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⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COMMISSION REGULATION (EC) No 342/2008**of 17 April 2008****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 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽¹⁾, and in particular Article 138(1) thereof,

Whereas:

- (1) Regulation (EC) No 1580/2007 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 138 of Regulation (EC) No 1580/2007 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 18 April 2008.

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

Done at Brussels, 17 April 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

to Commission Regulation of 17 April 2008 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	MA	65,0
	TN	115,9
	TR	107,3
	ZZ	96,1
0707 00 05	JO	178,8
	MK	86,2
	TR	157,3
	ZZ	140,8
0709 90 70	MA	88,0
	TR	132,0
	ZZ	110,0
0709 90 80	EG	349,4
	ZZ	349,4
0805 10 20	EG	70,4
	IL	69,8
	MA	48,4
	TN	53,8
	TR	57,8
	US	54,1
	ZZ	59,1
0805 50 10	AR	117,4
	IL	126,5
	TR	134,2
	ZA	128,0
	ZZ	126,5
0808 10 80	AR	93,2
	BR	87,7
	CA	79,6
	CL	85,2
	CN	101,0
	MK	65,6
	NZ	125,3
	US	112,9
	UY	76,8
	ZA	90,2
	ZZ	91,8
0808 20 50	AR	86,0
	AU	80,7
	CL	125,3
	CN	54,7
	ZA	99,4
	ZZ	89,2

⁽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 343/2008
of 17 April 2008
fixing the export refunds on beef and veal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal⁽¹⁾, and in particular the third subparagraph of Article 33(3) thereof,

Whereas:

(1) Article 33(1) of Regulation (EC) No 1254/1999 provides that the difference between prices on the world market for the products listed in Article 1(1) of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Given the present situation on the market in beef and veal, export refunds should therefore be fixed in accordance with the rules and criteria provided for in Article 33 of Regulation (EC) No 1254/1999.

(3) The second subparagraph of Article 33(3) of Regulation (EC) No 1254/1999 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund according to destination.

(4) Refunds should be granted only on products that are allowed to move freely in the Community and that bear the health mark as provided for in Article 5(1)(a) of Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin⁽²⁾. Those products should also comply with the requirements of Regulation (EC) No 852/2004 of the

European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs⁽³⁾, and of Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption⁽⁴⁾.

(5) Pursuant to the third subparagraph of Article 6(2) of Commission Regulation (EEC) No 1964/82 of 20 July 1982 laying down the conditions for granting special export refunds on certain cuts of boned meat of bovine animals⁽⁵⁾, the special refund is to be reduced if the quantity of boned meat to be exported amounts to less than 95 %, but not less than 85 %, of the total weight of cuts produced by boning.

(6) Commission Regulation (EC) No 36/2008⁽⁶⁾ should therefore be repealed and replaced by a new Regulation.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

1. Export refunds as provided for in Article 33 of Regulation (EC) No 1254/1999 shall be granted on the products and for the amount set out in the Annex to this Regulation subject to the conditions provided for in paragraph 2 of this Article.

2. The products eligible for a refund under paragraph 1 must meet the relevant requirements of Regulations (EC) No 852/2004 and 853/2004, notably preparation in an approved establishment and compliance with the health marking requirements laid down in Annex I, Section I, Chapter III of Regulation (EC) No 854/2004.

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 98/2008 (OJ L 29, 2.2.2008, p. 5). Regulation (EEC) No 1254/1999 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 139, 30.4.2004, p. 55, as corrected by OJ L 226, 25.6.2004, p. 22. Regulation as last amended by Commission Regulation (EC) No 1243/2007 (OJ L 281, 25.10.2007, p. 8).

⁽³⁾ OJ L 139, 30.4.2004, p. 1, as corrected by OJ L 226, 25.6.2004, p. 3.

⁽⁴⁾ OJ L 139, 30.4.2004, p. 206, as corrected by OJ L 226, 25.6.2004, p. 83. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽⁵⁾ OJ L 212, 21.7.1982, p. 48. Regulation as last amended by Regulation (EC) No 1713/2006 (OJ L 321, 21.11.2006, p. 11).

⁽⁶⁾ OJ L 15, 18.1.2008, p. 16.

Article 2

In the case referred to in the third subparagraph of Article 6(2) of Regulation (EEC) No 1964/82 the rate of the refund on products falling within product code 0201 30 00 9100 shall be reduced by 7 EUR/100 kg.

Article 3

Regulation (EC) No 36/2008 is repealed.

Article 4

This Regulation shall enter into force on 18 April 2008.

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

Done at Brussels, 17 April 2008.

For the Commission
Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

ANNEX

Export refunds on beef and veal applicable from 18 April 2008

Product code	Destination	Unit of measurement	Refunds (7)
0102 10 10 9140	B00	EUR/100 kg live weight	25,9
0102 10 30 9140	B00	EUR/100 kg live weight	25,9
0201 10 00 9110 (1)	B02	EUR/100 kg net weight	36,6
	B03	EUR/100 kg net weight	21,5
0201 10 00 9130 (1)	B02	EUR/100 kg net weight	48,8
	B03	EUR/100 kg net weight	28,7
0201 20 20 9110 (1)	B02	EUR/100 kg net weight	48,8
	B03	EUR/100 kg net weight	28,7
0201 20 30 9110 (1)	B02	EUR/100 kg net weight	36,6
	B03	EUR/100 kg net weight	21,5
0201 20 50 9110 (1)	B02	EUR/100 kg net weight	61,0
	B03	EUR/100 kg net weight	35,9
0201 20 50 9130 (1)	B02	EUR/100 kg net weight	36,6
	B03	EUR/100 kg net weight	21,5
0201 30 00 9050	US (3)	EUR/100 kg net weight	6,5
	CA (4)	EUR/100 kg net weight	6,5
0201 30 00 9060 (6)	B02	EUR/100 kg net weight	22,6
	B03	EUR/100 kg net weight	7,5
0201 30 00 9100 (2) (6)	B04	EUR/100 kg net weight	84,7
	B03	EUR/100 kg net weight	49,8
	EG	EUR/100 kg net weight	103,4
0201 30 00 9120 (2) (6)	B04	EUR/100 kg net weight	50,8
	B03	EUR/100 kg net weight	29,9
	EG	EUR/100 kg net weight	62,0
0202 10 00 9100	B02	EUR/100 kg net weight	16,3
	B03	EUR/100 kg net weight	5,4
0202 20 30 9000	B02	EUR/100 kg net weight	16,3
	B03	EUR/100 kg net weight	5,4
0202 20 50 9900	B02	EUR/100 kg net weight	16,3
	B03	EUR/100 kg net weight	5,4
0202 20 90 9100	B02	EUR/100 kg net weight	16,3
	B03	EUR/100 kg net weight	5,4
0202 30 90 9100	US (3)	EUR/100 kg net weight	6,5
	CA (4)	EUR/100 kg net weight	6,5

Product code	Destination	Unit of measurement	Refunds (7)
0202 30 90 9200 (6)	B02	EUR/100 kg net weight	22,6
	B03	EUR/100 kg net weight	7,5
1602 50 31 9125 (5)	B00	EUR/100 kg net weight	23,3
1602 50 31 9325 (5)	B00	EUR/100 kg net weight	20,7
1602 50 95 9125 (5)	B00	EUR/100 kg net weight	23,3
1602 50 95 9325 (5)	B00	EUR/100 kg net weight	20,7

N.B.: The product codes and the 'A' series destination codes are set out in the Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1).

The destination codes are set out in Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19).

The other destinations are defined as follows:

B00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community).

B02: B04 and destination EG.

B03: Albania, Croatia, Bosnia-Herzegovina, Serbia (*), Montenegro, former Yugoslav Republic of Macedonia, stores and provisions (destinations referred to in Articles 36 and 45, and if appropriate in Article 44, of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).

B04: Turkey, Ukraine, Belarus, Moldova, Russia, Georgia, Armenia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan, Morocco, Algeria, Tunisia, Libya, Lebanon, Syria, Iraq, Iran, Israel, West Bank/Gaza Strip, Jordan, Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Yemen, Pakistan, Sri Lanka, Myanmar (Burma), Thailand, Vietnam, Indonesia, Philippines, China, North Korea, Hong Kong, Sudan, Mauritania, Mali, Burkina Faso, Niger, Chad, Cape Verde, Senegal, Gambia, Guinea-Bissau, Guinea, Sierra Leone, Liberia, Côte-d'Ivoire, Ghana, Togo, Benin, Nigeria, Cameroun, Central African Republic, Equatorial Guinea, Sao Tome Principe, Gabon, Congo, Congo (Democratic Republic), Rwanda, Burundi, Saint Helena and dependencies, Angola, Ethiopia, Eritrea, Djibouti, Somalia, Uganda, Tanzania, Seychelles and dependencies, British Indian Ocean Territory, Mozambique, Mauritius, Comoros, Mayotte, Zambia, Malawi, South Africa, Lesotho.

(*) Including Kosovo, under the aegis of the United Nations, pursuant to UN Security Council Resolution 1244 of 10 June 1999.

(1) Entry under this subheading is subject to the submission of the certificate appearing in the Annex to Commission Regulation (EC) No 433/2007 (OJ L 104, 21.4.2007, p. 3).

(2) The refund is granted subject to compliance with the conditions laid down in amended Commission Regulation (EC) No 1359/2007 (OJ L 304, 22.11.2007, p. 21), and, if applicable, in Commission Regulation (EC) No 1741/2006 (OJ L 329, 25.11.2006, p. 7).

(3) Carried out in accordance with Commission Regulation (EC) No 1643/2006 (OJ L 308, 8.11.2006, p. 7).

(4) Carried out in accordance with Commission Regulation (EC) No 2051/96 (OJ L 274, 26.10.1996, p. 18).

(5) The refund is granted subject to compliance with the conditions laid down in Commission Regulation (EC) No 1731/2006 (OJ L 325, 24.11.2006, p. 12).

(6) The lean bovine meat content excluding fat is determined in accordance with the procedure described in the Annex to Commission Regulation (EEC) No 2429/86 (OJ L 210, 1.8.1986, p. 39).

The term 'average content' refers to the sample quantity as defined in Article 2(1) of Commission Regulation (EC) No 765/2002 (OJ L 117, 4.5.2002, p. 6). The sample is to be taken from that part of the consignment presenting the highest risk.

(7) Article 33(10) of Regulation (EC) No 1254/1999 provides that no export refunds shall be granted on products imported from third countries and re-exported to third countries.

COMMISSION REGULATION (EC) No 344/2008**of 17 April 2008****granting no export refund for butter in the framework of the standing invitation to tender provided for in Regulation (EC) No 581/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular the third subparagraph of Article 31(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 581/2004 of 26 March 2004 opening a standing invitation to tender for export refunds concerning certain types of butter ⁽²⁾ provides for a permanent tender.

(2) Pursuant to Article 5 of Commission Regulation (EC) No 580/2004 of 26 March 2004 establishing a tender

procedure concerning export refunds for certain milk products ⁽³⁾ and following an examination of the tenders submitted in response to the invitation to tender, it is appropriate not to grant any refund for the tendering period ending on 15 April 2008.

(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 permanent tender opened by Regulation (EC) No 581/2004, for the tendering period ending on 15 April 2008 no export refund shall be granted for the products and destinations referred to in Article 1(1) of that Regulation.

Article 2

This Regulation shall enter into force on 18 April 2008.

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

Done at Brussels, 17 April 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by the Council (EC) No 1152/2007 (OJ L 258, 4.10.2007, p. 3). Regulation (EEC) No 1255/1999 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 90, 27.3.2004, p. 64. Regulation as last amended by Regulation (EC) No 1543/2007 (OJ L 337, 21.12.2007, p. 62).

⁽³⁾ OJ L 90, 27.3.2004, p. 58. Regulation as last amended by Regulation (EC) No 128/2007 (OJ L 41, 13.2.2007, p. 6).

COMMISSION REGULATION (EC) No 345/2008**of 17 April 2008****laying down detailed rules for implementing the arrangements for imports from third countries provided for in Council Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs****(Recast)****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs ⁽¹⁾, and in particular Article 11(4) thereof,

Whereas:

- (1) Commission Regulation (EEC) No 94/92 of 14 January 1992 laying down detailed rules for implementing the arrangements for imports from third countries provided for in Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs ⁽²⁾ has been substantially amended several times ⁽³⁾. Since further amendments are to be made, it should be recast in the interests of clarity and rationality.
- (2) Regulation (EEC) No 2092/91 stipulates that products which are imported from a third country may be marketed where they originate in a third country applying production rules and inspection measures equivalent to those in the Community and appearing in a list to be drawn up by the Commission.
- (3) That list should be drawn up. Furthermore, detailed rules should be laid down for the procedure for examining an application by a third country with a view to its inclusion in the list.
- (4) For the operation of the regime for each third country, the bodies responsible for issuing the certificate of inspection referred to in Article 11(3)(d) of Regulation (EEC) No 2092/91 should be identified.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 14(1) of Regulation (EEC) No 2092/91,

HAS ADOPTED THIS REGULATION:

Article 1

The list of third countries referred to in Article 11(4) of Regulation (EEC) No 2092/91 is set out in Annex I to this Regulation.

This list gives all the information deemed necessary in respect of each third country to permit the identification of products covered by the rules laid down in Article 11(3) and (4) of Regulation (EEC) No 2092/91 and particularly:

- (a) the authority or the body or bodies responsible in the third country for issuing inspection certificates with a view to importing into the Community;
- (b) the inspection authority or authorities in the third country and/or the private bodies recognised by the said third country to carry out supervision.

Furthermore, where relevant, the list may state:

- the preparation units and exporters subject to the system of inspection,
- the products covered by the rules.

Article 2

1. The Commission shall consider whether to include a third country in the list in Annex I upon receipt of an application for inclusion from the representative of the third country concerned.

⁽¹⁾ OJ L 198, 22.7.1991, p. 1. Regulation as last amended by Commission Regulation (EC) No 123/2008 (OJ L 38, 12.2.2008, p. 3).

⁽²⁾ OJ L 11, 17.1.1992, p. 14. Regulation as last amended by Regulation (EC) No 956/2006 (OJ L 175, 29.6.2006, p. 41).

⁽³⁾ See Annex II.

2. Within a period of six months from its receipt, the application for inclusion shall be completed by a technical dossier, established in one of the official Community languages and comprising all the information needed for the Commission to ensure that the conditions set out in Article 11(3) of Regulation (EEC) No 2092/91 are met for products intended for export to the Community.

In particular, it shall comprise the following detailed information:

(a) the types and, if possible, an estimate of the quantities of agricultural products and foodstuffs intended for export to the Community under the rules set out in Article 11(3) and (4) of Regulation (EEC) No 2092/91;

(b) the rules of production applied in the third country, in particular:

(i) the basic principles as set out in Annex I to Regulation (EEC) No 2092/91;

(ii) the products authorised for use during the agricultural production stage, namely plant protection products, detergents, fertilisers or soil improvement products;

(iii) the ingredients of non-agricultural origin authorised in processed products, and the processes and treatments authorised during processing;

(c) the rules on the inspection system and the organisation of the implementation of this system in the third country:

(i) the name of any authority responsible for inspection in the third country and/or the private bodies in charge of carrying out inspections;

(ii) detailed rules for inspections on agricultural holdings and in preparation units, and the penalties which may be imposed in the event of infringements;

(iii) the name(s) and address(es) of the authority or the body or bodies responsible in the third country for issuing certificates for imports into the Community;

(iv) the information needed on the organisation of the monitoring of compliance with the rules governing production and the inspection system, including the issue of certificates; the name and the particulars of the authority responsible for the said monitoring;

(v) the list of processing units and exporters to the Community; the number of producers and the area in cultivation;

(d) if available, the on-the-spot examination reports established by independent experts on the effective implementation of the production rules and inspection rules referred to in (b) and (c).

3. When examining an application for inclusion the Commission may request any further information needed to establish that the rules governing production and inspection in the third country are equivalent to those laid down in Regulation (EEC) No 2092/91, including the presentation of on-the-spot examination reports established by experts whose independence was recognised by the Commission. Furthermore, where necessary, the Commission may proceed to an on-the-spot examination by experts designated by it.

4. The inclusion of a third country in the list in Annex I may be linked to the condition that regular on-the-spot examination reports established by independent experts be presented on the effective implementation of the production rules and inspection rules in the third country concerned. Moreover, where necessary, the Commission may organise an on-the-spot examination by experts designated by it.

5. If, after a third country has been included in the list in Annex I, any changes are made to the measures in force in the third country or their implementation, that third country shall notify the Commission thereof. In the light of such information, a decision may be taken to amend the details of inclusion relating to the third country in Annex I or to withdraw the entry of that country, in accordance with the procedure referred to in Article 14(2) of Regulation (EEC) No 2092/91; a similar decision may also be made where a third country has not supplied information required under this paragraph.

6. If, after a third country has been included in the list in Annex I, the Commission obtains information raising doubts as to the actual implementation of the measures described, it may ask the third country concerned for any information required, including the presentation of on-the-spot examination reports established by independent experts, or it may proceed to enable on-the-spot examination by experts designated by it. In the light of such information and/or reports, a decision may be made to suspend inclusion, in accordance with the procedure referred to in Article 14(2) of Regulation (EEC) No 2092/91; a similar decision may also be made in cases where a third country has not supplied the information requested by the final date specified in the Commission's request or where a third country has not agreed to an on-the-spot investigation to establish compliance with the conditions for inclusion.

Article 3

Regulation (EEC) No 94/92 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

Article 4

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

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

Done at Brussels, 17 April 2008.

For the Commission
The President
José Manuel BARROSO

ANNEX I

LIST OF THIRD COUNTRIES AND RELEVANT SPECIFICATIONS

ARGENTINA

1. **Product categories:**

(a) unprocessed crop products and livestock and unprocessed livestock products within the meaning of Article 1(1)(a) of Regulation (EEC) No 2092/91, with the exception of:

— livestock and livestock products, bearing or intended to bear indications referring to conversion;

(b) processed agricultural crop and livestock products intended for human consumption within the meaning of Article 1(1)(b) of Regulation (EEC) No 2092/91, with the exception of:

— livestock products bearing or intended to bear indications referring to conversion.

2. **Origin:** Products of category 1(a) and organically produced ingredients in products of category 1(b) that have been produced in Argentina.

3. **Inspection bodies:**

— Instituto Argentino para la Certificación y Promoción de Productos Agropecuarios Orgánicos SRL (Argencert),

— Organización Internacional Agropecuaria (OIA),

— Letis SA,

— Food Safety SA.

4. **Certificate issuing bodies:** as at point 3.

5. **Duration of the inclusion:** 30 June 2013.

AUSTRALIA

1. **Product categories:**

(a) unprocessed crop products within the meaning of Article 1(1)(a) of Regulation (EEC) No 2092/91,

(b) foodstuffs composed essentially of one or more ingredients of plant origin within the meaning of Article 1(1)(b) of Regulation (EEC) No 2092/91.

2. **Origin:** products of category 1(a) and organically grown ingredients in products of category 1(b) that have been grown in Australia.

3. **Inspection bodies:**

— Australian Quarantine and Inspection Service (AQIS) (Department of Agriculture, Fisheries and Forestry),

— Bio-dynamic Research Institute (BDRI),

— Organic Food Chain Pty Ltd (OFC),

— National Association of Sustainable Agriculture, Australia (NASAA),

— Australian Certified Organic Pty. Ltd.

4. **Certificate issuing bodies:** as at point 3.

5. **Duration of the inclusion:** 30 June 2013.

COSTA RICA

1. **Product categories:**

- (a) unprocessed crop products within the meaning of Article 1(1)(a) of Regulation (EEC) No 2092/91;
- (b) processed crop products intended for human consumption within the meaning of Article 1(1)(b) of Regulation (EEC) No 2092/91.

2. **Origin:**

Products of category 1(a) and organically produced ingredients in products of category 1(b) that have been produced in Costa Rica.

3. **Inspection bodies:** Eco-LOGICA and BCS Oko-Garantie.

4. **Certificate issuing bodies:** Ministerio de Agricultura y Ganadería.

5. **Duration of the inclusion:** 30 June 2011.

INDIA

1. **Product categories:**

- (a) unprocessed crop products within the meaning of Article 1(1)(a) of Regulation (EEC) No 2092/91;
- (b) foodstuffs composed essentially of one or more ingredients of plant origin within the meaning of Article 1(1)(b) of Regulation (EEC) No 2092/91.

2. **Origin:** products of category 1(a) and organically grown ingredients in products of category 1(b) that have been grown in India.

3. **Inspection bodies:**

- Bureau Veritas Certification India Pvt. Ltd,
- Ecocert SA (India Branch Office),
- IMO Control Private Limited,
- Indian Organic Certification Agency (Indocert),
- Lacon Quality Certification Pvt. Ltd,
- Natural Organic Certification Association,
- OneCert Asia Agri Certification private Limited,
- SGS India Pvt. Ltd,
- Control Union Certifications,
- Uttaranchal State Organic Certification Agency (USOCA),

- APOF Organic Certification Agency (AOCA),
- Rajasthan Organic Certification Agency (ROCA).

4. **Certificate issuing bodies:** as at point 3.

5. **Duration of the inclusion:** 30 June 2009.

ISRAEL

1. **Product categories:**

- (a) unprocessed crop products within the meaning of Article 1(1)(a) of Regulation (EEC) No 2092/91;
- (b) foodstuffs composed essentially of one or more ingredients of plant origin within the meaning of Article 1(1)(b) of Regulation (EEC) No 2092/91.

2. **Origin:** Products of category 1(a) and organically produced ingredients in products of category 1(b) that have been produced in Israel or that have been imported into Israel:

- either from the Community,
- or from a third country in the framework of a regime which is recognised as equivalent in accordance with the provisions of Article 11(4) of Regulation (EEC) No 2092/91.

3. **Inspection bodies:**

- Skal Israel Inspection & Certification,
- AGRIOR Ltd-Organic Inspection & Certification,
- IQC Institute of Quality & Control,
- Plant Protection and Inspection Services (PPIS) (Ministry of Agriculture and Rural Development).

4. **Certificate issuing bodies:** as at point 3.

5. **Duration of the inclusion:** 30 June 2013.

SWITZERLAND

1. **Product categories:**

- (a) unprocessed crop products and livestock and unprocessed livestock products within the meaning of Article 1(1)(a) of Regulation (EEC) No 2092/91, with the exception of:

- products, produced during the conversion period, as referred to in Article 5(5) of that Regulation;

- (b) processed agricultural crop and livestock products intended for human consumption within the meaning of Article 1(1)(b) of Regulation (EEC) No 2092/91, with the exception of:

- products, as referred to in Article 5(5) of that Regulation, containing an ingredient of agricultural origin produced during the conversion period.

2. **Origin:** Products of category 1(a) and organically produced ingredients in products of category 1(b) that have been produced in Switzerland or that have been imported into Switzerland:
- either from the Community,
 - or from a third country in the framework of a regime which is recognised as equivalent in accordance with the provisions of Article 11(4) of Regulation (EEC) No 2092/91,
 - or from a third country for which a Member State has recognised, in accordance with the provisions of Article 11(6) of Regulation (EEC) No 2092/91, that the same product has been produced and inspected in that country under the same arrangements as accepted by the Member State,
 - or from a third country whose production rules and inspection system have been recognised by Switzerland as being equivalent to those established under Swiss legislation.
3. **Inspection bodies:**
- Institut für Marktökologie (IMO),
 - bio.inspecta AG,
 - Schweizerische Vereinigung für Qualitäts- und Management-Systeme (SQS),
 - Bio Test Agro (BTA),
 - ProCert Safety AG.
4. **Certificate issuing bodies:** as at point 3.
5. **Duration of the inclusion:** 30 June 2013.

NEW ZEALAND

1. **Product categories:**

- (a) unprocessed agricultural crop products, livestock and unprocessed livestock products within the meaning of Article 1(1)(a) of Regulation (EEC) No 2092/91, with the exception of:
- livestock and livestock products bearing or intended to bear indications referring to conversion,
 - products from aquaculture;
- (b) processed agricultural crop and livestock products intended for human consumption within the meaning of Article 1(1)(b) of Regulation (EEC) No 2092/91, with the exception of:
- livestock products bearing or intended to bear indications referring to conversion,
 - products containing products from aquaculture.

2. **Origin:**

Products of category 1(a) and organically produced ingredients in products of category 1(b) that have been produced in New Zealand or that have been imported into New Zealand:

- either from the Community,

— or from a third country within the framework of a regime which is recognised as equivalent in accordance with the provisions of Article 11(4) of Regulation (EEC) No 2092/91,

— or from a third country whose rules of production and inspection system have been recognised as equivalent to the MAF Food Official Organic Assurance Programme on the basis of assurances and information provided by this country's competent authority in accordance with the provisions established by MAF and provided that only organically produced ingredients intended to be incorporated, up to a maximum of 5 % of products of agricultural origin, in products of category 1(b) prepared in New Zealand are imported.

3. Inspection bodies:

—ASUREQuality Ltd,

— BIO-GRO New Zealand.

4. Certificate issuing body: Ministry of Agriculture and Forestry (MAF) — New Zealand Food Safety Authority (NZFSA).

5. Duration of the inclusion: 30 June 2011.

ANNEX II

Repealed Regulation with list of its successive amendments

Commission Regulation (EEC) No 94/92 (OJ L 11, 17.1.1992, p. 14).	
Commission Regulation (EC) No 522/96 (OJ L 77, 27.3.1996, p. 10).	Article 1 only
Commission Regulation (EC) No 314/97 (OJ L 51, 21.2.1997, p. 34).	
Commission Regulation (EC) No 1367/98 (OJ L 185, 30.6.1998, p. 11).	
Commission Regulation (EC) No 548/2000 (OJ L 67, 15.3.2000, p. 12).	
Commission Regulation (EC) No 1566/2000 (OJ L 180, 19.7.2000, p. 17).	
Commission Regulation (EC) No 1616/2000 (OJ L 185, 25.7.2000, p. 62).	
Commission Regulation (EC) No 2426/2000 (OJ L 279, 1.11.2000, p. 19).	
Commission Regulation (EC) No 349/2001 (OJ L 52, 22.2.2001, p. 14).	
Commission Regulation (EC) No 2589/2001 (OJ L 345, 29.12.2001, p. 18).	
Commission Regulation (EC) No 1162/2002 (OJ L 170, 29.6.2002, p. 44).	
Commission Regulation (EC) No 2382/2002 (OJ L 358, 31.12.2002, p. 120).	
Commission Regulation (EC) No 545/2003 (OJ L 81, 28.3.2003, p. 10).	
Commission Regulation (EC) No 2144/2003 (OJ L 322, 9.12.2003, p. 3).	
Commission Regulation (EC) No 746/2004 (OJ L 122, 26.4.2004, p. 10).	Article 2 only
Commission Regulation (EC) No 956/2006 (OJ L 175, 29.6.2006, p. 41).	

ANNEX III

Correlation table

Regulation (EEC) No 94/92	This Regulation
Article 1, first paragraph	Article 1, first paragraph
Article 1, second paragraph, introductory wording	Article 1, second paragraph, introductory wording
Article 1, second paragraph, first indent	Article 1, second paragraph, point (a)
Article 1, second paragraph, second indent	Article 1, second paragraph, point (b)
Article 1, third paragraph	Article 1, third paragraph
Article 2(1)	Article 2(1)
Article 2(2), first sentence	Article 2(2), first subparagraph
Article 2(2), introductory words	Article 2(2), second subparagraph, introductory wording
Article 2(2)(a)	Article 2(2)(a)
Article 2(2)(b), introductory wording	Article 2(2)(b), introductory wording
Article 2(2)(b), first indent	Article 2(2)(b)(i)
Article 2(2)(b), second indent	Article 2(2)(b)(ii)
Article 2(2)(b), third indent	Article 2(2)(b)(iii)
Article 2(2)(c), introductory wording	Article 2(2)(c), introductory wording
Article 2(2)(c), first indent	Article 2(2)(c)(i)
Article 2(2)(c), second indent	Article 2(2)(c)(ii)
Article 2(2)(c), third indent	Article 2(2)(c)(iii)
Article 2(2)(c), fourth indent	Article 2(2)(c)(iv)
Article 2(2)(c), fifth indent	Article 2(2)(c)(v)
Article 2(2)(d)	Article 2(2)(d)
Article 2(3) to (6)	Article 2(3) to (6)
—	Article 3
Article 3	Article 4
Annex	Annex I
—	Annex II
—	Annex III

COMMISSION REGULATION (EC) No 346/2008**of 17 April 2008****fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽²⁾, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin ⁽³⁾, and in particular Article 3(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 ⁽⁴⁾, fixes detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.

- (2) It results from regular monitoring of the information providing the basis for the verification of the import prices in the poultrymeat and egg sectors and for egg albumin that the representative prices for imports of certain products should be amended taking into account variations of prices according to origin. Therefore, representative prices should be published.

- (3) It is necessary to apply this amendment as soon as possible, given the situation on the market.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is hereby replaced by the Annex hereto.

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, 17 April 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 49. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1). Regulation (EEC) No 2771/75 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 282, 1.11.1975, p. 77. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1).

⁽³⁾ OJ L 282, 1.11.1975, p. 104. Regulation as last amended by Commission Regulation (EC) No 2916/95 (OJ L 305, 19.12.1995, p. 49).

⁽⁴⁾ OJ L 145, 29.6.1995, p. 47. Regulation as last amended by Regulation (EC) No 267/2008 (OJ L 81, 20.3.2008, p. 30).

ANNEX

to the Commission Regulation of 17 April 2008 fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

‘ANNEX I

CN code	Description	Representative price (EUR/100 kg)	Security referred to in Article 3(3) (EUR/100 kg)	Origin ⁽¹⁾
0207 12 10	Chicken carcasses 70 % presented, frozen	112,2	0	02
0207 12 90	Chickens, plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as “65 % chickens”, or otherwise presented, frozen	125,0	0	01
		111,0	2	02
0207 14 10	Boneless cuts of fowl of the species Gallus domesticus, frozen	222,0	24	01
		242,0	17	02
		329,3	0	03
0207 14 50	Breasts of chicken, frozen	201,1	3	01
		289,0	0	02
0207 14 60	Legs and cuts of chicken, frozen	121,3	7	01
0207 25 10	Turkey carcasses, known as 80 % turkeys, frozen	181,1	0	01
0207 27 10	Boneless cuts of turkey, frozen	343,0	0	01
		439,8	0	03
0408 11 80	Dried egg yolks	442,5	0	02
0408 91 80	Dried eggs, not in shell	407,4	0	02
1602 32 11	Preparations of uncooked fowl of the species Gallus domesticus	233,2	16	01
3502 11 90	Dried eggs, albumin	560,1	0	02

⁽¹⁾ Origin of imports:

- 01 Brazil
- 02 Argentina
- 03 Chile.

COMMISSION REGULATION (EC) No 347/2008

of 17 April 2008

fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products⁽¹⁾, and in particular Article 31(3) thereof,

Whereas:

- (1) Article 31(1) of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1(a), (b), (c), (d), (e), and (g) of that Regulation and prices within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds⁽²⁾, specifies the products for which a rate of refund is to be fixed, to be applied where these products are exported in the form of goods listed in Annex II to Regulation (EC) No 1255/1999.
- (3) In accordance with the first paragraph of Article 14 of Regulation (EC) No 1043/2005, the rate of the refund per 100 kilograms for each of the basic products in question is to be fixed each month.
- (4) However, in the case of certain milk products exported in the form of goods not covered by Annex I to the Treaty, there is a danger that, if high refund rates are fixed in advance, the commitments entered into in relation to

those refunds may be jeopardised. In order to avert that danger, it is therefore necessary to take appropriate precautionary measures, but without precluding the conclusion of long-term contracts. The fixing of specific refund rates for the advance fixing of refunds in respect of those products should enable those two objectives to be met.

- (5) Article 15(2) of Regulation (EC) No 1043/2005 provides that, when the rate of the refund is being fixed, account is to be taken, where appropriate, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organisation of the market in the product in question to the basic products listed in Annex I to Regulation (EC) No 1043/2005 or to assimilated products.
- (6) Article 12(1) of Regulation (EC) No 1255/1999 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions.
- (7) Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/1999 as regards measures for the disposal of cream, butter and concentrated butter⁽³⁾, lays down that butter and cream at reduced prices should be made available to industries which manufacture certain goods.
- (8) 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

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Article 1 of Regulation (EC) No 1255/1999, and exported in the form of goods listed in Annex II to Regulation (EC) No 1255/1999, shall be fixed as set out in the Annex to this Regulation.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Council Regulation (EC) No 1152/2007 (OJ L 258, 4.10.2007, p. 3).

⁽²⁾ OJ L 172, 5.7.2005, p. 24. Regulation as last amended by Regulation (EC) No 246/2008 (OJ L 75, 18.3.2008, p. 64).

⁽³⁾ OJ L 308, 25.11.2005, p. 1. Regulation as last amended by Regulation (EC) No 1546/2007 (OJ L 337, 21.12.2007, p. 68).

Article 2

This Regulation shall enter into force on 18 April 2008.

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

Done at Brussels, 17 April 2008.

For the Commission

Heinz ZOUREK

Director-General Enterprise and Industry

ANNEX

Rates of the refunds applicable from 18 April 2008 to certain milk products exported in the form of goods not covered by Annex I to the Treaty ⁽¹⁾

(EUR/100 kg)

CN code	Description	Rate of refund	
		In case of advance fixing of refunds	Other
ex 0402 10 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2):		
	(a) on exportation of goods of CN code 3501	—	—
	(b) on exportation of other goods	0,00	0,00
ex 0402 21 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3):		
	(a) where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EC) No 1898/2005 are exported	0,00	0,00
	(b) on exportation of other goods	0,00	0,00
ex 0405 10	Butter, with a fat content by weight of 82 % (PG 6):		
	(a) where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EC) No 1898/2005 are exported	0,00	0,00
	(b) on exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	0,00	0,00
	(c) on exportation of other goods	0,00	0,00

⁽¹⁾ The rates set out in this Annex are not applicable to exports to

- (a) third countries: Andorra, the Holy See (Vatican City State), Liechtenstein, the United States of America and the goods listed in Tables I and II of Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation.
- (b) territories of EU Member States not forming part of the customs territory of the Community: Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, Heligoland, Greenland, the Faeroe Islands and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.
- (c) European territories for whose external relations a Member State is responsible and not forming part of the customs territory of the Community: Gibraltar.

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 11 December 2007

on State aid C 32/07 (ex N 389/06) temporary Defensive Mechanism to Shipbuilding — Portugal

(notified under document number C(2007) 6063)

(Only the Portuguese version is authentic)

(Text with EEA relevance)

(2008/315/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⁽¹⁾ and having regard to their comments,

Whereas:

I. PROCEDURE

(1) Portugal notified the measure on 20 June 2006. The Commission, by letter dated 6 July 2006, requested additional information from Portugal and proposed to extend the period within which the Commission would take a Decision on the notified measure, in conformity with Article 4(5) of Regulation (EC) No 659/1999⁽²⁾, until such time as the Commission would reach a Decision

on a previous similar notification by Portugal that was under assessment⁽³⁾. Portugal, by letter dated 25 July 2006, accepted this proposal.

(2) The Commission, by letter dated 11 May 2007, resumed the assessment of the notification and reminded Portugal that the notification was incomplete. Portugal provided additional information by letters dated 5 July 2007 and 26 July 2007.

(3) By letter dated 10 August 2007, 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.

(4) By letter dated 17 September 2007 the Portuguese authorities presented their comments in the context of the above-mentioned procedure.

(5) The Commission Decision to initiate the procedure was published in the *Official Journal of the European Union*⁽⁴⁾. The Commission called on interested parties to submit their comments. There were no comments from third parties.

⁽¹⁾ OJ C 221, 21.9.2007, p. 8.

⁽²⁾ Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, (OJ L 83, 27.3.1999, p. 1).

⁽³⁾ Case C 26/2006 (ex N 110/2006) on which the Commission took a final negative decision on 24 April 2007 (OJ L 219, 24.8.2007, p. 25).

⁽⁴⁾ See footnote 1 above.

II. DESCRIPTION OF THE AID MEASURE

- (6) The beneficiary of the aid would be Estaleiros Navais de Viana do Castelo S.A. ('ENVC') a Portuguese shipyard employing about 1 000 people.

- (7) Portugal proposes to grant ENVC direct aid amounting to EUR 6 575 558 in relation to seven shipbuilding contracts, signed between 4 February 2005 and 31 March 2005. The details concerning the contracts and the corresponding proposed aid are the following:

Multipurpose heavy lift vessel	Date of signature of the contract	Ship owner	Proposed State aid (EUR)
C 228	24.2.2005	JMS Schiffahrtsgesellschaft mbH & CO KG MS	1 212 766
C 229	24.2.2005	JMS Schiffahrtsgesellschaft mbH & CO KG MS	1 212 766
C 230	4.2.2005	MARE Schiffahrtsgesellschaft	1 212 766
C 231	4.2.2005	MARE Schiffahrtsgesellschaft	661 102
C 232	4.2.2005	MARE Schiffahrtsgesellschaft	630 328
C 233	4.2.2005	MARE Schiffahrtsgesellschaft	433 064
C 210	31.3.2005	Mutualista Açoreana	1 212 766

- (8) According to the information supplied in the notification, the request for aid in relation to all seven contracts was submitted by the shipyard in July 2005, i.e. **after** the signature of the contracts. Portugal authorized the aid, on condition of approval by the Commission, by decision of the Ministry of Finance, Public Administration, Economy and Innovation of 7 August 2006.

(the 'TDM-regulation'). The TDM-regulation entered into force on 3 July 2002 and expired on 31 March 2005. This Regulation was, thus, no longer in force at the time when Portugal approved and notified the aid.

- (9) The vessels were delivered, or are expected to be delivered, at the following dates:

- (11) Portugal argues that the contracts fall within the scope of application of the TDM-regulation because they were signed while this regulation was still in force.

Vessel	Delivery date
C 228	30 September 2007
C 229	30 December 2007
C 230	28 July 2006
C 231	30 October 2006
C 232	3 January 2007
C 233	24 April 2007
C 210	10 July 2007

III. GROUNDS FOR INITIATING THE FORMAL INVESTIGATION PROCEDURE

- (10) Portugal proposes to grant the aid on the basis of Council Regulation (EC) No 1177/2002 concerning a temporary defensive mechanism to shipbuilding⁽⁵⁾ as amended by Council Regulation (EC) No 502/2004⁽⁶⁾

- (12) The Commission, in its decision to initiate the formal investigation procedure in the present case, noted that it had doubts on the compatibility of the aid with the common market based on the TDM-regulation for the following reasons.

- (13) First, the Commission had doubts regarding the incentive effect of the aid. The Commission noted that the application for aid was only submitted after the contracts had been signed. Also Portugal only approved the aid internally (on condition of approval by the Commission) more than a year after the application for aid was submitted. Portugal had not provided evidence that at the time ENVC signed the contracts there were any assurances that the shipyard would obtain the aid. The Commission, therefore, had doubts that ENVC was induced in any way by State aid to carry out the projects concerned.

⁽⁵⁾ OJ L 172, 2.7.2002, p. 1.

⁽⁶⁾ OJ L 81, 19.3.2004, p. 6.

- (14) Second, the Commission questioned the legal basis for approving the aid. The Commission noted that the TDM-regulation expired on 31 March 2005 and was therefore no longer in force at the time Portugal approved and notified the aid. The Commission also noted that in its decision concerning Case C 26/2006 (ex N 110/2006) ⁽⁷⁾ it had explained in detail why it considers that the TDM-regulation can no longer be a valid legal basis for approving new operating aid to shipbuilding. Portugal, in the present case, had not submitted any new information that would modify the Commission's assessment in this respect and therefore the Commission could not consider at that stage that the aid was compatible with the common market.

IV. COMMENTS SUBMITTED BY PORTUGAL

- (15) Portugal noted, in general terms, that for the contracts in question the yard was mainly competing with non-Community shipyards, notably with regard to unfair competition from Korean shipyards which was the subject of the TDM regulation. Further, the contracts did not affect or threatened to affect competition in the EU because all shipyards in the EU had equal access to aid under the TDM regulation that had direct application in all Member States. As a consequence, the notified measures could not be considered to affect trade between Member States.
- (16) Regarding the incentive effect of the aid, Portugal argued that it was not materially possible for ENVC to submit a request for aid duly motivated, prior to signing the contracts, because of aspects linked to the negotiation. The contacts with the ship owners were initiated prior to ENVC requesting the aid. Also, Portugal sustains that, although ENVC signed the contracts without public assurances that it would receive the aid, the shipyard negotiated and signed the contracts and built the vessels on the expectation of both the Portuguese authorities and the Commission authorizing the aid, given that the objective conditions for receiving the aid were fulfilled in this case.
- (17) Concerning the legal basis for approving the aid Portugal referred to its comments submitted in the context of Case C 26/2006 ⁽⁸⁾ that it considers applicable to the present case. Portugal noted that the contracts in question were signed during the period of application of the TDM regulation, i.e. before 31 March 2005 and before the WTO Dispute Settlement Body adopted the panel report condemning the TDM-regulation. Portugal also stated that it was not possible to notify the aid

before the expiry of the TDM-regulation because the contracts were only signed in February and March 2005 (i.e. just before the expiry of the TDM-regulation). However, in Portugal's view this does not annul the validity of these contracts which fulfilled the objective conditions of the TDM-regulation at the time they were signed.

V. ASSESSMENT

Existence of aid

- (18) According to 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 shall, in so far as it affects trade between Member States, be incompatible with the common market.
- (19) The Commission considers that the proposed measures constitute State aid within the meaning of Article 87(1) of the EC Treaty. The measures take the form of a grant financed by State resources. Even if the TDM-regulation applied in all Member States, and all shipyards were eligible for aid under the TDM-regulation, as argued by Portugal, the measures are selective as in this case they are limited to ENVC. This selective grant is likely to distort competition, by providing ENVC with an advantage over other competitors not receiving the aid. In this respect, the fact that ENVC might be competing with shipyards in Korea does not detract from the fact that it was also competing with other shipyards in the common market. Finally, shipbuilding is an economic activity involving extensive trade between Member States and the measures are thus likely to affect trade between Member States.
- (20) The Commission thus confirms that the notified aid measure falls within the scope of Article 87(1) of the EC Treaty.

Compatibility with the common market

The incentive effect

- (21) As a general principle, State aid may only be considered compatible with the common market if it is necessary to induce the recipient firm to act in a manner which assists attainment of the objectives envisaged by the relevant derogation ⁽⁹⁾.

⁽⁷⁾ See footnote 3.

⁽⁸⁾ See footnote 3.

⁽⁹⁾ See judgment in Case 730/79 Philip Morris v Commission [1980] ECR 2671, paragraphs 16 and 17.

- (22) The Commission notes in this respect that the objective of the TDM-regulation was to 'effectively enable Community shipyards to overcome unfair competition from Korea' (see paragraph 6 of the preamble). Direct aid up to 6 % of contract value before aid could thus be authorized provided there had been competition for the same contract from a shipyard in Korea offering a lower price (Article 2).
- (23) Portugal argues in this case that even if ENVC had no assurances of receiving the aid when it signed the contracts, it had expectations of receiving the aid because the contracts fulfilled the objective conditions to be eligible for aid under the TDM-regulation.
- (24) However, the Commission considers that in this case there is not sufficient evidence that the aid was determinant for ENVC to sign the contracts.
- (25) As already noted in the decision to initiate the investigation procedure, Portugal submitted copy of a letter from a ship owner stating that for six of the contracts in question (vessels C 228 to C 233) the ship owner had received lower offers from Korean shipyards. However, this letter is dated 9 March 2005, i.e., it was only sent to ENVC after the shipyard had already signed the contracts relating to these offers. Thus, it appears that the shipyard, when it signed the first six contracts, could not have had the certitude that the contracts fulfilled all the eligibility conditions. As regards the seventh contract (vessel C 210) the situation also appears doubtful, since the indication that lower offers were received from Korea was also only sent to ENVC on 31 March 2005, i.e. the very same day when ENVC signed the contract.
- (26) Portugal has not submitted any evidence that, formally or informally, ENVC had received indication from the Portuguese authorities, prior to signing the contracts, that the aid could be granted in relation to these contracts⁽¹⁰⁾. Rather, it would appear that ENVC was prepared to undertake these contracts even without guarantees of receiving aid. For example, Portugal in its submission following the initiation of the investigation procedure also stated that ENVC was legally bound to build the vessels even if the aid would not be authorized. It adds that in the present case, ENVC only applied for

aid after the expiry of the TDM-regulation which appears to confirm that the shipyard was prepared to carry out the projects at the risk of not receiving aid.

- (27) Also, generally, the Commission considers that the aid has an incentive effect if an application for aid was submitted before the start of the project⁽¹¹⁾. This was not the case here. The application for aid was only submitted after the contracts had been signed (i.e. in July 2005, whereas the contracts were signed in February and March 2005). Also, Portugal only approved the aid internally (on condition of approval by the Commission) more than a year after the request for aid was presented. So, also from a formal point of view, the incentive effect is not fulfilled.
- (28) The Commission therefore concludes that Portugal has not submitted sufficient evidence to prove the incentive effect of the aid.

The legal basis

- (29) Regarding the legal basis for approving the aid, Portugal has not submitted any new arguments that would allay the doubts expressed by the Commission in its Decision to initiate the formal investigation procedure. Portugal's main argument in this respect is that the contracts are eligible for aid because they were signed during the period of application of the TDM-regulation. Portugal also notes that the fact that the aid was only notified after the expiry of the TDM-regulation has no impact on the eligibility of the contracts for aid.
- (30) However, the Commission, in a previous Decision⁽¹²⁾ has already explained why it does not consider that the TDM-regulation is still a valid legal basis for approving new operating aid to shipbuilding.
- (31) The Commission notes that the temporal application of the TDM-regulation is defined in Article 5⁽¹³⁾ of the regulation, which states the regulation 'shall expire on 31 March 2005'. The fact that Article 4 of the TDM-regulation states that this regulation 'shall be applied to final contracts signed from the entry into force of this Regulation until its expiry (...)' is, in the Commission's view, a condition of compatibility and not a definition of the application in time of the regulation.

⁽¹⁰⁾ See, by contrast, case C 26/06 (footnote 3). In this case the Commission concluded that the incentive effect was shown by a letter from the Portuguese authorities to the shipyard acknowledging receipt of the request for aid prior to the signature of the contracts and indicating willingness to grant the aid if the eligibility conditions were fulfilled. This type of evidence was not submitted with regard to the present case.

⁽¹¹⁾ See, by analogy, Article 38 of the Guidelines on National Regional Aid 2007-2013 (OJ C 54, 4.3.2006, p. 13): 'aid may only be granted (...) if the beneficiary has submitted an application for aid and the authority responsible for administering the scheme has subsequently confirmed in writing that subject to detailed verification, the project in principle meets the conditions of eligibility (...) before the start of the work on the project'.

⁽¹²⁾ Case C 26/2006 (ex N 110/2006) — footnote 3.

⁽¹³⁾ As modified by Council Regulation (EC) No 502/2004, see footnote 4 above.

- (32) The above is also confirmed by the second part of Article 4, which provides that the TDM-regulation **shall not apply** to 'final contracts signed **before** the Community gives notice in the Official Journal of the European Communities that it has initiated dispute settlement proceedings against Korea (...) and final contracts signed on month or more **after** the Commission gives notice in the Official Journal of the European Communities that these dispute settlement proceedings are resolved or suspended'.
- (33) From the above, it is clear that the TDM-regulation was only to be applied as long as there was a pending dispute with Korea⁽¹⁴⁾ and in any event, no later than 31 March 2005.
- (34) This interpretation is supported by the very objective of the TDM-regulation: it was designed 'as an exceptional and temporary measure, in order to assist Community shipyards in those segments that have suffered adverse effects in the form of material injury and serious prejudice caused by unfair Korean competition (...) [which] should be authorised for limited market segments and **for a short period only**'⁽¹⁵⁾ (recital 3).
- (35) In the present case, the application for aid was only submitted by ENVC to the Portuguese authorities, approved by Portugal and notified to the Commission **after** the expiry of the TDM-regulation, so clearly, the measures fall outside the temporal application of the TDM-regulation.
- (36) The Commission further notes that, as already explained in the decision to initiate the formal investigation procedure in the present case, the interpretation of the TDM-regulation must also be seen in the light of the Community's international obligations. According to the settled case law of the Court of Justice, Community legislation must, so far as possible be interpreted in a manner that is consistent with international law, including the EC's WTO obligations.⁽¹⁶⁾
- (37) In this context, the Commission recalls that Korea challenged the compatibility of the TDM-regulation with WTO rules. On 22 April 2005, a Panel issued its report concluding that the TDM and several national TDM schemes — existing at the time when Korea initiated the WTO dispute — were in breach of Article 23.1 of the Understanding on rules and procedures governing the settlement of disputes (DSU)⁽¹⁷⁾. On 20 June 2005, the WTO Dispute Settlement Body (DSB) adopted the Panel report including its recommendation that the Community brings the TDM-regulation and the national TDM schemes into conformity with its obligations under the WTO Agreements⁽¹⁸⁾. On 20 July 2005, the Community informed the DSB that it had already brought its measures into conformity with the DSB ruling and recommendations since the TDM-regulation had expired on 31 March 2005 and Member States could no longer grant operating aid under this regulation.
- (38) The Panel report and the DSB ruling adopting that report condemned the TDM-regulation *per se* for being in breach of WTO rules and oblige the Community to no longer apply the TDM-regulation. The obligation of the Community to implement the DSB ruling also covers future decisions to grant new aid in application of the TDM-regulation⁽¹⁹⁾. The Community, by informing the DSB that it had already brought its measures into conformity with the DSB ruling and recommendations, since the TDM-regulation had expired on 31 March 2005 and Member States could no longer grant operating aid under this regulation, took a commitment to no longer apply this regulation for allowing the granting of new aid. Accordingly, approving the present aid would result in a breach of the Community's international commitments.
- (39) The fact that the Council did not renew this Regulation following its expiry is a clear indication that the Council did not intend to continue to authorize the Commission to approve aid under the TDM-regulation. This corresponds with the fact that the Community informed the DSB that the Member States could no longer grant operating aid under this regulation.
- (40) There were no new arguments from Portugal to counter the Commission's views as expressed in the decision to initiate the formal investigation procedure and reiterated above.
- (41) The Commission, therefore, concludes that the notified aid cannot be approved under the TDM-regulation. Since no other exemption clause under Article 87(2) or (3) of the EC Treaty applies, the aid is thus incompatible with the common market,

⁽¹⁴⁾ Recital 7 confirms this assessment: 'the temporary defensive mechanism should only be authorised after the Community initiates dispute settlement proceedings against Korea (...) and may no longer be authorised if these dispute settlement proceedings are resolved or suspended (...)'.
⁽¹⁵⁾ Emphasis added.

⁽¹⁶⁾ Case C-53/96, *Hermes*, [1998] ECR I-3603, para. 28; Case C-76/00 P, *Petrotub*, [2003] ECR I-79, para. 57.

⁽¹⁷⁾ See EC — *Measures affecting trade in commercial vessels*, WT/DS301/R, paragraphs 7.184-7.222 & 8.1(d).

⁽¹⁸⁾ See WTO document WT/DS301/6.

⁽¹⁹⁾ See EC — *Measures affecting trade in commercial vessels*, WT/DS301/R, para. 7.21.

HAS ADOPTED THIS DECISION:

Article 2

Article 1

This Decision is addressed to Portugal.

The notified aid of EUR 6 575 558 proposed by Portugal to Estaleiros Navais de Viana do Castelo S.A. in relation to seven contracts signed by this shipyard cannot be authorized under Council Regulation (EC) No 1177/2002 concerning a temporary defensive mechanism to shipbuilding⁽²⁰⁾ as amended by Council Regulation (EC) No 502/2004⁽²¹⁾ and is therefore incompatible with the common market. The aid must not be implemented.

Done at Brussels, 11 December 2007.

For the Commission
Neelie KROES
Member of the Commission

⁽²⁰⁾ OJ L 172, 2.7.2002, p. 1.

⁽²¹⁾ OJ L 81, 19.3.2004, p. 6.

COMMISSION DECISION

of 31 March 2008

providing for the initiation of an investigation pursuant to Article 18(2) of Council Regulation (EC) No 980/2005 with respect to the protection of the freedom of association and the right to organise in El Salvador

(2008/316/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences ⁽¹⁾, and in particular Article 18(2) thereof,

After consulting the Generalised Preferences Committee,

Whereas:

- (1) The Commission has received information that the Supreme Court of El Salvador in its ruling of 28 October 2007 in the cases 63-2007 and 69-2007 declared certain provisions of the International Labour Organisation's Convention No 87 concerning Freedom of Association and Protection of the Right to Organise inconsistent with Article 47 of the Constitution of El Salvador.
- (2) Article 16(2) of Regulation (EC) No 980/2005 provides for the temporary withdrawal of the special incentive arrangement referred to in Section 2 of Chapter II of that Regulation, in particular if the national legislation no longer incorporates those conventions referred to in Annex III of the Regulation which have been ratified in fulfilment of the requirements of Article 9(1) and (2) or if that legislation is not effectively implemented.

- (3) The International Labour Organisation's Convention No 87 on Freedom of Association and Protection of the Right to Organise is listed in Annex III, Part A, point 14, of Regulation (EC) No 980/2005.

- (4) The Commission has carried out a preliminary examination of the ruling of the Supreme Court of El Salvador in the cases 63-2007 and 69-2007 and found that it is necessary to analyse the legal effects of that ruling further to determine whether they justify a temporary withdrawal of the special incentive arrangement. The Commission therefore considers that there are sufficient grounds for an investigation.

- (5) Consultations with the Generalised Preferences Committee were held on 3 March 2008,

HAS DECIDED AS FOLLOWS:

Sole Article

The Commission shall initiate an investigation in order to establish whether the national legislation of the Republic of El Salvador no longer incorporates the International Labour Organisation's Convention No 87 concerning Freedom of Association and Protection of the Right to Organise or whether that legislation is not effectively implemented.

Done at Brussels, 31 March 2008.

For the Commission
Peter MANDELSON
Member of the Commission

⁽¹⁾ OJ L 169, 30.6.2005, p. 1. Regulation as last amended by Regulation (EC) No 55/2008 (OJ L 20, 24.1.2008, p. 1).

COMMISSION DECISION

of 10 April 2008

concerning the non-inclusion of rotenone, extract from equisetum and chinin-hydrochlorid in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing these substances

(notified under document number C(2008) 1293)

(Text with EEA relevance)

(2008/317/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, 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 to 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 1112/2002 ⁽²⁾ and (EC) No 2229/2004 ⁽³⁾ lay down the detailed rules for the implementation of the fourth stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC.
- (3) Rotenone, extract from equisetum and chinin-hydrochlorid are substances designated in the fourth stage programme.
- (4) The sole notifiers for rotenone, extract of equisetum and chinin-hydrochlorid informed the Commission on 5 January 2007, 15 February 2007 and 20 June 2007 respectively, that they no longer wished to participate in the programme of work for these active substances, and therefore further information will not be submitted. As a consequence, these active substances should not be included in the Annex I to Directive 91/414/EEC.

- (5) For rotenone information has been presented and evaluated by the Commission together with Member States' experts which has shown a need for further use of the substances concerned. It is therefore justified in the present circumstances to extend for certain essential uses for which there are no efficient alternatives the period for the withdrawal of authorisations while providing for strict conditions aimed at minimising any possible risk.
- (6) For the active substances for which there is only a short period of advance notice for the withdrawal of plant protection products containing such substances, it is reasonable to provide for a period of grace for disposal, storage, placing on the market and use of existing stocks no longer than 12 months to allow existing stocks to be used in no more than one further growing season. In cases where a longer advance notice period is provided, such period can be shortened to expire at the end of the growing season.
- (7) This decision does not prejudice the submission of an application for these active substances according to the provisions of Article 6(2) of Directive 91/414/EEC in view of a possible inclusion in its Annex I.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

The active substances listed in Annex I to this Decision shall not be included as active substances in Annex I to Directive 91/414/EEC.

Article 2

Member States shall ensure that:

- (a) authorisations for plant protection products containing the active substances listed in Annex I are withdrawn by 10 October 2008;

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2008/45/EC (OJ L 94, 5.4.2008, p. 21).

⁽²⁾ OJ L 168, 27.6.2002, p. 14.

⁽³⁾ OJ L 379, 24.12.2004, p. 13. Regulation as last amended by Regulation (EC) No 1095/2007 (OJ L 246, 21.9.2007, p. 19).

(b) no authorisations for plant protection products containing these active substances are granted or renewed from the date of publication of this Decision.

Article 3

1. By way of derogation from Article 2, a Member State listed in column B of Annex II may maintain authorisations for plant protection products containing substances listed in column A of that Annex for the uses listed in column C of that Annex until 30 April 2011, provided that it complies with the following conditions:

- (a) it ensures that no harmful effects to human or animal health and no unacceptable influence to the environment are caused;
- (b) it ensures that such plant protection products remaining on the market are relabelled in order to match the restricted use conditions;
- (c) it imposes all appropriate risk mitigation measures to reduce any possible risks;
- (d) it ensures that alternatives for those uses are seriously sought.

2. Member States making use of the derogation provided for in paragraph 1, shall inform the Commission about the

measures taken under paragraph 1, and, in particular, under points (a) to (d), by 31 December of each year.

Article 4

Any period of grace granted by Member States in accordance with Article 4(6) of Directive 91/414/EEC shall be as short as possible.

For authorisations which are withdrawn in accordance with Article 2, that period shall expire on 10 October 2009 at the latest.

For authorisations which are withdrawn in accordance with Article 3, it shall expire on 31 October 2011 at the latest.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 10 April 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX I

List of active substances which are not included as active substances in Annex I to Directive 91/414/EEC

Rotenone
 Extract of equisetum
 Chinin hydrochloride

ANNEX II

List of authorisations referred to in Article 3(1)

Column A	Column B	Column C
Active substance	Member State	Use
Rotenone	France	Apple, pear, peach, cherry, grapevine and potato. Limited to professional users with appropriate protective equipment.
Rotenone	Italy	Apple, pear, peach, cherry, grapevine and potato. Limited to professional users with appropriate protective equipment.
Rotenone	United Kingdom	Apple, pear, peach, cherry, ornamentals and potato. Limited to professional users with appropriate protective equipment.