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Legislation

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Price: EUR 18

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I

(Acts whose publication is obligatory)

REGULATION (EC) No 1592/2002 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 15 July 2002
on common rules in the field of civil aviation and establishing a European Aviation Safety Agency
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the Opinion of the Economic and Social Committee ⁽²⁾,

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) A high and uniform level of protection of the European citizen should at all times be ensured in civil aviation, by the adoption of common safety rules and by measures ensuring that products, persons and organisations in the Community comply with such rules and those adopted to protect the environment. This will contribute to facilitating the free movement of goods, persons and organisations in the internal market.
- (2) As a consequence, aeronautical products should be subject to certification to verify that they meet essential airworthiness and environmental protection requirements relating to civil aviation. Appropriate essential requirements should be developed within one year after the entry into force of this Regulation to cover operations of aircraft and flight crew licensing and application of the Regulation to third-country aircraft and, thereafter, other areas in the field of civil aviation safety.
- (3) In order to respond to increasing concerns over the health and welfare of passengers during flights, it is necessary to develop aircraft designs which better protect the safety and health of passengers.
- (4) Results of air accident investigations should be acted upon as a matter of urgency, in particular when they

relate to defective aircraft design and/or operational matters, in order to ensure consumer confidence in air transport.

- (5) The Convention on International Civil Aviation, signed in Chicago on 7 December 1944 ('Chicago Convention'), to which all Member States are parties, already provides for minimum standards to ensure the safety of civil aviation and environmental protection relating thereto. Community essential requirements and rules adopted for their implementation should ensure that Member States fulfil the obligations created by the Chicago Convention, including those vis-à-vis third countries.
- (6) Aeronautical products, parts and appliances should be certified once they have been found in compliance with essential airworthiness and environmental protection requirements laid down by the Community in line with standards set by the Chicago Convention. The Commission should be empowered to develop the necessary implementing rules.
- (7) In order to achieve Community objectives as regards the freedom of movement of goods, persons and services, as well as those of the common transport policy, Member States should, without further requirements or evaluation, accept products, parts and appliances, organisations or persons certified in accordance with this Regulation and its implementing rules.
- (8) Enough flexibility should be provided for addressing special circumstances such as urgent safety measures, unforeseen or limited operational needs and provisions should also be made for reaching an equivalent safety level by other means. Member States should be entitled to grant exemptions from the requirements of this Regulation and its implementing rules, provided that they are strictly limited in scope and subject to appropriate Community control.

⁽¹⁾ OJ C 154 E, 29.5.2001, p. 1.

⁽²⁾ OJ C 221, 7.8.2001, p. 38.

⁽³⁾ Opinion of the European Parliament of 5 September 2001 (OJ C 72 E, 21.3.2002, p. 146), Council Common Position of 19 December 2001 (OJ C 58 E, 5.3.2002, p. 44) and Decision of the European Parliament of 9 April 2002 (not yet published in the Official Journal). Council Decision of 18 June 2002.

- (9) The fulfilment of the objectives of this Regulation may be efficiently achieved through cooperation with third countries. In such a case, the provisions of this Regulation and its implementing rules may be adapted through agreements concluded by the Community with these countries. In the absence of such agreements, Member States should nevertheless be allowed, subject to appropriate Community control, to recognise the approvals granted to foreign products, parts and appliances, organisations and personnel by a third country.
- (10) It is necessary to establish appropriate measures to ensure both the necessary protection of sensitive safety data and to provide the public with adequate information pertaining to the level of civil aviation safety and environmental protection relating thereto, taking into account Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ⁽¹⁾ and relevant national legislation.
- (11) There is a need for better arrangements in all the fields covered by this Regulation, so that certain tasks currently performed at Community or national level should be carried out by a single specialised expert body. There is, therefore, a need within the Community's existing institutional structure and balance of powers to establish a European Aviation Safety Agency which is independent in relation to technical matters and has legal, administrative and financial autonomy. To that end, it is necessary and appropriate that it should be a Community body having legal personality and exercising the implementing powers which are conferred on it by this Regulation.
- (12) In order to properly assist the Community, the Agency should be allowed to develop its expertise in all aspects of civil aviation safety and environmental protection covered by this Regulation. It should assist the Commission in the preparation of the necessary legislation and assist the Member States and the industry in its implementation. It should be able to issue certification specifications and guidance material and to make technical findings and issue certificates as required and it should assist the Commission in monitoring the application of this Regulation and of its implementing rules and should be given the necessary authority to fulfil its tasks.
- (13) The Commission and the Member States should be represented within a Management Board in order to control effectively the functions of the Agency. This Board should be entrusted with the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the Agency and appoint the Executive Director. It is also appropriate that the Agency be allowed to conduct research and to organise appropriate coordination with the Commission and the Member States. It is desirable that the Agency assist the Community and its Member States in the field of international relations, including the harmonisation of rules, recognition of approvals and technical cooperation, and be entitled to establish the appropriate relations with the aeronautical authorities of third countries and international organisations competent in matters covered by this Regulation.
- (14) Public interest requires the Agency to base its safety-related action solely on independent expertise, strictly applying this Regulation and the rules adopted by the Commission for its implementation. To that end, all safety-related Agency decisions should be made by its Executive Director, who should be left with a high degree of flexibility to obtain advice and to organise the internal functioning of the Agency. When, however, the Agency has to develop draft rules of a general nature to be implemented by national authorities, Member States should be involved in the decision-shaping process.
- (15) It is necessary to ensure that parties affected by decisions made by the Agency enjoy the necessary remedies in a manner which is suited to the special character of the field of aviation. An appropriate appeal mechanism should be set up so that decisions of the Executive Director can be subject to appeal to a specialised Board of Appeal, whose decisions are, in turn, open to action before the Court of Justice.
- (16) In order to guarantee the full autonomy and independence of the Agency, it should be granted an autonomous budget whose revenue comes essentially from a contribution from the Community and from fees paid by the users of the system. The Community budgetary procedure should be applicable as far as the Community contribution and any other subsidies chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.
- (17) 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 ⁽²⁾.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

(18) Since the objectives of the proposed action, namely the establishment and uniform application of common rules in the field of civil aviation safety and environmental protection, cannot be sufficiently achieved by the Member States and can therefore, by reason of the Europe-wide scope of this Regulation, 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.

(19) Before any local offices of the Agency are set up, general rules should be established to clarify what requirements need to be met and what contribution the Member State concerned must provide.

(20) It has been recognised that the involvement of European countries not Members of the European Union should be pursued, so as to ensure a proper pan-European dimension in order to facilitate the improvement of civil aviation safety throughout Europe. European countries that have concluded agreements with the Community to adopt and apply the Community *acquis* in the field covered by this Regulation should be associated with its work according to conditions to be agreed in the framework of these agreements.

(21) It is a general objective that the transfer of functions and tasks from the Member States, including those resulting from their cooperation through the Joint Aviation Authorities, to the Agency should be effected efficiently, without any reduction in the current high levels of safety, and without any negative impact on certification schedules. Appropriate measures need to be adopted to provide for the necessary transition.

(22) This Regulation establishes an appropriate and comprehensive framework for the environmental certification of aeronautical products as well as for the definition and implementation of common technical requirements and administrative procedures in the field of civil aviation. Council Directive 80/51/EEC of 20 December 1979 on the limitation of noise emissions from subsonic aircraft ⁽¹⁾ and Annex II to Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation ⁽²⁾ should therefore be repealed in due time, without prejudice to the certification of

products, persons and organisations already performed in accordance with these legislative acts.

(23) This Regulation will apply to any other area related to civil aviation safety on the basis of a future proposal in accordance with the Treaty,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

PRINCIPLES

Article 1

Scope

1. This Regulation shall apply to:

- (a) the design, production, maintenance and operation of aeronautical products, parts and appliances, as well as personnel and organisations involved in the design, production and maintenance of such products, parts and appliances;
- (b) personnel and organisations involved in the operation of aircraft.

2. This Regulation shall not apply when products, parts, appliances, personnel and organisations referred to in paragraph 1 are engaged in military, customs, police, or similar services. The Member States shall undertake to ensure that such services have due regard as far as practicable to the objectives of this Regulation.

Article 2

Objectives

1. The principal objective of this Regulation is to establish and maintain a high uniform level of civil aviation safety in Europe.

2. Additional objectives are, in the fields covered by this Regulation, as follows:

- (a) to ensure a high uniform level of environmental protection;
- (b) to facilitate the free movement of goods, persons and services;
- (c) to promote cost-efficiency in the regulatory and certification processes and to avoid duplication at national and European level;

⁽¹⁾ OJ L 18, 24.1.1980, p. 26. Directive as last amended by Directive 83/206/EEC (OJ L 117, 4.5.1983, p. 15).

⁽²⁾ OJ L 373, 31.12.1991, p. 4. Regulation as last amended by Commission Regulation (EC) No 2871/2000 (OJ L 333, 29.12.2000, p. 47).

- (d) to assist Member States in fulfilling their obligations under the Chicago Convention, by providing a basis for a common interpretation and uniform implementation of its provisions, and by ensuring that its provisions are duly taken into account in this Regulation and in the rules drawn up for its implementation;
- (e) to promote Community views regarding civil aviation safety standards and rules throughout the world by establishing appropriate cooperation with third countries and international organisations.

3. The means of achieving the objectives set out in paragraphs 1 and 2 shall be:

- (a) the preparation, adoption and uniform application of all necessary acts;
- (b) the recognition, without additional requirements, of certificates, licences, approvals or other documents granted to products, personnel and organisations in accordance with this Regulation and its implementing rules;
- (c) the establishment of an independent European Aviation Safety Agency;
- (d) the uniform implementation of all necessary acts by the national aviation authorities and the Agency within their respective areas of responsibility.

Article 3

Definitions

For the purpose of this Regulation:

- (a) 'continuing oversight' means the tasks to be conducted to verify that the conditions under which a certificate has been granted continue to be fulfilled at any time during its period of validity, as well as the taking of any safeguard measure;
- (b) 'Chicago Convention' means the Convention on International Civil Aviation and its Annexes, signed in Chicago on 7 December 1944;
- (c) 'product' shall mean an aircraft, engine or propeller;
- (d) 'parts and appliances' shall mean any instrument, equipment, mechanism, part, apparatus, appurtenance or accessory, including communications equipment, that is used or intended to be used in operating or controlling an aircraft in flight and is installed in or attached to the aircraft. It includes parts of an airframe, engine or propeller;
- (e) 'certification' means any form of recognition that a product, part or appliance, organisation or person complies with the applicable requirements including the provisions of this Regulation and its implementing rules, as well as the issuance of the relevant certificate attesting such compliance;
- (f) 'qualified entity' means a body which may conduct certification tasks under the control and the responsibility of the Agency;

- (g) 'certificate' means any approval, licence or other document issued as the result of certification.

CHAPTER II

SUBSTANTIVE REQUIREMENTS

Article 4

Basic principles and applicability

1. Aircraft, including any installed product, part and appliance, which are:

- (a) designed or manufactured by an organisation for which the Agency or a Member State ensures safety oversight; or
- (b) registered in a Member State; or
- (c) registered in a third country and used by an operator for which any Member State ensures oversight of operations;

shall comply with this Regulation unless their regulatory safety oversight has been delegated to a third country and they are not used by a Community operator.

2. Paragraph 1 shall not apply to aircraft referred to in Annex II.

3. This Regulation shall not affect the rights of third countries as specified in international conventions, in particular the Chicago Convention.

Article 5

Airworthiness

1. Aircraft referred to in Article 4(1) shall comply with the essential requirements for airworthiness laid down in Annex I.

2. Compliance of aircraft registered in a Member State, and of products, parts and appliances mounted thereon shall be established in accordance with the following.

- (a) Products shall have a type-certificate. The type-certificate, and certification of changes to that type-certificate, including supplemental type-certificates, shall be issued when the applicant has shown that the product complies with a type-certification basis as specified in Article 15, established to ensure compliance with the essential requirements referred to in paragraph 1, and when it has no feature or characteristic making it unsafe for operation. The type-certificate shall cover the product, including all parts and appliances fitted thereon.
- (b) Parts and appliances may be issued with specific certificates when they are shown to comply with detailed airworthiness specifications established to ensure compliance with the essential requirements referred to in paragraph 1.

- (c) Each aircraft shall be issued with an individual certificate of airworthiness when it is shown that it conforms with the type design approved in its type-certificate and that relevant documentation, inspections and tests demonstrate that the aircraft is in condition for safe operation. This certificate of airworthiness shall remain valid as long as it is not suspended, revoked or terminated and as long as the aircraft is maintained in accordance with the essential requirements related to continuing airworthiness set out in point 1.d of Annex I and the implementing rules referred to in paragraph 4.
- (d) Organisations responsible for the design, manufacture and maintenance of products, parts and appliances shall demonstrate their capability and means to discharge the responsibilities associated with their privileges. Unless otherwise accepted these capabilities and means shall be recognised through the issuance of an organisation approval. The privileges granted to the approved organisation and the scope of the approval shall be specified in the terms of approval.

In addition:

- (e) personnel responsible for the release of a product, part or appliance after maintenance may be required to hold an appropriate certificate ('personnel certificate');
- (f) the capability of maintenance training organisations to discharge the responsibilities associated with their privileges in relation to the issuance of the certificates referred to in point (e) may be recognised by the issuance of an approval.

3. By way of derogation from paragraphs 1 and 2:

- (a) a permit to fly may be issued when it is shown that the aircraft is capable of performing safely a basic flight. It shall be issued with appropriate limitations, in particular to protect third parties' safety;
- (b) a restricted certificate of airworthiness may be issued to aircraft for which a type certificate has not been issued according to paragraph 2(a). In this case, the aircraft shall be shown to comply with specific airworthiness specifications and deviations from the essential requirements referred to in paragraph 1 shall nevertheless ensure adequate safety with regard to the purpose. Aircraft eligible for these restricted certificates, and limitations for use of these aircraft, shall be defined according to the implementing rules referred to in paragraph 4;
- (c) when the number of aircraft of the same type eligible for a restricted certificate of airworthiness so justifies, a restricted type certificate may be issued and an appropriate type certification basis shall be established.

4. The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this Article, specifying in particular:

- (a) conditions to establish and notify to an applicant the type-certification basis applicable to a product;

- (b) conditions to establish and notify to an applicant the detailed airworthiness specifications applicable to parts and appliances;

- (c) conditions to establish and notify to an applicant the specific airworthiness specifications applicable to aircraft eligible for a restricted certificate of airworthiness;

- (d) conditions to issue and disseminate mandatory information in order to ensure the continuing airworthiness of products;

- (e) conditions to issue, maintain, amend, suspend or revoke type-certificates, restricted type-certificates, approval of changes to type-certificates, individual certificates of airworthiness, restricted certificates of airworthiness, permits to fly and certificates for products, parts or appliances, including:
 - (i) conditions on the duration of these certificates, and conditions to renew certificates when a limited duration is fixed;

- (ii) restrictions applicable to the issue of permits to fly. These restrictions should in particular concern the following:
 - purpose of the flight,
 - airspace used for the flight,
 - qualification of flight crew,
 - carriage of persons other than flight crew;

- (iii) aircraft eligible for restricted certificates of airworthiness, and associated restrictions;

- (f) conditions to issue, maintain, amend, suspend or revoke organisation approvals required in accordance with paragraph 2(d) and (f) and conditions under which such approvals need not be requested;

- (g) conditions to issue, maintain, amend, suspend or revoke personnel certificates required in accordance with paragraph 2(e);

- (h) responsibilities of the holders of certificates;

- (i) how aircraft referred to in paragraph 1 which are not covered by paragraph 2 or 3 are to show compliance with the essential requirements.

5. When establishing the implementing rules referred to in paragraph 4, the Commission will take specific care that they:

- (a) reflect the state of the art and the best practices in the field of airworthiness;

- (b) take into account worldwide aircraft experience in service, and scientific and technical progress;

- (c) allow for immediate reaction to established causes of accidents and serious incidents.

Article 6

Essential requirements for environmental protection

1. Products, parts and appliances shall comply with the environmental protection requirements contained in Annex 16 to the Chicago Convention as issued in November 1999, except for its Appendices.
2. In accordance with the procedure referred to in Article 54(3), paragraph 1 of this Article may be adapted, in order to bring it in line with subsequent amendments to the Chicago Convention and its Annexes, which enter into force after the adoption of this Regulation and which become applicable in all Member States, in so far as such adaptations do not broaden the scope of this Regulation.
3. The Commission shall prescribe the rules for the implementation of paragraph 1, using as necessary the content of the Appendices mentioned in paragraph 1, in accordance with the procedure laid down in Article 54(3).

Article 7

Air operations and flight crew licensing

With regard to the basic principles, applicability and essential requirements for the fields covered by Article 1(1)(b), the Commission shall, as soon as possible, submit proposals thereon to the European Parliament and to the Council.

Article 8

Recognition of certificates

1. Member States shall, without further technical requirements or evaluation, recognise the certificates issued in accordance with this Regulation. When the original recognition is for a particular purpose, or purposes, any subsequent recognition shall cover only the same purpose(s).
2. Pending adoption of the implementing rules referred to in Article 5(4), and without prejudice to Article 57(2), certificates which cannot be issued in accordance with this Regulation may be issued on the basis of the applicable national regulations.

Article 9

Acceptance of third-country approval

1. By way of derogation from the provisions of this Regulation and the rules adopted for its implementation, the Agency or the aviation authorities in the Member State may issue certificates on the basis of certificates issued by aeronautical authorities of a third country, as provided for in recognition agreements between the Community and that third country.
2. (a) In the absence of an agreement concluded by the Community, a Member State or the Agency may issue certificates on the basis of certifications issued by the competent authorities of a third country in application

of an agreement concluded by that Member State with the third country in question before the entry into force of the related provisions of this Regulation and notified to the Commission and the other Member States. The Agency may also issue such certificates on behalf of any Member State in application of an agreement concluded by one of the Member States with the third country in question.

(b) If the Commission considers that:

- the provisions of an agreement between a Member State and a third country would not provide for a level of safety equivalent to that specified by this Regulation and its implementing rules, and/or
- such agreement would discriminate among Member States without compelling safety reasons or is contrary to Community foreign policy vis-à-vis a third country,

it may, in accordance with the procedure laid down in Article 54(2) require the Member State concerned to modify the agreement or to suspend its application or to renounce it, in conformity with Article 307 of the Treaty.

(c) Member States shall take the necessary measures to renounce agreements as soon as possible after the entry into force of an agreement between the Community and the third country in question, for those domains covered by that latter agreement.

Article 10

Flexibility provisions

1. The provisions of this Regulation and of rules adopted for its implementation shall not prevent a Member State from reacting immediately to a safety problem which involves a product, person or organisation subject to the provisions of this Regulation.

If the safety problem is the result of:

- (a) an inadequate level of safety resulting from the application of this Regulation; or
- (b) a shortcoming in this Regulation or its implementing rules;

the Member State shall immediately notify to the Agency, the Commission and the other Member States the measures taken and the reasons therefor.

2. The Commission shall decide, in accordance with the procedure referred to in Article 54(3), whether an inadequate level of safety or a shortcoming in this Regulation or its implementing rules justify the continuing application of the measures adopted pursuant to paragraph 1. In that event, it shall also take the necessary steps to amend the related rule. If the Member State's measures are found not to be justified, the Member State shall revoke or amend the measures in question.

3. Member States may grant exemptions from the substantive requirements laid down in this Regulation and its implementing rules in the event of unforeseen urgent operational circumstances or operational needs of a limited duration, provided the level of safety is not adversely affected thereby. The Agency, the Commission and the other Member States shall be notified of any such exemptions as soon as they become repetitive or where they are granted for periods of more than two months.

4. Where the measures decided on by a Member State are less restrictive than the applicable Community provisions, the Commission shall examine whether the exemptions comply with the general safety objective of this Regulation or any other rule of Community law. If the exemptions granted do not comply with the general safety objectives of this Regulation or any other rule of Community law, the Commission shall take a decision in accordance with the procedure referred to in Article 54(4). In such a case, the Member State shall revoke the exemption.

5. Where an equivalent level of protection to that attained by the application of the implementing rules for Articles 5 and 6 can be achieved by other means, Member States may, without discrimination on grounds of nationality, grant approval derogating from those implementing rules. In such cases, the Member State concerned shall notify the Commission that it intends to grant such approval and shall give reasons demonstrating the need to derogate from the rule concerned, as well as the conditions laid down to ensure that an equivalent level of protection is achieved.

6. Within three months of being notified by a Member State in accordance with paragraph 5, the Commission shall initiate the procedure referred to in Article 54(3), in order to decide whether an approval proposed in accordance with paragraph 5 fulfils the conditions laid down in that paragraph and can be granted. In such a case, it shall notify its decision to all Member States, which shall also be entitled to apply that measure. The provisions of Article 8 shall apply to the measure in question. The relevant implementing rules may also be amended to reflect such measure, using transparent procedures in accordance with Article 43.

Article 11

Information network

1. The Commission, the Agency, and the national aviation authorities shall exchange any information available to them in the context of the application of this Regulation and its implementing rules. Entities entrusted with the investigation of civil aviation accidents and incidents, or with the analysis of occurrences, are entitled to access to that information.

2. Without prejudice to the public's right of access to the Commission's documents as laid down in Regulation (EC) No 1049/2001, the Commission shall adopt, in accordance with

the procedure referred to in Article 54(3), measures for the dissemination to interested parties on the Commission's own initiative of the information referred to in paragraph 1 of this Article. These measures, which may be generic or individual, shall be based on the need:

- (a) to provide persons and organisations with the information they need to improve aviation safety;
- (b) to limit the dissemination of information to what is strictly required for the purpose of its users, in order to ensure appropriate confidentiality of that information.

3. The national aviation authorities shall, according to their national legislation, take necessary measures to ensure appropriate confidentiality of the information received by them in application of paragraph 1.

4. In order to inform the public of the general safety level, a safety review shall be published annually by the Agency.

CHAPTER III

THE EUROPEAN AVIATION SAFETY AGENCY

SECTION I

TASKS

Article 12

Establishment and functions of the Agency

1. For the purpose of the implementation of this Regulation, a European Aviation Safety Agency, hereinafter referred to as 'the Agency', shall be established.

2. For the purposes of ensuring the proper functioning and development of civil aviation safety, the Agency shall:

- (a) undertake any task and formulate opinions on all matters covered by Article 1(1);
- (b) assist the Commission by preparing measures to be taken for the implementation of this Regulation. Where these comprise technical rules and in particular rules relating to construction and design and operational aspects, the Commission may not change their content without prior coordination with the Agency. The Agency shall also provide the Commission with the necessary technical, scientific and administrative support to carry out its tasks;
- (c) take the necessary measures within the powers conferred on it by this Regulation or other Community legislation;
- (d) conduct inspections and investigations as necessary to fulfil its tasks;
- (e) in its fields of competence, carry out, on behalf of Member States, functions and tasks ascribed to them by applicable international Conventions, in particular the Chicago Convention.

*Article 13***Agency measures**

The Agency shall, where appropriate:

- (a) issue opinions addressed to the Commission;
- (b) issue certification specifications, including airworthiness codes and acceptable means of compliance, as well as any guidance material for the application of this Regulation and its implementing rules;
- (c) take the appropriate decisions for the application of Articles 15, 45 and 46.

*Article 14***Opinions, certification specifications and guidance material**

1. In order to assist the Commission in the preparation of proposals for basic principles, applicability and essential requirements to be presented to the European Parliament and to the Council and the adoption of the implementing rules, the Agency shall prepare drafts thereof. These drafts shall be submitted by the Agency as opinions to the Commission.

2. The Agency shall, in accordance with Article 43 and the implementing rules adopted by the Commission, develop:

- (a) certification specifications, including airworthiness codes and acceptable means of compliance; and
- (b) guidance material;

to be used in the certification process.

These documents shall reflect the state of the art and the best practices in the fields concerned and be updated taking into account world wide aircraft experience in service, and scientific and technical progress.

*Article 15***Airworthiness and Environmental Certification**

1. With regard to products, parts and appliances referred to in Article 4(1), the Agency shall, where applicable and as specified in the Chicago Convention or its Annexes, carry out on behalf of Member States the functions and tasks of the State of design, manufacture or registry when related to design approval. To that end, it shall in particular:

- (a) for each product for which a type-certificate or a change to a type-certificate is requested, establish and notify the type-certification basis. That certification basis consists of the applicable airworthiness code, the provisions for which an equivalent level of safety has been accepted and the special detailed technical specifications necessary when the design

features of a particular product or the experience in operation render any of the airworthiness code provisions inadequate or inappropriate to ensure conformity with essential requirements;

- (b) for each product for which a restricted certificate of airworthiness is requested, establish and notify the specific airworthiness specifications;
- (c) for each part or appliance for which a certificate is requested, establish and notify the detailed airworthiness specifications;
- (d) for each product for which environmental certification is required in accordance with Article 6, establish and notify the appropriate environmental requirements;
- (e) conduct, itself or through national aviation authorities or qualified entities, technical inspections associated with products, parts and appliances certification;
- (f) issue the appropriate type-certificates or associated changes;
- (g) issue certificates for parts and appliances;
- (h) issue the appropriate environmental certificates;
- (i) amend, suspend or revoke the relevant certificate when the conditions according to which it was issued are no longer fulfilled or if the legal or natural person holding the certificate fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules;
- (j) ensure the continuing airworthiness functions associated with the products, parts and appliances it has certified, including reacting without undue delay to a safety problem and issuing and disseminating the applicable mandatory information.

2. With regard to organisations, the Agency shall:

- (a) conduct, itself or through national aviation authorities or qualified entities, inspections and audits of the organisations it certifies;
- (b) issue and renew the certificates of:
 - (i) design organisations; or
 - (ii) production organisations located within the territory of the Member States, if requested by the Member State concerned; or
 - (iii) production and maintenance organisations located outside the territory of the Member States;
- (c) amend, suspend or revoke the relevant organisation certificate when the conditions according to which it was issued are no longer fulfilled, or if the organisation concerned fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.

*Article 16***Monitoring the application of rules**

1. The Agency shall conduct standardisation inspections in the fields covered by Article 1(1), in order to monitor the application by national aviation authorities of this Regulation and of its implementing rules, and shall report to the Commission.
2. The Agency shall conduct technical investigations to monitor the effectiveness of the application of this Regulation and its implementing rules, having regard to the objectives set out in Article 2.
3. The Agency shall be consulted and give its opinion to the Commission on the application of Article 10.
4. The working methods of the Agency for conducting the tasks referred to in paragraphs 1, 2 and 3 will be subject to requirements to be adopted in accordance with the procedure referred to in Article 54(2), and taking into account the principles laid down in Articles 43 and 44.

*Article 17***Research**

1. The Agency may develop and finance research in so far as it strictly relates to the improvement of activities in its field of competence, without prejudice to Community law.
2. The Agency shall coordinate its research and development activities with those of the Commission and the Member States so as to ensure that policies and actions are mutually consistent.
3. The results of research funded by the Agency shall be published, provided it does not classify them as confidential.

*Article 18***International relations**

1. The Agency shall assist the Community and its Member States in their relations with third countries in accordance with the relevant Community law. It shall, in particular, assist in the harmonising of rules and mutual recognition regarding approvals attesting the satisfactory application of rules.
2. The Agency may cooperate with the aeronautical authorities of third countries and the international organisations competent in matters covered by this Regulation in the framework of working arrangements concluded with those bodies, in accordance with the relevant provisions of the Treaty.
3. The Agency shall assist Member States to respect their international obligations, in particular those under the Chicago Convention.

SECTION II

INTERNAL STRUCTURE*Article 19***Legal status, location, local offices**

1. The Agency shall be a body of the Community. It shall have legal personality.
2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.
3. The Agency may establish its own local offices in the Member States subject to their consent.
4. The Agency shall be represented by its Executive Director.

*Article 20***Staff**

1. The Staff Regulations of officials of the European Communities, the Conditions of employment of other servants of the European Communities and the rules adopted jointly by the institutions of the European Communities for purposes of the application of those Staff Regulations and Conditions of employment shall apply to the staff of the Agency, without prejudice to the application of Article 33 of this Regulation to the members of the Board of Appeal.
2. Without prejudice to Article 30, the powers conferred on the appointing authority by the Staff Regulations, and by the Conditions of employment of other servants, shall be exercised by the Agency in respect of its own staff.
3. The Agency's staff shall consist of a strictly limited number of officials assigned or seconded by the Commission or Member States to carry out management duties. The remaining staff shall consist of other employees recruited by the Agency as necessary to carry out its tasks.

*Article 21***Privileges and immunities**

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Agency.

*Article 22***Liability**

1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.

2. The Court of Justice of the European Communities shall have jurisdiction to give judgement pursuant to any arbitration clause contained in a contract concluded by the Agency.

3. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its servants in the performance of their duties.

4. The Court of Justice shall have jurisdiction in disputes relating to compensation for the damage referred to in paragraph 3.

5. The personal liability of its servants towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of employment applicable to them.

Article 23

Publication of documents

1. Without prejudice to decisions taken on the basis of Article 290 of the Treaty, the following documents shall be produced in all official languages of the Community:

- (a) the safety review referred to in Article 11(4);
- (b) opinions addressed to the Commission pursuant to Article 14(1);
- (c) the annual general report and programme of work referred to in Article 24(2)(b) and (c) respectively.

2. The translation services required for the functioning of the Agency shall be provided by the Translation Centre for bodies of the European Union.

Article 24

Powers of the Management Board

- 1. The Agency shall have a Management Board.
- 2. The Management Board shall:
 - (a) appoint the Executive Director, and the Directors on a proposal from the Executive Director in accordance with Article 30;
 - (b) before 31 March each year, adopt the general report of the Agency for the previous year and forward it to the European Parliament, the Council, the Commission and the Member States;
 - (c) before 30 September each year, and after receiving the opinion of the Commission, adopt the Agency's programme of work for the coming year and forward it to the European Parliament, the Council, the Commission and the Member States; this programme of work shall be adopted without prejudice to the annual Community budgetary procedure and the Community legislative programme in relevant areas of aviation safety;
 - (d) adopt guidelines for the allocation of certification tasks to national aviation authorities or qualified entities in agreement with the Commission;
 - (e) establish procedures for making decisions by the Executive Director as referred to in Articles 43 and 44;

(f) carry out its functions relating to the Agency's budget pursuant to Articles 48, 49 and 52;

(g) appoint the members of the Board of Appeal pursuant to Article 32;

(h) exercise disciplinary authority over the Executive Director and over the Directors, in agreement with the Executive Director;

(i) give its opinion on the fees and charges regulation as referred to in Article 53(1);

(j) establish its Rules of Procedure;

(k) decide on the linguistic arrangements for the Agency;

(l) complement, where appropriate, the list of documents mentioned in Article 23(1);

(m) establish the organisational structure of the Agency and adopt the Agency's staffing policy.

3. The Management Board may advise the Executive Director on any matter strictly related to strategic development of aviation safety, including research as defined in Article 17.

4. The Management Board shall establish an advisory body of interested parties, which it shall consult prior to making decisions in the fields referred to in paragraph 2(c), (e), (f) and (i). The Management Board may also decide to consult the advisory body on other issues referred to in paragraphs 2 and 3. The Management Board shall not be bound by the opinion of the advisory body.

Article 25

Composition of the Management Board

1. The Management Board shall be composed of one representative of each Member State and one representative of the Commission. To this effect, each Member State and the Commission shall appoint a member of the Management Board as well as an alternate who will represent the member in his/her absence. The duration of the terms of office shall be five years. This term of office shall be renewable.

2. Where appropriate, the participation of representatives of European third countries and the conditions thereof shall be established in the arrangements referred to in Article 55.

Article 26

Chairmanship of the Management Board

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among its members. The Deputy Chairperson shall ex-officio replace the Chairperson in the event of his/her being prevented from attending to his/her duties.

2. The term of office of the Chairperson and Deputy Chairperson shall expire when their respective membership of the Management Board ceases. Subject to this provision, the duration of the terms of office of the Chairperson or Deputy Chairperson shall be three years. These terms of office shall be renewable.

*Article 27***Meetings**

1. Meetings of the Management Board shall be convened by its Chairperson.
2. The Executive Director of the Agency shall take part in the deliberations.
3. The Management Board shall hold at least two ordinary meetings a year. In addition it shall meet at the instance of the Chairperson or at the request of at least one third of its members.
4. The Management Board may invite any person whose opinion can be of interest to attend its meetings as an observer.
5. The members of the Management Board may, subject to the provisions of its Rules of Procedure, be assisted by advisers or experts.
6. The secretariat for the Management Board shall be provided by the Agency.

*Article 28***Voting**

1. Without prejudice to Article 30(1), the Management Board shall take its decisions by a two-thirds majority of its members. At the request of a member of the Management Board, the decision referred to in Article 24(2)(k) shall be taken by unanimity.
2. Each member shall have one vote. The Executive Director of the Agency shall not vote. In the absence of a member, his/her alternate shall be entitled to exercise his/her right to vote.
3. The rules of procedure shall establish the more detailed voting arrangements, in particular, the conditions for a member to act on behalf of another member as well as any quorum requirements, where appropriate.

*Article 29***Functions and powers of the Executive Director**

1. The Agency shall be managed by its Executive Director, who shall be completely independent in the performance of his/her duties. Without prejudice to the respective competencies of the Commission and the Management Board, the Executive Director shall neither seek nor take instructions from any government or from any other body.
2. The European Parliament or the Council may invite the Executive Director of the Agency to report on the carrying out of his/her tasks.
3. The Executive Director shall have the following functions and powers:
 - (a) to approve the measures of the Agency as defined in Articles 13 and 15 within the limits specified by this Regulation, its implementing rules and any applicable law;

- (b) to decide on inspections and investigations as provided for in Articles 45 and 46;
- (c) to allocate certification tasks to National Aviation Authorities or qualified entities according to guidelines set by the Management Board;
- (d) to undertake any international functions and technical cooperation with third countries pursuant to Article 18;
- (e) to take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Agency in accordance with the provisions of this Regulation;
- (f) to prepare each year a draft general report and submit it to the Management Board;
- (g) to exercise in respect of the staff the powers laid down in Article 20(2);
- (h) to draw up estimates of the revenues and expenditure of the Agency pursuant to Article 48, and implement the budget pursuant to Article 49;
- (i) to delegate his/her powers to other members of the Agency's staff subject to rules to be adopted in accordance with the procedure referred to in Article 54(2);
- (j) with the consent of the Management Board, to take a decision regarding the establishment of local offices in the Member States in accordance with Article 19(3).

*Article 30***Appointment of senior officials**

1. The Executive Director of the Agency shall be appointed on grounds of merit and documented competence and experience relevant for civil aviation, or dismissed by the Management Board on the proposal of the Commission. The Management Board shall take its decision by a three-quarters majority of its members.
2. The Executive Director may be assisted by one or more Directors. If the Executive Director is absent or indisposed, one of the Directors shall take his/her place.
3. The Directors of the Agency shall be appointed, on the grounds of professional competence relevant for civil aviation, or dismissed by the Management Board on the proposal of the Executive Director.
4. The term of office of the Executive Director and of the Directors shall be five years. This term of office shall be renewable.

*Article 31***Powers of the Boards of Appeal**

1. Within the Agency, there shall be one or more Boards of Appeal.
2. The Board or Boards of Appeal shall be responsible for deciding on appeals against the decisions referred to in Article 35.

3. The Board or Boards of Appeal shall be convened as necessary. The number of Boards of Appeal and the work allocation shall be determined by the Commission according to the procedure referred to in Article 54(3).

Article 32

Composition of the Boards of Appeal

1. A Board of Appeal shall consist of a Chairperson and two other members.
2. The Chairperson and the two members shall have alternates who will represent them in their absence.
3. The Chairperson, the other members and their respective alternates shall be appointed by the Management Board from a list of qualified candidates adopted by the Commission.
4. Where the Board of Appeal considers that the nature of the appeal so requires, it may call up to two further members from the aforesaid list for that case.
5. The qualifications required for the members of each Board of Appeal, the powers of individual members in the preparatory phase of the decisions and the voting conditions shall be determined by the Commission according to the procedure referred to in Article 54(3).

Article 33

Members of the Boards of Appeal

1. The term of office of the members of the Boards of Appeal, including their Chairperson and their respective alternates, shall be five years. This term shall be renewable.
2. The members of the Boards of Appeal shall be independent. In making their decisions they shall not be bound by any instructions.
3. The members of the Boards of Appeal may not perform any other duties in the Agency. The function of the members of the Boards of Appeal may be a part-time function.
4. The members of the Boards of Appeal may not be removed either from office or from the list during their respective terms, unless there are serious grounds for such removal and the Commission, after obtaining the opinion of the Management Board, takes a decision to this effect.

Article 34

Exclusion and objection

1. Members of the Boards of Appeal may not take part in any appeal proceedings if they have any personal interest therein, or if they have previously been involved as representatives of one of the parties to the proceedings, or if they participated in the decision under appeal.
2. If, for one of the reasons mentioned in paragraph 1 or for any other reason, a member of a Board of Appeal considers

that he/she should not take part in any appeal proceedings, he/she shall inform the Board of Appeal accordingly.

3. Members of the Boards of Appeal may be objected to by any party to the appeal proceedings on any of the grounds mentioned in paragraph 1, or if suspected of partiality. An objection shall not be admissible if, while being aware of a reason for objecting, the party to the appeal proceedings has taken a procedural step. No objection may be based on the nationality of members.

4. The Boards of Appeal shall decide as to the action to be taken in the cases specified in paragraphs 2 and 3 without the participation of the member concerned. For the purposes of taking this decision, the member concerned shall be replaced on the Board of Appeal by his/her alternate.

Article 35

Decisions subject to appeal

1. An appeal may be brought against decisions of the Agency which have been taken pursuant to Article 15, 46 or 53.
2. An appeal lodged pursuant to paragraph 1 above shall not have suspensory effect. The Agency may, however, if it considers that circumstances so permit, suspend the application of the contested decision.
3. An appeal against a decision which does not terminate proceedings as regards one of the parties may only be made in conjunction with an appeal against the final decision, unless the decision provides for separate appeal.

Article 36

Persons entitled to appeal

Any natural or legal person may appeal against a decision addressed to that person, or against a decision which, although in the form of a decision addressed to another person, is of direct and individual concern to the former. The parties to proceedings may be party to the appeal proceedings.

Article 37

Time limit and form

The appeal, together with the statement of grounds thereof, shall be filed in writing at the Agency within two months of the notification of the measure to the person concerned, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

Article 38

Interlocutory revision

1. If the Executive Director considers the appeal to be admissible and well founded, he/she shall rectify the decision. This shall not apply where the appellant is opposed to another party to the appeal proceedings.

2. If the decision is not rectified within one month after receipt of the statement of grounds for the appeal, the Agency shall forthwith decide whether or not to suspend the application of the decision pursuant to the second sentence of Article 35(2), and shall remit the appeal to the Board of Appeal.

Article 39

Examination of appeals

1. If the appeal is admissible, the Board of Appeal shall examine whether the appeal is well founded.

2. When examining the appeal, the Board of Appeal shall act expeditiously. It shall as often as necessary invite the parties to the appeal proceedings to file observations on notifications issued by itself or on communications from the other parties to the appeal proceedings, within specified time limits. Parties to the appeal proceedings shall be entitled to make oral presentations.

Article 40

Decisions on appeal

The Board of Appeal may exercise any power which lies within the competence of the Agency, or it may remit the case to the competent body of the Agency. The latter shall be bound by the decision of the Board of Appeal.

Article 41

Actions before the Court of Justice

1. An appeal may be brought before the Court of Justice against decisions of the Boards of Appeal on the terms and conditions laid down in Article 230 of the Treaty.

2. Should the Agency fail to take a decision, proceedings for failure to act may be brought before the Court of Justice on the terms and conditions laid down in Article 232 of the Treaty.

3. The Agency shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

Article 42

Direct appeal

Member States and the Community institutions may lodge a direct appeal before the Court of Justice against decisions of the Agency.

SECTION III

WORKING METHODS

Article 43

Procedures for the development of opinions, certification specifications and guidance material

1. As soon as possible after the entry into force of this Regulation, the Management Board shall establish transparent procedures

for issuing opinions, certification specifications and guidance material referred to in Article 13(a) and (b).

Those procedures shall:

- (a) draw on expertise available in the aviation regulatory authorities of Member States;
- (b) whenever necessary, involve appropriate experts from relevant interested parties;
- (c) ensure that the Agency publishes documents and consults widely interested parties, according to a timetable and a procedure which includes an obligation on the Agency to make a written response to the consultation process.

2. When the Agency, pursuant to Article 14, develops opinions, certification specifications and guidance material to be applied by Member States, it shall establish a procedure for consulting the Member States. To this effect, it may create a working group in which each Member State is entitled to designate an expert.

3. Measures referred to in Article 13(a) and (b) and the procedures established pursuant to paragraph 1 of this Article shall be published in an official publication of the Agency.

4. Special procedures shall be established to address immediate action to be taken by the Agency to react to a safety problem and to inform the relevant interested parties of the action they are to take.

Article 44

Procedures for taking decisions

1. The Management Board shall establish transparent procedures for taking individual decisions as provided for in Article 13(c).

Those procedures shall:

- (a) ensure the hearing of the natural or legal person to be addressed in the decision and of any other party with a direct and individual concern;
- (b) provide for notification of a decision to a natural or legal person and its publication;
- (c) provide for information to the natural or legal person to whom a decision is addressed, and any other parties to proceedings, of the legal remedies available to that person under this Regulation;
- (d) ensure that the decision contains reasons.

2. The Management Board shall also establish procedures specifying the conditions under which decisions are notified while taking due account of the appeal procedure.

3. Special procedures shall be established to address immediate action to be taken by the Agency to react to a safety problem and to inform the relevant interested parties of the action they are to take.

*Article 45***Inspections of Member States**

1. Without prejudice to the enforcement powers conferred by the Treaty on the Commission, the Agency shall assist the Commission in monitoring the application of this Regulation and its implementing rules, by conducting standardisation inspections of Member States competent authorities as specified in Article 16(1). The officials authorised under this Regulation, and the national authorities, are thus empowered, in compliance with the legal provisions of the Member State concerned:

- (a) to examine the relevant records, data, procedures and any other material relevant to the achievement of aviation safety levels in accordance with this Regulation;
- (b) to take copies of or extracts from such records, data, procedures and other material;
- (c) to ask for an oral explanation on the spot;
- (d) to enter any relevant premises, land or means of transport.

2. The officials of the Agency authorised for the purpose of these inspections shall exercise their powers upon production of an authorisation in writing specifying the subject matter, the purpose of the inspection and the date on which it is to begin. In good time before the inspection, the Agency shall inform the Member State concerned of the inspection and of the identity of the authorised officials.

3. The Member State concerned shall submit to such inspections and shall ensure that bodies or persons concerned also submit to inspections.

4. When an inspection under the terms of this Article entails an inspection of an undertaking or an association of undertakings the provisions of Article 46 shall apply. Where an undertaking opposes such inspection, the Member State concerned shall afford the necessary assistance to officials authorised by the Agency to enable them to make their inspection.

5. Reports drawn up in application of this Article shall be made available in the official language(s) of the Member State where the inspection took place.

*Article 46***Investigation of undertakings**

1. For the application of Article 15, the Agency may itself conduct or allocate to national aviation authorities or qualified entities all necessary investigation of undertakings. Investigations shall be carried out in compliance with the legal provisions of the Member States in which they are to be undertaken. To that end, the persons authorised under this Regulation are empowered:

- (a) to examine the relevant records, data, procedures and any other material relevant to the execution of the tasks of the Agency;

- (b) to take copies of or extracts from such records, data, procedures and other material;
- (c) to ask for an oral explanation on site;
- (d) to enter relevant premises, lands or means of transport of undertakings.

2. The persons authorised for the purpose of these investigations shall exercise their powers upon production of an authorisation in writing specifying the subject matter and purpose of the investigation.

3. In good time before the investigation, the Agency shall inform the Member State concerned in whose territory the investigation is to be made, of the investigation and of the identity of the authorised persons. Officials of the Member State concerned shall, at the request of the Agency, assist the authorised persons in carrying out their duties.

*Article 47***Transparency and communication**

1. The Agency shall be subject to Regulation (EC) No 1049/2001 when handling applications for access to documents held by it.

2. The Agency may communicate on its own initiative in the fields within its mission. It shall ensure in particular that, in addition to the publication specified in Article 43(3), the public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work.

3. The Management Board shall lay down the practical arrangements for the application of paragraphs 1 and 2.

4. Any natural or legal person shall be entitled to address himself/herself in writing to the Agency in any of the languages referred to in Article 314 of the Treaty. He/she has the right to receive an answer in the same language.

SECTION IV

FINANCIAL REQUIREMENTS*Article 48***Budget**

1. The revenues of the Agency shall consist of:

- (a) a contribution from the Community and from any European third country with which the Community has concluded agreements referred to in Article 55;
- (b) the fees paid by applicants for, and holders of, certificates and approvals issued by the Agency; and
- (c) charges for publications, training and any other services provided by the Agency.

2. The expenditure of the Agency shall include the staff, administrative, infrastructure and operational expenses.

3. The Executive Director shall draw up an estimate of the revenues and expenditure of the Agency for the following financial year and shall forward it to the Management Board together with an establishment plan.

4. Revenue and expenditure shall be in balance.

5. The Management Board shall, by 31 March, at the latest, adopt the draft estimates, including the provisional establishment plan accompanied by the preliminary work programme, and forward them to the Commission and to the States with which the Community has concluded the agreements referred to in Article 55.

On the basis of that draft budget, the Commission shall establish the relevant estimates in the preliminary draft general budget of the European Union, which it shall put before the Council pursuant to Article 272 of the Treaty. The scope of the approved budget outlook of the Community for the coming years has to be observed.

After receiving the draft budget, the States referred to in the first subparagraph will establish their own preliminary draft budget.

6. After the adoption of the general budget by the budgetary authority, the Management Board shall adopt the Agency's final budget and work programme, adjusting them where necessary to the Community contribution. It shall forward them without delay to the Commission and to the budgetary authority.

7. Any modification to the budget, including the establishment plan, shall follow the procedure referred to in paragraph 5.

Article 49

Implementation and control of the budget

1. The Executive Director shall implement the budget of the Agency.

2. Control of commitment and payment of all expenditure and control of the existence and recovery of all revenue of the Agency shall be carried out by the Financial Controller of the Commission.

3. By 31 March each year at the latest, the Executive Director shall submit to the Commission, the Management Board and the Court of Auditors the detailed accounts of all revenue and expenditure from the previous financial year.

The Court of Auditors shall examine those accounts in accordance with Article 248 of the Treaty. It shall publish a report on the Agency's activities every year.

4. The European Parliament, acting on a recommendation from the Council, shall give a discharge to the Executive Director of the Agency in respect of the implementation of the budget.

Article 50

Combating fraud

1. In order to combat fraud, corruption and other unlawful activities the provisions of Regulation (EC) No 1073/1999 of

the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) ⁽¹⁾ shall apply without restriction.

2. The Agency shall accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-fraud Office (OLAF) ⁽²⁾ and shall issue, without delay, the appropriate provisions applicable to all the employees of the Agency.

3. The decisions concerning funding and the implementing agreements and instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may carry out, if necessary, on-the-spot checks among the recipients of the Agency's funding and the agents responsible for allocating it.

Article 51

Evaluation

1. Within three years from the date of the Agency having taken up its responsibilities, and every five years thereafter, the Management Board shall commission an independent external evaluation on the implementation of this Regulation.

2. The evaluation shall examine how effectively the Agency fulfils its mission. It shall also assess the impact of this Regulation, the Agency and its working practices in establishing a high level of civil aviation safety. The evaluation shall take into account the views of stakeholders, at both European and national level.

3. The Management Board shall receive the findings of the evaluation and issue recommendations regarding changes to this Regulation, the Agency and its working practices to the Commission, which may forward them, together with its own opinion as well as appropriate proposals, to the European Parliament and to the Council. An action plan with a timetable shall be included, if appropriate. Both the findings and the recommendations of the evaluation shall be made public.

Article 52

Financial provisions

The Management Board, having received the agreement of the Commission and the opinion of the Court of Auditors, shall adopt the Agency's Financial Regulation, which shall in particular specify the procedure to be used for drawing up and implementing the Agency's budget, in accordance with Article 142 of the Financial Regulation applicable to the general budget of the European Communities.

Article 53

Fees and charges regulation

1. The Commission, acting in accordance with the procedure laid down in Article 54(3) and after consulting the Management Board, shall adopt a regulation on fees and charges.

2. The fees and charges regulation shall determine in particular the matters for which fees and charges pursuant to Article 48(1) are due, the amount of the fees and charges and the way in which they are to be paid.

⁽¹⁾ OJ L 136, 31.5.1999, p. 1.

⁽²⁾ OJ L 136, 31.5.1999, p. 15.

3. Fees and charges shall be levied for:

- (a) the issuing and renewal of certificates, as well as the related continuing oversight functions;
- (b) the provision of services; they shall reflect the actual cost of each individual provision;
- (c) the processing of appeals.

All fees and charges shall be expressed, and payable, in euro.

4. The amount of the fees and charges shall be fixed at such a level as to ensure that the revenue in respect thereof is in principle sufficient to cover the full cost of the services delivered.

The contribution referred to in Article 48(1), may cover, for a transitional period ending on 31 December of the fourth year from the entry into force of this Regulation, the expenditure relating to the initial running phase of the Agency. In accordance with the procedure laid down in Article 54(3), this period may be extended, if necessary, for no more than one year.

CHAPTER IV

FINAL PROVISIONS

Article 54

Committee

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply having regard to the provisions of Article 8 thereof.
3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply having regard to the provisions of Article 8 thereof.

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

4. Where reference is made to this paragraph, Article 6 of Decision 1999/468/EC shall apply.

Before adopting its decision, the Commission shall consult the committee referred to in paragraph 1 of this Article.

The period provided for in Article 6(b) of Decision 1999/468/EC shall be set at three months.

When a Commission decision is referred to the Council by a Member State, the Council, acting by a qualified majority, may take a different decision within a period of three months.

5. The Committee shall adopt its Rules of Procedure.

Article 55

Participation of European third countries

The Agency shall be open to the participation of European third countries which are Contracting Parties to the Chicago

Convention and which have entered into agreements with the European Community whereby they have adopted and are applying Community law in the field covered by this Regulation and its implementing rules.

Under the relevant provisions of these agreements, arrangements will be developed which shall, *inter alia*, specify the nature and extent of, and the detailed rules for, the participation by these countries in the work of the Agency, including provisions on financial contributions and staff.

Article 56

Commencement of the Agency's operation

1. The Agency shall undertake the certification tasks incumbent upon it pursuant to Article 15 as from 28 September 2003. Until that date, Member States shall continue to implement applicable legislation and regulations.

2. During an additional transition period of 42 months from the date referred to in paragraph 1, Member States may continue to issue certificates and approvals by way of derogation from the provisions of Articles 5, 6, 9 and 15 under the conditions specified by the Commission in the implementing rules adopted for their application. When in that context Member States issue certificates on the basis of certificates issued by third countries, the Commission implementing rules shall give due consideration to the principles laid down in Article 9(2)(b) and (c).

3. By way of derogation from the provisions of Article 43, pending the adoption of essential requirements in accordance with Article 7, the execution of the corresponding tasks by the Agency may be subject to working procedures agreed upon with the joint aviation authorities.

Article 57

Repeal

1. Directive 80/51/EEC and Annex II to Regulation (EEC) No 3922/91 shall be repealed as from 28 September 2003.

2. The provisions of Article 8 shall apply to products, parts and appliances, organisations and persons that have been certified in accordance with the provisions referred to in paragraph 1 of this Article.

Article 58

Entry into force

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

Articles 5 and 6 shall apply as from the dates specified in the implementing rules.

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

Done at Brussels, 15 July 2002.

For the European Parliament

The President

P. COX

For the Council

The President

M. FISCHER BOEL

ANNEX I

Essential requirements for airworthiness referred to in Article 5

1. Product integrity: product integrity must be assured for all anticipated flight conditions for the operational life of the aircraft. Compliance with all requirements must be shown by assessment or analysis, supported, where necessary, by tests.
- 1.a. Structures and materials: the integrity of the structure must be ensured throughout, and sufficiently beyond, the operational envelope for the aircraft, including its propulsion system, and maintained for the operational life of the aircraft.
 - 1.a.1. All parts of the aircraft, the failure of which could reduce the structural integrity, must comply with the following conditions without detrimental deformation or failure. This includes all items of significant mass and their means of restraint.
 - 1.a.1.a. All combinations of load reasonably expected to occur within, and sufficiently beyond, the weights, centre of gravity range, operational envelope and life of the aircraft must be considered. This includes loads due to gusts, manoeuvres, pressurisation, movable surfaces, control and propulsion systems both in flight and on the ground.
 - 1.a.1.b. Consideration must be given to the loads and likely failures induced by emergency landings either on land or water.
 - 1.a.1.c. Dynamic effects must be covered in the structural response to these loads.
 - 1.a.2. The aircraft must be free from any aeroelastic instability and excessive vibration.
 - 1.a.3. The manufacturing processes and materials used in the construction of the aircraft must result in known and reproducible structural properties. Any changes in material performance related to the operational environment must be accounted for.
 - 1.a.4. The effects of cyclic loading, environmental degradation, accidental and discrete source damage must not reduce the structural integrity below an acceptable residual strength level. All necessary instructions for ensuring continued airworthiness in this regard must be promulgated.
- 1.b. Propulsion: the integrity of the propulsion system (i.e. engine and, where appropriate, propeller) must be demonstrated throughout, and sufficiently beyond, the operational envelope of the propulsion system and must be maintained for the operational life of the propulsion system.
 - 1.b.1. The propulsion system must produce, within its stated limits, the thrust or power demanded of it at all required flight conditions, taking into account environmental effects and conditions.
 - 1.b.2. The fabrication process and materials used in the construction of the propulsion system must result in known and reproducible structural behaviour. Any changes in material performance related to the operational environment must be accounted for.
 - 1.b.3. The effects of cyclic loading, environmental and operational degradation and likely subsequent part failures must not reduce the integrity of the propulsion system below acceptable levels. All necessary instructions for ensuring continued airworthiness in this regard must be promulgated.
 - 1.b.4. All necessary instructions, information and requirements for the safe and correct interface between the propulsion system and the aircraft must be promulgated.
- 1.c. Systems and equipment
 - 1.c.1. The aircraft must not have design features or details that experience has shown to be hazardous.
 - 1.c.2. The aircraft, including those systems, equipment and appliances required for type-certification, or by operating rules, must function as intended under any foreseeable operating conditions, throughout, and sufficiently beyond, the operational envelope of the aircraft, taking due account of the system, equipment or appliance operating environment. Other systems, equipment and appliance not required for type-certification, or by operating rules, whether functioning properly or improperly, must not reduce safety and must not adversely affect the proper functioning of any other system, equipment or appliance. Systems, equipment and appliances must be operable without needing exceptional skill or strength.

- 1.c.3. The aircraft systems, equipment and associated appliances, considered separately and in relation to each other, must be designed such that any catastrophic failure condition does not result from a single failure not shown to be extremely improbable and an inverse relationship must exist between the probability of a failure condition and the severity of its effect on the aircraft and its occupants. With respect to the single failure criterion above, it is accepted that due allowance must be made for the size and broad configuration of the aircraft and that this may prevent this single failure criterion from being met for some parts and some systems on helicopters and small aeroplanes.
- 1.c.4. Information needed for the safe conduct of the flight and information concerning unsafe conditions must be provided to the crew, or maintenance personnel, as appropriate, in a clear, consistent and unambiguous manner. Systems, equipment and controls, including signs and announcements must be designed and located to minimise errors which could contribute to the creation of hazards.
- 1.c.5. Design precautions must be taken to minimise the hazards to the aircraft and occupants from reasonably probable threats, both inside and external to the aircraft, including protecting against the possibility of a significant failure in, or disruption of, any aircraft appliance.
- 1.d. Continuing airworthiness
 - 1.d.1. Instructions for continuing airworthiness must be established to ensure that the aircraft type certification airworthiness standard is maintained throughout the operational life of the aircraft.
 - 1.d.2. Means must be provided to allow inspection, adjustment, lubrication, removal or replacement of parts and appliances as necessary for continuing airworthiness.
 - 1.d.3. The instructions for continuing airworthiness must be in the form of a manual, or manuals, as appropriate for the quantity of data to be provided. The manuals must cover maintenance and repair instructions, servicing information, trouble-shooting and inspection procedures, in a format that provides for a practical arrangement.
 - 1.d.4. The instructions for continuing airworthiness must contain airworthiness limitations that set forth each mandatory replacement time, inspection interval and related inspection procedure.
- 2. Airworthiness aspects of product operation
 - 2.a. The following must be shown to have been addressed to ensure a satisfactory level of safety for those onboard or on the ground during the operation of the product:
 - 2.a.1. The kinds of operation for which the aircraft is approved must be established and limitations and information necessary for safe operation, including environmental limitations and performance, must be established.
 - 2.a.2. The aircraft must be safely controllable and manoeuvrable under all anticipated operating conditions including following the failure of one or, if appropriate, more propulsion systems. Due account must be taken of pilot strength, flight deck environment, pilot workload and other human-factor considerations and of the phase of flight and its duration.
 - 2.a.3. It must be possible to make a smooth transition from one flight phase to another without requiring exceptional piloting skill, alertness, strength or workload under any probable operating condition.
 - 2.a.4. The aircraft must have such stability as to ensure that the demands made on the pilot are not excessive taking into account the phase of flight and its duration.
 - 2.a.5. Procedures for normal operations, failure and emergency conditions must be established.
 - 2.a.6. Warnings, or other deterrents intended to prevent exceedance of the normal flight envelope, must be provided, as appropriate to type.
 - 2.a.7. The characteristics of the aircraft and its systems must allow a safe return from extremes of the flight envelope that may be encountered.
 - 2.b. The operating limitations and other information necessary for safe operation must be made available to the crew members.
 - 2.c. Product operations must be protected from hazards resulting from adverse external and internal conditions, including environmental conditions.
 - 2.c.1. In particular, no unsafe condition must occur from exposure to phenomena such as, but not limited to, adverse weather, lightning, bird strike, high frequency radiated fields, ozone, etc., reasonably expected to occur during product operation.

- 2.c.2. Cabin compartments must provide passengers with suitable transport conditions and adequate protection from any expected hazard arising in flight operations or resulting in emergency situations, including fire, smoke, toxic gases and rapid decompression hazards. Provisions must be made to give occupants every reasonable chance of avoiding serious injury and quickly evacuating the aircraft and to protect them from the effect of the deceleration forces in the event of an emergency landing on land or water. Clear and unambiguous signs or announcements must be provided, as necessary, to instruct occupants in appropriate safe behaviour and the location and correct use of safety equipment. Required safety equipment must be readily accessible.
 - 2.c.3. Crew compartments must be arranged in order to facilitate flight operations, including means providing situational awareness, and management of any expected situation and emergencies. The environment of crew compartments must not jeopardise the crew's ability to perform their tasks and its design must be such as to avoid interference during operation and misuse of the controls.
 - 3. Organisations (including natural persons undertaking design, manufacture or maintenance)
 - 3.a. Organisation approvals must be issued when the following conditions are met:
 - 3.a.1. the organisation must have all the means necessary for the scope of work. These means comprise, but are not limited to, the following: facilities, personnel, equipment, tools and material, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;
 - 3.a.2. the organisation must implement and maintain a management system to ensure compliance with these essential requirements for airworthiness, and aim for continuous improvement of this system;
 - 3.a.3. the organisation must establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with these essential requirements for airworthiness;
 - 3.a.4. the organisation must establish an occurrence reporting and/or handling system, which must be used by the management system under point 3.a.2 and the arrangements under point 3.a.3, in order to contribute to the aim of continuous improvement of the safety of products.
 - 3.b. In the case of maintenance training organisations, the conditions under points 3.a.3 and 3.a.4 do not apply.
-

ANNEX II

Aircraft referred to in Article 4(2)

Aircraft to which Article 4(1) does not apply are aircraft for which a type-certificate or a certificate of airworthiness has not been issued on the basis of this Regulation and its implementing rules, and which fall in one of the following categories:

- (a) aircraft having a clear historical relevance, related to:
 - (i) participation in a noteworthy historic event; or
 - (ii) a major step in the development of aviation; or
 - (iii) a major role played in the armed forces of a Member State;and meeting one or more of the following criteria:
 - (i) its initial design is established as being more than 40 years old;
 - (ii) its production stopped at least 25 years ago;
 - (iii) fewer than 50 aircraft of the same basic design are still registered in the Member States;
 - (b) aircraft specifically designed or modified for research, experimental or scientific purposes, and likely to be produced in very limited numbers;
 - (c) aircraft of which at least 51 % is built by an amateur, or a non-profit association of amateurs, for their own purposes and without any commercial objective;
 - (d) aircraft whose initial design was intended for military purposes only;
 - (e) aeroplanes having no more than two seats, the stall speed or the minimum steady flight speed in landing configuration not exceeding 35 knots calibrated air speed (CAS), and a maximum take-off mass (MTOM) of no more than:
 - (i) 300 kg for a land plane, single seater; or
 - (ii) 450 kg for a land plane, two seater; or
 - (iii) 330 kg for an amphibian or floatplane single seater; or
 - (iv) 495 kg for an amphibian or floatplane two seater, provided that, where operating both as a floatplane and as a land plane, it falls below both MTOM limits, as appropriate;
 - (f) 'gliders' with a structural mass of less than 80 kg when single seater or 100 kg when two seater, including those which are foot launched;
 - (g) unmanned aircraft with an operating mass of less than 150 kg;
 - (h) any other aircraft with a total mass without pilot of less than 70 kg.
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COUNCIL REGULATION (EC) No 1593/2002**of 3 September 2002****amending Regulation (EC) No 772/1999 imposing definitive anti-dumping and countervailing duties on imports of farmed Atlantic salmon originating in Norway**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community ⁽²⁾, and in particular Article 13 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

- (1) On 31 August 1996, by means of two separate notices published in the *Official Journal of the European Communities*, the Commission announced the initiation of an anti-dumping proceeding ⁽³⁾ and an anti-subsidy proceeding ⁽⁴⁾ in respect of imports of farmed Atlantic salmon (hereinafter the 'product concerned') originating in Norway.
- (2) These proceedings resulted in anti-dumping and countervailing duties being imposed in September 1997 by Council Regulations (EC) No 1890/97 ⁽⁵⁾ and (EC) No 1891/97 ⁽⁶⁾, in order to eliminate the injurious effects of dumping and subsidisation.
- (3) In parallel to this, by Decision 97/634/EC ⁽⁷⁾, the Commission accepted undertakings from 190 Norwegian exporters; imports of the product concerned exported to the Community by these companies were

exempted from the said anti-dumping and countervailing duties.

- (4) The form of the duties was later reviewed and Regulations (EC) No 1890/97 and (EC) No 1891/97 were replaced by Regulation (EC) No 772/1999 ⁽⁸⁾.
- (5) Following indications that the existing measures may not be achieving their intended results, an interim review of the measures ⁽⁹⁾ was initiated in February 2002 pursuant to Article 11(3) of Regulation (EC) No 384/96 (hereinafter the 'basic Anti-Dumping Regulation') and Article 19(1) of Regulation (EC) No 2026/97 (hereinafter the 'basic Anti-Subsidy Regulation').
- (6) Having reason to suspect that certain companies were not observing the terms of their undertakings, the Commission made imports of all Norwegian companies with undertakings subject to registration by Regulation (EC) No 452/2002 ⁽¹⁰⁾ (hereinafter the 'Registration Regulation') and pursuant to Article 14(5) of the basic Anti-Dumping Regulation and Article 16(4) of the basic Anti-Subsidy Regulation. The period of applicability of the Registration Regulation was extended for a further period by Regulation (EC) No 1008/2002 ⁽¹¹⁾. This means that in the event of a finding of a breach or withdrawal of an undertaking, duties may be levied retroactively on goods entered into free circulation in the Community from the date of the breach or withdrawal of the undertaking.

B. FAILURE TO COMPLY WITH THE UNDERTAKING

- (7) The undertakings offered by the Norwegian companies oblige them, among other things, to export the product concerned to the Community at, or above, certain minimum import price levels (MIPs), laid down in the undertaking. These MIPs, which eliminate the injurious effects of dumping, are applicable to different 'presentations' or categories of salmon (e.g. 'presentation b — gutted fish, head-on').

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).

⁽²⁾ OJ L 288, 21.10.1997, p. 1.

⁽³⁾ OJ C 253, 31.8.1996, p. 18.

⁽⁴⁾ OJ C 253, 31.8.1996, p. 20.

⁽⁵⁾ OJ L 267, 30.9.1997, p. 1.

⁽⁶⁾ OJ L 267, 30.9.1997, p. 19.

⁽⁷⁾ OJ L 267, 30.9.1997, p. 81. Decision as last amended by Decision 2002/157/EC (OJ L 51, 22.2.2002, p. 32).

⁽⁸⁾ OJ L 101, 16.4.1999, p. 1. Regulation as last amended by Regulation (EC) No 322/2002 (OJ L 51, 22.2.2002, p. 1).

⁽⁹⁾ OJ C 53, 28.2.2002, p. 10.

⁽¹⁰⁾ OJ L 72, 14.3.2002, p. 7.

⁽¹¹⁾ OJ L 153, 13.6.2002, p. 9.

- (8) The companies are also obliged to provide the Commission with regular and detailed information concerning their sales to the Community (or re-sales by any related parties in the Community) of the product concerned in the form of a periodic report. In accordance with Clause E.10 of the undertakings, these reports should be received by the Commission no later than 30 days after the end of the period in question.
- (9) During a series of visits in 2001 to the premises of several Norwegian companies with undertakings to verify the data provided in such sales reports and from examination of sales reports submitted, it was established that four companies had breached their undertakings by selling the product concerned, on a weighted average basis, below the MIP for the presentation of salmon concerned. In addition, five other companies had either not submitted sales reports for various quarters or had submitted their sales reports late. Another party with an undertaking also failed to provide information requested by the Commission, which was considered necessary for the effective monitoring of the system of undertakings (as did a company which was also among the four companies which committed price violations). Commission Decision 2002/743/EC ⁽¹⁾ sets out in detail the nature of the breaches found.
- (10) In view of the breaches found, acceptance of the undertakings offered by Nordic Group ASA (UT No 1/111, TARIC Additional Code 8217), Norexport A/S (UT No 1/113, TARIC Additional Code 8223), Nor-Fa Fish AS (UT No 1/191, TARIC Additional Code 8102), Norfra Eksport A/S (UT No 1/116, TARIC Additional Code 8229), Kr Kleiven & Co A/S (UT No 1/80, TARIC Additional Code 8182), Seaco A/S (UT No 1/157, TARIC Additional Code 8268), Mesan Holding AS (UT No 1/194, TARIC Additional Code A034), Johan J. Helland A/S (UT No 1/77, TARIC Additional Code 8179), Sangoltgruppa A/S (UT No 1/151, TARIC Additional Code 8262) and Oskar Einar Rydbeck (UT No 1/198, TARIC Additional Code A050), have all been withdrawn by Decision 2002/743/EC.
- (11) Equally, acceptance of the undertaking offered by a company related to Nordic Group ASA, namely Northern Seafood A/S (UT No 1/121 TARIC Additional Code 8307) has also been withdrawn, given the risk of circumvention of the undertaking by the latter company exporting Nordic Group ASA's products.
- (12) Definitive anti-dumping and anti-subsidy duties should therefore be imposed forthwith against all these companies.

C. NEW EXPORTERS AND CHANGES OF NAME

- (13) Seven Norwegian companies, Athena Seafoods AS, Norsk Havfisk A/S, Rodé Vis AS, Seaborn AS, Triton AS, Nordlaks Produkter AS and Codfarms AS claimed that they are 'new exporters' within the meaning of Article 2 of Regulation (EC) No 772/1999 in conjunction with Article 11(4) of the basic AD Regulation and Article 20 of the basic AS Regulation and have offered undertakings. Having investigated the matter, it was established that the applicants fulfilled the conditions for being considered as new exporters and, accordingly, the undertakings offered have been accepted by the Commission. The exemption to the anti-dumping and countervailing duties should therefore be extended to these companies.
- (14) Four other Norwegian exporters with undertakings advised the Commission that the groups of companies to which they belong had been reorganised and that another company within each group was now responsible for exports to the Community. The companies therefore requested that their names be replaced on the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC and on the list of companies which benefit from an exemption to the anti-dumping and countervailing duties in the Annex to Regulation (EC) No 772/1999.
- (15) The Commission considers, after verification, that the requests are all acceptable, since the amendments do not entail any substantive changes requiring a reassessment of dumping, nor do they affect any of the considerations on which the acceptance of the undertaking was based.

D. AMENDMENT OF THE ANNEX TO REGULATION (EC) No 772/1999

- (16) In view of all the above, the Annex to Regulation (EC) No 772/1999, which lists the companies exempted from the anti-dumping and countervailing duties, should be amended accordingly.

E. RETROACTIVE COLLECTION OF DUTIES

- (17) As mentioned previously, imports of the product concerned are currently subject to registration by customs authorities, thus allowing the possibility of retroactive collection of anti-dumping and anti-subsidy duties in cases of breach or withdrawal of undertakings.
- (18) However, as the breaches of the undertaking by the various companies occurred prior to the publication of the Registration Regulation (and were identified by the Commission with final disclosure thereof notified to the companies concerned also before publication of the Registration Regulation), it has been decided not to impose duties retroactively in this particular case,

⁽¹⁾ See page 51 of this Official Journal.

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 772/1999 is replaced by the Annex to this Regulation.

Article 2

1. (a) Definitive countervailing and anti-dumping duties are hereby imposed on imports of farmed (other than wild) Atlantic salmon falling within CN codes ex 0302 12 00 (TARIC codes: 0302 12 00*21, 0302 12 00*22, 0302 12 00*23 and 0302 12 00*29), ex 0303 22 00 (TARIC codes: 0303 22 00*21, 0303 22 00*22, 0303 22 00*23 and 0303 22 00*29), ex 0304 10 13 (TARIC codes: 0304 10 13*21 and 0304 10 13*29) and ex 0304 20 13 (TARIC codes: 0304 20 13*21 and 0304 20 13*29) originating in Norway and exported by Nordic Group ASA, Northern Seafood A/S, Norexport A/S, Nor-Fa Fish AS, Norfra Eksport A/S, Sangoltgruppa A/S, Kr Kleiven & Co A/S, Seaco A/S, Mesan Holding AS, Johan J. Helland A/S and Oskar Einar Rydbeck.
- (b) These duties shall not apply to wild Atlantic salmon (TARIC codes: 0302 12 00*11, 0304 10 13*11, 0303 22 00*11 and 0304 20 13*11). For the purpose of this Regulation, wild salmon shall be that in respect of which the competent authorities of the Member States of landing are satisfied, by means of all customs and transport documents to be provided by interested parties, that it was caught at sea.
2. (a) The rate of the countervailing duty applicable to the net free-at-Community frontier price, before duty, shall be 3,8 %.
- (b) The rate of the anti-dumping duty applicable to the net free-at-Community frontier price, before duty, shall be EUR 0,32 per kilogram net product weight. However, if the free-at-Community frontier price, including the countervailing and anti-dumping duties, is less than the relevant Minimum Price set out in paragraph 3, the anti-dumping duty to be collected shall be the difference between that Minimum Price and the free-at-Community frontier price, including the countervailing duty.
3. For the purpose of paragraph 2, the following minimum prices shall apply per kilogram net product weight:

Presentation of salmon	Minimum price EUR/kg net product weight	TARIC code
Whole fish, fresh or chilled	2,925	0302 12 00*21
Gutted, head-on, fresh or chilled	3,25	0302 12 00*22
Gutted, headless, fresh or chilled	3,65	0302 12 00*23
Other, fresh or chilled, including 'steaks'	3,65	0302 12 00*29
Whole fish, frozen	2,925	0303 22 00*21
Gutted, head-on, frozen	3,25	0303 22 00*22
Gutted, headless, frozen	3,65	0303 22 00*23
Other, frozen, including 'steaks'	3,65	0303 22 00*29
Whole fish fillets, more than 300 gr each, fresh or chilled	5,19	0304 10 13*21
Other fish fillets or fillet portions, 300 gr or less each, fresh or chilled	6,55	0304 10 13*29
Whole fish fillets, more than 300 gr each, frozen	5,19	0304 20 13*21
Other fish fillets or fillet portions, weighing 300 gr or less each, frozen	6,55	0304 20 13*29

Article 3

This Regulation shall enter into force on the day following that 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, 3 September 2002.

For the Council

The President

P. S. MØLLER

ANNEX

‘ANNEX

**LIST OF COMPANIES FROM WHICH UNDERTAKINGS ARE ACCEPTED AND THUS EXEMPTED FROM THE
DEFINITIVE ANTI-DUMPING AND COUNTERVAILING DUTIES**

UT No	Company name	TARIC additional code
3	Rosfjord Seafood AS	8325
7	Aqua Export A/S	8100
8	Aqua Partner A/S	8101
11	Arctic Group International	8109
13	Artic Superior A/S	8111
15	A/S Aalesundfisk	8113
16	Austevoll Eiendom AS	8114
17	A/S Keco	8115
20	A/S Refsnes Fiskeindustri	8118
21	A/S West Fish Ltd	8119
22	Midnor Processing AS	8120
24	Atlantic Seafood A/S	8122
26	Rossa Salmon AS	8124
27	Brødrene Aasjord A/S	8125
31	Christiansen Partner A/S	8129
32	Clipper Seafood A/S	8130
33	Coast Seafood A/S	8131
35	Dafjord Laks A/S	8133
39	Domstein Fish A/S	8136
41	Ecco Fisk & Delikatesse	8138
42	Edvard Johnsen A/S	8139
43	Fjord Marin Sales AS	8140
44	Euronor AS	8141
46	Fiskeforsyningen AS	8143
47	Fjord Aqua Group AS	8144
48	Fjord Trading Ltd AS	8145
50	Fossen AS	8147
51	Fresh Atlantic AS	8148

UT No	Company name	TARIC additional code
52	Fresh Marine Company AS	8149
56	Gje-Vi AS	8153
58	Grieg Seafood AS	8300
61	Hallvard Lerøy AS	8303
62	Fjord Seafood Måløy A/S	8304
66	Marine Harvest Norway AS	8159
67	Hydrotech gruppen AS	8428
72	Inter Sea AS	8174
75	Janas A/S	8177
76	Joh. H. Pettersen AS	8178
79	Karsten J. Ellingsen AS	8181
82	Labeyrie Norge AS	8184
83	Lafjord Group AS	8185
85	Leica Fiskeprodukter	8187
87	Lofoten Seafood Export AS	8188
92	Marine Seafood AS	8196
96	Memo Food AS	8200
98	Misundfisk AS	8202
100	Naco Trading AS	8206
101	Fjord Seafood Midt-Norge A/S	8207
104	Nergård AS	8210
105	Nils Williksen AS	8211
107	Nisja Trading AS	8213
108	Nor-Food AS	8214
112	Nordreisa Laks AS	8218
114	Norfi Produkter AS	8227
115	Norfood Group AS	8228
119	Norsk Akvakultur AS	8232
120	Norsk Sjømat AS	8233
122	Nortrade AS	8308
123	Norway Royal Salmon Sales AS	8309
124	Norway Royal Salmon AS	8312
126	Frionor AS	8314

UT No	Company name	TARIC additional code
128	Norwell AS	8316
137	Pan Fish Sales AS	8242
140	Polar Salmon AS	8247
141	Prilam Norvège AS	8248
142	Pundslett Fisk	8251
144	Olsen Seafood AS	8254
145	Marine Harvest Rogaland AS	8256
146	Rørvik Fisk- og fiskematforretning AS	8257
147	Saga Lax Norge AS	8258
148	Prima Nor AS	8259
153	Scanfood AS	8264
154	Sea Eagle Group AS	8265
155	Sea Star International AS	8266
156	Sea Bell Salmon AS	8267
158	Seacom AS	8269
160	Seafood Farmers of Norway Ltd AS	8271
161	Seanor AS	8272
162	Sekkingstad AS	8273
164	Sirena Norway AS	8275
165	Kinn Salmon AS	8276
167	Fjord Seafood Sales AS	8278
168	SMP Marine Produkter AS	8279
172	Stjernelaks AS	8283
174	Stolt Sea Farm AS	8285
175	Storm Company AS	8286
176	Superior AS	8287
178	Terra Seafood AS	8289
180	Timar Seafood AS	8294
182	Torris Products Ltd AS	8298
183	Troll Salmon AS	8317
188	Vikenco AS	8322
189	Wannebo International AS	8323
190	West Fish Norwegian Salmon AS	8324

UT No	Company name	TARIC additional code
193	F. Uhrenholt Seafood Norway AS	A033
195	Polaris Seafood AS	A035
196	Scanfish AS	A036
197	Normarine AS	A049
199	Emborg Foods Norge AS	A157
200	Helle Mat AS	A158
201	Norsea Food AS	A159
202	Salmon Company Fjord Norway AS	A160
203	Stella Polaris AS	A161
204	First Salmon AS	A205
205	Norlaks A/S	A206
206	Atlantis AS	A257
207	Cape Fish AS	A258
208	Athena Seafoods AS	A379
209	Norsk Havfisk AS	A380
210	Rodé Vis International AS	A381
211	Seaborn AS	A382
212	Triton AS	A383
213	Nordlaks Produkter AS	A386
214	Codfarms AS	A400'

COMMISSION REGULATION (EC) No 1594/2002
of 6 September 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 ⁽¹⁾, as last amended by Regulation (EC) No 1498/98 ⁽²⁾, 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 7 September 2002.

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

Done at Brussels, 6 September 2002.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 6 September 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	45,0
	064	38,5
	999	41,8
0707 00 05	052	137,9
	999	137,9
0709 90 70	052	87,7
	999	87,7
0805 50 10	388	52,8
	524	51,4
	528	60,5
	999	54,9
0806 10 10	052	70,0
	064	105,0
	999	87,5
0808 10 20, 0808 10 50, 0808 10 90	052	60,0
	388	86,5
	400	93,0
	512	92,7
	720	71,5
	800	208,1
	804	88,3
	999	100,0
	052	104,8
0808 20 50	388	71,8
	720	56,6
	999	77,7
0809 30 10, 0809 30 90	052	104,7
	999	104,7
0809 40 05	052	82,7
	060	54,5
	064	53,2
	066	60,5
	068	42,9
	094	44,1
	624	189,0
	999	75,3

⁽¹⁾ 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 1595/2002
of 6 September 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 ⁽¹⁾, as last amended by Commission Regulation (EC) No 509/2002 ⁽²⁾,

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 ⁽³⁾, as last amended by Regulation (EC) No 1614/2001 ⁽⁴⁾, 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 1521/2002 suspending the buying-in of butter in certain Member States ⁽⁵⁾ 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 Germany 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 1521/2002 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 Denmark, Germany, Greece, the Netherlands, Austria and Sweden.

Article 2

Regulation (EC) No 1521/2002 is hereby repealed.

Article 3

This Regulation shall enter into force on 7 September 2002.

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

Done at Brussels, 6 September 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 333, 24.12.1999, p. 11.

⁽⁴⁾ OJ L 214, 8.8.2001, p. 20.

⁽⁵⁾ OJ L 228, 24.8.2002, p. 19.

COMMISSION REGULATION (EC) No 1596/2002**of 6 September 2002****amending Regulation (EC) No 2760/98 concerning the implementation of a programme for cross-border cooperation in the framework of the PHARE programme**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of central and eastern Europe ⁽¹⁾, as last amended by Regulation (EC) No 2500/2001 ⁽²⁾, and in particular Article 8 thereof,

Whereas:

- (1) The PHARE 2000 review communication 'Strengthening preparation for membership' announced a more programme-oriented approach through the use of 'schemes' (measures) which allows PHARE cross-border cooperation to co-finance projects similar in size and nature to Interreg projects.
- (2) The Commission communication of 28 April 2000 on Interreg III guidelines ⁽³⁾ provides in point 11 and Annex II an indicative list of priority topics and eligible measures related to cross-border cooperation (Interreg III strand A).
- (3) The experience gained since the entry into force of Commission Regulation (EC) No 2760/98 ⁽⁴⁾, notably through setting up joint cooperation committees and

implementing joint programming documents, has highlighted the need for a further alignment of the eligible actions with Interreg.

- (4) Regulation (EC) No 2760/98 should therefore be amended in order to remove the second subparagraph of Article 5(1) thereof, under which certain actions could only be financed under the terms of Article 5(2).
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Economic Restructuring in Certain Countries of Central and Eastern Europe,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 5(1) of Regulation (EC) No 2760/98 the second subparagraph is deleted.

Article 2

This Regulation shall enter into force on the third day following 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, 6 September 2002.

For the Commission

Günter VERHEUGEN

Member of the Commission

⁽¹⁾ OJ L 375, 23.12.1989, p. 11.

⁽²⁾ OJ L 342, 27.12.2001, p. 1.

⁽³⁾ OJ C 143, 23.5.2000, p. 6.

⁽⁴⁾ OJ L 345, 19.12.1998, p. 49.

COMMISSION REGULATION (EC) No 1597/2002**of 6 September 2002****laying down detailed rules for the application of Council Directive 1999/105/EC as regards the format of national lists of the basic material of forest reproductive material**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material ⁽¹⁾, and in particular Article 10(3) thereof,

Whereas:

- (1) In accordance with Article 10(1) of Directive 1999/105/EC Member States shall draw up a national register of the basic material of the various species approved on its territory.
- (2) In accordance with Article 10(2) of the same Directive Member States shall draw up a summary of the national register in the form of a national list to be made available on request to the Commission and the other Member States. The national list shall be presented in a common form for each 'unit of approval', as referred to in Article 4(2)(b) of Directive 1999/105/EC and specified, for each category of forest reproductive material, in Article 2(l) of the same Directive. For the categories 'source identified' and 'selected' a summary of the 'units of approval' within one region of provenance is permitted. The details of the information to be provided in the list are specified in Article 10(2) referred to above.
- (3) In order to ensure the proper functioning of the national lists and their comparability, the form of those lists

should be standardised at Community level. This would assist the Commission to publish the list entitled 'Community List of Approved Basic Material for the Production of Forest Reproductive Material', as referred to in Article 11(1) of that Directive.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS REGULATION:

Article 1

The national list referred to in Article 10(2) of Directive 1999/105/EC shall be drawn up by each Member State in the standardised form as detailed in the Annex. Each Member State shall make its list available on request to the Commission and other Member States in the form of an electronic spreadsheet or database.

Article 2

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

It shall apply from 1 January 2003.

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

Done at Brussels, 6 September 2002.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 11, 15.1.2000, p. 17.

PART B

Guidelines for filling in the different columns of the national list of basic material, as presented in Part A of this Annex

1. The species should be listed in alphabetical order (column B) and within each species in the order of the categories (Article 2(l) of Directive 1999/105/EC) (column C) commencing with *source identified*, followed by *selected*, *qualified* and *tested*. Within *qualified* the order will be *seed orchard*, *parents of family(ies)*, *clone* and *clonal mixture* while within *tested*, *stand* will precede *seed orchard*.
2. The different columns shall be filled in accordance with the standardised order and coding of information as specified in Part B.4 of this Annex.
3. Column B shall be filled in accordance with the abbreviations as specified in Part B.5 of this Annex.
4. *Standardised order and coding information for the different columns of the national list of basic material, as presented in Part A of this Annex*

Column of the national list as specified in Part A	Data type	Information on completion
A	Abbreviation	EU Member State abbreviation
B	Abbreviation	See Part B.5 of this Annex. Varieties of <i>Pinus nigra</i> and species of <i>Populus</i> to be indicated in Column N
C	Code	Source identified: 1 Selected: 2 Qualified: 3 Tested (<i>Genetically evaluated/comparatively tested/provisionally tested</i> to be indicated in Column N): 4
D	Identity code	For seed sources and stands: <i>Region of provenance code and/or national register reference</i> For Qualified and Tested entries: <i>National register reference only</i>
E	Text	Location name for seed source, stand, seed orchard, parents of family or where this is not appropriate, for example for a clone or clonal mixture, the approved name
F	Degrees and minutes	Expressed in sudo-decimal format — for example 56°31'N is written as 56.31N; exact or a range.
G	Degrees and minutes	Expressed in sudo-decimal format; exact or range; East or West of Greenwich.
H	Metres	Exact or range
I	Code	Seed source: 1 Stand: 2 Seed orchard: 3 Parents of family(ies): 4 Clone: 5 Clonal mixture: 6

Column of the national list as specified in Part A	Data type	Information on completion
J	Hectares	For mixed stands, the effective area of the species in question. Where this is not appropriate, the number of trees followed by T shall be indicated
K	Code	Autochthonous/indigenous: 1 Non-autochthonous/non-indigenous: 2 Unknown: 3
L	Text	Origin of basic material to be stated if identified as non-autochthonous/non-indigenous in Column K
M	Code	Multifunctional forestry: 1 Other specific purpose (to be indicated in Column N): 2
N	Text	Other information (see also Columns B, C and M)

Where any column does not need to be completed, NA will be used to indicate *not applicable*, in order to distinguish it from the situation in which it is blank due to missing information.

Columns F, G, H and J do not need to be completed for basic material of the type parents of family(ies), clone or clonal mixture.

5. Abbreviations of the botanical name of tree species and artificial hybrids thereof to be used for column B of the national list as presented in Part A of this Annex

Botanical name	var. / sp.	Abbreviation
<i>Abies alba</i> Mill.		aal
<i>Abies cephalonica</i> Loud.		ace
<i>Abies grandis</i> Lindl.		agr
<i>Abies pinsapo</i> Boiss.		api
<i>Acer platanoides</i> L.		apl
<i>Acer pseudoplatanus</i> L.		aps
<i>Alnus glutinosa</i> Gaertn.		agl
<i>Alnus incana</i> Moench.		ain
<i>Betula pendula</i> Roth.		bpe
<i>Betula pubescens</i> Ehrh.		bpu
<i>Carpinus betulus</i> L.		cbe
<i>Castanea sativa</i> Mill.		csa
<i>Cedrus atlantica</i> Carr.		cat
<i>Cedrus libani</i> A. Richard		cli
<i>Fagus sylvatica</i> L.		fsy
<i>Fraxinus angustifolia</i> Vahl.		fan
<i>Fraxinus excelsior</i> L.		fex

Botanical name	var. / sp.	Abbreviation
<i>Larix decidua</i> Mill.		lde
<i>Larix x eurolepis</i> Henry		leu
<i>Larix kaempferi</i> Carr.		lka
<i>Larix sibirica</i> Ledeb.		lsi
<i>Picea abies</i> Karst.		pab
<i>Picea sitchensis</i> Carr.		psi
<i>Pinus brutia</i> Ten.		pbr
<i>Pinus canariensis</i> C. Smith		pca
<i>Pinus cembra</i> L.		pce
<i>Pinus contorta</i> Loud.		pco
<i>Pinus halepensis</i> Mill.		pha
<i>Pinus leucodermis</i> Antoine		ple
<i>Pinus nigra</i> Arnold	var. <i>austriaca</i> var. <i>calabrica</i> var. <i>corsicana</i> var. <i>maritima</i> var. <i>clusiana</i>	pni
<i>Pinus pinaster</i> Ait.		ppa
<i>Pinus pinea</i> L.		ppe
<i>Pinus radiata</i> D. Don		pra
<i>Pinus sylvestris</i> L.		psy
<i>Populus</i> spp. and artificial hybrids between those species	<i>alba</i> <i>canadensis</i> <i>nigra</i> <i>tremula</i> etc.	pop
<i>Prunus avium</i> L.		pav
<i>Pseudotsuga menziesii</i> Franco		pme
<i>Quercus cerris</i> L.		qce
<i>Quercus ilex</i> L.		qil
<i>Quercus petraea</i> Liebl.		qpe
<i>Quercus pubescens</i> Willd.		qpu
<i>Quercus robur</i> L.		qro
<i>Quercus rubra</i> L.		qru
<i>Quercus suber</i> L.		qsu
<i>Robinia pseudoacacia</i> L.		rps
<i>Tilia cordata</i> Mill.		tco
<i>Tilia platyphyllos</i> Scop.		tpl

COMMISSION REGULATION (EC) No 1598/2002**of 6 September 2002****laying down detailed rules for the application of Council Directive 1999/105/EC as regards the provision of mutual administrative assistance by official bodies**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material ⁽¹⁾, and in particular Article 16(4) thereof,

Whereas:

- (1) In accordance with Article 16(1) of Directive 1999/105/EC, Member States are required to ensure, by an official control system, that forest reproductive material from individual units of approval or lots remains clearly identifiable through the entire process from collection to delivery to the end user.
- (2) In order to ensure the proper functioning of the control system, official bodies need to obtain appropriate information on the marketing of reproductive material by registered suppliers and the suppliers' documents issued by them. Under Article 16(3) of Directive 1999/105/EC suppliers are to provide official bodies with records containing such appropriate information.
- (3) If during the process from collection to delivery to the end user forest reproductive material moves from one Member State to another, the appropriate information on the marketing prior to the entry into the control system of the receiving Member State can be obtained by the official body of the receiving Member State only through the official body of the Member State of the supplier. To ensure that such information is communicated in a timely and efficient manner, it is appropriate to establish a standardised procedure for its exchange.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS REGULATION:

Article 1

1. Where forest reproductive material moves from one Member State to another, the official body of the Member State

in which the supplier is based shall provide information to the official body of the Member State in which the recipient is based. The information shall be provided by means of an Information Document in a standardised format as set out in the Annex. The information shall be transmitted (by post, facsimile, e-mail or other electronic means) not later than three months after the date of dispatch of the forest reproductive material by the supplier.

2. In the case where the official body of a Member State in which the recipient is based requires information in addition to that on the Information Document referred to in paragraph 1, the official body of the Member State in which the supplier is based shall assist in every way possible to obtain and supply that information.

Article 2

If, in the framework of official inspection activities, the official body of a Member State needs information, samples or other evidence which can only be obtained in another Member State, the official body of that other Member State shall upon specific request assist in every way possible to obtain and supply such information, samples or other evidence.

Article 3

Whenever questions as regards the authenticity of the forest reproductive material arise, the relevant official bodies shall cooperate to resolve the problem as quickly as possible.

Article 4

If an official body of the Member State in which the supplier is based discovers that incorrect information has been provided by a supplier, that official body shall immediately notify the official body of the Member State(s) to which that information was supplied.

Article 5

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

It shall apply to material dispatched after 31 December 2002.

⁽¹⁾ OJ L 11, 15.1.2000, p. 17.

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

Done at Brussels, 6 September 2002.

For the Commission
David BYRNE
Member of the Commission

ANNEX

MODEL FOR 'INFORMATION DOCUMENT'

Information document for reproductive material moving between Member States

Issued in accordance with Article 16(2) of Directive 1999/105/EC

DOCUMENT No:

It is hereby notified that the forest reproductive material described below has been despatched in accordance with the abovementioned EC Directive.

1. Supplier's document number:
2. Date of despatch of reproductive material:
3. Master certificate reference:

4. Name and address of supplier:

5. Name and address of receiver:

6. Botanical name:

7. Nature of reproductive material:

- | | |
|---------------------------------|--------------------------|
| (a) Seeds | <input type="checkbox"/> |
| (b) Parts of plants | <input type="checkbox"/> |
| (c) Planting stock (bare root) | <input type="checkbox"/> |
| (d) Planting stock (containers) | <input type="checkbox"/> |

9. Type of basic material:

- | | |
|-------------------------|--------------------------|
| (a) Seed source | <input type="checkbox"/> |
| (b) Stand | <input type="checkbox"/> |
| (c) Seed orchard | <input type="checkbox"/> |
| (d) Parents of families | <input type="checkbox"/> |
| (e) Clone | <input type="checkbox"/> |
| (f) Clonal mixture | <input type="checkbox"/> |

8. Category of reproductive material:

- | | | |
|-----------------------|--------------------------|--|
| (a) Source-Identified | <input type="checkbox"/> | |
| (b) Selected | <input type="checkbox"/> | |
| (c) Qualified | <input type="checkbox"/> | |
| (d) Tested | <input type="checkbox"/> | Provisionally <input type="checkbox"/> |

10. Purpose:

11. National register reference of basic material:

- | | | | | | |
|-------------------|--------------------------|-------------------|--------------------------|---------|--------------------------|
| 12. Autochthonous | <input type="checkbox"/> | Non-autochthonous | <input type="checkbox"/> | Unknown | <input type="checkbox"/> |
| Indigenous | <input type="checkbox"/> | Non-indigenous | <input type="checkbox"/> | | |

13. Country and region of provenance or location of basic material:

14. Origin of basic material if non-autochthonous or non-indigenous:

15. Quantity of reproductive material:

16. Length of time in nursery: 17. Year(s) in which seed ripened:

18. Has the basic material been genetically modified? Yes ☐ No ☐

19. Has there been subsequent vegetative propagation of material derived from seed? Yes ☐ No ☐

20. Name and address of official body:

21. Name of responsible officer:

.....
Signature

COMMISSION REGULATION (EC) No 1599/2002
of 6 September 2002
amending representative prices and additional duties for the import of certain products in the
sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽³⁾, as last amended by Regulation (EC) No 624/98 ⁽⁴⁾, and in particular the second subparagraph of Article 1(2), and Article 3(1) thereof,

Whereas:

- (1) The amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1153/2002 ⁽⁵⁾, as amended by Regulation (EC) No 1453/2002 ⁽⁶⁾.

- (2) It follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 7 September 2002.

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

Done at Brussels, 6 September 2002.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 141, 24.6.1995, p. 16.

⁽⁴⁾ OJ L 85, 20.3.1998, p. 5.

⁽⁵⁾ OJ L 170, 29.6.2002, p. 27.

⁽⁶⁾ OJ L 213, 9.8.2002, p. 20.

ANNEX

to the Commission Regulation of 6 September 2002 altering representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(EUR)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	16,59	8,03
1701 11 90 ⁽¹⁾	16,59	14,33
1701 12 10 ⁽¹⁾	16,59	7,82
1701 12 90 ⁽¹⁾	16,59	13,82
1701 91 00 ⁽²⁾	22,66	14,54
1701 99 10 ⁽²⁾	22,66	9,38
1701 99 90 ⁽²⁾	22,66	9,38
1702 90 99 ⁽³⁾	0,23	0,41

⁽¹⁾ For the standard quality as defined in Annex I, point II to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

⁽²⁾ For the standard quality as defined in Annex I, point I to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

⁽³⁾ By 1 % sucrose content.

COMMISSION DIRECTIVE 2002/76/EC**of 6 September 2002****amending the Annexes to Council Directives 86/362/EEC and 90/642/EEC as regards the fixing of maximum levels for pesticide residues (metsulfuron methyl) in and on cereals and certain products of plant origin, including fruit and vegetables****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 86/362/EEC of 24 July 1986 on the fixing of maximum levels for pesticide residues in and on cereals ⁽¹⁾, as last amended by Commission Directive 2002/71/EC ⁽²⁾, and in particular Article 10 thereof,

Having regard to Council Directive 90/642/EEC of 27 November 1990 on fixing of maximum levels for pesticide residues in and on certain products of plant origin including fruit and vegetables ⁽³⁾, as last amended by Directive 2002/71/EC, and in particular Article 7 thereof,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽⁴⁾, as last amended by Commission Directive 2002/64/EC ⁽⁵⁾, and in particular Article 4(1)(f) thereof,

Whereas:

- (1) The existing active substance metsulfuron methyl, was included in Annex I to Directive 91/414/EEC by Commission Directives 2000/49/EC ⁽⁶⁾, for use as herbicides, but without specifying particular conditions having an impact on crops which may be treated with plant protection products containing this active substance.
- (2) The inclusion in Annex I to Directive 91/414/EEC of the active substance concerned was based on the assessment of the information submitted concerning the proposed use. Information relating to this use has been submitted by certain Member States in accordance with Article 4(1)(f) of Directive 91/414/EEC. The information available has been reviewed and is sufficient to allow certain maximum residue levels (MRLs) to be fixed.
- (3) Where no Community MRL or provisional MRL exists, Member States are to establish a national provisional MRL in accordance with Article 4(1)(f) of Directive 91/

414/EEC before plant protection products containing this active substance may be authorised.

- (4) With respect to the inclusion in Annex I to Directive 91/414/EEC of the active substance concerned, the related technical and scientific evaluations were finalised in the form of Commission review report. The report was finalised on 16 June 2000. The report fixed the Acceptable Daily Intake (ADI) for metsulfuron methyl at 0,22 mg/kg bw/day. The lifetime exposure of consumers of food products treated with the active substance concerned has been assessed and evaluated in accordance with Community procedures. Account has also been taken of guidelines published by the World Health Organisation ⁽⁷⁾ and the opinion of the Scientific Committee for Plants ⁽⁸⁾ on the methodology employed. It is concluded that MRLs proposed will not lead to those ADIs being exceeded. No acute toxic effects requiring the setting of an Acute Reference Dose were noted during the evaluation and discussion preceding the inclusion of metsulfuron methyl in Annex I to Directive 91/414/EEC.
- (5) In order to ensure that the consumer is adequately protected from exposure to residues in or on products for which no authorisations have been granted, it is prudent to set provisional MRLs at the lower limit of analytical determination for all such products covered by Directives 86/362/EEC and 90/642/EEC.
- (6) The setting at Community level of such provisional MRLs does not prevent the Member States from establishing provisional maximum residue levels for metsulfuron methyl in accordance with Article 4(1)(f) of Directive 91/414/EEC and Annex VI thereto. It is considered that a period of four years is sufficient to permit further uses of the active substance concerned. The provisional MRL should then become definitive.
- (7) The Annexes to Directives 86/362/EEC and 90/642/EEC should therefore be amended accordingly.

⁽¹⁾ OJ L 221, 7.8.1986, p. 37.

⁽²⁾ OJ L 225, 22.8.2002, p. 21.

⁽³⁾ OJ L 350, 14.12.1990, p. 71.

⁽⁴⁾ OJ L 230, 19.8.1991, p. 1.

⁽⁵⁾ OJ L 189, 18.7.2002, p. 27.

⁽⁶⁾ OJ L 197, 3.8.2000, p. 32.

⁽⁷⁾ Guidelines for predicting dietary intake of pesticide residues (revised), prepared by the GEMS/Food Programme in collaboration with the Codex Committee on Pesticide Residues, published by the World Health Organisation 1997 (WHO/FSF/FOS/97.7).

⁽⁸⁾ Opinion of the Scientific Committee on Plants regarding questions relating to amending the Annexes to Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC (Opinion expressed by the Scientific Committee on Plants, 14 July 1998) (http://europa.eu.int/comm/food/fs/sc/index_en.html).

- (8) The Commission notified this Directive in draft form to the World Trade Organisation and the comments received have been considered in finalising the Directive. The possibility of fixing import tolerance MRLs for specific pesticide/crop combinations will be examined by the Commission on the basis of the acceptable data submitted.
- (9) This Directive is in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The following maximum pesticide residue level is added to Part A of Annex II to Directive 86/362/EEC:

Pesticide residue	Maximum level in mg/kg
Metsulfuron-methyl	0,05 (*) (p) Cereals

(*) indicates lower limit of analytical determination.

(p) indicates provisional maximum residue level in accordance with Article 4(1)(f) of Directive 91/414/EEC: unless amended, this level will become definitive with effect from 4 years from date of coming into force of the Directive introducing this amendment.'

Article 2

The maximum pesticide residue levels for metsulfuron methyl as shown in the Annex to this Directive are added to Annex II to Directive 90/642/EEC.

Article 3

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2002 at the latest. They shall forthwith inform the Commission thereof.

They shall apply these provisions with effect from 1 January 2003.

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

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 6 September 2002.

For the Commission

David BYRNE

Member of the Commission

ANNEX

'Groups and examples of individual products to which the MRLs apply	Pesticide residue and maximum residue levels (mg/kg)
	Metsulfuron methyl
1. Fruit, fresh, dried or uncooked, preserved by freezing, not containing added sugar; nuts	0,05 (*) (P)
(i) CITRUS FRUIT	
Grapefruit	
Lemons	
Limes	
Mandarins (including clementines and other hybrids)	
Oranges	
Pomelos	
Others	
(ii) TREE NUTS (shelled or unshelled)	
Almonds	
Brazil nuts	
Cashew nuts	
Chestnuts	
Coconuts	
Hazelnuts	
Macadamia	
Pecans	
Pine nuts	
Pistachios	
Walnuts	
Others	
(iii) POME FRUIT	
Apples	
Pears	
Quinces	
Others	
(iv) STONE FRUIT	
Apricots	
Cherries	
Peaches (including nectarines and similar hybrids)	
Plums	
Others	
(v) BERRIES AND SMALL FRUIT	
(a) Table and wine grapes	
Table grapes	
Wine grapes	
(b) Strawberries (other than wild)	
(c) Cane fruit (other than wild)	
Blackberries	
Dewberries	
Loganberries	
Raspberries	
Others	
(d) Other small fruit and berries (other than wild)	
Bilberries	
Cranberries	

Groups and examples of individual products to which the MRLs apply	Pesticide residue and maximum residue levels (mg/kg)
	Metsulfuron methyl
Currants (red, black and white) Gooseberries Others (e) Wild berries and wild fruit (vi) MISCELLANEOUS Avocados Bananas Dates Figs Kiwi Kumquats Litchis Mangoes Olives Passion fruit Pineapples Pomegranate Others	
2. Vegetables, fresh or uncooked, frozen or dry	0,05 (*) (p)
(i) ROOT AND TUBER VEGETABLES Beetroot Carrots Celeriac Horseradish Jerusalem artichokes Parsnips Parsley root Radishes Salsify Sweet potatoes Swedes Turnips Yam Others	
(ii) BULB VEGETABLES Garlic Onions Shallots Spring onions Others	
(iii) FRUITING VEGETABLES (a) Solanacea Tomatoes Peppers Aubergines Others (b) Cucurbits — edible peel Cucumbers Gherkins Courgettes Others	

Groups and examples of individual products to which the MRLs apply	Pesticide residue and maximum residue levels (mg/kg)
	Metsulfuron methyl
(c) Cucurbits — inedible peel Melons Squashes Watermelons Others (d) Sweet corn (iv) BRASSICA VEGETABLES (a) Flowering brassica Broccoli Cauliflower Others (b) Head brassica Brussels sprouts Head cabbage Others (c) Leafy brassica Chinese cabbage Kale Others (d) Kohlrabi (v) LEAF VEGETABLES AND FRESH HERBS (a) Lettuce and similar Cress Lamb's lettuce Lettuce Scarole Others (b) Spinach and similar Spinach Beet leaves (chard) Others (c) Watercress (d) Witloof (e) Herbs Chervil Chives Parsley Celery leaves Others (vi) LEGUME VEGETABLES (fresh) Beans (with pods) Beans (without pods) Peas (with pods) Peas (without pods) Others (vii) STEM VEGETABLES (fresh) Asparagus Cardoons Celery Fennel	

Groups and examples of individual products to which the MRLs apply	Pesticide residue and maximum residue levels (mg/kg)
	Metsulfuron methyl
Globe artichokes	
Leek	
Rhubarb	
Others	
(viii) FUNGI	
(a) Cultivated mushrooms	
(b) Wild mushrooms	
3. Pulses	0,05 (*) (p)
Beans	
Lentils	
Peas	
Others	
4. Oil seeds	0,1 (*) (p)
Linseed	
Peanuts	
Poppy seeds	
Sesame seeds	
Sunflower seed	
Rape seed	
Soya bean	
Mustard seed	
Cotton seed	
Others	
5. Potatoes	0,05 (*) (p)
Early potatoes	
Ware potatoes	
6. Tea (leaves and stems, dried, fermented or otherwise, from the leaves of <i>Camellia sinensis</i>)	0,1 (*) (p)
7. Hops (dried), including hop pellets and unconcentrated powder	0,1 (*) (p)

(*) Indicates lower limit of analytical determination

(p) Indicates provisional maximum residue level in accordance with Article 4(1)(f) of Directive 91/414/EEC: unless amended, this level will become definitive with effect from 4 years from date of coming into force of the Directive introducing this amendment.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 14 August 2002

amending Decision 97/634/EC accepting undertakings offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of farmed Atlantic salmon originating in Norway

(2002/743/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 2238/2000 ⁽²⁾, and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community ⁽³⁾, and in particular Article 13 thereof,

After consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

- (1) On 31 August 1996, by means of two separate notices published in the *Official Journal of the European Communities*, the Commission announced the initiation of an anti-dumping proceeding ⁽⁴⁾ and an anti-subsidy proceeding ⁽⁵⁾ in respect of imports of farmed Atlantic salmon (the product concerned) originating in Norway.
- (2) These proceedings resulted in anti-dumping and countervailing duties being imposed in September 1997 by Council Regulations (EC) No 1890/97 ⁽⁶⁾ and (EC) No 1891/97 ⁽⁷⁾ in order to eliminate the injurious effects of dumping and subsidisation.

- (3) In parallel to this, by Decision 97/634/EC ⁽⁸⁾, as last amended by Decision 2002/157/EC ⁽⁹⁾, the Commission accepted undertakings from 190 Norwegian exporters and imports of the product concerned to the Community by these companies were exempted from the said anti-dumping and countervailing duties.
- (4) The form of the duties was later reviewed and Regulations (EC) No 1890/97 and (EC) No 1891/97 were replaced by Regulation (EC) No 772/1999 ⁽¹⁰⁾, as last amended by Regulation (EC) No 322/2002 ⁽¹¹⁾.
- (5) Following indications that the existing measures may not be achieving their intended results, an interim review of the measures ⁽¹²⁾ was initiated in February 2002 pursuant to Article 11(3) of Council Regulation (EC) No 384/96 (the basic Anti-Dumping Regulation) and Article 19(1) of Council Regulation (EC) No 2026/97 (the basic Anti-Subsidy Regulation).
- (6) Having reason to suspect that certain companies were not observing the terms of their undertakings, by Regulation (EC) No 452/2002 ⁽¹³⁾ (the Registration Regulation) and pursuant to Article 14(5) of the basic Anti-Dumping Regulation and Article 16(4) of the basic Anti-Subsidy Regulation, the Commission made imports by Norwegian companies with undertakings subject to registration. The duration of the Registration Regulation was extended for a further period by Regulation (EC) No 1008/2002 ⁽¹⁴⁾. Consequently, in the event of a finding

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 257, 11.10.2000, p. 2.

⁽³⁾ OJ L 288, 21.10.1997, p. 1.

⁽⁴⁾ OJ C 253, 31.8.1996, p. 18.

⁽⁵⁾ OJ C 253, 31.8.1996, p. 20.

⁽⁶⁾ OJ L 267, 30.9.1997, p. 1.

⁽⁷⁾ OJ L 267, 30.9.1997, p. 19.

⁽⁸⁾ OJ L 267, 30.9.1997, p. 81.

⁽⁹⁾ OJ L 51, 22.2.2002, p. 32.

⁽¹⁰⁾ OJ L 101, 16.4.1999, p. 1.

⁽¹¹⁾ OJ L 51, 22.2.2002, p. 1.

⁽¹²⁾ OJ C 53, 20.2.2002, p. 10.

⁽¹³⁾ OJ L 72, 14.3.2002, p. 7.

⁽¹⁴⁾ OJ L 153, 13.6.2002, p. 9.

of a breach or withdrawal of an undertaking, duties may be levied retroactively on goods entered into free circulation in the Community from the date of the breach or withdrawal of the undertaking.

B. BREACHES OF THE UNDERTAKINGS

1. Obligations of companies with undertakings

- (7) The undertakings offered by the Norwegian companies oblige them, *inter alia*, to export the product concerned to the Community at or above certain minimum import price levels (MIPs) laid down in the undertaking. These MIPs, which eliminate the injurious effects of dumping, are applicable to different 'presentations' or categories of the product concerned (e.g. 'presentation b — gutted fish, head-on'). A degree of flexibility is built into the MIPs whereby an exporter can make some export transactions for the product concerned at prices below the MIP (i.e. down to 85 % of the MIP), as long as the net weighted average sales price for all transactions in the quarter for the presentation concerned is at or above the MIP.
- (8) The terms of the undertakings also oblige the companies to provide the Commission with regular and detailed information in the form of a quarterly report of their sales to the Community (or resales by any related parties in the Community) of farmed Atlantic salmon. It is stipulated in Clause E.10 of the undertakings that such reports are to be received by the Commission no later than 30 days from the end of each quarter.
- (9) Pursuant to Article 8(7) of the basic Anti-Dumping Regulation, the Commission performs on-spot verification visits on a regular basis at the premises of selected companies in order to determine the veracity and accuracy of the information provided in their quarterly reports.

2. Nordic Group ASA

- (10) At one company visited, Nordic Group ASA (UT No 1/111, TARIC Additional Code 8217), it was found that the net weighted average sales prices for 'presentation b' salmon during one quarter of 2001 was significantly below the MIP fixed in clause C.3 of its undertaking.
- (11) As a breach of the undertaking had occurred, the company was informed of the essential facts and considerations on the basis of which it was intended to withdraw the Commission's acceptance of its undertaking and also that of a related company (see recital 18), and to recommend the imposition of definitive anti-dumping and countervailing duties. A period was granted within which representations could be made both in writing

and orally. Comments received were taken into account where appropriate.

- (12) While Nordic Group ASA did not deny that the weighted average sales price of 'presentation b' salmon for the quarter in question was below the MIP level, it was, however, claimed that there were mitigating circumstances for this. It was stated that employees of Nordic Group ASA had verbal instructions concerning the use of the salmon undertaking's '15 % flexibility' clause (see recital 7) and that great care was to be taken to ensure that sales to a customer below the MIP were counterbalanced by sales above the MIP. In this regard, it was claimed that one employee wilfully disobeyed this instruction over a period of time between January and March 2001 and it was the action of this person which led to the breach of the undertaking. The employee concerned not only sold salmon below prices necessary to achieve compliance with the quarterly MIP, but also issued credit notes against the instructions of the company. Nordic Group ASA therefore argued that the action of this person was beyond the control of the company and that the breach was the consequence of *force majeure*.
- (13) It was also stated that the company became suspicious of the actions of the employee in question in the early part of 2001 following unexpectedly low margins being achieved on sales to the country in the Community for which that person was responsible. Based on these suspicions, the employee was confronted and placed under 'administrative surveillance' from mid-February 2001 until the person's final departure from the company on 31 March 2001. It was established, however, that during this period of administrative surveillance, the employee continued to make sales to the Community at prices which contributed to the average price for the period falling below the MIP.
- (14) It was the view of the company that it could not be held responsible for the actions of its employee vis-à-vis the non-respect of the MIP for the quarter in question. The Commission does not share this view as it is considered that a company must normally be held responsible for its employees' actions carried out in the course of his or her employment. In the present case, the company detected problems with regard to its sales prices early in the quarter and confronted the person concerned and placed the employee under scrutiny. However, despite this, the company continued to make sales at prices which were not in conformity with the undertaking, therefore the claim that *force majeure* occurred cannot be accepted.

(15) It was also submitted that there should exist a reasonable relationship between action taken by the Community institutions within the framework of the present system of price undertakings for farmed Atlantic salmon originating in Norway and the intended aims of these measures. In this regard it was argued that this was '... probably a one-time incident ...' unique to Nordic Group ASA, and that such a situation would be unlikely to occur again in the salmon industry. In consequence, the company submitted, that if the Commission were to take no action with regard to the price violation, this would not lead to a deterioration in the overall market prices and therefore the effectiveness of the system of undertakings currently in force for the product concerned.

(16) The Commission does not share this view and considers that since an individual undertaking was offered by the company concerned, it is obliged to respect that undertaking and to take effective measures to ensure its compliance. Indeed, it is only through each company observing its undertakings on an individual basis (or having acceptance withdrawn if they do not), that the collective system of undertakings can function. In addition, given the nature and transparency of the Community market for salmon, the argument of Nordic Group ASA that the actions of a single company in selling below the MIP does not have a more general 'knock on' effect on market prices is not considered to be accurate.

(17) The arguments presented by the company do not alter the Commission's initial view that a breach of the undertaking occurred as it failed to demonstrate that the violation was due to *force majeure*. In any event, the issue of proportionality is not relevant to the decision to impose a duty as any breach of the undertaking is sufficient ground for its withdrawal.

(18) It is also noted that Nordic Group ASA has a fully owned subsidiary company in Norway called Northern Seafood A/S and that this company also has an undertaking accepted by the Commission (UT No 1/121, TARIC Additional Code 8307). In order to make the action to be taken against a company which has been found to have committed a price violation effective, and to prevent it in the future from simply channelling its exports through its related company with an undertaking, it is considered appropriate to withdraw the undertakings of the violating company and its related companies and to impose definitive anti-dumping and countervailing duties against them. Nordic Group ASA was advised of this but made no comment.

(19) In the light of the above, the names of Nordic Group ASA and Northern Seafood A/S should be deleted from

the Annex to Decision 97/634/EC which lists the companies from which undertakings are accepted.

3. Norexport A/S, Nor-Fa Fish AS and Norfra Eksport A/S

(20) It was also found that the net weighted average sales prices for 'presentation b' salmon sold to the Community during certain quarters of 2001 by three other Norwegian companies, Norexport A/S (UT No 1/113, TARIC Additional Code 8223), Nor-Fa Fish AS (UT No 1/191, TARIC Additional Code 8102) and Norfra Eksport A/S (UT No 1/116, TARIC Additional Code 8229) were also below the MIP fixed in clause C.3 of their undertakings.

(21) As breaches of the undertakings appeared to have occurred, the companies were informed of the essential facts and considerations on the basis of which the Commission's acceptance of their undertakings might be withdrawn (preliminary disclosure) and the imposition of definitive anti-dumping and countervailing duties in their place. A period was granted within which representations could be made both in writing and orally, however, only one of these companies submitted comments and requested a hearing.

(22) During the hearing, the company confirmed that the weighted average sales price of presentation b salmon for the quarter in question was below the MIP level. It was, however, claimed that there were mitigating circumstances for this as the prices of its Norwegian competitors were also, allegedly, below the MIPs and that this was the only way it could sell to the Community.

(23) The fact that there are indications that other companies may be breaching their undertakings does not mean that a company has *carte blanche* not to respect its undertaking. Accordingly a breach of the undertaking by the company concerned has occurred.

(24) As concerns the other two companies which received preliminary disclosure, one also confirmed that it had sold salmon at prices below the MIPs and the other did not respond.

(25) Accordingly, breaches of the undertakings were considered to have occurred and the three companies were therefore informed of the essential facts and considerations on the basis of which the Commission's acceptance of their undertakings would be withdrawn and of the recommendation to impose definitive anti-dumping and countervailing duties against them (final disclosure). No new facts or legal comments were received subsequent to the final disclosure.

- (26) Accordingly, the names of Norexport A/S, Nor-Fa Fish AS and Norfra Eksport A/S should be deleted from the Annex to Decision 97/634/EC which lists the companies from which undertakings are accepted.

4. Sangoltgruppa A/S

- (27) For one quarter of 2001, another Norwegian company, Sangoltgruppa A/S (UT No 1/151, TARIC Additional Code 8262) failed to present its sales report within the due deadline. It should be noted that the company had received a reminder by fax just prior to the deadline for submitting the report that its report had not yet been received by the Commission.
- (28) As a breach of the undertaking appeared to have occurred, the company was informed of the essential facts and considerations on the basis of which the Commission's acceptance of its undertaking might be withdrawn and a recommendation made to impose definitive anti-dumping and countervailing duties against it (i.e. preliminary disclosure). The company was also granted a period within which to make representations subsequent to this disclosure both in writing and orally.
- (29) It was stated in writing that a change in the company's ownership had occurred and that the new owners did not realise that they had an obligation to report their sales, however, no evidence was provided which showed that the late submission of the report was caused by reasons beyond the control of the company. It was therefore considered that the company had taken insufficient steps to ensure compliance with its undertaking and that a breach of the undertaking by Sangoltgruppa A/S had occurred.
- (30) The company was informed of the essential facts and considerations on the basis of which the Commission's acceptance of its undertaking would be withdrawn (i.e. final disclosure) and of the recommendation to impose definitive anti-dumping and countervailing duties against it and was granted a further period within which to make representations subsequent to this disclosure.
- (31) The company subsequently reiterated that it had been sold during 2001 by its owner (Company A), to another Norwegian company (Company B). This was followed later in 2001 by the re-sale of Sangoltgruppa A/S to another company (Company C), which is related to Company A.
- (32) As Sangoltgruppa A/S was owned by Company A when it failed to submit the report in time and that this breach occurred before Sangoltgruppa A/S was purchased by its current owner, it was claimed that the new owner should not lose the benefit of the undertaking due to the failure of the previous owner of the company to respect the undertaking. In this regard, the company cited a case held before a WTO Panel and the WTO Appellate Body (US — CVD on UK bismuth steel, WT/DS138/R, 23

December 1999) where, it was argued, the European Communities had taken a contradictory position to the one being considered in the present case involving Sangoltgruppa A/S.

- (33) In this regard, it should be remembered that the price undertaking in question was accepted from the limited company, Sangoltgruppa A/S, which has a legal personality, and not from Companies A, B or C. Indeed, whilst it is a normal fact of commercial life that the ownership of a limited liability company can change as different shareholders buy or sell stakes in that company, despite these changes in the shareholding, the legal identity of the company remains the same. It is therefore the legal person, Sangoltgruppa A/S, which has the obligation to respect the undertaking, regardless of who constitutes the shareholders of the company at any given time. As concerns the argument that this approach is inconsistent with the arguments made by the European Communities in WTO case referred to above, it should be recalled that the case in question involved the granting in the past of aid to a State owned, nationalised company which was then sold off to the private sector. It was argued by the European Communities that a private purchaser of a company at fair market value obtains no benefit from aid previously granted to the seller and that any benefit stream established for the purposes of allocating the benefit granted to the previous owner ceases to apply. It follows that any comparison of these circumstances to the circumstances of the take-over of Sangoltgruppa A/S, and its failure to respect the undertaking is incorrect.
- (34) Moreover, it should be stressed that if the company's reasoning were to be considered as valid, this would mean that the change of ownership of Sangoltgruppa A/S, while not affecting its corporate name, was such as to entail substantive changes which would clearly affect the considerations on which the acceptance of the undertaking was originally based. In accordance with the Commission's consistent practice in this respect, and despite the absence of a change of name, the likely result of such a conclusion would be that the supposedly 'new' company (i.e. under new ownership), could not continue to keep the undertaking previously accepted by the Commission, a result with which Sangoltgruppa A/S would also presumably not have agreed.
- (35) The company then submitted that the wording of the undertakings means that the Commission is not obliged to impose anti-dumping and countervailing duties whenever there is a violation of a formal nature, as is the case here, and that it has discretionary powers in this regard. It was also argued that as the breach was of a minor nature and that as '... no harm has been caused to the Community industry as a result of this procedural violation', the Commission's discretion should be exercised and duties should not be imposed particularly as to do so would be punitive in its view.

- (36) It should first be pointed out that in accordance with Article 8(7) of the basic Anti-Dumping Regulation and Article 13(7) of the basic Anti-Subsidy Regulation, failure to comply with the obligation to provide relevant information (e.g. non-compliance with any of the reporting requirements) '... shall be construed as a breach of the undertaking'. Furthermore, in accordance with Article 8(9) of the basic Anti-Dumping Regulation and Article 13(9) of the basic Anti-Subsidy Regulation, a definitive duty shall be imposed, in case of a breach of the undertaking. It is considered that these Articles underline the 'stand alone' importance of the reporting obligation. This is further emphasised by the clear and precise language of the undertakings themselves in which the reporting obligation is set out.
- (37) In the present case, however, whilst it was not disputed that the sales report was submitted after the due deadline by Sangoltgruppa A/S, and whilst *force majeure* was claimed by the company as having occurred, no evidence was provided which showed that the late receipt of the report in question was caused by reasons beyond the control of the company. It is therefore considered that the conditions for applying the *force majeure* criteria not have been met.
- (38) As concerns the argument that formal violations (stemming from failure to observe the reporting obligations) are of a secondary nature to price violations, the Commission does not share this opinion. In particular in a proceeding such as the present case where many individual price undertakings are simultaneously in force, the timely submission of undertaking reports by all the parties concerned in the correct format is the key for effective monitoring by the Commission. In these circumstances, compliance with the reporting formalities must be regarded as forming part of the primary obligations of the undertakings, in so far as those formalities are not only intended to simplify administrative procedures, but are also necessary for the proper functioning of the undertaking system as a whole.
- (39) It follows with regard to the question of whether harm has been done to the Community industry by the company concerned that, as breaches of a formal nature put the efficacy of the undertakings system into jeopardy (a system set up to specifically defend the Community salmon producers from injurious dumping and subsidisation), the Commission must consider that the violation is detrimental to those producers. In any event, the supposed gravity of the breach or its consequences for Community producers is not relevant to the decision to impose a duty as any breach of the undertaking is sufficient ground for its withdrawal.
- (40) As concerns whether the reimposition of duties is 'punitive', it should be recalled that undertakings should have the same effect as duties in removing the injurious effects of dumping or subsidisation. Accordingly, the reimposition of duties in case of a breach of an undertaking is not a 'punishment', but a way of restoring and ensuring the effectiveness of the anti-dumping and anti-subsidy measures originally imposed.
- (41) In its submission, the company also referred to the action taken in Commission Decision 2002/157/EC⁽¹⁾ whereby a new undertaking was accepted from a Norwegian company (Gje-Vi AS) which had acceptance of its original undertaking withdrawn in 1998, and Council Regulation (EC) No 322/2002⁽²⁾ which exempted the said company from the anti-dumping and anti-subsidy duties.
- (42) It was argued that the circumstances surrounding the acceptance of the new undertaking from this company (*inter alia*, changed circumstances, different internal management structure and no reason to believe that the same breach would re-occur if a new undertaking were to be accepted) reflect the situation in Sangoltgruppa A/S after its most recent change of ownership. Because of these alleged parallels, it was submitted that there was no need to withdraw acceptance of Sangoltgruppa A/S's undertaking.
- (43) In this regard, it should be recalled that Gje-Vi AS had requested a partial interim review pursuant to Article 11(3) of the basic Anti-Dumping Regulation and Article 19(1) of the basic Anti-Subsidy Regulation and that the Commission's decision as to whether or not acceptance of another undertaking from that company would be appropriate were based on the verified findings of that review. In addition, the review in question was initiated after a period of more than three years had elapsed since acceptance of the original undertaking had been withdrawn and that the company was able to prove that the circumstances had changed and that it had introduced new management controls, etc. (see Regulation (EC) No 322/2002, recitals 10 and following).
- (44) In the case of Sangoltgruppa A/S, no such review investigation has been carried out and no reasonable time period as required under the basic Anti-Dumping and Anti-Subsidy Regulations has elapsed since the violation occurred. Therefore, as the Commission is not in a position to make any determination as to what the company might or might not do in the future, the argument of the company on this point must be rejected.
- (45) Accordingly, the name of this company should be deleted from the Annex to Decision 97/634/EC.

⁽¹⁾ OJ L 51, 22.2.2002, p. 32.

⁽²⁾ OJ L 51, 22.2.2002, p. 1.

5. Kr Kleiven & Co A/S, Seaco A/S and Mesan Holding AS

- (46) Three other Norwegian companies with undertakings namely Kr Kleiven & Co A/S (UT No 1/80, TARIC Additional Code 8182), Seaco A/S (UT No 1/157, TARIC Additional Code 8268) and Mesan Holding AS (UT No 1/194, TARIC Additional Code A034), failed to present their sales reports for one or more quarters of 2001. It should be noted that all the companies had received reminders by fax just prior to the deadline for submitting the reports that their reports had not yet been received by the Commission.
- (47) As breaches of their undertaking appeared to have occurred, the companies were informed of the essential facts and considerations on the basis of which the Commission's acceptance of their undertakings might be withdrawn and a recommendation made to impose definitive anti-dumping and countervailing duties against them. The companies were also granted a period within which to make representations subsequent to this disclosure both in writing, and orally, however, none of them responded.
- (48) In the absence of any information to the contrary, breaches of the undertakings are therefore considered to have occurred and, accordingly, the companies were informed of the essential facts and considerations on the basis of which the Commission's acceptance of their undertakings would be withdrawn and of the recommendation to impose definitive anti-dumping and countervailing duties against them. No responses were received from any of the companies in this regard.
- (49) It is therefore considered appropriate to withdraw acceptance of the undertaking of these companies and to impose definitive anti-dumping and countervailing duties against them. Accordingly, the names of Kr Kleiven & Co A/S, Seaco A/S and Mesan Holding AS should be deleted from the Annex to Decision 97/634/EC.

6. Johan J. Helland A/S

- (50) Another Norwegian company with an undertaking, Johan J. Helland A/S (UT No 1/77, TARIC Additional Code 8179), failed to present its sales reports for one reporting period of 2001 within the due time limit.
- (51) As a breach of its undertaking appeared to have occurred, the company was informed of the essential facts and considerations on the basis of which the Commission's acceptance of its undertakings might be withdrawn and a recommendation made to impose definitive anti-dumping and countervailing duties against it. The company was also granted a period within which to make representations subsequent to this disclosure both in writing and orally. The company made a written submission, but did not request to be heard.

- (52) It was not disputed that the report was submitted late but the company claimed that the late submission of the report was caused due to internal problems, however, no evidence was provided which demonstrated that these reasons were caused by circumstances beyond its control. Consequently, a breach of its undertaking has occurred.
- (53) It is therefore considered appropriate to withdraw acceptance of the undertaking of this company and to impose definitive anti-dumping and countervailing duties against it. Accordingly, the name of Johan J. Helland A/S should also be deleted from the Annex to Decision 97/634/EC.

7. Oskar Einar Rydbeck

- (54) In order to allow the effective monitoring of the undertakings accepted within the framework of the measures, parties are required by Clause E.11 of their undertakings to '... cooperate in providing whatever information is considered necessary by the European Commission for the purpose of ensuring compliance with this undertaking ...'.
- (55) In this regard, the Commission considers it necessary to update its records periodically concerning parties in Norway with undertakings and any relationships these parties may have, directly or indirectly, with other parties in Norway and/or the European Union.
- (56) Accordingly, a short questionnaire was sent to all parties with undertakings requesting details of such relationships. In view of the importance of this information to the Commission, the parties were clearly warned that non-submission of the information requested within the deadline set would be considered as a breach of the undertaking. In such a case, and in accordance with Article 8(9) of the basic Anti-Dumping Regulation and Article 13(9) of the basic Anti-Subsidy Regulation, parties were advised that the Commission would propose withdrawing acceptance of their undertakings and imposing anti-dumping duties and countervailing duties in their place.
- (57) In this regard, Oskar Einar Rydbeck, a sole proprietor (UT No 1/198, TARIC Additional Code A050) failed to submit at all the information requested. As a breach of the undertaking appeared to have occurred, Mr Rydbeck was informed of the essential facts and considerations on the basis of which the Commission's acceptance of its undertaking might be withdrawn and a recommendation made to impose definitive anti-dumping and countervailing duties against him. He was also granted a period within which to make representations subsequent to this disclosure both in writing, and orally, however, he did not respond.

- (58) As no evidence was provided by Mr Rydbeck which showed that the non-submission of the information considered necessary by the Commission was caused by reasons beyond his control, a breach of the undertaking has therefore occurred. He was therefore informed of the essential facts and considerations on the basis of which the Commission's acceptance of his undertaking would be withdrawn and of the recommendation to impose definitive anti-dumping and countervailing duties against it, however, no response was received.
- (59) It is therefore considered appropriate to withdraw acceptance of the undertaking of this exporter and to impose definitive anti-dumping and countervailing duties against it. Accordingly, the name of Oskar Einar Rydbeck should also be deleted from the Annex to Decision 97/634/EC.
- (60) It should also be noted that the Norwegian company Norexport A/S mentioned in recitals 20 and following also failed to fulfil its undertaking obligations by not providing the information requested concerning relationships with other parties. Accordingly, in addition to the breaches set out concerning price violations, Norexport A/S is also considered to have breached its undertaking in respect of Clause E.11 thereof as well.

C. NEW EXPORTERS AND CHANGES OF NAME

1. New exporters

- (61) Since the original imposition of definitive anti-dumping and countervailing duties, certain Norwegian companies have made themselves known to the Commission, claiming to be new exporters, and requested, in accordance with Article 2 of Regulation (EC) No 772/1999 in conjunction with Article 11(4) of Regulation (EC) No 384/96 and Article 20 of Regulation (EC) No 2026/97, that the exemption to the duties be extended to them.
- (62) In this regard, seven such exporters, Athena Seafoods AS, Norsk Havfisk A/S, Rodé Vis International AS, Seaborn AS, Triton AS, Nordlaks Produkter AS and Codfarms AS all demonstrated that they had not exported the product concerned to the Community during the investigation period which led to the current anti-dumping and countervailing duties.
- (63) The companies also showed that they are not related to any of the companies in Norway which are subject to anti-dumping and countervailing duties. In addition, they provided evidence that they had entered into irrevocable contractual obligations to export a significant amount of the product concerned to the Community.
- (64) The companies have offered undertakings which are identical to those previously accepted from other Norwegian companies exporting farmed Atlantic salmon originating in Norway. By doing so, they have all agreed, *inter*

alia, to respect the minimum import prices laid down therein and to provide the Commission with regular and detailed information concerning their exports to the Community.

- (65) Since the undertakings offered by the companies concerned can be monitored by the Commission in the same way as those already in place, and they eliminate the injurious effects of dumping and subsidisation, the offers are considered acceptable. The companies have all been informed of the essential facts, considerations and obligations upon which this acceptance is based.
- (66) Notwithstanding the fact that the anti-dumping and anti-subsidy measures are currently subject to an interim review, the names of Athena AS, Norsk Havfisk AS, Rodé Vis International AS, Seaborn AS, Triton AS, Nordlaks Produkter AS and Codfarms AS should nevertheless be added in the meantime to the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC.

2. Changes of name

- (67) Four Norwegian exporters with undertakings, Borkowski & Rosnes A/S (UT No 1/26, TARIC Additional Code 8124), Fjord Seafood ASA (UT No 1/43, TARIC Additional Code 8140), Sea-Bell A/S (UT No 1/156, TARIC Additional Code 8267) and Astor A/S (UT No 1/22, TARIC Additional Code 8120), advised the Commission that the groups of companies to which they belonged had been re-organized and that other companies within their respective groups were now responsible for exports of salmon to the Community. Borkowski & Rosnes A/S therefore requested that its name be replaced by that of Rossa Salmon AS on the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC, and the names of Fjord Seafood ASA, by that of Fjord Marin Sales AS, Sea-Bell A/S by that of Sea Bell Salmon AS and Astor A/S by that of Midnor Processing AS on the same list.
- (68) The Commission considers after verification that the requests are all acceptable since the modifications do not entail any substantive changes which would affect the re-assessment of dumping or subsidisation, nor do they affect any of the considerations on which the acceptance of the undertaking was based.
- (69) Consequently, the names of Borkowski & Rosnes A/S, Fjord Seafood ASA, Sea-Bell A/S and Astor A/S should be changed to Rossa Salmon AS, Fjord Marin Sales AS, Sea Bell Salmon AS and Midnor Processing AS respectively on the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC.

D. AMENDMENT OF THE ANNEX TO DECISION 97/634/EC

- (70) In view of all the preceding, the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC should be amended accordingly.
- (71) The Advisory Committee has been consulted on all of the above and has raised no objections.
- (72) For the sake of clarity, an updated version of the Annex to that Decision is published herewith, showing all the exporters whose undertakings are currently in force.
- (73) In parallel to this Decision, the Council, by Regulation (EC) No 1593/2002 ⁽¹⁾ has also withdrawn the exemption from the anti-dumping and anti-subsidy duties granted to Nordic Group ASA, Northern Seafood A/S, Norexport A/S, Nor-Fa Fish AS, Norfra Eksport A/S, Sangoltgruppa A/S, Kr Kleiven & Co A/S, Seaco A/S, Mesan Holding AS, Johan J. Helland A/S and Oskar Einar Rydbeck; granted exemption from those duties to Athena Seafoods AS, Norsk Havfisk A/S, Rodé Vis International AS, Seaborn AS, Triton AS, Nordlaks Produkter AS and Codfarms AS, and changed the names of Borkowski & Rosnes A/S, Fjord Seafood ASA, Sea-Bell A/S and Astor A/S to Rossa Salmon AS, Fjord Marin Sales AS, Sea Bell Salmon AS and Midnor Processing AS respectively, by amending the Annex to Council Regulation (EC) No 772/1999.

E. RETROACTIVE COLLECTION OF DUTIES

- (74) As mentioned previously, imports of the product concerned are currently subject to registration by customs authorities, thus allowing the possibility of retroactive collection of anti-Dumping and anti-subsidy duties in cases of breach or withdrawal of undertakings.
- (75) However, as the breaches of the undertaking by the various companies set out in this Decision all occurred prior to the entry into force of the Registration Regulation, as extended (and were identified by the Commission with final disclosure thereof notified to the companies concerned also before entry into force of the Registration

Regulation), it has been decided not to impose duties retroactively in this particular case,

HAS DECIDED AS FOLLOWS:

Article 1

1. The undertakings offered by the following companies: Athena Seafoods AS, Norsk Havfisk A/S, Rodé Vis International AS, Seaborn AS, Triton AS, Nordlaks Produkter AS and Codfarms AS in connection with the anti-dumping and anti-subsidy proceedings concerning imports of farmed Atlantic salmon originating in Norway are hereby accepted.

2. The acceptance of undertakings offered by the following exporters: Nordic Group ASA, Northern Seafood A/S, Norexport A/S, Nor-Fa Fish AS, Norfra Eksport A/S, Sangoltgruppa A/S, Kr Kleiven & Co A/S, Seaco A/S, Mesan Holding AS, Johan J. Helland A/S and Oskar Einar Rydbeck in connection with the anti-dumping and anti-subsidy proceedings concerning imports of farmed Atlantic salmon originating in Norway is hereby withdrawn.

Article 2

The Annex to Decision 97/634/EC is replaced by the Annex hereto.

Article 3

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

Done at Brussels, 14 August 2002.

For the Commission

Pascal LAMY

Member of the Commission

⁽¹⁾ See page 22 of this Official Journal.

ANNEX

LIST OF COMPANIES FROM WHICH UNDERTAKINGS ARE ACCEPTED

UT No	Company name	TARIC additional code
3	Rosfjord Seafood AS	8325
7	Aqua Export A/S	8100
8	Aqua Partner A/S	8101
11	Arctic Group International	8109
13	Artic Superior A/S	8111
15	A/S Aalesundfisk	8113
16	Austevoll Eiendom AS	8114
17	A/S Keco	8115
20	A/S Refsnes Fiskeindustri	8118
21	A/S West Fish Ltd	8119
22	Midnor Processing AS	8120
24	Atlantic Seafood A/S	8122
26	Rossa Salmon AS	8124
27	Brødrene Aasjord A/S	8125
31	Christiansen Partner A/S	8129
32	Clipper Seafood A/S	8130
33	Coast Seafood A/S	8131
35	Dafjord Laks A/S	8133
39	Domstein Fish A/S	8136
41	Ecco Fisk & Delikatesse	8138
42	Edvard Johnsen A/S	8139
43	Fjord Marin Sales AS	8140
44	Euronor AS	8141
46	Fiskeforsyningen AS	8143
47	Fjord Aqua Group AS	8144
48	Fjord Trading Ltd AS	8145
50	Fossen AS	8147
51	Fresh Atlantic AS	8148

UT No	Company name	TARIC additional code
52	Fresh Marine Company AS	8149
56	Gje-Vi AS	8153
58	Grieg Seafood AS	8300
61	Hallvard Lerøy AS	8303
62	Fjord Seafood Måløy A/S	8304
66	Marine Harvest Norway AS	8159
67	Hydrotech gruppen AS	8428
72	Inter Sea AS	8174
75	Janas A/S	8177
76	Joh. H. Pettersen AS	8178
79	Karsten J. Ellingsen AS	8181
82	Labeyrie Norge AS	8184
83	Lafjord Group AS	8185
85	Leica Fiskeprodukter	8187
87	Lofoten Seafood Export AS	8188
92	Marine Seafood AS	8196
96	Memo Food AS	8200
98	Misundfisk AS	8202
100	Naco Trading AS	8206
101	Fjord Seafood Midt-Norge A/S	8207
104	Nergård AS	8210
105	Nils Williksen AS	8211
107	Nisja Trading AS	8213
108	Nor-Food AS	8214
112	Nordreisa Laks AS	8218
114	Norfi Produkter AS	8227
115	Norfood Group AS	8228
119	Norsk Akvakultur AS	8232
120	Norsk Sjømat AS	8233
122	Nortrade AS	8308
123	Norway Royal Salmon Sales AS	8309
124	Norway Royal Salmon AS	8312
126	Frionor AS	8314

UT No	Company name	TARIC additional code
128	Norwell AS	8316
137	Pan Fish Sales AS	8242
140	Polar Salmon AS	8247
141	Prilam Norvège AS	8248
142	Pundslett Fisk	8251
144	Olsen Seafood AS	8254
145	Marine Harvest Rogaland AS	8256
146	Rørvik Fisk- og fiskematforretning AS	8257
147	Saga Lax Norge AS	8258
148	Prima Nor AS	8259
153	Scanfood AS	8264
154	Sea Eagle Group AS	8265
155	Sea Star International AS	8266
156	Sea Bell Salmon AS	8267
158	Seacom AS	8269
160	Seafood Farmers of Norway Ltd AS	8271
161	Seanor AS	8272
162	Sekkingstad AS	8273
164	Sirena Norway AS	8275
165	Kinn Salmon AS	8276
167	Fjord Seafood Sales AS	8278
168	SMP Marine Produkter AS	8279
172	Stjernelaks AS	8283
174	Stolt Sea Farm AS	8285
175	Storm Company AS	8286
176	Superior AS	8287
178	Terra Seafood AS	8289
180	Timar Seafood AS	8294
182	Torris Products Ltd AS	8298
183	Troll Salmon AS	8317
188	Vikenco AS	8322
189	Wannebo International AS	8323
190	West Fish Norwegian Salmon AS	8324

UT No	Company name	TARIC additional code
193	F. Uhrenholt Seafood Norway AS	A033
195	Polaris Seafood AS	A035
196	Scanfish AS	A036
197	Normarine AS	A049
199	Emborg Foods Norge AS	A157
200	Helle Mat AS	A158
201	Norsea Food AS	A159
202	Salmon Company Fjord Norway AS	A160
203	Stella Polaris AS	A161
204	First Salmon AS	A205
205	Norlaks A/S	A206
206	Atlantis AS	A257
207	Cape Fish AS	A258
208	Athena Seafoods AS	A379
209	Norsk Havfisk AS	A380
210	Rodé Vis International AS	A381
211	Seaborn AS	A382
212	Triton AS	A383
213	Nordlaks Produkter AS	A386
214	Codfarms AS	A400

COMMISSION DECISION
of 5 September 2002
setting out the arrangements for Community comparative trials and tests on propagating material
of ornamental plants under Council Directive 98/56/EC

(notified under document number C(2002) 3300)

(Text with EEA relevance)

(2002/744/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants ⁽¹⁾, and in particular Article 14(2) and (4) thereof,

Whereas:

- (1) Directive 98/56/EC provides for the necessary arrangements to be made by the Commission for Community comparative trials and tests of propagating material.
- (2) Adequate representation of the samples included in the trials and tests should be ensured, at least for certain selected plants.
- (3) Member States should participate in the Community comparative trials and tests, in so far as seeds of the plants concerned are usually reproduced or marketed in their territories, in order to ensure that proper conclusions may be drawn therefrom.
- (4) The technical arrangements for the carrying out of the trials and tests have been made within the Standing Committee for Propagating Materials of Ornamental Plants.
- (5) Community comparative trials and tests should be carried out from 2002 to 2005 on propagating material harvested in 2002, and the details of such trials and tests should also be set out.
- (6) For Community comparative trials and tests lasting more than one year, the parts of the trials and tests following the first year should be authorised by the Commission without further reference to the Standing Committee on Propagating Material of Ornamental Plants, on condition that the necessary appropriations are available.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Propagating Material of Ornamental Plants,

HAS ADOPTED THIS DECISION:

Article 1

Community comparative trials and tests shall be carried out from 2002 to 2005 on propagating material of the plants listed in the Annex.

The maximum cost for the trials and tests for 2002 and 2003 shall be as set out in the Annex.

The details of the trials and tests are set out in the Annex.

Article 2

All Member States shall participate in the Community comparative trials and tests in so far as seeds and propagating material of the plants listed in the Annex are usually reproduced or marketed in their territories.

Article 3

Subject to budgetary availability, the Commission may decide to continue the trials and tests set out in the Annex in 2004 and 2005.

The maximum cost of a trial or test continued on this basis shall not exceed the amount specified in the Annex.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 5 September 2002.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 226, 13.8.1998, p. 16.

ANNEX

Trials and tests to be carried out in 2002

Species	Responsible body	Conditions to be assessed	Number of Samples	Cost (EUR)
Bulbs of flowers (<i>Narcissus</i>)	BKD Lisse (NL)	Varietal identity and purity (field) and plant health (laboratory)	80	42 800
Total cost				42 800

Trials and tests to be carried out in 2003

Species	Responsible body	Conditions to be assessed	Number of samples	Cost (EUR)
Seed propagated ornamental plants <i>Petunia</i> , <i>Lobelia</i> <i>Lathyrus</i>	NAKT Roelofarendsveen (NL)	Varietal identity and purity (field) External seed quality (laboratory)	80	37 000
Bulbs of flowers (*) (<i>Narcissus</i>)	BKD Lisse (NL)	Varietal identity and purity (field) and plant health (laboratory)	80	21 400
Ornamental plants (*) <i>Chamaecyparis</i> <i>Ligustrum vulgare</i> <i>Euphorbia fulgens</i>	NAKT Roelofarendsveen (NL)	Varietal identity and purity	40	12 400
		Plant health (field)	40	
		Plant health (laboratory)	20	
Total cost				70 800

(*) Trial and tests lasting more than one year.

Trials and tests to be carried out in 2004

Species	Responsible body	Conditions to be assessed	Number of samples	Cost (EUR)
Ornamental plants (*) <i>Chamaecyparis</i> <i>Ligustrum vulgare</i> <i>Euphorbia fulgens</i>	NAKT Roelofarendsveen (NL)	Varietal identity and purity	40	3 700 (**)
		Plant health (field)	40	
		Plant health (laboratory)	20	
Bulbs of flowers (*) (<i>Narcissus</i>)	BKD Lisse (NL)	Varietal identity and purity (field) and plant health (laboratory)	80	21 400 (**)
Total cost				25 100 (**)

(*) Trial and tests lasting more than one year.

(**) Estimated cost.

Trials and tests to be carried out in 2005

Species	Responsible body	Conditions to be assessed	Number of samples	Cost (EUR)
Ornamental plants (*) <i>Chamaecyparis Ligustrum vulgare Euphorbia fulgens</i>	NAKT Roelofarendsveen (NL)	Varietal identity and purity	40	33 600 (**)
		Plant health (field)	40	
		Plant health (laboratory)	20	
Total cost				33 600 (**)

(*) Trial and tests lasting more than one year.

(**) Estimated cost.

COMMISSION DECISION
of 5 September 2002
setting out the arrangements for Community comparative trials and tests on propagating and
planting material of fruit plants under Council Directive 92/34/EEC

(notified under document number C(2002) 3302)

(Text with EEA relevance)

(2002/745/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/34/EEC of 28 April 1992 on the marketing of fruit plant-propagating material and fruit plants, intended for fruit production ⁽¹⁾, as last amended by Commission Decision 2002/112/EC ⁽²⁾, and in particular Articles 20(2) and (4) thereof,

Whereas:

- (1) Directive 92/34/EEC provides for the necessary arrangements to be made by the Commission for Community comparative trials and tests of propagating and planting material.
- (2) Adequate representativity of the samples included in the trials and tests should be ensured, at least for certain selected plants.
- (3) Member States should participate in the Community comparative trials and tests, in so far as propagating and planting material of *Prunus domestica* is usually reproduced or marketed in their territories, in order to ensure that proper conclusions may be drawn therefrom.
- (4) Community comparative trials and tests should be carried out from 2003 to 2007 on propagating and planting material harvested in 2002, and the details of such trials and tests should also be set out.
- (5) For Community comparative trials and tests lasting more than one year, the parts of the trials and tests following the first year should be authorised by the Commission without further reference to the Standing Committee on Propagating Material and Plants of Fruit Genera and Species, on condition that the necessary appropriations are available.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Propagating Material and Plants of Fruit Genera and Species,

HAS ADOPTED THIS DECISION:

Article 1

Community comparative trials and tests shall be carried out from 2003 to 2007 on propagating and planting material of *Prunus domestica*.

The maximum cost for the trials and tests for 2003 shall be as set out in the Annex.

The details of the trials and tests are set out in the Annex.

Article 2

All Member States shall participate in the Community comparative trials and tests in so far as propagating and planting material of *Prunus domestica* is usually reproduced or marketed in their territories.

Article 3

Subject to budgetary availability, the Commission may decide to continue the trials and tests set out in the Annex in the period 2004 to 2007.

The maximum cost of a trial or test continued on this basis shall not exceed the amount specified in the Annex.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 5 September 2002.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 157, 10.6.1992, p. 10.

⁽²⁾ OJ L 41, 13.2.2002, p. 44.

ANNEX

Trials and tests on *Prunus domestica* (*) to be carried out

Year	Responsible body	Conditions to be assessed	Number of samples	Cost (EUR)
2003	NAKT Roelofarendsveen (NL)	Varietal identity and purity (field), Plant health (laboratory)	50	16 000
2004	Same	Same	Same	8 000 (**)
2005	Same	Same	Same	10 900 (**)
2006	Same	Same	Same	11 100 (**)
2007	Same	Same	Same	29 100 (**)
			Total cost	75 100

(*) Trials and tests lasting more than one year.

(**) Estimated cost.