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## Legislation

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## I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 6/2002  
of 12 December 2001  
on Community designs**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas:

- (1) A unified system for obtaining a Community design to which uniform protection is given with uniform effect throughout the entire territory of the Community would further the objectives of the Community as laid down in the Treaty.
- (2) Only the Benelux countries have introduced a uniform design protection law. In all the other Member States the protection of designs is a matter for the relevant national law and is confined to the territory of the Member State concerned. Identical designs may be therefore protected differently in different Member States and for the benefit of different owners. This inevitably leads to conflicts in the course of trade between Member States.
- (3) The substantial differences between Member States' design laws prevent and distort Community-wide competition. In comparison with domestic trade in, and competition between, products incorporating a design, trade and competition within the Community are prevented and distorted by the large number of applications, offices, procedures, laws, nationally circumscribed exclusive rights and the combined administrative expense with correspondingly high costs and fees for the applicant. Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the

legal protection of designs <sup>(4)</sup> contributes to remedying this situation.

- (4) The effect of design protection being limited to the territory of the individual Member States whether or not their laws are approximated, leads to a possible division of the internal market with respect to products incorporating a design which is the subject of national rights held by different individuals, and hence constitutes an obstacle to the free movement of goods.
- (5) This calls for the creation of a Community design which is directly applicable in each Member State, because only in this way will it be possible to obtain, through one application made to the Office for Harmonisation in the Internal Market (Trade Marks and Design) in accordance with a single procedure under one law, one design right for one area encompassing all Member States.
- (6) Since the objectives of the proposed action, namely, the protection of one design right for one area encompassing all the Member States, cannot be sufficiently achieved by the Member States by reason of the scale and the effects of the creation of a Community design and a Community design authority and can therefore, and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (7) Enhanced protection for industrial design not only promotes the contribution of individual designers to the sum of Community excellence in the field, but also encourages innovation and development of new products and investment in their production.
- (8) Consequently a more accessible design-protection system adapted to the needs of the internal market is essential for Community industries.

<sup>(1)</sup> OJ C 29, 31.1.1994, p. 20 and OJ C 248, 29.8.2000, p. 3.

<sup>(2)</sup> OJ C 67, 1.3.2001, p. 318.

<sup>(3)</sup> OJ C 110, 2.5.1995 and OJ C 75, 15.3.2000, p. 35.

<sup>(4)</sup> OJ L 289, 28.10.1998, p. 28.

- (9) The substantive provisions of this Regulation on design law should be aligned with the respective provisions in Directive 98/71/EC.
- (10) Technological innovation should not be hampered by granting design protection to features dictated solely by a technical function. It is understood that this does not entail that a design must have an aesthetic quality. Likewise, the interoperability of products of different makes should not be hindered by extending protection to the design of mechanical fittings. Consequently, those features of a design which are excluded from protection for those reasons should not be taken into consideration for the purpose of assessing whether other features of the design fulfil the requirements for protection.
- (11) The mechanical fittings of modular products may nevertheless constitute an important element of the innovative characteristics of modular products and present a major marketing asset, and therefore should be eligible for protection.
- (12) Protection should not be extended to those component parts which are not visible during normal use of a product, nor to those features of such part which are not visible when the part is mounted, or which would not, in themselves, fulfil the requirements as to novelty and individual character. Therefore, those features of design which are excluded from protection for these reasons should not be taken into consideration for the purpose of assessing whether other features of the design fulfil the requirements for protection.
- (13) Full-scale approximation of the laws of the Member States on the use of protected designs for the purpose of permitting the repair of a complex product so as to restore its original appearance, where the design is applied to or incorporated in a product which constitutes a component part of a complex product upon whose appearance the protected design is dependent, could not be achieved through Directive 98/71/EC. Within the framework of the conciliation procedure on the said Directive, the Commission undertook to review the consequences of the provisions of that Directive three years after the deadline for transposition of the Directive in particular for the industrial sectors which are most affected. Under these circumstances, it is appropriate not to confer any protection as a Community design for a design which is applied to or incorporated in a product which constitutes a component part of a complex product upon whose appearance the design is dependent and which is used for the purpose of the repair of a complex product so as to restore its original appearance, until the Council has decided its policy on this issue on the basis of a Commission proposal.
- (14) The assessment as to whether a design has individual character should be based on whether the overall impression produced on an informed user viewing the design clearly differs from that produced on him by the existing design corpus, taking into consideration the nature of the product to which the design is applied or in which it is incorporated, and in particular the industrial sector to which it belongs and the degree of freedom of the designer in developing the design.
- (15) A Community design should, as far as possible, serve the needs of all sectors of industry in the Community.
- (16) Some of those sectors produce large numbers of designs for products frequently having a short market life where protection without the burden of registration formalities is an advantage and the duration of protection is of lesser significance. On the other hand, there are sectors of industry which value the advantages of registration for the greater legal certainty it provides and which require the possibility of a longer term of protection corresponding to the foreseeable market life of their products.
- (17) This calls for two forms of protection, one being a short-term unregistered design and the other being a longer term registered design.
- (18) A registered Community design requires the creation and maintenance of a register in which will be registered all those applications which comply with formal conditions and which have been accorded a date of filing. This registration system should in principle not be based upon substantive examination as to compliance with requirements for protection prior to registration, thereby keeping to a minimum the registration and other procedural burdens on applicants.
- (19) A Community design should not be upheld unless the design is new and unless it also possesses an individual character in comparison with other designs.
- (20) It is also necessary to allow the designer or his successor in title to test the products embodying the design in the market place before deciding whether the protection resulting from a registered Community design is desirable. To this end it is necessary to provide that disclosures of the design by the designer or his successor in title, or abusive disclosures during a period of 12 months prior to the date of the filing of the application for a registered Community design should not be prejudicial in assessing the novelty or the individual character of the design in question.

- (21) The exclusive nature of the right conferred by the registered Community design is consistent with its greater legal certainty. It is appropriate that the unregistered Community design should, however, constitute a right only to prevent copying. Protection could not therefore extend to design products which are the result of a design arrived at independently by a second designer. This right should also extend to trade in products embodying infringing designs.
- (22) The enforcement of these rights is to be left to national laws. It is necessary therefore to provide for some basic uniform sanctions in all Member States. These should make it possible, irrespective of the jurisdiction under which enforcement is sought, to stop the infringing acts.
- (23) Any third person who can establish that he has in good faith commenced use even for commercial purposes within the Community, or has made serious and effective preparations to that end, of a design included within the scope of protection of a registered Community design, which has not been copied from the latter, may be entitled to a limited exploitation of that design.
- (24) It is a fundamental objective of this Regulation that the procedure for obtaining a registered Community design should present the minimum cost and difficulty to applicants, so as to make it readily available to small and medium-sized enterprises as well as to individual designers.
- (25) Those sectors of industry producing large numbers of possibly short-lived designs over short periods of time of which only some may be eventually commercialised will find advantage in the unregistered Community design. Furthermore, there is also a need for these sectors to have easier recourse to the registered Community design. Therefore, the option of combining a number of designs in one multiple application would satisfy that need. However, the designs contained in a multiple application may be dealt with independently of each other for the purposes of enforcement of rights, licensing, rights in rem, levy of execution, insolvency proceedings, surrender, renewal, assignment, deferred publication or declaration of invalidity.
- (26) The normal publication following registration of a Community design could in some cases destroy or jeopardise the success of a commercial operation involving the design. The facility of a deferment of publication for a reasonable period affords a solution in such cases.
- (27) A procedure for hearing actions concerning validity of a registered Community design in a single place would bring savings in costs and time compared with procedures involving different national courts.
- (28) It is therefore necessary to provide safeguards including a right of appeal to a Board of Appeal, and ultimately to the Court of Justice. Such a procedure would assist the development of uniform interpretation of the requirements governing the validity of Community designs.
- (29) It is essential that the rights conferred by a Community design can be enforced in an efficient manner throughout the territory of the Community.
- (30) The litigation system should avoid as far as possible 'forum shopping'. It is therefore necessary to establish clear rules of international jurisdiction.
- (31) This Regulation does not preclude the application to designs protected by Community designs of the industrial property laws or other relevant laws of the Member States, such as those relating to design protection acquired by registration or those relating to unregistered designs, trade marks, patents and utility models, unfair competition or civil liability.
- (32) In the absence of the complete harmonisation of copyright law, it is important to establish the principle of cumulation of protection under the Community design and under copyright law, whilst leaving Member States free to establish the extent of copyright protection and the conditions under which such protection is conferred.
- (33) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>,

HAS ADOPTED THIS REGULATION:

#### TITLE I

### GENERAL PROVISIONS

#### Article 1

### Community design

1. A design which complies with the conditions contained in this Regulation is hereinafter referred to as a 'Community design'.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

2. A design shall be protected:

- (a) by an 'unregistered Community design', if made available to the public in the manner provided for in this Regulation;
- (b) by a 'registered Community design', if registered in the manner provided for in this Regulation.

3. A Community design shall have a unitary character. It shall have equal effect throughout the Community. It shall not be registered, transferred or surrendered or be the subject of a decision declaring it invalid, nor shall its use be prohibited, save in respect of the whole Community. This principle and its implications shall apply unless otherwise provided in this Regulation.

#### Article 2

#### Office

The Office for Harmonisation in the Internal Market (Trade Marks and Designs), hereinafter referred to as 'the Office', instituted by Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark <sup>(1)</sup>, hereinafter referred to as the 'Regulation on the Community trade mark', shall carry out the tasks entrusted to it by this Regulation.

#### TITLE II

#### THE LAW RELATING TO DESIGNS

#### Section 1

#### Requirements for protection

#### Article 3

#### Definitions

For the purposes of this Regulation:

- (a) 'design' means the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation;
- (b) 'product' means any industrial or handicraft item, including *inter alia* parts intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces, but excluding computer programs;
- (c) 'complex product' means a product which is composed of multiple components which can be replaced permitting disassembly and re-assembly of the product.

<sup>(1)</sup> OJ L 11, 14.1.1994, p. 1. Regulation as last amended by Regulation (EC) No 3288/94 (OJ L 349, 31.12.1994, p. 83).

#### Article 4

#### Requirements for protection

- 1. A design shall be protected by a Community design to the extent that it is new and has individual character.
- 2. A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and to have individual character:
  - (a) if the component part, once it has been incorporated into the complex product, remains visible during normal use of the latter; and
  - (b) to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and individual character.
- 3. 'Normal use' within the meaning of paragraph (2)(a) shall mean use by the end user, excluding maintenance, servicing or repair work.

#### Article 5

#### Novelty

- 1. A design shall be considered to be new if no identical design has been made available to the public:
  - (a) in the case of an unregistered Community design, before the date on which the design for which protection is claimed has first been made available to the public;
  - (b) in the case of a registered Community design, before the date of filing of the application for registration of the design for which protection is claimed, or, if priority is claimed, the date of priority.
- 2. Designs shall be deemed to be identical if their features differ only in immaterial details.

#### Article 6

#### Individual character

- 1. A design shall be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public:
  - (a) in the case of an unregistered Community design, before the date on which the design for which protection is claimed has first been made available to the public;
  - (b) in the case of a registered Community design, before the date of filing of the application for registration or, if a priority is claimed, the date of priority.
- 2. In assessing individual character, the degree of freedom of the designer in developing the design shall be taken into consideration.

*Article 7***Disclosure**

1. For the purpose of applying Articles 5 and 6, a design shall be deemed to have been made available to the public if it has been published following registration or otherwise, or exhibited, used in trade or otherwise disclosed, before the date referred to in Articles 5(1)(a) and 6(1)(a) or in Articles 5(1)(b) and 6(1)(b), as the case may be, except where these events could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the Community. The design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

2. A disclosure shall not be taken into consideration for the purpose of applying Articles 5 and 6 and if a design for which protection is claimed under a registered Community design has been made available to the public:

- (a) by the designer, his successor in title, or a third person as a result of information provided or action taken by the designer or his successor in title; and
- (b) during the 12-month period preceding the date of filing of the application or, if a priority is claimed, the date of priority.

3. Paragraph 2 shall also apply if the design has been made available to the public as a consequence of an abuse in relation to the designer or his successor in title.

*Article 8***Designs dictated by their technical function and designs of interconnections**

1. A Community design shall not subsist in features of appearance of a product which are solely dictated by its technical function.

2. A Community design shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around or against another product so that either product may perform its function.

3. Notwithstanding paragraph 2, a Community design shall under the conditions set out in Articles 5 and 6 subsist in a design serving the purpose of allowing the multiple assembly or connection of mutually interchangeable products within a modular system.

*Article 9***Designs contrary to public policy or morality**

A Community design shall not subsist in a design which is contrary to public policy or to accepted principles of morality.

*Section 2***Scope and term of protection***Article 10***Scope of protection**

1. The scope of the protection conferred by a Community design shall include any design which does not produce on the informed user a different overall impression.

2. In assessing the scope of protection, the degree of freedom of the designer in developing his design shall be taken into consideration.

*Article 11***Commencement and term of protection of the un-registered Community design**

1. A design which meets the requirements under Section 1 shall be protected by an unregistered Community design for a period of three years as from the date on which the design was first made available to the public within the Community.

2. For the purpose of paragraph 1, a design shall be deemed to have been made available to the public within the Community if it has been published, exhibited, used in trade or otherwise disclosed in such a way that, in the normal course of business, these events could reasonably have become known to the circles specialised in the sector concerned, operating within the Community. The design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

*Article 12***Commencement and term of protection of the registered Community design**

Upon registration by the Office, a design which meets the requirements under Section 1 shall be protected by a registered Community design for a period of five years as from the date of the filing of the application. The right holder may have the term of protection renewed for one or more periods of five years each, up to a total term of 25 years from the date of filing.

*Article 13***Renewal**

1. Registration of the registered Community design shall be renewed at the request of the right holder or of any person expressly authorised by him, provided that the renewal fee has been paid.

2. The Office shall inform the right holder of the registered Community design and any person having a right entered in the register of Community designs, referred to in Article 72, hereafter referred to as the 'register' in respect of the registered Community design, of the expiry of the registration in good time before the said expiry. Failure to give such information shall not involve the responsibility of the Office.

3. The request for renewal shall be submitted and the renewal fee paid within a period of six months ending on the last day of the month in which protection ends. Failing this, the request may be submitted and the fee paid within a further period of six months from the day referred to in the first sentence, provided that an additional fee is paid within this further period.

4. Renewal shall take effect from the day following the date on which the existing registration expires. The renewal shall be entered in the register.

*Section 3***Right to the Community design***Article 14***Right to the Community design**

1. The right to the Community design shall vest in the designer or his successor in title.

2. If two or more persons have jointly developed a design, the right to the Community design shall vest in them jointly.

3. However, where a design is developed by an employee in the execution of his duties or following the instructions given by his employer, the right to the Community design shall vest in the employer, unless otherwise agreed or specified under national law.

*Article 15***Claims relating to the entitlement to a Community design**

1. If an unregistered Community design is disclosed or claimed by, or a registered Community design has been applied for or registered in the name of, a person who is not entitled to it under Article 14, the person entitled to it under that provision may, without prejudice to any other remedy which may be open to him, claim to become recognised as the legitimate holder of the Community design.

2. Where a person is jointly entitled to a Community design, that person may, in accordance with paragraph 1, claim to become recognised as joint holder.

3. Legal proceedings under paragraphs 1 or 2 shall be barred three years after the date of publication of a registered Community design or the date of disclosure of an unregistered Community design. This provision shall not apply if the person who is not entitled to the Community design was acting in bad faith at the time when such design was applied for or disclosed or was assigned to him.

4. In the case of a registered Community design, the following shall be entered in the register:

- (a) the mention that legal proceedings under paragraph 1 have been instituted;
- (b) the final decision or any other termination of the proceedings;
- (c) any change in the ownership of the registered Community design resulting from the final decision.

*Article 16***Effects of a judgement on entitlement to a registered Community design**

1. Where there is a complete change of ownership of a registered Community design as a result of legal proceedings under Article 15(1), licences and other rights shall lapse upon the entering in the register of the person entitled.

2. If, before the institution of the legal proceedings under Article 15(1) has been registered, the holder of the registered Community design or a licensee has exploited the design within the Community or made serious and effective preparations to do so, he may continue such exploitation provided that he requests within the period prescribed by the implementing regulation a non-exclusive licence from the new holder whose name is entered in the register. The licence shall be granted for a reasonable period and upon reasonable terms.

3. Paragraph 2 shall not apply if the holder of the registered Community design or the licensee was acting in bad faith at the time when he began to exploit the design or to make preparations to do so.

*Article 17***Presumption in favour of the registered holder of the design**

The person in whose name the registered Community design is registered or, prior to registration, the person in whose name the application is filed, shall be deemed to be the person entitled in any proceedings before the Office as well as in any other proceedings.



*Article 18***Right of the designer to be cited**

The designer shall have the right, in the same way as the applicant for or the holder of a registered Community design, to be cited as such before the Office and in the register. If the design is the result of teamwork, the citation of the team may replace the citation of the individual designers.

*Section 4***Effects of the Community design***Article 19***Rights conferred by the Community design**

1. A registered Community design shall confer on its holder the exclusive right to use it and to prevent any third party not having his consent from using it. The aforementioned use shall cover, in particular, the making, offering, putting on the market, importing, exporting or using of a product in which the design is incorporated or to which it is applied, or stocking such a product for those purposes.

2. An unregistered Community design shall, however, confer on its holder the right to prevent the acts referred to in paragraph 1 only if the contested use results from copying the protected design.

The contested use shall not be deemed to result from copying the protected design if it results from an independent work of creation by a designer who may be reasonably thought not to be familiar with the design made available to the public by the holder.

3. Paragraph 2 shall also apply to a registered Community design subject to deferment of publication as long as the relevant entries in the register and the file have not been made available to the public in accordance with Article 50(4).

*Article 20***Limitation of the rights conferred by a Community design**

1. The rights conferred by a Community design shall not be exercised in respect of:

- (a) acts done privately and for non-commercial purposes;
- (b) acts done for experimental purposes;
- (c) acts of reproduction for the purpose of making citations or of teaching, provided that such acts are compatible with fair trade practice and do not unduly prejudice the normal exploitation of the design, and that mention is made of the source.

2. In addition, the rights conferred by a Community design shall not be exercised in respect of:

- (a) the equipment on ships and aircraft registered in a third country when these temporarily enter the territory of the Community;
- (b) the importation in the Community of spare parts and accessories for the purpose of repairing such craft;
- (c) the execution of repairs on such craft.

*Article 21***Exhaustion of rights**

The rights conferred by a Community design shall not extend to acts relating to a product in which a design included within the scope of protection of the Community design is incorporated or to which it is applied, when the product has been put on the market in the Community by the holder of the Community design or with his consent.

*Article 22***Rights of prior use in respect of a registered Community design**

1. A right of prior use shall exist for any third person who can establish that before the date of filing of the application, or, if a priority is claimed, before the date of priority, he has in good faith commenced use within the Community, or has made serious and effective preparations to that end, of a design included within the scope of protection of a registered Community design, which has not been copied from the latter.

2. The right of prior use shall entitle the third person to exploit the design for the purposes for which its use had been effected, or for which serious and effective preparations had been made, before the filing or priority date of the registered Community design.

3. The right of prior use shall not extend to granting a licence to another person to exploit the design.

4. The right of prior use cannot be transferred except, where the third person is a business, along with that part of the business in the course of which the act was done or the preparations were made.

*Article 23***Government use**

Any provision in the law of a Member State allowing use of national designs by or for the government may be applied to Community designs, but only to the extent that the use is necessary for essential defence or security needs.

## Section 5

**Invalidity**

## Article 24

**Declaration of invalidity**

1. A registered Community design shall be declared invalid on application to the Office in accordance with the procedure in Titles VI and VII or by a Community design court on the basis of a counterclaim in infringement proceedings.
2. A Community design may be declared invalid even after the Community design has lapsed or has been surrendered.
3. An unregistered Community design shall be declared invalid by a Community design court on application to such a court or on the basis of a counterclaim in infringement proceedings.

## Article 25

**Grounds for invalidity**

1. A Community design may be declared invalid only in the following cases:
  - (a) if the design does not correspond to the definition under Article 3(a);
  - (b) if it does not fulfil the requirements of Articles 4 to 9;
  - (c) if, by virtue of a court decision, the right holder is not entitled to the Community design under Article 14;
  - (d) if the Community design is in conflict with a prior design which has been made available to the public after the date of filing of the application or, if a priority is claimed, the date of priority of the Community design, and which is protected from a date prior to the said date by a registered Community design or an application for such a design, or by a registered design right of a Member State, or by an application for such a right;
  - (e) if a distinctive sign is used in a subsequent design, and Community law or the law of the Member State governing that sign confers on the right holder of the sign the right to prohibit such use;
  - (f) if the design constitutes an unauthorised use of a work protected under the copyright law of a Member State;
  - (g) if the design constitutes an improper use of any of the items listed in Article 6ter of the 'Paris Convention' for the Protection of Industrial Property hereafter referred to as the 'Paris Convention', or of badges, emblems and escutcheons other than those covered by the said Article 6ter and which are of particular public interest in a Member State.
2. The ground provided for in paragraph (1)(c) may be invoked solely by the person who is entitled to the Community design under Article 14.
3. The grounds provided for in paragraph (1)(d), (e) and (f) may be invoked solely by the applicant for or holder of the earlier right.

4. The ground provided for in paragraph (1)(g) may be invoked solely by the person or entity concerned by the use.

5. Paragraphs 3 and 4 shall be without prejudice to the freedom of Member States to provide that the grounds provided for in paragraphs 1(d) and (g) may also be invoked by the appropriate authority of the Member State in question on its own initiative.

6. A registered Community design which has been declared invalid pursuant to paragraph (1)(b), (e), (f) or (g) may be maintained in an amended form, if in that form it complies with the requirements for protection and the identity of the design is retained. 'Maintenance' in an amended form may include registration accompanied by a partial disclaimer by the holder of the registered Community design or entry in the register of a court decision or a decision by the Office declaring the partial invalidity of the registered Community design.

## Article 26

**Consequences of invalidity**

1. A Community design shall be deemed not to have had, as from the outset, the effects specified in this Regulation, to the extent that it has been declared invalid.
2. Subject to the national provisions relating either to claims for compensation for damage caused by negligence or lack of good faith on the part of the holder of the Community design, or to unjust enrichment, the retroactive effect of invalidity of the Community design shall not affect:
  - (a) any decision on infringement which has acquired the authority of a final decision and been enforced prior to the invalidity decision;
  - (b) any contract concluded prior to the invalidity decision, in so far as it has been performed before the decision; however, repayment, to an extent justified by the circumstances, of sums paid under the relevant contract may be claimed on grounds of equity.

## TITLE III

**COMMUNITY DESIGNS AS OBJECTS OF PROPERTY**

## Article 27

**Dealing with Community designs as national design rights**

1. Unless Articles 28, 29, 30, 31 and 32 provide otherwise, a Community design as an object of property shall be dealt with in its entirety, and for the whole area of the Community, as a national design right of the Member State in which:
  - (a) the holder has his seat or his domicile on the relevant date; or
  - (b) where point (a) does not apply, the holder has an establishment on the relevant date.

2. In the case of a registered Community design, paragraph 1 shall apply according to the entries in the register.

3. In the case of joint holders, if two or more of them fulfil the condition under paragraph 1, the Member State referred to in that paragraph shall be determined:

- (a) in the case of an unregistered Community design, by reference to the relevant joint holder designated by them by common agreement;
- (b) in the case of a registered Community design, by reference to the first of the relevant joint holders in the order in which they are mentioned in the register.

4. Where paragraphs 1, 2 and 3 do not apply, the Member State referred to in paragraph 1 shall be the Member State in which the seat of the Office is situated.

#### Article 28

##### Transfer of the registered Community design

The transfer of a registered Community design shall be subject to the following provisions:

- (a) at the request of one of the parties, a transfer shall be entered in the register and published;
- (b) until such time as the transfer has been entered in the register, the successor in title may not invoke the rights arising from the registration of the Community design;
- (c) where there are time limits to be observed in dealings with the Office, the successor in title may make the corresponding statements to the Office once the request for registration of the transfer has been received by the Office;
- (d) all documents which by virtue of Article 66 require notification to the holder of the registered Community design shall be addressed by the Office to the person registered as holder or his representative, if one has been appointed.

#### Article 29

##### Rights in rem on a registered Community design

- 1. A registered Community design may be given as security or be the subject of rights *in rem*.
- 2. On request of one of the parties, the rights mentioned in paragraph 1 shall be entered in the register and published.

#### Article 30

##### Levy of execution

- 1. A registered Community design may be levied in execution.
- 2. As regards the procedure for levy of execution in respect of a registered Community design, the courts and authorities of the Member State determined in accordance with Article 27 shall have exclusive jurisdiction.

3. On request of one of the parties, levy of execution shall be entered in the register and published.

#### Article 31

##### Insolvency proceedings

- 1. The only insolvency proceedings in which a Community design may be involved shall be those opened in the Member State within the territory of which the centre of a debtor's main interests is situated.
- 2. In the case of joint proprietorship of a Community design, paragraph 1 shall apply to the share of the joint proprietor.
- 3. Where a Community design is involved in insolvency proceedings, on request of the competent national authority an entry to this effect shall be made in the register and published in the Community Designs Bulletin referred to in Article 73(1).

#### Article 32

##### Licensing

- 1. A Community design may be licensed for the whole or part of the Community. A licence may be exclusive or non-exclusive.
- 2. Without prejudice to any legal proceedings based on the law of contract, the holder may invoke the rights conferred by the Community design against a licensee who contravenes any provision in his licensing contract with regard to its duration, the form in which the design may be used, the range of products for which the licence is granted and the quality of products manufactured by the licensee.
- 3. Without prejudice to the provisions of the licensing contract, the licensee may bring proceedings for infringement of a Community design only if the right holder consents thereto. However, the holder of an exclusive licence may bring such proceedings if the right holder in the Community design, having been given notice to do so, does not himself bring infringement proceedings within an appropriate period.
- 4. A licensee shall, for the purpose of obtaining compensation for damage suffered by him, be entitled to intervene in an infringement action brought by the right holder in a Community design.
- 5. In the case of a registered Community design, the grant or transfer of a licence in respect of such right shall, at the request of one of the parties, be entered in the register and published.

#### Article 33

##### Effects vis-à-vis third parties

- 1. The effects vis-à-vis third parties of the legal acts referred to in Articles 28, 29, 30 and 32 shall be governed by the law of the Member State determined in accordance with Article 27.

2. However, as regards registered Community designs, legal acts referred to in Articles 28, 29 and 32 shall only have effect vis-à-vis third parties in all the Member States after entry in the register. Nevertheless, such an act, before it is so entered, shall have effect vis-à-vis third parties who have acquired rights in the registered Community design after the date of that act but who knew of the act at the date on which the rights were acquired.

3. Paragraph 2 shall not apply to a person who acquires the registered Community design or a right concerning the registered Community design by way of transfer of the whole of the undertaking or by any other universal succession.

4. Until such time as common rules for the Member States in the field of insolvency enter into force, the effects vis-à-vis third parties of insolvency proceedings shall be governed by the law of the Member State in which such proceedings are first brought under the national law or the regulations applicable in this field.

#### Article 34

#### **The application for a registered Community design as an object of property**

1. An application for a registered Community design as an object of property shall be dealt with in its entirety, and for the whole area of the Community, as a national design right of the Member State determined in accordance with Article 27.

2. Articles 28, 29, 30, 31, 32 and 33 shall apply *mutatis mutandis* to applications for registered Community designs. Where the effect of one of these provisions is conditional upon an entry in the register, that formality shall be performed upon registration of the resulting registered Community design.

#### TITLE IV

#### **APPLICATION FOR A REGISTERED COMMUNITY DESIGN**

#### Section 1

#### **Filing of applications and the conditions which govern them**

#### Article 35

#### **Filing and forwarding of applications**

1. An application for a registered Community design shall be filed, at the option of the applicant:

- (a) at the Office; or
- (b) at the central industrial property office of a Member State; or
- (c) in the Benelux countries, at the Benelux Design Office.

2. Where the application is filed at the central industrial property office of a Member State or at the Benelux Design Office, that office shall take all steps to forward the application

to the Office within two weeks after filing. It may charge the applicant a fee which shall not exceed the administrative costs of receiving and forwarding the application.

3. As soon as the Office has received an application which has been forwarded by a central industrial property office of a Member State or by the Benelux Design Office, it shall inform the applicant accordingly, indicating the date of its receipt at the Office.

4. No less than 10 years after the entry into force of this Regulation, the Commission shall draw up a report on the operation of the system of filing applications for registered Community designs, accompanied by any proposals for revision that it may deem appropriate.

#### Article 36

#### **Conditions with which applications must comply**

1. An application for a registered Community design shall contain:

- (a) a request for registration;
- (b) information identifying the applicant;
- (c) a representation of the design suitable for reproduction. However, if the object of the application is a two-dimensional design and the application contains a request for deferment of publication in accordance with Article 50, the representation of the design may be replaced by a specimen.

2. The application shall further contain an indication of the products in which the design is intended to be incorporated or to which it is intended to be applied.

3. In addition, the application may contain:

- (a) a description explaining the representation or the specimen;
- (b) a request for deferment of publication of the registration in accordance with Article 50;
- (c) information identifying the representative if the applicant has appointed one;
- (d) the classification of the products in which the design is intended to be incorporated or to which it is intended to be applied according to class;
- (e) the citation of the designer or of the team of designers or a statement under the applicant's responsibility that the designer or the team of designers has waived the right to be cited.

4. The application shall be subject to the payment of the registration fee and the publication fee. Where a request for deferment under paragraph 3(b) is filed, the publication fee shall be replaced by the fee for deferment of publication.

5. The application shall comply with the conditions laid down in the implementing regulation.

6. The information contained in the elements mentioned in paragraph 2 and in paragraph 3(a) and (d) shall not affect the scope of protection of the design as such.

#### Article 37

### Multiple applications

1. Several designs may be combined in one multiple application for registered Community designs. Except in cases of ornamentation, this possibility is subject to the condition that the products in which the designs are intended to be incorporated or to which they are intended to be applied all belong to the same class of the International Classification for Industrial Designs.

2. Besides the fees referred to in Article 36(4), the multiple application shall be subject to payment of an additional registration fee and an additional publication fee. Where the multiple application contains a request for deferment of publication, the additional publication fee shall be replaced by the additional fee for deferment of publication. The additional fees shall correspond to a percentage of the basic fees for each additional design.

3. The multiple application shall comply with the conditions of presentation laid down in the implementing regulation.

4. Each of the designs contained in a multiple application or registration may be dealt with separately from the others for the purpose of applying this Regulation. It may in particular, separately from the others, be enforced, licensed, be the subject of a right *in rem*, a levy of execution or insolvency proceedings, be surrendered, renewed or assigned, be the subject of deferred publication or be declared invalid. A multiple application or registration may be divided into separate applications or registrations only under the conditions set out in the implementing regulation.

#### Article 38

### Date of filing

1. The date of filing of an application for a registered Community design shall be the date on which documents containing the information specified in Article 36(1) are filed with the Office by the applicant, or, if the application has been filed with the central industrial property office of a Member State or with the Benelux Design Office, with that office.

2. By derogation from paragraph 1, the date of filing of an application filed with the central industrial property office of a Member State or with the Benelux Design Office and reaching the Office more than two months after the date on which documents containing the information specified in Article 36(1) have been filed shall be the date of receipt of such documents by the Office.

#### Article 39

### Equivalence of Community filing with national filing

An application for a registered Community design which has been accorded a date of filing shall, in the Member States, be equivalent to a regular national filing, including where appropriate the priority claimed for the said application.

#### Article 40

### Classification

For the purpose of this Regulation, use shall be made of the Annex to the Agreement establishing an International Classification for Industrial Designs, signed at Locarno on 8 October 1968.

#### Section 2

### Priority

#### Article 41

### Right of priority

1. A person who has duly filed an application for a design right or for a utility model in or for any State party to the Paris Convention for the Protection of Industrial Property, or to the Agreement establishing the World Trade Organisation, or his successors in title, shall enjoy, for the purpose of filing an application for a registered Community design in respect of the same design or utility model, a right of priority of six months from the date of filing of the first application.

2. Every filing that is equivalent to a regular national filing under the national law of the State where it was made or under bilateral or multilateral agreements shall be recognised as giving rise to a right of priority.

3. 'Regular national filing' means any filing that is sufficient to establish the date on which the application was filed, whatever may be the outcome of the application.

4. A subsequent application for a design which was the subject of a previous first application, and which is filed in or in respect of the same State, shall be considered as the first application for the purpose of determining priority, provided that, at the date of the filing of the subsequent application, the previous application has been withdrawn, abandoned or refused without being open to public inspection and without leaving any rights outstanding, and has not served as a basis for claiming priority. The previous application may not thereafter serve as a basis for claiming a right of priority.

5. If the first filing has been made in a State which is not a party to the Paris Convention, or to the Agreement establishing the World Trade Organisation, paragraphs 1 to 4 shall apply only in so far as that State, according to published findings, grants, on the basis of a filing made at the Office and subject to conditions equivalent to those laid down in this Regulation, a right of priority having equivalent effect.

*Article 42***Claiming priority**

An applicant for a registered Community design desiring to take advantage of the priority of a previous application shall file a declaration of priority and a copy of the previous application. If the language of the latter is not one of the languages of the Office, the Office may require a translation of the previous application in one of those languages.

*Article 43***Effect of priority right**

The effect of the right of priority shall be that the date of priority shall count as the date of the filing of the application for a registered Community design for the purpose of Articles 5, 6, 7, 22, 25(1)(d) and 50(1).

*Article 44***Exhibition priority**

1. If an applicant for a registered Community design has disclosed products in which the design is incorporated, or to which it is applied, at an official or officially recognised international exhibition falling within the terms of the Convention on International Exhibitions signed in Paris on 22 November 1928 and last revised on 30 November 1972, he may, if he files the application within a period of six months from the date of the first disclosure of such products, claim a right of priority from that date within the meaning of Article 43.

2. An applicant who wishes to claim priority pursuant to paragraph 1, under the conditions laid down in the implementing regulation, must file evidence that he has disclosed at an exhibition the products in or to which the design is incorporated or applied.

3. An exhibition priority granted in a Member State or in a third country does not extend the period of priority laid down in Article 41.

## TITLE V

**REGISTRATION PROCEDURE***Article 45***Examination as to formal requirements for filing**

1. The Office shall examine whether the application complies with the requirements laid down in Article 36(1) for the accordance of a date of filing.

2. The Office shall examine whether:

- (a) the application complies with the other requirements laid down in Article 36(2), (3), (4) and (5) and, in the case of a multiple application, Article 37(1) and (2);

- (b) the application meets the formal requirements laid down in the implementing regulation for the implementation of Articles 36 and 37;

- (c) the requirements of Article 77(2) are satisfied;

- (d) the requirements concerning the claim to priority are satisfied, if a priority is claimed.

3. The conditions for the examination as to the formal requirements for filing shall be laid down in the implementing regulation.

*Article 46***Remediable deficiencies**

1. Where, in carrying out the examination under Article 45, the Office notes that there are deficiencies which may be corrected, the Office shall request the applicant to remedy them within the prescribed period.

2. If the deficiencies concern the requirements referred to in Article 36(1) and the applicant complies with the Office's request within the prescribed period, the Office shall accord as the date of filing the date on which the deficiencies are remedied. If the deficiencies are not remedied within the prescribed period, the application shall not be dealt with as an application for a registered Community design.

3. If the deficiencies concern the requirements, including the payment of fees, as referred to in Article 45(2)(a), (b) and (c) and the applicant complies with the Office's request within the prescribed period, the Office shall accord as the date of filing the date on which the application was originally filed. If the deficiencies or the default in payment are not remedied within the prescribed period, the Office shall refuse the application.

4. If the deficiencies concern the requirements referred to in Article 45(2)(d), failure to remedy them within the prescribed period shall result in the loss of the right of priority for the application.

*Article 47***Grounds for non-registrability**

1. If the Office, in carrying out the examination pursuant to Article 45, notices that the design for which protection is sought:

- (a) does not correspond to the definition under Article 3(a); or
- (b) is contrary to public policy or to accepted principles of morality, it shall refuse the application.

2. The application shall not be refused before the applicant has been allowed the opportunity of withdrawing or amending the application or of submitting his observations.

*Article 48***Registration**

If the requirements that an application for a registered Community design must satisfy have been fulfilled and to the extent that the application has not been refused by virtue of Article 47, the Office shall register the application in the Community design Register as a registered Community design. The registration shall bear the date of filing of the application referred to in Article 38.

*Article 49***Publication**

Upon registration, the Office shall publish the registered Community design in the Community Designs Bulletin as mentioned in Article 73(1). The contents of the publication shall be set out in the implementing regulation.

*Article 50***Deferment of publication**

1. The applicant for a registered Community design may request, when filing the application, that the publication of the registered Community design be deferred for a period of 30 months from the date of filing the application or, if a priority is claimed, from the date of priority.

2. Upon such request, where the conditions set out in Article 48 are satisfied, the registered Community design shall be registered, but neither the representation of the design nor any file relating to the application shall, subject to Article 74(2), be open to public inspection.

3. The Office shall publish in the Community Designs Bulletin a mention of the deferment of the publication of the registered Community design. The mention shall be accompanied by information identifying the right holder in the registered Community design, the date of filing the application and any other particulars prescribed by the implementing regulation.

4. At the expiry of the period of deferment, or at any earlier date on request by the right holder, the Office shall open to public inspection all the entries in the register and the file relating to the application and shall publish the registered Community design in the Community Designs Bulletin, provided that, within the time limit laid down in the implementing regulation:

- (a) the publication fee and, in the event of a multiple application, the additional publication fee are paid;
- (b) where use has been made of the option pursuant to Article 36(1)(c), the right holder has filed with the Office a representation of the design.

If the right holder fails to comply with these requirements, the registered Community design shall be deemed from the outset not to have had the effects specified in this Regulation.

5. In the case of multiple applications, paragraph 4 need only be applied to some of the designs included therein.

6. The institution of legal proceedings on the basis of a registered Community design during the period of deferment of publication shall be subject to the condition that the information contained in the register and in the file relating to the application has been communicated to the person against whom the action is brought.

## TITLE VI

**SURRENDER AND INVALIDITY OF THE REGISTERED COMMUNITY DESIGN***Article 51***Surrender**

1. The surrender of a registered Community design shall be declared to the Office in writing by the right holder. It shall not have effect until it has been entered in the register.

2. If a Community design which is subject to deferment of publication is surrendered it shall be deemed from the outset not to have had the effects specified in this Regulation.

3. A registered Community design may be partially surrendered provided that its amended form complies with the requirements for protection and the identity of the design is retained.

4. Surrender shall be registered only with the agreement of the proprietor of a right entered in the register. If a licence has been registered, surrender shall be entered in the register only if the right holder in the registered Community design proves that he has informed the licensee of his intention to surrender. This entry shall be made on expiry of the period prescribed by the implementing regulation.

5. If an action pursuant to Article 14 relating to the entitlement to a registered Community design has been brought before a Community design court, the Office shall not enter the surrender in the register without the agreement of the claimant.

*Article 52***Application for a declaration of invalidity**

1. Subject to Article 25(2), (3), (4) and (5), any natural or legal person, as well as a public authority empowered to do so, may submit to the Office an application for a declaration of invalidity of a registered Community design.

2. The application shall be filed in a written reasoned statement. It shall not be deemed to have been filed until the fee for an application for a declaration of invalidity has been paid.

3. An application for a declaration of invalidity shall not be admissible if an application relating to the same subject matter and cause of action, and involving the same parties, has been adjudicated on by a Community design court and has acquired the authority of a final decision.

## Article 53

**Examination of the application**

1. If the Office finds that the application for a declaration of invalidity is admissible, the Office shall examine whether the grounds for invalidity referred to in Article 25 prejudice the maintenance of the registered Community design.

2. In the examination of the application, which shall be conducted in accordance with the implementing regulation, the Office shall invite the parties, as often as necessary, to file observations, within a period to be fixed by the Office, on communications from the other parties or issued by itself.

3. The decision declaring the registered Community design invalid shall be entered in the register upon becoming final.

## Article 54

**Participation in the proceedings of the alleged infringer**

1. In the event of an application for a declaration of invalidity of a registered Community design being filed, and as long as no final decision has been taken by the Office, any third party who proves that proceedings for infringement of the same design have been instituted against him may be joined as a party in the invalidity proceedings on request submitted within three months of the date on which the infringement proceedings were instituted.

The same shall apply in respect of any third party who proves both that the right holder of the Community design has requested that he cease an alleged infringement of the design and that he has instituted proceedings for a court ruling that he is not infringing the Community design.

2. The request to be joined as a party shall be filed in a written reasoned statement. It shall not be deemed to have been filed until the invalidity fee, referred to in Article 52(2), has been paid. Thereafter the request shall, subject to any exceptions laid down in the implementing regulation, be treated as an application for a declaration of invalidity.

## TITLE VII

**APPEALS**

## Article 55

**Decisions subject to appeal**

1. An appeal shall lie from decisions of the examiners, the Administration of Trade Marks and Designs and Legal Division and Invalidity Divisions. It shall have suspensive effect.

2. A decision which does not terminate proceedings as regards one of the parties can only be appealed together with the final decision, unless the decision allows separate appeal.

## Article 56

**Persons entitled to appeal and to be parties to appeal proceedings**

Any party to proceedings adversely affected by a decision may appeal. Any other parties to the proceedings shall be parties to the appeal proceedings as of right.

## Article 57

**Time limit and form of appeal**

Notice of appeal must be filed in writing at the Office within two months after the date of notification of the decision appealed from. The notice shall be deemed to have been filed only when the fee for appeal has been paid. Within four months after the date of notification of the decision, a written statement setting out the grounds of appeal must be filed.

## Article 58

**Interlocutory revision**

1. If the department whose decision is contested considers the appeal to be admissible and well founded, it shall rectify its decision. This shall not apply where the appellant is opposed by another party to the proceedings.

2. If the decision is not rectified within one month after receipt of the statement of grounds, the appeal shall be remitted to the Board of Appeal without delay and without comment as to its merits.

## Article 59

**Examination of appeals**

1. If the appeal is admissible, the Board of Appeal shall examine whether the appeal is to be allowed.

2. In the examination of the appeal, the Board of Appeal shall invite the parties, as often as necessary, to file observations, within a period to be fixed by the Board of Appeal, on communications from the other parties or issued by itself.

## Article 60

**Decisions in respect of appeals**

1. Following the examination as to the merits of the appeal, the Board of Appeal shall decide on the appeal. The Board of Appeal may either exercise any power within the competence of the department which was responsible for the decision appealed against or remit the case to that department for further prosecution.

2. If the Board of Appeal remits the case for further prosecution to the department whose decision was appealed, that department shall be bound by the *ratio decidendi* of the Board of Appeal, in so far as the facts are the same.

3. The decisions of the Boards of Appeal shall take effect only from the date of expiry of the period referred to in Article 61(5) or, if an action has been brought before the Court of Justice within that period, from the date of rejection of such action.



*Article 61***Actions before the Court of Justice**

1. Actions may be brought before the Court of Justice against decisions of the Boards of Appeal on appeals.
2. The action may be brought on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaty, of this Regulation or of any rule of law relating to their application or misuse of power.
3. The Court of Justice has jurisdiction to annul or to alter the contested decision.
4. The action shall be open to any party to proceedings before the Board of Appeal adversely affected by its decision.
5. The action shall be brought before the Court of Justice within two months of the date of notification of the decision of the Board of Appeal.
6. The Office shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

## TITLE VIII

**PROCEDURE BEFORE THE OFFICE**

## Section 1

**General provisions***Article 62***Statement of reasons on which decisions are based**

Decisions of the Office shall state the reasons on which they are based. They shall be based only on reasons or evidence on which the parties concerned have had an opportunity to present their comments.

*Article 63***Examination of the facts by the Office of its own motion**

1. In proceedings before it the Office shall examine the facts of its own motion. However, in proceedings relating to a declaration of invalidity, the Office shall be restricted in this examination to the facts, evidence and arguments provided by the parties and the relief sought.
2. The Office may disregard facts or evidence which are not submitted in due time by the parties concerned.

*Article 64***Oral proceedings**

1. If the Office considers that oral proceedings would be expedient, they shall be held either at the instance of the Office or at the request of any party to the proceedings.
2. Oral proceedings, including delivery of the decision, shall be public, unless the department before which the proceedings are taking place decides otherwise in cases where admission of

the public could have serious and unjustified disadvantages, in particular for a party to the proceedings.

*Article 65***Taking of evidence**

1. In any proceedings before the Office the means of giving or obtaining evidence shall include the following:
  - (a) hearing the parties;
  - (b) requests for information;
  - (c) the production of documents and items of evidence;
  - (d) hearing witnesses;
  - (e) opinions by experts;
  - (f) statements in writing, sworn or affirmed or having a similar effect under the law of the State in which the statement is drawn up.
2. The relevant department of the Office may commission one of its members to examine the evidence adduced.
3. If the Office considers it necessary for a party, witness or expert to give evidence orally, it shall issue a summons to the person concerned to appear before it.
4. The parties shall be informed of the hearing of a witness or expert before the Office. They shall have the right to be present and to put questions to the witness or expert.

*Article 66***Notification**

The Office shall, as a matter of course, notify those concerned of decisions and summonses and of any notice or other communication from which a time limit is reckoned, or of which those concerned must be notified under other provisions of this Regulation or of the implementing regulation, or of which notification has been ordered by the President of the Office.

*Article 67***Restitutio in integrum**

1. The applicant for or holder of a registered Community design or any other party to proceedings before the Office who, in spite of all due care required by the circumstances having been taken, was unable to observe a time limit vis-à-vis the Office shall, upon application, have his rights re-established if the non-observance in question has the direct consequence, by virtue of the provisions of this Regulation, of causing the loss of any rights or means of redress.
2. The application must be filed in writing within two months of the removal of the cause of non-compliance with the time limit. The omitted act must be completed within this period. The application shall only be admissible within the year immediately following the expiry of the unobserved time limit. In the case of non-submission of the request for renewal of registration or of non-payment of a renewal fee, the further period of six months provided for in the second sentence of Article 13(3) shall be deducted from the period of one year.

3. The application must state the grounds on which it is based and must set out the facts on which it relies. It shall not be deemed to be filed until the fee for the re-establishment of rights has been paid.

4. The department competent to decide on the omitted act shall decide upon the application.

5. The provisions of this Article shall not be applicable to the time limits referred to in paragraph 2 and Article 41(1).

6. Where the applicant for or holder of a registered Community design has his rights re-established, he may not invoke his rights vis-à-vis a third party who, in good faith, in the course of the period between the loss of rights in the application for or registration of the registered Community design and publication of the mention of re-establishment of those rights, has put on the market products in which a design included within the scope of protection of the registered Community design is incorporated or to which it is applied.

7. A third party who may avail himself of the provisions of paragraph 6 may bring third party proceedings against the decision re-establishing the rights of the applicant for or holder of the registered Community design within a period of two months as from the date of publication of the mention of re-establishment of those rights.

8. Nothing in this Article shall limit the right of a Member State to grant *restitutio in integrum* in respect of time limits provided for in this Regulation and to be complied with vis-à-vis the authorities of such State.

#### Article 68

##### Reference to general principles

In the absence of procedural provisions in this Regulation, the implementing regulation, the fees regulation or the rules of procedure of the Boards of Appeal, the Office shall take into account the principles of procedural law generally recognised in the Member States.

#### Article 69

##### Termination of financial obligations

1. Rights of the Office to the payment of fees shall be barred four years from the end of the calendar year in which the fee fell due.

2. Rights against the Office for the refunding of fees or sums of money paid in excess of a fee shall be barred after four years from the end of the calendar year in which the right arose.

3. The periods laid down in paragraphs 1 and 2 shall be interrupted, in the case covered by paragraph 1, by a request for payment of the fee and, in the case covered by paragraph 2, by a reasoned claim in writing. On interruption it shall begin again immediately and shall end at the latest six years after the end of the year in which it originally began, unless in the meantime judicial proceedings to enforce the right have begun. In this case the period shall end at the earliest one year after the judgment has acquired the authority of a final decision.

## Section 2

### Costs

#### Article 70

##### Apportionment of costs

1. The losing party in proceedings for a declaration of invalidity of a registered Community design or appeal proceedings shall bear the fees incurred by the other party as well as all costs incurred by him essential to the proceedings, including travel and subsistence and the remuneration of an agent, adviser or advocate, within the limits of scales set for each category of costs under the conditions laid down in the implementing regulation.

2. However, where each party succeeds on some and fails on other heads, or if reasons of equity so dictate, the Invalidity Division or Board of Appeal shall decide a different apportionment of costs.

3. A party who terminates the proceedings by surrendering the registered Community design or by not renewing its registration or by withdrawing the application for a declaration of invalidity or the appeal, shall bear the fees and the costs incurred by the other party as stipulated in paragraphs 1 and 2.

4. Where a case does not proceed to judgment, the costs shall be at the discretion of the Invalidity Division or Board of Appeal.

5. Where the parties conclude before the Invalidity Division or Board of Appeal a settlement of costs differing from that provided for in paragraphs 1, 2, 3 and 4, the body concerned shall take note of that agreement.

6. On request, the registry of the Invalidity Division or Board of Appeal shall fix the amount of the costs to be paid pursuant to the preceding paragraphs. The amount so determined may be reviewed by a decision of the Invalidity Division or Board of Appeal on a request filed within the period prescribed by the implementing regulation.

#### Article 71

##### Enforcement of decisions fixing the amount of costs

1. Any final decision of the Office fixing the amount of costs shall be enforceable.

2. Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without any other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Office and to the Court of Justice.

3. When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

4. Enforcement may be suspended only by a decision of the Court of Justice. However, the courts of the Member State concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

### Section 3

#### **Informing the public and the official authorities of the Member States**

##### Article 72

#### **Register of Community designs**

The Office shall keep a register to be known as the register of Community designs, which shall contain those particulars of which the registration is provided for by this Regulation or by the implementing regulation. The register shall be open to public inspection, except to the extent that Article 50(2) provides otherwise.

##### Article 73

#### **Periodical publications**

1. This Office shall periodically publish a Community Designs Bulletin containing entries open to public inspection in the register as well as other particulars the publication of which is prescribed by this Regulation or by the implementing regulation.

2. Notices and information of a general character issued by the President of the Office, as well as any other information relevant to this Regulation or its implementation, shall be published in the Official Journal of the Office.

##### Article 74

#### **Inspection of files**

1. The files relating to applications for registered Community designs which have not yet been published or the files relating to registered Community designs which are subject to deferment of publication in accordance with Article 50 or which, being subject to such deferment, have been surrendered before or on the expiry of that period, shall not be made available for inspection without the consent of the applicant for or the right holder in the registered Community design.

2. Any person who can establish a legitimate interest may inspect a file without the consent of the applicant for or holder of the registered Community design prior to the publication or after the surrender of the latter in the case provided for in paragraph 1.

This shall in particular apply if the interested person proves that the applicant for or the holder of the registered Community design has taken steps with a view to invoking against him the right under the registered Community design.

3. Subsequent to the publication of the registered Community design, the file may be inspected on request.

4. However, where a file is inspected pursuant to paragraph 2 or 3, certain documents in the file may be withheld from inspection in accordance with the provisions of the implementing regulation.

##### Article 75

#### **Administrative cooperation**

Unless otherwise provided in this Regulation or in national laws, the Office and the courts or authorities of the Member States shall on request give assistance to each other by communicating information or opening files for inspection.

Where the Office opens files to inspection by courts, public prosecutors' offices or central industrial property offices, the inspection shall not be subject to the restrictions laid down in Article 74.

##### Article 76

#### **Exchange of publications**

1. The Office and the central industrial property offices of the Member States shall despatch to each other on request and for their own use one or more copies of their respective publications free of charge.

2. The Office may conclude agreements relating to the exchange or supply of publications.

### Section 4

#### **Representation**

##### Article 77

#### **General principles of representation**

1. Subject to paragraph 2, no person shall be compelled to be represented before the Office.

2. Without prejudice to the second subparagraph of paragraph 3, natural or legal persons not having either their domicile or their principal place of business or a real and effective industrial or commercial establishment in the Community must be represented before the Office in accordance with Article 78(1) in all proceedings before the Office established by this Regulation, other than in filing an application for a registered Community design; the implementing regulation may permit other exceptions.

3. Natural or legal persons having their domicile or principal place of business or a real and effective industrial or commercial establishment in the Community may be represented before the Office by one of their employees, who must file with it a signed authorisation for inclusion in the files, the details of which are set out in the implementing regulation.

An employee of a legal person to which this paragraph applies may also represent other legal persons which have economic connections with the first legal person, even if those other legal persons have neither their domicile nor their principal place of business nor a real and effective industrial or commercial establishment within the Community.

#### Article 78

### Professional representation

1. Representation of natural or legal persons in proceedings before the Office under this Regulation may only be undertaken by:

- (a) any legal practitioner qualified in one of the Member States and having his place of business within the Community, to the extent that he is entitled, within the said State, to act as a representative in industrial property matters; or
- (b) any professional representatives whose name has been entered on the list of professional representatives referred to in Article 89(1)(b) of the Regulation on the Community trade mark; or
- (c) persons whose names are entered on the special list of professional representatives for design matters referred to in paragraph 4.

2. The persons referred to in paragraph 1(c) shall only be entitled to represent third persons in proceedings on design matters before the Office.

3. The implementing regulation shall provide whether and under what conditions representatives must file with the Office a signed authorisation for insertion on the files.

4. Any natural person may be entered on the special list of professional representatives in design matters, if he fulfils the following conditions:

- (a) he must be a national of one of the Member States;
- (b) he must have his place of business or employment in the Community;
- (c) he must be entitled to represent natural or legal persons in design matters before the central industrial property office of a Member State or before the Benelux Design Office. Where, in that State, the entitlement to represent in design matters is not conditional upon the requirement of special professional qualifications, persons applying to be entered on the list must have habitually acted in design matters before the central industrial property office of the said State for at least five years. However, persons whose professional qualification to represent natural or legal persons in design matters before the central industrial property office of one of the Member States is officially recognised in accordance with the regulations laid by such State shall not be subject to the condition of having exercised the profession.

5. Entry on the list referred to in paragraph 4 shall be effected upon request, accompanied by a certificate furnished by the central industrial property office of the Member State concerned, which must indicate that the conditions laid down in the said paragraph are fulfilled.

6. The President of the Office may grant exemption from:

- (a) the requirement of paragraph 4(a) in special circumstances;
- (b) the requirement of paragraph 4(c), second sentence, if the applicant furnishes proof that he has acquired the requisite qualification in another way.

7. The conditions under which a person may be removed from the list shall be laid down in the implementing regulation.

#### TITLE IX

### JURISDICTION AND PROCEDURE IN LEGAL ACTIONS RELATING TO COMMUNITY DESIGNS

#### Section 1

### *Jurisdiction and enforcement*

#### Article 79

### Application of the Convention on Jurisdiction and Enforcement

1. Unless otherwise specified in this Regulation, the Convention on Jurisdiction and the Enforcement of Judgements in Civil and Commercial Matters, signed in Brussels on 27 September 1968 <sup>(1)</sup>, hereinafter referred to as the 'Convention on Jurisdiction and Enforcement', shall apply to proceedings relating to Community designs and applications for registered Community designs, as well as to proceedings relating to actions on the basis of Community designs and national designs enjoying simultaneous protection.

2. The provisions of the Convention on Jurisdiction and Enforcement which are rendered applicable by the paragraph 1 shall have effect in respect of any Member State solely in the text which is in force in respect of that State at any given time.

3. In the event of proceedings in respect of the actions and claims referred to in Article 85:

- (a) Articles 2, 4, 5(1), (3), (4) and (5), 16(4) and 24 of the Convention on Jurisdiction and Enforcement shall not apply;
- (b) Articles 17 and 18 of that Convention shall apply subject to the limitations in Article 82(4) of this Regulation;
- (c) the provisions of Title II of that Convention which are applicable to persons domiciled in a Member State shall also be applicable to persons who do not have a domicile in any Member State but have an establishment therein.

<sup>(1)</sup> OJ L 299, 31.12.1972, p. 32. Convention as amended by the Conventions on the Accession to that Convention of the States acceding to the European Communities.

4. The provisions of the Convention on Jurisdiction and Enforcement shall not have effect in respect of any Member State for which that Convention has not yet entered into force. Until such entry into force, proceedings referred to in paragraph 1 shall be governed in such a Member State by any bilateral or multilateral convention governing its relationship with another Member State concerned, or, if no such convention exists, by its domestic law on jurisdiction, recognition and enforcement of decisions.

## Section 2

### **Disputes concerning the infringement and validity of Community designs**

#### Article 80

##### **Community design courts**

1. The Member States shall designate in their territories as limited a number as possible of national courts and tribunals of first and second instance (Community design courts) which shall perform the functions assigned to them by this Regulation.
2. Each Member State shall communicate to the Commission not later than 6 March 2005 a list of Community design courts, indicating their names and their territorial jurisdiction.
3. Any change made after communication of the list referred to in paragraph 2 in the number, names or territorial jurisdiction of the Community design courts shall be notified without delay by the Member State concerned to the Commission.
4. The information referred to in paragraphs 2 and 3 shall be notified by the Commission to the Member States and published in the *Official Journal of the European Communities*.
5. As long as a Member State has not communicated the list as stipulated in paragraph 2, jurisdiction for any proceedings resulting from an action covered by Article 81 for which the courts of that State have jurisdiction pursuant to Article 82 shall lie with that court of the State in question which would have jurisdiction *ratione loci* and *ratione materiae* in the case of proceedings relating to a national design right of that State.

#### Article 81

##### **Jurisdiction over infringement and validity**

The Community design courts shall have exclusive jurisdiction:

- (a) for infringement actions and — if they are permitted under national law — actions in respect of threatened infringement of Community designs;
- (b) for actions for declaration of non-infringement of Community designs, if they are permitted under national law;
- (c) for actions for a declaration of invalidity of an unregistered Community design;
- (d) for counterclaims for a declaration of invalidity of a Community design raised in connection with actions under (a).

#### Article 82

##### **International jurisdiction**

1. Subject to the provisions of this Regulation and to any provisions of the Convention on Jurisdiction and Enforcement applicable by virtue of Article 79, proceedings in respect of the actions and claims referred to in Article 81 shall be brought in the courts of the Member State in which the defendant is domiciled or, if he is not domiciled in any of the Member States, in any Member State in which he has an establishment.
2. If the defendant is neither domiciled nor has an establishment in any of the Member States, such proceedings shall be brought in the courts of the Member State in which the plaintiff is domiciled or, if he is not domiciled in any of the Member States, in any Member State in which he has an establishment.
3. If neither the defendant nor the plaintiff is so domiciled or has such an establishment, such proceedings shall be brought in the courts of the Member State where the Office has its seat.
4. Notwithstanding paragraphs 1, 2 and 3:
  - (a) Article 17 of the Convention on Jurisdiction and Enforcement shall apply if the parties agree that a different Community design court shall have jurisdiction;
  - (b) Article 18 of that Convention shall apply if the defendant enters an appearance before a different Community design court.
5. Proceedings in respect of the actions and claims referred to in Article 81(a) and (d) may also be brought in the courts of the Member State in which the act of infringement has been committed or threatened.

#### Article 83

##### **Extent of jurisdiction on infringement**

1. A Community design court whose jurisdiction is based on Article 82(1), (2) (3) or (4) shall have jurisdiction in respect of acts of infringement committed or threatened within the territory of any of the Member States.
2. A Community design court whose jurisdiction is based on Article 82(5) shall have jurisdiction only in respect of acts of infringement committed or threatened within the territory of the Member State in which that court is situated.

#### Article 84

##### **Action or counterclaim for a declaration of invalidity of a Community design**

1. An action or a counterclaim for a declaration of invalidity of a Community design may only be based on the grounds for invalidity mentioned in Article 25.
2. In the cases referred to in Article 25(2), (3), (4) and (5) the action or the counterclaim may be brought solely by the person entitled under those provisions.

3. If the counterclaim is brought in a legal action to which the right holder of the Community design is not already a party, he shall be informed thereof and may be joined as a party to the action in accordance with the conditions set out in the law of the Member State where the court is situated.

4. The validity of a Community design may not be put in issue in an action for a declaration of non-infringement.

#### Article 85

##### **Presumption of validity — defence as to the merits**

1. In proceedings in respect of an infringement action or an action for threatened infringement of a registered Community design, the Community design court shall treat the Community design as valid. Validity may be challenged only with a counterclaim for a declaration of invalidity. However, a plea relating to the invalidity of a Community design, submitted otherwise than by way of counterclaim, shall be admissible in so far as the defendant claims that the Community design could be declared invalid on account of an earlier national design right, within the meaning of Article 25(1)(d), belonging to him.

2. In proceedings in respect of an infringement action or an action for threatened infringement of an unregistered Community design, the Community design court shall treat the Community design as valid if the right holder produces proof that the conditions laid down in Article 11 have been met and indicates what constitutes the individual character of his Community design. However, the defendant may contest its validity by way of a plea or with a counterclaim for a declaration of invalidity.

#### Article 86

##### **Judgements of invalidity**

1. Where in a proceeding before a Community design court the Community design has been put in issue by way of a counterclaim for a declaration of invalidity:

- (a) if any of the grounds mentioned in Article 25 are found to prejudice the maintenance of the Community design, the court shall declare the Community design invalid;
- (b) if none of the grounds mentioned in Article 25 is found to prejudice the maintenance of the Community design, the court shall reject the counterclaim.

2. The Community design court with which a counterclaim for a declaration of invalidity of a registered Community design has been filed shall inform the Office of the date on which the counterclaim was filed. The latter shall record this fact in the register.

3. The Community design court hearing a counterclaim for a declaration of invalidity of a registered Community design may, on application by the right holder of the registered

Community design and after hearing the other parties, stay the proceedings and request the defendant to submit an application for a declaration of invalidity to the Office within a time limit which the court shall determine. If the application is not made within the time limit, the proceedings shall continue; the counterclaim shall be deemed withdrawn. Article 91(3) shall apply.

4. Where a Community design court has given a judgment which has become final on a counterclaim for a declaration of invalidity of a registered Community design, a copy of the judgment shall be sent to the Office. Any party may request information about such transmission. The Office shall mention the judgment in the register in accordance with the provisions of the implementing regulation.

5. No counterclaim for a declaration of invalidity of a registered Community design may be made if an application relating to the same subject matter and cause of action, and involving the same parties, has already been determined by the Office in a decision which has become final.

#### Article 87

##### **Effects of the judgement on invalidity**

When it has become final, a judgment of a Community design court declaring a Community design invalid shall have in all the Member States the effects specified in Article 26.

#### Article 88

##### **Applicable law**

1. The Community design courts shall apply the provisions of this Regulation.

2. On all matters not covered by this Regulation, a Community design court shall apply its national law, including its private international law.

3. Unless otherwise provided in this Regulation, a Community design court shall apply the rules of procedure governing the same type of action relating to a national design right in the Member State where it is situated.

#### Article 89

##### **Sanctions in actions for infringement**

1. Where in an action for infringement or for threatened infringement a Community design court finds that the defendant has infringed or threatened to infringe a Community design, it shall, unless there are special reasons for not doing so, order the following measures:

- (a) an order prohibiting the defendant from proceeding with the acts which have infringed or would infringe the Community design;

- (b) an order to seize the infringing products;
- (c) an order to seize materials and implements predominantly used in order to manufacture the infringing goods, if their owner knew the effect for which such use was intended or if such effect would have been obvious in the circumstances;
- (d) any order imposing other sanctions appropriate under the circumstances which are provided by the law of the Member State in which the acts of infringement or threatened infringement are committed, including its private international law.

2. The Community design court shall take such measures in accordance with its national law as are aimed at ensuring that the orders referred to in paragraph 1 are complied with.

#### Article 90

##### **Provisional measures, including protective measures**

1. Application may be made to the courts of a Member State, including Community design courts, for such provisional measures, including protective measures, in respect of a Community design as may be available under the law of that State in respect of national design rights even if, under this Regulation, a Community design court of another Member State has jurisdiction as to the substance of the matter.

2. In proceedings relating to provisional measures, including protective measures, a plea otherwise than by way of counterclaim relating to the invalidity of a Community design submitted by the defendant shall be admissible. Article 85(2) shall, however, apply *mutatis mutandis*.

3. A Community design court whose jurisdiction is based on Article 82(1), (2), (3) or (4) shall have jurisdiction to grant provisional measures, including protective measures, which, subject to any necessary procedure for recognition and enforcement pursuant to Title III of the Convention on Jurisdiction and Enforcement, are applicable in the territory of any Member State. No other court shall have such jurisdiction.

#### Article 91

##### **Specific rules on related actions**

1. A Community design court hearing an action referred to in Article 81, other than an action for a declaration of non-infringement, shall, unless there are special grounds for continuing the hearing, of its own motion after hearing the parties, or at the request of one of the parties and after hearing the other parties, stay the proceedings where the validity of the Community design is already in issue before another Community design court on account of a counterclaim or, in the case of a registered Community design, where an application for a declaration of invalidity has already been filed at the Office.

2. The Office, when hearing an application for a declaration of invalidity of a registered Community design, shall, unless there are special grounds for continuing the hearing, of its own motion after hearing the parties, or at the request of one of the

parties and after hearing the other parties, stay the proceedings where the validity of the registered Community design is already in issue on account of a counterclaim before a Community design court. However, if one of the parties to the proceedings before the Community design court so requests, the court may, after hearing the other parties to these proceedings, stay the proceedings. The Office shall in this instance continue the proceedings pending before it.

3. Where the Community design court stays the proceedings it may order provisional measures, including protective measures, for the duration of the stay.

#### Article 92

##### **Jurisdiction of Community design courts of second instance — further appeal**

1. An appeal to the Community design courts of second instance shall lie from judgments of the Community design courts of first instance in respect of proceedings arising from the actions and claims referred to in Article 81.

2. The conditions under which an appeal may be lodged with a Community design court of second instance shall be determined by the national law of the Member State in which that court is located.

3. The national rules concerning further appeal shall be applicable in respect of judgments of Community design courts of second instance.

#### Section 3

##### **Other disputes concerning Community designs**

#### Article 93

##### **Supplementary provisions on the jurisdiction of national courts other than Community design courts**

1. Within the Member State whose courts have jurisdiction under Article 79(1) or (4), those courts shall have jurisdiction for actions relating to Community designs other than those referred to in Article 81 which would have jurisdiction *ratione loci* and *ratione materiae* in the case of actions relating to a national design right in that State.

2. Actions relating to a Community design, other than those referred to in Article 81, for which no court has jurisdiction pursuant to Article 79(1) and (4) and paragraph 1 of this Article may be heard before the courts of the Member State in which the Office has its seat.

#### Article 94

##### **Obligation of the national court**

A national court which is dealing with an action relating to a Community design other than the actions referred to in Article 81 shall treat the design as valid. Articles 85(2) and 90(2) shall, however, apply *mutatis mutandis*.

## TITLE X

## EFFECTS ON THE LAWS OF THE MEMBER STATES

## Article 95

**Parallel actions on the basis of Community designs and national design rights**

1. Where actions for infringement or for threatened infringement involving the same cause of action and between the same parties are brought before the courts of different Member States, one seized on the basis of a Community design and the other seized on the basis of a national design right providing simultaneous protection, the court other than the court first seized shall of its own motion decline jurisdiction in favour of that court. The court which would be required to decline jurisdiction may stay its proceedings if the jurisdiction of the other court is contested.

2. The Community design court hearing an action for infringement or threatened infringement on the basis of a Community design shall reject the action if a final judgment on the merits has been given on the same cause of action and between the same parties on the basis of a design right providing simultaneous protection.

3. The court hearing an action for infringement or for threatened infringement on the basis of a national design right shall reject the action if a final judgment on the merits has been given on the same cause of action and between the same parties on the basis of a Community design providing simultaneous protection.

4. Paragraphs 1, 2 and 3 shall not apply in respect of provisional measures, including protective measures.

## Article 96

**Relationship to other forms of protection under national law**

1. The provisions of this Regulation shall be without prejudice to any provisions of Community law or of the law of the Member States concerned relating to unregistered designs, trade marks or other distinctive signs, patents and utility models, typofaces, civil liability and unfair competition.

2. A design protected by a Community design shall also be eligible for protection under the law of copyright of Member States as from the date on which the design was created or fixed in any form. The extent to which, and the conditions under which, such a protection is conferred, including the level of originality required, shall be determined by each Member State.

## TITLE XI

## SUPPLEMENTARY PROVISIONS CONCERNING THE OFFICE

## Section 1

**General provisions**

## Article 97

**General provision**

Unless otherwise provided in this Title, Title XII of the Regulation on the Community trade mark shall apply to the Office with regard to its tasks under this Regulation.

## Article 98

**Language of proceedings**

1. The application for a registered Community design shall be filed in one of the official languages of the Community.

2. The applicant must indicate a second language which shall be a language of the Office the use of which he accepts as a possible language of proceedings before the Office.

If the application was filed in a language which is not one of the languages of the Office, the Office shall arrange to have the application translated into the language indicated by the applicant.

3. Where the applicant for a registered Community design is the sole party to proceedings before the Office, the language of proceedings shall be the language used for filing the application. If the application was made in a language other than the languages of the Office, the Office may send written communications to the applicant in the second language indicated by the applicant in his application.

4. In the case of invalidity proceedings, the language of proceedings shall be the language used for filing the application for a registered Community design if this is one of the languages of the Office. If the application was made in a language other than the languages of the Office, the language of proceedings shall be the second language indicated in the application.

The application for a declaration of invalidity shall be filed in the language of proceedings.

Where the language of proceedings is not the language used for filing the application for a registered Community design, the right holder of the Community design may file observations in the language of filing. The Office shall arrange to have those observations translated into the language of proceedings.

The implementing regulation may provide that the translation expenses to be borne by the Office may not, subject to a derogation granted by the Office where justified by the complexity of the case, exceed an amount to be fixed for each category of proceedings on the basis of the average size of statements of case received by the Office. Expenditure in excess of this amount may be allocated to the losing party in accordance with Article 70.

5. Parties to invalidity proceedings may agree that a different official language of the Community is to be the language of the proceedings.



*Article 99***Publication and register**

1. All information the publication of which is prescribed by this Regulation or the implementing regulation shall be published in all the official languages of the Community.

2. All entries in the Register of Community designs shall be made in all the official languages of the Community.

3. In cases of doubt, the text in the language of the Office in which the application for a registered Community design was filed shall be authentic. If the application was filed in an official language of the Community other than one of the languages of the Office, the text in the second language indicated by the applicant shall be authentic.

*Article 100***Supplementary powers of the President**

In addition to the functions and powers conferred on the President of the Office by Article 119 of the Regulation on the Community trade mark, the President may place before the Commission any proposal to amend this Regulation, the implementing regulation, the fees regulation and any other rule to the extent that they apply to registered Community designs, after consulting the Administrative Board and, in the case of the fees regulation, the Budget Committee.

*Article 101***Supplementary powers of the Administrative Board**

In addition to the powers conferred on it by Article 121 *et seq* of the Regulation on the Community trade mark or by other provisions of this Regulation, the Administrative Board;

- (a) shall set the date for the first filing of applications for registered Community designs pursuant to Article 111(2);
- (b) shall be consulted before adoption of the guidelines for examination as to formal requirements, examination as to grounds for refusal of registration and invalidity proceedings in the Office and in the other cases provided for in this Regulation.

*Section 2***Procedures***Article 102***Competence**

For taking decisions in connection with the procedures laid down in this Regulation the following shall be competent:

- (a) examiners;
- (b) the Administration of Trade Marks and Designs and Legal Division;

(c) Invalidity Divisions;

(d) Boards of Appeal.

*Article 103***Examiners**

An examiner shall be responsible for taking decisions on behalf of the Office in relation to an application for a registered Community design.

*Article 104***The Administration of Trade Marks and Designs and Legal Division**

1. The Administration of Trade Marks and Legal Division provided for by Article 128 of the Regulation on the Community trade mark shall become the Administration of Trade Marks and Designs and Legal Division.

2. In addition to the powers conferred upon it by the Regulation on the Community trade mark, it shall be responsible for taking those decisions required by this Regulation which do not fall within the competence of an examiner or an Invalidity Division. It shall in particular be responsible for decisions in respect of entries in the register.

*Article 105***Invalidity Divisions**

1. An Invalidity Division shall be responsible for taking decisions in relation to applications for declarations of invalidity of registered Community designs.

2. An Invalidity Division shall consist of three members. At least one of the members must be legally qualified.

*Article 106***Boards of Appeal**

In addition to the powers conferred upon it by Article 131 of the Regulation on the Community trade mark, the Boards of Appeal instituted by that Regulation shall be responsible for deciding on appeals from decisions of the examiners, the Invalidity Divisions and from the decisions of the Administration of Trade Marks and Designs and Legal Division as regards their decisions concerning Community designs.

## TITLE XII

**FINAL PROVISIONS***Article 107***Implementing regulation**

1. The rules implementing this Regulation shall be adopted in an implementing regulation.

2. In addition to the fees already provided for in this Regulation, fees shall be charged, in accordance with the detailed rules of application laid down in the implementing regulation and in a fees regulation, in the cases listed below:

- (a) late payment of the registration fee;
- (b) late payment of the publication fee;
- (c) late payment of the fee for deferment of publication;
- (d) late payment of additional fees for multiple applications;
- (e) issue of a copy of the certificate of registration;
- (f) registration of the transfer of a registered Community design;
- (g) registration of a licence or another right in respect of a registered Community design;
- (h) cancellation of the registration of a licence or another right;
- (i) issue of an extract from the register;
- (j) inspection of the files;
- (k) issue of copies of file documents;
- (l) communication of information in a file;
- (m) review of the determination of the procedural costs to be refunded;
- (n) issue of certified copies of the application.

3. The implementing regulation and the fees regulation shall be adopted and amended in accordance with the procedure laid down in Article 109(2).

#### Article 108

##### Rules of procedure of the Boards of Appeal

The rules of procedure of the Boards of Appeal shall apply to appeals heard by those Boards under this Regulation, without prejudice to any necessary adjustment or additional provision, adopted in accordance with the procedure laid down in Article 109(2).

#### Article 109

##### Committee

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

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

3. The Committee shall adopt its rules of procedure

#### Article 110

##### Transitional provision

1. Until such time as amendments to this Regulation enter into force on a proposal from the Commission on this subject, protection as a Community design shall not exist for a design which constitutes a component part of a complex product used within the meaning of Article 19(1) for the purpose of the repair of that complex product so as to restore its original appearance.

2. The proposal from the Commission referred to in paragraph 1 shall be submitted together with, and take into consideration, any changes which the Commission shall propose on the same subject pursuant to Article 18 of Directive 98/71/EC.

#### Article 111

##### Entry into force

1. This Regulation shall enter into force on the 60th day following its publication in the *Official Journal of the European Communities*.

2. Applications for registered Community designs may be filed at the Office from the date fixed by the Administrative Board on the recommendation of the President of the Office.

3. Applications for registered Community designs filed within three months before the date referred to in paragraph 2 shall be deemed to have been filed on that date.

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

Done at Brussels, 12 December 2001.

For the Council

The President

M. AELVOET

**COMMISSION REGULATION (EC) No 7/2002**  
**of 4 January 2002**  
**establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables <sup>(1)</sup>, as last amended by Regulation (EC) No 1498/98 <sup>(2)</sup>, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 5 January 2002.

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

Done at Brussels, 4 January 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 337, 24.12.1994, p. 66.

<sup>(2)</sup> OJ L 198, 15.7.1998, p. 4.

## ANNEX

**to the Commission Regulation of 4 January 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	052	45,8
	204	53,4
	999	49,6
0707 00 05	052	179,1
	628	220,4
	999	199,8
0709 90 70	052	201,9
	204	186,6
	999	194,3
0805 10 10, 0805 10 30, 0805 10 50	052	54,6
	204	51,3
	388	28,2
	508	22,4
	999	39,1
0805 20 10	204	69,1
	999	69,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	70,3
	204	99,5
	999	84,9
0805 50 10	052	51,0
	600	46,7
	999	48,9
0808 10 20, 0808 10 50, 0808 10 90	060	39,2
	400	84,1
	404	93,8
	720	127,2
	999	86,1
0808 20 50	052	116,7
	064	70,7
	400	97,3
	999	94,9

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 8/2002****of 4 January 2002****opening an invitation to tender for the reduction in the duty on sorghum imported into Spain from third countries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1666/2000 <sup>(2)</sup>, and in particular Article 12(1) thereof,

Whereas:

- (1) Pursuant to the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations, the Community has undertaken to import a certain quantity of sorghum into Spain.
- (2) Commission Regulation (EC) No 1839/95 of 26 July 1995 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal <sup>(3)</sup>, as last amended by Regulation (EC) No 2235/2000 <sup>(4)</sup>, lays down the rules governing the administration of those special arrangements. This Regulation lays down the special additional detailed rules necessary for implementing the invitation to tender, in particular those relating to the lodging and release of the security to be lodged by operators to ensure compliance with their obligations and, in particular the obligation to process or use the imported product on the Spanish market.
- (3) Council Regulation (EC) No 1706/98 of 20 July 1998 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EEC) No 715/90 <sup>(5)</sup> provides in particular for a reduction of 60 % in the duty applicable to grain sorghum up to a quota of 100 000 tonnes per calendar year and of 50 % in excess of that quota. If that benefit is combined with the reduction provided for under this Regulation, this is likely to disturb the Spanish market for cereals.

Such combined benefits should be ruled out for the sake of the satisfactory functioning of the invitation to tender.

- (4) In the light of current market needs in Spain an invitation to tender for the reduction in the duty on imports of sorghum should be opened in the framework of these special arrangements for imports.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. An invitation to tender is hereby opened for the reduction in the import duty referred to in Article 10(2) of Regulation (EEC) No 1766/92 on sorghum to be imported into Spain.
2. Under this invitation to tender, the reduction in the import duty on grain sorghum provided for in Article 12 of Regulation (EC) No 1706/98 shall not apply.
3. The invitation to tender shall be open until 21 March 2002. During that period, weekly invitations shall be issued with quantities and closing dates as shown in the notice of invitation to tender.
4. Regulation (EC) No 1839/95 shall apply save as otherwise provided for in this Regulation.

*Article 2*

Import licences issued under these invitations to tender shall be valid 50 days from the date they are issued, within the meaning of Article 10(4) of Regulation (EC) No 1839/95.

*Article 3*

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

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 193, 29.7.2000, p. 1.

<sup>(3)</sup> OJ L 177, 28.7.1995, p. 4.

<sup>(4)</sup> OJ L 256, 10.10.2000, p. 13.

<sup>(5)</sup> OJ L 215, 1.8.1998, p. 12.

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

Done at Brussels, 4 January 2002.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

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**COMMISSION REGULATION (EC) No 9/2002****of 4 January 2002****opening an invitation to tender for the reduction in the duty on maize imported into Spain from third countries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1666/2000 <sup>(2)</sup>, and in particular Article 12(1) thereof,

Whereas:

- (1) Pursuant to the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations, the Community has undertaken to import a certain quantity of maize into Spain.
- (2) Commission Regulation (EC) No 1839/95 of 26 July 1995 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal <sup>(3)</sup>, as last amended by Regulation (EC) No 2235/2000 <sup>(4)</sup>, lays down the rules governing the administration of those special arrangements. This Regulation lays down the special additional detailed rules necessary for implementing the invitation to tender, in particular those relating to the lodging and release of the security to be lodged by operators to ensure compliance with their obligations and, in particular, the obligation to process or use the imported product on the Spanish market.
- (3) In the light of current market needs in Spain, an invitation to tender for the reduction in the duty on imports

of maize should be opened in the framework of these special arrangements for imports.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

1. An invitation to tender is hereby opened for the reduction in the import duty referred to in Article 10(2) of Regulation (EEC) No 1766/92 on maize to be imported into Spain.
2. The invitation to tender shall be open until 21 March 2002. During that period, weekly invitations shall be issued with quantities and closing dates as shown in the notice of invitation to tender.
3. Regulation (EC) No 1839/95 shall apply save as otherwise provided for in this Regulation.

*Article 2*

Import licences issued under these invitations to tender shall be valid 50 days from the date they are issued within the meaning of Article 10(4) of Regulation (EC) No 1839/95.

*Article 3*

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

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

Done at Brussels, 4 January 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 193, 29.7.2000, p. 1.

<sup>(3)</sup> OJ L 177, 28.7.1995, p. 4.

<sup>(4)</sup> OJ L 256, 10.10.2000, p. 13.

**COMMISSION REGULATION (EC) No 10/2002**  
**of 4 January 2002**  
**suspending the buying-in of butter in certain Member States**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products <sup>(1)</sup>, as last amended by Regulation (EC) No 1670/2000 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream <sup>(3)</sup>, as last amended by Regulation (EC) No 1614/2001 <sup>(4)</sup>, and in particular Article 2 thereof,

Whereas:

- (1) Article 2 of Regulation (EC) No 2771/1999 lays down that buying-in by invitation to tender is to be opened or suspended by the Commission in a Member State, as appropriate, once it is observed that, for two weeks in succession, the market price in that Member State is below or equal to or above 92 % of the intervention price.

- (2) Commission Regulation (EC) No 2281/2001 suspending the buying-in of butter in certain Member States <sup>(5)</sup> establishes the most recent list of Member States in which intervention is suspended. This list must be adjusted as a result of the market prices communicated by Finland under Article 8 of Regulation (EC) No 2771/1999. In the interests of clarity, the list in question should be replaced and Regulation (EC) No 2281/2001 should be repealed,

HAS ADOPTED THIS REGULATION:

*Article 1*

Buying-in of butter by invitation to tender as provided for in Article 6(1) of Regulation (EC) No 1255/1999 is hereby suspended in Belgium, Luxembourg, Denmark, Greece and Austria.

*Article 2*

Regulation (EC) No 2281/2001 is hereby repealed.

*Article 3*

This Regulation shall enter into force on 5 January 2002.

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

Done at Brussels, 4 January 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 48.

<sup>(2)</sup> OJ L 193, 29.7.2000, p. 10.

<sup>(3)</sup> OJ L 333, 24.12.1999, p. 11.

<sup>(4)</sup> OJ L 214, 8.8.2001, p. 20.

<sup>(5)</sup> OJ L 301, 17.11.2001, p. 9.



**COMMISSION REGULATION (EC) No 11/2002**  
**of 4 January 2002**  
**amending the import duties in the cereals sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1666/2000 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector <sup>(3)</sup>, as last amended by Regulation (EC) No 2104/2001 <sup>(4)</sup>, and in particular Article 2(1) thereof,

Whereas:

- (1) The import duties in the cereals sector are fixed by Commission Regulation (EC) No 2609/2001 <sup>(5)</sup>.

- (2) Article 2(1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by EUR 5 per tonne from the duty fixed, a corresponding adjustment is to be made. Such a difference has arisen. It is therefore necessary to adjust the import duties fixed in Regulation (EC) No 2609/2001,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annexes I and II to Regulation (EC) No 2609/2001 are hereby replaced by Annexes I and II to this Regulation.

*Article 2*

This Regulation shall enter into force on 5 January 2002.

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

Done at Brussels, 4 January 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 193, 29.7.2000, p. 1.

<sup>(3)</sup> OJ L 161, 29.6.1996, p. 125.

<sup>(4)</sup> OJ L 283, 27.10.2001, p. 8.

<sup>(5)</sup> OJ L 345, 29.12.2001, p. 64.

## ANNEX I

**Import duties for the products covered by Article 10(2) of Regulation (EEC) No 1766/92**

CN code	Description	Import duty <sup>(2)</sup> (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality <sup>(1)</sup>	0,00
1001 90 91	Common wheat seed	0,00
1001 90 99	Common high quality wheat other than for sowing <sup>(3)</sup>	0,00
	medium quality	1,34
	low quality	0,27
1002 00 00	Rye	0,00
1003 00 10	Barley, seed	0,00
1003 00 90	Barley, other <sup>(4)</sup>	0,00
1005 10 90	Maize seed other than hybrid	36,29
1005 90 00	Maize other than seed <sup>(5)</sup>	36,29
1007 00 90	Grain sorghum other than hybrids for sowing	0,00

<sup>(1)</sup> In the case of durum wheat not meeting the minimum quality requirements for durum wheat of medium quality, referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

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

— EUR 3 per tonne, where the port of unloading is on the Mediterranean Sea, or

— EUR 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic coasts of the Iberian peninsula.

<sup>(3)</sup> The importer may benefit from a flat-rate reduction of EUR 14 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

<sup>(4)</sup> The importer may benefit from a flat-rate reduction of EUR 8 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

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

## ANNEX II

**Factors for calculating duties**

(period from 28 December 2001 to 3 January 2002)

## 1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas City	Chicago	Chicago	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	Medium quality (*)	US barley 2
Quotation (EUR/t)	124,80	117,03	120,55	93,61	217,63 (**)	207,63 (**)	149,25 (***)
Gulf premium (EUR/t)	42,66	23,72	20,86	12,18	—	—	—
Great Lakes premium (EUR/t)	42,66	—	—	—	—	—	—

(\*) A discount of 10 EUR/t (Article 4(1) of Regulation (EC) No 1249/96).

(\*\*) Fob Gulf.

(\*\*\*) Fob USA.

## 2. Freight/cost: Gulf of Mexico–Rotterdam: 19,68 EUR/t; Great Lakes–Rotterdam: 30,45 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)  
0,00 EUR/t (SRW2).

**COMMISSION REGULATION (EC) No 12/2002**  
**of 4 January 2002**  
**amending Regulation (EEC) No 1627/89 on the buying-in of beef by invitation to tender**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal <sup>(1)</sup>, as last amended by Commission Regulation (EC) No 2345/2001 <sup>(2)</sup>, and in particular Article 47(8) thereof,

Whereas:

- (1) Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying-in of beef by invitation to tender <sup>(3)</sup>, as last amended by Regulation (EC) No 2395/2001 <sup>(4)</sup>, opened buying-in by invitation to tender in certain Member States or regions of a Member State for certain quality groups.
- (2) The application of Article 47(3), (4) and (5) of Regulation (EC) No 1254/1999 and the need to limit intervention to buying-in the quantities necessary to ensure

reasonable support for the market result, on the basis of the prices of which the Commission is aware, in an amendment, in accordance with the Annex hereto, to the list of Member States or regions of a Member State where buying-in is open by invitation to tender, and the list of the quality groups which may be bought in,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Annex to Regulation (EEC) No 1627/89 is hereby replaced by the Annex hereto.

*Article 2*

This Regulation shall enter into force on 5 January 2002.

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

Done at Brussels, 4 January 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 160, 26.6.1999, p. 21.

<sup>(2)</sup> OJ L 315, 1.12.2001, p. 29.

<sup>(3)</sup> OJ L 159, 10.6.1989, p. 36.

<sup>(4)</sup> OJ L 325, 8.12.2001, p. 9.

ANEXO — BILAG — ANHANG — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO — BIJLAGE — ANEXO —  
LIITE — BILAGA

**Estados miembros o regiones de Estados miembros y grupos de calidades previstos en el apartado 1 del artículo 1 del Reglamento (CEE) n° 1627/89**

**Medlemsstater eller regioner og kvalitetsgrupper, jf. artikel 1, stk. 1, i forordning (EØF) nr. 1627/89**  
**Mitgliedstaaten oder Gebiete eines Mitgliedstaats sowie die in Artikel 1 Absatz 1 der Verordnung (EWG) Nr. 1627/89 genannten Qualitätsgruppen**

**Κράτη μέλη ή περιοχές κρατών μελών και ομάδες ποιότητας που αναφέρονται στο άρθρο 1 παράγραφος 1 του κανονισμού (ΕΟΚ) αριθ. 1627/89**

**Member States or regions of a Member State and quality groups referred to in Article 1 (1) of Regulation (EEC) No 1627/89**

**États membres ou régions d'États membres et groupes de qualités visés à l'article 1<sup>er</sup> paragraphe 1 du règlement (CEE) n° 1627/89**

**Stati membri o regioni di Stati membri e gruppi di qualità di cui all'articolo 1, paragrafo 1 del regolamento (CEE) n. 1627/89**

**In artikel 1, lid 1, van Verordening (EEG) nr. 1627/89 bedoelde lidstaten of gebieden van een lidstaat en kwaliteitsgroepen**

**Estados-Membros ou regiões de Estados-Membros e grupos de qualidades referidos no n.º 1 do artigo 1.º do Regulamento (CEE) n.º 1627/89**

**Jäsenvaltiot tai alueet ja asetuksen (ETY) N:o 1627/89 1 artiklan 1 kohdan tarkoittamat laaturyhmät**  
**Medlemsstater eller regioner och kvalitetsgrupper som avses i artikel 1.1 i förordning (EEG) nr 1627/89**

Estados miembros o regiones de Estados miembros	Categoría A			Categoría C		
Medlemsstat eller region	Kategori A			Kategori C		
Mitgliedstaaten oder Gebiete eines Mitgliedstaats	Kategorie A			Kategorie C		
Κράτος μέλος ή περιοχή κράτους μέλους	Κατηγορία Α			Κατηγορία Γ		
Member States or regions of a Member State	Category A			Category C		
États membres ou régions d'États membres	Catégorie A			Catégorie C		
Stati membri o regioni di Stati membri	Categoria A			Categoria C		
Lidstaat of gebied van een lidstaat	Categorie A			Categorie C		
Estados-Membros ou regiões de Estados-Membros	Categoria A			Categoria C		
Jäsenvaltiot tai alueet	Luokka A			Luokka C		
Medlemsstater eller regioner	Kategori A			Kategori C		
	U	R	O	U	R	O
Belgique/België			×			
Danmark			×			
Deutschland			×			
France						×
Ireland						×
Italia			×			
Nederland			×			

**COMMISSION REGULATION (EC) No 13/2002**  
**of 4 January 2002**  
**amending Regulation (EC) No 713/2001 on the purchase of beef under Regulation (EC) No 690/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal <sup>(1)</sup>, as last amended by Regulation (EC) No 2345/2001 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 690/2001 of 3 April 2001 on special market support measures in the beef sector <sup>(3)</sup>, as amended by Regulation (EC) No 2595/2001 <sup>(4)</sup>, and in particular Article 2(2),

Whereas:

- (1) Regulation (EC) No 690/2001 provides in its Article 2(2) in particular for the opening or the suspension of tendering for purchase of beef depending on the average market prices for the reference class during the two most recent weeks with price quotations preceding the tender.

- (2) The application of Article 2 referred to above results in the opening of purchase by tender in a number of Member States. Commission Regulation (EC) No 713/2001 <sup>(5)</sup>, as last amended by Regulation (EC) No 2288/2001 <sup>(6)</sup>, on the purchase of beef under Regulation (EC) No 690/2001 should be amended accordingly.

- (3) Since this Regulation should be applied immediately it is necessary to provide for its entry into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Annex to Regulation (EC) No 713/2001 is replaced by the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 5 January 2002.

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

Done at Brussels, 4 January 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 21.

<sup>(2)</sup> OJ L 315, 1.12.2001, p. 29.

<sup>(3)</sup> OJ L 95, 5.4.2001, p. 8.

<sup>(4)</sup> OJ L 345, 29.12.2001, p. 33.

<sup>(5)</sup> OJ L 100, 11.4.2001, p. 3.

<sup>(6)</sup> OJ L 239, 7.9.2001, p. 13.

ANEXO — BILAG — ANHANG — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO — BIJLAGE — ANEXO —  
LIITE — BILAGA

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Estado miembro

Medlemsstat

Mitgliedstaat

Κράτος μέλος

Member State

État membre

Stati membri

Lidstaat

Estado-Membro

Jäsenvaltiot

Medlemsstat

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Belgique/België

Deutschland

Österreich

Nederland

Ireland

España

France

Portugal

Sverige

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## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 27 December 2001

**on the eligibility of expenditure to be incurred by certain Member States in 2001 in implementing the control, inspection and surveillance systems applicable to the common fisheries policy**

(notified under document number C(2001) 4611)

(2002/5/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2001/431/EC of 28 May 2001 on a financial contribution by the Community to certain expenditure incurred by the Member States in implementing the control, inspection and surveillance systems applicable to the common fisheries policy <sup>(1)</sup>, and in particular Article 13 thereof,

Whereas:

(1) Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, the Netherlands, Austria, Portugal, Finland, Sweden and the United Kingdom have forwarded to the Commission their fisheries control programmes for the period 1 January 2001 to 31 December 2003 together with applications for a financial contribution towards the expenditure to be incurred in carrying out the programmes. The applications are broken down for 2001, 2002 and 2003.

(2) Applications covering the operations listed in Article 2 of Decision 2001/431/EC may qualify for Community funding. Priority will be given to those operations which best contribute to overcoming the shortcomings highlighted in the Report on the Monitoring of the Implementation of the Common Fisheries Policy <sup>(2)</sup>. The priorities selected will include the extension of the satellite monitoring system (VMS), the introduction of modern control technologies and training and exchanges of national officials.

(3) The rate of the Community contribution for each operation, the conditions on which the expenditure is reimbursed and, for each Member State and each operation, the total amount of eligible expenditure in 2001 should be laid down.

(4) In order to provide support for extending the satellite monitoring system to vessels operating under the conditions laid down in the recovery plans introduced for certain cod stocks and for putting in place electronic logbooks, the rate of the Community contribution should be raised to 100 % of the eligible expenditure; however, in order to observe the limits set in Article 11 of Decision 2001/431/EC, maximum amounts need to be laid down.

(5) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS DECISION:

*Article 1*

This Decision establishes for 2001 the amount of the eligible expenditure for each Member State, the rates of the Community financial contribution and the conditions on which the contribution may be granted.

*Article 2*

Expenditure incurred in putting in place the mechanisms and IT networks necessary for exchanges of information linked to control, as set out in Annex I, shall qualify for a financial contribution of 65 % of the eligible expenditure within the limits laid down in Annex I.

<sup>(1)</sup> OJ L 154, 9.6.2001, p. 22.

<sup>(2)</sup> COM(2001) 526 final of 28.9.2001.



*Article 3*

Expenditure relating to experiments with, and the implementation of, new technologies to improve the monitoring of fishing activities, as set out in Annex II, shall qualify for a financial contribution of 50 % of the eligible expenditure within the limits laid down in Annex II.

However, the rate of the contribution for investments to extend the satellite monitoring system (VMS) to vessels other than those referred to in Article 3(2) of Council Regulation (EEC) No 2847/93 and to types of reporting other than position reports and to put in place electronic logbooks shall be 100 % of the eligible expenditure, on condition that:

- the maximum admissible cost of purchasing satellite tracking devices installed in Community fishing vessels does not exceed EUR 3 500 per vessel;
- the financial contribution towards the purchase of satellite tracking devices is reduced to 50 % for that part of the expenditure in excess of EUR 2 300 per vessel;
- the financial contribution towards the purchase of satellite tracking devices installed in Community fishing vessels under national arrangements shall be 50 % of the eligible expenditure up to a limit of EUR 2 000 per vessel.

*Article 4*

Expenditure incurred in providing training for national officials involved in monitoring activities, as referred to in Annex III, shall qualify for a financial contribution of 50 % of the eligible expenditure within the limits laid down in Annex III.

*Article 5*

Expenditure incurred in purchasing or modernising vessels or aircraft actually used in the control, inspection or surveillance of fishing activities, as set out in Annex IV, shall qualify for a financial contribution of 35 % of the eligible expenditure within the limits laid down in Annex IV.

*Article 6*

Expenditure incurred in implementing a system for evaluating expenditure incurred in monitoring the common fisheries policy, as set out in Annex V, shall qualify for a financial contribution of 50 % of the eligible expenditure within the limits laid down in Annex V.

*Article 7*

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 27 December 2001.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

ANEXO I — BILAG I — ANHANG I — ΠΑΡΑΡΤΗΜΑ I — ANNEX I — ANNEXE I — ALLEGATO I — BIJLAGE I —  
ANEXO I — LIITE I — BILAGA I

(EUR)

Estado miembro Medlemsstat Mitgliedstaat Κράτος μέλος Member State État membre Stato membro Lidstaat Estado-Membro Jäsenvaltio Medlemsstat	Gastos subvencionables Støtteberettigede udgifter Erstattungsfähige Ausgaben Επιδέξιμες δαπάνες Eligible expenditure Dépenses admissibles Spese ammissibili In aanmerking komende uitgaven Despesas elegíveis Hyväksyttävät menot Bidragsberättigande kostnader	Contribución máxima de la Comunidad Fællesskabets maksimale finansielle bidrag Maximaler Gemeinschaftsbeitrag Μέγιστη κοινοτική συμμετοχή Max. Community contribution Participation communautaire maximale Contributo massimo della Comunità Maximale bijdrage van de Gemeenschap Contribuição máxima da Comunidade Yhteisön osuus enintään Gemenskapens maximala bidrag
België/Belgique	12 395	8 057
Danmark	30 000	19 500
Deutschland	0	0
Ελλάδα	1 000 000	650 000
España	521 752	339 138
France	153 000	99 450
Ireland	902 921	586 899
Italia	2 223 026	1 444 967
Nederland	794 115	516 175
Österreich	0	0
Portugal	2 663 406	1 731 214
Suomi	176 597	114 788
Sverige	316 905	205 988
United Kingdom	232 404	151 063
Total/I alt/Σύνολο/Totale/ Totaal/Yhteensä/Totalt	9 026 521	5 867 239

ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II — ALLEGATO II —  
BIJLAGE II — ANEXO II — LIITE II — BILAGA II

(EUR)

Estado miembro Medlemsstat Mitgliedstaat Κράτος μέλος Member State État membre Stato membro Lidstaat Estado-Membro Jäsenvaltio Medlemsstat	Gastos subvencionables Støtteberettigede udgifter Erstattungsfähige Ausgaben Επιλέξιμες δαπάνες Eligible expenditure Dépenses admissibles Spese ammissibili In aanmerking komende uitgaven Despesas elegíveis Hyväksyttävät menot Bidragsberättigande kostnader	Contribución máxima de la Comunidad Fællesskabets maksimale finansielle bidrag Maximaler Gemeinschaftsbeitrag Μέγιστη κοινοτική συμμετοχή Max. Community contribution Participation communautaire maximale Contributo massimo della Comunità Maximale bijdrage van de Gemeenschap Contribuição máxima da Comunidade Yhteisön osuus enintään Gemenskapens maximala bidrag
België/Belgique	24 790	12 395
Danmark	380 000	195 000
Deutschland	127 823	63 912
Ελλάδα	1 400 000	700 000
España	40 000	29 000
France	0	0
Ireland	0	0
Italia	0	0
Nederland	324 453	162 227
Österreich	0	0
Portugal	240 666	145 828
Suomi	248 918	194 824
Sverige	327 833	305 978
United Kingdom	0	0
Total/I alt/Σύνολο/Totale/ Totaal/Yhteensä/Totalt	3 114 483	1 809 164

ANEXO III — BILAG III — ANHANG III — ΠΑΡΑΡΤΗΜΑ III — ANNEX III — ANNEXE III — ALLEGATO III —  
BIJLAGE III — ANEXO III — LIITE III — BILAGA III

(EUR)

Estado miembro Medlemsstat Mitgliedstaat Κράτος μέλος Member State État membre Stato membro Lidstaat Estado-Membro Jäsenvaltio Medlemsstat	Gastos subvencionables Støtteberettigede udgifter Erstattungsfähige Ausgaben Επιλέξιμες δαπάνες Eligible expenditure Dépenses admissibles Spese ammissibili In aanmerking komende uitgaven Despesas elegíveis Hyväksyttävät menot Bidragsberättigande kostnader	Contribución máxima de la Comunidad Fællesskabets maksimale finansielle bidrag Maximaler Gemeinschaftsbeitrag Μέγιστη κοινοτική συμμετοχή Max. Community contribution Participation communautaire maximale Contributo massimo della Comunità Maximale bijdrage van de Gemeenschap Contribuição máxima da Comunidade Yhteisön osuus enintään Gemenskapens maximala bidrag
België/Belgique	9 914	4 957
Danmark	80 000	40 000
Deutschland	34 257	17 129
Ελλάδα	1 500 000	750 000
España	76 857	38 429
France	0	0
Ireland	133 323	66 662
Italia	1 188 367	594 184
Nederland	127 421	63 711
Österreich	19 259	9 630
Portugal	764 705	382 353
Suomi	26 910	13 455
Sverige	16 392	8 196
United Kingdom	353 069	176 535
Total/I alt/Σύνολο/Totale/ Totaal/Yhteensä/Totalt	4 330 474	2 165 241

ANEXO IV — BILAG IV — ANHANG IV — ΠΑΡΑΡΤΗΜΑ IV — ANNEX IV — ANNEXE IV — ALLEGATO IV —  
BIJLAGE IV — ANEXO IV — LIITE IV — BILAGA IV

(EUR)

Estado miembro Medlemsstat Mitgliedstaat Κράτος μέλος Member State État membre Stato membro Lidstaat Estado-Membro Jäsenvaltio Medlemsstat	Gastos subvencionables Støtteberettigede udgifter Erstattungsfähige Ausgaben Επιλέξιμες δαπάνες Eligible expenditure Dépenses admissibles Spese ammissibili In aanmerking komende uitgaven Despesas elegíveis Hyväksyttävät menot Bidragsberättigande kostnader	Contribución máxima de la Comunidad Fællesskabets maksimale finansielle bidrag Maximaler Gemeinschaftsbeitrag Μέγιστη κοινοτική συμμετοχή Max. Community contribution Participation communautaire maximale Contributo massimo della Comunità Maximale bijdrage van de Gemeenschap Contribuição máxima da Comunidade Yhteisön osuus enintään Gemenskapens maximala bidrag
België/Belgique	0	0
Danmark	0	0
Deutschland	100 842	35 295
Ελλάδα	0	0
España	11 827 663	4 139 682
France	2 520 000	882 000
Ireland	1 539 057	538 670
Italia	1 394 434	488 052
Nederland	1 588 231	555 881
Österreich	0	0
Portugal	6 610 230	2 313 581
Suomi	33 638	11 773
Sverige	1 016 282	355 699
United Kingdom	7 597 552	2 659 143
Total/I alt/Σύνολο/Totale/ Totaal/Yhteensä/Totalt	34 227 929	11 979 776

ANEXO V — BILAG V — ANHANG V — ΠΑΡΑΡΤΗΜΑ V — ANNEX V — ANNEXE V — ALLEGATO V —  
BIJLAGE V — ANEXO V — LIITE V — BILAGA V

(EUR)

Estado miembro Medlemsstat Mitgliedstaat Κράτος μέλος Member State État membre Stato membro Lidstaat Estado-Membro Jäsenvaltio Medlemsstat	Gastos subvencionables Støtteberettigede udgifter Erstattungsfähige Ausgaben Επιλέξιμες δαπάνες Eligible expenditure Dépenses admissibles Spese ammissibili In aanmerking komende uitgaven Despesas elegíveis Hyväksyttävät menot Bidragsberättigande kostnader	Contribución máxima de la Comunidad Fællesskabets maksimale finansielle bidrag Maximaler Gemeinschaftsbeitrag Μέγιστη κοινοτική συμμετοχή Max. Community contribution Participation communautaire maximale Contributo massimo della Comunità Maximale bijdrage van de Gemeenschap Contribuição máxima da Comunidade Yhteisön osuus enintään Gemenskapens maximala bidrag
België/Belgique	0	0
Danmark	0	0
Deutschland	0	0
Ελλάδα	300 000	150 000
España	0	0
France	0	0
Ireland	0	0
Italia	0	0
Nederland	0	0
Österreich	0	0
Portugal	79 808	39 904
Suomi	0	0
Sverige	0	0
United Kingdom	0	0
Total/I alt/Σύνολο/Totale/ Totaal/Yhteensä/Totalt	379 808	189 904

## COMMISSION DECISION

of 27 December 2001

**on the eligibility of expenditure on a number of operations to be incurred by certain Member States in 2002 in implementing the control, inspection and surveillance systems applicable to the common fisheries policy**

(notified under document number C(2001) 4613)

(2002/6/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2001/431/EC of 28 May 2001 on a financial contribution by the Community to certain expenditure incurred by the Member States in implementing the control, inspection and surveillance systems applicable to the common fisheries policy <sup>(1)</sup>, and in particular Article 13 thereof,

Whereas:

- (1) Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, the Netherlands, Austria, Portugal, Finland, Sweden and the United Kingdom have forwarded to the Commission their fisheries control programmes for the period 1 January 2001 to 31 December 2003 together with applications for a financial contribution towards the expenditure to be incurred in carrying out the programmes. The applications are broken down for 2001, 2002 and 2003.
- (2) Applications concerning the operations listed in Article 2 of Decision 2001/431/EC may qualify for Community funding. Priority will be given to those operations which best contribute to overcoming the shortcomings highlighted in the Report on the Monitoring of the Implementation of the Common Fisheries Policy <sup>(2)</sup>. The priorities selected will include the extension of the satellite monitoring system (VMS), the introduction of modern control technologies and training and exchanges of national officials.
- (3) The rate of the Community contribution for each operation, the conditions on which the expenditure is reimbursed and, for each Member State and each operation, the total amount of eligible expenditure in 2002 should be laid down.
- (4) In order to provide support for extending the satellite monitoring system to vessels operating under the conditions laid down in the recovery plans introduced for certain cod stocks and the putting in place of electronic logbooks, the rate of the Community contribution

should be raised to 100 % of the eligible expenditure; however, in order to observe the limits set in Article 11 of Decision 2001/431/EC, maximum amounts need to be laid down.

- (5) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS DECISION:

*Article 1*

This Decision establishes for 2002 the amount of the eligible expenditure for each Member State, the rates of the Community financial contribution and the conditions on which the contribution may be granted.

*Article 2*

Expenditure incurred in putting in place the mechanisms and IT networks necessary for exchanges of information linked to control, as set out in Annex I, shall qualify for a financial contribution of 50 % of the eligible expenditure within the limits laid down in Annex I.

*Article 3*

Expenditure relating to experiments with, and the implementation of, new technologies to improve the monitoring of fishing activities, as set out in Annex II, shall qualify for a financial contribution of 50 % of the eligible expenditure within the limits laid down in Annex II.

However, the rate of the contribution for investments to extend the satellite monitoring system (VMS) to vessels other than those referred to in Article 3(2) of Council Regulation (EEC) No 2847/93 <sup>(3)</sup>, and to types of reporting other than position reports, and to put in place electronic logbooks shall be 100 % of the eligible expenditure, on condition that:

- the maximum admissible cost of purchasing satellite tracking devices installed in Community fishing vessels does not exceed EUR 3 500 per vessel;

<sup>(1)</sup> OJ L 154, 9.6.2001, p. 22.

<sup>(2)</sup> COM(2001) 526 final of 28.9.2001.

<sup>(3)</sup> OJ L 261, 20.10.1993, p. 1.

- the financial contribution towards the purchase of satellite tracking devices is reduced to 50 % for that part of the expenditure in excess of EUR 2 300 per vessel;
- the financial contribution towards the purchase of satellite tracking devices under national arrangements shall be 50 % of the eligible expenditure up to a limit of EUR 2 000 per vessel.

#### *Article 4*

Expenditure incurred in providing training for national officials involved in monitoring activities provided for by Belgium, Greece, Italy, Austria and Sweden, as referred to in Annex III, shall qualify for a financial contribution of 50 % of the eligible expenditure within the limits laid down in Annex III.

#### *Article 5*

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 27 December 2001.

*For the Commission*

Franz FISCHLER

*Member of the Commission*



ANEXO I — BILAG I — ANHANG I — ΠΑΡΑΡΤΗΜΑ I — ANNEX I — ANNEXE I — ALLEGATO I — BIJLAGE I —  
ANEXO I — LIITE I — BILAGA I

(EUR)

Estado miembro Medlemsstat Mitgliedstaat Κράτος μέλος Member State État membre Stato membro Lidstaat Estado-Membro Jäsenvaltio Medlemsstat	Gastos subvencionables Støtteberettigede udgifter Erstattungsfähige Ausgaben Επιδέξιμες δαπάνες Eligible expenditure Dépenses admissibles Spese ammissibili In aanmerking komende uitgaven Despesas elegíveis Hyväksyttävät menot Bidragsberättigande kostnader	Contribución máxima de la Comunidad Fællesskabets maksimale finansielle bidrag Maximaler Gemeinschaftsbeitrag Μέγιστη κοινοτική συμμετοχή Max. Community contribution Participation communautaire maximale Contributo massimo della Comunità Maximale bijdrage van de Gemeenschap Contribuição máxima da Comunidade Yhteisön osuus enintään Gemenskapens maximala bidrag
België/Belgique	24 790	12 395
Danmark	1 580 000	790 000
Deutschland	127 823	63 912
Ελλάδα	1 500 000	750 000
España	1 762 821	881 410
France	1 000 000	500 000
Ireland	3 813 702	1 906 851
Italia	1 755 953	877 977
Nederland	1 025 543	512 772
Österreich	0	0
Portugal	42 000	21 000
Suomi	264 896	132 448
Sverige	316 905	158 453
United Kingdom	132 802	66 401
Total/I alt/Σύνολο/Totale/ Totaal/Yhteensä/Totalt	13 347 235	6 673 619

ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II — ALLEGATO II —  
BIJLAGE II — ANEXO II — LIITE II — BILAGA II

(EUR)

Estado miembro Medlemsstat Mitgliedstaat Κράτος μέλος Member State État membre Stato membro Lidstaat Estado-Membro Jäsenvaltio Medlemsstat	Gastos subvencionables Støtteberettigede udgifter Erstattungsfähige Ausgaben Επιδέξιμες δαπάνες Eligible expenditure Dépenses admissibles Spese ammissibili In aanmerking komende uitgaven Despesas elegíveis Hyväksyttävät menot Bidragsberättigande kostnader	Contribución máxima de la Comunidad Fællesskabets maksimale finansielle bidrag Maximaler Gemeinschaftsbeitrag Μέγιστη κοινοτική συμμετοχή Max. Community contribution Participation communautaire maximale Contributo massimo della Comunità Max. bijdrage van de Gemeenschap Contribuição máxima da Comunidade Yhteisön osuus enintään Gemenskapens maximala bidrag
België/Belgique	94 200	47 100
Danmark	1 780 000	890 000
Deutschland	0	0
Ελλάδα	1 500 000	750 000
España	321 654	160 827
France	0	0
Ireland	0	0
Italia	0	0
Nederland	176 974	88 487
Österreich	0	0
Portugal	5 258 250	2 629 125
Suomi	160 788	153 688
Sverige	273 195	191 237
United Kingdom	0	0
Total/I alt/Σύνολο/Totale/ Totaal/Yhteensä/Totalt	9 565 061	4 910 464

ANEXO III — BILAG III — ANHANG III — ΠΑΡΑΡΤΗΜΑ III — ANNEX III — ANNEXE III — ALLEGATO III —  
 BIJLAGE III — ANEXO III — LIITE III — BILAGA III

(EUR)

Estado miembro Medlemsstat Mitgliedstaat Κράτος μέλος Member State État membre Stato membro Lidstaat Estado-Membro Jäsenvaltio Medlemsstat	Gastos subvencionables Støtteberettigede udgifter Erstattungsfähige Ausgaben Επιδέξιμες δαπάνες Eligible expenditure Dépenses admissibles Spese ammissibili In aanmerking komende uitgaven Despesas elegíveis Hyväksyttävät menot Bidragsberättigande kostnader	Contribución máxima de la Comunidad Fællesskabets maksimale finansielle bidrag Maximaler Gemeinschaftsbeitrag Μέγιστη κοινοτική συμμετοχή Max. Community contribution Participation communautaire maximale Contributo massimo della Comunità Maximale bijdrage van de Gemeenschap Contribuição máxima da Comunidade Yhteisön osuus enintään Gemenskapens maximala bidrag
België/Belgique	9 914	4 957
Danmark		
Deutschland		
Ελλάδα	1 500 000	750 000
España		
France		
Ireland		
Italia	1 218 838	609 419
Nederland		
Österreich	19 259	9 630
Portugal		
Suomi		
Sverige	49 174	24 587
United Kingdom		
Total/I alt/Σύνολο/Totale/ Totaal/Yhteensä/Totalt	2 797 185	1 398 593

**COMMISSION DECISION**  
**of 28 December 2001**  
**amending Decision 98/371/EC as regards the animal health certificate for certain imports of fresh meat**

(notified under document number C(2001) 4666)

(Text with EEA relevance)

(2002/7/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat and meat products from third countries <sup>(1)</sup>, as last amended by Regulation (EC) No 1452/2001 <sup>(2)</sup>, and in particular Article 22(2) thereof,

Whereas:

- (1) The animal health conditions and veterinary certification for the importation of fresh meat from certain European countries were established by Commission Decision 98/371/EC <sup>(3)</sup> concerning the animal health conditions and veterinary certification for imports of fresh meat from certain European countries, as last amended by Decision 2001/774/EC <sup>(4)</sup>.
- (2) Article 14(1) of Directive 72/462/EEC provides that meat intended for export to the Community must come from animals which have stayed for a three-month period prior to their slaughter in one of the countries or territories thereof that are approved for imports to the Community.
- (3) It is appropriate, in the case of equine animals, to consider that requirement to be met if the animals have stayed for three months at least either in the country of

slaughter or in another country approved for the same purpose provided that appropriate certification is given.

- (4) The relevant model certificate annexed to Decision 98/371/EC must therefore be amended accordingly.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

*Article 1*

Annex III to Decision 98/371/EC is amended in accordance with the Annex to this Decision.

*Article 2*

This Decision shall apply from 1 January 2002.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 28 December 2001.

*For the Commission*

David BYRNE

*Member of the Commission*

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<sup>(1)</sup> OJ L 302, 31.12.1972, p. 28.

<sup>(2)</sup> OJ L 198, 21.7.2001, p. 11.

<sup>(3)</sup> OJ L 170, 16.6.1998, p. 16.

<sup>(4)</sup> OJ L 291, 8.11.2001, p. 48.

## ANNEX

In Annex III to Decision 98/371/EC, animal health certificate Model D is replaced by the following:

**'ANIMAL HEALTH CERTIFICATE MODEL D**

for fresh meat of domestic solipeds <sup>(1)</sup>, intended for consignment to the European Community

Coded number <sup>(2)</sup>
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*Note to the importer:* This certificate is for veterinary purposes only and must accompany the consignment until it reaches the border inspection point.

Country of destination: .....

Reference number of the public health certificate: .....

Exporting country: ..... Code of territory: .....

Ministry: .....

Department: .....

Reference: .....  
(optional)

**I. Identification and origin of meat**

Lot No	Species	Nature of cuts	Nature of packaging	Net weight (Kg)	Approval No of the slaughterhouse	Approval No of the cutting plant	Approval No of the cold store

**II. Origin of meat**

Address(es) of place(s) of loading: .....

.....

Name and address of consignor: .....

.....

**III. Destination of meat**

Name and address of consignee: .....

.....

The meat will be sent to (country and place of destination): .....

.....

by the following means of transport <sup>(3)</sup>: .....

Railway wagon	Lorry	Aircraft	Ship

<sup>(1)</sup> Fresh meat means all parts fit for human consumption from domestic solipeds which have not undergone any preserving process; however, chilled and frozen meat shall be considered as fresh meat.

<sup>(2)</sup> Issued by the competent authority.

<sup>(3)</sup> For railway wagons or lorries, the registration number should be given where known, for bulk containers the number of the container. The number of the seal must be indicated.

**IV. Attestation of health**

Coded number

I, the undersigned, official veterinarian, certify that the fresh meat described above is obtained from animals which either have remained in the territory described in Annex I to Commission Decision 98/371/EC with code ..., version No ... for at least three months before being slaughtered or since birth in the case of animals less than three months old, or

have been introduced from another territory listed in Annex II to Commission Decision 98/371/EC under at least the same conditions as laid down in Commission Decision 93/196/EC.

**V. Supplementary guaranties**

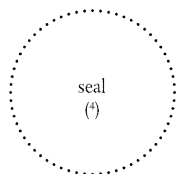
(Supplementary guaranties when required in Annex II and described in Annex IV to Commission Decision 98/371/EC) (delete if not required)

**VI. Attestation on protection of animals**

I, the undersigned official veterinarian, hereby declare that:

1. I have read and understood Council Directive 93/119/EC;
2. the meat is derived from animals which have been treated in the slaughterhouse before and at the time of slaughter or killing in accordance with the relevant provisions of Directive 93/119/EC.

Done at ..... , on .....  
(place) (date)



.....  
(signature of official veterinarian) <sup>(4)</sup>

.....  
(name in capital letters, qualification and title)

<sup>(4)</sup> The signature and the seal must be in a colour different to that of the printing.

## COMMISSION DECISION

of 28 December 2001

## laying down the methods for the genetic identification of pure-bred breeding animals of the bovine species and amending Decisions 88/124/EEC and 96/80/EC

(notified under document number C(2001) 4709)

(Text with EEA relevance)

(2002/8/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/504/EEC of 25 July 1977 on pure-bred breeding animals of the bovine species <sup>(1)</sup>, as last amended by Regulation (EEC) No 3768/85 <sup>(2)</sup>, and in particular Article 6(1) thereof,

Having regard to Council Directive 87/328/EEC of 18 June 1987 on the acceptance for breeding purposes of pure-bred breeding animals of the bovine species <sup>(3)</sup>, and in particular Article 3 thereof,

Whereas:

- (1) Directive 77/504/EEC allows the Commission to determine the particulars to be shown on the pedigree certificates.
- (2) Directive 87/328/EEC allows the Commission to adopt in addition to blood group analysis other appropriate methods for the genetic identification of pure-bred males of the bovine species accepted for breeding purposes.
- (3) Commission Decision 88/124/EEC of 21 January 1988 laying down the specimen pedigree certificates for the semen and embryos of pure-bred breeding animals of the bovine species and the particulars to be entered in those certificates <sup>(4)</sup> requires for certification of bovine semen and embryos of pure-bred breeding animals of the bovine species details about the blood groups of the donor cow and the fertilising bull.
- (4) Commission Decision 96/80/EC of 12 January 1996 laying down the specimen pedigree certificates for the ova of breeding animals of the bovine species and the particulars to be entered on those certificates <sup>(5)</sup> requires for certification of ova of pure-bred breeding animals of the bovine species details about the blood group of the donor cow.
- (5) Analysis of blood groups is no longer the preferred method of genetic identification of animals and genome related methods, in particular DNA analysis, are commonly used.

- (6) Therefore, provisions must be made to allow for pedigree certification of pure-bred bovine animals for breeding the use of methods of genetic identification providing scientific guarantees equivalent to blood group analysis.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Zootechnics,

HAS ADOPTED THIS DECISION:

## Article 1

In addition to blood group analysis, any other test on the basis of genome analysis providing equivalent guarantees and being sufficiently specific to verify the pedigree of an animal at a certainty of at least 99,0 % is approved for the identification of pure-bred bovine animals for breeding purposes.

## Article 2

Decision 88/124/EEC is amended as follows:

1. In Article 1 the first indent is replaced by the following:
 

‘— updated data as listed in Article 1 of Decision 86/404/EEC concerning the bull that provides the semen as well as its blood group or test results providing equivalent scientific guarantees to verify its pedigree.’
2. In Article 2(1) the first indent is replaced by the following:
 

‘— updated data as listed in Article 1 of Decision 86/404/EEC concerning the donor cow and fertilizing bull as well as both their blood groups or test results providing equivalent scientific guarantees to verify their pedigree.’
3. In Chapter I of the Model Pedigree Certificate in Annex I the words ‘Blood group:.....’ are replaced by ‘Blood group or equivalent test approved in accordance with Community legislation:..... (specify test and results)’.
4. In part A and part B of Chapter I of the Model Pedigree Certificate in Annex II the words ‘Blood group:.....’ are replaced by ‘Blood group or equivalent test approved in accordance with Community legislation:..... (specify test and results)’.

<sup>(1)</sup> OJ L 206, 12.8.1977, p. 8.

<sup>(2)</sup> OJ L 362, 31.12.1985, p. 8.

<sup>(3)</sup> OJ L 167, 26.6.1987, p. 54.

<sup>(4)</sup> OJ L 62, 8.3.1988, p. 32.

<sup>(5)</sup> OJ L 19, 25.1.1996, p. 50.

*Article 3*

The first indent of Article 1 of Decision 96/80/EC is replaced by the following:

‘— updated data as listed in Article 1 of Decision 86/404/EEC concerning the donor cow as well its blood group or test results providing equivalent scientific guarantees to verify its pedigree,’.

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 28 December 2001.

*For the Commission*

David BYRNE

*Member of the Commission*

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