

Official Journal

of the European Union

ISSN 1725-2555

L 275

Volume 46

25 October 2003

English edition

Legislation

Contents

I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 1869/2003 of 20 October 2003 on the conclusion of the Agreement in the form of an Exchange of Letters concerning the extension of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Community and the Government of Mauritius on fishing in Mauritian waters for the period 3 December 2002 to 2 December 2003** 1
- Commission Regulation (EC) No 1870/2003 of 24 October 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables 3
- ★ **Commission Regulation (EC) No 1871/2003 of 23 October 2003 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff** 5
- Commission Regulation (EC) No 1872/2003 of 22 October 2003 authorising transfers between the quantitative limits of textiles and clothing products originating in the Republic of Korea 7
- ★ **Commission Regulation (EC) No 1873/2003 of 24 October 2003 amending Annex II to Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin ⁽¹⁾** 9
- ★ **Commission Regulation (EC) No 1874/2003 of 24 October 2003 approving the national scrapie control programmes of certain Member States, and defining additional guarantees, and granting derogations concerning breeding programmes for TSE resistance in sheep pursuant to Decision 2003/100/EC ⁽¹⁾** 12
- Commission Regulation (EC) No 1875/2003 of 24 October 2003 opening an invitation to tender for the refund on export of wholly milled round-grain rice to certain third countries 14
- Commission Regulation (EC) No 1876/2003 of 24 October 2003 opening an invitation to tender for the refund on export of wholly milled medium-grain and long-grain A rice to certain third countries 17

⁽¹⁾ Text with EEA relevance

(Continued overleaf)

Commission Regulation (EC) No 1877/2003 of 24 October 2003 opening an invitation to tender for the refund on export of wholly milled and parboiled long-grain B rice to certain third countries	20
Commission Regulation (EC) No 1878/2003 of 24 October 2003 opening an invitation to tender for the subsidy on consignments of husked long-grain B rice to Réunion	23
Commission Regulation (EC) No 1879/2003 of 24 October 2003 suspending the buying-in of butter in certain Member States	25
★ Commission Regulation (EC) No 1880/2003 of 24 October 2003 amending Council Regulation (EC) No 2368/2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds	26
★ Commission Regulation (EC) No 1881/2003 of 24 October 2003 laying down certain detailed rules on export licences and export refunds for certain milk products destined for Cyprus, Malta and Slovenia	30
★ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC ⁽¹⁾	32

II Acts whose publication is not obligatory

Commission

2003/765/EC:

★ Commission Decision of 23 October 2003 providing for the temporary marketing of certain seed of the species <i>Secale cereale</i> and <i>Triticum durum</i>, not satisfying the requirements of Council Directive 66/402/EEC ⁽¹⁾ (notified under document number C(2003) 3862)	47
--	-----------

2003/766/EC:

★ Commission Decision of 24 October 2003 on emergency measures to prevent the spread within the Community of <i>Diabrotica virgifera</i> Le Conte (notified under document number C(2003) 3880)	49
--	-----------

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1869/2003**of 20 October 2003**

on the conclusion of the Agreement in the form of an Exchange of Letters concerning the extension of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Community and the Government of Mauritius on fishing in Mauritian waters for the period 3 December 2002 to 2 December 2003

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community, and in particular Article 37 in conjunction with Article 300(2) and the first subparagraph of Article 300(3) thereof,

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

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

(1) In accordance with Article 12(3) of the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters ⁽³⁾, the Contracting Parties must enter into negotiations, before the end of the period of validity of the Protocol to the Agreement, in order to determine by common accord the terms of the Protocol for the following period and, where appropriate, any necessary amendments or additions to the Annex.

(2) Since, in the absence of information which it was awaiting, Mauritius was not ready to begin the negotiations, the two Parties decided to extend the existing Protocol ⁽⁴⁾ approved by Regulation (EC) No 444/2001 ⁽⁵⁾ for a period of one year by means of an Agreement in the form of an Exchange of Letters, pending the negotiations on the amendments to be made to the Protocol.

(3) It is in the Community's interest to approve that extension.

(4) The allocation of the fishing opportunities among the Member States should be confirmed,

⁽¹⁾ Proposal of 8 May 2003 (not yet published in the Official Journal).
⁽²⁾ Opinion delivered on 24 September 2003 (not yet published in the Official Journal).

⁽³⁾ OJ L 159, 10.6.1989, p. 2.

⁽⁴⁾ OJ L 180, 19.7.2000, p. 30.

⁽⁵⁾ OJ L 64, 6.3.2001, p. 1.

Article 1

The Agreement in the form of an Exchange of Letters concerning the extension of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Community and the Government of Mauritius on fishing in Mauritian waters for the period 3 December 2002 to 2 December 2003 ⁽⁶⁾ is hereby approved on behalf of the European Community.

Article 2

The fishing opportunities fixed in Article 1 of the Protocol shall be allocated among the Member States as follows:

- tuna seiners: France 20, Spain 20, Italy 2, United Kingdom 1,
- surface longliners: Spain 19, France 13, Portugal 8,
- vessels fishing by line: France 25 grt per month, based on an annual average.

If licence applications from these Member States do not cover all the fishing opportunities fixed by the Protocol, the Commission may take into consideration licence applications from any other Member State.

Article 3

The Member States whose vessels fish under the Agreement in the form of an Exchange of Letters shall notify the Commission of the quantities of each stock caught within the Mauritian fishing zone in accordance with Commission Regulation (EC) No 500/2001 ⁽⁷⁾.

Article 4

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

⁽⁶⁾ OJ L 147, 14.6.2003, p. 40.

⁽⁷⁾ OJ L 73, 15.3.2001, p. 8.

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

Done at Luxembourg, 20 October 2003.

For the Council

The President

P. MARONI

COMMISSION REGULATION (EC) No 1870/2003
of 24 October 2003
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 1947/2002 ⁽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 25 October 2003.

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

Done at Brussels, 24 October 2003.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 299, 1.11.2002, p. 17.

ANNEX

to the Commission Regulation of 24 October 2003 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	59,0
	060	45,7
	064	83,6
	096	42,2
	204	60,5
	999	58,2
0707 00 05	052	112,4
	999	112,4
0709 90 70	052	90,3
	999	90,3
0805 50 10	052	93,0
	388	55,2
	524	91,8
	528	69,7
	999	77,4
0806 10 10	052	111,5
	400	187,6
	508	328,3
	999	209,1
0808 10 20, 0808 10 50, 0808 10 90	052	61,0
	060	37,8
	388	76,1
	400	70,1
	404	79,8
	508	31,9
	720	39,9
	800	173,0
	804	104,8
	999	74,9
0808 20 50	052	87,4
	064	60,2
	720	43,9
	999	63,8

⁽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 1871/2003
of 23 October 2003**

amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽¹⁾, as last amended by Commission Regulation (EC) No 2176/2002 ⁽²⁾, and in particular Article 9(1)(a) thereof,

Whereas:

(1) Regulation (EEC) No 2658/87 established a goods nomenclature, hereinafter called the 'Combined Nomenclature'. The Combined Nomenclature is reproduced in Annex I to Regulation (EEC) No 2658/87.

(2) Commission Regulation (EC) No 535/94 of 9 March 1994 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽³⁾ introduced additional note 8 to Chapter 2 of the Combined Nomenclature, with a view to clarifying the classification of salted meat and edible meat offal falling in heading 0210 ('meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal'). This note was renumbered in 1995 as additional note 7.

(3) The classification in Chapter 2 of the Combined Nomenclature depends essentially on the process employed to ensure the long-term preservation of a given product. The General Harmonised System explanatory note to Chapter 2 describes the structure of that chapter. Chapter 2 covers uncooked meat and meat offal which are fresh or chilled or have undergone one of the various processes required for long-term preservation, i.e., uncooked meat and meat offal which are frozen or salted, in brine, dried or smoked.

(4) According to the said explanatory note, fresh meat remains classified as such even if it has been packed with salt as a temporary preserving agent during transport. This reasoning applies equally to frozen meat, otherwise

any meat to which salt has been added would be considered as salted meat of heading 0210. For the purposes of heading 0210, salting must be sufficient to ensure long-term preservation for purposes other than transportation. In this connection, it should be noted that the other processes listed in heading 0210, i.e., in brine, drying and smoking, are intended to ensure long-term preservation rather than to act as a temporary preserving agent for transport.

(5) It seems appropriate to clarify and confirm further that salting, within the meaning of heading 0210, is a process used to ensure long-term preservation.

(6) Additional note 7 to Chapter 2 of the Combined Nomenclature annexed as Annex I to Regulation (EEC) No 2658/87 should therefore be amended accordingly.

(7) The Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Additional note 7 to Chapter 2 of the Combined Nomenclature annexed as Annex I to Regulation (EEC) No 2658/87 is replaced by the following:

'For the purposes of heading 0210, the terms "meat and edible meat offal, salted, in brine" mean meat and edible meat offal deeply and homogeneously impregnated with salt in all parts and having a total salt content of not less than 1,2 % by weight, provided it is the salting which ensures long-term preservation.'

Article 2

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

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 331, 7.12.2002, p. 3.

⁽³⁾ OJ L 68, 11.3.1994, p. 15.

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

Done at Brussels, 23 October 2003.

For the Commission
Frederik BOLKESTEIN
Member of the Commission

**COMMISSION REGULATION (EC) No 1872/2003
of 22 October 2003**

**authorising transfers between the quantitative limits of textiles and clothing products originating
in the Republic of Korea**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries ⁽¹⁾, as last amended by Regulation (EC) No 138/2003 ⁽²⁾, and in particular Article 7 thereof,

Whereas:

- (1) The Agreement between the European Economic Community and the Republic of Korea on trade in textile products, initialled on 7 August 1986 and approved by Council Decision 87/471/EEC ⁽³⁾, as last amended by an Agreement in the form of an Exchange of Letters, initialled on 22 December 1994 and approved by Council Decision 95/131/EC ⁽⁴⁾, provides that transfers may be made between quota years.
- (2) The Republic of Korea submitted a request for transfers between quota years on 22 September 2003.
- (3) The transfers requested by the Republic of Korea fall within the limits of the flexibility provisions referred to in Article 7 of Regulation (EEC) No 3030/93 and set out in Annex VIII thereto.

- (4) It is appropriate to grant the request.
- (5) It is desirable for this Regulation to enter into force on the day after its publication in order to allow operators to benefit from it as soon as possible.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Textile Committee set up by Article 17 of Regulation (EEC) No 3030/93,

HAS ADOPTED THIS REGULATION:

Article 1

Transfers between the quantitative limits for textile goods originating in the Republic of Korea are authorised for the quota year 2003 in accordance with the Annex.

Article 2

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

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

Done at Brussels, 22 October 2003.

For the Commission

Pascal LAMY

Member of the Commission

⁽¹⁾ OJ L 275, 8.11.1993, p. 1.

⁽²⁾ OJ L 23, 28.1.2003, p. 1.

⁽³⁾ OJ L 263, 14.9.1987, p. 37.

⁽⁴⁾ OJ L 94, 26.4.1995, p. 1.

ANNEX

728 REPUBLIC OF KOREA				Adjusted working level	Adjustment — transfer between quantitative limits			
Group	Category	Unit	Limit 2003		Quantity	%	Flexibility	New adjusted working level
IA	1	kg	909 000	936 270	81 810	9	Carryover from 2002 + advance use from 2004	1 018 080
IB	4	piece	16 533 000	17 690 310	1 487 970	9	Carryover from 2002 + advance use from 2004	19 178 280
IB	5	piece	36 091 000	37 868 221	1 443 640	4	Advance use from 2004	39 311 861
IB	6	piece	6 535 000	6 861 750	261 400	4	Advance use from 2004	7 123 150
IIB	12	pair	220 639 000	238 290 120	19 857 510	9	Carryover from 2002 + advance use from 2004	258 147 630
IIB	28	piece	1 264 000	1 365 120	113 760	9	Carryover from 2002 + advance use from 2004	1 478 880
IIB	83	kg	461 000	497 880	41 490	9	Carryover from 2002 + advance use from 2004	539 370
IIIA	35	kg	10 525 000	11 367 000	947 250	9	Carryover from 2002 + advance use from 2004	12 314 250

**COMMISSION REGULATION (EC) No 1873/2003
of 24 October 2003**

**amending Annex II to Council Regulation (EEC) No 2377/90 laying down a Community procedure
for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of
animal origin**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2377/90 of 26 June 1990 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin ⁽¹⁾, as last amended by Commission Regulation (EC) No 1490/2003 ⁽²⁾, and in particular Articles 7 and 8 thereof,

Whereas:

- (1) In accordance with Regulation (EEC) No 2377/90, maximum residue limits should be established for all pharmacologically active substances that are used within the Community in veterinary medicinal products intended for administration to food-producing animals.
- (2) Maximum residue limits should be established after examination, within the Committee for Veterinary Medicinal Products (CVMP), of all the relevant information provided by applicants in accordance with the provisions of Regulation (EEC) No 2377/90 and taking into account all publicly available relevant scientific information concerning the safety of residues of the substance concerned for the consumer of foodstuffs of animal origin and in particular opinions of the Scientific Committee on Veterinary Measures related to Public Health (SCVPH) and the evaluations of the Joint FAO/WHO Expert Committee on Food Additives.
- (3) In establishing maximum residue limits for residues of veterinary medicinal products in foodstuffs of animal origin, it is necessary to specify relevant food obtained from the treated animal ('target tissue') as well as the nature of the residue that is relevant for the monitoring of residues ('marker residue'). In the case of veterinary medicinal products intended for use in lactating animals maximum residue limits must be established for milk.
- (4) Regulation (EEC) No 2377/90 provides that the establishment of maximum residue limits shall in no way prejudice the application of other relevant Community legislation.
- (5) Progesterone is a progestagen hormone. It is subject to restrictions of use and control measures provided for hormones established in Council Directive 96/22/EC of 29 April 1996 ⁽³⁾, as amended by Directive 2003/74/EC of the European Parliament and of the Council ⁽⁴⁾, which rules that hormones may be only administered to farm animals for therapeutic or zootechnical purposes under specified conditions.
- (6) The SCVPH repeatedly confirmed that the use of hormones for growth promotion purposes in meat production poses a potential health risk to consumers due to their intrinsic pharmacological and toxicological properties and epidemiological findings. However, at present the data available on progesterone are insufficient to make any quantitative estimate of the risk arising from the exposure to residues in meat and meat products originating from treated animals. No threshold levels can be defined for progesterone in this regard.
- (7) The CVMP considered in its initial and subsequent evaluations, that it was not necessary, for the protection of public health, to establish maximum residues limits for progesterone when used in veterinary medicinal products authorised in accordance with Community legislation. It has therefore proposed to include progesterone in the list in Annex II of Regulation (EEC) No 2377/90. According to Article 13 of Regulation (EEC) No 2377/90, Member States may not prohibit or impede the putting into circulation of foodstuffs of animal origin from other Member States on the grounds that they contain residues of veterinary medicinal products if the substances concerned are listed in Annex II thereof.
- (8) Animals also naturally produce progesterone. The level of endogenous secretion of progesterone in the animals is variable, depending notably on gender, age, breed and sexual cycle. Validated methods are available to detect progesterone in animal tissues. However, these methods cannot distinguish between naturally occurring hormones and residues of progesterone as a means of controlling that the restrictions of use established in Directive 96/22/EC are observed.

⁽¹⁾ OJ L 224, 18.8.1990, p. 1.

⁽²⁾ OJ L 214, 26.8.2003, p. 3.

⁽³⁾ OJ L 125, 23.5.1996, p. 3.

⁽⁴⁾ OJ L 262, 14.10.2003, p. 17.

- (9) According to Regulation (EC) No 178/2002 of the European Parliament and of the Council ⁽¹⁾, as amended by Regulation (EC) No 1642/2003 ⁽²⁾, risk management shall take into account the results of risk assessment and other factors legitimate to the matter under consideration, such as detection methods and feasibility of controls for the purpose of avoiding risks from misuse of such substances.
- (10) The Commission considers that safeguards as to the possibility of misuse of veterinary medicinal products containing progesterone are necessary. Restricting the terms of the use of progesterone to administration only via the intravaginal route in female animals of bovine, ovine, caprine and equine species provides this additional safeguard needed to avoid misuse as the relevant veterinary medicinal products cannot, due to their specific presentation, be realistically used for prohibited purposes. It is therefore considered appropriate to include progesterone in Annex II to Regulation (EEC) No 2377/90 in accordance with the Annex to the present

proposal for a Commission Regulation, which limits the use of progesterone to this specific purpose and product formulation.

- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Veterinary Medicinal Products,

HAS ADOPTED THE FOLLOWING REGULATION:

Article 1

Annex II to Regulation (EEC) No 2377/90 is hereby amended as set out in the Annex hereto.

Article 2

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

It shall apply from the 60th day following its publication.

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

Done at Brussels, 24 October 2003.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ OJ L 245, 29.9.2003, p. 4.

ANNEX

The following substance(s) is(are) inserted in Annex II to Regulation (EEC) No 2377/90:

2. Organic substances

Pharmacologically active substance(s)	Animal species
Progesterone (*)	Bovine, ovine, caprine, <i>Equidae</i> (female)
(*) Only for intravaginal therapeutic or zootechnical use and in accordance with the provisions of Directive 96/22/EC.	

**COMMISSION REGULATION (EC) No 1874/2003
of 24 October 2003**

approving the national scrapie control programmes of certain Member States, and defining additional guarantees, and granting derogations concerning breeding programmes for TSE resistance in sheep pursuant to Decision 2003/100/EC

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies ⁽¹⁾, as last amended by Commission Regulation (EC) No 1234/2003 ⁽²⁾, and in particular point (b)(ii) of section 1 of Chapter A of Annex VIII thereto,

Whereas:

(1) Regulation (EC) No 999/2001 provides for the approval of national scrapie control programmes of Member States if they comply with certain criteria laid down in that Regulation. Regulation (EC) No 999/2001 also provides for the definition of any additional guarantees which may be required for intra-Community trade and imports in accordance with that Regulation.

(2) Commission Decision 2003/100/EC of 13 February 2003 laying down minimum requirements for the establishment of breeding programmes for resistance to transmissible spongiform encephalopathies in sheep ⁽³⁾, provides that each Member State is to introduce a breeding programme to select for resistance to TSEs in certain sheep breeds. That Decision also provides for a possibility to derogate from the requirement for Member States to establish a breeding programme on the basis of their national scrapie control programme submitted and approved in accordance with Regulation (EC) No 999/2001, where it provides for the continuous active monitoring of dead-on-farm ovine and caprine animals in all flocks in that Member State.

(3) In the interests of animal health, national scrapie control programmes should only be approved where a Member State is likely to have a low prevalence, or absence of scrapie in its territory. On 7 March 2003 and 5 September 2003 respectively, Sweden and Denmark submitted national scrapie control programmes which are considered to meet the required criteria set out in Regulation (EC) No 999/2001 and both Member States

are likely to have a low prevalence, or absence, of scrapie in their territory. Accordingly, the national scrapie control programme of those Member States should be approved.

(4) On the basis of their national scrapie control programmes, Sweden and Denmark should be granted a derogation from the breeding programme provided for in Decision 2003/100/EC, and the additional trade guarantees required by Annex VIII, Chapter A, and Annex IX, Chapter E, to Regulation (EC) No 999/2001 should be laid down.

(5) National scrapie control programmes, together with the additional guarantees, may be approved and defined in the future for other Member States, as well as derogations from the requirement to establish breeding programmes. Accordingly, it is appropriate to provide for those measures in a Regulation.

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

HAS ADOPTED THIS REGULATION:

Article 1

Approval of national scrapie control programmes

The national scrapie control programmes of the Member States listed in the Annex are hereby approved.

Article 2

Additional guarantees relating to holdings

1. Ovine and caprine animals destined for the Member States listed in the Annex and coming from other Member States not listed in the Annex or third countries must have been kept continuously since birth on holdings which have satisfied the following conditions for a period of at least seven years prior to the date of dispatch of such animals:

(a) no cases of scrapie have been confirmed;

⁽¹⁾ OJ L 147, 31.5.2001, p. 1.

⁽²⁾ OJ L 173, 11.7.2003, p. 6.

⁽³⁾ OJ L 41, 14.2.2003, p. 41.

- (b) no eradication measures have been applied because of scrapie;
- (c) the holdings do not contain animals identified as animals at risk referred to in Article 13(1)(b) of Regulation (EC) No 999/2001.

2. Semen, embryos and ova from ovine and caprine animals, destined for Member States listed in the Annex and coming from other Member States not listed in the Annex or third countries must be obtained from donors kept continuously since birth on holdings fulfilling the conditions set out in paragraph 1.

Article 3

Official movement restrictions

1. Member States listed in the Annex shall apply the official movement restrictions provided for in paragraph 2 on holdings receiving ovine or caprine animals or semen, embryos and ova from ovine or caprine animals, for a period of seven years from the date of last receipt of those animals, semen, embryos and ova where:

- (a) the animals, semen, embryos and ova are received from other Member States not listed in the Annex or from third countries; and
- (b) scrapie has been confirmed during the three years prior to or after the date of dispatch of the animals, semen, embryos and ova in the Member State or third country of dispatch as referred to in point (a).

2. Holdings which receive animals, semen, embryos or ova meeting the conditions referred to in points (a) and (b) of paragraph 1 shall be placed under official restriction, so that ovine and caprine animals, semen, embryos and ova shall not enter or leave the holding except in the case of animals going directly for slaughter.

3. The movement restrictions outlined in paragraph 2 shall not be applied in the case of receipt of ovine animals of the ARR/ARR prion protein genotype, or of semen, embryos and ova from a donor of the ARR/ARR prion protein genotype.

Article 4

Derogations from the requirement to establish a breeding programme

Pursuant to the first indent of Article 3(1) of Decision 2003/100/EC, Member States listed in the Annex are hereby granted a derogation from the requirement to establish a breeding programme as provided for in Article 2(1) of that Decision.

Article 5

Entry into force

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

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

Done at Brussels, 24 October 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX

Member States whose national scrapie control programme has been approved

Sweden

Denmark.

COMMISSION REGULATION (EC) No 1875/2003**of 24 October 2003****opening an invitation to tender for the refund on export of wholly milled round-grain rice to certain third countries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Examination of the balance sheet shows that exportable amounts of rice are currently held by producers. This situation could affect the normal development of producer prices during the marketing year 2003/04.
- (2) In order to remedy this situation, it is appropriate to grant export refunds in respect of zones which may be supplied by the Community. The particular circumstances of the rice market makes it necessary to limit the refunds, and therefore to apply Article 13 of Regulation (EC) No 3072/95 enabling the amount of the export refund to be fixed by tendering procedure.
- (3) It should be stated that the provisions of Commission Regulation (EEC) No 584/75 of 6 March 1975 laying down detailed rules for the application of the system of tendering for export refunds on rice ⁽³⁾, as last amended by Regulation (EC) No 1948/2002 ⁽⁴⁾, apply to this invitation to tender.
- (4) With a view to sound market management, the tender should be limited to certain zones listed in the Annex to Commission Regulation (EEC) No 2145/92 ⁽⁵⁾, as amended by Regulation (EC) No 3304/94 ⁽⁶⁾, while some destinations should be excluded.
- (5) Under Article 14 of Commission Regulation (EC) No 2808/98 of 22 December 1998 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture ⁽⁷⁾, as last amended by Regulation (EC) No 816/2003 ⁽⁸⁾, the amounts quoted in tenders submitted in response to invitations to tender organised under an instrument forming part of the common agricultural policy must be expressed in euro. Article 5(1) of that Regulation provides that in such cases the operative event for the agricultural exchange rate is the final day

for the submission of tenders. Paragraphs 3 and 4 of that Article specify the operative events applicable to advances and securities.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. An invitation to tender is hereby opened for the refund on export of wholly milled round-grain rice falling within CN codes 1006 30 61 and 1006 30 92, referred to in Article 13 of Regulation (EC) No 3072/95, for zones I to VI (except for Hungary, Romania and Turkey) and for zone VIII (except for the Cooperative Republic of Guyana, Madagascar, the Republic of Suriname, the Netherlands Antilles, Aruba and the Turks and Caicos Islands), as specified in the Annex to Regulation (EEC) No 2145/92.

2. The invitation to tender shall be open until 17 June 2004. During that period regular invitations to tender shall be issued and the date for submission of tenders shall be set down in the notice of invitation to tender.

3. The invitation to tender shall take place in accordance with Regulation (EEC) No 584/75 and with the following provisions.

Article 2

A tender shall be admissible only if it covers a quantity for export of at least 50 tonnes but not more than 3 000 tonnes.

Article 3

The security referred to in Article 3 of Regulation (EEC) No 584/75 shall be EUR 30 per tonne.

Article 4

1. Notwithstanding Article 23(1) of Commission Regulation (EC) No 1291/2000 ⁽⁹⁾, export licences issued under this invitation to tender shall, for the purposes of determining their period of validity, be considered as having been issued on the day the tender was submitted.

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁴⁾ OJ L 299, 1.11.2002, p. 18.

⁽⁵⁾ OJ L 214, 30.7.1992, p. 20.

⁽⁶⁾ OJ L 341, 30.12.1994, p. 48.

⁽⁷⁾ OJ L 349, 24.12.1998, p. 36.

⁽⁸⁾ OJ L 116, 13.5.2003, p. 12.

⁽⁹⁾ OJ L 152, 24.6.2000, p. 1.

2. The licences shall be valid from their date of issue, within the meaning of paragraph 1, until the end of the fourth month following.

Article 5

Tenders submitted must reach the Commission through the Member States not later than one-and-a-half hours after expiry of the time limit for the submission of tenders as laid down in the notice of invitation to tender. They must be transmitted in accordance with the table given in the Annex.

If no tenders are submitted, the Member States shall inform the Commission accordingly within the same time limit as that given in the above subparagraph.

Article 6

The time set for submitting tenders shall be Belgian time.

Article 7

1. On the basis of the tenders submitted, the Commission shall decide in accordance with the procedure referred to in Article 22 of Regulation (EC) No 3072/95:

- either to fix a maximum export refund, taking account of the criteria laid down in Article 13 of Regulation (EC) No 3072/95,

— or not to take any action on the tenders.

2. Where a maximum export refund is fixed, an award shall be made to the tenderer or tenderers whose tenders are at or below the maximum export refund level.

Article 8

The time limit for submission of tenders for the first regular invitation to tender shall expire on 6 November 2003 at 10 a.m.

The final date for submission of tenders is hereby fixed at 17 June 2004.

Article 9

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

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

Done at Brussels, 24 October 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Invitation to tender for the refund on export of wholly milled round-grain rice to certain third countries

Closing date for the submission of tenders (date/time): ...

1	2	3	4
Serial No of tenderers	Quantities (in tonnes)	Amount of export refund (in EUR per tonne)	Minimum quantities (*) (in tonnes)
1			
2			
3			
4			
5			
Etc.			

(*) Referred to in Article 2(2)(e) of Regulation (EEC) No 584/75.

COMMISSION REGULATION (EC) No 1876/2003**of 24 October 2003****opening an invitation to tender for the refund on export of wholly milled medium-grain and long-grain A rice to certain third countries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Examination of the balance sheet shows that exportable amounts of rice are currently held by producers. This situation could affect the normal development of producer prices during the marketing year 2003/04.
- (2) In order to remedy this situation, it is appropriate to grant export refunds in respect of zones which may be supplied by the Community. The particular circumstances of the rice market makes it necessary to limit the refunds, and therefore to apply Article 13 of Regulation (EC) No 3072/95 enabling the amount of the export refund to be fixed by tendering procedure.
- (3) It should be stated that the provisions of Commission Regulation (EEC) No 584/75 of 6 March 1975 laying down detailed rules for the application of the system of tendering for export refunds on rice ⁽³⁾, as last amended by Regulation (EC) No 1948/2002 ⁽⁴⁾, apply to this invitation to tender.
- (4) With a view to sound market management, the tender should be limited to certain zones listed in the Annex to Commission Regulation (EEC) No 2145/92/94 ⁽⁵⁾, as amended by Regulation (EC) No 3304/94 ⁽⁶⁾, while some destinations should be excluded.
- (5) Under Article 14 of Commission Regulation (EC) No 2808/98 of 22 December 1998 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture ⁽⁷⁾, as last amended by Regulation (EC) No 816/2003 ⁽⁸⁾, the amounts quoted in tenders submitted in response to invitations to tender organised under an instrument forming part of the common agricultural policy must be expressed in euro. Article 5(1) of that Regulation provides that in such cases the operative event for the agricultural exchange rate is the final day

for the submission of tenders. Paragraphs 3 and 4 of that Article specify the operative events applicable to advances and securities.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. An invitation to tender is hereby opened for the refund on export of wholly milled medium-grain and long-grain A rice falling within CN codes 1006 30 63, 1006 30 65, 1006 30 94 and 1006 30 96 referred to in Article 13 of Regulation (EC) No 3072/95, for zones I to VI (except for Hungary, Romania and Turkey) and for zone VIII (except for the Cooperative Republic of Guyana, Madagascar, the Republic of Suriname, the Netherlands Antilles, Aruba and the Turks and Caicos Islands), as specified in the Annex to Regulation (EEC) No 2145/92.

2. The invitation to tender shall be open until 17 June 2004. During that period regular invitations to tender shall be issued and the date for submission of tenders shall be set down in the notice of invitation to tender.

3. The invitation to tender shall take place in accordance with Regulation (EEC) No 584/75 and with the following provisions.

Article 2

A tender shall be admissible only if it covers a quantity for export of at least 50 tonnes but not more than 3 000 tonnes.

Article 3

The security referred to in Article 3 of Regulation (EEC) No 584/75 shall be EUR 30 per tonne.

Article 4

1. Notwithstanding Article 23(1) of Commission Regulation (EC) No 1291/2000 ⁽⁹⁾, export licences issued under this invitation to tender shall, for the purposes of determining their period of validity, be considered as having been issued on the day the tender was submitted.

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁴⁾ OJ L 299, 1.11.2002, p. 18.

⁽⁵⁾ OJ L 214, 30.7.1992, p. 20.

⁽⁶⁾ OJ L 341, 30.12.1994, p. 48.

⁽⁷⁾ OJ L 349, 24.12.1998, p. 36.

⁽⁸⁾ OJ L 116, 13.5.2003, p. 12.

⁽⁹⁾ OJ L 152, 24.6.2000, p. 1.

2. The licences shall be valid from their date of issue, within the meaning of paragraph 1, until the end of the fourth month following.

Article 5

Tenders submitted must reach the Commission through the Member States not later than one-and-a-half hours after expiry of the time limit for the submission of tenders as laid down in the notice of invitation to tender. They must be transmitted in accordance with the table given in the Annex.

If no tenders are submitted, the Member States shall inform the Commission accordingly within the same time limit as that given in the above subparagraph.

Article 6

The time set for submitting tenders shall be Belgian time.

Article 7

1. On the basis of the tenders submitted, the Commission shall decide in accordance with the procedure referred to in Article 22 of Regulation (EC) No 3072/95:

- either to fix a maximum export refund, taking account of the criteria laid down in Article 13 of Regulation (EC) No 3072/95,

— or not to take any action on the tenders.

2. Where a maximum export refund is fixed, an award shall be made to the tenderer or tenderers whose tenders are at or below the maximum export refund level.

Article 8

The time limit for submission of tenders for the first regular invitation to tender shall expire on 6 November 2003 at 10 a.m.

The final date for submission of tenders is hereby fixed at 17 June 2004.

Article 9

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

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

Done at Brussels, 24 October 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Invitation to tender for the refund on export of wholly milled medium-grain and long-grain A rice to certain third countries

Closing date for the submission of tenders (date/time): ...

1	2	3	4
Serial No of tenderers	Quantities (in tonnes)	Amount of export refund (in EUR per tonne)	Minimum quantities (*) (in tonnes)
1			
2			
3			
4			
5			
Etc.			

(*) Referred to in Article 2(2)(e) of Regulation (EEC) No 584/75.

COMMISSION REGULATION (EC) No 1877/2003**of 24 October 2003****opening an invitation to tender for the refund on export of wholly milled and parboiled long-grain B rice to certain third countries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Examination of the balance sheet shows that exportable amounts of rice are currently held by producers. This situation could affect the normal development of producer prices during the marketing year 2003/04.
- (2) In order to remedy this situation, it is appropriate to grant export refunds in respect of zones which may be supplied by the Community. The particular circumstances of the rice market makes it necessary to limit the refunds, and therefore to apply Article 13 of Regulation (EC) No 3072/95 enabling the amount of the export refund to be fixed by tendering procedure.
- (3) It should be stated that the provisions of Commission Regulation (EEC) No 584/75 of 6 March 1975 laying down detailed rules for the application of the system of tendering for export refunds on rice ⁽³⁾, as last amended by Regulation (EC) No 1948/2002 ⁽⁴⁾, apply to this invitation to tender.
- (4) With a view to sound market management, the tender should be limited to certain zones listed in the Annex to Commission Regulation (EEC) No 2145/92/94 ⁽⁵⁾, as amended by Regulation (EC) No 3304/94 ⁽⁶⁾, while some destinations should be excluded.
- (5) Under Article 14 of Commission Regulation (EC) No 2808/98 of 22 December 1998 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture ⁽⁷⁾, as last amended by Regulation (EC) No 816/2003 ⁽⁸⁾, the amounts quoted in tenders submitted in response to invitations to tender organised under an instrument forming part of the common agricultural policy must be expressed in euro. Article 5(1) of that Regulation provides that in such cases the operative event for the agricultural exchange rate is the final day

for the submission of tenders. Paragraphs 3 and 4 of that Article specify the operative events applicable to advances and securities.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. An invitation to tender is hereby opened for the refund on export of wholly milled and parboiled long-grain B rice falling within CN code 1006 30 67, referred to in Article 13 of Regulation (EC) No 3072/95, for zones I to VI (except for Hungary, Romania and Turkey) and for zone VIII (except for the Cooperative Republic of Guyana, Madagascar, the Republic of Suriname, the Netherlands Antilles, Aruba and the Turks and Caicos Islands), as specified in the Annex to Regulation (EEC) No 2145/92.

2. The invitation to tender shall be open until 17 June 2004. During that period regular invitations to tender shall be issued and the date for submission of tenders shall be set down in the notice of invitation to tender.

3. The invitation to tender shall take place in accordance with Regulation (EEC) No 584/75 and with the following provisions.

Article 2

A tender shall be admissible only if it covers a quantity for export of at least 50 tonnes but not more than 3 000 tonnes.

Article 3

The security referred to in Article 3 of Regulation (EEC) No 584/75 shall be EUR 30 per tonne.

Article 4

1. Notwithstanding Article 23(1) of Commission Regulation (EC) No 1291/2000 ⁽⁹⁾, export licences issued under this invitation to tender shall, for the purposes of determining their period of validity, be considered as having been issued on the day the tender was submitted.

⁽⁹⁾ OJ L 152, 24.6.2000, p. 1.

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁴⁾ OJ L 299, 1.11.2002, p. 18.

⁽⁵⁾ OJ L 214, 30.7.1992, p. 20.

⁽⁶⁾ OJ L 341, 30.12.1994, p. 48.

⁽⁷⁾ OJ L 349, 24.12.1998, p. 36.

⁽⁸⁾ OJ L 116, 13.5.2003, p. 12.

2. The licences shall be valid from their date of issue, within the meaning of paragraph 1, until the end of the fourth month following.

Article 5

Tenders submitted must reach the Commission through the Member States not later than one-and-a-half hours after expiry of the time limit for the submission of tenders as laid down in the notice of invitation to tender. They must be transmitted in accordance with the table given in the Annex.

If no tenders are submitted, the Member States shall inform the Commission accordingly within the same time limit as that given in the above subparagraph.

Article 6

The time set for submitting tenders shall be Belgian time.

Article 7

1. On the basis of the tenders submitted, the Commission shall decide in accordance with the procedure referred to in Article 22 of Regulation (EC) No 3072/95:

— either to fix a maximum export refund, taking account of the criteria laid down in Article 13 of Regulation (EC) No 3072/95,

— or not to take any action on the tenders.

2. Where a maximum export refund is fixed, an award shall be made to the tenderer or tenderers whose tenders are at or below the maximum export refund level.

Article 8

The time limit for submission of tenders for the first regular invitation to tender shall expire on 6 November 2003 at 10 a.m.

The final date for submission of tenders is hereby fixed at 17 June 2004.

Article 9

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

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

Done at Brussels, 24 October 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Invitation to tender for the refund on export of wholly milled and parboiled long-grain B rice to certain third countries

Closing date for the submission of tenders (date/time): ...

1	2	3	4
Serial No of tenderers	Quantities (in tonnes)	Amount of export refund (in EUR per tonne)	Minimum quantities (*) (in tonnes)
1			
2			
3			
4			
5			
Etc.			

(*) Referred to in Article 2(2)(e) of Regulation (EEC) No 584/75.

COMMISSION REGULATION (EC) No 1878/2003

of 24 October 2003

opening an invitation to tender for the subsidy on consignments of husked long-grain B rice to Réunion

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 10(1) thereof,

Whereas:

- (1) Commission Regulation (EEC) No 2692/89 ⁽³⁾, as last amended by Regulation (EC) No 1453/1999 ⁽⁴⁾, lays down the detailed rules for exports of rice to Réunion.
- (2) Examination of the supply situation in Réunion indicates that rice is in short supply. In view of the rice available on the Community market, provision should be made to allow Réunion to be supplied with rice from the Community market. Because of Réunion's particular circumstances, it is appropriate to limit the quantities to be sent and thus fix the amount of the subsidy by invitation to tender.
- (3) Under Article 14 of Commission Regulation (EC) No 2808/98 of 22 December 1998 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture ⁽⁵⁾, as last amended by Regulation (EC) No 816/2003 ⁽⁶⁾, the amounts quoted in tenders submitted in response to invitations to tender organised under an instrument forming part of the common agricultural policy must be expressed in euro. Article 5(1) of that Regulation provides that in such cases the operative event for the agricultural exchange rate is the final day for the submission of tenders. Paragraphs 3 and 4 of that Article specify the operative events applicable to advances and securities.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

1. An invitation to tender is hereby opened for the shipment to Réunion of husked long-grain B rice falling within CN code 1006 20 98, referred to in Article 10(1) of Regulation (EC) No 3072/95.

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 261, 7.9.1989, p. 8.

⁽⁴⁾ OJ L 167, 2.7.1999, p. 19.

⁽⁵⁾ OJ L 349, 24.12.1998, p. 36.

⁽⁶⁾ OJ L 116, 13.5.2003, p. 12.

2. The invitation to tender referred to in paragraph 1 shall be open until 17 June 2004. During that period regular invitations to tender shall be issued and the date for submission of tenders shall be set down in the notice of invitation to tender.

3. The invitation to tender shall take place in accordance with Regulation (EEC) No 2692/89 and with the following provisions.

Article 2

A tender shall be admissible only if it covers a quantity for shipment of at least 50 tonnes but not more than 3 000 tonnes.

Article 3

The security referred to in Article 7(3)(a) of Regulation (EEC) No 2692/89 shall be EUR 30 per tonne.

Article 4

The subsidy documents issued under this invitation to tender shall, for the purposes of determining their period of validity, be considered as having been issued on the day the tender was submitted.

Article 5

Tenders submitted must reach the Commission through the Member States not later than one-and-a-half hours after expiry of the time limit for the weekly submission of tenders as laid down in the notice of invitation to tender. They must be transmitted in accordance with the table given in the Annex.

If no tenders are submitted, the Member States shall inform the Commission accordingly within the same time limit as that given in the above subparagraph.

Article 6

The time set for submitting tenders shall be Belgian time.

Article 7

1. On the basis of the tenders submitted, the Commission shall decide in accordance with the procedure referred to in Article 22 of Regulation (EC) No 3072/95:

— either to fix a maximum subsidy,

— or not to take any action on the tenders.

2. Where a maximum subsidy is fixed, an award shall be made to the tenderer or tenderers whose tenders are at or below the maximum subsidy.

The final date for submission of tenders is hereby fixed at 17 June 2004.

Article 8

The time limit for submission of tenders for the first regular invitation to tender shall expire on 6 November 2003 at 10 a.m.

Article 9

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

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

Done at Brussels, 24 October 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Invitation to tender for the subsidy on consignments of husked long-grain B rice to Réunion

Closing date for the submission of tenders (date/time): ...

1	2	3
Serial No of tenderers	Quantities (in tonnes)	Amount of export subsidy (in EUR per tonne)
1		
2		
3		
4		
5		
Etc.		

COMMISSION REGULATION (EC) No 1879/2003
of 24 October 2003
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 806/2003 ⁽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 359/2003 ⁽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 1778/2003 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 Italy 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 1778/2003 should be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Buying-in of butter by invitation to tender as provided for in Article 6(1) of Regulation (EC) No 1255/1999 is hereby suspended in Belgium, Denmark, Germany, Greece, Spain, France, Italy, the Netherlands, Austria, Luxembourg, Finland, Sweden and the United Kingdom.

Article 2

Regulation (EC) No 1778/2003 is hereby repealed.

Article 3

This Regulation shall enter into force on 25 October 2003.

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

Done at Brussels, 24 October 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

⁽³⁾ OJ L 333, 24.12.1999, p. 11.

⁽⁴⁾ OJ L 53, 28.2.2003, p. 17.

⁽⁵⁾ OJ L 260, 11.10.2003, p. 4.

COMMISSION REGULATION (EC) No 1880/2003
of 24 October 2003
amending Council Regulation (EC) No 2368/2002 implementing the Kimberley Process certification
scheme for the international trade in rough diamonds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds ⁽¹⁾, as last amended by Commission Regulation (EC) No 1768/2003 ⁽²⁾, and in particular Article 20 thereof,

Whereas:

- (1) Article 20 of Regulation (EC) No 2368/2002 provides for the amending of the list of participants in the Kimberley Process certification scheme, including WTO Members and separate customs territories that fulfil the requirements of the scheme.
- (2) The Chair of the Kimberley Process certification scheme, through his Chair's notice of 14 October 2003, has provided an updated list of participants in the scheme.

The updating of the list concerns the addition as participants of Bulgaria and Malaysia. Annex II should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 2368/2002 is hereby replaced by the Annex to this Regulation.

Article 2

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

It shall apply with effect from 14 October 2003.

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

Done at Brussels, 24 October 2003.

For the Commission
Christopher PATTEN
Member of the Commission

⁽¹⁾ OJ L 358, 31.12.2002, p. 28.

⁽²⁾ OJ L 256, 9.10.2003, p. 9.

ANNEX

'ANNEX II

List of participants in the Kimberley Process certification scheme and their duly appointed competent authorities as referred to in Articles 2, 3, 8, 9, 12, 17, 18, 19 and 20

ANGOLA

Ministry of Geology and Mines
Rua Hochi Min
Luanda
Angola

— *For specimen of the Canadian KP Certificate:*

Stewardship Division
International and Domestic Market Policy Division
Mineral and Metal Policy Branch
Minerals and Metals Sector
Natural Resources Canada
580 Booth Street, 10th floor, Room: 10A6
Ottawa, Ontario
Canada K1A 0E4

ARMENIA

Department of Gemstones and Jewellery
Ministry of Trade and Economic Development
Yerevan
Armenia

— *General Enquiries:*

Kimberley Process Office
Minerals and Metals Sector (MMS)
Natural Resources Canada (NRCan)
10th Floor, Area A -7
580 Booth Street
Ottawa, Ontario
Canada K1A 0E4

AUSTRALIA

- Community Protection Section
Australian Customs Section
Customs House, 5 Constitution Avenue
Canberra ACT 2601
Australia
- Minerals Development Section
Department of Industry, Tourism and Resources
GPO Box 9839
Canberra ACT 2601
Australia

CENTRAL AFRICAN REPUBLIC

Independent Diamond Valuers (IDV)
Immeuble SOCIM, 2^e étage
BP 1613 Bangui
Central African Republic

BELARUS

Department of Finance
Sovetskaja Str., 7
220010 Minsk
Republic of Belarus

CHINA, People's Republic of

Department of Inspection and Quarantine Clearance
General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ)
9 Madiandonglu
Haidian District, Beijing
People's Republic of China

BOTSWANA

Ministry of Minerals, Energy and Water Resources
PI Bag 0018
Gaborone
Botswana

HONG KONG, Special Administrative Region of the People's Republic of China

Department of Trade and Industry
Hong Kong Special Administrative Region
People's Republic of China
Room 703, Trade and Industry Tower
700 Nathan Road
Kowloon
Hong Kong
China

BULGARIA

Ministry of Economy
Multilateral Trade and Economic Policy and Regional Cooperation
Directorate
12, Al. Batenberg str.
1000 Sofia
Bulgaria

CONGO, Democratic Republic of

Centre d'évaluation, d'expertise et de certification (CEEC)
17th floor, BCDC Tower
30th June Avenue
Kinshasa
Democratic Republic of Congo

CANADA

— *International:*

Department of Foreign Affairs and International Trade
Peace Building and Human Security Division
Lester B Pearson Tower B — Room: B4-120
125 Sussex Drive Ottawa, Ontario K1A 0G2
Canada

CONGO, Republic of

Directorate General of Mines and Geology
Brazzaville
Republic of Congo

CÔTE D'IVOIRE

Ministry of Mines and Energy
BP V 91
Abidjan
Côte d'Ivoire

CROATIA

Ministry of Economy
Zagreb
Republic of Croatia

EUROPEAN COMMUNITY

European Commission
DG External Relations A/2
B-1040 Brussels

GUINEA

Ministry of Mines and Geology
BP 2696
Conakry
Guinea

GUYANA

Geology and Mines Commission
P O Box 1028
Upper Brickdam
Stabroek
Georgetown
Guyana

HUNGARY

Licensing and Administration Office of the Ministry of Economy and
Transport
Margit krt. 85
1024 Budapest
Hungary

INDIA

The Gem & Jewellery Export Promotion Council
Diamond Plaza, 5th Floor 391-A, Fr D.B. Marg
Mumbai 400 004
India

ISRAEL

Ministry of Industry and Trade
P.O. Box 3007
52130 Ramat Gan
Israel

JAPAN

- United Nations Policy Division
Foreign Policy Bureau
Ministry of Foreign Affairs
2-11-1, Shibakoen Minato-ku
105-8519 Tokyo
Japan
- Mineral and Natural Resources Division
Agency for Natural Resources and Energy
Ministry of Economy, Trade and Industry
1-3-1 Kasumigaseki, Chiyoda-ku
100-8901 Tokyo
Japan

KOREA, Republic of

- UN Division
Ministry of Foreign Affairs and Trade
Government Complex Building
77 Sejong-ro, Jongro-gu
Seoul
Korea
- Trade Policy Division
Ministry of Commerce, Industry and Enterprise
1 Joongang-dong, Kwacheon-City
Kyunggi-do
Korea

LAOS, People's Democratic Republic

Department of Foreign Trade
Ministry of Commerce
Vientiane
Laos

LEBANON

Ministry of Economy and Trade
Beirut
Lebanon

LESOTHO

Commission of Mines and Geology
PO Box 750
Maseru 100
Lesotho

MALAYSIA

Ministry of International Trade and Industry
Blok 10
Komplek Kerajaan Jalan Duta
50622 Kuala Lumpur
Malaysia

MAURITIUS

Ministry of Commerce and Co-operatives
Import Division
2nd Floor, Anglo-Mauritius House
Intendance Street
Port Louis
Mauritius

NAMIBIA

Diamond Commission
Ministry of Mines and Energy
Private Bag 13297
Windhoek
Namibia

POLAND

Ministry of Economy, Labour and Social Policy
Plac Trzech Krzyzy 3/5
00-507 Warsaw
Poland

RUSSIAN FEDERATION

Gokhran of Russia
14, 1812 Goda St.
121170 Moscow
Russia

SIERRA LEONE

Ministry of Minerals Resources
Youyi Building
Brookfields
Freetown
Sierra Leone

SLOVENIA

Ministry of the Economy
Kotnikova 5
1000 Ljubljana
Republic of Slovenia

SOUTH AFRICA

South African Diamond Board
240 Commissioner Street
Johannesburg
South Africa

SRI LANKA

Trade Information Service
Sri Lanka Export Development Board
42 Nawam Mawatha
Colombo 2
Sri Lanka

SWITZERLAND

State Secretariat for Economic Affairs
Export Control Policy and Sanctions
Effingerstrasse 1
3003 Berne
Switzerland

TAIWAN, PENGHU, KINMEN AND MATSU, Separate Customs Territory

Import and Export office
Licensing and Administration
Board of Foreign Trade
Taiwan

TANZANIA

Commission for Minerals
Ministry of Energy and Minerals
PO Box 2000
Dar es Salam
Tanzania

THAILAND

Ministry of Commerce
Department of Foreign Trade
44/100 Thanon Sanam Bin Nam-Nonthaburi
Muang District
Nonthaburi 11000
Thailand

UKRAINE

— Ministry of Finance
State Gemological Center
Degtyarivska St. 38-44
Kiev
04119 Ukraine
— International Department
Diamond Factory "Kristall"
600 Letiya Street 21
21100 Vinnitsa
Ukraine

UNITED ARAB EMIRATES

Dubai Metals and Commodities Centre
PO Box 63
Dubai
United Arab Emirates

UNITED STATES OF AMERICA

U.S. Department of State
2201 C St., N.W.
Washington D.C.
United States of America

VENEZUELA

Ministry of Energy and Mines
Apartado Postal n° 61536 Chacao
Caracas 1006
Av. Libertadores, Edif. PDVSA, Pent House B
La Campina — Caracas
Venezuela

VIETNAM

Export-Import Management Department
Ministry of Trade of Vietnam
31 Trang Tien
Hanoi 10.000
Vietnam

ZIMBABWE

Principal Minerals Development Office
Ministry of Mines and Mining Development
Private Bag 7709, Causeway
Harare
Zimbabwe'

**COMMISSION REGULATION (EC) No 1881/2003
of 24 October 2003**

**laying down certain detailed rules on export licences and export refunds for certain milk products
destined for Cyprus, Malta and Slovenia**

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 Regulation (EC) No 806/2003 ⁽²⁾, and in particular Articles 26(3) and 31(14) thereof,

Whereas:

- (1) In trade between the Community, on the one hand, and Cyprus, Malta and Slovenia, on the other hand, import duties and export refunds still apply for certain milk products and the level of export refunds is considerably higher than import duties. With the above countries joining the European Union on 1 May 2004, the considerable difference between the level of import duties and export refunds granted for the products in question may lead to applications for licences setting in advance a refund for quantities which considerably exceed those required by the market of destination. In order to avert the risk of such speculative movements, export licences issued from 1 November 2003 onwards for the products in question destined for Cyprus, Malta and Slovenia should be of limited duration.
- (2) It is therefore necessary to derogate from Article 6 of Commission Regulation (EC) No 174/1999 of 26 January 1999 laying down special detailed rules for the application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case of milk and milk products ⁽³⁾, as last amended by Regulation (EC) No 1392/2003 ⁽⁴⁾.
- (3) In order to avoid diversions of trade and, specifically, reshipment of the products in question to Cyprus, Malta or Slovenia, despite another destination having been initially declared and entered on the licence, provision should be made in such instances for the rate of refund taken into consideration to be that valid on the date of acceptance of the export declaration or payment declaration, by derogation from the second subparagraph of

Article 18(3) of Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products ⁽⁵⁾, as last amended by Regulation (EC) No 444/2003 ⁽⁶⁾.

- (4) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

By derogation from Article 6 of Regulation (EC) No 174/1999, for products falling under CN codes:

- 0405 with destination Cyprus,
- 0401, 0402, 0403 90 11 to 69, 0404 90 and 0405 with destination Malta,
- 0401, 0402, 0403 90 11 to 69, 0404 90, 0405 and 0406 with destination Slovenia,

export licences with refunds issued between 1 November 2003 and 29 February 2004 shall expire on 29 February 2004.

Article 2

By derogation from the second subparagraph of Article 18(3) of Regulation (EC) No 800/1999, where the destination shown in box 7 of the licence is not adhered to for licences used between 1 March and 30 April 2004 for the export of products falling under CN codes:

- 0405 with destination Cyprus,
- 0401, 0402, 0403 90 11 to 69, 0404 90 and 0405 with destination Malta,
- 0401, 0402, 0403 90 11 to 69, 0404 90, 0405 and 0406 with destination Slovenia,

the rate of refund to be taken into consideration when applying that Article shall be that applicable for those destinations on the date of acceptance of the export declaration or payment declaration.

Article 3

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

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

⁽³⁾ OJ L 20, 27.1.1999, p. 8.

⁽⁴⁾ OJ L 197, 5.8.2003, p. 3.

⁽⁵⁾ OJ L 102, 17.4.1999, p. 11.

⁽⁶⁾ OJ L 67, 12.3.2003, p. 3.

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

Done at Brussels, 24 October 2003.

For the Commission
Franz FISCHLER
Member of the Commission

DIRECTIVE 2003/87/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 October 2003
establishing a scheme for greenhouse gas emission allowance trading within the Community and
amending Council Directive 96/61/EC
(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 175(1) thereof,

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

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

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽⁴⁾,

Whereas:

(1) The Green Paper on greenhouse gas emissions trading within the European Union launched a debate across Europe on the suitability and possible functioning of greenhouse gas emissions trading within the European Union. The European Climate Change Programme has considered Community policies and measures through a multi-stakeholder process, including a scheme for greenhouse gas emission allowance trading within the Community (the Community scheme) based on the Green Paper. In its Conclusions of 8 March 2001, the Council recognised the particular importance of the European Climate Change Programme and of work based on the Green Paper, and underlined the urgent need for concrete action at Community level.

(2) The Sixth Community Environment Action Programme established by Decision No 1600/2002/EC of the European Parliament and of the Council ⁽⁵⁾ identifies climate change as a priority for action and provides for the establishment of a Community-wide emissions trading scheme by 2005. That Programme recognises that the Community is committed to achieving an 8 % reduction in emissions of greenhouse gases by 2008 to 2012 compared to 1990 levels, and that, in the longer-term, global emissions of greenhouse gases will need to be reduced by approximately 70 % compared to 1990 levels.

(3) The ultimate objective of the United Nations Framework Convention on Climate Change, which was approved by Council Decision 94/69/EC of 15 December 1993 concerning the conclusion of the United Nations Framework Convention on Climate Change ⁽⁶⁾, is to achieve stabilisation of greenhouse gas concentrations in the atmosphere at a level which prevents dangerous anthropogenic interference with the climate system.

(4) Once it enters into force, the Kyoto Protocol, which was approved by Council Decision 2002/358/EC of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder ⁽⁷⁾, will commit the Community and its Member States to reducing their aggregate anthropogenic emissions of greenhouse gases listed in Annex A to the Protocol by 8 % compared to 1990 levels in the period 2008 to 2012.

(5) The Community and its Member States have agreed to fulfil their commitments to reduce anthropogenic greenhouse gas emissions under the Kyoto Protocol jointly, in accordance with Decision 2002/358/EC. This Directive aims to contribute to fulfilling the commitments of the European Community and its Member States more effectively, through an efficient European market in greenhouse gas emission allowances, with the least possible diminution of economic development and employment.

(6) Council Decision 93/389/EEC of 24 June 1993 for a monitoring mechanism of Community CO₂ and other greenhouse gas emissions ⁽⁸⁾, established a mechanism for monitoring greenhouse gas emissions and evaluating progress towards meeting commitments in respect of these emissions. This mechanism will assist Member States in determining the total quantity of allowances to allocate.

(7) Community provisions relating to allocation of allowances by the Member States are necessary to contribute to preserving the integrity of the internal market and to avoid distortions of competition.

⁽¹⁾ OJ C 75 E, 26.3.2002, p. 33.

⁽²⁾ OJ C 221, 17.9.2002, p. 27.

⁽³⁾ OJ C 192, 12.8.2002, p. 59.

⁽⁴⁾ Opinion of the European Parliament of 10 October 2002 (not yet published in the Official Journal), Council Common Position of 18 March 2003 (OJ C 125 E, 27.5.2003, p. 72), Decision of the European Parliament of 2 July 2003 (not yet published in the Official Journal) and Council Decision of 22 July 2003.

⁽⁵⁾ OJ L 242, 10.9.2002, p. 1.

⁽⁶⁾ OJ L 33, 7.2.1994, p. 11.

⁽⁷⁾ OJ L 130, 15.5.2002, p. 1.

⁽⁸⁾ OJ L 167, 9.7.1993, p. 31. Decision as amended by Decision 1999/296/EC (OJ L 117, 5.5.1999, p. 35).

- (8) Member States should have regard when allocating allowances to the potential for industrial process activities to reduce emissions.
- (9) Member States may provide that they only issue allowances valid for a five-year period beginning in 2008 to persons in respect of allowances cancelled, corresponding to emission reductions made by those persons on their national territory during a three-year period beginning in 2005.
- (10) Starting with the said five-year period, transfers of allowances to another Member State will involve corresponding adjustments of assigned amount units under the Kyoto Protocol.
- (11) Member States should ensure that the operators of certain specified activities hold a greenhouse gas emissions permit and that they monitor and report their emissions of greenhouse gases specified in relation to those activities.
- (12) Member States should lay down rules on penalties applicable to infringements of this Directive and ensure that they are implemented. Those penalties must be effective, proportionate and dissuasive.
- (13) In order to ensure transparency, the public should have access to information relating to the allocation of allowances and to the results of monitoring of emissions, subject only to restrictions provided for in Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information⁽¹⁾.
- (14) Member States should submit a report on the implementation of this Directive drawn up on the basis of Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment⁽²⁾.
- (15) The inclusion of additional installations in the Community scheme should be in accordance with the provisions laid down in this Directive, and the coverage of the Community scheme may thereby be extended to emissions of greenhouse gases other than carbon dioxide, *inter alia* from aluminium and chemicals activities.
- (16) This Directive should not prevent any Member State from maintaining or establishing national trading schemes regulating emissions of greenhouse gases from activities other than those listed in Annex I or included in the Community scheme, or from installations temporarily excluded from the Community scheme.
- (17) Member States may participate in international emissions trading as Parties to the Kyoto Protocol with any other Party included in Annex B thereto.
- (18) Linking the Community scheme to greenhouse gas emission trading schemes in third countries will increase the cost-effectiveness of achieving the Community emission reductions target as laid down in Decision 2002/358/EC on the joint fulfilment of commitments.
- (19) Project-based mechanisms including Joint Implementation (JI) and the Clean Development Mechanism (CDM) are important to achieve the goals of both reducing global greenhouse gas emissions and increasing the cost-effective functioning of the Community scheme. In accordance with the relevant provisions of the Kyoto Protocol and Marrakech Accords, the use of the mechanisms should be supplemental to domestic action and domestic action will thus constitute a significant element of the effort made.
- (20) This Directive will encourage the use of more energy-efficient technologies, including combined heat and power technology, producing less emissions per unit of output, while the future directive of the European Parliament and of the Council on the promotion of cogeneration based on useful heat demand in the internal energy market will specifically promote combined heat and power technology.
- (21) Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control⁽³⁾ establishes a general framework for pollution prevention and control, through which greenhouse gas emissions permits may be issued. Directive 96/61/EC should be amended to ensure that emission limit values are not set for direct emissions of greenhouse gases from an installation subject to this Directive and that Member States may choose not to impose requirements relating to energy efficiency in respect of combustion units or other units emitting carbon dioxide on the site, without prejudice to any other requirements pursuant to Directive 96/61/EC.
- (22) This Directive is compatible with the United Nations Framework Convention on Climate Change and the Kyoto Protocol. It should be reviewed in the light of developments in that context and to take into account experience in its implementation and progress achieved in monitoring of emissions of greenhouse gases.

⁽¹⁾ OJ L 41, 14.2.2003, p. 26.

⁽²⁾ OJ L 377, 31.12.1991, p. 48.

⁽³⁾ OJ L 257, 10.10.1996, p. 26.

- (23) Emission allowance trading should form part of a comprehensive and coherent package of policies and measures implemented at Member State and Community level. Without prejudice to the application of Articles 87 and 88 of the Treaty, where activities are covered by the Community scheme, Member States may consider the implications of regulatory, fiscal or other policies that pursue the same objectives. The review of the Directive should consider the extent to which these objectives have been attained.
- (24) The instrument of taxation can be a national policy to limit emissions from installations temporarily excluded.
- (25) Policies and measures should be implemented at Member State and Community level across all sectors of the European Union economy, and not only within the industry and energy sectors, in order to generate substantial emissions reductions. The Commission should, in particular, consider policies and measures at Community level in order that the transport sector makes a substantial contribution to the Community and its Member States meeting their climate change obligations under the Kyoto Protocol.
- (26) Notwithstanding the multifaceted potential of market-based mechanisms, the European Union strategy for climate change mitigation should be built on a balance between the Community scheme and other types of Community, domestic and international action.
- (27) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (28) The measures necessary for the implementation of this Directive 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 ⁽¹⁾.
- (29) As the criteria (1), (5) and (7) of Annex III cannot be amended through comitology, amendments in respect of periods after 2012 should only be made through co-decision.
- (30) Since the objective of the proposed action, the establishment of a Community scheme, cannot be sufficiently achieved by the Member States acting individually, and can therefore by reason of the scale and effects of the proposed action 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 proportion-

ality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

This Directive establishes a scheme for greenhouse gas emission allowance trading within the Community (hereinafter referred to as the 'Community scheme') in order to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner.

Article 2

Scope

1. This Directive shall apply to emissions from the activities listed in Annex I and greenhouse gases listed in Annex II.

2. This Directive shall apply without prejudice to any requirements pursuant to Directive 96/61/EC.

Article 3

Definitions

For the purposes of this Directive the following definitions shall apply:

- (a) 'allowance' means an allowance to emit one tonne of carbon dioxide equivalent during a specified period, which shall be valid only for the purposes of meeting the requirements of this Directive and shall be transferable in accordance with the provisions of this Directive;
- (b) 'emissions' means the release of greenhouse gases into the atmosphere from sources in an installation;
- (c) 'greenhouse gases' means the gases listed in Annex II;
- (d) 'greenhouse gas emissions permit' means the permit issued in accordance with Articles 5 and 6;
- (e) 'installation' means a stationary technical unit where one or more activities listed in Annex I are carried out and any other directly associated activities which have a technical connection with the activities carried out on that site and which could have an effect on emissions and pollution;
- (f) 'operator' means any person who operates or controls an installation or, where this is provided for in national legislation, to whom decisive economic power over the technical functioning of the installation has been delegated;
- (g) 'person' means any natural or legal person;

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

- (h) 'new entrant' means any installation carrying out one or more of the activities indicated in Annex I, which has obtained a greenhouse gas emissions permit or an update of its greenhouse gas emissions permit because of a change in the nature or functioning or an extension of the installation, subsequent to the notification to the Commission of the national allocation plan;
- (i) 'the public' means one or more persons and, in accordance with national legislation or practice, associations, organisations or groups of persons;
- (j) 'tonne of carbon dioxide equivalent' means one metric tonne of carbon dioxide (CO₂) or an amount of any other greenhouse gas listed in Annex II with an equivalent global-warming potential.

Article 4

Greenhouse gas emissions permits

Member States shall ensure that, from 1 January 2005, no installation undertakes any activity listed in Annex I resulting in emissions specified in relation to that activity unless its operator holds a permit issued by a competent authority in accordance with Articles 5 and 6, or the installation is temporarily excluded from the Community scheme pursuant to Article 27.

Article 5

Applications for greenhouse gas emissions permits

An application to the competent authority for a greenhouse gas emissions permit shall include a description of:

- (a) the installation and its activities including the technology used;
- (b) the raw and auxiliary materials, the use of which is likely to lead to emissions of gases listed in Annex I;
- (c) the sources of emissions of gases listed in Annex I from the installation; and
- (d) the measures planned to monitor and report emissions in accordance with the guidelines adopted pursuant to Article 14.

The application shall also include a non-technical summary of the details referred to in the first subparagraph.

Article 6

Conditions for and contents of the greenhouse gas emissions permit

1. The competent authority shall issue a greenhouse gas emissions permit granting authorisation to emit greenhouse gases from all or part of an installation if it is satisfied that the operator is capable of monitoring and reporting emissions.

A greenhouse gas emissions permit may cover one or more installations on the same site operated by the same operator.

2. Greenhouse gas emissions permits shall contain the following:

- (a) the name and address of the operator;
- (b) a description of the activities and emissions from the installation;
- (c) monitoring requirements, specifying monitoring methodology and frequency;
- (d) reporting requirements; and
- (e) an obligation to surrender allowances equal to the total emissions of the installation in each calendar year, as verified in accordance with Article 15, within four months following the end of that year.

Article 7

Changes relating to installations

The operator shall inform the competent authority of any changes planned in the nature or functioning, or an extension, of the installation which may require updating of the greenhouse gas emissions permit. Where appropriate, the competent authority shall update the permit. Where there is a change in the identity of the installation's operator, the competent authority shall update the permit to include the name and address of the new operator.

Article 8

Coordination with Directive 96/61/EC

Member States shall take the necessary measures to ensure that, where installations carry out activities that are included in Annex I to Directive 96/61/EC, the conditions of, and procedure for, the issue of a greenhouse gas emissions permit are coordinated with those for the permit provided for in that Directive. The requirements of Articles 5, 6 and 7 of this Directive may be integrated into the procedures provided for in Directive 96/61/EC.

Article 9

National allocation plan

1. For each period referred to in Article 11(1) and (2), each Member State shall develop a national plan stating the total quantity of allowances that it intends to allocate for that period and how it proposes to allocate them. The plan shall be based on objective and transparent criteria, including those listed in Annex III, taking due account of comments from the public. The Commission shall, without prejudice to the Treaty, by 31 December 2003 at the latest develop guidance on the implementation of the criteria listed in Annex III.

For the period referred to in Article 11(1), the plan shall be published and notified to the Commission and to the other Member States by 31 March 2004 at the latest. For subsequent periods, the plan shall be published and notified to the Commission and to the other Member States at least 18 months before the beginning of the relevant period.

2. National allocation plans shall be considered within the committee referred to in Article 23(1).

3. Within three months of notification of a national allocation plan by a Member State under paragraph 1, the Commission may reject that plan, or any aspect thereof, on the basis that it is incompatible with the criteria listed in Annex III or with Article 10. The Member State shall only take a decision under Article 11(1) or (2) if proposed amendments are accepted by the Commission. Reasons shall be given for any rejection decision by the Commission.

Article 10

Method of allocation

For the three-year period beginning 1 January 2005 Member States shall allocate at least 95 % of the allowances free of charge. For the five-year period beginning 1 January 2008, Member States shall allocate at least 90 % of the allowances free of charge.

Article 11

Allocation and issue of allowances

1. For the three-year period beginning 1 January 2005, each Member State shall decide upon the total quantity of allowances it will allocate for that period and the allocation of those allowances to the operator of each installation. This decision shall be taken at least three months before the beginning of the period and be based on its national allocation plan developed pursuant to Article 9 and in accordance with Article 10, taking due account of comments from the public.

2. For the five-year period beginning 1 January 2008, and for each subsequent five-year period, each Member State shall decide upon the total quantity of allowances it will allocate for that period and initiate the process for the allocation of those allowances to the operator of each installation. This decision shall be taken at least 12 months before the beginning of the relevant period and be based on the Member State's national allocation plan developed pursuant to Article 9 and in accordance with Article 10, taking due account of comments from the public.

3. Decisions taken pursuant to paragraph 1 or 2 shall be in accordance with the requirements of the Treaty, in particular Articles 87 and 88 thereof. When deciding upon allocation, Member States shall take into account the need to provide access to allowances for new entrants.

4. The competent authority shall issue a proportion of the total quantity of allowances each year of the period referred to in paragraph 1 or 2, by 28 February of that year.

Article 12

Transfer, surrender and cancellation of allowances

1. Member States shall ensure that allowances can be transferred between:

- (a) persons within the Community;
- (b) persons within the Community and persons in third countries, where such allowances are recognised in accordance with the procedure referred to in Article 25 without restrictions other than those contained in, or adopted pursuant to, this Directive.

2. Member States shall ensure that allowances issued by a competent authority of another Member State are recognised for the purpose of meeting an operator's obligations under paragraph 3.

3. Member States shall ensure that, by 30 April each year at the latest, the operator of each installation surrenders a number of allowances equal to the total emissions from that installation during the preceding calendar year as verified in accordance with Article 15, and that these are subsequently cancelled.

4. Member States shall take the necessary steps to ensure that allowances will be cancelled at any time at the request of the person holding them.

Article 13

Validity of allowances

1. Allowances shall be valid for emissions during the period referred to in Article 11(1) or (2) for which they are issued.

2. Four months after the beginning of the first five-year period referred to in Article 11(2), allowances which are no longer valid and have not been surrendered and cancelled in accordance with Article 12(3) shall be cancelled by the competent authority.

Member States may issue allowances to persons for the current period to replace any allowances held by them which are cancelled in accordance with the first subparagraph.

3. Four months after the beginning of each subsequent five-year period referred to in Article 11(2), allowances which are no longer valid and have not been surrendered and cancelled in accordance with Article 12(3) shall be cancelled by the competent authority.

Member States shall issue allowances to persons for the current period to replace any allowances held by them which are cancelled in accordance with the first subparagraph.

Article 14

Guidelines for monitoring and reporting of emissions

1. The Commission shall adopt guidelines for monitoring and reporting of emissions resulting from the activities listed in Annex I of greenhouse gases specified in relation to those activities, in accordance with the procedure referred to in Article 23(2), by 30 September 2003. The guidelines shall be based on the principles for monitoring and reporting set out in Annex IV.

2. Member States shall ensure that emissions are monitored in accordance with the guidelines.

3. Member States shall ensure that each operator of an installation reports the emissions from that installation during each calendar year to the competent authority after the end of that year in accordance with the guidelines.

Article 15

Verification

Member States shall ensure that the reports submitted by operators pursuant to Article 14(3) are verified in accordance with the criteria set out in Annex V, and that the competent authority is informed thereof.

Member States shall ensure that an operator whose report has not been verified as satisfactory in accordance with the criteria set out in Annex V by 31 March each year for emissions during the preceding year cannot make further transfers of allowances until a report from that operator has been verified as satisfactory.

Article 16

Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that such rules are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify these provisions to the Commission by 31 December 2003 at the latest, and shall notify it without delay of any subsequent amendment affecting them.

2. Member States shall ensure publication of the names of operators who are in breach of requirements to surrender sufficient allowances under Article 12(3).

3. Member States shall ensure that any operator who does not surrender sufficient allowances by 30 April of each year to cover its emissions during the preceding year shall be held

liable for the payment of an excess emissions penalty. The excess emissions penalty shall be EUR 100 for each tonne of carbon dioxide equivalent emitted by that installation for which the operator has not surrendered allowances. Payment of the excess emissions penalty shall not release the operator from the obligation to surrender an amount of allowances equal to those excess emissions when surrendering allowances in relation to the following calendar year.

4. During the three-year period beginning 1 January 2005, Member States shall apply a lower excess emissions penalty of EUR 40 for each tonne of carbon dioxide equivalent emitted by that installation for which the operator has not surrendered allowances. Payment of the excess emissions penalty shall not release the operator from the obligation to surrender an amount of allowances equal to those excess emissions when surrendering allowances in relation to the following calendar year.

Article 17

Access to information

Decisions relating to the allocation of allowances and the reports of emissions required under the greenhouse gas emissions permit and held by the competent authority shall be made available to the public by that authority subject to the restrictions laid down in Article 3(3) and Article 4 of Directive 2003/4/EC.

Article 18

Competent authority

Member States shall make the appropriate administrative arrangements, including the designation of the appropriate competent authority or authorities, for the implementation of the rules of this Directive. Where more than one competent authority is designated, the work of these authorities undertaken pursuant to this Directive must be coordinated.

Article 19

Registries

1. Member States shall provide for the establishment and maintenance of a registry in order to ensure the accurate accounting of the issue, holding, transfer and cancellation of allowances. Member States may maintain their registries in a consolidated system, together with one or more other Member States.

2. Any person may hold allowances. The registry shall be accessible to the public and shall contain separate accounts to record the allowances held by each person to whom and from whom allowances are issued or transferred.

3. In order to implement this Directive, the Commission shall adopt a Regulation in accordance with the procedure referred to in Article 23(2) for a standardised and secured system of registries in the form of standardised electronic databases containing common data elements to track the issue, holding, transfer and cancellation of allowances, to provide for public access and confidentiality as appropriate and to ensure that there are no transfers incompatible with obligations resulting from the Kyoto Protocol.

Article 20

Central Administrator

1. The Commission shall designate a Central Administrator to maintain an independent transaction log recording the issue, transfer and cancellation of allowances.

2. The Central Administrator shall conduct an automated check on each transaction in registries through the independent transaction log to ensure there are no irregularities in the issue, transfer and cancellation of allowances.

3. If irregularities are identified through the automated check, the Central Administrator shall inform the Member State or Member States concerned who shall not register the transactions in question or any further transactions relating to the allowances concerned until the irregularities have been resolved.

Article 21

Reporting by Member States

1. Each year the Member States shall submit to the Commission a report on the application of this Directive. This report shall pay particular attention to the arrangements for the allocation of allowances, the operation of registries, the application of the monitoring and reporting guidelines, verification and issues relating to compliance with the Directive and on the fiscal treatment of allowances, if any. The first report shall be sent to the Commission by 30 June 2005. The report shall be drawn up on the basis of a questionnaire or outline drafted by the Commission in accordance with the procedure laid down in Article 6 of Directive 91/692/EEC. The questionnaire or outline shall be sent to Member States at least six months before the deadline for the submission of the first report.

2. On the basis of the reports referred to in paragraph 1, the Commission shall publish a report on the application of this Directive within three months of receiving the reports from the Member States.

3. The Commission shall organise an exchange of information between the competent authorities of the Member States concerning developments relating to issues of allocation, the operation of registries, monitoring, reporting, verification and compliance.

Article 22

Amendments to Annex III

The Commission may amend Annex III, with the exception of criteria (1), (5) and (7), for the period from 2008 to 2012 in the light of the reports provided for in Article 21 and of the experience of the application of this Directive, in accordance with the procedure referred to in Article 23(2).

Article 23

Committee

1. The Commission shall be assisted by the committee instituted by Article 8 of Decision 93/389/EEC.

2. 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 three months.

3. The Committee shall adopt its rules of procedure.

Article 24

Procedures for unilateral inclusion of additional activities and gases

1. From 2008, Member States may apply emission allowance trading in accordance with this Directive to activities, installations and greenhouse gases which are not listed in Annex I, provided that inclusion of such activities, installations and greenhouse gases is approved by the Commission in accordance with the procedure referred to in Article 23(2), taking into account all relevant criteria, in particular effects on the internal market, potential distortions of competition, the environmental integrity of the scheme and reliability of the planned monitoring and reporting system.

From 2005 Member States may under the same conditions apply emissions allowance trading to installations carrying out activities listed in Annex I below the capacity limits referred to in that Annex.

2. Allocations made to installations carrying out such activities shall be specified in the national allocation plan referred to in Article 9.

3. The Commission may, on its own initiative, or shall, on request by a Member State, adopt monitoring and reporting guidelines for emissions from activities, installations and greenhouse gases which are not listed in Annex I in accordance with the procedure referred to in Article 23(2), if monitoring and reporting of these emissions can be carried out with sufficient accuracy.

4. In the event that such measures are introduced, reviews carried out pursuant to Article 30 shall also consider whether Annex I should be amended to include emissions from these activities in a harmonised way throughout the Community.

Article 25

Links with other greenhouse gas emissions trading schemes

1. Agreements should be concluded with third countries listed in Annex B to the Kyoto Protocol which have ratified the Protocol to provide for the mutual recognition of allowances between the Community scheme and other greenhouse gas emissions trading schemes in accordance with the rules set out in Article 300 of the Treaty.

2. Where an agreement referred to in paragraph 1 has been concluded, the Commission shall draw up any necessary provisions relating to the mutual recognition of allowances under that agreement in accordance with the procedure referred to in Article 23(2).

Article 26

Amendment of Directive 96/61/EC

In Article 9(3) of Directive 96/61/EC the following subparagraphs shall be added:

'Where emissions of a greenhouse gas from an installation are specified in Annex I to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (*) in relation to an activity carried out in that installation, the permit shall not include an emission limit value for direct emissions of that gas unless it is necessary to ensure that no significant local pollution is caused.

For activities listed in Annex I to Directive 2003/87/EC, Member States may choose not to impose requirements relating to energy efficiency in respect of combustion units or other units emitting carbon dioxide on the site.

Where necessary, the competent authorities shall amend the permit as appropriate.

The three preceding subparagraphs shall not apply to installations temporarily excluded from the scheme for greenhouse gas emission allowance trading within the Community in accordance with Article 27 of Directive 2003/87/EC.

(*) OJ L 275, 25.10.2003, p. 32.'

Article 27

Temporary exclusion of certain installations

1. Member States may apply to the Commission for installations to be temporarily excluded until 31 December 2007 at the latest from the Community scheme. Any such application shall list each such installation and shall be published.

2. If, having considered any comments made by the public on that application, the Commission decides, in accordance with the procedure referred to in Article 23(2), that the installations will:

- (a) as a result of national policies, limit their emissions as much as would be the case if they were subject to the provisions of this Directive;
- (b) be subject to monitoring, reporting and verification requirements which are equivalent to those provided for pursuant to Articles 14 and 15; and
- (c) be subject to penalties at least equivalent to those referred to in Article 16(1) and (4) in the case of non-fulfilment of national requirements;

it shall provide for the temporary exclusion of those installations from the Community scheme.

It must be ensured that there will be no distortion of the internal market.

Article 28

Pooling

1. Member States may allow operators of installations carrying out one of the activities listed in Annex I to form a pool of installations from the same activity for the period referred to in Article 11(1) and/or the first five-year period referred to in Article 11(2) in accordance with paragraphs 2 to 6 of this Article.

2. Operators carrying out an activity listed in Annex I who wish to form a pool shall apply to the competent authority, specifying the installations and the period for which they want the pool and supplying evidence that a trustee will be able to fulfil the obligations referred to in paragraphs 3 and 4.

3. Operators wishing to form a pool shall nominate a trustee:

- (a) to be issued with the total quantity of allowances calculated by installation of the operators, by way of derogation from Article 11;
- (b) to be responsible for surrendering allowances equal to the total emissions from installations in the pool, by way of derogation from Articles 6(2)(e) and 12(3); and
- (c) to be restricted from making further transfers in the event that an operator's report has not been verified as satisfactory in accordance with the second paragraph of Article 15.

4. The trustee shall be subject to the penalties applicable for breaches of requirements to surrender sufficient allowances to cover the total emissions from installations in the pool, by way of derogation from Article 16(2), (3) and (4).

5. A Member State that wishes to allow one or more pools to be formed shall submit the application referred to in paragraph 2 to the Commission. Without prejudice to the Treaty, the Commission may within three months of receipt reject an application that does not fulfil the requirements of this Directive. Reasons shall be given for any such decision. In the case of rejection the Member State may only allow the pool to be formed if proposed amendments are accepted by the Commission.

6. In the event that the trustee fails to comply with penalties referred to in paragraph 4, each operator of an installation in the pool shall be responsible under Articles 12(3) and 16 in respect of emissions from its own installation.

Article 29

Force majeure

1. During the period referred to in Article 11(1), Member States may apply to the Commission for certain installations to be issued with additional allowances in cases of *force majeure*. The Commission shall determine whether *force majeure* is demonstrated, in which case it shall authorise the issue of additional and non-transferable allowances by that Member State to the operators of those installations.

2. The Commission shall, without prejudice to the Treaty, develop guidance to describe the circumstances under which *force majeure* is demonstrated, by 31 December 2003 at the latest.

Article 30

Review and further development

1. On the basis of progress achieved in the monitoring of emissions of greenhouse gases, the Commission may make a proposal to the European Parliament and the Council by 31 December 2004 to amend Annex I to include other activities and emissions of other greenhouse gases listed in Annex II.

2. On the basis of experience of the application of this Directive and of progress achieved in the monitoring of emissions of greenhouse gases and in the light of developments in the international context, the Commission shall draw up a report on the application of this Directive, considering:

- (a) how and whether Annex I should be amended to include other relevant sectors, *inter alia* the chemicals, aluminium and transport sectors, activities and emissions of other greenhouse gases listed in Annex II, with a view to further improving the economic efficiency of the scheme;
- (b) the relationship of Community emission allowance trading with the international emissions trading that will start in 2008;
- (c) further harmonisation of the method of allocation (including auctioning for the time after 2012) and of the criteria for national allocation plans referred to in Annex III;
- (d) the use of credits from project mechanisms;
- (e) the relationship of emissions trading with other policies and measures implemented at Member State and Community level, including taxation, that pursue the same objectives;
- (f) whether it is appropriate for there to be a single Community registry;
- (g) the level of excess emissions penalties, taking into account, *inter alia*, inflation;
- (h) the functioning of the allowance market, covering in particular any possible market disturbances;
- (i) how to adapt the Community scheme to an enlarged European Union;
- (j) pooling;
- (k) the practicality of developing Community-wide benchmarks as a basis for allocation, taking into account the best available techniques and cost-benefit analysis.

The Commission shall submit this report to the European Parliament and the Council by 30 June 2006, accompanied by proposals as appropriate.

3. Linking the project-based mechanisms, including Joint Implementation (JI) and the Clean Development Mechanism (CDM), with the Community scheme is desirable and important to achieve the goals of both reducing global greenhouse gas emissions and increasing the cost-effective functioning of the Community scheme. Therefore, the emission credits from the project-based mechanisms will be recognised for their use in this scheme subject to provisions adopted by the European Parliament and the Council on a proposal from the Commission, which should apply in parallel with the Community scheme in 2005. The use of the mechanisms shall be supplemental to domestic action, in accordance with the relevant provisions of the Kyoto Protocol and Marrakesh Accords.

Article 31

Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2003 at the latest. They shall forthwith inform the Commission thereof. The Commission shall notify the other Member States of these laws, regulations and administrative provisions.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

Article 32

Entry into force

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

Article 33

Addressees

This Directive is addressed to the Member States.

Done at Luxembourg, 13 October 2003.

For the European Parliament

The President

P. COX

For the Council

The President

G. ALEMANN

ANNEX I

CATEGORIES OF ACTIVITIES REFERRED TO IN ARTICLES 2(1), 3, 4, 14(1), 28 AND 30

1. Installations or parts of installations used for research, development and testing of new products and processes are not covered by this Directive.
2. The threshold values given below generally refer to production capacities or outputs. Where one operator carries out several activities falling under the same subheading in the same installation or on the same site, the capacities of such activities are added together.

Activities	Greenhouse gases
<i>Energy activities</i>	
Combustion installations with a rated thermal input exceeding 20 MW (except hazardous or municipal waste installations)	Carbon dioxide
Mineral oil refineries	Carbon dioxide
Coke ovens	Carbon dioxide
<i>Production and processing of ferrous metals</i>	
Metal ore (including sulphide ore) roasting or sintering installations	Carbon dioxide
Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2,5 tonnes per hour	Carbon dioxide
<i>Mineral industry</i>	
Installations for the production of cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or lime in rotary kilns with a production capacity exceeding 50 tonnes per day or in other furnaces with a production capacity exceeding 50 tonnes per day	Carbon dioxide
Installations for the manufacture of glass including glass fibre with a melting capacity exceeding 20 tonnes per day	Carbon dioxide
Installations for the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tonnes per day, and/or with a kiln capacity exceeding 4 m ³ and with a setting density per kiln exceeding 300 kg/m ³	Carbon dioxide
<i>Other activities</i>	
Industrial plants for the production of	
(a) pulp from timber or other fibrous materials	Carbon dioxide
(b) paper and board with a production capacity exceeding 20 tonnes per day	Carbon dioxide

ANNEX II

GREENHOUSE GASES REFERRED TO IN ARTICLES 3 AND 30

Carbon dioxide (CO₂)
Methane (CH₄)
Nitrous Oxide (N₂O)
Hydrofluorocarbons (HFCs)
Perfluorocarbons (PFCs)
Sulphur Hexafluoride (SF₆)

ANNEX III

CRITERIA FOR NATIONAL ALLOCATION PLANS REFERRED TO IN ARTICLES 9, 22 AND 30

1. The total quantity of allowances to be allocated for the relevant period shall be consistent with the Member State's obligation to limit its emissions pursuant to Decision 2002/358/EC and the Kyoto Protocol, taking into account, on the one hand, the proportion of overall emissions that these allowances represent in comparison with emissions from sources not covered by this Directive and, on the other hand, national energy policies, and should be consistent with the national climate change programme. The total quantity of allowances to be allocated shall not be more than is likely to be needed for the strict application of the criteria of this Annex. Prior to 2008, the quantity shall be consistent with a path towards achieving or over-achieving each Member State's target under Decision 2002/358/EC and the Kyoto Protocol.
2. The total quantity of allowances to be allocated shall be consistent with assessments of actual and projected progress towards fulfilling the Member States' contributions to the Community's commitments made pursuant to Decision 93/389/EEC.
3. Quantities of allowances to be allocated shall be consistent with the potential, including the technological potential, of activities covered by this scheme to reduce emissions. Member States may base their distribution of allowances on average emissions of greenhouse gases by product in each activity and achievable progress in each activity.
4. The plan shall be consistent with other Community legislative and policy instruments. Account should be taken of unavoidable increases in emissions resulting from new legislative requirements.
5. The plan shall not discriminate between companies or sectors in such a way as to unduly favour certain undertakings or activities in accordance with the requirements of the Treaty, in particular Articles 87 and 88 thereof.
6. The plan shall contain information on the manner in which new entrants will be able to begin participating in the Community scheme in the Member State concerned.
7. The plan may accommodate early action and shall contain information on the manner in which early action is taken into account. Benchmarks derived from reference documents concerning the best available technologies may be employed by Member States in developing their National Allocation Plans, and these benchmarks can incorporate an element of accommodating early action.
8. The plan shall contain information on the manner in which clean technology, including energy efficient technologies, are taken into account.
9. The plan shall include provisions for comments to be expressed by the public, and contain information on the arrangements by which due account will be taken of these comments before a decision on the allocation of allowances is taken.
10. The plan shall contain a list of the installations covered by this Directive with the quantities of allowances intended to be allocated to each.
11. The plan may contain information on the manner in which the existence of competition from countries or entities outside the Union will be taken into account.

ANNEX IV

PRINCIPLES FOR MONITORING AND REPORTING REFERRED TO IN ARTICLE 14(1)**Monitoring of carbon dioxide emissions**

Emissions shall be monitored either by calculation or on the basis of measurement.

Calculation

Calculations of emissions shall be performed using the formula:

$$\text{Activity data} \times \text{Emission factor} \times \text{Oxidation factor}$$

Activity data (fuel used, production rate etc.) shall be monitored on the basis of supply data or measurement.

Accepted emission factors shall be used. Activity-specific emission factors are acceptable for all fuels. Default factors are acceptable for all fuels except non-commercial ones (waste fuels such as tyres and industrial process gases). Seam-specific defaults for coal, and EU-specific or producer country-specific defaults for natural gas shall be further elaborated. IPCC default values are acceptable for refinery products. The emission factor for biomass shall be zero.

If the emission factor does not take account of the fact that some of the carbon is not oxidised, then an additional oxidation factor shall be used. If activity-specific emission factors have been calculated and already take oxidation into account, then an oxidation factor need not be applied.

Default oxidation factors developed pursuant to Directive 96/61/EC shall be used, unless the operator can demonstrate that activity-specific factors are more accurate.

A separate calculation shall be made for each activity, installation and for each fuel.

Measurement

Measurement of emissions shall use standardised or accepted methods, and shall be corroborated by a supporting calculation of emissions.

Monitoring of emissions of other greenhouse gases

Standardised or accepted methods shall be used, developed by the Commission in collaboration with all relevant stakeholders and adopted in accordance with the procedure referred to in Article 23(2).

Reporting of emissions

Each operator shall include the following information in the report for an installation:

- A. Data identifying the installation, including:
 - Name of the installation;
 - Its address, including postcode and country;
 - Type and number of Annex I activities carried out in the installation;
 - Address, telephone, fax and email details for a contact person; and
 - Name of the owner of the installation, and of any parent company.
- B. For each Annex I activity carried out on the site for which emissions are calculated:
 - Activity data;
 - Emission factors;
 - Oxidation factors;
 - Total emissions; and
 - Uncertainty.
- C. For each Annex I activity carried out on the site for which emissions are measured:
 - Total emissions;
 - Information on the reliability of measurement methods; and
 - Uncertainty.
- D. For emissions from combustion, the report shall also include the oxidation factor, unless oxidation has already been taken into account in the development of an activity-specific emission factor.

Member States shall take measures to coordinate reporting requirements with any existing reporting requirements in order to minimise the reporting burden on businesses.

ANNEX V

CRITERIA FOR VERIFICATION REFERRED TO IN ARTICLE 15**General Principles**

1. Emissions from each activity listed in Annex I shall be subject to verification.
2. The verification process shall include consideration of the report pursuant to Article 14(3) and of monitoring during the preceding year. It shall address the reliability, credibility and accuracy of monitoring systems and the reported data and information relating to emissions, in particular:
 - (a) the reported activity data and related measurements and calculations;
 - (b) the choice and the employment of emission factors;
 - (c) the calculations leading to the determination of the overall emissions; and
 - (d) if measurement is used, the appropriateness of the choice and the employment of measuring methods.
3. Reported emissions may only be validated if reliable and credible data and information allow the emissions to be determined with a high degree of certainty. A high degree of certainty requires the operator to show that:
 - (a) the reported data is free of inconsistencies;
 - (b) the collection of the data has been carried out in accordance with the applicable scientific standards; and
 - (c) the relevant records of the installation are complete and consistent.
4. The verifier shall be given access to all sites and information in relation to the subject of the verification.
5. The verifier shall take into account whether the installation is registered under the Community eco-management and audit scheme (EMAS).

Methodology**Strategic analysis**

6. The verification shall be based on a strategic analysis of all the activities carried out in the installation. This requires the verifier to have an overview of all the activities and their significance for emissions.

Process analysis

7. The verification of the information submitted shall, where appropriate, be carried out on the site of the installation. The verifier shall use spot-checks to determine the reliability of the reported data and information.

Risk analysis

8. The verifier shall submit all the sources of emissions in the installation to an evaluation with regard to the reliability of the data of each source contributing to the overall emissions of the installation.
9. On the basis of this analysis the verifier shall explicitly identify those sources with a high risk of error and other aspects of the monitoring and reporting procedure which are likely to contribute to errors in the determination of the overall emissions. This especially involves the choice of the emission factors and the calculations necessary to determine the level of the emissions from individual sources. Particular attention shall be given to those sources with a high risk of error and the abovementioned aspects of the monitoring procedure.
10. The verifier shall take into consideration any effective risk control methods applied by the operator with a view to minimising the degree of uncertainty.

Report

11. The verifier shall prepare a report on the validation process stating whether the report pursuant to Article 14(3) is satisfactory. This report shall specify all issues relevant to the work carried out. A statement that the report pursuant to Article 14(3) is satisfactory may be made if, in the opinion of the verifier, the total emissions are not materially misstated.

Minimum competency requirements for the verifier

12. The verifier shall be independent of the operator, carry out his activities in a sound and objective professional manner, and understand:
- (a) the provisions of this Directive, as well as relevant standards and guidance adopted by the Commission pursuant to Article 14(1);
 - (b) the legislative, regulatory, and administrative requirements relevant to the activities being verified; and
 - (c) the generation of all information related to each source of emissions in the installation, in particular, relating to the collection, measurement, calculation and reporting of data.
-

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 23 October 2003

providing for the temporary marketing of certain seed of the species *Secale cereale* and *Triticum durum*, not satisfying the requirements of Council Directive 66/402/EEC

(notified under document number C(2003) 3862)

(Text with EEA relevance)

(2003/765/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed ⁽¹⁾, as last amended by Directive 2003/61/EC ⁽²⁾, and in particular Article 17(1) thereof,

Whereas:

- (1) In Austria the quantity of available seed of winter varieties of durum wheat (*Triticum durum*) and rye (*Secale cereale*) suitable to the national climatic conditions and which satisfies the germination capacity requirements of Directive 66/402/EEC is insufficient and is therefore not adequate to meet the needs of that Member State.
- (2) It is not possible to meet the demand for seed of those species satisfactorily with seed from other Member States or from third countries, which satisfies all the requirements laid down in Directive 66/402/EEC.
- (3) Accordingly, Austria should be authorised to permit the marketing of seed of those species subject to less stringent requirements for a period expiring on 30 November 2003.
- (4) In addition, other Member States which are in a position to supply Austria with seed of those species should be authorised to permit the marketing of such seed.
- (5) It is appropriate that Austria act as coordinator, in order to ensure that the total amount of seed authorised pursuant to this Decision does not exceed the maximum quantity covered by this Decision.

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

HAS ADOPTED THIS DECISION:

Article 1

1. The marketing in the Community of seed of winter durum wheat and rye which does not satisfy the minimum germination capacity requirements laid down in Directive 66/402/EEC shall be permitted, for a period expiring on 30 November 2003, in accordance with the terms set out in the Annex to this Decision and subject to the following conditions:

- (a) the germination capacity is at least that set out in the Annex to this Decision;
- (b) the official label states the germination ascertained in the official examination carried out pursuant to Articles 2(1)(F)(d) and 2(1)(G)(d) of Directive 66/402/EEC.

2. The marketing in the Community of the seed referred to in paragraph 1 shall be permitted only where the seed was first placed on the market in accordance with Article 2 of this Decision.

Article 2

Any seed supplier wishing to place on the market the seeds referred to in Article 1 shall apply to the Member State in which he or she is established for authorisation.

⁽¹⁾ OJ L 125, 11.7.1966, p. 2309/66.

⁽²⁾ OJ L 165, 3.7.2003, p. 23.

The Member State concerned shall authorise the supplier to place that seed on the market, unless:

- (a) there is sufficient evidence to doubt as to whether the supplier is able to place on the market the amount of seed for which he or she has applied for authorisation;
- (b) the total quantity authorised to be marketed pursuant to the derogation concerned would exceed the maximum quantity specified in the Annex.

Article 3

The Member States shall assist each other administratively in the application of this Decision.

Austria shall act as coordinating Member State in respect of Article 1 in order to ensure that the total amount authorised does not exceed the maximum quantity specified in the Annex.

Any Member State receiving an application pursuant to Article 2 shall immediately notify the coordinating Member State of the amount covered by the application. The coordinating

Member State shall immediately inform the notifying Member State as to whether authorisation would result in the maximum quantity being exceeded.

Article 4

Member States shall immediately notify the Commission and the other Member States of the quantities in respect of which they have granted marketing authorisation pursuant to this Decision.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 23 October 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX

Species	Type of variety	Maximum quantity (tonnes)	Minimum germination (% of pure seed)
<i>Triticum durum</i>	Heradur, Inverdur, Prowidur, Superdur	250	70
<i>Secale cereale</i>	Albedo, Amilo, EHO-Kurz, Elect, Kier, Kustro, Motto, Nikita, Oberkärntner, Schlägler	300	75

COMMISSION DECISION
of 24 October 2003
on emergency measures to prevent the spread within the Community of *Diabrotica virgifera* Le Conte

(notified under document number C(2003) 3880)

(2003/766/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Commission Directive 2003/47/EC⁽²⁾, and in particular Article 16(3), third sentence thereof,

Whereas:

- (1) France and Austria informed the other Member States and the Commission in 2002 of outbreaks of *Diabrotica virgifera* Le Conte (hereinafter referred to as 'the organism') for the first time in their respective territories and of the measures taken to control them.
- (2) In 2002, monitoring was conducted in areas in Italy already infested by the organism, in particular in areas of maize monoculture and at potential introduction places of the organism such as airports and customs stations. It appears that eradication measures taken in the Veneto region proved to be effective to contain the organism and population levels of the organism have decreased; in Lombardia and Piemonte many adults of the organism were captured in different provinces, whilst an outbreak was detected for the first time in the Friuli-Venezia Giulia region.
- (3) A recent Community research study on the establishment potential of the organism within the Community has demonstrated that the main factors of establishment, like trophic and climate conditions, are present in the Community.
- (4) Moreover, from that study, it became apparent that the organism and its damaging effects could be of significant plant health concern to the Community maize production, because of the potential of economic loss, the potential for increased reliance on insecticides and the challenge to find an alternative crop to maize in the rotation circle.
- (5) Directive 2000/29/EC prohibits the introduction into and the spread within the Community of the organism only. However no Community measures are available when new outbreaks are recorded by Member States in free areas or when the organism is detected in an early stage of development of the population. Consequently

such measures should be defined, with the aim of eradication of the organism within a reasonable period of time.

- (6) Those measures should include general surveying for the presence of the organism in the Member States.
- (7) The measures should apply to control the spread within the Community of the organism, the delimitation of demarcated zones, the movement of host plants, soil and machinery, as well as to crop rotation in demarcated zones.
- (8) It is appropriate that the results of such measures be continuously assessed, and possible subsequent measures be considered in the light of the results of that assessment.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

Member States shall ensure that the suspected occurrence or confirmed presence of *Diabrotica virgifera* le Conte, hereinafter referred as 'the organism' is reported to their own responsible official bodies within the meaning of Directive 2000/29/EC.

Article 2

1. Member States shall each year conduct official surveys for the presence of the organism in areas in their territory, where maize is grown.
2. Without prejudice to Article 16(1) of Directive 2000/29/EC, the results of the surveys provided for in paragraph 1 shall be notified to the Commission and to the other Member States by 31 December of each year.

Article 3

1. When the results of the surveys referred to in Article 2, confirm the presence of the organism in an area which was previously known to be free from the organism, Member States shall define demarcated zones which consist of the following parts:

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

⁽²⁾ OJ L 138, 5.6.2003, p. 47.

- (a) a focus zone around a field where the organism has been captured, of at least 1 km radius, and
- (b) a safety zone around the focus zone of at least 5 km radius.

In addition Member States may also define a buffer zone around the focus and safety zone.

2. The exact delimitation of the area of the zones referred to in paragraph 1 shall be based on sound scientific principles, the biology of the organism, the level of infestation, and the particular production system of the host plant of the organism in the Member State concerned.

3. If the presence of the organism is confirmed in another point than the original point of capture of the organism situated in the focus zone, the delimitation of the demarcated zones shall be changed accordingly.

4. If no captures of the organism are detected two years after the last year of capture, the demarcated zones shall cease to exist and no further eradication measures referred to in Article 4 shall be necessary.

5. The Member States shall inform the other Member States and the Commission of the areas of the zones referred to in paragraph 1 by providing suitable scale maps.

Article 4

1. In each of the parts of the demarcated zones, Member States shall monitor the presence of the organism using appropriate sex pheromone traps which have to be arranged like a grid and checked regularly. The type and number of traps to be used as well as the method of trapping shall take into account the local circumstances, and the characteristics of the demarcated zones.

2. In addition to the provisions of paragraph 1, Member States shall ensure that in the focus zone:

- (a) there is no movement of fresh plants of *Zea mais* L., or fresh parts thereof out of this zone between dates in the year of occurrence of the harmful organism, set on the basis of the biology of the organism, the level of captures of the organism, and the climatic conditions prevailing in the relevant Member State, to ensure that there is no spread of the organism;
- (b) there is no movement of soil of maize fields from inside the focus zone to outside the focus zone;
- (c) maize is not harvested between dates in the year of occurrence of the organism, set on the basis of the biology of the organism, the level of captures of the organism, and the climatic conditions prevailing in the relevant Member State, to ensure that there is no spread of the organism;
- (d) in the maize fields a crop rotation takes place whereby during any period of three consecutive years maize is only grown once, or maize is not cultivated for two years after the last year of capture in the entire focus zone;

- (e) an appropriate treatment on maize fields until the end of the oviposition period is carried out against the organism in the year of its occurrence and the year thereafter;

- (f) agricultural machinery used on maize fields is cleaned of all soil and debris before leaving the zone;

- (g) volunteer maize plants are removed in non-maize fields.

3. In addition to the provisions of paragraph 1, Member States shall ensure that in the safety zone at least:

- (a) a crop rotation takes place whereby during any period of two consecutive years maize is only grown once; or

- (b) an appropriate treatment on maize fields is carried out against the organism in the year of its occurrence and the year thereafter.

4. In addition to the provisions of paragraph 1, Member States may lay down that in the buffer zone a crop rotation takes place whereby, during any period of two consecutive years, maize is only grown once.

Article 5

Member States shall provide the Commission and the other Member States by 31 December of each year with the information on:

- the areas of the zones referred to in Article 3(5),
- the dates set and the justification thereof referred to in Article 4(2)(a) and (c),
- the treatment carried out referred to in Article 4(2)(e) and Article 4(3)(b).

Article 6

Member States shall adapt by 1 December 2003 at the latest, the measures they have adopted with a view to prevent the spread of the organism in such a manner that the measures comply with this Decision and shall forthwith inform the Commission of the adapted measures.

Article 7

The Commission shall review the operation of this Decision by 28 February 2005, and by 28 February of each subsequent year.

Article 8

This Decision is addressed to the Member States.

Done at Brussels, 24 October 2003.

For the Commission

David BYRNE

Member of the Commission