<sup>(4)</sup> Portugal explained that the *baler twine* produced in Brazil can be used either as a finished or semi-finished product for further processing into other products such as carpets or decorative objects or in the traditional packaging sector.

<sup>(5)</sup> N 96/99 (OJ C 375, 24.12.1999, p. 4).

<sup>(6)</sup> See Case C 77/97, Austrian LiftGmbH — Doppelmayr, Austria, (OJ L 142, 5.6.1999, p. 32) and Case C 47/02, Vila Galé-Cintra (OJ L 61, 27.2.2004, p. 76).

<sup>(7)</sup> See point 4.2 of the Guidelines in force at the time the measure was notified: 'an application for aid must be submitted before work is started on the projects'; OJ C 74, 10.3.1998, p. 13.

(17) However, the Commission expressed doubts regarding the impact of the aid on the overall competitiveness of the EU industry concerned. It noted that some of the products produced in Brazil would be likely to compete with products on the EU market and that it had no information on the relative size of the recipient or the market. Nor did it have any information on the impact of the measure in the region where CORDEX is located. Therefore, it could not conclude at that stage that the aid was in conformity with the exception under Article 87(3)(c) of the Treaty.

#### Comments from interested parties

(18) One French company, BIHR, claimed that the investment by CORDEX in Brazil followed that of other Portuguese producers and that these companies, together with other Brazilian and American competitors, were threatening BIHR's production of sisal in Europe. It was also concerned that the aid would strengthen the position of CORDEX in the synthetic fibres sector.

(19) Similar concerns were expressed by Saint Germaine, another French producer, which claims to produce synthetic products in Europe and to have transferred its sisal activities to Brazil. Saint Germaine stated that Portuguese companies had advantages when investing in Brazil because they could subsequently import the product in Europe at lower rates of duty.

(20) Another company that wished to remain anonymous made similar comments as to the competitive advantage that the aid would confer on CORDEX in the rope sector.

#### Comments from Portugal

(21) Portugal noted that the investment in Brazil is part of a strategy on the part of CORDEX for maintaining a wide range of activities in Portugal, while at the same time maintaining its current levels of employment. CORDEX will continue to produce sisal products in Portugal with raw material imported from Brazil, while also importing from *Cordebrás Lda* either finished or semi-finished products that it will process into sisal products with higher value added. These activities also include adapting the packaging of the imported *baler twine* to customers demands (for example, with regard to size and labelling) and will thus also contribute to employment in the packaging industry in the region where CORDEX is located.

(22) Following the investment in Brazil, CORDEX has created two new companies in Ovar (FLEX and CORDENET,

which produce foam-based products and nets respectively). This has led to some shifts of personnel between these companies and to a slight increase in the overall employment levels of the three companies in Ovar: from 358 employees in 2000 to 415 in 2005. The newly established Brazilian company, *Cordebrás Lda.*, has about 145 employees.

(23) According to the Portuguese authorities, the diversification strategy of CORDEX, including the investment in Brazil, is thus conducive to maintaining employment in a region (Ovar) that already suffers from unemployment levels well above the national average. It also contributes to creating employment in the State of Bahia (Brazil), where *Cordebrás Lda* is located.

(24) Concerning the comments made by interested parties, the Portuguese authorities noted that CORDEX is subject to the same conditions and the same import duties as any other EU producer when importing sisal products from Brazil and that the small amount of aid which it is planning to grant CORDEX is unlikely to have any significant impact on the Community market. From the viewpoint of the Portuguese authorities, the investment by CORDEX in Brazil was necessary in order to counter the effects of increasing exports from countries with advantages in the form of lower costs (countries in Africa and Brazil) <sup>(8)</sup>.

(25) Finally, Portugal stated that the fact that the investment went ahead without public financing cannot be imputed to the company, which carried out this investment with bank loans and own capital in the expectation of obtaining the state aid it applied for under the relevant national scheme <sup>(9)</sup>.

#### IV. ASSESSMENT

##### Presence of aid within the meaning of Article 87(1) of the EC Treaty

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

In its decision to initiate the procedure in the present case, the Commission concluded that the aid measure fell within the scope of Article 87(1) of the EC Treaty for the following reasons:

<sup>(8)</sup> According to the Portuguese authorities, sales of Portuguese sisal in the EU decreased by 12,3 % between 1999 and 2004 mainly because of an increase in imports.

<sup>(9)</sup> See footnote 5.

- By providing assistance for the setting-up of a new production unit in the context of the internationalisation initiative of a Portuguese company in Brazil, the notified measure favours a certain undertaking or the production of certain goods. The Commission considers that aid granted to undertakings in the European Union in support of foreign direct investment is comparable to aid for undertakings that export almost all their production outside the Community. In such cases, given the interdependence between the markets on which Community undertakings operate, it is possible that aid might distort competition within the Community <sup>(10)</sup>.
- Portugal stated that the investment is intended also to benefit the activities of the recipient in Portugal (as well as in the country where the investment is carried out,) thereby potentially affecting intra-Community trade.
- The aid is financed through state resources. These conclusions have not been contested by Portugal and are hereby confirmed.

#### Compatibility of the aid with the EC Treaty

- (27) Given the fact that the aid could not be found compatible under any existing guidelines or frameworks, the Commission indicated that it would assess whether the aid could be found compatible with the EC Treaty on the basis of the exception under Article 87(3)(c) of the Treaty, which allows for aid to facilitate the development of an economic activity if it does not adversely affect trading conditions to an extent contrary to the common interest. The Commission must, therefore, assess whether the aid will contribute to the development of sisal production and/or other economic activities in the European Union without adversely affecting trading conditions between Member States.
- (28) In the decision to initiate the procedure, the Commission also noted that it would take into account certain criteria which it used in previous cases of aid to large companies in respect of foreign direct investment projects (see paragraph 14) designed to strike a balance between the benefits of the aid in terms of contributing to the international competitiveness of the EU industry concerned (e.g. whether the aid is necessary, taking into account the risks involved with the project in the third country) and its possible negative effects on the EU market.
- (29) In this respect, the Commission had doubts as to the impact of the measure on the common market and on the overall competitiveness of the EU industry concerned; nor did it have any information on the importance of the recipient vis-à-vis EU competitors or on the impact of

the measure in the region where CORDEX is located (see paragraph 17).

#### *Necessity of the aid*

- (30) State aid legislation lays down as a general principle that, in order for the aid to be compatible with the common market, it must be demonstrated that it leads to an additional activity by the recipient which would not be carried out without the aid. Otherwise, the aid is simply creating a distortion without having any positive counter-effect. The Commission noted that, since the company applied for aid before initiating the project, there appeared to be some indication that the measure fulfilled the 'incentive criteria' as normally required by the regional state aid rules <sup>(11)</sup>. However, this does not fully show whether the aid was really necessary in view of the international competitiveness of the EU industry and/or in view of the risks involved for investment projects in certain third countries.
- (31) The Commission, in its decision of 19 November 2004, noted the argument of the Portuguese authorities that, for CORDEX, an investment in Brazil may involve higher risks than an investment in the European Union owing to the unpredictability of the Brazilian currency, especially since this is the first internationalisation experience of CORDEX and the company had no experience of the Brazilian market <sup>(12)</sup>.
- (32) However, the information submitted to the Commission following the initiation of the procedure indicates that other producers who are competitors of CORDEX had invested in Brazil (despite the apparent unpredictability of the Brazilian currency). In particular, Quintas & Quintas S.A., a Portuguese company competing with CORDEX, had, according to the information provided by the Portuguese authorities, installed a production unit in Brazil (Brascorda) without requesting any aid from the Portuguese authorities. There is thus no evidence of any general market deficiency associated with this type of project that would prevent CORDEX or its competitors from investing in Brazil without state support.
- (33) Although this was the first internationalisation experience of CORDEX, the Portuguese authorities were also unable to demonstrate any particular difficulties faced by CORDEX in carrying out the investment concerned. For example, despite the relative small size of CORDEX in terms of turnover (below the SME threshold), there was no indication from the Portuguese authorities of any deficiencies with regard to the possibility of CORDEX obtaining financing from commercial banks; on the contrary, it appears that the company was able to finance the investment out of own resources and by recourse to commercial loans.

<sup>(10)</sup> Case C-142/87 *Tubermeuse* [1990] ECR I-959, at 35.

<sup>(11)</sup> See footnote 7.

<sup>(12)</sup> See in this connection case C 47/02, *Vila Galé Cintra*.

(34) The Commission therefore considers on the basis of the above information that Portugal has not managed to demonstrate that, without the aid, CORDEX would not have carried out the investment concerned in Brazil and that the aid was necessary in view of the risks involved with its project in Brazil. The Commission notes that the fact that CORDEX has so far conducted all these activities without receiving state aid appears to show that the aid was not necessary.

*The impact of the aid on the Community market*

(35) According to the information available, there are about a dozen EU producers of sisal on the Community market. Five of them are located in Portugal and account for some 81 % of EU production<sup>(13)</sup>. All these companies produce synthetic products and sisal ropes and twine. The synthetic fibre production appears to be the core business for most of them. This is also the case with CORDEX (sisal accounts for only about 20 % of its capacity). Sisal and synthetic fibres have a certain degree of substitutability for uses in agriculture.

(36) In 2003 the market share of CORDEX for sisal products in the EU was about 6,6 %. However, if sales of products from *Cordebrás Lda* are also taken into account, the market share of CORDEX in the EU rises to 17,7 %<sup>(14)</sup>. The Portuguese authorities indicated in this connection that about 47 % of *Cordebrás* exports (some 2 210 tonnes in 2003) were directed to the EU market.

(37) Given the significant percentage of sisal produced by *Codebras Lda* and imported (via CORDEX) into the EU, the Commission concludes that the aid appears to have a significant impact on competition in the EU market. In addition, the aid also appears to strengthen the overall position of CORDEX in the EU, thereby potentially affecting other market segments where CORDEX and its competitors operate. This finding is corroborated by the comments submitted by competitors, pointing to serious distortions of competition created by the aid on the markets for sisal ropes and twine as well as for synthetic fibre.

(38) When assessing the compatibility of the aid, the Commission must assess carefully the balance between the negative and positive effects of the measure inside the EU and determine whether its beneficial effects for the Community outweigh its negative effects on competition and trade on the Community market. On the basis of the

above information, the Commission concludes that there is no evidence to suggest that the granting of aid to CORDEX in respect of its investment in Brazil may help to improve the competitiveness of the European industry concerned. The aid would probably strengthen the position of the recipient but to the detriment of its competitors not receiving state aid. It is thus not demonstrated that the aid has any positive effects for the Community that would outweigh its negative impact on competition and trade in the Community market.

**Conclusion**

(39) Accordingly, the Commission concludes that there is no evidence that the aid is necessary for CORDEX to carry out the investment concerned in Brazil. The aid is also likely to have a significant distorting effect on competition in the Community market. The Commission thus concludes that the planned state aid for CORDEX in connection with its foreign direct investment in Brazil does not contribute to the development of certain economic activities within the meaning of Article 87(3)(c) without adversely affecting trading conditions to an extent contrary to the common interest and is therefore incompatible with the common market,

HAS ADOPTED THIS DECISION:

*Article 1*

The notified tax incentive of EUR 401 795 that Portugal is preparing to grant to CORDEX, *Companhia Industrial Têxtil S.A.*, for the purpose of financing its foreign direct investment in Brazil is incompatible with the common market since it does not fulfil the criteria laid down in Article 87(3)(c) of the EC Treaty.

*Article 2*

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 21 February 2007.

*For the Commission*

Neelie KROES

*Member of the Commission*

<sup>(13)</sup> Figures for 2003.

<sup>(14)</sup> Figures provided by Portugal and based on apparent consumption in the EU 15 in 2003.

## COMMISSION DECISION

of 13 June 2007

**concerning the non-inclusion of carbosulfan in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance**

(notified under document number C(2007) 2463)

(Text with EEA relevance)

(2007/415/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market <sup>(1)</sup>, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

- (1) Article 8(2) of Directive 91/414/EEC provides that a Member State may, during a period of 12 years following the notification of that Directive, authorise the placing on the market of plant protection products containing active substances not listed in Annex I of that Directive that are already on the market two years after the date of notification, while those substances are gradually being examined within the framework of a programme of work.
- (2) Commission Regulations (EC) No 451/2000 <sup>(2)</sup> and (EC) No 703/2001 <sup>(3)</sup> lay down the detailed rules for the implementation of the second stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes carbosulfan.
- (3) For carbosulfan the effects on human health and the environment have been assessed in accordance with the

provisions laid down in Regulations (EC) No 451/2000 and (EC) No 703/2001 for a range of uses proposed by the notifier. Moreover, those regulations designate the Rapporteur Member States which have to submit the relevant assessment reports and recommendations to the European Food Safety Authority (EFSA) in accordance with Article 8(1) of Regulation (EC) No 451/2000. For carbosulfan the Rapporteur Member State was Belgium and all relevant information was submitted on 11 August 2004.

- (4) The assessment report has been peer reviewed by the Member States and the EFSA within its Working Group Evaluation and presented to the Commission on 28 July 2006 in the format of the EFSA conclusion regarding the peer review of the pesticide risk assessment of the active substance carbosulfan <sup>(4)</sup>. This report has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 24 November 2006 in the format of the Commission review report for carbosulfan.
- (5) During the evaluation of this active substance, a number of concerns have been identified. The use of carbosulfan leads to the appearance of metabolites which have a hazardous profile. This leads to concerns about the exposure of consumers and the possible risk of ground water contamination. However, the data lodged by the notifier within the legal deadlines did not allow these concerns to be resolved. Furthermore, technical material (that is, the active substance as sold in the market) contains relevant impurities, of which at least one (*N-nitrosodibutylamine*) is carcinogenic. This impurity is found in the technical material at levels which raise concerns. The data lodged by the notifier within the legal deadlines did not provide sufficient information to resolve these concerns. As a result, the risk to operators could not be assessed adequately. Finally, the data lodged by the notifier within the legal deadlines did not adequately address the risks to birds and mammals, aquatic organisms, bees, non-target arthropods, earthworms, and non-target soil micro-organisms and plants. Therefore, concerns remain as regards the risk assessment for these species. Consequently, it was not possible to conclude on the basis of the information available that carbosulfan met the criteria for inclusion in Annex I to Directive 91/414/EEC.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2007/31/EC (OJ L 140, 1.6.2007, p. 44).

<sup>(2)</sup> OJ L 55, 29.2.2000, p. 25. Regulation as last amended by Regulation (EC) No 1044/2003 (OJ L 151, 19.6.2003, p. 32).

<sup>(3)</sup> OJ L 98, 7.4.2001, p. 6.

<sup>(4)</sup> EFSA Scientific Report (2006) 91, 1-84, Conclusion on the peer review of carbosulfan.

- (6) The Commission invited the notifier to submit its comments on the results of the peer review and on its intention or not to further support the substance. The notifier submitted its comments which have been carefully examined. However, despite the arguments put forwards by the notifier, the concerns identified could not be eliminated, and assessments made on the basis of the information submitted and evaluated during the EFSA expert meetings have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing carbosulfan satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.
- (7) Carbosulfan should therefore not be included in Annex I to Directive 91/414/EEC.
- (8) Measures should be taken to ensure that authorisations granted for plant protection products containing carbo-sulfan are withdrawn within a fixed period of time and are not renewed and that no new authorisations for such products are granted.
- (9) Any period of grace granted by a Member State for the disposal, storage, placing on the market and use of existing stocks of plant protection products containing carbosulfan should be limited to 12 months in order to allow existing stocks to be used in one further growing season.
- (10) This decision does not prejudice the submission of an application for carbosulfan according to the provisions of Article 6(2) of Directive 91/414/EEC in view of a possible inclusion in its Annex I.
- (11) 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*

Carbosulfan shall not be included as active substance in Annex I to Directive 91/414/EEC.

*Article 2*

Member States shall ensure that:

- (a) authorisations for plant protection products containing carbosulfan are withdrawn by 13 December 2007;
- (b) no authorisations for plant protection products containing carbosulfan are granted or renewed from the date of publication of this Decision.

*Article 3*

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and shall expire on 13 December 2008 at the latest.

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 13 June 2007.

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

## COMMISSION DECISION

of 13 June 2007

**concerning the non-inclusion of carbofuran in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance***(notified under document number C(2007) 2467)***(Text with EEA relevance)**

(2007/416/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market <sup>(1)</sup>, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

- (1) Article 8(2) of Directive 91/414/EEC provides that a Member State may, during a period of 12 years following the notification of that Directive, authorise the placing on the market of plant protection products containing active substances not listed in Annex I of that Directive that are already on the market two years after the date of notification, while those substances are gradually being examined within the framework of a programme of work.
- (2) Commission Regulations (EC) No 451/2000 <sup>(2)</sup> and (EC) No 703/2001 <sup>(3)</sup> lay down the detailed rules for the implementation of the second stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes carbofuran.
- (3) For carbofuran the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 451/2000 and (EC) No 703/2001 for a range of uses proposed by the notifier. Moreover, those regulations designate the Rapporteur Member States which have to submit the

relevant assessment reports and recommendations to the European Food Safety Authority (EFSA) in accordance with Article 8(1) of Regulation (EC) No 451/2000. For carbofuran the Rapporteur Member State was Belgium and all relevant information was submitted on 2 August 2004.

- (4) The assessment report has been peer reviewed by the Member States and the EFSA within its Working Group Evaluation and presented to the Commission on 28 July 2006 in the format of the EFSA conclusion regarding the peer review of the pesticide risk assessment of the active substance carbofuran <sup>(4)</sup>. This report has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 24 November 2006 in the format of the Commission review report for carbofuran.
- (5) During the evaluation of this active substance, a number of concerns have been identified. The risk assessment for ground water contamination could not be concluded, in particular because the data supplied by the notifier within the legal deadlines did not provide sufficient information about a number of metabolites which have a hazardous profile. Also the consumer risk assessment, which raised a concern about the acute exposure of vulnerable groups of consumers, in particular children, could not be finalised due to the lack of information as regards certain relevant residues. Furthermore, the data supplied by the notifier within the legal deadlines was insufficient to allow the EFSA to assess the ecotoxicological effects of the active substance. As a result, concerns remain as regards the risk assessment for birds and mammals, aquatic organisms, bees, non-target arthropods, earthworms, and soil non-target organisms. Consequently, it was not possible to conclude on the basis of the information available that carbofuran met the criteria for inclusion in Annex I to Directive 91/414/EEC.
- (6) The Commission invited the notifier to submit its comments on the results of the peer review and on its intention or not to further support the substance. The notifier submitted its comments which have been carefully examined. However, despite the arguments put forwards by the notifier, the concerns identified could

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2007/31/EC (OJ L 140, 1.6.2007, p. 44).

<sup>(2)</sup> OJ L 55, 29.2.2000, p. 25. Regulation as last amended by Regulation (EC) No 1044/2003 (OJ L 151, 19.6.2003, p. 32).

<sup>(3)</sup> OJ L 98, 7.4.2001, p. 6.

<sup>(4)</sup> EFSA Scientific Report (2006) 90, 1-88. Conclusion on the peer review of carbofuran.



not be eliminated, and assessments made on the basis of the information submitted and evaluated during the EFSA expert meetings have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing carbofuran satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.

- (7) Carbofuran should therefore not be included in Annex I to Directive 91/414/EEC.
- (8) Measures should be taken to ensure that authorisations granted for plant protection products containing carbofuran are withdrawn within a fixed period of time and are not renewed and that no new authorisations for such products are granted.
- (9) Any period of grace granted by a Member State for the disposal, storage, placing on the market and use of existing stocks of plant protection products containing carbofuran should be limited to 12 months in order to allow existing stocks to be used in one further growing season.
- (10) This decision does not prejudice the submission of an application for carbofuran according to the provisions of Article 6(2) of Directive 91/414/EEC in view of a possible inclusion in its Annex I.
- (11) 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*

Carbofuran shall not be included as active substance in Annex I to Directive 91/414/EEC.

*Article 2*

Member States shall ensure that:

- (a) authorisations for plant protection products containing carbofuran are withdrawn by 13 December 2007;
- (b) no authorisations for plant protection products containing carbofuran are granted or renewed from the date of publication of this Decision.

*Article 3*

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and shall expire on 13 December 2008 at the latest.

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 13 June 2007.

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

## COMMISSION DECISION

of 13 June 2007

**concerning the non-inclusion of diuron in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance***(notified under document number C(2007) 2468)***(Text with EEA relevance)**

(2007/417/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market <sup>(1)</sup>, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

- (1) Article 8(2) of Directive 91/414/EEC provides that a Member State may, during a period of 12 years following the notification of that Directive, authorise the placing on the market of plant protection products containing active substances not listed in Annex I of that Directive that are already on the market two years after the date of notification, while those substances are gradually being examined within the framework of a programme of work.
- (2) Commission Regulations (EC) No 451/2000 <sup>(2)</sup> and (EC) No 703/2001 <sup>(3)</sup> lay down the detailed rules for the implementation of the second stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes diuron.
- (3) For diuron the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 451/2000 and (EC) No 703/2001 for a range of uses proposed by the notifiers. Moreover, those regulations designate the rapporteur Member States which have to submit the relevant assessment reports and recommendations to the European Food Safety Authority (EFSA) in accordance

with Article 8(1) of Regulation (EC) No 451/2000. For diuron the rapporteur Member State was Denmark and all relevant information was submitted on 19 September 2003.

- (4) The assessment report has been peer reviewed by the Member States and the EFSA and presented to the Commission on 14 January 2005 in the format of the EFSA Conclusion regarding the peer review of the pesticide risk assessment of the active substance diuron <sup>(4)</sup>. This report has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 24 November 2006 in the format of the Commission review report for diuron.
- (5) During the evaluation of this active substance, a number of concerns have been identified. The assessment of the data provided by the notifier indicated that even with protective equipment, operators would be exposed to quantities of the substance which exceed the Acceptable Operator Exposure Level (AOEL). It was not possible to reach a conclusion on the possible risk of groundwater contamination because of the lack of data on the degradation pattern of certain metabolites and the overly optimistic assumption made by the notifier that application rates may be considered significantly lower in practice. Similarly, based on the available data, it has not been demonstrated that the exposure for birds and mammals is acceptable.
- (6) The Commission invited the notifier to submit its comments on the results of the peer review and on its intention or not to further support the substance. The notifier submitted its comments which have been carefully examined. However, despite the arguments advanced, the above concerns remained unsolved, and assessments made on the basis of the information submitted and evaluated during the EFSA expert meetings have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing diuron satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.
- (7) Diuron should therefore not be included in Annex I to Directive 91/414/EEC.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2007/31/EC (OJ L 140, 1.6.2007, p. 44).

<sup>(2)</sup> OJ L 55, 29.2.2000, p. 25. Regulation as last amended by Regulation (EC) No 1044/2003 (OJ L 151, 19.6.2003, p. 32).

<sup>(3)</sup> OJ L 98, 7.4.2001, p. 6.

<sup>(4)</sup> EFSA Scientific Report (2005) 25, 1-58. Conclusion on the peer review of diuron.

- (8) Measures should be taken to ensure that existing authorisations for plant protection products containing diuron are withdrawn within a prescribed period and are not renewed and that no new authorisations for such products are granted.
- (9) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant protection products containing diuron allowed by Member States, should be limited to a period no longer than 12 months to allow existing stocks to be used in no more than one further growing season.
- (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*

Diuron shall not be included as active substance in Annex I to Directive 91/414/EEC.

*Article 2*

Member States shall ensure that:

- (a) Authorisations for plant protection products containing diuron are withdrawn by 13 December 2007;
- (b) from 16 June 2007 no authorisations for plant protection products containing diuron are granted or renewed under the derogation provided for in Article 8(2) of Directive 91/414/EEC.

*Article 3*

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and shall expire not later than 13 December 2008.

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 13 June 2007.

*For the Commission*

Markos KYPRIANOU

*Member of the Commission*

## COMMISSION DECISION

of 14 June 2007

## setting up the High Level Group on the Competitiveness of the Chemicals Industry in the European Union

(2007/418/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas:

- (1) Article 157(1) of the Treaty assigned the Community and the Member States the task of ensuring that the conditions necessary for the competitiveness of the Community's industry exist. Article 157(2) in particular calls upon the Member States to consult each other in liaison with the Commission and, where necessary, to coordinate their actions. The Commission may take any useful initiative to promote such coordination.
- (2) In its Communication 'Implementing the Community Lisbon Programme: a policy framework to strengthen EU manufacturing — Towards a more integrated approach for industrial policy' <sup>(1)</sup>, the Commission announced the intention to set up a High Level Group concerned with the competitiveness of the European chemicals industry.
- (3) It is therefore necessary to set up a group of experts in the field of competitiveness of the EU chemicals industry and to define its tasks and structure.
- (4) The primary task of the group should be to conduct economic and statistical analysis of the factors determining the rapid structural changes in the chemicals sector, as well as other factors that influence the competitive position of the European chemicals industry. Based on this analysis the group should formulate a set of sector-specific policy recommendations with a view to enhancing the competitiveness of the chemicals industry in accordance with the objective of sustainable development. Given that Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>(2)</sup> concerning REACH enters into force only on 1 June 2007 and its main operational provisions will apply only 12 months later, it would not be appropriate that matters directly related to REACH should be examined.

- (5) The group should be composed of representatives of the Commission, the Member States, the European Parliament and relevant stakeholders notably from the chemicals industry and downstream users, as well as civil society, to be drawn, *inter alia*, from representatives of consumers, trade unions, non-governmental organisations and research/academia.
- (6) Rules on disclosure of information by members of the group should be provided for, without prejudice to the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom <sup>(3)</sup>.
- (7) Personal data relating to members of the group should be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data <sup>(4)</sup>.
- (8) It is appropriate to fix a period for the application of this Decision. The Commission will in due time consider the advisability of an extension,

HAS DECIDED AS FOLLOWS:

*Article 1***High Level Group on the Competitiveness of the Chemicals Industry in the European Union**

A High Level Group on the Competitiveness of the Chemicals Industry in the European Union, hereinafter referred to as 'the group', is hereby set up with effect from the day of the adoption of this Decision.

*Article 2***Task**

1. The group shall address issues that determine the competitiveness of the Community chemicals industry. In particular its tasks are:

<sup>(1)</sup> COM(2005) 474 of October 2005.

<sup>(2)</sup> OJ L 396, 30.12.2006, p. 1, as corrected by OJ L 136, 29.5.2007, p. 3.

<sup>(3)</sup> OJ L 317, 3.12.2001, p. 1. Decision as last amended by Decision 2006/548/EC, Euratom (OJ L 215, 5.8.2006, p. 38).

<sup>(4)</sup> OJ L 8, 12.1.2001, p. 1.

- (a) to conduct economic and statistical analysis of the factors determining the structural changes in the chemicals industry as well as other factors that influence the competitive position of the European chemicals industry;
- (b) to assist the Commission in questions related to the competitiveness of the chemicals industry;
- (c) to formulate a set of sector-specific policy recommendations addressed to policy makers at the Community and national level, industry and civil society organisations.

2. The group will not discuss matters directly linked to Regulation (EC) No 1907/2006 concerning REACH or assess its functioning.

#### Article 3

##### Consultation

- 1. The Commission may consult the group on any matter relating to the competitiveness of the EU chemical industry.
- 2. The Chairperson of the group may advise the Commission that it is desirable to consult the group on a specific question.

#### Article 4

##### Membership — appointment

- 1. The members of the group shall be appointed by the Commission from high level specialists with competence and responsibility in areas which are related to the competitiveness of the European chemicals industry.
- 2. The group shall be composed of up to 31 members composed of representatives of the Commission, the European Parliament, the Member States, the industry, and of civil society.
- 3. Members of the group are appointed for their expertise in a personal capacity. Each member of the group shall nominate a personal representative to a preparatory sub-group hereinafter referred to as the 'sherpa' sub-group.
- 4. Members are appointed for a 2-year renewable term of office and shall remain in office until such time as they are replaced in accordance with paragraph 5 or their term of office ends.
- 5. Members may be replaced for the remaining period of their term of office in any of the following cases:

- (a) where the member resigns;
- (b) where the member is no longer capable of contributing effectively to the group's deliberations;
- (c) where the member does not comply with Article 287 of the Treaty.

6. The names of members shall be published on the Internet site of DG Enterprise and Industry. The names of members shall be collected, processed and published in accordance with the provision of Regulation (EC) No 45/2001.

#### Article 5

##### Operation

- 1. The group shall be chaired by the Commission.
- 2. The 'sherpa' sub-group shall prepare the discussions, position papers and advice for actions and/or policy measures to be recommended by the group; it will work in close contact with the Commission services in order to prepare the work for the group meetings.
- 3. The group may, with the agreement of the Commission, set up sub-groups to examine specific questions under terms of reference established by the group. Such subgroups shall be dissolved as soon as their mandates are fulfilled.
- 4. The Commission's representative may ask experts or observers with specific competence on a subject on the agenda to participate in the work of the group, or in the deliberations or work of sub-groups and ad hoc groups, if in the opinion of the Commission this is necessary or useful.
- 5. Information obtained by participating in deliberations or work of the group or ad hoc groups or sub-groups shall not be divulged if, in the opinion of the Commission, that information relates to confidential matters.
- 6. The group, the 'sherpa' sub-group, and other sub-groups shall normally meet on the Commission's premises in accordance with the procedures and schedule established by it. The Commission shall provide secretarial services. Other Commission officials with an interest in the proceedings may attend meetings of the group and its sub-groups.
- 7. The group shall adopt its rules of procedure on the basis of the standard rules of procedure adopted by the Commission.

8. The Commission may publish, or place on the Internet, in the original language of the document concerned, any summary, conclusion, partial conclusion or working document of the group. Proceedings and interim reports will be available on a dedicated website. The final report will be published early after the final meeting of the group.

*Article 6*

**Reimbursement of expenses**

The Commission shall reimburse travel expenses and, where appropriate, subsistence expenses for members, 'sherpa' group members, experts and observers in connection with the group's activities in accordance with the Commission's rules on the compensation of external experts.

The members of the group, 'sherpa' sub-group members, experts and observers shall not be remunerated for the services they render.

Meeting expenses shall be reimbursed within the limits of the annual budget allocated to the group by the competent Commission department.

*Article 7*

**Applicability**

The Decision shall apply until two years from the day of its adoption.

Done at Brussels, 14 June 2007.

*For the Commission*  
Günter VERHEUGEN  
*Vice-President*

## AGREEMENTS

## COUNCIL

**Information relating to the entry into force of the Agreement between the European Community and the Russian Federation on the readmission of persons residing without authorisation**

The Agreement between the European Community and Russia on the readmission of persons residing without authorisation entered into force on 1 June 2007, the procedure provided for in Article 22 of the Agreement having been completed on 20 April 2007.

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## NOTICE TO READERS

In view of the situation which has arisen following enlargement, some editions of the Official Journal of 27, 29 and 30 December 2006 have been published, in a simplified manner, in the official languages of that date.

It has been decided to republish, as corrigenda and in the Official Journal's traditional presentation, Acts which appear in those Official Journals.

It is for this reason that Official Journals which contain only those corrigenda have been published in the pre-enlargement language versions. The translations of Acts in the languages of the new Member States will be published in a special edition of the *Official Journal of the European Union* comprising texts of the institutions and the European Central Bank adopted prior to 1 January 2007.

Given below is a list of the Official Journals published on 27, 29 and 30 December 2006 and their corresponding corrigenda.

| OJ of 27 December 2006 | Corrected OJ (2007) |
|------------------------|---------------------|
| L 370                  | L 30                |
| L 371                  | L 45                |
| L 373                  | L 121               |
| L 375                  | L 70                |

| OJ of 29 December 2006 | Corrected OJ (2007) |
|------------------------|---------------------|
| L 387                  | L 34                |

| OJ of 30 December 2006 | Corrected OJ (2007) |
|------------------------|---------------------|
| L 396                  | L 136               |
| L 400                  | L 54                |
| L 405                  | L 29                |
| L 407                  | L 44                |
| L 408                  | L 47                |
| L 409                  | L 36                |
| L 410                  | L 40                |
| L 411                  | L 27                |
| L 413                  | L 50                |