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### Legislation

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## I

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

## REGULATIONS

**COMMISSION REGULATION (EC) No 525/2008****of 12 June 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 <sup>(1)</sup>, 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 13 June 2008.

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

Done at Brussels, 12 June 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

**to Commission Regulation of 12 June 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	MA	71,0
	MK	36,7
	TR	75,8
	ZZ	61,2
0707 00 05	JO	151,2
	MK	23,0
	TR	98,9
	ZZ	91,0
0709 90 70	TR	99,8
	ZZ	99,8
0805 50 10	AR	110,6
	EG	150,8
	TR	129,5
	US	132,0
	ZA	121,2
	ZZ	128,8
0808 10 80	AR	106,5
	BR	97,9
	CL	94,9
	CN	91,5
	MK	63,0
	NZ	108,8
	US	118,9
	UY	80,4
	ZA	81,2
	ZZ	93,7
0809 10 00	TR	209,9
	US	317,3
	ZZ	263,6
0809 20 95	TR	462,1
	US	378,7
	ZZ	420,4
0809 30 10, 0809 30 90	EG	195,5
	US	200,1
	ZZ	197,8

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

**COMMISSION REGULATION (EC) No 526/2008****of 12 June 2008****amending the representative prices and additional duties for the import of certain products in the sugar sector fixed by Regulation (EC) No 1109/2007 for the 2007/08 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector <sup>(2)</sup>, and in particular of the Article 36,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2007/08 marketing year are fixed by Commission Regulation (EC) No 1109/2007 <sup>(3)</sup>. These prices and duties have been last amended by Commission Regulation (EC) No 512/2008 <sup>(4)</sup>.

- (2) The data currently available to the Commission indicate that the said amounts should be changed in accordance with the rules and procedures laid down in Regulation (EC) No 951/2006,

HAS ADOPTED THIS REGULATION:

*Article 1*

The representative prices and additional duties on imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 1109/2007 for the 2007/08 marketing year are hereby amended as set out in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 13 June 2008.

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

Done at Brussels, 12 June 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Regulation (EC) No 1260/2007 (OJ L 283, 27.10.2007, p. 1). Regulation (EC) No 318/2006 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 October 2008.

<sup>(2)</sup> OJ L 178, 1.7.2006, p. 24. Regulation as last amended by Regulation (EC) No 1568/2007 (OJ L 340, 22.12.2007, p. 62).

<sup>(3)</sup> OJ L 253, 28.9.2007, p. 5.

<sup>(4)</sup> OJ L 150, 10.6.2008, p. 3.

## ANNEX

**Amended representative prices and additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 95 applicable from 13 June 2008**

(EUR)

CN code	Representative price per 100 kg of the product concerned	Additional duty per 100 kg of the product concerned
1701 11 10 <sup>(1)</sup>	19,90	6,35
1701 11 90 <sup>(1)</sup>	19,90	12,02
1701 12 10 <sup>(1)</sup>	19,90	6,16
1701 12 90 <sup>(1)</sup>	19,90	11,50
1701 91 00 <sup>(2)</sup>	21,75	15,18
1701 99 10 <sup>(2)</sup>	21,75	9,84
1701 99 90 <sup>(2)</sup>	21,75	9,84
1702 90 95 <sup>(3)</sup>	0,22	0,42

<sup>(1)</sup> Fixed for the standard quality defined in Annex LIII to Council Regulation (EC) No 318/2006 (OJ L 58, 28.2.2006, p. 1).

<sup>(2)</sup> Fixed for the standard quality defined in Annex LII to Regulation (EC) No 318/2006.

<sup>(3)</sup> Fixed per 1 % sucrose content.

**COMMISSION REGULATION (EC) No 527/2008****of 12 June 2008****fixing the export refunds on white and raw sugar exported without further processing**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the market in the sugar sector<sup>(1)</sup>, and in particular the second subparagraph of Article 33(2) thereof,

Whereas:

(1) Article 32 of Regulation (EC) No 318/2006 provides that the difference between prices on the world market for the products listed in Article 1(1)(b) of that Regulation and prices for those products on the Community market may be covered by an export refund.

(2) Given the present situation on the sugar market, export refunds should therefore be fixed in accordance with the rules and certain criteria provided for in Articles 32 and 33 of Regulation (EC) No 318/2006.

(3) The first subparagraph of Article 33(2) of Regulation (EC) No 318/2006 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 comply with the requirements of Regulation (EC) No 318/2006.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Export refunds as provided for in Article 32 of Regulation (EC) No 318/2006 shall be granted on the products and for the amounts set out in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 13 June 2008.

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

Done at Brussels, 12 June 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 1260/2007 (OJ L 283, 27.10.2007, p. 1). Regulation (EC) No 318/2006 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 October 2008.

## ANNEX

**Export refunds on white and raw sugar exported without further processing applicable from 13 June 2008**

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	25,16 <sup>(1)</sup>
1701 11 90 9910	S00	EUR/100 kg	25,16 <sup>(1)</sup>
1701 12 90 9100	S00	EUR/100 kg	25,16 <sup>(1)</sup>
1701 12 90 9910	S00	EUR/100 kg	25,16 <sup>(1)</sup>
1701 91 00 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,2735
1701 99 10 9100	S00	EUR/100 kg	27,35
1701 99 10 9910	S00	EUR/100 kg	27,35
1701 99 10 9950	S00	EUR/100 kg	27,35
1701 99 90 9100	S00	EUR/1 % sucrose × 100 kg of net product	0,2735

NB: The destinations are defined as follows:

S00 — All destinations with the exception of:

- (a) third countries: Andorra, Liechtenstein, the Holy See (Vatican City State), Croatia, Bosnia-Herzegovina, Serbia (\*), Montenegro, Albania and the former Yugoslav Republic of Macedonia;
- (b) territories of the EU Member States not forming part of the customs territory of the Community: the Faeroe Islands, Greenland, Heligoland, Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, 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.

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

<sup>(1)</sup> This amount is applicable to raw sugar with a yield of 92 %. Where the yield for exported raw sugar differs from 92 % the refund amount applicable shall be multiplied, for each exporting operation concerned, by a conversion factor obtained by dividing by 92 the yield of the raw sugar exported, calculated in accordance with paragraph 3 of Point III of the Annex I of Regulation (EC) No 318/2006.



**COMMISSION REGULATION (EC) No 528/2008****of 12 June 2008****fixing the maximum export refund for white sugar in the framework of the standing invitation to tender provided for in Regulation (EC) No 900/2007**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector<sup>(1)</sup>, and in particular the second subparagraph and point (b) of the third subparagraph of Article 33(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 900/2007 of 27 July 2007 on a standing invitation to tender to determine refunds on exports of white sugar for the 2007/08 marketing year<sup>(2)</sup> requires the issuing of partial invitations to tender.
- (2) Pursuant to Article 8(1) of Regulation (EC) No 900/2007 and following an examination of the tenders submitted

in response to the partial invitation to tender ending on 12 June 2008, it is appropriate to fix a maximum export refund for that partial invitation to tender.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the partial invitation to tender ending on 12 June 2008, the maximum export refund for the product referred to in Article 1(1) of Regulation (EC) No 900/2007 shall be 32,350 EUR/100 kg.

*Article 2*

This Regulation shall enter into force on 13 June 2008.

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

Done at Brussels, 12 June 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 1260/2007 (OJ L 283, 27.10.2007, p. 1). Regulation (EC) No 318/2006 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 October 2008.

<sup>(2)</sup> OJ L 196, 28.7.2007, p. 26. Regulation as last amended by Commission Regulation (EC) No 148/2008 by Commission Regulation (OJ L 46, 21.2.2008, p. 9).

**COMMISSION REGULATION (EC) No 529/2008****of 12 June 2008****establishing that no award shall be made in the framework of the standing invitation to tender of white sugar provided for in Regulation (EC) No 1060/2007**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector<sup>(1)</sup>, and in particular the second subparagraph and point (b) of the third subparagraph of Article 33(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1060/2007 of 14 September 2007 opening a standing invitation to tender for the resale for export of sugar held by the intervention agencies of Belgium, the Czech Republic, Spain, Ireland, Italy, Hungary, Poland, Slovakia and Sweden<sup>(2)</sup> requires the issuing of partial invitations to tender.

- (2) Pursuant to Article 4(1) of Regulation (EC) No 1060/2007 and following an examination of the tenders submitted in response to the partial invitation to tender ending on 11 June 2008, it is appropriate to decide that no award shall be made for that partial invitation to tender.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the partial invitation to tender ending on 11 June 2008, for the product referred to in Article 1(1) of Regulation (EC) No 1060/2007, no award shall be made.

*Article 2*

This Regulation shall enter into force on 13 June 2008.

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

Done at Brussels, 12 June 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 1260/2007 (OJ L 283, 27.10.2007, p. 1). Regulation (EC) No 318/2006 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 October 2008.

<sup>(2)</sup> OJ L 242, 15.9.2007, p. 8. Regulation as last amended by Regulation (EC) No 148/2008 (OJ L 46, 21.2.2008, p. 9).

**COMMISSION REGULATION (EC) No 530/2008****of 12 June 2008****establishing emergency measures as regards purse seiners fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45 °W, and in the Mediterranean Sea**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy <sup>(1)</sup>, and in particular Article 7(1) thereof,

Whereas:

(1) Council Regulation (EC) No 40/2008 of 16 January 2008, fixing for 2008 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required <sup>(2)</sup> fixes the amount of bluefin tuna which may be fished in 2008 in the Atlantic Ocean, east of longitude 45 °W, and the Mediterranean Sea by Community fishing vessels.

(2) Commission Regulation (EC) No 446/2008 of 22 May 2008 adapting certain bluefin quotas in 2008 pursuant to Article 21(4) of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the Common Fisheries Policy <sup>(3)</sup>, modifies the amount of bluefin tuna which may be fished in 2008 in the Atlantic Ocean, east of longitude 45 °W, and the Mediterranean Sea by Community fishing vessels.

(3) Council Regulation (EC) No 1559/2007 of 17 December 2007 establishing a multiannual recovery plan for bluefin tuna in the Eastern Atlantic and Mediterranean and amending Regulation (EC) No 520/2007 <sup>(4)</sup> requires Member States to inform the Commission of the individual quota allocated to their vessels over 24 metres.

(4) The Common Fisheries Policy is designed to ensure the long-term viability of the fisheries sector through sustainable exploitation of living aquatic resources based on the precautionary approach.

(5) In accordance with Article 7 of Regulation (EC) No 2371/2002, if there is evidence of a serious threat to the conservation of living aquatic resources, the Commission may decide on emergency measures which shall last not more than six months.

(6) The data in its possession, as well as the information obtained by the Commission inspectors during their missions in the Member States concerned, show that the fishing opportunities for bluefin tuna in the Atlantic Ocean, east of longitude 45 °W, and the Mediterranean Sea allocated to purse seiners flying the flag of or registered in Greece, France, Italy, Cyprus and Malta will be deemed to be exhausted on 16 June 2008 and that the fishing opportunities for the same stock allocated to purse seiners flying the flag of or registered in Spain will be deemed to be exhausted on 23 June 2008.

(7) Fleet overcapacity has been considered by the Scientific Committee of the International Commission for the Conservation of Atlantic Tunas (ICCAT) as the main factor which could lead to the collapse of the stock of Eastern Atlantic and Mediterranean bluefin tuna. Fleet overcapacity carries with it a high risk of fishing above the permissible level. Furthermore, the daily catch capacity of one single purse seiner is so high that the permissible catch level can be attained or exceeded very quickly. In these circumstances, any overfishing by this fleet would pose a serious threat to the conservation of the bluefin tuna stock.

(8) The Commission has been monitoring closely compliance with all requirements of relevant Community rules by Member States during the 2008 bluefin tuna fishing campaign. The information in its possession, as well as the information obtained by Commission inspectors, shows that the Member States concerned have not ensured full compliance with the requirements established in Regulation (EC) No 1559/2007.

<sup>(1)</sup> OJ L 358, 31.12.2002, p. 59. Regulation as amended by Regulation (EC) No 865/2007 (OJ L 192, 24.7.2007, p. 1).

<sup>(2)</sup> OJ L 19, 23.1.2008, p. 1.

<sup>(3)</sup> OJ L 134, 23.5.2008, p. 11.

<sup>(4)</sup> OJ L 340, 22.12.2007, p. 8.

- (9) It is therefore necessary that the Commission prohibits as from 16 June 2008 the fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45 °W and the Mediterranean Sea by purse seiners flying the flag of or registered in Greece, France, Italy, Cyprus and Malta, and as from 23 June 2008 the fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45 °W and in the Mediterranean Sea by purse seiners flying the flag of or registered in Spain.
- (10) In order to reinforce the effectiveness of these measures designed to forestall a serious threat to the conservation of the bluefin tuna stock, Community operators should also be enjoined not to accept landings, placing in cages for fattening or farming and transhipments of bluefin tuna caught by purse seiners in the Atlantic Ocean, east of longitude 45 °W, and the Mediterranean,

HAS ADOPTED THIS REGULATION:

*Article 1*

Fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45 °W, and the Mediterranean by purse seiners flying the flag of or registered in Greece, France, Italy, Cyprus and Malta shall be prohibited as from 16 June 2008.

It shall also be prohibited to retain on board, place in cages for fattening or farming, tranship, transfer or land such stock caught by those vessels as from that date.

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

Done at Brussels, 12 June 2008.

*Article 2*

Fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45 °W, and the Mediterranean by purse seines flying the flag of or registered in Spain shall be prohibited as from 23 June 2008.

It shall also be prohibited to retain on board, place in cages for fattening or farming, tranship, transfer or land such stock caught by those vessels as from that date.

*Article 3*

1. Subject to paragraph 2, as from 16 June 2008, Community operators shall not accept landings, placing in cages for fattening or farming, or transhipments in Community waters or ports of bluefin tuna caught in the Atlantic Ocean, east of longitude 45 °W, and the Mediterranean Sea by purse seiners.

2. It shall be allowed to land, place in cages for fattening or farming and to tranship in Community waters or ports of bluefin tuna caught in the Atlantic Ocean, east of longitude 45 °W, and the Mediterranean Sea by purse seiners flying the flag of, or registered in Spain until 23 June 2008.

*Article 4*

**Entry into force**

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

It shall apply for six months.

*For the Commission*

Joe BORG

*Member of the Commission*

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**COMMISSION REGULATION (EC) No 531/2008****of 12 June 2008****fixing the export refunds on syrups and certain other sugar products exported without further processing**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the market in the sugar sector<sup>(1)</sup>, and in particular the second subparagraph of Article 33(2) thereof,

Whereas:

- (1) Article 32 of Regulation (EC) No 318/2006 provides that the difference between prices on the world market for the products listed in Article 1(1)(c), (d) and (g) of that Regulation and prices for those products on the Community market may be covered by an export refund.
- (2) Given the present situation on the sugar market, export refunds should therefore be fixed in accordance with the rules and certain criteria provided for in Articles 32 and 33 of Regulation (EC) No 318/2006.
- (3) The first subparagraph of Article 33(2) of Regulation (EC) No 318/2006 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 comply with the requirements of Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed

rules for the implementation of Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector<sup>(2)</sup>.

- (5) Export refunds may be set to cover the competitive gap between Community and third country's exports. Community exports to certain close destinations and to third countries granting Community products a preferential import treatment are currently in a particular favourable competitive position. Therefore, refunds for exports to those destinations should be abolished.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. Export refunds as provided for in Article 32 of Regulation (EC) No 318/2006 shall be granted on the products and for the amounts set out in the Annex to this Regulation subject to the conditions provided for in paragraph 2 of this Article.
2. To be eligible for a refund under paragraph 1 products must meet the relevant requirements laid down in Articles 3 and 4 of Regulation (EC) No 951/2006.

*Article 2*

This Regulation shall enter into force on 13 June 2008.

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

Done at Brussels, 12 June 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 1260/2007 (OJ L 283, 27.10.2007, p. 1). Regulation (EC) No 318/2006 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 October 2008.

<sup>(2)</sup> OJ L 178, 1.7.2006, p. 24. Regulation as last amended by Regulation (EC) No 1568/2007 (OJ L 340, 22.12.2007, p. 62).

## ANNEX

**Export refunds on syrups and certain other sugar products exported without further processing applicable from 13 June 2008**

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	S00	EUR/100 kg dry matter	27,35
1702 60 10 9000	S00	EUR/100 kg dry matter	27,35
1702 60 95 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,2735
1702 90 30 9000	S00	EUR/100 kg dry matter	27,35
1702 90 71 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,2735
1702 90 95 9100	S00	EUR/1 % sucrose × 100 kg of net product	0,2735
1702 90 95 9900	S00	EUR/1 % sucrose × 100 kg of net product	0,2735 <sup>(1)</sup>
2106 90 30 9000	S00	EUR/100 kg dry matter	27,35
2106 90 59 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,2735

NB: The destinations are defined as follows:

S00 — All destinations with the exception of:

- (a) third countries: Andorra, Liechtenstein, the Holy See (Vatican City State), Croatia, Bosnia-Herzegovina, Serbia (\*), Montenegro, Albania and the former Yugoslav Republic of Macedonia;
- (b) territories of the EU Member States not forming part of the customs territory of the Community: the Faeroe Islands, Greenland, Heligoland, Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, 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.

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

(<sup>1</sup>) The basic amount is not applicable to the product defined under point 2 of the Annex to Commission Regulation (EEC) No 3513/92 (OJ L 355, 5.12.1992, p. 12).

**COMMISSION REGULATION (EC) No 532/2008****of 12 June 2008****amending the rates of refunds applicable to certain products from the sugar sector 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 318/2006 of 20 February 2006 on the common organisation of the market in the sugar sector<sup>(1)</sup>, and in particular Article 33(2)(a) and (4) thereof,

Whereas:

- (1) The rates of the refunds applicable from 30 May 2008 to the products listed in the Annex, exported in the form of goods not covered by Annex I to the Treaty, were fixed by Commission Regulation (EC) No 478/2008<sup>(2)</sup>.

- (2) It follows from applying the rules and criteria contained in Regulation (EC) No 478/2008 to the information at present available to the Commission that the export refunds at present applicable should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The rates of refund fixed by Regulation (EC) No 478/2008 are hereby altered as shown in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 13 June 2008.

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

Done at Brussels, 12 June 2008.

*For the Commission*

Heinz ZOUREK

*Director-General Enterprise and Industry*

<sup>(1)</sup> OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Regulation (EC) No 1260/2007 (OJ L 283, 27.10.2007, p. 1). Regulation (EC) No 318/2006 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 October 2008.

<sup>(2)</sup> OJ L 140, 30.5.2008, p. 17.

## ANNEX

**Rates of refunds applicable from 13 June 2008 to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty <sup>(1)</sup>**

CN code	Description	Rate of refund in EUR/100 kg	
		In case of advance fixing of refunds	Other
1701 99 10	White sugar	27,35	27,35

<sup>(1)</sup> The rates set out in this Annex are not applicable to exports to Albania, Croatia, Bosnia and Herzegovina, Serbia, Montenegro, Kosovo, the former Yugoslav Republic of Macedonia, Andorra, Gibraltar, Ceuta, Melilla, Holy See (Vatican City State), Liechtenstein, 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 and to 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.



## II

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

## DECISIONS

## COUNCIL AND COMMISSION

## COUNCIL AND COMMISSION DECISION

of 14 May 2008

**on the conclusion of the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union**

(2008/438/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION AND THE COMMISSION  
OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with the second sentence of the first subparagraph of Article 300(2) and the second subparagraph of Article 300(3) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the Act of Accession of Bulgaria and Romania, and in particular Article 6(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament <sup>(1)</sup>,

Having regard to the Council's approval pursuant to Article 101 of the Treaty establishing the European Atomic Energy Community,

Whereas:

(1) The Protocol to the Stabilisation and Association Agreement between the European Communities and

their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union, has been signed on behalf of the European Community and the Member States on 18 February 2008 in accordance with Council Decision 2008/273/EC <sup>(2)</sup>.

(2) Pending its entry into force the Protocol has been applied on a provisional basis as from the date of accession.

(3) The Protocol should be concluded,

HAVE DECIDED AS FOLLOWS:

*Article 1*

The Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union is hereby approved on behalf of the European Community, the European Atomic Energy Community and the Member States.

The text of the Protocol is annexed to this Decision <sup>(3)</sup>.

<sup>(1)</sup> Assent of 23 April 2008 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 99, 10.4.2008, p. 1.

<sup>(3)</sup> OJ L 99, 10.4.2008, p. 2.

*Article 2*

The President of the Council shall, on behalf of the European Community and its Member States, deposit the instruments of approval provided for in Article 11 of the Protocol. The President of the Commission shall simultaneously deposit the instrument of approval on behalf of the European Atomic Energy Community.

Done at Brussels, 14 May 2008.

*For the Council*

*The President*

A. BAJUK

*For the Commission*

*The President*

José Manuel BARROSO

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# COUNCIL

## COUNCIL DECISION

of 9 June 2008

### amending Decision 2004/162/EC concerning dock dues in the French overseas departments

(Only the French text is authentic)

(2008/439/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2004/162/EC of 10 February 2004 concerning the dock dues in the French overseas departments and extending the period of validity of Decision 89/688/EEC <sup>(1)</sup>, and in particular Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Decision 2004/162/EC authorises the French authorities to apply exemptions or reductions to dock dues for products manufactured locally in the French overseas departments and listed in its Annex. Depending on the products and on the overseas department in question the maximum permitted tax differential is 10, 20 or 30 percentage points.
- (2) That Decision provides for the updating of the lists of products in the Annex thereto because of the emergence of new production in the French overseas departments and of the taking of urgent measures if local production is threatened by certain commercial practices.
- (3) The French authorities have submitted a request to the Commission to update the lists of products eligible for differential taxation through the addition of new products. For each of the products involved, the French authorities' request has been examined in the light of the conditions set by Decision 2004/162/EC. These new products result from production activities that emerged in French Guyana only subsequent to the French authorities' request dated 14 March 2003 which gave rise to Decision 2004/162/EC. It was not, therefore, possible to include these products in the list of products set out in

the Annex to that Decision. One of the two alternative conditions set out in Article 3 of that Decision is therefore satisfied.

- (4) The handicap suffered by these new products in comparison with imported products, because of the higher costs of production born by the (often very small) businesses with production activities in French Guyana should therefore be examined. These higher costs are caused, *inter alia*, by the remoteness, the difficult climate and the small scale of the local market. Remoteness results in high transport costs and, due to delivery times, forces businesses to maintain bigger stocks of raw materials and spare parts to repair the machines used in manufacturing. Similarly, a consequence of the small scale of the local market is that often the production facilities are on a larger scale than is needed for the quantities produced. The French authorities have put a figure on the handicap suffered by each category of products manufactured locally on the basis of the factors relevant to each of them.
- (5) In October 2003 a new business was set up and started production of yogurt and other dairy products such as curd cheese (heading 0403 including subheadings 0403 10 and 0403 90 according to the classification of the Common Customs Tariff nomenclature). However, only production of yogurt (heading 0403 10 according to the classification of the Common Customs Tariff nomenclature) was envisaged at the time of the initial request, which was prior to the beginning of production activity. It transpires that the activity conducted by the business also includes products under heading 0403 90. According to the information submitted by the French authorities, the cost price of the products in question produced locally is more than 20 % higher than that of the similar products imported from elsewhere. In order to compensate for the handicap suffered by this new local production, heading 0403 90 should, in respect of French Guyana, be included in part B of the Annex to Decision 2004/162/EC, which sets out the list of local products eligible for a tax differential of 20 percentage points in comparison to products not produced in French overseas departments.

<sup>(1)</sup> OJ L 52, 21.2.2004, p. 64.

- (6) In September 2005 a business started a coffee roasting activity. Alongside this, an agricultural activity producing raw coffee is in the process of being set up. This activity is to supply the raw material to the coffee roasting business. Eventually, these activities, taken as a whole, are expected to satisfy some of the demand for coffee in French Guyana. According to the information submitted by the French authorities, the cost price of coffee roasted locally is more than 20 % higher than that of imported roasted coffee. In order to compensate for the handicap suffered by this new local production, roasted coffee (heading 0901 21 according to the classification of the Common Customs Tariff nomenclature) should, in respect of French Guyana, be included in part B of the Annex to Decision 2004/162/EC, which sets out the list of local products eligible for a tax differential of 20 percentage points in comparison to products not produced in French overseas departments.
- (7) At the beginning of 2006 a business started an activity manufacturing chocolate and cocoa-derived products (headings 1801, 1802, 1803, 1805 and 1806 according to the classification of the Common Customs Tariff nomenclature). Alongside this, an agricultural activity producing cocoa is in the process of being set up. Eventually, taken as a whole, these activities are expected to satisfy some of the demand for chocolate in French Guyana. According to the information submitted by the French authorities, the cost price of chocolate and cocoa-derived products produced locally is more than 20 % higher than that of similar products imported from elsewhere. In order to compensate for the handicap suffered by this new local production, headings 1801, 1802, 1803, 1805 and 1806 should, in respect of French Guyana, be included in part B of the Annex to Decision 2004/162/EC, which sets out the list of local products eligible for a tax differential of 20 percentage points in comparison to products not produced in French overseas departments.
- (8) In September 2005 a business was set up that developed an activity manufacturing cassava chips, banana chips and roasted peanuts (headings 2008 11 and 2008 99 according to the classification of the Common Customs Tariff nomenclature). According to the information submitted by the French authorities, the cost price of the products in question produced locally is more than 20 % higher than that of similar products imported from elsewhere. In order to compensate for the handicap suffered by this new local production, headings 2008 11 and 2008 99 should, in respect of French Guyana, be included in part B of the Annex to Decision 2004/162/EC, which sets out the list of local products eligible for a tax differential of 20 percentage points in comparison to products not produced in French overseas departments.
- (9) A beer brewing company, set up in 2006, started producing beer in 2007 (heading 2203 according to the classification of the Common Customs Tariff nomenclature). According to the information submitted by the French authorities, the cost price of beer produced locally is more than 30 % higher than that of imported beer. In order to compensate for the handicap suffered by this new local production, heading 2203 should, in respect of French Guyana, be included in part C of the Annex to Decision 2004/162/EC, which sets out the list of local products eligible for a tax differential of 30 percentage points in comparison to products not produced in French overseas departments.
- (10) In 2005 a Guianese business started an activity involving the recovery of rice husk residues for use in the manufacture of a product similar to peat (fuel, litter). This new activity would not be economically viable unless peat produced outside French Guyana (heading 2703 according to the classification of the Common Customs Tariff nomenclature) were subject to differential taxation in French Guyana. According to the information submitted by the French authorities, although this is a product made from agricultural waste, the processing costs are such that it cannot compete with peat imported into French Guyana, even if transport costs are taken into account. According to the French authorities, the production costs of this product are considerably higher than those for peat due to the very small size of the Guianese business that has developed it (six employees) and the quasi-craft industry nature of this activity, whereas peat is produced industrially in Europe. Moreover there is no local peat production in Guyana. Even taking into account the transport costs of peat imported from Europe, the cost price of the product made from rice husks remains more than 20 % higher than that of imported peat. Without special measures, the activity carried out by this Guianese business would not, therefore, be economically viable, hence the need to restore its competitiveness. In order to compensate for the handicap suffered by this new local production competing with peat, heading 2703 should, in respect of French Guyana, be included in part B of the Annex to Decision 2004/162/EC, which sets out the list of local products eligible for a tax differential of 20 percentage points in comparison to products not produced in the French overseas departments. Although it is limited to peat, this differential will make it possible to maintain the activity related to the production of the new local fuel, which will be taxed at the rate to which peat produced locally would be subject if such production existed.

- (11) In 2005 a Guianese business started production of foam mattresses and polystyrene products (headings 3921 11 and 9404 21 according to the classification of the Common Customs Tariff nomenclature). According to the information submitted by the French authorities, the cost price of the locally produced products in question is more than 20 % higher than that of similar products imported from elsewhere. In order to compensate for the handicap suffered by this new local production, headings 3921 11 and 9404 21 should, in respect of French Guyana, be included in part B of the Annex to Decision 2004/162/EC, which sets out the list of local products eligible for a tax differential of 20 percentage points in comparison to products not produced in French overseas departments.
- (12) In 2005, a Guianese business started production of PVC shower cubicles (heading 3922 10 according to the classification of the Common Customs Tariff nomenclature). According to the information submitted by the French authorities, the cost price of shower cubicles produced locally is more than 20 % higher than that of similar products imported from elsewhere. In order to compensate for the handicap suffered by this new local production, heading 3922 10 should, in respect of French Guyana, be included in part B of the Annex to Decision 2004/162/EC, which sets out the list of local products eligible for a tax differential of 20 percentage points in comparison to products not produced in French overseas departments.
- (13) In 2007 a Guianese business started production of zinc and copper gutters (headings 7411, 7412, 7419 91, 7907 00 10 and 7907 00 90 according to the classification

of the Common Customs Tariff nomenclature). According to the information submitted by the French authorities, the price of the products in question produced locally is more than 20 % higher than that of similar products imported from elsewhere. In order to compensate for the handicap suffered by this new local production, headings 7411, 7412, 7419 91, 7907 00 10 and 7907 00 90 should, in respect of French Guyana, be included in part B of the Annex to Decision 2004/162/EC, which sets out the list of local products eligible for a tax differential of 20 percentage points in comparison to products not produced in French overseas departments,

HAS ADOPTED THIS DECISION:

*Article 1*

The Annex to Decision 2004/162/EC is hereby amended in accordance with the Annex to this Decision.

*Article 2*

This Decision is addressed to the French Republic.

Done at Luxembourg, 9 June 2008.

*For the Council*  
*The President*  
M. COTMAN

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ANNEX

The Annex to Decision 2004/162/EC is hereby amended as follows:

1. in part B, point 2, the following products shall be inserted:

'0403 90, 0901 21, 1801, 1802, 1803, 1805, 1806, 2008 11, 2008 99, 2703, 3921 11, 3922 10, 7411, 7412, 7419 91, 7907 00 10, 7907 00 90 and 9404 21'.

2. in part C, point 2, the following products shall be inserted:

'2203'.

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# COMMISSION

## COMMISSION DECISION

of 28 November 2007

**concerning the WRAP Printing and Writing Paper Scheme notified by the United Kingdom —  
(registered under document number C 45/05)**

(notified under document number C(2007) 5421)

(Only the English version is authentic)

(Text with EEA relevance)

(2008/440/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Agreement on the European Economic Area, and in particular Article 62.1(a) thereof,

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

Whereas:

### 1. PROCEDURE

- (1) By letter of 22 July 2005, registered in the Commission on 26 July 2005 under number A/6948, the United Kingdom notified to the Commission a scheme for increasing the manufacturing capacity of printing and writings (hereinafter 'P & W') paper from recycled fibre under the Waste and Resources Action Programme (WRAP). The notification was registered under number N 364/05. The Commission asked further information by letter dated 9 September 2005, registered under number D/56952. The United Kingdom replied by letter dated 28 October 2005, and registered on 7 November 2005 under number A/38954.

- (2) On 7 December 2005 the Commission decided to open the procedure laid down in Article 88(2) of the EC Treaty. On 24 January 2006 the United Kingdom sent its observations in reply to the decision to open proceedings. The Commission received comments on 10 and 14 February 2006 from M-Real, a manufacturer of recycled P & W paper with production locations in the United Kingdom and from the Confederation of Paper Industry (hereinafter 'CPI'), the United Kingdom association representing the paper industry. The United Kingdom responded to the comments from the third parties on 3 May 2006. On 19 March 2007 the Commission asked for further information to the United Kingdom. The United Kingdom responded on 11 May 2007. On 14 July 2007, the authorities of the United Kingdom met with representatives of the Commission. The United Kingdom provided further information on 21 August 2007, 10 and 14 September 2007.

### 2. DESCRIPTION OF THE MEASURE

*Granting authority*

- (3) WRAP is a company established by the Government of the United Kingdom in partnership with other shareholders to promote sustainable waste management, and more specifically to promote efficient markets for recycled materials and products. Its central objective is to enable recycled markets to function more effectively by stimulating demand for recycled materials and products, thereby improving the economics of collection. Although WRAP functions as an adjunct to the Government and implements government policies, it has the form of a private company. WRAP's shareholders comprise several representatives of the industries with some interests in waste management, among them the Confederation of Paper Industries and the Chartered Institute of Waste Management, charities such as Wastewatch, and representatives of the devolved and British governments.

<sup>(1)</sup> OJ C 9, 14.1.2006, p. 6.



*Objectives*

- (4) The objective of the notified scheme is to increase collection and recycling of printing and writing (P & W) paper from offices and businesses by increasing recycling capacity under the obligation to collect additional waste paper. The United Kingdom expects that the increased recycling capacity, linked to the legal obligation by the beneficiary of the aid to use new additional collections, will lead to a net increase in additional collections of P & W waste paper. The definition of printing and writing paper used by the United Kingdom authorities includes the following types of wood-free papers: paper for printed publications, copier/printer paper and magazine papers. The United Kingdom has excluded other types of wood-free paper such as tissue paper and all types of wood-containing paper from the tender. Currently, most of the paper produced by businesses and offices is not collected and sorted for recycling, due in particular to technical difficulties, low costs of landfill, and price volatility. The 2006 statistics from the Confederation of Paper Industries have shown that collections of P & W paper in the United Kingdom are around 10 % <sup>(1)</sup>.

*The tender*

- (5) WRAP intends to address the objectives by offering grants to paper manufacturers to increase P & W paper reprocessing capacity that utilises mainly waste paper from offices and businesses as its raw material input. The budget for this measure is between GBP 6 million and GBP 20 million, (approximately between EUR 8,6 million and EUR 28,6 million). The budget will cover the period until 31 March 2011. Between two and ten paper producers are expected to benefit from the aid. The aid is financed through the general budget of the Department for Environment, Food and Rural Affairs (DEFRA).

- (6) The notified aid is to be granted following a competitive tender process, inspired by EC public procurement procedures. The following conditions are particularly relevant.

*Waste paper sourcing*

- (7) Successful bidders will be those whose collections are predominantly from offices and business and are of P & W waste paper. Accordingly, the tender invitation

document will state that 'the raw material source is to be, as a minimum, and in order of priority:

- raw materials from offices or non-residential/non-household sources not previously collected for recycling,
- raw materials from municipal sources not previously collected for recycling,
- existing collections.'

Moreover, at least 50 % of the waste paper used must come from offices and businesses and, similarly, at least 50 % of the waste paper used must come from new collections of raw materials not previously collected for recycling.

- (8) By prioritising collections from offices or businesses above the rest of the sources in the tender, the United Kingdom authorities expect that it will be highly probable that a bid that includes a high proportion of household waste paper or existing collections, rather than wood free P & W waste paper from offices and/or businesses, will not succeed.

*Aid intensity and eligible cost*

- (9) While the final intensity of the aid granted to each beneficiary will result from the tender, the maximum intensities for large enterprises and for SMEs is 30 % and 40 % respectively. These intensities can be increased by 5 % if the beneficiary is based in an Article 87(3)(c) assisted region or by 10 % if the beneficiary is based in an Article 87(3)(a) assisted region.
- (10) In cases when the entire investment would not have been made in the absence of aid, and a part or all of that investment goes beyond state of the art, the United Kingdom will take an appropriate comparator. Eligible costs will be calculated net of the benefits accruing from any increase in capacity, cost savings engendered during the first five years of the life of the investment and additional ancillary production during that five-year period.

<sup>(1)</sup> <http://www.paper.org.uk/info/reports/fact2006colour0707.pdf>

- (11) In case the aid concerns, for example an investment in a new P & W production plant, in accordance with the Community guidelines on State aid for environmental protection, hereinafter 'the environmental guidelines' <sup>(1)</sup>, the eligible costs would consist of the investment costs of the new plant, minus the costs of a comparable conventional P & W plant. If, instead, the project only concerns an additional de-inking unit to existing de-inking units, or intended to build conventional new production capacity but agreed to add an extra de-inking unit to comply with the criteria of the scheme, then the extra investment costs necessary to meet the environmental objectives would be simply the costs of these additional de-inking units.
- (12) The United Kingdom authorities have committed themselves to sending a report to the Commission every year. This report will contain a description, for each beneficiary, of the comparator used to deduct from the eligible costs the technically comparable reference investment that does not provide the same degree of environmental protection, in line with the principle referred to in point 37 of the environmental guidelines.
- (13) The United Kingdom will only subsidise investments for the production of P & W paper from waste wood-free P & W paper when the investment goes beyond the state of the art. This means that the projects should involve new technology in their facilities and processes, whose trialling or demonstration will assist in solving the main technical barrier for recycling P & W paper, namely the de-inking of wood-free waste paper. A highly effective de-inking process is crucial, as consumers of P & W paper request a bright, clean and white paper to print. The United Kingdom has submitted that the office papers are printed with the following printing processes:
- (14) There is, however, a very significant (and rapidly growing) volume of these printing processes, which currently cannot be de-inked in an efficient and environmentally sound manner <sup>(2)</sup>. The inks involved include in particular water-based inks, including all ink jets, much of solid toner inks and all of first generation liquid toner inks. In addition, inks consisting of particles of a size between 10 µm and 100 µm can, in principle be de-inked, but the efficiency of this process deteriorates significantly towards the lower, and upper, end of this spectrum <sup>(3)</sup>. Recent research has shown that the presence of as little as 10 % of pigment-based black inkjet inks in a mixture of recovered papers spoils the de-inkability of the whole mixture such that it is no longer suitable for producing P & W paper <sup>(4)</sup>.
- (15) Existing paper producers from P & W waste paper, such as M-Real, rely on specialised niche sources of P & W waste paper, such as commercial printers, which provide a reliable and consistent quality furnish, using inks which are for the most part relatively easy to de-ink. The mixed waste from offices that is being targeted by the tender will contain a significant proportion of inkjet and toner inks that pose unresolved technological de-inking problems <sup>(5)</sup>.

*The investment must go 'beyond the state of the art'*

- (13) The United Kingdom will only subsidise investments for the production of P & W paper from waste wood-free P & W paper when the investment goes beyond the state of the art. This means that the projects should involve new technology in their facilities and processes, whose trialling or demonstration will assist in solving the main technical barrier for recycling P & W paper, namely the de-inking of wood-free waste paper. A highly effective de-inking process is crucial, as consumers of P & W paper request a bright, clean and white paper to print. The United Kingdom has submitted that the office papers are printed with the following printing processes:
- (16) In addition to the purely technical aspects, any successful bidder will need to demonstrate that it intends to use technology and/or processes which go beyond technology which has already been developed and which is in use today, i.e. which is 'economically profitable and therefore normal practice'.

*Notification of large individual aid amounts*

- (17) The authorities of the United Kingdom have undertaken, in accordance with paragraph 76 of the environmental guidelines, to notify to the Commission any individual case of investment aid granted under the Scheme where the eligible costs exceed EUR 25 million and where the aid exceeds the gross grant equivalent of EUR 5 million, and that it shall not grant such aid before the Commission has authorised it.

*Printing processes for office papers (\*)*

Office paper	Printing process
Copier papers; computer printout	Xerography (laser print) mostly monochrome Ink-jet particularly for colour
Letter, business forms, etc.	Offset headset Sheet-fed offset Xerography Ink-jet

(\*) Carré B & Magin. Seventh Research Forum on Recycling, 2004.

<sup>(1)</sup> OJ C 37, 3.2.2001, p. 3.

<sup>(2)</sup> 'Assessment of the changing print market and its potential consequences for the de-inking sector'. Pira International. <http://www.piranet.com/>

<sup>(3)</sup> 'Digital prints: a survey of the various de-inkability behaviours'. B-Carré, L. Magnin & C Ayala. Centre Technique du Papier Grenoble.

<sup>(4)</sup> European Round Table 'De-inking of Digital Prints'. Munich, 31.1.2007. Axel Fischer, INGEDE.

<sup>(5)</sup> See, for example, documents drafted by the International Association of the De-inking Industry (INGEDE). Many of them are available at <http://www.ingede.com/ingindex/publications.html>



*Appropriate measures*

- (18) The United Kingdom authorities have undertaken to adapt the scheme to the new environmental guidelines when they enter into force and to inform the Commission of the appropriate measures taken to adapt the scheme.

**3. REASONS TO INITIATE THE PROCEDURE OF ARTICLE 88(2)**

- (19) In its Decision to initiate the procedure of Article 88(2), of the Treaty, the Commission expressed the following doubts as regards the compatibility of the scheme.
- (20) The Commission had doubts concerning the justification used by the United Kingdom authorities that the current low utilisation of recycled content in the production of P & W papers in the Community was enough to state that manufacturing P & W paper using recycle fibre goes beyond the current 'state of the art' in the Community.
- (21) The Commission had doubts that an increase in paper manufacturing capacity in the United Kingdom was needed to increase the waste paper collection demand.
- (22) The Commission had doubts that the measure was targeted to maximise the environmental benefits, as P & W waste paper could be used to manufacture many other products.
- (23) The Commission had doubts in relation to the method of calculation of the eligible costs proposed by the United Kingdom. The method initially proposed by the authorities of the United Kingdom was based on the premise that where the market would not give rise to the investment in question, the relevant eligible costs would be all the costs of the investments. Therefore, the costs of a reference investment which creates the same capacity, but which does not provide the same environmental benefits, would not be subtracted. The Commission considered that without taking into account of such reference investment the costs calculation would be disproportionate and not in line with point 37 of the environmental guidelines.
- (24) Finally, the Commission had doubts that the measure proposed by the United Kingdom was the least distortive instrument available to address the problem at stake.

**4. COMMENTS FROM THIRD PARTIES**

- (25) Both M-Real and the CPI held that the scheme proposed by the United Kingdom was going beyond the state of the art, without however, specifying this in detail. The CPI also advocated the environmental benefit of the measure and argued that no distortion of competition would be expected from the scheme.

**5. COMMENTS FROM THE UNITED KINGDOM**

- (26) Following the opening of the procedure, the United Kingdom gave further commitments on the implementation of the notified scheme (see section 2) and provided further information and arguments to address the doubts the Commission originally identified. The United Kingdom provided, scientific and statistical information concerning the state of the art of recycling P & W paper.
- (27) As regards the environmental benefits, the United Kingdom held that using P & W waste paper for new P & W paper is more efficient than using it for tissue paper or fuel for the production of energy. In addition, the current infrastructure and existing uses for waste P & W paper would not suffice to absorb the current quantities of waste P & W paper being produced. It is expected that this problem will increase in the future as consumption of P & W waste paper increases, and consequently the amount of P & W waste paper being produced also increases. Therefore, the United Kingdom believes that by creating new uses for P & W waste paper, it will reduce the amount of P & W waste paper going to the landfill sites or to less efficient uses of the waste, such as fuel.
- (28) The United Kingdom submitted that reasons for the fundamental market failure lies in the lack of sustainable uses for the growing surplus of P & W waste paper and that this is the main reason for proposing the scheme. Encouraging recycling capacity directly is therefore the best way to address the market failure and to achieve the environmental benefits.

**6. ASSESSMENT OF THE MEASURE****6.1. Existence of aid under Article 87(1) EC Treaty**

- (29) Under Article 87(1) 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, insofar as it affects trade between Member States, be incompatible with the common market.'

- (30) In this case, the measure will be funded by resources granted by the State under the WRAP programme. The aid will be granted to individual beneficiaries. The competitive selection procedures may ensure that the amount of the subsidy is limited to the minimum, but does not take away the aid character of the measure. The measure distorts or threatens to distort competition, as it may cover a significant part of investment costs, which would allow the beneficiary to charge a lower price for the P & W paper it produces. The measure will affect the market for new paper, but also the market for waste paper, which is valuable commodity in demand by the paper industry. The measure is likely to affect trade between Member States, since both new paper and waste paper are traded internationally. A large amount of the United Kingdom paper consumption is imported mainly from other Member States and the United Kingdom is among the biggest exporters of waste paper <sup>(1)</sup>.
- (31) Therefore, the scheme qualifies as State aid under Article 87(1) of the EC Treaty.
- (32) By notifying to the Commission the current scheme, the United Kingdom has fulfilled with the obligation of Article 88(3) of the EC Treaty.
- (33) Although the aid is granted with a view to environmental protection, it does not fall within the scope of the environmental guidelines. Point 29 of the environmental aid guidelines does not apply to aid for investments in recycling paper capacity even if this increases the recycling rate of P & W paper. This point applies to aid that encourages the beneficiary to reduce its own pollution. It does not apply to aid that encourages the beneficiary to reduce the pollution generated by the activities of other undertakings. The environmental aid guidelines are based on the general principle of 'the polluter pays', and every interpretation of the guidelines should strictly comply with this underlying principle. This interpretation is confirmed by point 18(b) of the environmental aid guidelines, which states that aid 'may act as an incentive to firms to improve on standards or to undertake further investment designed to reduce pollution from their plants' and as such it has been applied by the Commission in other cases of investments increasing recycling paper capacity.
- (34) The scheme may increase the capacity to produce P & W paper, which would lead to an increase of quantities of waste paper that would only be partially recycled. In any case, only part of the waste paper used to manufacture P & W paper will be paper sold by each beneficiary itself. Consequently, the Commission considers that increasing the recycling rate of paper is unlikely to reduce the beneficiaries' own pollution. It is more likely that the environmental benefits may derive from indirect effects on supply and demand for waste paper that affect all users and providers of waste paper concerned, not only the beneficiary.
- (35) Other interpretation of the guidelines might result in Member States subsidising large investments, with high intensities, in all those sectors where used products can be used as materials for production or where such use is the general practice in that sector. Moreover, following such interpretation, the rules could be circumvented by granting aid not to the polluters, that under Community law would not be obliged to take care of the other company's pollution, but to the companies taking care of the pollution.
- (36) However, as explained later, it is possible that part(s) of the selected investment projects will be eligible for environmental aid for other reasons.

#### 6.2. Compatibility of the investment aid for increasing the recycling rate of paper under the environmental aid guidelines

- (33) Although the aid is granted with a view to environmental protection, it does not fall within the scope of the environmental guidelines. Point 29 of the environmental aid guidelines does not apply to aid for investments in recycling paper capacity even if this increases the recycling rate of P & W paper. This point applies to aid that encourages the beneficiary to reduce its own pollution. It does not apply to aid that encourages the beneficiary to reduce the pollution generated by the activities of other undertakings. The environmental aid guidelines are based on the general principle of 'the polluter pays', and every interpretation of the guidelines should strictly comply with this underlying principle. This interpretation is confirmed by point 18(b) of the environmental aid guidelines, which states that aid 'may act as an incentive to firms to improve on standards or to undertake further investment designed to reduce pollution from their plants' and as such it has been applied by the Commission in other cases of investments increasing recycling paper capacity.

#### 6.3. Compatibility of the investment aid for increasing the recycling rate of paper under the regional guidelines and other provisions of the Treaty

- (37) The United Kingdom has not provided any information that could allow approving the scheme under the Guidelines on National Regional Aid for 2007-2013 <sup>(2)</sup>.
- (38) Although complemented with the regional intensity bonuses of the environmental guidelines, the scheme was notified exclusively as environmental aid. Therefore, the Commission takes into account the regional intensity bonuses of the scheme, but it cannot consider that the scheme as such is compatible with the Guidelines on national regional aid. Nevertheless, in relation to regional aid a different analysis would be possible when the Commission assesses the individual notifications and receives information about the beneficiaries.

<sup>(1)</sup> CEPI, Special Recycling 2004 Statistics, page 5, available at <http://www.cepi.org/files/Sp%20Rec%202005-135002A.pdf>

<sup>(2)</sup> OJ C 54, 4.3.2006, p. 13.

(39) The Commission considers that other rules based on Article 87(3)(c) are not applicable, and that other exemptions set out in Article 87(2) and (3) of the EC Treaty are not applicable to the scheme.

#### 6.4. Compatibility of aid directly on the basis of Article 87(3)(c)

(40) As the environmental guidelines are not applicable, the case has to be assessed directly on the basis of Article 87(3)(c). In fact, the Commission has done so in the past, notably on two occasions for a recycling scheme administered by WRAP<sup>(1)</sup> and two other cases in the paper industry<sup>(2)</sup>.

(41) For investment aid where the beneficiaries will reduce the waste generated by other undertakings (in particular waste management and recycling), the Commission has consistently applied the following criteria, which are additional to the conditions for investment aid set out in the environmental aid guidelines:

(a) the aid does not indirectly relieve the polluters from a burden that should be borne by them under Community law, or from a burden that should be considered as normal company costs for the polluters;

(b) the investment goes beyond the 'state of the art' or uses conventional technologies in an innovative friendly manner;

(c) the treated materials would otherwise be disposed of, or be treated in a less environmentally friendly manner; and

(d) the investment does not merely increase demand for the materials to be recycled without increasing collection of those materials.

(a) *The investment does not indirectly relieve polluters from a burden under EU law*

(42) Although there are Community objectives as regards recycling of waste paper imposed by Council Directive 99/31/EC of 26 April 1999 on the landfill of waste<sup>(3)</sup>, there is no obligation under EU law for the paper mills to collect or recycle the paper that they have sold. In

addition, there is no obligation under EU law for the offices and other users in the private sector of P & W paper to ensure the collection and recycling of the paper they use. Therefore, the Commission takes the view that the scheme proposed by the United Kingdom does not relieve the beneficiaries or the suppliers of the waste paper from any burden under EU law.

(b) *The investment goes beyond the 'state of the art' or uses conventional technologies in an innovative friendly manner*

(43) In the Commission's recent practice, 'state of the art' has been interpreted as a process in which the use of a waste product to manufacture an end product is economically profitable normal practice. Where appropriate, the concept of 'state of the art' should be interpreted from a European technological and common market perspective.

(44) In general, using waste paper to manufacture paper is a profitable and growing activity<sup>(4)</sup>. In past cases, the Commission has considered that, for certain types of paper, the use of waste paper should not be considered to go beyond the state of the art in the Community<sup>(5)</sup>.

(45) However, the scheme presented by the United Kingdom is limited to increasing capacity to manufacture P & W paper from P & W waste paper. The statistics commented by the United Kingdom show that the recycling rate of P & W waste paper in the EU are exceptionally low in relation to the rest of the grades of paper. More importantly, there are technological barriers that impede the manufacturing of P & W paper from P & W waste paper, in particular the difficulty to de-ink some of the inks used to print P & W paper. In addition, as the United Kingdom will ensure, the aid will not be granted in relation to technology which has already been developed and which is in use today, that is to say technology is economically profitable and therefore normal practice.

(46) Therefore, the Commission accepts that eligible investment under the scheme as described above, for de-inking P & W waste paper, goes beyond the current state of the art in the Community. The Commission will, however, have to assess the compliance with this criterion in more detail if the United Kingdom notifies large individual grants under the scheme pursuant to its commitment referred to in point 16 above.

<sup>(1)</sup> OJ L 102, 7.4.2004, p. 59, and N 412/05.

<sup>(2)</sup> OJ L 314, 28.11.2003, p. 26, and OJ L 53, 26.2.2005, p. 66 respectively. The criteria used in these cases are also commented upon in the Annual Competition Report of 2004.

<sup>(3)</sup> OJ L 182, 16.7.1999, p. 1.

<sup>(4)</sup> CEPI, Special Recycling 2004 Statistics, p. 5, available at <http://www.cepi.org/files/Sp%20Rec%202005-135002A.pdf>. See, also, the Commission's Decisions in *Hamburger AG* (C 72/2001), 9 April 2002, OJ L 296, 20.10.2002, p. 50, and *Kartogroup* (N 184/2000), 18 July 2001, OJ C 5, 8.1.2002, p. 2.

<sup>(5)</sup> C 73/2003 *Stora Enso Langerbrugge*, OJ L 53, 26.2.2005, p. 66. In this case, the Commission concluded that a plant manufacturing newsprint paper from 100 % rate of waste newsprint paper was part of the state of the art in the EU.

(c) *The treated materials would otherwise be disposed of, or be treated in a less environmentally friendly manner and (d) the investment does not merely increase demand for the materials to be recycled without increasing collection of those materials*

- (47) As the United Kingdom impose appropriate conditions as regards the minimum proportion of waste paper that otherwise would not be collected and otherwise would be disposed of in landfill, the Commission is assured that the scheme will bring a substantial and real environmental benefit. Secondary effects from the development of new technologies and increased demand for P & W waste paper may further increase the environmental benefits of the scheme.
- (48) In any event, the aid does not merely influence who will use the paper, but will effectively increase the collections of such paper.
- (49) The condition of a minimum 50 % of feedstock not previously collected for recycling is important to reduce the potential distortion of competition in relation to competitors that also use P & W waste paper, such as tissue paper manufacturers and sellers of recycled pulp.
- (50) The Commission will have to look in more detail at the potential distortion of competition and the environmental benefits of the individual cases that may be notified by the United Kingdom, pursuant to its commitment described in point 17, in order to assess the level of collections from offices and businesses, the level of additional new collections and the collections from SMEs.

#### Aid intensities

- (51) The notified aid intensities are in accordance with points 34 and 35 of the environmental guidelines.

#### Eligible costs

- (52) In past cases dealing with increasing recycling capacity of paper the Commission made a parallel with the environmental guidelines<sup>(1)</sup>. Point 37 of the environmental guidelines establishes that eligible costs must be confined strictly to the extra investment costs necessary to meet the environmental objectives. As described in points 9 to 11 above, the United Kingdom has committed to respect this point. The Commission notes

that aid may concern widely different situations such as investments in new paper production capacity whether or not the installations are replaced, investments in conversion or other changes to existing P & W paper production capacity, investments in new pulping installations, investments in conversion or other changes to existing pulping installations, investment in new de-inking installations, investment in conversion of or changes to existing de-inking installations and other investments. In this respect, the United Kingdom has committed to calculate in all cases the eligible costs by deducting from the investment costs any appropriate comparator<sup>(2)</sup>. The Commission is aware that the identification of the appropriate comparator may involve a technically complex assessment. However, the United Kingdom authorities have committed to sending an annual report to the Commission that will contain a description, for each beneficiary, of the appropriate comparator used each time. The Commission considers that the commitments expressed by the United Kingdom confine the eligible costs strictly to the extra-investment costs necessary to meet the environmental objective and takes into account in all cases a comparable investment of a similar capacity that does not provide the same degree of environmental protection. The United Kingdom has undertaken to respect the conditions of paragraph 76 of the environmental guidelines that provides for the obligation to notify individually any aid exceeding EUR 25 million and where the aid exceeds the gross grant equivalent of EUR 5 million. As a result of this undertaking, the Commission will be able to verify the calculation of eligible cost for individual notifications of large aid amounts.

#### 7. CONCLUSION

- (53) The notified measure falls within the definition of State aid pursuant to Article 87(1) and the United Kingdom has complied with its obligation to notify the aid pursuant to Article 88(3) of the Treaty.
- (54) The notified aid intends to reduce the pollution generated by other undertakings but does not indirectly relieve these polluters from a burden under the EU law. The aid concerns investments that go beyond the state of the art and is expected to bring a real environmental benefit as it concerns materials that would otherwise be disposed of in landfill or be treated in a less environmentally friendly manner. The aid will not merely increase demand for materials to be recycled without increasing collection of those materials.

<sup>(1)</sup> C 73/2003 Stora Enso Langerbrugge, OJ L 53, 26.2.2005, p. 66.

<sup>(2)</sup> Where no standards exist, eligible costs consist of the investment costs necessary to achieve a higher level of environmental protection than that which the firm or firms in question would achieve in the absence of any environmental aid.

(55) The eligible costs of the scheme will be calculated in line with paragraph 37 of the environmental guidelines.

(56) In conformity with paragraph 76 of the environmental guidelines, the United Kingdom will notify to the Commission any individual case of investment aid granted under the Scheme where the eligible costs exceed EUR 25 million and where the aid exceeds the gross grant equivalent of EUR 5 million.

(57) Therefore, the aid is found to be compatible with the common market pursuant to Article 87(3)(c) of the EC Treaty,

HAS ADOPTED THIS DECISION:

*Article 1*

The notified State aid WRAP Printing and Writing Paper Scheme, which the United Kingdom is planning to call for

tender, with a budget of a maximum GBP 20 million (approximately EUR 28,6 million) and valid until 31 March 2011 is compatible with Article 87(3)(c) of the EC Treaty.

Implementation of the measure is accordingly authorised.

*Article 2*

This Decision is addressed to the United Kingdom.

Done at Brussels, 28 November 2007.

*For the Commission*

Neelie KROES

*Member of the Commission*

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