

Official Journal

of the European Union

L 193

Volume 50

25 July 2007

English edition

Legislation

Contents

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

REGULATIONS

Commission Regulation (EC) No 872/2007 of 24 July 2007 establishing the standard import values for determining the entry price of certain fruit and vegetables 1

★ **Commission Regulation (EC) No 873/2007 of 24 July 2007 amending and correcting Regulation (EC) No 1913/2006 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture** 3

★ **Commission Regulation (EC) No 874/2007 of 24 July 2007 setting the final amount of aid for dried fodder for the 2006/07 marketing year** 5

★ **Commission Regulation (EC) No 875/2007 of 24 July 2007 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the fisheries sector and amending Regulation (EC) No 1860/2004** 6

★ **Commission Regulation (EC) No 876/2007 of 24 July 2007 amending Regulation (EC) No 2245/2002 implementing Council Regulation (EC) No 6/2002 on Community designs following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs ⁽¹⁾** 13

★ **Commission Regulation (EC) No 877/2007 of 24 July 2007 amending Regulation (EC) No 2246/2002 concerning the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs** 16

DECISIONS ADOPTED JOINTLY BY THE EUROPEAN PARLIAMENT AND THE COUNCIL

★ **Decision No 878/2007/EC of the European Parliament and of the Council of 23 July 2007 amending and extending Decision No 804/2004/EC establishing a Community action programme to promote activities in the field of the protection of the Community's financial interests (Hercule II programme)** 18

⁽¹⁾ Text with EEA relevance

(Continued overleaf)

DECISIONS

Commission

2007/522/EC:

- ★ **Commission Decision of 18 July 2007 amending Decision 2006/802/EC as regards pigmeat obtained from pigs which were vaccinated with a live attenuated conventional vaccine in Romania** (notified under document number C(2007) 3418) ⁽¹⁾ 23



⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COMMISSION REGULATION (EC) No 872/2007**of 24 July 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⁽¹⁾, and in particular Article 4(1) thereof,

Whereas:

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 25 July 2007.

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

Done at Brussels, 24 July 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 756/2007 (OJ L 172, 30.6.2007, p. 41).

ANNEX

to Commission Regulation of 24 July 2007 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	TR	90,5
	ZZ	90,5
0707 00 05	TR	116,0
	ZZ	116,0
0709 90 70	TR	88,2
	ZZ	88,2
0805 50 10	AR	49,4
	UY	56,2
	ZA	66,5
	ZZ	57,4
0806 10 10	BR	161,0
	EG	150,8
	MA	189,3
	TR	180,5
	ZZ	170,4
0808 10 80	AR	90,7
	BR	95,8
	CA	101,7
	CL	91,9
	CN	76,5
	NZ	99,5
	US	105,0
	UY	36,3
	ZA	100,0
	ZZ	86,6
0808 20 50	AR	88,2
	CL	80,8
	NZ	119,1
	TR	140,9
	ZA	112,4
	ZZ	108,3
0809 10 00	TR	169,5
	ZZ	169,5
0809 20 95	CA	324,1
	TR	282,6
	US	286,5
	ZZ	297,7
0809 30 10, 0809 30 90	TR	157,0
	ZZ	157,0
0809 40 05	IL	73,6
	ZZ	73,6

⁽¹⁾ 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 873/2007

of 24 July 2007

amending and correcting Regulation (EC) No 1913/2006 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro ⁽¹⁾, and in particular Article 9 thereof,

Whereas:

(1) A drafting error slipped in Article 5(4) of Commission Regulation (EC) No 1913/2006 ⁽²⁾ as regards the determination of the operative event for the aid granted for supplying certain milk products provided for in Article 1 of Commission Regulation (EC) No 2707/2000 of 11 December 2000 laying down rules for applying Council Regulation (EC) No 1255/1999 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments ⁽³⁾. It is appropriate to correct this error so as to avoid any misleading interpretation.

(2) The wording in Article 11(c) of Regulation (EC) No 1913/2006 appears as redundant with Article 6. For the sake of clarity the words 'in which the operative event for the exchange rate is 1 October' should be deleted from that provision.

(3) The codification procedure of Commission Regulation (EEC) No 2825/93 of 15 October 1993 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards the fixing and granting of adjusted refunds in respect of cereals exported in the form of certain spirit drinks ⁽⁴⁾ and of Commission Regulation (EC) No 562/2000 of 15 March 2000 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 as regards the buying-in of beef ⁽⁵⁾ has been finalised before adoption

and publication of Regulation (EC) No 1913/2006. Regulations (EEC) No 2825/93 and (EC) No 562/2000 have been repealed and replaced from 30 November 2006 respectively by Commission Regulation (EC) No 1670/2006 (codified version) ⁽⁶⁾ and Commission Regulation (EC) No 1669/2006 (codified version) ⁽⁷⁾. The references to Regulation (EEC) No 2825/93 and Regulation (EC) No 562/2000 are consecutively obsolete and should therefore be corrected in Regulation (EC) No 1913/2006.

(4) The amendment and corrections provided for in this Regulation should apply from the same date as the amended Regulation.

(5) Regulation (EC) No 1913/2006 should be amended and corrected accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the relevant Management Committees,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1913/2006 is amended as follows:

1. in Article 5, paragraph 4 is replaced by the following:

'4. For aid granted for supplying certain milk products to pupils as referred to in Article 1 of Regulation (EC) No 2707/2000, the operative event for the exchange rate shall be the first day of the period to which the payment application referred to in Article 11 of that Regulation relates;'

2. in Article 11, point (c) is replaced by the following text:

'(c) for the minimum price for beet referred to in Article 6, the average rate established by the European Central Bank (ECB) for the month prior to the operative event;'

⁽¹⁾ OJ L 349, 24.12.1998, p. 1.

⁽²⁾ OJ L 365, 21.12.2006, p. 52.

⁽³⁾ OJ L 311, 12.12.2000, p. 37. Regulation as last amended by Regulation (EC) No 704/2007 (OJ L 161, 22.6.2007, p. 31).

⁽⁴⁾ OJ L 258, 16.10.1993, p. 6. Regulation as last amended by Regulation (EC) No 1913/2006.

⁽⁵⁾ OJ L 68, 16.3.2000, p. 22. Regulation as last amended by Regulation (EC) No 1913/2006.

⁽⁶⁾ OJ L 312, 11.11.2006, p. 33.

⁽⁷⁾ OJ L 312, 11.11.2006, p. 6.

3. Article 18 is replaced by the following:

‘Article 18

Amendment of Regulation (EC) No 1670/2006

Article 6(2) of Regulation (EC) No 1670/2006 is replaced by the following:

“2. The rate of the refund shall be that applicable on the day on which the cereals are placed under control. However, as regards the quantities distilled in each of the fiscal distillation periods following that in which the placing under control occurred, the rate shall be that applicable on the first day of each fiscal distillation period concerned.

The operative event for the exchange rate applicable to the refund shall be that referred to in Article 1(1) of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.”;

4. Article 21 is replaced by the following:

‘Article 21

Amendment of Regulation (EC) No 1669/2006

Article 16 of Regulation (EC) No 1669/2006 is replaced by the following:

“Article 16

Exchange rate

The operative event for the exchange rate applicable to the amount and to the prices referred to in Article 11 and to the security referred to in Article 9 shall be those referred to in point (a) of Article 8 and in Article 10 respectively of Commission Regulation (EC) No 1913/2006 (*).

(*) OJ L 365, 21.12.2006, p. 52.”’

Article 2

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

It shall apply from 1 January 2007.

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

Done at Brussels, 24 July 2007.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 874/2007**of 24 July 2007****setting the final amount of aid for dried fodder for the 2006/07 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1786/2003 of 29 September 2003 on the common organisation of the market in dried fodder ⁽¹⁾, and in particular Article 20 thereof,

Whereas:

- (1) Article 4(2) of Regulation (EC) No 1786/2003 sets the amount of aid to be paid to processors for dried fodder up to the maximum guaranteed quantity laid down in Article 5(1) of that Regulation.
- (2) In accordance with the first subparagraph of Article 33(1) of Commission Regulation (EC) No 382/2005 of 7 March 2005 laying down detailed rules for the application of Council Regulation (EC) No 1786/2003 on the common organisation of the market in dried fodder ⁽²⁾, the Member States have notified the Commission of the quantities of dried fodder in respect of which aid appli-

cations have been lodged for the 2006/07 marketing year. That information indicates that the maximum guaranteed quantity for dried fodder has not been exceeded.

- (3) Therefore, in accordance with Article 4(2) of Regulation (EC) No 1786/2003, the amount of the aid for dried fodder is EUR 33 per tonne.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The final amount of the aid for dried fodder for the 2006/07 marketing year shall be EUR 33 per tonne.

Article 2

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

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

Done at Brussels, 24 July 2007.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 114. Regulation as last amended by Regulation (EC) No 456/2006 (OJ L 82, 21.3.2006, p. 1).

⁽²⁾ OJ L 61, 8.3.2005, p. 4. Regulation as last amended by Regulation (EC) No 116/2007 (OJ L 35, 8.2.2007, p. 7).

COMMISSION REGULATION (EC) No 875/2007

of 24 July 2007

on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the fisheries sector and amending Regulation (EC) No 1860/2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid ⁽¹⁾, and in particular Article 2(1) thereof,

Having published a draft of this Regulation ⁽²⁾,

After consulting the Advisory Committee on State aid,

Whereas:

- (1) Regulation (EC) No 994/98 empowers the Commission to set out in a regulation a ceiling below which aid measures are considered not to meet all the criteria laid down in Article 87(1) of the Treaty and therefore do not fall under the notification procedure provided for in Article 88(3) of the Treaty.
- (2) On the basis of that Regulation, the Commission adopted Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid ⁽³⁾, which sets a ceiling of EUR 100 000 per beneficiary over a period of three years. Originally that Regulation did not apply to the agriculture, fisheries and aquaculture and transport sectors, in view of the special rules which apply in those sectors.
- (3) As regards the agriculture and fisheries sector, Commission Regulation (EC) No 1860/2004 of 6 October 2004 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the agriculture and fisheries sector ⁽⁴⁾ established a specific ceiling of EUR 3 000 per beneficiary per three-year period to apply to those sectors, as in the light of the experiences acquired by the Commission, it could be affirmed that very low levels of aid granted in those sectors do not fulfil the criteria of Article 87(1) of the Treaty, provided that certain conditions are met. This is the case where both the amount of aid received by individual producers remains small, and the overall level of aid granted to these sectors does not go above a small percentage of the value of production.
- (4) Owing to changed economic circumstances and in the light of the experiences gained in applying the existing general *de minimis* rules, changes to those rules have been deemed necessary. For that reason the Commission adopted Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid ⁽⁵⁾. That regulation replaced Regulation (EC) No 69/2001, increased the general *de minimis* ceiling from EUR 100 000 to EUR 200 000, extended its application to the sector concerning the processing and marketing of agricultural products and introduced a new *de minimis* threshold of EUR 100 000 for State aid to the road transport sector.
- (5) Recent experience in applying the rules on State aid to the fisheries sector, and in particular the *de minimis* ceiling set in Regulation (EC) No 1860/2004 and the Guidelines for the examination of State aid to fisheries and aquaculture ⁽⁶⁾ has shown that the risk of distortion of competition by *de minimis* aid is lower than was projected in 2004.
- (6) In the light of the experience gained by the Commission, aid to undertakings in the fisheries sector not exceeding EUR 30 000 per beneficiary over any three-year period may be deemed not to affect trade between Member States and/or not to distort or threaten to distort competition where the total amount of such aid granted to all undertakings in the fisheries sector over three years is below a ceiling of around 2,5 % of the annual fisheries output. It is therefore appropriate to state that such aid does not fall under Article 87(1) of the Treaty. The years to take into account for this purpose are the fiscal years as used for fiscal purposes in the Member State concerned. The relevant period of three years should be assessed on a rolling basis, so that for each new grant of *de minimis* aid, the total amount of such aid granted in the fiscal year concerned, as well as during the previous two fiscal years needs to be determined.
- (7) Other State aid granted by a Member State should also be taken into account when granting a *de minimis* aid.
- (8) It should not be possible for State aid measures exceeding the *de minimis* ceiling to be broken down into a number of smaller parts in order to bring such parts within the scope of this Regulation.

⁽¹⁾ OJ L 142, 14.5.1998, p. 1.

⁽²⁾ OJ C 276, 14.11.2006, p. 7.

⁽³⁾ OJ L 10, 13.1.2001, p. 30.

⁽⁴⁾ OJ L 325, 28.10.2004, p. 4.

⁽⁵⁾ OJ L 379, 28.12.2006, p. 5

⁽⁶⁾ OJ C 229, 14.9.2004, p. 5.

- (9) Consistent with the principles governing aid falling within Article 87(1) of the Treaty, *de minimis* aid should be considered to be granted at the moment when the legal right to receive the aid is conferred on the beneficiary under the applicable national regime.
- (10) The Court of Justice of the European Communities has established that, once the Community had legislated for the establishment of a common organisation of the market in a given sector of agriculture, Member States are under an obligation to refrain from taking any measure which might undermine or create exceptions to it⁽¹⁾. This principle also applies in the fisheries sector. For this reason, this Regulation should not apply to aid the amount of which is fixed on the basis of price or quantity of products put on the market.
- (11) This Regulation should not apply to export aid or *de minimis* aid favouring domestic over imported products. Moreover this Regulation should not apply to aid financing the establishment and operation of a distribution network in other countries. Aid towards the costs of participating in trade fairs, or of studies or consultancy services needed for the launch of a new or existing product on a new market does normally not constitute export aid.
- (12) This Regulation should not apply to undertakings in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty⁽²⁾ in view of the difficulties linked to determining the gross grant equivalent of aid granted to this type of undertakings.
- (13) Having regard to the objectives of the common fisheries policy, aid serving to increase fishing capacity and aid granted for the construction or purchase of fishing vessels should not fall within the scope of this Regulation, except for aid for modernisation over the main deck as referred to in Article 11 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy⁽³⁾.
- (14) For the purpose of transparency, equal treatment and the correct application of the *de minimis* ceiling, it is appropriate that Member States should apply the same method of calculation. In order to facilitate this calculation and in accordance with Regulation (EC) No 1998/2006, it is appropriate that aid amounts not taking the form of a cash grant should be converted into their gross grant equivalent. Calculation of the grant equivalent of transparent types of aid other than grants payable in several instalments requires the use of market interest rates prevailing at the time of granting such aid. With a view to a uniform, transparent and simple application of the State aid rules, the market rates for the purposes of this Regulation should be deemed to be the reference rates periodically fixed by the Commission on the basis of objective criteria and published in the *Official Journal of the European Union* or on the Internet. It may, however, be necessary to add additional basis points on top of the floor rate in view of the securities provided or the risk associated with the beneficiary.
- (15) For the purposes of transparency, equal treatment and effective monitoring, this Regulation should apply only to *de minimis* aid which is transparent. Transparent aid is aid for which it is possible to calculate precisely the gross grant equivalent ex ante without a need to undertake a risk assessment. Such precise calculation can, for instance, be realised as regards grants, interest rate subsidies and capped tax exemptions. Aid comprised in capital injections should not be considered as transparent *de minimis* aid, unless the total amount of the public injection is lower than the *de minimis* ceiling. Aid comprised in risk capital measures as referred to in the Community guidelines on State aid to promote risk capital investments in small and medium-sized enterprises⁽⁴⁾ should not be considered as transparent *de minimis* aid, unless the risk capital scheme concerned provides capital only up to the *de minimis* ceiling to each target undertaking. Aid comprised in loans should be treated as transparent *de minimis* aid when the gross grant equivalent has been calculated on the basis of market interest rates prevailing at the time of grant.
- (16) This Regulation does not exclude the possibility that a measure, adopted by a Member State, might not be considered as State aid within the meaning of Article 87(1) of the Treaty on the basis of other grounds than those set out in this Regulation, for instance, in the case of capital injections, because such measure has been decided in conformity with the market investor principle.

⁽¹⁾ Case C-113/2000 Spain v/Commission, [2002] ECR 2002 I-7601, point 73.

⁽²⁾ OJ C 244, 1.10.2004, p. 2.

⁽³⁾ OJ L 358, 31.12.2002, p. 59.

⁽⁴⁾ OJ C 194, 18.8.2006, p. 2.

(17) It is necessary to provide legal certainty for guarantee schemes which do not have the potential to affect trade or distort competitions and in respect of which sufficient data is available to assess any potential effects reliably. This Regulation should therefore transpose the general *de minimis* ceiling of EUR 30 000 per beneficiary into a guarantee-specific ceiling based on the guaranteed amount of the individual loan underlying such guarantee. It is appropriate to calculate this specific ceiling using a methodology assessing the State aid amount included in guarantee schemes covering loans in favour of viable undertakings. The methodology and the data used to calculate the guarantee-specific ceiling should exclude undertakings in difficulty as referred to in the Community guidelines on State aid for rescuing and restructuring firms in difficulty. This specific ceiling should therefore not apply to ad hoc individual aid granted outside of the scope of a guarantee scheme, to aid granted to undertakings in difficulty, or to guarantees on underlying transactions not constituting a loan, such as guarantees on equity transactions. The specific ceiling should be determined on the basis of the fact that taking account of a cap rate (net default rate) of 13 %, representing a worst case scenario for guarantee schemes in the Community, a guarantee amounting to EUR 225 000 can be considered as having a gross grant equivalent identical to the *de minimis* ceiling established in this Regulation. Only guarantees covering up to 80 % of the underlying loan should be covered by this specific ceiling.

(18) The Commission has a duty to ensure that State aid rules are complied with, and in particular that aid granted under the *de minimis* rules adheres to the conditions thereof. In accordance with Article 10 of the Treaty, Member States should facilitate the achievement of this task by establishing the necessary machinery to ensure that the total amount of aid, granted under the *de minimis* rules, does not exceed either the ceiling of EUR 30 000 per beneficiary or the overall ceiling established by the Commission on the basis of the value of the fishery output per Member State over a period of three fiscal years. To that end, it is appropriate that Member States, when granting a *de minimis* aid, should inform the undertaking concerned about the amount of the aid and its *de minimis* character of the aid, by referring to this Regulation. Moreover, prior to granting such aid the Member State concerned should obtain from the undertaking a declaration about other *de minimis* aid received during the fiscal year concerned and the two previous fiscal years, and carefully check that the *de minimis* ceilings will not be exceeded by the new *de minimis* aid. Alternatively, compliance with the ceilings may also be ensured by using a central register.

(19) For reasons of clarity and as the ceiling for *de minimis* aid for the fisheries sector thus differs from the ceiling for *de minimis* aid to the agriculture sector, a specific regulation applicable only to the fisheries sector should be adopted and Regulation (EC) No 1860/2004 should be amended accordingly.

(20) Having regard to the Commission's experience and in particular the frequency with which it is generally necessary to revise State aid policy, and in particular having regard to the period of application of Regulation (EC) No 1998/2006 and Regulation (EC) No 1860/2004, it is appropriate that the period of application of this Regulation be limited until 31 December 2013. Should this Regulation expire without being extended, Member States should have an adjustment period of six months with regard to *de minimis* aid covered by it. For the sake of legal certainty, it is appropriate to clarify the effect of the Regulation on aid granted before its entry into force,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation applies to aid granted to undertakings in the fisheries sector, with the exception of:

- (a) aid the amount of which is fixed on the basis of price or quantity of products put on the market;
- (b) aid to export-related activities, namely aid directly linked to the quantities exported, aid to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;
- (c) aid contingent upon the use of domestic over imported goods;
- (d) aid serving to increase fishing capacity, expressed in terms of tonnage or power, as defined in Article 3(n) of Regulation (EC) No 2371/2002, unless it concerns aid for modernisation over the main deck as referred to in Article 11(5) of that Regulation;
- (e) aid for the purchase or construction of fishing vessels;
- (f) aid granted to undertakings in difficulty.

Article 2

Definitions

For the purposes of this Regulation:

- (a) 'undertakings in the fisheries sector' means undertakings active in the production, processing and marketing of fisheries products;
- (b) 'fisheries products' means the products defined in Article 1 of Council Regulation (EC) No 104/2000 ⁽¹⁾;

⁽¹⁾ OJ L 17, 21.1.2000, p. 22.

(c) 'processing and marketing' means all operations, including handling, treatment, production and distribution, performed between the time of landing or harvesting and the end-product stage.

Article 3

De minimis aid

1. Aid measures shall be deemed not to meet all the criteria of Article 87(1) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, if they fulfil the conditions laid down in this Article and in Articles 4 and 5 of this Regulation.

2. The total *de minimis* aid granted to any one undertaking shall not exceed EUR 30 000 over any period of three fiscal years. This ceiling shall apply irrespective of the form of the aid or the objective pursued. The period shall be determined by reference to the fiscal years used in the Member State concerned.

3. When an overall aid amount exceeds this ceiling, that aid amount cannot benefit from this Regulation, even for a fraction not exceeding that ceiling. In such a case, the benefit of this Regulation cannot be claimed for this aid measure either at the time the aid is granted or at any subsequent time.

4. The cumulative amount thus granted to various undertakings in the fisheries sector shall not exceed the value set out per Member State in the Annex over any period of three fiscal years.

5. The ceilings in paragraphs 2 and 4 shall be expressed as a cash grant. All figures used shall be gross, that is, before any deduction of tax or other charge. Where aid is awarded in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.

6. Aid payable in several instalments shall be discounted to its value at the moment of its being granted. The interest rate to be used for discounting purposes and to calculate the gross equivalent shall be the reference rate applicable at the time of the grant.

7. This Regulation shall apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid *ex ante* without the need to undertake a risk assessment (transparent aid). In particular:

(a) aid comprised in loans shall be treated as transparent *de minimis* aid when the gross grant equivalent has been calculated on the basis of market interest rates prevailing at the time of the grant;

(b) aid comprised in capital injections shall not be considered as transparent *de minimis* aid, unless the total amount of the public injection does not exceed the *de minimis* ceiling;

(c) aid comprised in risk capital measures shall not be considered as transparent *de minimis* aid, unless the risk capital scheme concerned provides capital only up to the *de minimis* ceiling to each target undertaking;

(d) aid in the form of repayable advances shall not be considered as transparent aid as far as the total amount of the repayable advances exceeds the applicable threshold under this Regulation;

(e) individual aid provided under a guarantee scheme to undertakings which are not undertakings in difficulty shall be treated as *de minimis* aid when the guaranteed part of the underlying loan provided under such scheme does not exceed EUR 225 000 per undertaking. If the guaranteed part of the underlying loan only accounts for a given proportion of this ceiling, the gross grant equivalent of that guarantee shall be deemed to correspond to the same proportion of the applicable ceiling laid down in paragraph 2. The guarantee shall not exceed 80 % of the underlying loan.

8. *De minimis* aid shall not be cumulated with State aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding that fixed in the specific circumstances of each case by a block exemption regulation or decision adopted by the Commission.

Article 4

Monitoring

1. Where a Member State grants *de minimis* aid to an undertaking, it shall inform the undertaking in writing about the amount of the aid expressed in gross equivalent and about the *de minimis* character, making express reference to this Regulation and citing its title and publication reference in the *Official Journal of the European Union*. Where the *de minimis* aid is granted to different undertakings on the basis of a scheme and different amounts of individual aid are granted to those undertakings under that scheme, the Member State concerned may choose to fulfil that obligation by informing the undertakings of a fixed sum corresponding to the maximum aid amount to be granted under the scheme. In such case, the fixed sum shall be used for determining whether either of the ceilings laid down in paragraphs 2 and 4 of Article 3 are met. Prior to granting the aid, the Member State shall obtain a declaration from the undertaking concerned, in written or electronic form, about any other *de minimis* aid received during the previous two fiscal years and the current fiscal year.

2. The Member State shall only grant the new *de minimis* aid after having checked that this will not raise the total amount of *de minimis* aid received by the undertaking during the period covering the fiscal year concerned, as well as the previous two fiscal years in that Member State, to a level above either of the ceilings set out in paragraphs 2 and 4 of Article 3.

3. Where a Member State has set up a central register of *de minimis* aid for fisheries containing complete information on all *de minimis* aid granted by any authority within that Member State, paragraph 1 shall cease to apply to that Member State from the moment the register covers a period of three fiscal years.

4. Member States shall record and compile all the information regarding the application of this Regulation. Such records shall contain all information necessary to demonstrate that the conditions of this Regulation have been complied with. Records regarding an individual *de minimis* aid shall be maintained for 10 fiscal years from the date on which the aid was granted. Records regarding a *de minimis* aid scheme shall be maintained for 10 years from the date on which the last individual aid was granted under such scheme. On a written request, the Member State concerned shall provide the Commission, within a period of 20 working days, or such longer period as may be fixed in the request, with all the information that the Commission considers necessary for assessing whether the conditions of this Regulation have been complied with, and in particular the total amount of *de minimis* aid received by any undertaking and by the fisheries sector of the Member State concerned.

Article 5

Transitional provisions

1. This Regulation shall apply to aid granted before its entry into force, if it fulfils all the conditions laid down in Articles 1 to 3 and, if appropriate, in Article 4. Any aid which does not fulfil those conditions shall be assessed by the Commission in accordance with the relevant frameworks, guidelines, communications and notices.

2. Any *de minimis* aid granted between 1 January 2005 and six months after entry into force of this Regulation, which fulfils the conditions of Regulation (EC) No 1860/2004 as applicable to the fisheries sector until the date of entry into force of this Regulation, shall be deemed not to meet all the criteria of Article 87(1) of the Treaty and shall therefore be exempt from the notification requirement of Article 88(3) of the Treaty.

3. At the end of the period of validity of this Regulation, any *de minimis* aid which fulfils the conditions of this Regulation may be validly implemented for a period of six months.

Article 6

Amendment

Regulation (EC) No 1860/2004 shall be amended as follows:

(a) in the title, the words 'and fisheries sectors' are replaced by 'sector';

(b) in Article 1, the words 'the agriculture or fisheries sectors' are replaced by 'the agriculture sector';

(c) in Article 2:

(i) in point (2), the words 'except fisheries products as defined in point (5)' are replaced by 'except fisheries products as defined in Article 1 of Council Regulation (EC) No 104/2000';

(ii) points 4, 5 and 6 are deleted;

(d) in Article 3(2), the third subparagraph is deleted;

(e) in Article 4(2), the words 'and fisheries, respectively' are deleted;

(f) in the second subparagraph of Article 4(3), the words 'or fisheries' are deleted;

(g) Annex II is deleted.

Article 7

Entry into force and applicability

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

It shall expire on 31 December 2013.

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

Done at Brussels, 24 July 2007.

For the Commission
Joe BORG
Member of the Commission

ANNEX

Cumulative amounts for fisheries per Member State as referred to in Article 3(4)

(EUR)

BE	11 800 000
BG	433 000
CZ	1 008 000
DK	57 650 000
DE	48 950 000
EE	3 718 000
IE	8 508 000
EL	18 015 000
ES	127 880 000
FR	138 550 000
IT	94 325 000
CY	1 562 000
LV	3 923 000
LT	5 233 000
LU	0
HU	740 000
MT	255 000
NL	35 875 000
AT	620 000
PL	21 125 000
PT	15 688 000
RO	524 000
SL	338 000
SK	1 133 000
FI	7 075 000
SE	11 153 000
UK	102 725 000

COMMISSION REGULATION (EC) No 876/2007

of 24 July 2007

amending Regulation (EC) No 2245/2002 implementing Council Regulation (EC) No 6/2002 on Community designs following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs⁽¹⁾, and in particular Article 107(3) thereof,

Whereas:

- (1) Following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs adopted on 2 July 1999 approved by Council Decision 2006/954/EC⁽²⁾ and the amendments of Regulation (EC) No 6/2002 linked thereto, it is necessary to adopt certain technical implementing measures.
- (2) Commission Regulation (EC) No 2245/2002 of 21 October 2002 implementing Council Regulation (EC) No 6/2002 on Community designs⁽³⁾ should therefore be amended accordingly.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Committee established under Article 109 of Regulation (EC) No 6/2002,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2245/2002 is amended as follows:

1. the following Article 11a is inserted:

‘Article 11a

Examination of grounds for refusal

1. Where, pursuant to Article 106e(1) of Regulation (EC) No 6/2002, the Office finds, in the course of carrying out an examination of an international registration, that the design for which protection is sought does not correspond to the definition of design provided for in Article 3(a) of that Regulation or that the design is contrary to public policy or to accepted principles of morality, it shall send to the

International Bureau of the World Intellectual Property Organisation (hereinafter “the International Bureau”) a notification of refusal not later than six months from the date of publication of the international registration, specifying the grounds for refusal pursuant to Article 12(2) of the Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs adopted on 2 July 1999 (hereinafter “the Geneva Act”) approved by Council Decision 2006/954/EC (*).

2. The Office shall specify a time limit within which the holder of the international registration has the possibility, pursuant to Article 106e(2) of Regulation (EC) No 6/2002, to renounce the international registration in respect of the Community, to limit the international registration to one or some of the industrial designs in respect of the Community or to submit observations.

3. Where the holder of the international registration is obliged to be represented in proceedings before the Office pursuant to Article 77(2) of Regulation (EC) No 6/2002, the notification shall contain a reference to the obligation of the holder to appoint a representative as referred to in Article 78(1) of that Regulation.

The time limit specified in paragraph 2 of this Article shall apply *mutatis mutandis*.

4. If the holder fails to appoint a representative within the specified time limit, the Office shall refuse the protection of the international registration.

5. Where the holder submits observations that would satisfy the Office within the specified time limit, the Office shall withdraw the refusal and notify the International Bureau in accordance with Article 12(4) of the Geneva act.

Where, pursuant to Article 12(2) of the Geneva act, the holder does not submit observations that would satisfy the Office within the specified time limit, the Office shall confirm the decision refusing protection for the international registration. That decision is subject to appeal in accordance with Title VII of Regulation (EC) No 6/2002.

⁽¹⁾ OJ L 3, 5.1.2002, p. 1. Regulation as last amended by Regulation (EC) No 1891/2006 (OJ L 386, 29.12.2006, p. 14).

⁽²⁾ OJ L 386, 29.12.2006, p. 28.

⁽³⁾ OJ L 341, 17.12.2002, p. 28.

6. Where the holder renounces the international registration or limits the international registration to one or some of the industrial designs in respect of the Community, he shall inform the International Bureau by way of recording procedure in accordance with Article 16(1)(iv) and (v) of the Geneva Act. The holder can inform the Office submitting a corresponding statement.

(*) OJ L 386, 29.12.2006, p. 28';

2. Article 22 is replaced by the following:

'Article 22

Renewal of Community design registration

1. An application for renewal of registration shall contain:

- (a) the name of the person requesting renewal;
- (b) the registration number;
- (c) where applicable, an indication that renewal is requested for all the designs covered by a multiple registration or, if the renewal is not requested for all such designs, an indication of those designs for which renewal is requested.

2. The fees payable pursuant to Article 13 of Regulation (EC) No 6/2002 for the renewal of a registration shall consist of:

- (a) renewal fee, which, in cases where several designs are covered by a multiple registration, shall be proportionate to the number of designs covered by the renewal;
- (b) here applicable, the additional fee for late payment of the renewal fee or late submission of the request for renewal, pursuant to Article 13 of Regulation (EC) No 6/2002, as specified in Regulation (EC) No 2246/2002.

3. If the payment referred to in paragraph 2 of this Article is made according to the provisions of Article 5(1) of the Regulation (EC) No 2246/2002, this shall be deemed to constitute a request for renewal provided that it contains all the indications required under points (a) and (b) of paragraph 1, of this Article and Article 6(1) of that Regulation.

4. Where the application for renewal is filed within the time limits provided for in Article 13(3) of Regulation (EC) No 6/2002, but the other conditions for renewal provided

for in Article 13 thereof and in this Regulation are not satisfied, the Office shall inform the applicant of the deficiencies.

5. Where an application for renewal is not submitted or is submitted after expiry of the time limit provided for in the second sentence of Article 13(3) of Regulation (EC) No 6/2002, or if the fees are not paid or are paid only after expiry of the relevant time limit, or if the deficiencies are not remedied within the time limit specified by the Office, the Office shall determine that the registration has expired and shall notify the holder accordingly.

In the case of a multiple registration, where the fees paid are insufficient to cover all the designs for which renewal is requested, such a determination shall be made only after the Office has established which designs the amount paid is intended to cover.

In the absence of other criteria for determining which designs are intended to be covered, the Office shall take the designs in the numerical order in which they are represented in accordance with Article 2(4).

The Office shall determine that the registration has expired with regard to all designs for which the renewal fees have not been paid or have not been paid in full.

6. Where the determination made pursuant to paragraph 5 has become final, the Office shall cancel the design from the Register with effect from the day following the day on which the existing registration expired.

7. Where the renewal fees provided for in paragraph 2 have been paid but the registration is not renewed, those fees shall be refunded.

8. A single application for renewal may be submitted for two or more designs, whether or not part of the same multiple registration, upon payment of the required fees for each of the designs, provided that the holders or the representatives are the same in each case.;

3. the following Article 22a is inserted:

'Article 22a

Renewals of international registration designating the Community

The international registration shall be renewed directly at the International Bureau in compliance with Article 17 of the Geneva Act.;

4. in Article 31, the following paragraph 6 is added:

‘6. Where the Office declares invalid the effects of an international registration in the territory of the Community; it shall notify its decision to the International Bureau upon becoming final.’;

5. in Article 47, the following paragraph 3 is added:

‘3. Communications between the Office and the International Bureau shall be in a mutually agreed manner and format, where possible by electronic means. Any reference to forms shall be construed as including forms available in electronic format.’;

6. in Article 71, the following paragraph 3 is added:

‘3. The Office shall provide information on international registrations of designs designating the Community in the form of an electronic link to the searchable database maintained by the International Bureau.’

Article 2

This Regulation shall enter into force on the date on which the Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs enters into force with respect to the European Community. The date of entry into force of this Regulation shall be published 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, 24 July 2007.

For the Commission
Charlie McCREEVY
Member of the Commission

COMMISSION REGULATION (EC) No 877/2007

of 24 July 2007

amending Regulation (EC) No 2246/2002 concerning the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 6/2002 of 12 December 2001 on Community Designs ⁽¹⁾, and in particular Article 107(2) thereof,

Whereas:

- (1) Following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs adopted on 2 July 1999 (hereinafter 'the Geneva Act') approved by Council Decision 2006/954/EC ⁽²⁾ and the amendments of Regulation (EC) No 6/2002 linked thereto, it is necessary to adopt certain implementing measures concerning fees to be paid to the International Bureau of the World Intellectual Property Organisation.
- (2) Article 106c of Regulation (EC) No 6/2002 provides that the prescribed designation fees referred to in Article 7(1) of the Geneva Act are replaced by an individual designation fee.
- (3) The amount of that fee is laid down in the Declaration on the individual fee system attached to Decision 2006/954/EC, made in accordance with Article 7(2) of the Geneva Act.
- (4) In order to ensure the necessary flexibility and to facilitate the payment of fees, it is appropriate to align the rules applicable to the fees for designs with the rules applicable to the fees for trademarks laid down in Commission Regulation (EC) No 2869/95 of 13 December 1995 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) ⁽³⁾ by suppressing the cash and cheques as means of payment.
- (5) Commission Regulation (EC) No 2246/2002 of 16 December 2002 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) in respect of the registration of Community designs ⁽⁴⁾ should therefore be amended accordingly.

- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Fees, Implementing Rules and the procedure of the Boards of Appeal of the Office for Harmonization in the Internal Market (trade marks and designs),

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2246/2002 is amended as follows:

1. In Article 1, points (a) and (b) are replaced by the following:

'1. fees payable to:

- (a) the Office for Harmonization in the Internal Market (Trade Marks and Designs) (hereinafter the "Office") on the basis of Regulation (EC) No 6/2002 and Regulation (EC) No 2245/2002;
- (b) the International Bureau of the World Intellectual Property Organisation on the basis of the Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs adopted on 2 July 1999 (hereinafter "the Geneva Act") approved by Council Decision 2006/954/EC ^(*);

2. charges laid down by the President of the Office.

^(*) OJ L 386, 29.12.2006, p. 28.'

2. Article 2 is replaced by the following:

'Article 2

Fees

1. The fees payable to the Office on the basis of Regulation (EC) No 6/2002 and Regulation (EC) No 2245/2002 are set out in the Annex to this Regulation.

2. Individual designation fees payable to the International Bureau on the basis of Article 7(2) of the Geneva Act in conjunction with Article 106c of Regulation (EC) No 6/2002 and Article 13(1) of that Regulation and Article 22(2)(a) of Regulation (EC) No 2245/2002 are set out in the Annex to this Regulation.'

⁽¹⁾ OJ L 3, 5.1.2002, p. 1. Regulation as last amended by Regulation (EC) No 1891/2006 (OJ L 386, 29.12.2006, p. 14).

⁽²⁾ OJ L 386, 29.12.2006, p. 28.

⁽³⁾ OJ L 303, 15.12.1995, p. 33. Regulation as last amended by Regulation (EC) No 1687/2005 (OJ L 271, 15.10.2005, p. 14).

⁽⁴⁾ OJ L 341, 17.12.2002, p. 54.

3. In Article 5, paragraph 1 is replaced by the following:

'1. Fees and charges due to the Office shall be paid in euro by payment or transfer to a bank account held by the Office.'

4. Article 7 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The date on which any payment shall be considered to have been made to the Office shall be the date on which the amount of the payment is actually entered in a bank account held by the Office.;

(b) in Paragraph 3, point (a) is replaced by the following:

'(a) duly gave an order to a banking establishment to transfer the amount of the payment in a Member State within the period within which the payment should have been made; and'.

5. The Annex is amended as follows:

(a) the following point 1a is inserted in the Table:

'1a. Individual Designation fee for an international registration (Article 106c of Regulation (EC) No 6/2002; Article 7(2) of the Geneva Act — (per design)	62'
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(b) the following point 11a is inserted in the Table:

'11a. Individual renewal fee for an international registration (Article 13(1) and 106c of Regulation (EC) No 6/2002; Article 22(2)(a) of Regulation (EC) No 2245/2002 per design:	
(a) for the first period of renewal — (per design);	31
(b) for the second period of renewal — (per design)	31
(c) for the third period of renewal — (per design)	31
(d) for the fourth period of renewal — (per design)	31'

Article 2

This Regulation shall enter into force on the date on which the Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs enters into force with respect to the European Community. The date of entry into force of this Regulation shall be published 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, 24 July 2007.

For the Commission
Charlie McCREEVY
Member of the Commission

DECISIONS ADOPTED JOINTLY BY THE EUROPEAN PARLIAMENT AND THE COUNCIL

DECISION No 878/2007/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 23 July 2007

amending and extending Decision No 804/2004/EC establishing a Community action programme to promote activities in the field of the protection of the Community's financial interests (Hercule II programme)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

interests, and to achieve the objectives of the Hercule programme for the period 2004 to 2006.

Having regard to the Treaty establishing the European Community, and in particular Article 280 thereof,

(4) Article 7(a) of Decision No 804/2004/EC of the European Parliament and of the Council⁽³⁾ requires the Commission to present to the European Parliament and the Council a report by the European Anti-Fraud Office (OLAF) on the implementation of the Hercule programme and the appropriateness of continuing it. The conclusions of this report state that the objectives set by the Hercule programme have been achieved. The report also recommends that the programme be extended for the period 2007 to 2013.

Having regard to the proposal from the Commission,

Having regard to the opinion of the Court of Auditors⁽¹⁾,

(5) In order to consolidate the activities of the Community and the Member States in the field of the protection of the Community's financial interests, including the fight against cigarette smuggling and counterfeiting, the new programme should cover all operational expenditure relating to the Commission's (OLAF's) general anti-fraud activities in a single basic act.

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽²⁾,

(6) The awarding of grants and public procurement contracts to promote and implement the programme must be carried out in accordance with the provisions of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽⁴⁾ and its implementing rules. It is appropriate to exclude operating grants from the programme as they have not been used to support initiatives in the past.

Whereas:

(1) The Community and the Member States have set themselves the objective of countering fraud and any other illegal activities affecting the Community's financial interests, including cigarette smuggling and counterfeiting. All available means must be deployed to attain that objective, whilst maintaining the current distribution and balance of responsibilities between the national and Community levels.

(7) Acceding countries and candidate countries should be able to participate in the Hercule II programme, on the basis of a memorandum of understanding to be drawn up in accordance with the respective framework agreements.

(2) Activities with the purpose of providing better information, carrying out studies and providing training or technical assistance contribute significantly to improving the protection of the Community's financial interests.

(3) Support for such initiatives in the form of grants has made it possible in the past to enhance the activities of the Community and the Member States in terms of countering fraud and protecting the Community's financial

⁽¹⁾ OJ C 302, 12.12.2006, p. 41.

⁽²⁾ Opinion of the European Parliament of 13 February 2007 (not yet published in the Official Journal) and Council Decision of 28 June 2007.

⁽³⁾ OJ L 143, 30.4.2004, p. 9.

⁽⁴⁾ OJ L 248, 16.9.2002, p. 1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).

- (8) This Decision lays down, for the entire duration of the programme, a financial envelope constituting the prime reference, within the meaning of Point 37 of the Inter-institutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾, for the budgetary authority during the annual budgetary procedure,

understanding — in the activities financed under the programme;

- (e) multiplying and intensifying the measures in the areas identified as the most sensitive, particularly in the field of cigarette smuggling and counterfeiting.’

HAVE DECIDED AS FOLLOWS:

Article 1

Amendments

Decision No 804/2004/EC is hereby amended as follows:

1. Article 1 shall be replaced by the following:

‘Article 1

Objectives of the programme

1. This Decision establishes a Community action programme to promote activities in the field of the protection of the financial interests of the Community. The programme shall be known as the Hercule II programme (hereinafter referred to as the programme).

2. The programme shall promote activities according to the general criteria set out in this Decision. It shall focus on the following objectives in particular:

- (a) enhancing transnational and multidisciplinary cooperation between Member States’ authorities, the Commission and OLAF;
- (b) building networks throughout the Member States, acceding countries and candidate countries — in accordance with a memorandum of understanding — facilitating the exchange of information, experience and best practices, while also respecting the distinct traditions of each Member State;
- (c) providing technical and operational support for the law enforcement authorities of the Member States in their fight against illegal cross border activities, emphasising support for customs authorities;
- (d) without undermining operational effectiveness, striking a geographical balance by including, if possible, all Member States, acceding countries and candidate countries — in accordance with a memorandum of

2. The following article shall be inserted:

‘Article 1a

Activities

The programme shall be implemented through the following activities in the field of the protection of the Community’s financial interests, including in the field of the prevention of, and the fight against, cigarette smuggling and counterfeiting:

- (a) technical assistance for national authorities through:
- (i) providing specific knowledge, equipment and information technology (IT) tools facilitating transnational cooperation and cooperation with OLAF;
- (ii) support for joint operations;
- (iii) enhancing staff exchanges;
- (b) training, seminars and conferences aimed at:
- (i) fostering better understanding of Community and national mechanisms;
- (ii) exchanging experience between the relevant authorities in the Member States, acceding countries and candidate countries;
- (iii) coordinating the activities of Member States, acceding countries, candidate countries and third countries;
- (iv) disseminating knowledge, particularly of an operational nature;
- (v) supporting high-profile research activities, including studies;
- (vi) improving cooperation between practitioners and academics;
- (vii) raising the awareness of the judiciary and other branches of the legal profession for the protection of the financial interests of the Community;

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

(c) support through:

- (i) developing and providing specific databases and IT tools facilitating data access and analysis;
- (ii) increasing data exchange;
- (iii) developing and providing IT tools for investigations, monitoring and intelligence work.'

3. Article 2 shall be replaced by the following:

'Article 2

Community funding

1. Community funding may take the following legal forms pursuant to Regulation (EC, Euratom) No 1605/2002:

- (a) grants;
- (b) public procurement contracts.

2. To qualify for a Community grant for an activity aimed at protecting the Community's financial interests, grant beneficiaries must comply with the provisions set out in this Decision. The activity must conform to the principles underlying Community activity in the field of the protection of the Community's financial interests and take account of the specific criteria laid down in the related calls for proposals, in accordance with the priorities set out in the annual grants programme which details the general criteria set out in this Decision.

3. Community funding shall cover, through public procurement contracts or by the award of grants, the operational expenditure relating to activities in the field of the protection of the Community's financial interests.

4. The activities carried out by bodies which may receive Community funding (public procurement contract or grant) under the programme shall come under the heading of actions aimed at strengthening Community measures to protect financial interests and shall pursue objectives of general European interest in this field or an objective which is part of the European Union's policy in this area.'

4. The following Articles shall be inserted:

'Article 2a

Bodies eligible for Community funding

The following bodies shall be eligible for Community funding under the programme:

- (a) all national or regional administrations of a Member State or a country outside the Community, as defined in Article 3, which promote the strengthening of Community action to protect the Community's financial interests;
- (b) all research and educational institutes that have had legal personality for at least one year, are established and operating in a Member State or in a country outside the Community, as defined in Article 3, and promote the strengthening of Community action to protect the Community's financial interests;
- (c) all non-profit-making bodies that have had legal personality for at least one year, are established and operating in a Member State or in a country outside the Community, as defined in Article 3, and promote the strengthening of Community action to protect the Community's financial interests.

Article 2b

Selection of beneficiaries

Bodies entitled under Article 2a to receive a grant for an activity shall be selected following a call for proposals, in accordance with the priorities set out in the annual grants programme which details the general criteria set out in this Decision. Grants awarded for an activity covered by the programme shall meet the general criteria set out in this Decision.

Article 2c

Criteria for the assessment of applications for grants

Applications for grants for activities shall be assessed in the light of:

- (a) the consistency of the proposed activity in relation to the objectives of the programme;
- (b) the complementarity of the proposed activity with other assisted activities;
- (c) the feasibility of the proposed activity, i.e. the real possibility that it can be carried out using the proposed means;
- (d) the cost-benefit ratio of the proposed activity;
- (e) the added utility of the proposed activity;

- (f) the size of the public targeted by the proposed activity;
- (g) the transnational and multidisciplinary aspects of the proposed activity;
- (h) the geographic scope of the proposed activity.

Article 2d

Eligible expenditure

Pursuant to Article 2(4), only the expenditure required for the successful implementation of the activity shall be taken into account when calculating the grant.

Expenditure in connection with the participation of representatives of the Balkan countries forming part of the stabilisation and association process for countries of south-eastern Europe (*), the Russian Federation, the countries covered by the European Neighbourhood Policy (**), and certain countries with which the Community has concluded an agreement for mutual assistance in customs matters, shall also be eligible.

(*) Albania, Bosnia-Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia.

(**) Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia and Ukraine.'

5. Article 3 shall be amended as follows:

(a) point (a) shall be replaced by the following:

'(a) acceding countries;'

(b) points (c) and (d) shall be replaced by the following:

'(c) candidate countries associated with the European Union on the basis of the conditions stipulated in the association agreements or their additional protocols on participation in Community programmes concluded or to be concluded with those countries.'

6. Article 4 shall be replaced by the following:

'Article 4

Implementation

Community funding shall be implemented in accordance with Regulation (EC, Euratom) No 1605/2002.'

7. Article 5 shall be amended as follows:

(a) paragraph 1(b) shall be replaced by the following:

'(b) 80 % of eligible expenditure for training measures, promoting exchanges of specialised staff and the holding of seminars and conferences, provided that the beneficiaries are those referred to Article 2a(a);'

(b) paragraph 1(c) shall be replaced by the following:

'(c) 90 % of eligible expenditure for the holding of seminars and conferences, etc., provided that the beneficiaries are those referred to in Article 2a(b) and (c).';

(c) paragraph 2 shall be deleted.

8. The following Article shall be inserted:

'Article 5a

Checks and audits

1. The beneficiary of a grant shall ensure that, where applicable, supporting documents in the possession of partners or members are made available to the Commission.

2. The Commission may have an audit of the use made of the Community funding carried out either by its own staff or by a qualified outside body of its choice. Such audits may be carried out throughout the lifetime of the contract or the agreement and for a period of five years following the last payment. Where appropriate, the audit findings may lead to recovery decisions by the Commission.

3. Commission staff and outside personnel authorised by the Commission shall have appropriate rights of access to sites and premises where the action is carried out and to all the information, including information in electronic format, needed in order to conduct the audits referred to in paragraph 2.

4. The Court of Auditors and OLAF shall enjoy the same rights, especially the rights of access, as the persons referred to in paragraph 3.

5. Furthermore, in order to protect the Community's financial interests against fraud and other irregularities, the Commission shall carry out on-the-spot checks and inspections under this programme in accordance with Council Regulation (Euratom, EC) No 2185/96 (*). Where necessary, investigations shall be conducted by OLAF and governed by Regulation (EC) No 1073/1999 of the European Parliament and of the Council (**).

(*) OJ L 292, 15.11.1996, p. 2.

(**) OJ L 136, 31.5.1999, p. 1.'

9. Article 6 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. The programme is extended from 1 January 2007 and will end on 31 December 2013.;

(b) paragraph 2 shall be replaced by the following:

'2. The financial envelope for the implementation of the programme for the period 2007 to 2013 shall be EUR 98 525 000.'

10. Article 7 shall be replaced by the following:

'Article 7

Monitoring and evaluation

The Commission (OLAF) shall provide annual information on the results of the programme to the European Parliament and to the Council. Information on consistency and complementarity with other programmes and activities at European Union level shall be included.

An independent assessment of the implementation of the programme, including an examination of performance and the achievement of the objectives of the programme, shall be carried out by 31 December 2010.

By 31 December 2014, the Commission (OLAF) shall present to the European Parliament and to the Council a report on the achievement of the objectives of the programme.'

11. The following Article shall be inserted:

'Article 7a

Management of the programme

On the basis of a cost-effectiveness analysis, the Commission may employ experts and make use of any other form of technical and administrative assistance which does not involve public authority tasks outsourced under ad hoc service contracts. It may also finance studies and organise meetings of experts to facilitate the implementation of the programme, and take information, publication and dissemination measures directly linked to fulfilling the objectives of the programme.'

12. The Annex shall be deleted.

Article 2

Entry into force

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

Done at Brussels, 23 July 2007.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

L. AMADO

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 18 July 2007

amending Decision 2006/802/EC as regards pigmeat obtained from pigs which were vaccinated with a live attenuated conventional vaccine in Romania

(notified under document number C(2007) 3418)

(Text with EEA relevance)

(2007/522/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of Bulgaria and Romania,

Having regard to the Act of Accession of Bulgaria and Romania, and in particular Article 42 thereof,

Having regard to Council Directive 2001/89/EC of 23 October 2001 on Community measures for the control of classical swine fever⁽¹⁾, and in particular the third subparagraph of Article 19(3) thereof,

Whereas:

(1) Commission Decision 2006/802/EC of 23 November 2006 approving the plans for the eradication of classical swine fever in feral pigs and the emergency vaccination of those pigs and of pigs in holdings against that disease in Romania⁽²⁾ was adopted to combat classical swine fever in that Member State.

(2) Article 4 of that Decision approves the plan submitted by Romania to the Commission on 27 September 2006 for the emergency vaccination against classical swine fever of pigs in pig holdings with a live attenuated conventional vaccine (the approved plan).

(3) Article 5(c) of Decision 2006/802/EC lays down that Romania is to ensure that the pigmeat obtained from pigs which are vaccinated in accordance with Article 4 of that Decision is limited for the private domestic consumption or for the direct supply, by the producer, of small quantities to the final consumer or to the local market in the same municipality and is not to be dispatched to the other Member States. Article 5(b) of that Decision provides for the special marking of such pigmeat.

(4) The approved plan provides that the movement of domestic pigs from non-professional holdings and of pigmeat, pig products and by-products from those pigs is prohibited, except for family consumption in the holding of origin. Where appropriate, live animals may be commercialised exclusively on the local market.

(5) On 3 May 2007, Romania submitted to the Commission an amendment to the approved plan. The approved plan, as amended, authorises, under certain conditions, the direct movement of pigs from smaller or non-professional holdings and, where the emergency vaccination with a live attenuated conventional vaccine has been carried out in accordance with Article 4 of Decision 2006/802/EC, to a slaughterhouse located in the same county as the holding of origin or, if no slaughterhouse is located in that county, to a slaughterhouse located in an adjacent county.

(6) In addition, Romania has requested a temporary derogation from Article 5(c) of Decision 2006/802/EC until 31 August 2007 in order to be able to market the pigmeat obtained from those pigs on a county level in view of the major difficulties that arose to find a sufficient local market in the municipality.

⁽¹⁾ OJ L 316, 1.12.2001, p. 5. Directive as last amended by Directive 2006/104/EC (OJ L 363, 20.12.2006, p. 352).

⁽²⁾ OJ L 329, 25.11.2006, p. 34.

- (7) The amendment to the approved plan and the request for a derogation from Article 5(c) of Decision 2006/802/EC are compatible with the objective of eradicating classical swine fever in Romania. However, in the interests of animal health, the derogation should be subject to certain conditions, in particular, the pigmeat in question should be marked with a special mark to guarantee full traceability and it should not be dispatched to the other Member States.
- (8) Decision 2006/802/EC should therefore be amended accordingly.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2006/802/EC is amended as follows:

1. Article 4 is replaced by the following:

'Article 4

Plan for the emergency vaccination against classical swine fever of pigs in pig holdings with a live attenuated conventional vaccine

The plan submitted by Romania to the Commission on 27 September 2006, as amended by the amendment submitted to the Commission on 3 May 2007, for the emergency vaccination against classical swine fever of pigs in pig holdings with a live attenuated conventional vaccine, in the area as set out in point 4 of the Annex, is approved.'

2. The following Article 5a is inserted:

'Article 5a

Derogation from the condition set out in Article 5(c)

1. By way of derogation from Article 5(c), Romania may authorise the marketing of pigmeat, obtained from pigs which are vaccinated in accordance with Article 4 for the local market in the same county as the holding of origin of those pigs, provided that it:

- (a) has been registered in the slaughterhouse according to the instructions of the competent authority;
- (b) has been kept and stored separately from pigmeat not referred to in this Article;
- (c) is marked with a special health or identification mark which:
- (i) is different from the marks referred to in Article 5(b);
 - (ii) cannot be confused with the Community stamp, as referred to in Article 4 of Decision 2006/779/EC;
- (d) may only be dispatched to establishments within the same county as the holding of origin of the pigs;
- (e) is accompanied by a certificate issued by an official veterinarian, specifying the origin, identification and destination of the pigmeat.

2. The pigmeat referred to in paragraph 1 shall not be dispatched to other Member States.'

Article 2

Romania shall take the necessary measures to comply with this Decision and publish those measures. It shall immediately inform the Commission thereof.

Article 3

Article 1(2) shall apply until 31 August 2007.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 18 July 2007.

For the Commission
Markos KYPRIANOU
Member of the Commission