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⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COUNCIL REGULATION (EC) No 744/2008

of 24 July 2008

instituting a temporary specific action aiming to promote the restructuring of the European Community fishing fleets affected by the economic crisis

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund ⁽²⁾ lays down the rules regarding Community structural assistance in the fisheries sector. In particular, Chapter I of Title IV of that Regulation lays down the terms on which the Member States may receive a financial contribution from the European Fisheries Fund (EFF) for the measures for the adaptation of the Community fishing fleet.

(2) The EFF aims to contribute to the steps that have been taken since the 2002 reform of the common fisheries policy (CFP) in view of reducing pressure on fish stocks, whilst ensuring sustainable social and economic conditions for the sector concerned.

(3) In the context of the recent economic situation, following in particular the drastic increase in fuel prices, there is an impending need to take additional measures aiming for a more rapid adaptation of the

Community fishing fleet to the current situation, addressing the need to ensure sustainable social and economic conditions for the sector concerned. Such measures should contribute to attaining the general objectives set out in Article 33 of the Treaty and the CFP objectives as laid down in Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy ⁽³⁾. In this context, those measures should address both the immediate situation of economic and social hardship while tackling systemic overcapacity.

(4) It is of importance to ensure that such measures will be equally available for all Member States and that they do not introduce any distortion of competition between Member States or fleets. They therefore need to be addressed and coordinated at Community level.

(5) Consequently, there is a need for a Community initiative supplementing and allowing for temporary derogations from certain provisions of Regulation (EC) No 1198/2006 and to temporarily derogate from certain provisions of Regulations (EC) No 2371/2002 and (EC) No 1198/2006. This initiative should therefore provide for specific measures of general nature and for the implementation of Fleet Adaptation Schemes in the Member States, which effectively address the current economic difficulties, whilst ensuring the long-term viability of fisheries sector.

(6) In view of the exceptional nature of those measures and of the economic hardship they intend to address, the duration of these measures should be limited to the shortest possible period sufficient to achieve the expected aims.

⁽¹⁾ Opinion delivered on 10 July 2008 (not yet published in the Official Journal).

⁽²⁾ OJ L 223, 15.8.2006, p. 1.

⁽³⁾ 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).

- (7) These measures should be implemented by the Member States in the context of their operational programme under the EFF and financed from the funds allocated to them in that framework.
- (8) Moreover, Member States should be entitled to supplement the measures benefiting from such funds by financing certain measures through solely national funds with no financing from Community financial instruments. In view of the need to rapidly tackle the serious situation faced by the fisheries sector, those measures, aimed at bringing about structural improvement and long-term economic viability of the sector, should not be subject to the application of Articles 87, 88 and 89 of the Treaty. In order to limit possible distortions of competition and effects on the internal market, those measures should be subject to certain limitations.
- (9) This Regulation should provide for a Community contribution to measures for permanent and temporary cessation of fishing activities, for investments on board aiming to reduce fuel dependency of fishing vessels, for socio-economic compensation as well as for certain actions of a more collective nature. In order to ensure the effectiveness of those measures, as well as to allow Member States to make use of the available funds to the fullest extent possible, the thresholds for private participation in the financing of the measures should be lowered.
- (10) In order to contribute to restructuring, the temporary cessation of fishing activities should be made available. Temporary cessation of fishing activities should in particular be aimed at enhancing economic benefits by supporting stock recovery or by promoting more favourable marketing conditions. To that effect, Member States should be encouraged to link the period of temporary cessation with considerations of biological dynamics, seasonality and market dynamics. In the context of the economic crisis, it is also necessary to facilitate the compensation to be granted to fishers that have temporary ceased their activities prior to the adoption of this Regulation.
- (11) In view of assisting the fishing sector to adapt to less fuel consuming fishing techniques, it is appropriate to facilitate the replacement of existing equipment on board fishing vessels in order to allow for new, less energy-consuming, fishing techniques. In this regard, additional possibilities for contributions to investments on board fishing vessels should be made available.
- (12) A Community contribution should also be provided for collective actions aimed at delivering expertise to vessel owners in relation to energy audits for vessels, and expert advice on the development of restructuring and modernisation plans and Fleet Adaptation Schemes. Moreover, financing should be made available for pilot projects aiming at reducing energy consumption for vessels, engines, equipment or gear.
- (13) In view of long-term viability of the fishing sector, a new instrument should be introduced allowing Member States to reduce capacity and to increase profitability of the fleets. This should take the form of Fleet Adaptation Schemes and concern fleets where the energy costs represent on average at least 30 % of the production costs. These Fleet Adaptation Schemes should result in a capacity reduction of the fleets concerned of at least 30 % expressed in GT and kW.
- (14) Where measures are implemented by Member States in the context of Fleet Adaptation Schemes, with a view to ensuring the long-term viability of one or more of their fleets through capacity reduction, more favourable conditions should apply.
- (15) There is a need to encourage Member States to further extend their permanent cessation schemes in order to adjust their fleets to the available resources. Consequently, it is appropriate to allow for further contribution possibilities to permanent cessation. In order to facilitate restructuring, further possibilities for temporary cessation of fishing activities should be allowed for fishers and vessel owners concerned by Fleet Adaptation Schemes.
- (16) Furthermore, Member States having adopted a Fleet Adaptation Scheme should also be allowed to implement partial decommissioning measures ensuring a more cost-efficient use of funds available for reducing capacity and energy consumption of the fleet concerned. Within such partial decommissioning measures, vessel owners withdrawing one or more of their vessels from the fleet should be allowed to re-use part of the capacity withdrawn for a new smaller and less energy consuming vessel. In addition, Member States should be allowed to allocate a limited amount of the total capacity withdrawn under the Fleet Adaptation Scheme to new vessels. In such case, funds should be made available only for the part of the capacity which is permanently withdrawn.
- (17) The obligations of Member States regarding management and control pursuant to Article 70 of Regulation (EC) No 1198/2006 and the mechanism for corrections pursuant to Article 97 of Regulation (EC) No 1198/2006 should apply in the framework of this Regulation.

- (18) Failure to achieve the 30 % minimum reduction in capacity laid down in a Fleet Adaptation Scheme or failure to comply with the rules on temporary cessation, permanent cessation or partial decommissioning should be regarded as irregularities within the meaning of Article 97 of Regulation (EC) No 1198/2006.

Article 2

Scope

This Regulation shall apply only to public aid which has been the subject of an administrative decision by the relevant national authorities by 31 December 2010.

- (19) In view of the urgency of the situation and the need for immediate action in all Member States, it is appropriate to increase the percentage of Community co-financing under the EFF of the measures under this initiative to 95 %. In the same context, it is important that these funds are available to Member States within shorter delays than normally applicable and that expenditure is eligible from the date of the entry into force of this Regulation.

Article 3

Financial framework

1. The measures provided for under this Regulation may receive financial support from the EFF within the limits of the commitment appropriations defined for the period 2007-13.

- (20) Given the urgency of the situation, there is a compelling need to allow an exception to the six-week period referred to in Section I.3 of the Protocol on the role of national parliaments in the European Union, annexed to the Treaty on European Union and to the Treaties establishing the European Communities,

2. Public aid granted under this specific action may not be cumulated with another public aid having the same purpose, and in particular that granted by the European Agricultural Fund for Rural Development (EAFRD), the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, other Community financial instruments and national funds.

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. This Regulation establishes a specific Community action designed to provide for exceptional and temporary support for the persons and enterprises active in the fisheries sector affected by the economic crisis induced by the increase of oil prices in 2008, as a special regime under the European Fisheries Fund (hereinafter referred to as EFF).

2. This specific action shall consist of:

- (a) general measures supplementing and derogating from certain provisions of Regulation (EC) No 1198/2006, and
- (b) special measures supplementing and derogating from certain provisions of Regulations (EC) No 2371/2002 and (EC) No 1198/2006 that are conditional upon the implementation of a Fleet Adaptation Scheme as referred to in Article 12.

Article 4

Application of State aid rules

1. Without prejudice to paragraph 2 of this Article, Articles 87, 88 and 89 of the Treaty shall not apply to aid granted by Member States, pursuant to and in conformity with this Regulation within the scope of Article 36 of the Treaty.

2. Aid granted by Member States with no financing from Community financial instruments and exceeding the limits laid down in Article 1(3) of Commission Regulation (EC) No 736/2008 of 22 July 2008 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production, processing and marketing of fisheries products⁽¹⁾ shall be subject to the application of Articles 87, 88 and 89 of the Treaty.

3. Where aid is granted by Member States with no financing from Community financial instruments within the limits laid down in Article 1(3) of Regulation (EC) No 736/2008, they shall forward to the Commission a summary of the information regarding such aid prior to its implementation. Moreover, each year, by 1 July at the latest, Member States shall submit to the Commission a report on the aid granted under this paragraph.

⁽¹⁾ OJ L 201, 30.7.2008, p. 16.

CHAPTER II

GENERAL MEASURES

Article 5

General measures

Public aid to the persons and enterprises referred to in Article 1 may be granted until 31 December 2010 according to the rules set out in this Chapter.

Article 6

Temporary cessation of fishing activities

1. In addition to the measures provided for in Article 24 of Regulation (EC) No 1198/2006, the EFF may contribute to the financing of aid measures for the temporary cessation of fishing activities for fishers and owners of fishing vessels for a maximum duration of three months implemented during the period from 1 July 2008 to 31 December 2009, provided that:

- (a) the temporary cessation of fishing activities commenced before 31 December 2008, and
- (b) the beneficiary enterprises become subject until 31 January 2009 to restructuring measures such as Fleet Adaptation Schemes, fishing effort adjustment plans, national decommissioning schemes, catch plans, other restructuring/modernisation measures.

The management plans provided for in Articles 9 and 10 of Regulation (EC) No 2371/2002 shall be covered by this paragraph, insofar as they involve fishing effort adjustment plans pursuant to Article 21 of Regulation (EC) No 1198/2006.

2. The measures provided for in paragraph 1 may cover the following costs:

- (a) part of the fixed cost incurred by the vessel owners when the vessel is tied-up in the port (such as port charges, insurance cost, maintenance costs, financial costs related to loans);
- (b) part of the basic salary of the fishers.

3. The total public aid per Member State to the measures provided for in paragraph 1 shall not exceed the higher of the following two thresholds: EUR 6 million or an amount equal to 8 % of the EFF financial assistance allocated to the sector in the Member State concerned.

Article 7

Investments on board fishing vessels and selectivity

By way of derogation from point (a) of Annex II to Regulation (EC) No 1198/2006 where a contribution is granted for the financing of equipment, including auxiliary motors, which significantly improves energy efficiency on board fishing vessels, including small scale coastal fishing vessels, and reduces emissions and contributes to the fight against climate change, the minimum private financial participation to that operation shall be 40 %.

Article 8

Socio-economic compensation

In addition to the measures provided for in Article 27 of Regulation (EC) No 1198/2006, the EFF may contribute to the financing of early departure measures, including early retirement for workers in the fisheries sector, with the exception of workers in the aquaculture sector and in the sector of processing of fisheries and aquaculture products.

Article 9

Collective actions

1. In addition to the collective actions provided for in Article 37 of Regulation (EC) No 1198/2006, the EFF may contribute to the financing of measures providing assistance for:

- (a) carrying out energy audits for groups of vessels, and
- (b) expert advice on the development of restructuring or modernisation plans, including Fleet Adaptation Schemes referred to in Article 12.

2. By way of derogation from point (a) of Annex II to Regulation (EC) No 1198/2006, where a contribution is granted for the financing of measures referred to in paragraph 1 of this Article, the maximum rate for public contribution shall be 100 %.

3. The EFF may contribute to the financing of compensation granted to producer organisations which are no longer entitled to benefit from aid under the second and third subparagraph of Article 10(1) of Council Regulation (EC) 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products⁽¹⁾, in order to offset the costs arising from the obligations imposed on them under Article 9 of the same Regulation, and subject to the conditions laid down in Article 10, paragraphs 2, 3 and 4 of that Regulation.

⁽¹⁾ Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products (OJ L 17, 21.1.2000, p. 22). Regulation as last amended by Regulation (EC) No 1759/2006 (OJ L 335, 1.12.2006, p. 3).

*Article 10***Pilot projects**

In addition to the measures provided for in Article 41(2) of Regulation (EC) No 1198/2006, the EFF may contribute to the financing of pilot projects testing technical improvements aiming at reducing energy consumption for vessels, engines, equipment or gear and at reducing emissions and contributing to the fight against climate change.

CHAPTER III

SPECIAL MEASURES APPLICABLE ONLY TO FLEETS CONCERNED BY FLEET ADAPTATION SCHEMES*Article 11***Measures applicable only to fleets subject to Fleet Adaptation Schemes**

Public aid to the persons and enterprises referred to in Article 1 may be granted until 31 December 2010, according to the rules set out in this Chapter, provided they are subject to a Fleet or Fleet Segment Adaptation Scheme referred to in Article 12.

*Article 12***Fleet Adaptation Schemes**

1. Member States may adopt and implement Fleet Adaptation Schemes aimed at restructuring the fishing fleets or fleet segments affected by the economic crisis.

2. Fleet Adaptation Schemes may include the measures provided for in Chapter I of Title IV of Regulation (EC) No 1198/2006 and those provided for in this Regulation.

3. A Fleet Adaptation Scheme shall concern only fleets or fleet segments where the energy costs represent on average at least 30 % of the production costs, based on the trading account for the 12 months preceding 1 July 2008 for the fleet concerned by that scheme.

4. A Fleet Adaptation Scheme shall fulfil the following requirements:

(a) it shall result, by 31 December 2012 at the latest, in a permanent reduction of at least 30 % of the fishing capacity of the fleet or fleet segment covered by the scheme; that threshold may be lowered to a minimum of 20 %, subject to the approval of the Commission, where the Fleet Adaptation Scheme concerns a Member State whose fleet is less than 100 active vessels, or less than 12 000 GT,

or where a Fleet Adaptation Scheme covers only vessels of less than 12 metres, and a 30 % reduction would disproportionately affect the viability of the fisheries related activities depending on it, and

(b) it shall include the list of the vessels covered by the scheme, identified by their names and Community Fishing Fleet Register numbers.

5. Each fishing vessel may be included only in one Fleet Adaptation Scheme. The conditions for including a fishing vessel in a Fleet Adaptation Scheme shall be as follows:

(a) vessels must have carried out a fishing activity of at least 120 days at sea during the two years preceding the date of the adoption of the Fleet Adaptation Scheme; and

(b) vessels must be operational on 31 July 2008.

6. By 30 June 2009 at the latest, Member States shall communicate to the Commission the Fleet Adaptation Schemes adopted.

7. When a Member State requests a revision of its operational programme for the purpose of incorporating the Fleet Adaptation Schemes, Article 18 of Regulation (EC) No 1198/2006 shall apply accordingly.

*Article 13***Compliance and audit of Fleet Adaptation Schemes**

1. The reports mentioned in Article 67 of Regulation (EC) No 1198/2006 shall include the results achieved in implementation of the Fleet Adaptation Schemes.

2. The Commission may perform audits on the implementation of the Fleet Adaptation Schemes. To that purpose, it may be assisted by external experts financed by the EFF under the provisions of Article 46(1) of Regulation (EC) No 1198/2006.

*Article 14***Permanent cessation of fishing activities**

1. For the purposes of Article 23 of Regulation (EC) No 1198/2006, Fleet Adaptation Schemes are assimilated to the fishing effort adjustment plans referred to in that Article.

2. The provisions of Article 23(2) of Regulation (EC) No 1198/2006 shall not apply to permanent cessation measures adopted in the context of a Fleet Adaptation Scheme.

3. Within six months from the adoption of a Fleet Adaptation Scheme, the vessels listed for permanent cessation of fishing activities under this Fleet Adaptation Scheme shall cease permanently their fishing activities.

Article 15

Temporary cessation of fishing activities

1. In addition to the measures provided for by Article 24 of Regulation (EC) No 1198/2006 and in Article 6 of this Regulation, the EFF may contribute to the financing of aid measures for temporary cessation of fishing activities for fishers and owners of fishing vessels included in a Fleet Adaptation Scheme, provided that the temporary cessation is implemented during the period going from 1 January 2009 to 31 December 2009 and has a maximum duration of:

- (a) three months prior to the permanent withdrawal of the vessel or during the period of engine replacement; a maximum of three additional months may be granted where the process of engine replacement is still ongoing;
- (b) six weeks in the case of the other vessels included in a Fleet Adaptation Scheme when those vessels are subject to one of the other measures referred to in Article 12, paragraph 2.

2. The measures provided for in paragraph 1 may cover the following costs:

- (a) the fixed cost incurred by the vessel owners when the vessel is tied-up in the port (such as port charges, insurance cost, maintenance costs, financial costs related to loans);

- (b) part of the basic salary of the fishers.

3. The total public aid per Member State to the measures provided for in paragraph 1 shall not exceed the higher of the following two thresholds: EUR 6 million or an amount equal to 8 % of the EFF financial assistance allocated to the sector in the Member State concerned.

Article 16

Investments on board fishing vessels and selectivity

1. By way of derogation from point (a) of Annex II to Regulation (EC) No 1198/2006, where a contribution is granted for the financing of equipment or of gear or engine replacement which significantly improves energy efficiency on board fishing vessels, including small scale coastal fishing vessels, and reduces emissions and contributes to the fight against climate change, the minimum private financial participation to that operation shall be 40 % of the total of the eligible costs of the operation.

2. Member States shall fix the minimum private financial participation referred to in paragraph 1 on the basis of objective criteria such as the age of the vessel, the energy efficiency improvement, or the amount of capacity reduction included in the Fleet Adaptation Scheme.

3. The age limit referred to in Article 25(1) of Regulation (EC) No 1198/2006 shall not apply to the vessels receiving aid under this Article for equipment or gear replacement.

4. By way of derogation from Article 25(3)(c) of Regulation (EC) No 1198/2006, the EFF may contribute to one replacement of the engine per vessel of more than 24 metres in overall length included in a Fleet Adaptation Scheme, provided that the new engine has at least 20 % less power than the old one and it increases energy efficiency.

5. By way of derogation from paragraph 7 of Article 25 of Regulation (EC) No 1198/2006, one additional replacement of gear shall be allowed to vessels included in a Fleet Adaptation Scheme under the condition that the new gear significantly improves energy efficiency. The conditions laid down in points (a) and (b) of that paragraph shall not apply.

CHAPTER IV

MEASURES FOR PARTIAL DECOMMISSIONING UNDER FLEET ADAPTATION SCHEMES

Article 17

Partial decommissioning

Public aid to vessel owners permanently withdrawing one or more vessels included in a Fleet Adaptation Scheme in order to build a new vessel of lesser fishing capacity and lesser energy consumption (hereinafter referred to as partial decommissioning) may be granted until 31 December 2010 according to the rules laid down in this Chapter, and provided that the Fleet Adaptation Scheme fulfils the following two requirements:

(a) it includes vessels using one and the same fishing gear, and

(b) it includes vessels representing at least 70 % of the capacity of the fleet using that gear in the Member State.

Article 18

Public aid for the permanent cessation of fishing in the case of partial decommissioning

1. In addition to Article 23 of Regulation (EC) No 1198/2006, vessel owners engaging in partial decommissioning shall be entitled to receive public aid for the permanent cessation of fishing activities for the difference between the capacity withdrawn and the capacity re-allocated to a new vessel.

2. The fishing capacity of the new vessel shall not be higher than 40 % of the capacity withdrawn by the vessel owners.

3. Where appropriate, Member States shall adapt the fishing licence accordingly.

Article 19

Withdrawal and reallocation of fishing capacity

1. By way of derogation from Article 11, paragraphs 3 and 4, of Regulation (EC) No 2371/2002, Member States shall be entitled to reallocate up to 25 % of the capacity permanently withdrawn in the context of a Fleet Adaptation Scheme to new vessels as referred to in Article 17 of this Regulation.

2. The reference levels referred to in Article 12 of Regulation (EC) No 2371/2002 are deducted by the difference between the capacity permanently withdrawn and the capacity reallocated.

3. The capacity reallocated under paragraph 1 of this Article need not be taken into account for the establishment of the balance of entries and exits by Member States under Article 13 of Regulation (EC) No 2371/2002.

4. In Fleet Adaptation Schemes where partial decommissioning is applied to more than 33 % of initial fleet capacity, the total reduction in capacity under the Fleet Adaptation Scheme shall be of at least 66 %.

CHAPTER V

FINANCIAL PROVISIONS

Article 20

Financial provisions

1. By way of derogation from Article 53 of Regulation (EC) No 1198/2006, the contribution from the EFF to operations financed in the context of the specific action set out in this Regulation shall be subject to a ceiling of 95 % of the total public expenditure and shall not be taken into account for the purposes of the ceilings referred to in Article 53(3) of the said Regulation.

2. By way of derogation from Article 55(1) and (3), second subparagraph, of Regulation (EC) No 1198/2006, the date of eligibility of expenditure for measures financed by this specific action shall be 31 July 2008.

3. By way of derogation from Article 81(1) of Regulation (EC) No 1198/2006, a second pre-financing amount representing 7 % of the contribution from the EFF for the period 2007 to 2013 to the operational programme shall be paid by the Commission upon request by the Member State. For operational programmes adopted in 2007, the above request shall be submitted to the Commission at the latest by 31 October 2008. For operational programmes adopted in 2008, the above request shall be submitted to the Commission at the latest by 30 June 2009. It may be spread to two financial years in accordance with the available budget of the EFF.

4. By way of derogation from Article 81(2) of Regulation (EC) No 1198/2006, where the second pre-financing amount is paid in accordance with paragraph 2 of the said Article, the total amount paid as pre-financing shall be reimbursed to the Commission by the body designated by the Member State if no application for payment under the operational programme is sent within 24 months from the date on which the Commission paid the first instalment of the second pre-financing amount.

CHAPTER VI

OBLIGATIONS OF MEMBER STATES AND OF THE COMMISSION

Article 21

Follow-up and financial corrections

1. Member States shall ensure that aid granted pursuant to Chapters II, III and IV of this Regulation complies with the conditions laid down in Article 70 of Regulation (EC) No 1198/2006.

2. The Commission shall undertake the financial corrections provided for in Article 97 of Regulation (EC) No 1198/2006 if Member States fail to comply with the conditions laid down in this Regulation, in particular:

- (a) the obligation of persons or enterprises receiving aid to undergo restructuring measures pursuant to Article 6(1)(b);
- (b) the obligations laid down to reduce fishing capacity, and the temporary or permanent cessation of fishing activities as laid down in a Fleet Adaptation Scheme pursuant to Articles 12, 14 and 15;
- (c) reductions in fishing capacity effected in the framework of partial decommissioning undertaken pursuant to Articles 17, 18 and 19.

The criteria for corrections laid down in Article 97 of Regulation (EC) No 1198/2006 shall apply accordingly.

Article 22

Report

The Commission shall report to the European Parliament and the Council on the application of the measures laid down in this Regulation by 31 December 2009 at the latest.

CHAPTER VII

FINAL PROVISIONS

Article 23

Implementing rules

The implementing rules for this Regulation may be adopted in accordance with the procedure referred to in Article 101(3) of Regulation (EC) No 1198/2006.

Article 24

Entry into force

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, 24 July 2008.

For the Council
The President
B. HORTEFEUX

COMMISSION REGULATION (EC) No 745/2008**of 30 July 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 Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

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 Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 31 July 2008.

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

Done at Brussels, 30 July 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Commission Regulation (EC) No 510/2008 (OJ L 149, 7.6.2008, p. 61).

⁽²⁾ OJ L 350, 31.12.2007, p. 1. Regulation as last amended by Regulation (EC) No 590/2008 (OJ L 163, 24.6.2008, p. 24).

ANNEX

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	MK	28,3
	TR	71,9
	XS	27,8
	ZZ	42,7
0707 00 05	TR	106,2
	ZZ	106,2
0709 90 70	TR	97,2
	ZZ	97,2
0805 50 10	AR	91,4
	US	47,0
	UY	58,5
	ZA	88,6
	ZZ	71,4
0806 10 10	CL	52,1
	EG	151,7
	IL	145,6
	TR	164,5
	ZZ	128,5
0808 10 80	AR	101,8
	BR	100,9
	CL	102,7
	CN	87,4
	NZ	113,4
	US	107,1
	ZA	88,6
	ZZ	100,3
0808 20 50	AR	69,0
	CL	78,1
	NZ	97,1
	TR	159,5
	ZA	91,6
	ZZ	99,1
0809 10 00	TR	203,2
	ZZ	203,2
0809 20 95	CA	324,1
	TR	417,7
	US	324,1
	ZZ	355,3
0809 30	TR	147,8
	ZZ	147,8
0809 40 05	BA	74,5
	IL	117,7
	TR	115,5
	XS	66,2
	ZZ	93,5

⁽¹⁾ Nomenclature of countries laid down 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 746/2008**of 17 June 2008****amending Annex VII to Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies ⁽¹⁾, and in particular Article 23 thereof,

Whereas:

- (1) Regulation (EC) No 999/2001 lays down rules for the monitoring of transmissible spongiform encephalopathies in bovine, ovine and caprine animals and for eradication measures to be carried out following confirmation of a transmissible spongiform encephalopathy (TSE) in ovine and caprine animals.
- (2) Annex VII to Regulation (EC) No 999/2001 lays down the eradication measures to be carried out following confirmation of an outbreak of TSE in ovine and caprine animals.
- (3) Although TSE has been known to be present in ovine and caprine animals for over two hundred years, there is no evidence of any relationship between outbreaks of TSE in those animals and outbreaks of TSE in humans. Nevertheless, in 2000 the Commission introduced a comprehensive set of measures for the monitoring, prevention, control and eradication of TSE in ovine and caprine animals, on the basis of the limited scientific knowledge available at that time, and in order to ensure that sourcing from ovine and caprine animals' materials is as safe as possible.
- (4) Those measures are aimed at gathering as much data as possible on the prevalence of TSE other than bovine spongiform encephalopathy (BSE) in ovine and caprine animals, and on possible links with BSE and transmissibility to humans. The measures are also aimed at reducing as much as possible the occurrence of TSE.

The measures include the removal of specified risk materials, an extensive active monitoring programme, measures applicable to flocks infected with TSE and voluntary breeding schemes to increase resistance to TSE in the ovine population. Since the introduction of such measures and with the information obtained from active surveillance programmes carried out in the Member States, no epidemiological link has ever been established between TSE, other than BSE, in ovine and caprine animals and TSE in humans.

- (5) Article 7 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety ⁽²⁾ provides that in specific circumstances where, following an assessment of available information, the possibility of harmful effects on health is identified but scientific uncertainty persists, provisional risk management measures necessary to ensure a high level of health protection may be adopted, pending further scientific information for a more comprehensive risk assessment. It also stipulates that such measures must be proportionate and no more restrictive of trade than is required to achieve the high level of health protection sought, regard being had to technical and economic feasibility and other factors regarded as legitimate in the matter under consideration. The measures are to be reviewed within a reasonable period of time.
- (6) On 8 March 2007 the European Food Safety Authority (EFSA) adopted an opinion on certain aspects related to the risk of TSE in ovine and caprine animals ⁽³⁾. In that opinion, EFSA concluded that 'there is no evidence for an epidemiological or molecular link between classical and/or atypical scrapie and TSEs in humans. The BSE agent is the only TSE agent identified as zoonotic. However, in view of their diversity it is currently not possible to exclude transmissibility to humans of other animal TSE agents'. It also concluded that 'current discriminatory tests as described in the Community legislation to be used for discrimination between scrapie and BSE appear, up to now, to be reliable for the differentiation of BSE from classical and atypical scrapie. However, at the current stage of scientific knowledge, neither their diagnostic sensitivity nor their specificity can be assumed to be perfect'.

⁽¹⁾ OJ L 147, 31.5.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 357/2008 (OJ L 111, 23.4.2008, p. 3).

⁽²⁾ OJ L 31, 1.2.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 202/2008 (OJ L 60, 5.3.2008, p. 17).

⁽³⁾ The EFSA Journal (2007), 466, 1-10.

- (7) Following that opinion and in the framework of the Communication from the Commission — TSE Road map of 15 July 2005 ⁽¹⁾, and in line with the SANCO work programme 2006-07 on TSEs of 21 November 2006 ⁽²⁾, Commission Regulation (EC) No 727/2007 of 26 June 2007 amending Annexes I, III, VII and X to Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies ⁽³⁾ was adopted. The amendments made to Regulation (EC) No 999/2001 by Regulation (EC) No 727/2007 were aimed at adjusting the measures initially taken as regards TSE in ovine and caprine animals, to take account of updated scientific evidence. Regulation (EC) No 999/2001, as amended by Regulation (EC) No 727/2007, therefore discontinued the obligation to cull the entire flock and provided for certain alternative measures to culling in the event of confirmation of an outbreak of TSE in a holding of ovine or caprine animals and where the presence of bovine spongiform encephalopathy (BSE) had been excluded. In particular, taking into account the fact that the sector for ovine and caprine animals is different across the Community, Regulation (EC) No 999/2001, as amended by Regulation (EC) No 727/2007, introduced the possibility for Member States to apply alternative policies, as laid down in Regulation (EC) No 727/2007, depending on the specific characteristics of the sector in each Member State.
- (8) On 17 July 2007, in Case T-257/07, France brought an action against the European Commission before the Court of First Instance of the European Communities, applying for the partial annulment of point 2.3(b)(iii), point 2.3(d) and point 4 of Chapter A of Annex VII to Regulation (EC) No 999/2001, as amended by Regulation (EC) No 727/2007, in particular regarding the measures to be applied to TSE-affected flocks, or alternatively the entire annulment of that Regulation. In its Order of 28 September 2007 ⁽⁴⁾, the Court suspended the application of those provisions pending delivery of a final judgment.
- (9) In the Order of 28 September 2007, the Commission's assessment of the available scientific data on the possible risks was questioned. Accordingly, the Commission subsequently asked EFSA to assist it in clarifying the two main premises on which Regulation (EC) No 727/2007 was based. Firstly, the absence of any scientific evidence demonstrating that any TSE agent, other than BSE, may be considered to be a zoonotic agent. Secondly, the possibility to distinguish through molecular and biological tests between BSE and other animal TSE in ovine and caprine animals. On 24 January 2008, EFSA adopted the scientific and technical clarification ⁽⁵⁾, as regards the interpretation of some facets of the conclusions of its Opinion of 8 March 2007, which had been taken into account for the adoption of Regulation (EC) No 727/2007.
- (10) As regards the transmissibility of TSE, EFSA confirmed that:
- in ovine animals, no TSE agents other than those causing Classical Scrapie and Atypical Scrapie have been identified,
 - in caprine animals, no TSE agents other than those causing BSE, Classical Scrapie and Atypical Scrapie have been identified,
 - the operational term 'BSE' covers a TSE of bovine animals that could be caused by at least three distinct TSE agents with heterogeneous biological properties,
 - the operational term 'Classical Scrapie' covers a TSE of ovine and caprine animals caused by several TSE agents with heterogeneous biological properties,
 - the operational term 'Atypical Scrapie' covers a TSE of ovine and caprine animals that differs from Classical Scrapie. Currently, it is a subject for debate whether it is caused by one or more TSE agents.
- (11) However, EFSA cannot exclude transmissibility to humans of other TSE agents other than BSE as:
- experimental transmissions to primate and to transgenic mouse models expressing the human PrP gene are currently used to evaluate the potential capacity of a TSE agent to cross the human species barrier,
 - TSE agents other than the Classical BSE agent from three field TSE cases (two Classical Scrapie cases and one L type BSE case) have been demonstrated to cross the modelled human species barrier,
 - some limitations to these models have to be considered, including the uncertainty of how well they represent the human species barrier and the uncertainty of how well the experimental inoculation route employed represents exposure under natural conditions.

⁽¹⁾ COM(2005) 322 final.

⁽²⁾ SEC(2006) 1527.

⁽³⁾ OJ L 165, 27.6.2007, p. 8.

⁽⁴⁾ OJ C 283, 24.11.2007, p. 28.

⁽⁵⁾ Scientific Report of the Panel on Biological Hazards on a request from the European Commission on 'Scientific and technical clarification in the interpretation and consideration of some facets of the conclusions of its Opinion of 8 March 2007 on certain aspects related to the risk of Transmissible Spongiform Encephalopathies (TSEs) in ovine and caprine animals'. The EFSA Journal (2008), 626, 1-11.

- (12) It appears from EFSA's clarifications that the biodiversity of the disease agents in ovine and caprine animals is an important element which does not make it possible to exclude transmissibility to humans and that that diversity increases the likelihood of one of the TSE agents being transmissible. However, EFSA acknowledges that there is no scientific evidence of any direct link between TSE in ovine and caprine animals, other than BSE, and TSE in humans. The EFSA viewpoint that transmissibility to humans of TSE agents in ovine or caprine animals cannot be excluded is based on experimental studies on human species barrier and animal models (primates and mice). Those models, however, do not take into account genetic characteristics of humans which have a major influence on relative susceptibility to prion diseases. They also have limitations when extrapolating results to natural conditions, in particular regarding how well they represent the human species barrier and the uncertainty of how well the experimental inoculation route employed represents exposure under natural conditions. On that basis, it may be considered that although a risk of transmissibility to humans of TSE agents in ovine or caprine animals cannot be excluded, that risk would be extremely low, taking into account the fact that the evidence of transmissibility is based on experimental models which do not represent the natural conditions related to the real human species barrier and the real routes of infection.
- (13) As regards the discriminatory tests, EFSA confirmed that:
- based on the limited data available, the discriminatory tests as implemented at European Union level are practicable tools for screening of field TSE cases, as referred to in point 3.2(c) of Chapter C of Annex X to Regulation (EC) No 999/2001, fulfilling the objective of rapid and reproducible identification of TSE cases that have a signature compatible with Classical BSE agent,
 - those discriminatory tests cannot be considered to be perfect because of the current lack of understanding of both the true biodiversity of TSE agents in ovine and caprine animals and how the agents interact in case of co-infection.
- (14) Following a request by the Commission for clarification as to whether the absence of statistically sufficient data on the performance of the tests is compensated by the procedure in place, which includes a ring trial with additional molecular testing methods in different laboratories and an evaluation by an expert panel chaired by the Community Reference Laboratory for TSEs, EFSA explained that:
- despite consistent performance in ring trials employing samples from experimental ovine BSE cases, there is uncertainty on about their performance in the field because of the lack of detection of natural BSE in ovine or caprine animals,
 - TSE positive cases go through the full discriminatory process, including bioassay, only when biochemical discriminatory testing is compatible with BSE signature; therefore, data obtained through this process cannot be used for the evaluation of the sensitivity or the specificity of the discriminatory tests,
 - increasing the number of negative results during TSE discriminatory testing of ovine or caprine animals cannot compensate for the absence of statistically sufficient data on the performance of the tests.
- (15) EFSA acknowledged that the discriminatory tests established in Regulation (EC) No 999/2001 are practicable tools fulfilling the objective of rapid and reproducible identification of TSE cases that have a signature compatible with the classical BSE agent. Given the absence of scientific evidence of co-infection of BSE and other TSE agents in ovine or caprine animals in natural conditions, and given that the prevalence of BSE in ovine, if present, or caprine animals is very low and therefore the possibility of co-infection would be even lower, the number of BSE cases missed in ovine and caprine animals would be extremely low. Therefore, although the discriminatory tests cannot be considered to be perfect, it is appropriate to consider them as a suitable tool for the purposes of the TSE eradication objectives pursued by Regulation (EC) No 999/2001.
- (16) In its Opinion of 25 January 2007 ⁽¹⁾, EFSA gave an estimation of the likely prevalence of BSE in ovine animals. The Authority concluded that in high-risk countries there is a rate of less than 0,3 to 0,5 cases of BSE per 10 000 healthy slaughtered animals. EFSA also stated that in the European Union 'there is a 95 % confidence that the number of cases is equal to or below four cases per million sheep; at a 99 % confidence level, the number becomes equal to or below six cases per million. Since no BSE case has yet to be confirmed in sheep, the most likely prevalence is zero'. Since the introduction in 2005 of the discriminatory tests procedure, as set out in point 3.2(c) of Chapter C of Annex X to Regulation (EC) No 999/2001, 2 798 discriminatory tests have been carried out in TSE-affected ovine animals and 265 discriminatory tests have been carried out in TSE-affected caprine animals and none of them have been confirmed as BSE-like.
- ⁽¹⁾ Opinion of the Scientific Panel on Biological Hazards on a request from the European Commission on the quantitative risk assessment on the residual BSE risk in sheep meat and meat products, The EFSA Journal (2007) 442, 1-44.

- (17) A high level of protection of human life and health is assured in the pursuit of Community policies. Community measures governing food and feed must be based on an appropriate assessment of the possible risks for human and animal health and must, taking into account existing scientific evidence, maintain or, if scientifically justified, increase the level of protection of human and animal health. It is impossible, however, to consider the complete elimination of risk as a realistic objective for any risk management decision in matters regarding food safety, where the cost and benefits of risk-reducing measures have to be carefully weighed in order to ensure the measure's proportionality. It is the role and responsibility of the risk manager to decide the acceptable level of risk, taking into account all the elements present in a scientific risk assessment.
- (18) The Commission, in its role as risk manager on EU level, is responsible for establishing the acceptable level of risk and adopting measures that are the most appropriate for maintaining a high level of protection of public health. It has reviewed and assessed the most recent scientific information as regards the transmissibility of TSE to humans. It has assessed any risk that is present as being currently very low.
- (19) The measures set out in Annex VII to Regulation (EC) No 999/2001 should therefore be reassessed in order to ensure that they do not impose a burden on the Member States and economic operators that is not appropriate to the level of risk involved and disproportionate to the objective pursued.
- (20) The measures laid down in Annex VII to Regulation (EC) No 999/2001 should therefore be amended in order to make it possible for Member States to dispense with the requirement of total or partial herd culling if a TSE case is detected in ovine or caprine animals.
- (21) Regulation (EC) No 999/2001 should therefore be amended accordingly.
- (22) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,
- HAS ADOPTED THIS REGULATION:
- Article 1*
- Annex VII to Regulation (EC) No 999/2001 is amended in accordance with the Annex to this Regulation.
- Article 2*
- This Regulation shall enter into force on the 60th day following that 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 June 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

In Annex VII to Regulation (EC) No 999/2001, Chapter A is replaced by the following:

‘CHAPTER A

Measures following confirmation of the presence of a TSE

1. The inquiry referred to in Article 13(1)(b) must identify:

(a) in the case of bovine animals:

- all other ruminants on the holding of the animal in which the disease was confirmed,
- where the disease was confirmed in a female animal, its progeny born within two years prior to, or after, clinical onset of the disease,
- all animals of the cohort of the animal in which the disease was confirmed,
- the possible origin of the disease,
- other animals on the holding of the animal in which the disease was confirmed or on other holdings which may have become infected by the TSE agent or been exposed to the same feed or contamination source,
- the movement of potentially contaminated feedingstuffs, of other material or any other means of transmission, which may have transmitted the TSE agent to or from the holding in question;

(b) in the case of ovine and caprine animals:

- all ruminants other than ovine and caprine animals on the holding of the animal in which the disease was confirmed,
- insofar as they are identifiable, the parents, and in the case of females all embryos, ova and the last progeny of the female animal in which the disease was confirmed,
- all other ovine and caprine animals on the holding of the animal in which the disease was confirmed in addition to those referred to in the second indent,
- the possible origin of the disease and the identification of other holdings on which there are animals, embryos or ova which may have become infected by the TSE agent or been exposed to the same feed or contamination source,
- the movement of potentially contaminated feedingstuffs, other material or any other means of transmission, which may have transmitted the TSE agent to or from the holding in question.

2. The measures laid down in Article 13(1)(c) shall comprise at least:

2.1. In the case of confirmation of BSE in a bovine animal, the killing and complete destruction of bovine animals identified by the inquiry referred to in the second and third indents of point 1(a); however, the Member State may decide:

- not to kill and destroy animals of the cohort referred to in the third indent of point 1(a) if evidence has been provided that such animals did not have access to the same feed as the affected animal,
- to defer the killing and destruction of animals in the cohort referred to in the third indent of point 1(a) until the end of their productive life, provided that they are bulls continuously kept at a semen collection centre and it can be ensured that they are completely destroyed following death.

2.2. If a TSE is suspected in an ovine or caprine animal on a holding in a Member State, all other ovine and caprine animals from that holding shall be placed under official movement restriction until the results of the examination are available. If there is evidence that the holding where the animal was present when the TSE was suspected is not likely to be the holding where the animal could have been exposed to a TSE, the competent authority may decide that other holdings or only the holding of exposure shall be placed under official control depending on the epidemiological information available.

2.3. In the case of confirmation of TSE in an ovine or caprine animal:

- (a) if BSE cannot be excluded after the results of a ring trial carried out in accordance with the procedure set out in Annex X, Chapter C, point 3.2(c), the killing and complete destruction of all animals, embryos and ova identified by the inquiry referred to in the second to fifth indents of point 1(b);
- (b) if BSE is excluded in accordance with the procedure set out in Annex X, Chapter C, point 3.2(c), pursuant to the decision of the competent authority:

either

- (i) the killing and complete destruction of all animals, embryos and ova identified by the inquiry referred to in the second and third indents of point 1(b). The conditions set out in point 3 shall apply to the holding;

or

- (ii) the killing and complete destruction of all animals, embryos and ova identified by the inquiry referred to in the second and third indents of point 1(b), with the exception of:

- breeding rams of the ARR/ARR genotype,
- breeding ewes carrying at least one ARR allele and no VRQ allele and, where such breeding ewes are pregnant at the time of the inquiry, the lambs subsequently born, if their genotype meets the requirements of this subparagraph,
- sheep carrying at least one ARR allele which are intended solely for slaughter,
- if the competent authority so decides, sheep and goats less than three months old which are intended solely for slaughter.

The conditions set out in point 3 shall apply to the holding;

or

- (iii) a Member State may decide not to kill and destroy the animals, identified by the inquiry referred to in the second and third indents of point 1(b) where it is difficult to obtain replacement ovine animals of a known genotype or where the frequency of the ARR allele within the breed or holding is low, or where it is deemed necessary in order to avoid inbreeding, or based on a reasoned consideration of all the epidemiological factors. The conditions set out in point 4 shall apply to the holding;
- (c) by way of derogation from the measures set out in point (b), and only where the TSE case confirmed on a holding is an atypical scrapie case, the Member State may decide to apply the measures laid down in point 5;
- (d) Member States may decide:
 - (i) to replace the killing and complete destruction of all animals referred to in b(i) by slaughtering for human consumption;
 - (ii) to replace the killing and complete destruction of animals referred to in b(ii) by slaughtering for human consumption provided that:
 - the animals are slaughtered within the territory of the concerned Member State,

- all animals which are over 18 months of age or have more than two permanent incisors erupted through the gum and are slaughtered for human consumption shall be tested for the presence of TSE in accordance with the laboratory methods set out in Annex X, Chapter C, point 3.2 (b);
 - (e) the prion protein genotype of ovine animals, up to a maximum of 50, killed and destroyed or slaughtered for human consumption in accordance with points (b)(i) and (iii) shall be determined;
 - (f) where the frequency of the ARR allele within the breed or holding is low, or where it is deemed necessary in order to avoid inbreeding, a Member State may decide to delay the destruction of animals as referred to in point 2.3 (b)(i) and (ii) for up to five breeding years.
- 2.4. If the infected animal has been introduced from another holding, a Member State may decide, based on the history of the case, to apply eradication measures in the holding of origin in addition to, or instead of, the holding in which the infection was confirmed; in the case of land used for common grazing by more than one flock, Member States may decide to limit the application of those measures to a single flock, based on a reasoned consideration of all the epidemiological factors; where more than one flock is kept on a single holding, Member States may decide to limit the application of the measures to the flock in which the TSE has been confirmed, provided it has been verified that the flocks have been kept isolated from each other and that the spread of infection between the flocks through either direct or indirect contact is unlikely.
3. Following the application on a holding of the measures referred to in point 2.3 (a) and (b)(i) and (ii):
- 3.1. Only the following animals may be introduced to the holding(s):
- (a) male sheep of the ARR/ARR genotype;
 - (b) female sheep carrying at least one ARR allele and no VRQ allele;
 - (c) caprine animals, provided that:
 - (i) no ovine animals for breeding other than those of the genotypes referred to in points (a) and (b) are present on the holding;
 - (ii) thorough cleaning and disinfection of all animal housing on the premises has been carried out following destocking.
- 3.2. Only the following ovine germinal products may be used in the holding(s):
- (a) semen from rams of the ARR/ARR genotype;
 - (b) embryos carrying at least one ARR allele and no VRQ allele.
- 3.3. Movement of the animals from the holding shall be subject to the following conditions:
- (a) movement of ARR/ARR sheep from the holding shall not be subject to any restriction;
 - (b) sheep carrying only one ARR allele may be moved from the holding only to go directly for slaughter for human consumption or for the purposes of destruction; however,
 - ewes carrying one ARR allele and no VRQ allele may be moved to other holdings which are restricted following the application of measures in accordance with point 2.3 (b)(ii) or 4,
 - if the competent authority so decides, lambs and kids may be moved to one other holding solely for the purposes of fattening prior to slaughter; the holding of destination shall not contain any ovine or caprine animals other than those being fattened prior to slaughter, and shall not dispatch live ovine or caprine animals to other holdings, except for direct slaughter within the territory of the concerned Member State;

- (c) caprine animals may be moved provided that the holding is subjected to intensified TSE monitoring, including the testing of all caprine animals which are over the age of 18 months and:
 - (i) are slaughtered for human consumption at the end of their productive lives; or
 - (ii) have died or been killed on the holding, and meet the conditions set out in Annex III, Chapter A, Part II, point 3;
 - (d) if the Member State so decides, lambs and kids less than three months old may be moved from the holding to go directly for slaughter for human consumption.
- 3.4. The restrictions set out in points 3.1, 3.2 and 3.3 shall continue to apply to the holding for a period of two years from:
- (a) the date of attainment of ARR/ARR status by all ovine animals on the holding; or
 - (b) the last date when any ovine or caprine animal was kept on the premises; or
 - (c) the date when the intensified TSE monitoring set out in 3.3 (c) commenced; or
 - (d) the date when all breeding rams on the holding are of ARR/ARR genotype and all breeding ewes carry at least one ARR allele and no VRQ allele, provided that during the two-year period, negative results are obtained from TSE testing of the following animals over the age of 18 months:
 - an annual sample of ovine animals slaughtered for human consumption at the end of their productive lives in accordance with the sample size referred to in the Table in Annex III, Chapter A, Part II, point 5, and
 - all ovine animals referred to in Annex III, Chapter A, Part II, point 3 which have died or been killed on the holding.
4. Following the application on a holding of the measures set out in point 2.3 (b)(iii) and for a period of two breeding years following the detection of the last TSE case:
- (a) all ovine and caprine animals on the holding shall be identified;
 - (b) all ovine and caprine animals on the holding, may be moved only within the territory of the concerned Member State for slaughter for human consumption or for the purposes of destruction; all animals over the age of 18 months slaughtered for human consumption shall be tested for the presence of TSE in accordance with the laboratory methods laid down in Annex X, Chapter C, point 3.2(b);
 - (c) the competent authority shall ensure that embryos and ova are not dispatched from the holding;
 - (d) only the semen from rams of the ARR/ARR genotype and embryos carrying at least one ARR allele and no VRQ allele may be used in the holding;
 - (e) all ovine and caprine animals which are over the age of 18 months which have died or been killed on the holding shall be subject to TSE testing;
 - (f) only male sheep of the ARR/ARR genotype and female ovine animals from holdings where no TSE cases have been detected or from flocks fulfilling the conditions set out in point 3.4 may be introduced in the holding;
 - (g) only caprine animals from holdings where no TSE cases have been detected or from flocks fulfilling the conditions of point 3.4 may be introduced in the holding;
 - (h) all ovine and caprine animals in the holding shall be subject to common grazing restrictions to be determined by the competent authority, based on a reasoned consideration of all the epidemiological factors;

- (i) by way of derogation of point (b) if the competent authority so decides, lambs and kids may be moved to another holding within the same Member State solely for the purposes of fattening prior to slaughter; provided that the holding of destination shall not contain any ovine or caprine animals other than those being fattened prior to slaughter, and shall not dispatch live ovine or caprine animals to other holdings, except for direct slaughter within the territory of the concerned Member State.
5. Following the application of the derogation provided for in point 2.3 (c) the following measures shall apply:
- (a) either the killing and complete destruction of all animals, embryos and ova identified by the inquiry referred to in the second and third indents of point 1(b). Member States may decide to determine the prion protein genotype of ovine animals which have been killed and destroyed;
 - (b) or, for a period of two breeding years following the detection of the last TSE case, at least the following measures:
 - (i) all ovine and caprine animals in the holding shall be identified;
 - (ii) the holding must be subject to intensified TSE monitoring for a period of two years, including the testing of all ovine and caprine animals which are over the age of 18 months and slaughtered for human consumption and all ovine and caprine animals over the age of 18 which have died or been killed on the holding;
 - (iii) the competent authority shall ensure that live ovine and caprine animals, embryos and ova from the holding are not dispatched to other Member States or third countries.
6. Member States applying the measures set out in point 2.3(b)(iii) or the derogations provided for in points 2.3(c) and (d) shall notify to the Commission an account of the conditions and criteria used for granting them. Where additional TSE cases are detected in flocks where derogations are applied, the conditions for granting such derogations shall be reassessed.'
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COMMISSION REGULATION (EC) No 747/2008

of 30 July 2008

amending Regulation (EC) No 716/2007 of the European Parliament and of the Council on Community statistics on the structure and activity of foreign affiliates, as regards the definitions of characteristics and the implementation of NACE Rev. 2

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Regulation (EC) No 716/2007 is amended as follows:

Having regard to Regulation (EC) No 716/2007 of the European Parliament and of the Council of 20 June 2007 on Community statistics on the structure and activity of foreign affiliates ⁽¹⁾, and in particular Article 9(2)(a) thereof,

Whereas:

- (1) Regulation (EC) No 716/2007 established a common framework for the systematic production of Community statistics on the structure and activity of foreign affiliates.
- (2) It is necessary to adapt the definitions for the characteristics on research and development variables for the common module for inward statistics on foreign affiliates.
- (3) It is also necessary to adapt the activity breakdown levels following the adoption of Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 ⁽²⁾.
- (4) Regulation (EC) No 716/2007 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Statistical Programme Committee,

1. Section 2 of Annex I is replaced by the text set out in Annex I to this Regulation.

2. The table for the activity breakdown levels 1 and 2 referred to in Annex III is replaced by the table set out in Annex II to this Regulation.

3. The table for the activity breakdown level 3 referred to in Annex III is replaced by the table set out in Annex III to this Regulation.

Article 2

Member States shall apply Annex III to Regulation (EC) No 716/2007 as amended by this Regulation:

— as regards levels 1 and 2, from 1 January 2010 (for reference year 2010 and subsequent years),

— as regards level 3, from 1 January 2008 (for reference year 2008 and subsequent years).

Article 3

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, 30 July 2008.

For the Commission

Joaquín ALMUNIA

Member of the Commission

⁽¹⁾ OJ L 171, 29.6.2007, p. 17.

⁽²⁾ OJ L 393, 30.12.2006, p. 1. Regulation as amended by Regulation (EC) No 295/2008 (OJ L 97, 9.4.2008, p. 13).

ANNEX I

SECTION 2

Characteristics

The following characteristics as defined in the Annex to Commission Regulation (EC) No 2700/98 of 17 December 1998 concerning the definitions of characteristics for structural business statistics ⁽¹⁾ will be compiled:

Code	Title
11 11 0	Number of enterprises
12 11 0	Turnover
12 12 0	Production value
12 15 0	Value added at factor cost
13 11 0	Total purchases of goods and services
13 12 0	Purchases of goods and services purchased for resale in the same condition as received
13 31 0	Personnel costs
15 11 0	Gross investment in tangible goods
16 11 0	Number of persons employed

The following characteristics will also be compiled by Member States for the 2009 reference year and subsequent years:

Code	Title and definition
22 11 0	Total intramural R&D expenditure (*) Research and experimental development comprise creative work undertaken on a systematic basis in order to increase the stock of knowledge, including of man, culture and society, and the use of this stock of knowledge to devise new applications. Intramural expenditures are all expenditures for R&D (research and development) performed within the unit, regardless of the source of funds. R&D must be distinguished from expenditures for a wide range of related activities. The following are therefore excluded from R&D expenditure: — expenditures on education and training, — expenditures on other scientific and technological activities (e.g. information services, testing and standardisation, feasibility studies), — expenditures on other industrial activities (e.g. industrial innovations n.e.s.), — expenditures on purely financing activities (other administrations and other indirect supporting activities are included). Research and development expenditure may, depending upon national laws, be recorded in one of three places: movements in intangible assets, movements in tangible assets or operating expenditure. If under national law it may be partly or completely capitalised the expenditure is included in the movement of the intangible assets included in company accounts under <i>Fixed assets — intangible assets — costs of research and development</i>. If under national law it is only partially capitalised or not capitalised at all, the current expenditure is part of <i>Raw materials and consumables, other external charges, staff costs</i> and other operating charges and the capital expenditure is included in the movement of the tangible assets included in company accounts under <i>Fixed assets — tangible assets</i>.

⁽¹⁾ OJ L 344, 18.12.1998, p. 49. Regulation as last amended by Regulation (EC) No 1670/2003 (OJ L 244, 29.9.2003, p. 74).

Code	Title and definition
22 12 0	Total number of R&D personnel (*) Research and experimental development comprise creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of man, culture and society, and the use of this stock of knowledge to devise new applications. All persons employed directly on research & development (R&D) should be counted, as well as those providing direct services such as R&D managers, administrators and clerical staff. Those persons providing an indirect service, such as canteen and security staff, should be excluded, even though their wages and salaries are included as an overhead in the measurement of expenditure. R&D personnel must be distinguished from personnel for a wide range of related activities. The following are therefore excluded from R&D personnel: — Personnel employed on education and training, — Personnel employed on other scientific and technological activities (e.g. information services, testing and standardisation, feasibility studies), — Personnel employed on other industrial activities (e.g. industrial innovations n.e.s.), — Personnel employed on administration and other indirect supporting activities. <i>Link to company accounts</i> The total number of research and development personnel may not be isolated in company accounts. It is part of the number of persons employed which is recorded in the notes on the company accounts (Article 43(8)). <i>Link to other variables</i> Part of the <i>number of persons employed</i> (16 11 0).

(*) Variables 22 11 0 and 22 12 0 shall be reported every second year. If the total amount of turnover or the number of persons employed in a division of NACE Rev. 2 Sections B to F represents, in a Member State, less than 1 % of the Community total, the information necessary for the compilation of statistics relating to characteristics 22 11 0 and 22 12 0 need not be collated for the purposes of this Regulation.

If the number of persons employed is not available, the number of employees (code 16 13 0) will be compiled instead.

Characteristics "total intramural R&D expenditure" (code 22 11 0) and "total number of R&D personnel" (code 22 12 0) are only required to be compiled for activities in NACE sections B, C, D, E and F. Up to reference year 2009, Member States will compile these characteristics as defined in the Annex to Commission Regulation (EC) No 2700/98 of 17 December 1998.

For NACE section K only the number of enterprises, turnover ⁽¹⁾ and the number of persons employed (or the number of employees instead) will be compiled.

⁽¹⁾ For NACE Rev. 2 division 64 turnover will be replaced by production value.'

ANNEX II

In Annex III to Regulation (EC) No 716/2007 the table for activity breakdown levels 1 and 2 is replaced by the following:

‘Activity breakdown levels 1 and 2 for outward statistics on foreign affiliates

Level 1	Level 2	NACE Rev. 2
TOTAL ACTIVITY	TOTAL ACTIVITY	sec B to S (excluding O)
MINING AND QUARRYING	MINING AND QUARRYING	sec B
	Extraction of crude petroleum, natural gas and mining support service activities	div 06, 09
MANUFACTURING	MANUFACTURING	sec C
	Food products, beverages and tobacco products	div 10, 11, 12
	Total textiles and wood activities	div 13, 14, 16, 17, 18
	Textiles and wearing apparel	div 13, 14
	Wood, paper, printing and reproduction	div 16, 17, 18
	Petroleum, chemicals, pharmaceutical products, rubber and plastic products	div 19, 20, 21, 22
	Coke and refined petroleum products	div 19
	Chemicals and chemical products	div 20
	Rubber and plastic products	div 22
	Total metal and machinery products	div 24, 25, 26, 28
	Basic metals and fabricated metal products	div 24, 25
	Computer, electronic and optical products	div 26
Computer, electronic and optical products	Machinery and equipment n.e.c.	div 28
Vehicles, other transport equipment	Total vehicles and other transport equipment	div 29, 30
	Motor vehicles, trailers and semi trailers	div 29
	Other transport equipment	div 30
	Total of other manufacturing	div 15, 23, 27, 31, 32, 33
ELECTRICITY, GAS, STEAM AND AIR CONDITIONING SUPPLY	ELECTRICITY, GAS, STEAM AND AIR CONDITIONING SUPPLY	sec D
WATER SUPPLY; SEWERAGE, WASTE MANAGEMENT AND REMEDIATION ACTIVITIES	WATER SUPPLY; SEWERAGE, WASTE MANAGEMENT AND REMEDIATION ACTIVITIES	sec E
	Water collection, treatment and supply	div 36
	Sewerage, waste management, remediation activities	div 37, 38, 39
CONSTRUCTION	CONSTRUCTION	sec F
TOTAL SERVICES	TOTAL SERVICES	sec G, H, I, J, K, L, M, N, P, Q, R, S

Level 1	Level 2	NACE Rev. 2
WHOLESALE AND RETAIL TRADE; REPAIR OF MOTOR VEHICLES AND MOTORCYCLES	WHOLESALE AND RETAIL TRADE; REPAIR OF MOTOR VEHICLES AND MOTORCYCLES	sec G
	Wholesale and retail trade and repair of motor vehicles and motorcycles	div 45
	Wholesale trade, except of motor vehicles and motorcycles	div 46
	Retail trade, except of motor vehicles and motorcycles	div 47
TRANSPORTATION AND STORAGE	TRANSPORTATION AND STORAGE	sec H
	TOTAL transport and storage	div 49, 50, 51, 52
	Land transport and transport via pipelines	div 49
	Water transport	div 50
	Air transport	div 51
	Warehousing and support activities for transportation	div 52
	Postal and courier activities	div 53
ACCOMMODATION AND FOOD SERVICE ACTIVITIES	ACCOMMODATION AND FOOD SERVICE ACTIVITIES	sec I
INFORMATION AND COMMUNI- CATION	INFORMATION AND COMMUNICATION	sec J
	Motion picture, video, television programme production, other enter- tainment activities	div 59, 60
	Telecommunications	div 61
	Other information and communication activities	div 58, 62, 63
FINANCIAL AND INSURANCE ACTIVITIES	FINANCIAL AND INSURANCE ACTIVITIES	sec K
	Financial intermediation, except insurance and pension funding	div 64
	— Activities of holding companies	group 64.2
	Insurance, reinsurance and pension funding, except compulsory social security	div 65
	Other financial activities	div 66
	REAL ESTATE ACTIVITIES	sec L
PROFESSIONAL, SCIENTIFIC AND TECHNICAL ACTIVITIES	PROFESSIONAL, SCIENTIFIC AND TECHNICAL ACTIVITIES	sec M
	Legal and accounting activities	div 69
	— Legal activities	group 69.1
	— Accounting, bookkeeping and auditing activities; tax consultancy	group 69.2

Level 1	Level 2	NACE Rev. 2
	Activities of head offices; management consultancy activities	div 70
	— Activities of head offices	group 70.1
	— Management consultancy activities	group 70.2
	Architecture and engineering activities; technical testing and analysis	div 71
Scientific research and development	Scientific research and development	div 72
	Advertising and market research	div 73
	— Advertising	group 73.1
	— Market research and public opinion polling	group 73.2
	Other professional, scientific and technical activities, veterinary activities	div 74, 75
	ADMINISTRATIVE AND SUPPORT SERVICE ACTIVITIES	sec N
	Rental and leasing activities	div 77
	Other administrative and support service activities	div 78, 79, 80, 81, 82
	EDUCATION	sec P
	HUMAN HEALTH AND SOCIAL WORK ACTIVITIES	sec Q
ARTS, ENTERTAINMENT AND RECREATION	ARTS, ENTERTAINMENT AND RECREATION	sec R
	Creative, arts and entertainment activities	div 90
	Libraries, archives, museums and other cultural activities	div 91
	Sporting and other recreational activities; gambling and betting activities	div 92, 93
	OTHER SERVICE ACTIVITIES	sec S
	Activities of membership organisations	div 94
	Repair of computers and personal and household goods, other personal service activities	div 95, 96
	Not allocated'	

ANNEX III

In Annex III to Regulation (EC) No 716/2007 the table for activity breakdown level 3 is replaced by the following:

'Activity breakdown level 3 for inward statistics on foreign affiliates

Level 3 (NACE Rev. 2)	
Heading	Requested level of detail
Business Economy	Sections B to N excluding K
MINING AND QUARRYING	Section B
MANUFACTURING	Section C
	All divisions 10 to 33
ELECTRICITY, GAS, STEAM AND AIR CONDITIONING SUPPLY	Section D
	Division 35
WATER SUPPLY; SEWERAGE, WASTE MANAGEMENT AND REMEDIATION ACTIVITIES	Section E
	All divisions 36 to 39
CONSTRUCTION	Section F
	All divisions 41 to 43
	All groups 41.1 and 41.2, 42.1 to 42.9, 43.1 to 43.9
WHOLESALE AND RETAIL TRADE; REPAIR OF MOTOR VEHICLES AND MOTOCYCLES	Section G
	All divisions 45 to 47
	All groups 45.1 to 45.2, 46.1 to 46.9, 47.1 to 47.9
TRANSPORTATION AND STORAGE	Section H
	All divisions 49 to 53
	Groups 49.1 to 49.5
ACCOMMODATION AND FOOD SERVICES ACTIVITIES	Section I
	All divisions 55 to 56
	All groups 55.1 to 55.9, 56.1 to 56.3
INFORMATION AND COMMUNICATION	Section J
	All divisions 58 to 63
	Groups 58.1, 58.2, 63.1, 63.9
FINANCIAL AND INSURANCE ACTIVITIES	Section K
	All divisions 64 to 66
REAL ESTATE ACTIVITIES	Section L
	Division 68

Level 3 (NACE Rev. 2)	
PROFESSIONAL, SCIENTIFIC AND TECHNICAL ACTIVITIES	Section M
	All divisions 69 to 75
ADMINISTRATIVE AND SUPPORT SERVICE ACTIVITIES	Section N
	All divisions 77 to 82
	Groups 77.1 to 77.4'

COMMISSION REGULATION (EC) No 748/2008

of 30 July 2008

on the opening and administration of an import tariff quota for frozen thin skirt of bovine animals falling within CN code 0206 29 91

(Recast)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations ⁽¹⁾, and in particular Article 1(1) thereof,

Whereas:

- (1) Commission Regulation (EC) No 996/97 of 3 June 1997 on the opening and administration of an import tariff quota for frozen thin skirt of bovine animals falling within CN code 0206 29 91 ⁽²⁾ has been substantially amended several times ⁽³⁾. Since further amendments are to be made, it should be recast in the interests of clarity.
- (2) Pursuant to Schedule CXL, the Community agreed to open an annual tariff quota of 1 500 tonnes for frozen thin skirt of bovine animal falling within CN code 0206 29 91. That quota should be opened on a multi-annual basis for periods of 12 months commencing on 1 July and the detailed rules of application laid down.
- (3) Commission Regulation (EC) No 376/2008 ⁽⁴⁾ lays down detailed rules for the application of the system of import and export licences and advance-fixing certificates for agricultural products. Commission Regulation (EC) No 382/2008 ⁽⁵⁾ lays down detailed rules for implementing the arrangements for import licences for beef and veal.
- (4) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽⁶⁾ applies to import licences for import tariff quota periods starting from 1 January 2007.

- (5) In order to ensure efficient administration of the import of meat originating in and coming from Argentina, that country is required to issue certificates of authenticity guaranteeing the origin of the products concerned. The layout of those certificates and the procedures for using them must be specified.
- (6) Certificates of authenticity must be issued by an authority in Argentina. That authority must present all the necessary guarantees to ensure that the arrangements in question operate properly.
- (7) In order to ensure efficient administration of the import of frozen thin skirt originating in and coming from Argentina, it should be laid down that, where appropriate, the issue of import licences should be subject to verification, *inter alia*, of the information given on certificates of authenticity.
- (8) For other countries, the quota should be managed only on the basis of Community import licences, with derogations in certain cases from the applicable rules.
- (9) Provision must be made for the Member States to forward information on the imports in question.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

1. A Community import tariff quota for frozen thin skirt of bovine animals falling within CN code 0206 29 91 is hereby opened every year for an annual volume of 1 500 tonnes for periods from 1 July to 30 June of the following year, hereinafter referred to as the 'import tariff quota period'.

This quota carries order number 09.4020.

2. The *ad valorem* customs duty on the quota referred to in paragraph 1 shall be 4 %.

⁽¹⁾ OJ L 146, 20.6.1996, p. 1.

⁽²⁾ OJ L 144, 4.6.1997, p. 6. Regulation as last amended by Regulation (EC) No 962/2007 (OJ L 213, 15.8.2007, p. 6).

⁽³⁾ See Annex VII.

⁽⁴⁾ OJ L 114, 26.4.2008, p. 3. Regulation as amended by Regulation (EC) No 514/2008 (OJ L 150, 10.6.2008, p. 7).

⁽⁵⁾ OJ L 115, 29.4.2008, p. 10. Regulation as amended by Regulation (EC) No 514/2008.

⁽⁶⁾ OJ L 238, 1.9.2006, p. 13. Regulation as amended by Regulation (EC) No 289/2007 (OJ L 78, 17.3.2007, p. 17).

3. The annual quota shall be allocated as follows:

(a) 700 tonnes originating in and coming from Argentina;

(b) 800 tonnes originating in and coming from other third countries.

4. Only whole thin skirt may be imported under the quota.

5. For the purposes of this Regulation, thin skirt which is frozen, with an internal temperature of not above -12°C when it enters the customs territory of the Community, shall be deemed to be 'frozen thin skirt'.

6. For the import arrangements referred to in paragraph 3(a) of this Article, the provisions of Regulation (EC) No 376/2008, Chapter III of Regulation (EC) No 1301/2006 and Regulation (EC) No 382/2008 shall apply, save as otherwise provided for in this Regulation.

For the import arrangements referred to in paragraph 3(b) of this Article, the provisions of Regulations (EC) No 376/2008, (EC) No 1301/2006 and (EC) No 382/2008 shall apply, save as otherwise provided for in this Regulation.

Article 2

1. Licence applications and licences themselves shall contain the following entries:

(a) in section 8, the country of origin and, for the import of the quantities referred to in Article 1(3)(a), the box 'yes' shall be ticked;

(b) in section 20 at least one of the entries listed in Annex I.

2. By way of derogation from Article 2(1) of Regulation (EC) No 382/2008, import licences shall be valid until the end of the import tariff quota period.

Article 3

1. The certificate of authenticity to be issued by Argentina shall be made out in one original and at least one copy on a form corresponding to the specimen at Annex II.

The form shall measure approximately 210×297 millimetres. The paper shall weigh not less than 40 grams per square metre.

2. Forms shall be printed and completed in one of the official languages of the Community and also, if desired, in the official language of Argentina.

3. Each certificate of authenticity shall bear an individual serial number assigned by the issuing authority referred to at Annex III (hereinafter the issuing authority). The copies shall bear the same serial number as the original.

4. The original and copies thereof may be typed or handwritten. In the latter case, they must be completed in black ink and in block capitals.

Article 4

1. Certificates of authenticity shall be valid only if they are duly completed and endorsed, in accordance with the instructions given at Annex II, by the issuing authority.

2. A certificate of authenticity shall be deemed to have been duly endorsed if it specifies the date and place of issue and if it bears the stamp of the issuing authority and the signature of the person or persons empowered to sign it.

The stamp may be replaced on the original certificate of authenticity and its copies by a printed seal.

Article 5

1. Certificates of authenticity shall be valid for three months from the date of issue.

However, certificates may not be presented to the competent national authority after 30 June following the date of issue.

2. The original of the certificate of authenticity drawn up in accordance with Articles 3, 4 and 6 plus a copy thereof shall be presented to the competent national authority together with the application for the first import licence relating to the certificate of authenticity.

A certificate of authenticity may be used for the issuing of more than one import licence for a total quantity not exceeding that shown on the certificate. Where more than one licence is issued in respect of a certificate, the competent national authority shall endorse the certificate of authenticity to show the quantity attributed.

The competent national authorities may issue import licences only after they are satisfied that all the information on the certificate of authenticity corresponds to that received each week from the Commission on the subject. The import licences shall be issued immediately thereafter.

3. Notwithstanding the third subparagraph of paragraph 2, the competent national authorities may, in exceptional cases and on duly reasoned application, issue import licences on the basis of the relevant certificates of authenticity before the information from the Commission is received. In such cases, the security for the import licences shall be EUR 50 per 100 kg net weight. After receiving the information concerning the certificate, the Member States shall replace the security by that of EUR 12 per 100 kg net weight.

Article 6

1. The issuing authority shall:

- (a) be recognised as such by Argentina;
 - (b) undertake to check the particulars on certificates of authenticity;
 - (c) undertake to supply the Commission and the Member States, on request, with any information enabling the particulars on certificates of authenticity to be evaluated.
2. The Commission shall revise Annex III if an issuing authority ceases to be recognised or fails to fulfil one of the obligations incumbent on it or if a new issuing authority is designated.

Article 7

In order to qualify for the import arrangements referred to in Article 1(3)(b), the licence application lodged by the applicant may relate to a maximum of 80 tonnes.

Article 8

1. The licence applications referred to in Article 7 shall be lodged only during the first 10 days of each import tariff quota period.

2. No later than 16:00, Brussels time, on the seventh working day following the end of the period for the lodging of applications, the Member States shall notify the Commission of the total quantity per country of origin covered by applications.

3. Import licences shall be issued as from the seventh and no later than the 16th working day following the end of the period for the notifications referred to in paragraph 2.

Article 9

1. By way of derogation from the second subparagraph of Article 11(1) of Regulation (EC) No 1301/2006, Member States shall notify to the Commission:

- (a) no later than 31 August following the end of each import tariff quota period, the quantities of products, including nil returns, for which import licences were issued in the previous import tariff quota period;
- (b) no later than 31 October following the end of each import tariff quota period, the quantities of products, including nil returns, covered by unused or partly used import licences and corresponding to the difference between the quantities entered on the back of the import licences and the quantities for which they were issued.

2. No later than 31 October following the end of each import tariff quota period, Member States shall notify to the Commission the quantities of products, which were actually released for free circulation during the preceding import tariff quota period.

However, as of the import tariff quota period starting on 1 July 2009, Member States shall forward to the Commission details of the quantities of products put into free circulation as of 1 July 2009 in accordance with Article 4 of Regulation (EC) No 1301/2006.

3. For the notifications referred to in paragraphs 1 and 2 of this Article, the quantities shall be expressed in kilograms product weight and per product category as indicated in Annex V to Regulation (EC) No 382/2008.

The notifications regarding the quantities referred to in Article 1(3)(a) of this Regulation shall be made as indicated in Annexes IV, V and VI to this Regulation.

Article 10

Regulation (EC) No 996/97 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 VIII.

Article 11

This Regulation shall enter into force on the 10th 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, 30 July 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX I

Entries referred to in Article 2(1)(b)

- *in Bulgarian:* Месести части от диафрагмата (Регламент (ЕО) № 748/2008),
 - *in Spanish:* Músculos del diafragma y delgados [Reglamento (CE) n° 748/2008],
 - *in Czech:* Okružít a bránice (nařízení (ES) č. 748/2008),
 - *in Danish:* Mellemgulv (forordning (EF) nr. 748/2008),
 - *in German:* Saumfleisch (Verordnung (EG) Nr. 748/2008),
 - *in Estonian:* Vahelihase kõõluseline osa (määrus (EÜ) nr 748/2008),
 - *in Greek:* Διάφραγμα [κανονισμός (ΕΚ) αριθ. 748/2008],
 - *in English:* Thin skirt (Regulation (EC) No 748/2008),
 - *in French:* Hampe [règlement (CE) n° 748/2008],
 - *in Italian:* Pezzi detti 'hampes' [regolamento (CE) n. 748/2008],
 - *in Latvian:* Liellopu diafragmas plānā daļa (Regula (EK) Nr. 748/2008),
 - *in Lithuanian:* Plonoji diafragma (Reglamentas (EB) Nr. 748/2008),
 - *in Hungarian:* Sovány dagadó (748/2008/EK rendelet),
 - *in Maltese:* Falda rqiqa (Regolament (KE) Nru 748/2008),
 - *in Dutch:* Omloop (Verordening (EG) nr. 748/2008),
 - *in Polish:* Cienka przepona (Rozporządzenie (WE) nr 748/2008),
 - *in Portuguese:* Diafragma [Regulamento (CE) n.º 748/2008],
 - *in Romanian:* Fleică [Regulamentul (CE) nr. 748/2008],
 - *in Slovak:* Bránica (Nariadenie (ES) č. 748/2008),
 - *in Slovenian:* Vampi (Uredba (ES) št. 748/2008),
 - *in Finnish:* Kuveliha (asetus (EY) N:o 748/2008),
 - *in Swedish:* Mellangärde (förordning (EG) nr 748/2008),
-

ANNEX III

LIST OF AUTHORITIES IN ARGENTINA EMPOWERED TO ISSUE CERTIFICATES OF AUTHENTICITY

Secretaría de Agricultura, Ganadería, PESCA y Alimentos (SAGPyA):

for thin skirt originating in Argentina as specified in Article 1(3)(a).

ANNEX IV

Notification of import licences (issued) — Regulation (EC) No 748/2008

Member State:

Application of Article 9 of Regulation (EC) No 748/2008

Quantities of products for which import licences were issued

From: to:

Order No	Product category or categories ⁽¹⁾	Quantity (kilograms product weight)
09.4020		

⁽¹⁾ Product category or categories as indicated in Annex V of Regulation (EC) No 382/2008.

ANNEX V

Notification of import licences (unused quantities) — Regulation (EC) No 748/2008

Member State:

Application of Article 9 of Regulation (EC) No 748/2008

Quantities of products for which import licences were unused

From: to:

Order No	Product category or categories ⁽¹⁾	Unused quantity (kilograms product weight)
09.4020		

⁽¹⁾ Product category or categories as indicated in Annex V of Regulation (EC) No 382/2008.

ANNEX VI

Notification of quantities of products put into free circulation — Regulation (EC) No 748/2008

Member State:

Application of Article 9 of Regulation (EC) No 748/2008

Quantities of products put into free circulation:

From: to: (import tariff quota period).

Order No	Product category or categories ⁽¹⁾	Quantity put into free circulation (kilograms product weight)
09.4020		

⁽¹⁾ Product category or categories as indicated in Annex V of Regulation (EC) No 382/2008.

ANNEX VII

Repealed Regulation with its successive amendments

Commission Regulation (EC) No 996/97 (OJ L 144, 4.6.1997, p. 6).	
Commission Regulation (EC) No 2048/97 (OJ L 287, 21.10.1997, p. 10).	Concerning the reference to Regulation (EC) No 996/97 Article 1 only
Commission Regulation (EC) No 260/98 (OJ L 25, 31.1.1998, p. 42).	Article 6 only
Commission Regulation (EC) No 1266/98 (OJ L 175, 19.6.1998, p. 9).	
Commission Regulation (EC) No 649/2003 (OJ L 95, 11.4.2003, p. 13).	Article 3 only
Commission Regulation (EC) No 1118/2004 (OJ L 217, 17.6.2004, p. 10).	Article 3 only
Commission Regulation (EC) No 1965/2006 (OJ L 408, 30.12.2006, p. 27).	Article 3 and Annex III only
Commission Regulation (EC) No 568/2007 (OJ L 133, 25.5.2007, p. 15).	
Commission Regulation (EC) No 962/2007 (OJ L 213, 15.8.2007, p. 6).	

ANNEX VIII

Correlation table

Regulation (EC) No 996/97	This Regulation
Article 1	Article 1
Article 2(2)	Article 2(1)
Article 2(3)	Article 2(2)
Articles 3 to 8	Articles 3 to 8
—	Article 9
—	Article 10
Article 12	Article 11
Annex I	Annex II
Annex II	Annex III
Annex III	Annex I
—	Annex IV
—	Annex V
—	Annex VI
—	Annex VII
—	Annex VIII

COMMISSION REGULATION (EC) No 749/2008**of 30 July 2008****amending several regulations concerning import tariff quotas in the beef and veal sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 144(1) in conjunction with Article 4 thereof,

Whereas:

(1) Article 11(1) of Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾ provides certain rules as regards notifications of the Member States to the Commission. Regulation (EC) No 1301/2006 applies without prejudice to additional conditions or derogations which might be laid down by the sectoral regulations. It is appropriate to provide, in Commission Regulations specific to certain quotas in the beef and veal sector, for more detailed rules on notifications concerning import licences in that sector. In particular, in order to clarify the obligations related to the closing date for notifications relating to quantities covered by import licences, such obligations should be laid down for each import tariff quota concerned and it is therefore necessary to derogate from the second subparagraph of Article 11(1) of Regulation (EC) No 1301/2006 on that point. The following Regulations should be amended accordingly:

— Commission Regulation (EC) No 297/2003 of 17 February 2003 laying down detailed rules for the application of the tariff quota for beef and veal originating in Chile ⁽³⁾,

— Commission Regulation (EC) No 2092/2004 of 8 December 2004 laying down detailed rules of application for an import tariff quota of dried boneless beef originating in Switzerland ⁽⁴⁾,

— Commission Regulation (EC) No 2172/2005 of 23 December 2005 laying down detailed rules for the application of an import tariff quota for live bovine animals of a weight exceeding 160 kg and originating in Switzerland provided for in the Agreement between the European Community and the Swiss Confederation on trade in agricultural products ⁽⁵⁾,

— Commission Regulation (EC) No 529/2007 of 11 May 2007 opening and providing for the administration of an import tariff quota for frozen meat of bovine animals covered by CN code 0202 and products covered by CN code 0206 29 91 (1 July 2007 to 30 June 2008) ⁽⁶⁾,

— Commission Regulation (EC) No 545/2007 of 16 May 2007 opening and providing for the administration of an import tariff quota for frozen beef intended for processing (1 July 2007 to 30 June 2008) ⁽⁷⁾,

— Commission Regulation (EC) No 558/2007 of 23 May 2007 opening and providing for the administration of an import tariff quota for young male bovine animals for fattening ⁽⁸⁾, and

— Commission Regulation (EC) No 659/2007 of 14 June 2007 opening and providing for the administration of import tariff quotas for bulls, cows and heifers other than for slaughter of certain Alpine and mountain breeds ⁽⁹⁾.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Commission Regulation (EC) No 510/2008 (OJ L 149, 7.6.2008, p. 61).

⁽²⁾ OJ L 238, 1.9.2006, p. 13. Regulation as amended by Regulation (EC) No 289/2007 (OJ L 78, 17.3.2007, p. 17).

⁽³⁾ OJ L 43, 18.2.2003, p. 26. Regulation as last amended by Regulation (EC) No 332/2008 (OJ L 102, 12.4.2008, p. 17).

⁽⁴⁾ OJ L 362, 9.12.2004, p. 4. Regulation as last amended by Regulation (EC) No 1965/2006 (OJ L 408, 30.12.2006, p. 26, as corrected by OJ L 47, 16.2.2007, p. 21).

⁽⁵⁾ OJ L 346, 29.12.2005, p. 10. Regulation as last amended by Regulation (EC) No 1965/2006.

⁽⁶⁾ OJ L 123, 12.5.2007, p. 26.

⁽⁷⁾ OJ L 129, 17.5.2007, p. 14. Regulation as amended by Regulation (EC) No 98/2008 (OJ L 29, 2.2.2008, p. 5).

⁽⁸⁾ OJ L 132, 24.5.2007, p. 21.

⁽⁹⁾ OJ L 155, 15.6.2007, p. 20.

- (2) The import tariff quota opened by Regulation (EC) No 2092/2004 is managed on the basis of documents issued by the third country concerned. Therefore, it is necessary to clarify that the provisions of Chapter III of Regulation (EC) No 1301/2006 should apply to import licences issued pursuant to Regulation (EC) No 2092/2004, without prejudice to additional conditions laid down in that Regulation.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

However, as of the import tariff quota period starting on 1 July 2009, Member States shall forward to the Commission details of the quantities of products put into free circulation as of 1 July 2009 in accordance with Article 4 of Regulation (EC) No 1301/2006.

3. The notifications referred to in paragraph 1 and the first subparagraph of paragraph 2 of this Article, shall be made as indicated in Annexes IV, V and VI to this Regulation and the product categories indicated in Annex V to Commission Regulation (EC) No 382/2008 (*) shall be used.

(*) OJ L 115, 29.4.2008, p. 10.;

HAS ADOPTED THIS REGULATION:

2. new Annexes IV, V and VI, the text of which is set out text in Annex I to this Regulation, are added.

Article 1

Regulation (EC) No 297/2003 is amended as follows:

1. the following Article 9a is inserted:

'Article 9a

1. By way of derogation from the second subparagraph of Article 11(1) of Regulation (EC) No 1301/2006, Member States shall notify to the Commission:

- (a) no later than 31 August following the end of each import tariff quota period the quantities of products, including nil returns, for which import licences were issued in the previous import tariff quota period;
- (b) no later than 31 October following the end of each import tariff quota period the quantities of products, including nil returns, covered by unused or partly used import licences and corresponding to the difference between the quantities entered on the back of the import licences and the quantities for which they were issued.

2. No later than 31 October following the end of each import tariff quota period, Member States shall notify to the Commission the quantities of products, which were actually released for free circulation during the preceding import tariff quota period.

Article 2

Regulation (EC) No 2092/2004 is amended as follows:

1. Article 6 is replaced by the following:

'Article 6

The provisions of Commission Regulation (EC) No 376/2008 (*), Chapter III of Commission Regulation (EC) No 1301/2006 (**) and Commission Regulation (EC) No 382/2008 (***) shall apply, save as otherwise provided for in this Regulation.

- (*) OJ L 114, 26.4.2008, p. 3.
 (**) OJ L 238, 1.9.2006, p. 13.
 (***) OJ L 115, 29.4.2008, p. 10.'

2. the following Article 7a is inserted:

'Article 7a

1. By way of derogation from the second subparagraph of Article 11(1) of Regulation (EC) No 1301/2006, Member States shall notify to the Commission:

- (a) no later than 28 February following the end of each import tariff quota period, the quantities of products, including nil returns, for which import licences were issued in the previous import tariff quota period;

(b) no later than 30 April following the end of each import tariff quota period, the quantities of products, including nil returns, covered by unused or partly used import licences and corresponding to the difference between the quantities entered on the back of the import licences and the quantities for which they were issued.

2. No later than 30 April following the end of each import tariff quota period, Member States shall notify the Commission the quantities of products, which were actually released for free circulation during the preceding import tariff quota period.

However, as of the import tariff quota period starting on 1 January 2009, Member States shall forward to the Commission details of the quantities of products put into free circulation as of 1 January 2009 in accordance with Article 4 of Regulation (EC) No 1301/2006.

3. The notifications referred to in paragraph 1 and the first subparagraph of paragraph 2 of this Article shall be made as indicated in Annexes IV, V and VI to this Regulation and the product categories indicated in Annex V to Regulation (EC) No 382/2008 shall be used.'

3. New Annexes IV, V and VI, the text of which is set out text in Annex II to this Regulation, are added.

Article 3

In Regulation (EC) No 2172/2005, the following Article 8a is inserted:

'Article 8a

1. By way of derogation from the second subparagraph of Article 11(1) of Regulation (EC) No 1301/2006, Member States shall notify to the Commission:

(a) no later than 28 February following the end of each import tariff quota period, the quantities of products, including nil returns, for which import licences were issued in the previous import tariff quota period;

(b) no later than 30 April following the end of each import tariff quota period, the quantities of products, including nil returns, covered by unused or partly used import licences and corresponding to the difference between the quantities entered on the back of the import licences and the quantities for which they were issued.

2. No later than 30 April following the end of each import tariff quota period, Member States shall notify to the

Commission the quantities of products, which were actually released for free circulation during the preceding import tariff quota period.

However, as of the import tariff quota period starting on 1 January 2009, Member States shall forward to the Commission details of the quantities of products put into free circulation as of 1 January 2009 in accordance with Article 4 of Regulation (EC) No 1301/2006.

3. For the notifications referred to in paragraph 1 and the first subparagraph of paragraph 2 of this Article, the quantities shall be expressed in heads and per product category as indicated in Annex V to Commission Regulation (EC) No 382/2008 (*).

(*) OJ L 115, 29.4.2008, p. 10.'

Article 4

In Regulation (EC) No 529/2007, the following Article 8a is inserted:

'Article 8a

1. By way of derogation from the second subparagraph of Article 11(1) of Regulation (EC) No 1301/2006, Member States shall notify to the Commission:

(a) no later than the 10th day of each month, the quantities of products, including nil returns, for which import licences were issued in the previous month;

(b) no later than 31 October 2008, the quantities of products, including nil returns, covered by unused or partly used import licences and corresponding to the difference between the quantities entered on the back of the import licences and the quantities for which they were issued.

2. No later than 31 October 2008, Member States shall notify to the Commission the quantities of products, which were actually released for free circulation during the preceding import tariff quota period.

3. For the notifications referred to in paragraphs 1 and 2 of this Article, the quantities shall be expressed in kilograms product weight and per product category as indicated in Annex V of Commission Regulation (EC) No 382/2008 (*).

(*) OJ L 115, 29.4.2008, p. 10.'

Article 5

In Regulation (EC) No 545/2007, the following Article 11a is inserted:

'Article 11a

1. By way of derogation from the second subparagraph of Article 11(1) of Regulation (EC) No 1301/2006, Member States shall notify to the Commission:

- (a) no later than the 10th day of each month, the quantities of products, including nil returns, for which import licences were issued in the previous month;
- (b) no later than 31 October 2008, the quantities of products, including nil returns, covered by unused or partly used import licences and corresponding to the difference between the quantities entered on the back of the import licences and the quantities for which they were issued.

2. No later than 31 October 2008, Member States shall notify to the Commission the quantities of products, which were actually released for free circulation during the preceding import tariff quota period.

3. For the notifications referred to in paragraphs 1 and 2 of this Article, the quantities shall be expressed in kilograms product weight, per order number and per product category as indicated in Annex V to Commission Regulation (EC) No 382/2008 (*).

(*) OJ L 115, 29.4.2008, p. 10.'

Article 6

In Regulation (EC) No 558/2007, the following Article 9a is inserted:

'Article 9a

1. By way of derogation from the second subparagraph of Article 11(1) of Regulation (EC) No 1301/2006, Member States shall notify to the Commission:

- (a) no later than 31 August following the end of each import tariff quota period, the quantities of products, including nil returns, for which import licences were issued in the previous import tariff quota period;

- (b) no later than 31 October following the end of each import tariff quota period, the quantities of products, including nil returns, covered by unused or partly used import licences and corresponding to the difference between the quantities entered on the back of the import licences and the quantities for which they were issued.

2. No later than 31 October following the end of each import tariff quota period, Member States shall notify to the Commission the quantities of products, which were actually released for free circulation during the preceding import tariff quota period.

However, as of the import tariff quota period starting on 1 July 2009, Member States shall forward to the Commission details of the quantities of products put into free circulation as of 1 July 2009 in accordance with Article 4 of Regulation (EC) No 1301/2006.

3. For the notifications referred to in paragraph 1 and the first subparagraph of paragraph 2 of this Article, the quantities shall be expressed in heads and per product category as indicated in Annex V to Commission Regulation (EC) No 382/2008 (*).

(*) OJ L 115, 29.4.2008, p. 10.'

Article 7

In Regulation (EC) No 659/2007, the following Article 10a is inserted:

'Article 10a

1. By way of derogation from the second subparagraph of Article 11(1) of Regulation (EC) No 1301/2006, Member States shall notify to the Commission:

- (a) no later than 31 August following the end of each import tariff quota period, the quantities of products, including nil returns, for which import licences were issued in the previous import tariff quota period;
- (b) no later than 31 October following the end of each import tariff quota period, the quantities of products, including nil returns, covered by unused or partly used import licences and corresponding to the difference between the quantities entered on the back of the import licences and the quantities for which they were issued.

2. No later than 31 October following the end of each import tariff quota period, Member States shall notify to the Commission the quantities of products, which were actually released for free circulation during the preceding import tariff quota period.

However, as of the import tariff quota period starting on 1 July 2009, Member States shall forward to the Commission details of the quantities of products put into free circulation as of 1 July 2009 in accordance with Article 4 of Regulation (EC) No 1301/2006.

3. For the notifications referred to in paragraph 1 and the first subparagraph of paragraph 2 of this Article, the quantities shall be expressed in heads and per product category as indicated in Annex V to Commission Regulation (EC) No 382/2008 (*).

(*) OJ L 115, 29.4.2008, p. 10.

Article 8

This Regulation shall enter into force on the 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, 30 July 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX I

'ANNEX IV

Notification of import licences (issued) — Regulation (EC) No 297/2003

Member State:

Application of Article 9a of Regulation (EC) No 297/2003

Quantities of products for which import licences were issued

From: to:

Order No	Product category or categories ⁽¹⁾	Quantity (kilograms product weight)
09.4181		

⁽¹⁾ Product category or categories as indicated in Annex V of Regulation (EC) No 382/2008.

ANNEX V

Notification of import licences (unused quantities) — Regulation (EC) No 297/2003

Member State:

Application of Article 9a of Regulation (EC) No 297/2003

Quantities of products for which import licences were unused

From: to:

Order No	Product category or categories ⁽¹⁾	Unused quantity (kilograms product weight)
09.4181		

⁽¹⁾ Product category or categories as indicated in Annex V of Regulation (EC) No 382/2008.

ANNEX VI

Notification of quantities of products put into free circulation — Regulation (EC) No 297/2003

Member State:

Application of Article 9a of Regulation (EC) No 297/2003

Quantities of products put into free circulation:

From: to: (import tariff quota period).

Order No	Product category or categories ⁽¹⁾	Quantity put into free circulation (kilograms product weight)
09.4181		

⁽¹⁾ Product category or categories as indicated in Annex V of Regulation (EC) No 382/2008.

ANNEX II

'ANNEX IV

Notification of import licences (issued) — Regulation (EC) No 2092/2004

Member State:

Application of Article 7a of Regulation (EC) No 2092/2004

Quantities of products for which import licences were issued

From: to:

Order No	Product category or categories ⁽¹⁾	Quantity (kilograms product weight)
09.4202		

⁽¹⁾ Product category or categories as indicated in Annex V of Regulation (EC) No 382/2008

ANNEX V

Notification of import licences (unused quantities) — Regulation (EC) No 2092/2004

Member State:

Application of Article 7a of Regulation (EC) No 2092/2004

Quantities of products for which import licences were unused

From: to:

Order No	Product category or categories ⁽¹⁾	Unused quantity (kilograms product weight)
09.4202		

⁽¹⁾ Product category or categories as indicated in Annex V of Regulation (EC) No 382/2008

ANNEX VI

Notification of quantities of products put into free circulation — Regulation (EC) No 2092/2004

Member State:

Application of Article 7a of Regulation (EC) No 2092/2004

Quantities of products put into free circulation:

From: to: (import tariff quota period).

Order No	Product category or categories ⁽¹⁾	Quantity put into free circulation (kilograms product weight)
09.4202		

⁽¹⁾ Product category or categories as indicated in Annex V of Regulation (EC) No 382/2008

COMMISSION REGULATION (EC) No 750/2008**of 30 July 2008****amending Regulation (EC) No 414/2008 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards the granting of private storage aid for certain cheeses in the 2008/09 storage period**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 43 thereof, in conjunction with Article 4,

Whereas:

(1) Commission Regulation (EC) No 414/2008 ⁽²⁾ sets up in its Annex the list of the cheeses eligible for private storage aid in the 2008/09 storage period.

(2) Romanian authorities requested the participation in the private storage aid scheme for certain cheeses in the 2008/09 storage period.

(3) On basis of the Romanian request and the current market situation for long-keeping cheeses, the Annex

to Regulation (EC) No 414/2008 should include some Romanian long-keeping cheeses whose market situation may be supported by the private storage, for a quantity which may stabilise the cheese market.

(4) Regulation (EC) No 414/2008 should therefore be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 414/2008 shall be replaced by the text set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 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, 30 July 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Commission Regulation (EC) No 510/2008 (OJ L 149, 7.6.2008, p. 61).

⁽²⁾ OJ L 125, 9.5.2008, p. 17.

ANNEX

‘ANNEX

Categories of cheeses	Quantities eligible for aid	Minimum age for cheeses	Period of entry into storage	Period of removal from storage
French long-keeping cheeses: — protected designation of origin Beaufort and Comté cheeses, — “Label Rouge” Emmental grand cru, — class A or B Emmental and Gruyère cheeses,	16 000 t	10 days	From 1 June to 30 September 2008	From 1 October 2008 to 31 March 2009
German long-keeping cheeses: “Markenkäse” or “Klasse fein” Emmentaler/Bergkäse	1 000 t	10 days	From 1 June to 30 September 2008	From 1 October 2008 to 31 March 2009
Irish long-keeping cheeses: Irish long-keeping cheese Emmental, special grade	900 t	10 days	From 1 June to 30 September 2008	From 1 October 2008 to 31 March 2009
Austrian long-keeping cheeses: 1. Güteklasse Emmentaler/Bergkäse/Alpkäse	1 700 t	10 days	From 1 June to 30 September 2008	From 1 October 2008 to 31 March 2009
Finnish long-keeping cheeses: “I luokka”	1 700 t	10 days	From 1 June to 30 September 2008	From 1 October 2008 to 31 March 2009
Swedish long-keeping cheeses: “Västerbotten/Prästost/Svecia/Grevé”	1 700 t	10 days	From 1 June to 30 September 2008	From 1 October 2008 to 31 March 2009
Polish long-keeping cheeses: “Podlaski/Piwny/Emental ski/Ser Corregio/Bursztyn/Wielkopolski”	3 000 t	10 days	From 1 June to 30 September 2008	From 1 October 2008 to 31 March 2009
Slovenian long-keeping cheeses: “Ementalec/Zbrinc”	200 t	10 days	From 1 June to 30 September 2008	From 1 October 2008 to 31 March 2009
Lithuanian long-keeping cheeses: “Goja/Džiugas”	700 t	10 days	From 1 June to 30 September 2008	From 1 October 2008 to 31 March 2009
Latvian long-keeping cheeses: “Rigamond, Ementāles tipa un Ekstra klases siers”	500 t	10 days	From 1 June to 30 September 2008	From 1 October 2008 to 31 March 2009
Hungarian long-keeping cheeses: “Hajdú”	300 t	10 days	From 1 June to 30 September 2008	From 1 October 2008 to 31 March 2009
Pecorino Romano	19 000 t	90 days and produced after 1 October 2007	From 1 June to 31 December 2008	Before 31 March 2009
Kefalotyri and Kasserı made from sheep’s or goat’s milk or a mixture of the two	2 500 t	90 days and produced after 30 November 2007	From 1 June to 30 November 2008	Before 31 March 2009
Romanian long-keeping cheeses: Caşcaval Dobrogea, Caşcaval Rucăr, Caşcaval Dalia, Brânza Trapist, Brânza Cedar and Emmental	500 t	10 days	From 1 August to 30 September 2008	From 1 October 2008 to 31 March 2009’

COMMISSION REGULATION (EC) No 751/2008**of 30 July 2008****establishing a prohibition of fishing for saithe in Norwegian waters south of 62° N by vessels flying the flag of Sweden**

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 ⁽¹⁾, and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy ⁽²⁾, and in particular Article 21(3) 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 ⁽³⁾, lays down quotas for 2008.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2008.

- (3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2008 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

*Article 3***Entry into force**

This Regulation shall enter into force on the day following that 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, 30 July 2008.

For the Commission

Fokion FOTIADIS

Director-General for Fisheries and Maritime Affairs

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

⁽²⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1098/2007 (OJ L 248, 22.9.2007, p. 1).

⁽³⁾ OJ L 19, 23.1.2008, p. 1. Regulation as last amended by Commission Regulation (EC) No 697/2008 (OJ L 195, 24.7.2008, p. 9).

ANNEX

No	22/T&Q
Member State	SWE
Stock	POK/04-N.
Species	Saithe (<i>Pollachius virens</i>)
Zone	Norwegian waters south of 62° N
Date	19.6.2008

DIRECTIVES

COMMISSION DIRECTIVE 2008/82/EC

of 30 July 2008

amending Directive 2008/38/EC as regards feedingstuffs intended for the support of the renal function in case of chronic renal insufficiency

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 93/74/EEC of 13 September 1993 on feedingstuffs intended for particular nutritional purposes ⁽¹⁾, and in particular Article 6(c) thereof,

Whereas:

- (1) Commission Directive 2008/38/EC of 5 March 2008 establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes ⁽²⁾ includes as a particular nutritional purpose the 'support of renal function in case of chronic renal insufficiency'.
- (2) By Regulation (EC) No 163/2008 ⁽³⁾, the Commission authorised the preparation lanthanum carbonate octahydrate as a zootechnical feed additive for cats. This authorisation was based on an opinion of the European Food Safety Authority of 18 September 2007 ⁽⁴⁾. In that opinion that Authority considered that supplementation of diets with that preparation results in a decrease in phosphorus excretion via urine and an increase in its excretion via faeces, linked to a decrease in apparent phosphorus digestibility. It concluded that that preparation can reduce the phosphorus absorption of adult cats.
- (3) Directive 2008/38/EC already includes feed with a low level of phosphorus in the line 'support of renal function in case of chronic renal insufficiency'. The same positive effect can be obtained if the absorption of phosphorus contained in the feed is reduced. Lanthanum carbonate octahydrate should therefore be included in the line 'Support of renal function in case of chronic renal insufficiency' in the list of intended uses in Part B of the Annex I to Directive 2008/38/EC.
- (4) Directive 2008/38/EC should therefore be amended accordingly.

- (5) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The Annex I to Directive 2008/38/EC is amended in accordance with the Annex to this Directive.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 20 February 2009 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

*Article 3*This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 30 July 2008.

For the Commission

Androulla VASSILIOU

Member of the Commission

⁽¹⁾ OJ L 237, 22.9.1993, p. 23. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽²⁾ OJ L 62, 6.3.2008, p. 9.

⁽³⁾ OJ L 50, 23.2.2008, p. 3.

⁽⁴⁾ The EFSA Journal (2007) 542, 1-15.

ANNEX

In Part B of the Annex I to Directive 2008/38/EC, the line of the particular nutritional purpose 'Support of renal function in case of chronic renal insufficiency' is replaced by the following:

Particular nutritional purpose	Essential nutritional characteristics	Species or category of animal	Labelling declarations	Recommended length of time for use	Other provision
'Support of renal function in case of chronic renal insufficiency (*)	Low level of phosphorus and restricted level of protein but of high quality	Dogs and cats	— Protein source(s) — Calcium — Phosphorus — Potassium — Sodium — Content of essential fatty acids (if added)	Initially up to 6 months (**)	Indicate on the package, container or label: "It is recommended that a veterinarian's opinion be sought before use or before extending the period of use."
	or Reduced phosphorus absorption by means of incorporation of Lanthanum carbonate octahydrate	Adult cats	— Protein source(s) — Calcium — Phosphorus — Potassium — Sodium — Lanthanum carbonate octahydrate — Content of essential fatty acids (if added)	Initially up to 6 months (**)	Indicate on the package, container or label: "It is recommended that a veterinarian's opinion be sought before use or before extending the period of use." Indicate in the instructions for use: "Water should be available at all times."

(*) If appropriate the manufacturer may also recommend use for temporary renal insufficiency.

(**) If the feedingsuff is recommended for temporary renal insufficiency the recommended period for use shall be two to four weeks.'

II

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

DECISIONS

COUNCIL

DECISION No 1/2007 OF THE EC-TURKEY ASSOCIATION COUNCIL

of 25 June 2007

amending the trade concessions for processed agricultural products covered by Decision No 1/95 of the EC-Turkey Association Council on implementing the final phase of the Customs Union and by Decision No 1/97 on the arrangements applicable to certain processed agricultural products and repealing Decision No 1/97

(2008/625/EC)

THE ASSOCIATION COUNCIL,

HAS DECIDED AS FOLLOWS:

Having regard to the Agreement establishing an association between the European Economic Community and Turkey ⁽¹⁾ and in particular Article 22(3) thereof,

Whereas:

- (1) Section V of Chapter I of Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on implementing the final phase of the Customs Union ⁽²⁾ establishes the trade arrangements for processed agricultural products.
- (2) Decision No 1/97 of the EC-Turkey Association Council of 29 April 1997 on the arrangements applicable to certain processed agricultural products ⁽³⁾ establishes annual quotas in respect of certain goods.
- (3) New trade improvements have recently been negotiated which aim to deepen and widen the customs union and to improve economic convergence as a result of the enlargement of the Community on 1 May 2004. These improvements include concessions in the form of duty free tariff quotas (in particular for the goods covered by Decision No 1/97). That Decision should therefore be repealed.
- (4) For imports outside of the quotas the current trade provisions set out in Decision 1/95 of the EC-Turkey Association Council should continue to apply,

Article 1

The tariff quotas set out in Annex I and in Annex II shall be opened from 1 January 2007 and from 1 January to 31 December of the following years under the conditions laid down therein.

Article 2

Section V of Chapter I of Decision No 1/95 of the EC-Turkey Association Council shall continue to apply to imports exceeding the duty free tariff quotas set out in Annex I and in Annex II.

Article 3

Decision No 1/97 of the EC Turkey Association Council shall be repealed.

Article 4

This Decision shall enter into force on the first day of the month of following its adoption.

⁽¹⁾ OJ 217, 29.12.1964, p. 3687/64.

⁽²⁾ OJ L 35, 13.2.1996, p. 1.

⁽³⁾ OJ L 126, 17.5.1997, p. 26.

It shall apply as from 1 January 2007.

Done at Brussels, 25 June 2007.

For the Association Council

The President

A. GÜL

ANNEX I

Duty-free tariff quotas applicable upon imports into the EU of processed agricultural products from Turkey

CN code	Product description	Annual duty-free tariff quota (in tonnes net weight)
(1)	(2)	(3)
1704	Sugar confectionery (including white chocolate), not containing cocoa:	5 000
1704 10	– Chewing gum, whether or not sugar-coated:	
	-- Containing less than 60 % by weight of sucrose (including invert sugar expressed as sucrose):	
1704 10 11	--- Gum in strips	
1704 10 19	--- Other	
	-- Containing 60 % or more by weight of sucrose (including invert sugar expressed as sucrose):	
1704 10 91	--- Gum in strips	
1704 10 99	--- Other	
1704 90	– Other:	10 000 ⁽¹⁾
1704 90 30	-- White chocolate	
	-- Other:	
1704 90 51	--- Pastes, including marzipan, in immediate packings of a net content of 1 kg or more	
1704 90 55	--- Throat pastilles and cough drops	
1704 90 61	--- Sugar-coated (panned) goods	
	--- Other:	
1704 90 65	---- Gum confectionery and jelly confectionery, including fruit pastes in the form of sugar confectionery	
1704 90 71	---- Boiled sweets whether or not filled	
1704 90 75	---- Toffees, caramels and similar sweets	
	---- Other:	
1704 90 81	----- Compressed tablets	
1704 90 99	----- Other	
1806	Chocolate and other food preparations containing cocoa:	5 000 ⁽²⁾
1806 10	– Cocoa powder, containing added sugar or other sweetening matter:	
1806 10 20	-- Containing 5 % or more but less than 65 % by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose	
1806 20	– Other preparations in blocks, slabs or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg:	

(1)	(2)	(3)
1806 20 10	-- Containing 31 % or more by weight of cocoa butter or containing a combined weight of 31 % or more of cocoa butter and milkfat	
1806 20 30	-- Containing a combined weight of 25 % or more, but less than 31 % of cocoa butter and milkfat	
	-- Other:	
1806 20 50	--- Containing 18 % or more by weight of cocoa butter	
1806 20 70	--- Chocolate milk crumb	
1806 20 80	--- Chocolate flavour coating	
1806 20 95	--- Other	
	- Other, in blocks, slabs or bars:	
1806 31 00	-- Filled	
1806 32	-- Not filled	
1806 32 10	--- With added cereal, fruit or nuts	
1806 32 90	--- Other	
1806 90	- Other:	
	-- Chocolate and chocolate products:	
	--- Chocolates (including pralines), whether or not filled:	
1806 90 11	---- Containing alcohol	
1806 90 19	---- Other	
	--- Other:	
1806 90 31	---- Filled	
1806 90 39	---- Not filled	
1806 90 50	-- Sugar confectionery and substitutes therefore made from sugar substitution products, containing cocoa	
1806 90 60	-- Spreads containing cocoa	
1806 90 70	-- Preparations containing cocoa for making beverages	
1806 90 90	-- Other	
1901	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:	900
1901 20 00	- Mixes and doughs for the preparation of bakers' wares of heading 1905	
1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:	20 000
	- Uncooked pasta, not stuffed or otherwise prepared:	

(1)	(2)	(3)
1902 11 00	-- Containing eggs	
1902 19	-- Other:	
1902 19 10	--- Containing no common wheat flour or meal	
1902 19 90	--- Other	
1902 20	- Stuffed pasta, whether or not cooked or otherwise prepared:	
	-- Other:	
1902 20 91	--- Cooked	
1902 20 99	--- Other	
1902 30	- Other pasta:	
1902 30 10	-- Dried	
1902 30 90	-- Other	
1902 40	- Couscous:	
1902 40 10	-- Unprepared	
1902 40 90	-- Other	
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, cornflakes); cereals (other than maize (corn)), in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked or otherwise prepared, not elsewhere specified or included:	500
1904 10	- Prepared foods obtained by the swelling or roasting of cereals or cereal products:	
1904 10 10	-- Obtained from maize	
1904 10 30	-- Obtained from rice	
1904 10 90	-- Other	
1904 20	- Prepared foods obtained from unroasted cereal flakes or from mixtures of unroasted cereal flakes and roasted cereal flakes or swelled cereals:	100
1904 20 10	-- Preparation of the muesli-type based on unroasted cereal flakes	
	-- Other:	
1904 20 91	--- Obtained from maize	
1904 20 95	--- Obtained from rice	
1904 20 99	--- Other	
1904 30 00	- Bulgur wheat	10 000
1904 90	- Other:	2 500
1904 90 10	-- Rice	
1904 90 80	-- Other	
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, ricepaper and similar products: - Sweet biscuits; waffles and wafers:	10 000

(1)	(2)	(3)
1905 31	-- Sweet biscuits:	
	--- Completely or partially coated or covered with chocolate or other preparations containing cocoa:	
1905 31 11	---- In immediate packings of a net content not exceeding 85 g	
1905 31 19	---- Other	
	--- Other:	
1905 31 30	---- Containing 8 % or more by weight of milk fats	
	---- Other:	
1905 31 91	----- Sandwich biscuits	3 000
1905 31 99	----- Other	
1905 32	-- Waffles and wafers:	
1905 32 05	--- With a water content exceeding 10 % by weight	
	--- Other	
	---- Completely or partially coated or covered with chocolate or other preparations containing cocoa:	
1905 32 11	----- In immediate packings of a net content not exceeding 85 g	
1905 32 19	----- Other	
	---- Other:	
1905 32 91	----- Salted, whether or not filled	
1905 32 99	----- Other	
1905 40	- Rusks, toasted bread and similar toasted products:	120
1905 40 10	-- Rusks	
1905 40 90	-- Other	
1905 90	- Other:	10 000
1905 90 10	-- Matzos	
1905 90 20	-- Communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, ricepaper and similar products	
	-- Other:	
1905 90 30	--- Bread, not containing added honey, eggs, cheese or fruit, and containing by weight in the dry matter state not more than 5 % of sugars and not more than 5 % of fat	
1905 90 45	--- Biscuits	
1905 90 55	--- Extruded or expanded products, savoury or salted	
	--- Other:	
1905 90 60	---- With added sweetening matter	

(1)	(2)	(3)
2105 00	Ice cream and other edible ice, whether or not containing cocoa:	3 000 ⁽³⁾
2105 00 10	– Containing no milk fats or containing less than 3 % by weight of such fats	
	– Containing by weight of milk fats:	
2105 00 91	-- 3 % or more but less than 7 %	
2105 00 99	-- 7 % or more	
2106	Food preparations not elsewhere specified or included:	4 000
2106 10	– Protein concentrates and textured protein substances:	
2106 10 80	-- Other	
2106 90	– Other:	
2106 90 98	--- Other	

⁽¹⁾ Products, which are excluded from the duty-free quota: 1704 90 99 9080, but including Halva and Lokoum.

⁽²⁾ Products, which are excluded from the duty-free quota: 1806 20 80 9080, 1806 20 95 9080, 1806 90 90 1980, 1806 90 90 9980.

⁽³⁾ Application delayed till the problems regarding imports into EU of milk and milk products originating in Turkey will be solved.

ANNEX II

Duty-free tariff quotas applicable upon imports into Turkey of processed agricultural products from the EU

CN code	Product description	Annual duty-free tariff quota (in tonnes net weight)
(1)	(2)	(3)
1704	Sugar confectionery (including white chocolate), not containing cocoa:	1 000
1704 10	- Chewing gum, whether or not sugar-coated:	
	-- Containing less than 60 % by weight of sucrose (including invert sugar expressed as sucrose):	
1704 10 11	--- Gum in strips	
1704 10 19	--- Other	
	-- Containing 60 % or more by weight of sucrose (including invert sugar expressed as sucrose):	
1704 10 91	--- Gum in strips	
1704 10 99	--- Other	
1704 90	- Other:	2 500
1704 90 30	--- White chocolate	
	-- Other:	
1704 90 51	--- Pastes, including marzipan, in immediate packings of a net content of 1 kg or more	
1704 90 55	--- Throat pastilles and cough drops	
1704 90 61	--- Sugar-coated (panned) goods	
	--- Other:	
1704 90 65	---- Gum confectionery and jelly confectionery, including fruit pastes in the form of sugar confectionery	
1704 90 71	---- Boiled sweets whether or not filled	
1704 90 75	---- Toffees, caramels and similar sweets	
	--- Other:	
1704 90 81	----- Compressed tablets	
1704 90 99	----- Other	
1806	Chocolate and other food preparations containing cocoa:	7 000
1806 10	- Cocoa powder, containing added sugar or other sweetening matter:	
1806 10 20	-- Containing 5 % or more but less than 65 % by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose	
1806 10 30	-- Containing 65 % or more but less than 80 % by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose	

(1)	(2)	(3)
1806 10 90	-- Containing 80 % or more by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose	
1806 20	- Other preparations in blocks, slabs or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg:	
1806 20 10	-- Containing 31 % or more by weight of cocoa butter or containing a combined weight of 31 % or more of cocoa butter and milk fat	
1806 20 30	-- Containing a combined weight of 25 % or more, but less than 31 % of cocoa butter and milk fat	
	-- Other:	
1806 20 50	--- Containing 18 % or more by weight of cocoa butter	
1806 20 70	--- Chocolate milk crumb	
1806 20 80	--- Chocolate flavour coating	
1806 20 95	--- Other	
	- Other, in blocks, slabs or bars:	
1806 31 00	-- Filled	
1806 32	-- Not filled	
1806 32 10	--- With added cereal, fruit or nuts	
1806 32 90	--- Other	
1806 90	- Other:	
	-- Chocolate and chocolate products:	
	--- Chocolates (including pralines), whether or not filled:	
1806 90 11	---- Containing alcohol	
1806 90 19	---- Other	
	--- Other:	
1806 90 31	---- Filled	
1806 90 39	---- Not filled	
1806 90 50	-- Sugar confectionery and substitutes therefor made from sugar substitution products, containing cocoa	
1806 90 60	-- Spreads containing cocoa	
1806 90 70	-- Preparations containing cocoa for making beverages	
1806 90 90	-- Other	
1901	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:	500
1901 10 00	- Preparations for infant use, put up for retail sale	
1901 20	- Mixes and doughs for the preparation of bakers' wares of heading 1905	300

(1)	(2)	(3)
1901 90	- Other:	2 000
	-- Malt extract:	
1901 90 11	--- With a dry extract content of 90 % or more by weight	
1901 90 19	--- Other	
	-- Other:	
1901 90 99	--- Other	
1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:	20 000
	- Uncooked pasta, not stuffed or otherwise prepared:	
1902 11 00	-- Containing eggs	
1902 19	-- Other:	
1902 19 10	--- Containing no common wheat flour or meal	
1902 19 90	--- Other	
1902 20	- Stuffed pasta, whether or not cooked or otherwise prepared:	
	-- Other:	
1902 20 91	--- Cooked	
1902 20 99	--- Other	
1902 30	- Other pasta:	
1902 30 10	-- Dried	
1902 30 90	-- Other	
1902 40	- Couscous:	
1902 40 10	-- Unprepared	
1902 40 90	-- Other	
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, cornflakes); cereals (other than maize (corn)), in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked or otherwise prepared, not elsewhere specified or included:	5 000
1904 10	- Prepared foods obtained by the swelling or roasting of cereals or cereal products:	
1904 10 10	-- Obtained from maize	
1904 10 30	-- Obtained from rice	
1904 10 90	-- Other	
1904 20	- Prepared foods obtained from unroasted cereal flakes or from mixtures of unroasted cereal flakes and roasted cereal flakes or swelled cereals:	500
1904 20 10	-- Preparation of the muesli-type based on unroasted cereal flakes	
	-- Other:	
1904 20 91	--- Obtained from maize	

(1)	(2)	(3)
1904 20 95	--- Obtained from rice	
1904 20 99	--- Other	
1904 90	- Other:	300
1904 90 10	-- Rice	
1904 90 80	-- Other	
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, ricepaper and similar products:	1 000
	- Sweet biscuits; waffles and wafers:	
1905 31	-- Sweet biscuits:	
	--- Completely or partially coated or covered with chocolate or other preparations containing cocoa:	
1905 31 11	---- In immediate packings of a net content not exceeding 85 g	
1905 31 19	---- Other	
	--- Other:	
1905 31 30	---- Containing 8 % or more by weight of milk fats	
	---- Other:	
1905 31 91	----- Sandwich biscuits	
1905 31 99	----- Other	
1905 32	-- Waffles and wafers:	600
1905 32 05	--- With a water content exceeding 10 % by weight	
	--- Other	
	---- Completely or partially coated or covered with chocolate or other preparations containing cocoa:	
1905 32 11	----- In immediate packings of a net content not exceeding 85 g	
1905 32 19	----- Other	
	---- Other:	
1905 32 91	----- Salted, whether or not filled	
1905 32 99	----- Other	
1905 40	- Rusks, toasted bread and similar toasted products:	200
1905 40 10	-- Rusks	
1905 40 90	-- Other	
1905 90	- Other:	1 500
1905 90 10	-- Matzos	

(1)	(2)	(3)
1905 90 20	-- Communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, ricepaper and similar products	
	-- Other:	
1905 90 30	--- Bread, not containing added honey, eggs, cheese or fruit, and containing by weight in the dry matter state not more than 5 % of sugars and not more than 5 % of fat	
1905 90 45	--- Biscuits	
1905 90 55	--- Extruded or expanded products, savoury or salted	
	--- Other:	
1905 90 60	---- With added sweetening matter	3 000 ⁽¹⁾
1905 90 90	---- Other	
2105 00	Ice cream and other edible ice, whether or not containing cocoa:	
2105 00 10	- Containing no milk fats or containing less than 3 % by weight of such fats	
	- Containing by weight of milk fats:	4 000
2105 00 91	-- 3 % or more but less than 7 %	
2105 00 99	-- 7 % or more	
2106	Food preparations not elsewhere specified or included:	
2106 10	- Protein concentrates and textured protein substances:	
2106 10 80	-- Other	
2106 90	- Other:	
2106 90 98	--- Other	

⁽¹⁾ Application delayed until the problems regarding imports into EU of milk and milk products originating in Turkey are solved.

COMMISSION

COMMISSION DECISION

of 30 April 2008

State aid C 40/06 (ex NN 96/05)

Loan assistance schemes implemented by the United Kingdom

(notified under document number C(2008) 1612)

(Only the English version is authentic)

(Text with EEA relevance)

(2008/626/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 regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁾, and in particular Article 7(2) and (3) thereof,

Having called on interested third parties to submit their comments pursuant to the provisions cited above ⁽²⁾,

Whereas:

I. PROCEDURE

- (1) By letter dated 15 June 2004, the Commission was informed by a citizen of the United Kingdom of aid granted by the Shetland Islands Council, the public authority in the Shetlands Islands of the United Kingdom to the fisheries sector, which possibly concerned illegal State aid. By letters dated 24 August 2004, 4 February 2005, 11 May 2005 and 16 December 2005, the Commission requested the United Kingdom to provide information about such aid. The United

Kingdom provided the Commission with further information by letters dated 10 December 2004, 6 April 2005, 8 September 2005 and 31 January 2006.

- (2) By letter dated 13 September 2006, the Commission informed the United Kingdom of the decision to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid. The United Kingdom provided its comments on the aid by letter dated 16 October 2006. Following the requests from the Commission dated 31 January 2007 and 5 February 2008, additional information was provided by letters dated 4 September 2007 and 27 February 2008.
- (3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Union* on 30 November 2006 ⁽³⁾. The Commission invited any interested parties to submit their comments on the aid. The Commission received no comments from interested parties.

II. DETAILED DESCRIPTION

- (4) The Shetland Islands Council made payments to the fisheries sector under the scope of two general aid measures named 'Aid to the Fish Catching and Processing Industry' and 'Aid to the Fish Farming Industry', which actually consisted of several different types of aid schemes. Amongst these schemes were the so-called Loan assistance schemes ('the scheme').
- (5) Aid has been granted to salmon farmers, by way of loan assistance granted through the Fish Farming Association and to fish processors, by way of loan assistance granted through the Fish Processors' Association.

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

⁽²⁾ OJ C 292, 1.12.2006, p. 6.

⁽³⁾ OJ C 292, 1.12.2006, p. 6.

Salmon Farming Loan Assistance

- (6) The Salmon Farming Loan Assistance was established in 2000 for the purpose of providing working capital loans to individual salmon farming companies to on-grow fish to a harvestable size. The loans granted under the scheme vary from GBP 87 000 to GBP 250 000, those amounts representing a maximum of 75 % of the costs of buying smolts (young salmon). The total amount of the loans granted is GBP 3 477 130.

- (7) The loans were made to companies that could demonstrate viability through the production of an acceptable business plan and financial projections for a period covering at least three years. The loans were subject to interest at rates generally corresponding to the applicable UK base rate plus 2 %. In order to secure the loan, it was granted under the condition that the lender took the 'right of title' on the smolts, thus securing the loan on the basis of the sale value of the adult fish.

Loan scheme for fish processing

- (8) Under the Loan scheme for fish processing, five loans were granted during the period from 1996 to 2002. The loans varied from GBP 73 000 to GBP 200 000, with a total of GBP 698 300. The loans were made to companies that during the period of the loan undertook to provide professionally audited accounts, to work to the relevant national and Community standards on hygiene, health and safety, and to be a member of the Shetland Fish Processors' Association.

Grounds for initiating the procedure

- (9) The Commission considered that it could not be established from the information available whether the loans under the schemes were granted under conditions acceptable to normal private lenders on the market. As the loans appeared to have been granted under more favourable circumstances or with more favourable conditions than would be acceptable to a normal private lender, the beneficiaries appeared to have been granted a benefit which they would not have received under normal economic circumstances. As, moreover, the companies concerned were considered to be in direct competition with other companies in the fisheries sector, the loans appeared to be State aid within the meaning of Article 87 of the EC Treaty.

- (10) As regards the compatibility of the loans, as State aid, with the Guidelines for the examination of State aid to fisheries and aquaculture applicable at the time the aid was granted, the Commission doubted that the loans could be considered commercial loans and therefore considered them to be State aid. As regards the compatibility of the loans with the common market, the Commission moreover doubted that, on the basis of the information available, they could be considered to comply with the conditions of the respective Guidelines for the examination of State aid to fisheries and aquaculture, applicable at the respective times of granting the aid.

III. COMMENTS FROM THE UNITED KINGDOM

- (11) In its letters dated 16 October 2006, 4 September 2007 and 27 February 2008, the United Kingdom provided further information on the loans granted under the schemes.
- (12) The United Kingdom stated that the loans had been granted under circumstances acceptable to a normal private lender and that, therefore, the loans did not constitute State aid within the meaning of Article 87(1) of the Treaty.
- (13) In this respect, the United Kingdom provided a description of the interest rate policy applied with regard to granting the loans. The interest rates had been set by reference to achievement of a return on capital consistent with the EC (UK) base rate and following an assessment of the risk. This resulted in an interest rate policy giving indicative interest rates of UK base rate plus 2 % for low-risk loans, UK base rate plus 3 % for medium-risk loans and UK base rate plus 4 % for high-risk loans. The United Kingdom considered this policy to be in line with the market economy investor principle.

Salmon Farming Loan Assistance

- (14) As regards the loans granted to salmon farmers under the Salmon Farming Loan Assistance, 15 loans were granted during the period from September 2000 to January 2003. The conditions and interest rates of the loans varied as follows:

Beneficiary	Date	Amount (GBP)	Loan as % of total project	Loan term	Interest rate in %
Johnson Seawell Ltd	06-2000	250 000	24	20 months	8,0
North Atlantic Salmon Ltd	06-2000	211 500	71,8	2 years	8,0
Hoove Salmon Ltd	06-2000	87 000	51,1	21 months	8,0
Dury Salmon Ltd	06-2000	250 000	64,3	2 years	8,0
Hoganess Salmon Ltd	09-2000	213 000	72	2 years	8,0
North Isles Seafood Ltd	08-2000	250 000	74,7	2 years	8,0
Bressay Salmon Ltd	06-2000	156 300	74,9	2 years	8,0
Wester Sound Salmon Ltd	10-2000	250 000	56,8	2 years	8,0
Scord Salmon (Shetland) Ltd	02-2001	107 100	72,6	2 years	7,5
Hoove Salmon Ltd	07-2001	226 481	73,2	2 years	7,5
Skerries Salmon Ltd	07-2001	249 750	75,7	2 years	7,5
Unst Salmon Ltd	08-2001	250 000	28,9	2 years	7,5
SSG Seafoods Ltd	04-2002	250 000	30,2	2 years	6,5
Cro Lax Ltd	05-2002	250 000	49,6	2 years	6,5
Aqua Farm Ltd	09-2002	250 000	34,8	15 months	6,5

- (15) The United Kingdom stated that majority of these loans had been granted by applying the Bank of England base rate plus 2 %, sometimes plus 3 %. The repayments terms had been designed to reflect the growing cycle of the smolts. Typically the term was approximately 2 years with interest being paid monthly and capital being repaid on expiry of the loan period, which was structured to coincide with the harvest. The loan to value ratios ranged from 24 % to 75 %.
- (16) In order to secure the loans, they were granted under the condition that the lender took the 'right of title' on the smolts, thus securing the loan on the basis of the sale value of the adult fish. The United Kingdom claimed that, in a normal market, it would be anticipated that the value of the smolts would increase over the on-growing period, and therefore the loan to value ratio would improve over the same period. In addition, security had been held for the loans advanced by way of floating charges, which provided security not only through the value of the fish, but also through all tangible assets held by the company, for example, fish cages, licences, etc.
- (17) The United Kingdom finally provided details of the undertakings to which the loans were granted, their registered capital, the percentage of lost capital at the time of the investments and in the 12 months before the investments, information showing that none of the undertaking had been subject to insolvency proceedings at the respective times of grant, and the financial projections submitted by the undertakings demonstrating their financial viability at the moment of application, as well as information on the specific securities and ranking arrangements of each loan.

Loan scheme for fish processing

- (18) Concerning the loans granted to fish processors under the Loan scheme for fish processing, the loans were as follows:

Beneficiary	Date	Amount of the loan (GBP)	Loan as % of total project	Loan term	Interest rate in %
Lerwick Fish Traders Ltd	05-1996	200 000	24,4	10 years	7,75
Shetland Seafood Specialities Ltd	10-1996	73 000	39,2	10 years	9,0
Whalsay Fish Processing Ltd	08-1997	173 000	36,6	10 years	8,0
D Watt (Shetland) Ltd	12-1998	110 000	21,6	10 years	8,0/5,0 ⁽¹⁾
D Watt (Shetland) Ltd	05-2002	142 002	39,1	7 years	6,5

⁽¹⁾ The beneficiary of this loan was granted an interest relief grant of GBP 20 000, thus allowing for an interest rate of only 5 % to be paid by the undertaking concerned.

(19) The United Kingdom stated that all the loans, except one, had been granted at interest rates in excess of both the Bank of England base rate and the EC (UK) reference rate; that the loans were typically for equipment and generally for terms of 10 years; the terms were considered to be in line with the terms which would be offered by normal commercial lenders and that, in all cases, the loan value rate was not greater than 40 %. The loans were subject to securities in the form standard securities and floating charges.

(20) The United Kingdom provided details of the undertakings to which the loans were granted, their registered capital, the percentage of lost capital at the time of the investments and in the 12 months before the investments, information showing that none of the undertaking had been subject to insolvency proceedings at the respective times of grant, and the financial projections submitted by the undertakings demonstrating their financial viability at the moment of application, as well as information on the specific securities and ranking arrangements of each loan.

(21) Finally, as regards the loan granted to D Watt (Shetland) Ltd in 1998, the United Kingdom stated that although the original interest rate for this loan was 8 %, it had been reduced to 5 % through an interest reduction grant of GBP 20 000 paid directly to the lender by the Shetland Islands Council. The United Kingdom noted that the grant element could have been paid directly to the borrower, as the borrower was eligible for grant assistance. However, to make matters easier to administer, the grant had been paid to the lender and the loan interest reduced.

Compatibility and recovery

(22) The United Kingdom submitted that, if the Commission were to consider the loans not to be commercial, they were compatible with the relevant State aid rules.

(23) Finally, the United Kingdom indicated that if the Commission adopted a negative decision, recovery of

aid granted prior to 3 June 2003 should not be required as that would be contrary to the principle of the protection of legitimate expectations. In this respect, the United Kingdom made reference to Commission Decision 2003/612/EC of 3 June 2003 on loans for the purchase of fishing quotas in the Shetland Islands (United Kingdom) ⁽¹⁾ as well as to Commission Decision 2006/226/EC of 7 December 2005 on investments of Shetland Leasing and Property Developments in the Shetland Islands (United Kingdom) ⁽²⁾, stating that until 3 June 2003 the Shetland Islands Council legitimately considered the funds used to be private rather than public.

IV. ASSESSMENT

(24) It must be determined first if the measure can be regarded as State aid and if this is the case, whether the aid is compatible with the common market.

Existence of State aid

(25) According to Article 87(1) of the EC Treaty, 'save as otherwise provided in this 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'.

(26) According to established case-law ⁽³⁾ the granting of a loan by the State or by State-controlled entities to a firm may favour that firm within the meaning of Article 87(1) of the EC Treaty if the borrower is granted terms that are more favourable than those that it would have obtained in the capital market.

(27) An appropriate way of establishing whether a loan is State aid is to apply the criterion of determining to what extent the undertaking would have been able to obtain the sums in question on the private capital markets under similar conditions.

⁽¹⁾ OJ L 211, 21.8.2003, p. 63.

⁽²⁾ OJ L 81, 18.3.2006, p. 36.

⁽³⁾ Case C-142/87 *Belgium v Commission* [1986] ECR 231.

- (28) Relevant factors for assessing the loan in comparison with private capital markets are in particular the duration and amount of the loan, the risk of default by the borrower, the interest rate, the nature of the security given and the ranking arrangement.
- (29) As regards the interest rate of such loans, the market rate to be used as a reference point for comparison is the reference rate established by the Commission in accordance with the Commission notice on the method for setting the reference and discount rates ⁽¹⁾. The reference rate thus determined is a floor rate which may be increased in situations involving a particular risk (for example, where an undertaking is in difficulty or where the security normally required by banks is not provided). In such cases, the premium may amount to 400 basis points or more if no private bank would have agreed to grant the relevant loan.
- (30) The table below compares the applied interest rates under the schemes with the Community reference rate applicable at the respective times of granting.

Beneficiary	Date	Applied interest rate in %	EU reference rate in %
<i>Loan scheme for fish processing</i>			
Lerwick Fish Traders Ltd	05-1996	7,75	11,18
Shetland Seafood Specialities Ltd	10-1996	9,0	10,26
Whalsay Fish Processing Ltd	08-1997	8,0	8,15
D Watt (Shetland) Ltd	12-1998	8,0/5,0 ⁽¹⁾	7,77
D Watt (Shetland) Ltd	05-2002	6,5	6,01
<i>Salmon Farming Loan Assistance</i>			
Johnson Seawell Ltd	06-2000	8,0	7,64
North Atlantic Salmon Ltd	06-2000	8,0	7,64
Hoove Salmon Ltd	06-2000	8,0	7,64
Dury Salmon Ltd	06-2000	8,0	7,64
Hoganess Salmon Ltd	09-2000	8,0	7,64
North Isles Seafood Ltd	08-2000	8,0	7,64
Bressay Salmon Ltd	06-2000	8,0	7,06
Wester Sound Salmon Ltd	10-2000	8,0	7,06
Scord Salmon (Shetland) Ltd	02-2001	7,5	7,06
Hoove Salmon Ltd	07-2001	7,5	7,06
Skerries Salmon Ltd	07-2001	7,5	7,06
Unst Salmon Ltd	08-2001	7,5	6,01
SSG Seafoods Ltd	04-2002	6,5	6,01
Cro Lax Ltd	05-2002	6,5	6,01
Aqua Farm Ltd	09-2002	6,5	6,01

⁽¹⁾ The beneficiary of this loan was granted an interest relief grant of GBP 20 000, thus allowing for a reduction of the interest rate to 5 %.

⁽¹⁾ OJ C 14, 19.1.2008, p. 6.

- (31) In the case of the three loans granted under the Loan scheme for fish processing in May 1996 to Lerwick Fish Traders Ltd, in October 1996 to Shetland Seafood Specialities Ltd and in August 1997 to Whalsay Fish Processing Ltd, the applied interest rates were below the Community reference rate. Moreover, the interest rate of the loan granted to D Watt (Shetland) Ltd in 1998, although originally set at a level above the Community reference rate, was lowered by way of an interest relief grant to a level below the Community reference rate. These loans should thus be considered to have been granted under terms that are more favourable than those in the capital market and thereby to favour the undertakings concerned.
- (32) However, it can be established that the interest rates for all other loans, provided from September 2000 onwards under the Loan Scheme for Fish Processing and the scheme for Salmon Farming Loan Assistance, were all above the Community reference rate applicable at the time the respective loans were granted and might therefore have been granted under normal market conditions on the capital market. Consequently, it is relevant to establish how all other aspects of those loans compare to loans granted under normal market conditions.
- (33) The information submitted by the United Kingdom, providing the financial situation of each undertaking, shows that the loans were granted in accordance with the interest rate policy referred to in recital 13 and have been subject to a case-by-case risk assessment, allowing the granting authority to establish the duration, interest rate and securities and ranking arrangements on a case-by-case basis for each loan depending on the actual risk of each loan and in line with normal commercial conditions.
- (34) In this regard, it is noted in particular that none of the undertakings were, at the time the respective loans were granted, firms in difficulty within the meaning of the Community Guidelines on State aid for rescue and restructuring firms in difficulty⁽¹⁾. In view thereof, as regards the risk of default by the borrower, it is also noted that, although some undertakings showed a greater risk of defaulting than others, that risk has been offset in such cases by a higher interest rate combined with extra security in a way which is comparable to normal conditions on the private market for loans to this sector.
- (35) Consequently, it may be concluded that the loans granted from September 2000 onwards can be regarded comparable to what a private lender, acting in a market economy, would have been prepared to lend on the same terms and that these loans therefore were granted on terms which were no more favourable than normal market conditions.
- (36) Loans made on terms reflecting normal market conditions do not provide an advantage to the beneficiaries of the loans as compared with other operators on the market and, in the absence of an advantage to the undertakings concerned, are thus not to be regarded as State aid within the meaning of Article 87(1) of the Treaty.
- (37) The undertakings in question are in direct competition with other companies in the fisheries sector, in particular in the sector of fish processing, both within the United Kingdom and in other Member States, which competition is distorted or can be threatened to be distorted by the loans. Consequently, these loans must be considered State aid within the meaning of Article 87(1) of the Treaty.

Compatibility

- (38) State aid may be declared compatible with the common market if it complies with one of the exceptions provided for in the EC Treaty. As regards State aid to the fisheries sector, State aid measures are deemed to be compatible with the common market if they comply with the conditions of the applicable Guidelines for the examination of State aid to fisheries and aquaculture.
- (39) According to the second paragraph of point 5.3 of the current Guidelines for the examination of State aid to fisheries and aquaculture⁽²⁾ an 'unlawful aid' within the meaning of Article 1(f) of Regulation (EC) No 659/1999 will be appraised in accordance with the guidelines applicable at the time when the administrative act setting up the aid has entered into force. As this assessment concerns four loans granted in 1996, 1997 and 1998, the aid must be assessed on the compatibility with the Guidelines for the examination of State aid to fisheries and aquaculture of 1994 ('the 1994 Guidelines') and those of 1997⁽³⁾ ('the 1997 Guidelines')⁽⁴⁾.

The fish processing loans granted in May and October 1996

- (40) Point 2.3 of the 1994 Guidelines stipulates that aid for investments in the processing and marketing of fishery products may be deemed to be compatible with the common market provided that the conditions for granting it are comparable with those laid down in Council Regulation (EC) No 3699/93 of 21 December 1993 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and the marketing of its products⁽⁵⁾ and are at least as stringent and provided that the level of the aid does not exceed, in subsidy equivalent, the overall level of the national and Community subsidies permitted under Annex IV to that Regulation.

⁽²⁾ OJ C 84, 3.4.2008, p. 10.

⁽³⁾ OJ C 260, 17.9.1994, p. 3.

⁽⁴⁾ OJ C 100, 27.3.1997, p. 12.

⁽⁵⁾ OJ L 346, 31.12.1993, p. 1.

⁽¹⁾ OJ C 288, 9.10.1999, p. 2.

- (41) According to Article 11 of Regulation (EC) No 3699/93 and point 2.4 of Annex III thereto, eligible investments are to relate in particular to the construction and acquisition of buildings and installation, the acquisition of new equipment and installations needed for the processing and the marketing of fishery and aquaculture products between the time of landing and the end-product stage and the application of new technologies intended in particular to improve competitiveness. Investments are not to be eligible for assistance when they concern fishery and aquaculture products intended to be used and processed for purposes other than human consumption, with the exception of investments exclusively for the handling, processing and marketing of fishery and aquaculture wastes.
- (42) The loan of GBP 200 000, granted in May 1996 to Lerwick Fish Traders Ltd, served to assist in the financing of the establishment of a salmon packing and processing factory. Such a project falls within the scope of the requirements outlined in recitals 40 and 41. In particular, it concerns assistance to an investment for the construction of building and installation and the acquisition of new equipment. Moreover, the investments did not concern fishery and aquaculture products intended to be used and processed for purposes other than human consumption.
- (43) The loan of GBP 73 000, granted in October 1996 to Shetland Seafood Specialities Ltd, served to assist the purchase and installation and commissioning of a soup production line. Such a project falls within the scope of the requirements outlined in recitals 40 and 41. In particular, it concerns assistance to an investment for the acquisition of new equipment and installations needed for the processing and marketing of fishery and aquaculture products between the time of landing and the end product stage. Moreover, the investments did not concern fishery and aquaculture products intended to be used and processed for purposes other than human consumption.
- The fish processing loans granted in August 1997 and December 1998*
- (44) As regards the loans granted in 1997 and 1998, point 2.3 of the 1997 Guidelines repeats the conditions previously laid down in the 1994 Guidelines, referred to in recital 39. Thus the aid falls to be assessed under the conditions of Regulation (EC) No 3699/93.
- (45) The loan of GBP 173 000, granted in August 1997 to Whalsay Fish Processors Ltd, concerned a project to install a fish processing line and chill facility in the existing factory. Such a project falls within the scope of the requirements outlined in recitals 40 and 41. In particular, it concerns assistance to an investment for the acquisition of new equipment and installations needed for the processing and marketing of fishery and aquaculture products between the time of landing and the end product stage. Moreover, the investments did not concern fishery and aquaculture products intended to be used and processed for purposes other than human consumption.
- (46) As regards the aid granted to D Watt (Shetland) Ltd in December 1998, Regulation (EC) No 3699/93 was replaced by Council Regulation (EC) No 2468/1998 of 3 November 1998 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products ⁽¹⁾. According to Article 20 of Regulation (EC) No 2468/98, references to Regulation (EC) No 3699/93 are to be construed as references to the new Regulation. The provisions concerning aid for investments in processing and marketing of fisheries products are laid down in Article 11 of Regulation (EC) No 2468/98 and point 2.4 of Annex II thereto.
- (47) According to Article 11 of and Point 2.4 of Regulation (EC) No 2468/98 and Annex II thereto, eligible investments are to relate in particular to the construction and acquisition of buildings and installations, the acquisition of new equipment and installations needed for the processing and marketing of fishery and aquaculture products between the time of landing and the end product stage (including in particular data-processing and data-transmission equipment). Investments are not to be eligible for assistance when they concern fishery and aquaculture products intended to be used and processed for purposes other than human consumption, with the exemption of investments exclusively for the handling, processing and marketing of fishery and aquaculture wastes.
- (48) The loan of GBP 110 000, granted in December 1998 to D Watt (Shetland) Ltd, was granted for the building and equipping of a new shellfish processing factory. Such a project falls within the scope of the requirements outlined in recital 47. In particular, it concerns assistance to an investment for the acquisition of new equipment and installations needed for the processing and marketing of fishery and aquaculture products between the time of landing and the end product stage. Moreover, the investments did not concern fishery and aquaculture products intended to be used and processed for purposes other than human consumption.
- Aid rate*
- (49) According to Annex IV to Regulation (EC) No 3699/93 and Annex III to Regulation (EC) No 2468/98, aid may be granted up to 50 % of the eligible costs.

⁽¹⁾ OJ L 312, 20.11.1998, p. 19.

- (50) The loan of GBP 200 000 to Lerwick Fish Traders Ltd was granted for a project with a total cost of GBP 819 672, thus covering approximately 24,4 % of the actual project cost. The loan was to be paid back in 108 equal monthly instalments of GBP 2 784,94. The applied interest rate was 7,75 %, compared to a Community reference rate of 11,18 %.
- (51) The loan of GBP 73 000 to Shetland Seafood Specialities Ltd was granted for a project with a total cost of GBP 186 000, thus covering approximately 39,2 % of the actual project cost. The loan was to be paid back in 120 equal monthly instalments. The applied interest rate was 9 %, compared to a Community reference rate of 10,26 %.
- (52) The loan of GBP 173 000 to Whalsay Fish Processors Ltd was granted for a project with a total cost of GBP 473 150, thus covering approximately 36,6 % of the actual project cost. The loan was to be paid back in 96 equal monthly instalments commencing 24 months after the advance of the loan or the first instalment thereof. The applied interest rate was 8 %, compared to a Community reference rate of 8,15 %.
- (53) The loan of GBP 110 000 to D Watt (Shetland) Ltd was granted for a project with a total cost of GBP 510 000, thus covering approximately 21,6 % of the actual project cost. The loan was to be paid back in 120 equal monthly instalments. The applied interest rate was 5 %, compared to a Community reference rate of 7,77 %.
- (54) To calculate the aid rate it is necessary to compare the project costs related to each loan with the gross grant equivalent of that loan. In the light of the figures referred to in recitals 50 to 53, each of the loans, even before calculating the gross grant equivalent, comprised less than 50 % of the total project cost.
- (55) Therefore, the aid rate for the loans can be regarded as complying with the conditions of Annex IV to Regulation (EC) No 3699/93 and Annex III to Regulation (EC) No 2468/98, as referred to in recital 49.

V. CONCLUSION

- (56) In view of the foregoing, the Commission finds that the aid granted under the Scheme for Salmon Farming Loan Assistance as well as the aid granted in 2002 to D Watt (Shetland) Ltd under the Loan Scheme for Fish Processing

does not constitute State aid within the meaning of Article 87(1) of the Treaty.

- (57) The Commission finds that the aid granted under the Loan Scheme for Fish Processing in May 1996 to Lerwick Fish Traders Ltd, in October 1996 to Shetland Seafood Specialities Ltd, in August 1997 to Whalsay Fish Processors Ltd and in December 1998 to D Watt (Shetland) Ltd constitutes State aid within the meaning of Article 87(1) of the Treaty. However, that aid complies with the conditions of the Guidelines for the examination of State aid to fisheries and aquaculture and is therefore considered compatible with the common market on the basis of Article 87(3)(c) of the EC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

1. The aid which the United Kingdom granted in the period from 2000 to 2002 under the scheme for Salmon Farming Loan Assistance does not constitute aid within the meaning of Article 87(1) of the Treaty.

2. The aid which the United Kingdom granted in 2002 to D Watt (Shetland) Ltd under the Loan Scheme for Fish Processing does not constitute aid within the meaning of Article 87(1) of the Treaty.

3. The aid which the United Kingdom granted under the Loan Scheme for Fish Processing in the period from 1996 to 1998 to Lerwick Fish Traders Ltd, Shetland Seafood Specialities Ltd, Whalsay Fish Processors Ltd and D Watt (Shetland) Ltd is compatible with the common market within the meaning of Article 87(3)(c) of the Treaty.

Article 2

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 30 April 2008.

For the Commission

Joe BORG

Member of the Commission

COMMISSION DECISION
of 29 July 2008
concerning a transitional period for audit activities of certain third country auditors and audit entities

(notified under document number C(2008) 3942)

(Text with EEA relevance)

(2008/627/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC ⁽¹⁾, and in particular Article 46(2) thereof,

Whereas:

- (1) Under Article 45(1) of Directive 2006/43/EC the competent authorities of the Member States are required to register third-country auditors and audit entities that conduct a statutory audit on certain companies incorporated outwith the Community whose transferable securities are admitted to trading on a market regulated within the Community. Article 45(3) of Directive 2006/43/EC requires Member States to subject such registered third-country auditors and audit entities to their systems of oversight, quality assurance systems and systems of investigations and penalties.
- (2) The Commission is required under Article 46(2) of Directive 2006/43/EC to assess the equivalence of third country oversight, quality assurance and investigation and penalties systems in cooperation with Member States and make a determination. If those systems are recognised as equivalent, Member States may exempt third country auditors and audit entities from requirements of Article 45 of the Directive on the basis of reciprocity.
- (3) The Commission has carried out a preliminary assessment of audit regulation in relevant third countries with the assistance of the European Group of

Auditors' Oversight Bodies (EAOB). However, the assessments have not allowed final equivalence decisions to be taken but have provided an initial view of the state of audit regulation in the third countries concerned. Some third countries have a system of public oversight in place, although for the time being the information about the systems is not sufficient for final equivalence decisions to be taken. Others do not have such systems of public oversight yet but have in place an audit regulatory framework offering a perspective of moving towards such system.

- (4) In view of the need for further assessments for the purpose of taking final equivalence decisions regarding the audit regulation in place in third countries, it is appropriate to take a decision providing for a transitional period in respect of auditors and audit entities from the third countries concerned in order to permit such assessments to be carried out. During this period, equivalence decisions should therefore not be taken by Member States at national level.
- (5) Since it is necessary to protect investors, during the transitional period auditors and audit entities from the third countries concerned should be able to continue their audit activities without being registered under Article 45 of Directive 2006/43/EC only if they provide information about themselves, the auditing standards and independence requirements applied to when carrying out audits. Information about the outcome of individual quality assurance reviews will also be useful for this purpose.
- (6) Under those conditions, auditors and audit entities from the third countries concerned should be able to continue their activities in relation to audit reports concerning annual or consolidated accounts for financial years starting during the period from 29 June 2008 to 1 July 2010. Accordingly, during that transitional period, the competent authorities referred to in Article 45 of the Directive 2006/43/EC should be able to register those auditors and audit entities. Nevertheless, this Decision should not affect Member States' rights to apply their investigations and penalties systems.

⁽¹⁾ OJ L 157, 9.6.2006, p. 87. Directive as amended by Directive 2008/30/EC (OJ L 81, 20.3.2008, p. 53).

- (7) The fact that third country auditors and audit entities may, under this Decision, continue their audit activities with regard to companies referred to in Article 45 of the Directive 2006/43/EC should not prevent Member States from establishing co-operative arrangements on individual quality assurance reviews between the competent authorities of a Member State and the competent authorities of a third country.
- (8) The Commission should review the operation of the transitional arrangements in due time. If third countries concerned do not then have a system of public oversight in place, it should be ascertained whether the competent authorities of such countries have made a public commitment to the Commission to comply with equivalence criteria based on Articles 29, 30 and 32 of the Directive 2006/43/EC and whether an additional transitional period is necessary. At the end of the transitional period, the Commission may take decisions on the equivalence of the audit regulation of the third countries concerned. In addition, the Commission should review whether the competent authorities of Member States encountered difficulties to be recognised by such third countries. Thereafter, it is up to Member States to decide in accordance with Article 46 of the Directive 2006/43/EC on the basis of reciprocity whether to disapply or modify the requirements in Article 45(1) and (3) of the Directive to auditors and audit entities from third countries recognised as equivalent.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Audit Regulatory Committee,
- (b) where the auditor or the audit entity belongs to a network, a description of the network;
- (c) the auditing standards and independence requirements which have been applied to the audit concerned;
- (d) a description of the internal quality control system of the audit entity;
- (e) an indication of whether and when the last quality assurance review of the auditor or audit entity was carried out and necessary information about the outcome of the review. Where information about the outcome of the last quality assurance review is not public and such information cannot directly be provided by the competent authorities of the concerned third country, the competent authorities of Member States shall treat such information on a confidential basis.
2. Member States shall ensure that the public is informed about the name and address of auditors and audit entities concerned from the third countries referred to in the Annex to this Decision and about the fact that those third countries are not yet recognised as equivalent for the purposes of Directive 2006/43/EC. For these purposes, the competent authorities of Member States referred to in Article 45 of the Directive may also register the auditors and audit entities from the third countries referred to in the Annex.
3. Notwithstanding paragraph 1, Member States may apply their investigations and penalties systems to the auditors and audit entities from the third countries referred to in the Annex.

HAS ADOPTED THIS DECISION:

Article 1

1. Member States shall not apply Article 45 of Directive 2006/43/EC in relation to audit reports concerning annual accounts or consolidated accounts, as referred to in Article 45(1) of that Directive, for financial years starting during the period from 29 June 2008 to 1 July 2010, which are issued by auditors or audit entities from the third countries referred to in the Annex to this Decision, in cases where the third-country auditor or audit entity concerned provides the competent authorities of the Member State with all of the following:

- (a) the name and address of the auditor or audit entity concerned and information about its legal structure;
- (b) it has been communicated in advance to the Commission;
- (c) it does not pre-empt any Commission decision under Article 47 of Directive 2006/43/EC.

Article 2

The Commission shall, at the latest within two years, review the situation of the third countries referred to in the Annex. In particular, the Commission shall verify whether the competent administrative authorities of those third countries referred to in the Annex for which no equivalence decisions have been made by the Commission yet have made a public commitment to the Commission to set up public oversight and quality assurance systems on the basis of the following principles:

- (a) the systems are independent from the audit profession;
- (b) they ensure adequate oversight for audits of listed companies;

- (c) their operation is transparent and ensures that the outcome of quality assurance reviews is reliable;
- (d) they are supported by investigations and penalties in an effective way.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 29 July 2008.

For the Commission
Charlie McCREEVY
Member of the Commission

ANNEX

LIST OF THIRD COUNTRIES

Argentina
Australia
Bahamas
Bermudas
Brazil
Canada
Cayman Islands
Chile
China
Croatia
Guernsey, Jersey, Isle of Man
Hong Kong
India
Indonesia
Israel
Japan
Kazakhstan
Malaysia
Mauritius
Mexico
Morocco
New Zealand
Pakistan
Russia
Singapore
South Africa
South Korea
Switzerland
Taiwan
Thailand
Turkey
Ukraine
United Arab Emirates
United States of America

CORRIGENDA**Corrigendum to Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund**

(Official Journal of the European Union L 406 of 30 December 2006, as corrected by Official Journal of the European Union L 48 of 22 February 2008)

(This corrigendum cancels and replaces the corrigendum published in OJ L 48 of 22 February 2008, page 82, with regard to the following).

On page 83, Article 2(c):

for: '(c) In small labour markets or in exceptional circumstances, where duly substantiated by the concerned, ...',

read: '(c) In small labour markets or in exceptional circumstances, where duly substantiated by the Member State(s) concerned, ...';

on page 85, Article 9(2):

for: '2. The Commission shall set up an Internet site, available in all Community languages, to provide information on the EGF, guidance on the submission of applications, as well as updated information on accepted and refused applications, highlighting the role of the budgetary authority.',

read: '2. The Commission shall set up an Internet site, available in all Community languages, to provide information on the EGF, guidance on the submission of applications, as well as updated information on accepted and refused applications, highlighting the role of the budgetary authority.'
