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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1131/2004

of 18 June 2004

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], 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 19 June 2004.

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

Done at Brussels, 18 June 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

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[1] OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 1947/2002 (OJ L 299, 1.11.2002, p. 17).

ANNEX

to the Commission Regulation of 18 June 2004 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	70,4
	999	70,4
0707 00 05	052	111,0
	999	111,0
0709 90 70	052	90,3
	999	90,3
0805 50 10	388	68,2
	508	51,4
	528	64,4
	999	61,3
0808 10 20, 0808 10 50, 0808 10 90	388	84,5
	400	113,7
	404	108,5
	508	71,2
	512	75,4
	524	65,1
	528	67,6
	720	75,1
	804	94,3
	999	83,9
0809 10 00	052	292,2
	624	221,0
	999	256,6
0809 20 95	052	404,4
	400	372,7
	616	272,4
	999	349,8
0809 30 10, 0809 30 90	052	135,3
	624	175,1
	999	155,2
0809 40 05	052	102,5
	624	225,5
	999	164,0

(1) Country nomenclature as fixed by Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1132/2004

of 18 June 2004

amending Regulation (EEC) No 1764/86 and Regulation (EC) No 1535/2003, as regards the traditional product *kunserva*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products [1], and in particular Article 6(1) thereof,

Whereas:

(1) Commission Regulation (EEC) No 1764/86 of 27 May 1986 laying down minimum quality requirements for products processed from tomatoes under the production aid scheme [2], lays down the definition of tomato concentrate eligible for production aid.

(2) Commission Regulation (EC) No 1535/2003 of 29 August 2003 laying down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the aid scheme for products processed from fruit and vegetables [3], lists the products eligible for production aid.

(3) *Kunserva* is a traditional, well-defined Maltese product, and tomatoes used in the production of *kunserva* should be eligible to production aid from the date of accession of Malta to the European Union.

(4) Regulations (EEC) No 1764/86 and (EC) No 1535/2003 should therefore be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Processed Fruit and Vegetables,

(1) OJ L 297, 21.11.1996, p. 29. Regulation as last amended by Commission Regulation (EC) No 386/2004 (OJ L 64, 2.3.2004, p. 25).
(2) OJ L 153, 7.6.1986, p. 1. Regulation as last amended by Regulation (EC) No 996/2001 (OJ L 139, 23.5.2001. p. 9).
(3) OJ L 218, 30.8.2003. p. 14. Regulation as last amended by Regulation (EC) No 444/2004 (OJ L 72, 11.3.2004, p. 54).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1764/86 is amended as follows:

1. Article 8 is replaced by the following:

'*Article 8*

For the purposes of this title "tomato juice" and "tomato concentrate" mean the products defined in points 11, 12 and 18 of Article 2 of Commission Regulation (EC) No 1535/2003 (*).

(*) OJ L 218, 30.8.2003, p. 14.'

2. Article 9 is replaced by the following:

'*Article 9*

1. Only the following ingredients may be added to tomato juice and tomato concentrate:

(a) common salt (sodium chloride);

(b) natural spices, aromatic herbs and their extracts, and natural aromas.

Furthermore, in the case of *kunserva*, sugar shall be added, representing between 8 % and 25 % by weight of the finished product.

2. As an additive in the manufacture of tomato juice and tomato concentrate citric acid (E 330) may be used.

In the manufacture of tomato juice with a dry weight content of less than 7 %, ascorbic acid (E 300) may be used. However, the ascorbic acid content shall not exceed 0,03 % by weight of the finished product.

In the manufacture of tomato concentrate in powder form, silicon dioxide (551) may be used. However, the silicon dioxide content shall not exceed 1 % by weight of the finished product.

3. The quantity of added common salt shall:

(a) not exceed 15 % by weight of the dry weight content for tomato concentrate having a dry weight content exceeding 20 %;

(b) not exceed 3 % by weight of the net weight for other tomato concentrates and for tomato juice;

(c) be between 2 % and 5 % by weight for *kunserva*.

When determining the quantity of added common salt, the natural content of chlorides shall be considered as equal to 2 % of the dry weight content.'

Article 2

In Article 2 of Regulation (EC) No 1535/2003, the following point 18 is added:

'18. *kunserva*: the product obtained by concentrating tomato juice, obtained directly from fresh tomatoes, containing added sugar and salt, having a dry matter content of 28 % to 36 %, packed in hermetically sealed containers labelled "kunserva" and falling within CN code ex 2002 90.'

Article 3

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

It shall apply from the date of the entry into force of the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

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

Done at Brussels, 18 June 2004.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1133/2004

of 18 June 2004

fixing the maximum export refund on wholly milled and parboiled long grain B rice to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1877/2003

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], and in particular Article 13(3) thereof,

Whereas:

(1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 1877/2003 [2].

(2) Article 5 of Commission Regulation (EEC) No 584/75 [3] allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

(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

The maximum export refund on wholly milled and parboiled long grain B rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 1877/2003 is hereby fixed on the basis of the tenders submitted from 14 to 17 June 2004 at 169,00 EUR/t.

Article 2

This Regulation shall enter into force on 19 June 2004.

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

Done at Brussels, 18 June 2004.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).

[2] OJ L 275, 25.10.2003, p. 20.

[3] OJ L 61, 7.3.1975, p. 25. Regulation as last amended by Regulation (EC) No 1948/2002 (OJ L 299, 1.11.2002, p. 18).

COMMISSION REGULATION (EC) No 1134/2004

of 18 June 2004

fixing the maximum export refund on wholly milled round grain rice to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1875/2003

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], and in particular Article 13(3) thereof,

Whereas:

(1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 1875/2003 [2].

(2) Article 5 of Commission Regulation (EEC) No 584/75 [3] allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

(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

The maximum export refund on wholly milled round grain rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 1875/2003 is hereby fixed on the basis of the tenders submitted from 14 to 17 June 2004 at 50,00 EUR/t.

Article 2

This Regulation shall enter into force on 19 June 2004.

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

Done at Brussels, 18 June 2004.

For the Commission

Franz FISCHLER

Member of the Commission

(1) OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).

(2) OJ L 275, 25.10.2003, p. 14.

(3) OJ L 61, 7.3.1975, p. 25. Regulation as last amended by Regulation (EC) No 1948/2002 (OJ L 299, 1.11.2002, p. 18).

COMMISSION REGULATION (EC) No 1135/2004

of 18 June 2004

fixing the maximum export refund on wholly milled round grain, medium grain and long grain A rice to be exported to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1876/2003

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], and in particular Article 13(3) thereof,

Whereas:

(1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 1876/2003 [2].

(2) Article 5 of Commission Regulation (EEC) No 584/75 [3] allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

(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

The maximum export refund on wholly milled grain, medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 1876/2003 is hereby fixed on the basis of the tenders submitted from 14 to 17 June 2004 at 50,00 EUR/t.

Article 2

This Regulation shall enter into force on 19 June 2004.

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

Done at Brussels, 18 June 2004.

For the Commission
Franz FISCHLER
Member of the Commission

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(1) OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).
(2) OJ L 275, 25.10.2003, p. 17.
(3) OJ L 61, 7.3.1975, p. 25. Regulation as last amended by Regulation (EC) No 1948/2002 (OJ L 299, 1.11.2002, p. 18).

COUNCIL DIRECTIVE 2004/84/EC

of 10 June 2004

amending Directive 2001/113/EC relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) Directive 2001/113/EC [1] sets out the essential requirements to be met by a number of products defined in Annex I thereof, including 'jam' and 'marmalade', so that these products may move freely within the internal market.

(2) In the German language version, the product names 'Konfitüre' and 'Marmelade' are used for 'jam' and 'marmalade' respectively.

(3) In certain local markets in Austria and Germany, such as farmer's markets or weekly markets, the term 'Marmelade' has also traditionally been used for the product name 'jam'; in such cases, the term 'Marmelade aus Zitrusfrüchten' is used for the term 'marmalade' in order to distinguish the two product categories.

(4) It is therefore appropriate that Austria and Germany should take into account these traditions when adopting the necessary measures to comply with Directive 2001/113/EC.

(5) The present Directive should apply from 12 July 2004 in order to ensure the full benefit of its provisions,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 2001/113/EC in the German language version shall be replaced by the Annex to this Directive.

Article 2

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

It shall apply from 12 July 2004.

Article 3

This Directive is addressed to the Member States.

Done at Luxembourg, 10 June 2004.

For the Council

The President

D. AHERN

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[1] OJ L 10, 12.1.2002, p. 67.

ANNEX

„ANHANG I

VERKEHRSBEZEICHNUNGEN, BESCHREIBUNG UND BEGRIFFSBESTIMMUNGEN DER ERZEUGNISSE

I. BEGRIFFSBESTIMMUNGEN

— ‚Konfitüre' (*) ist die auf die geeignete gelierte Konsistenz gebrachte Mischung von Zuckerarten, Pülpe und/oder Fruchtmark einer oder mehrerer Fruchtsorte(n) und Wasser. Abweichend davon darf Konfitüre von Zitrusfrüchten aus der in Streifen und/oder in Stücke geschnittenen ganzen Frucht hergestellt werden.

Die für die Herstellung von 1 000 g Enderzeugnis verwendete Menge Pülpe und/oder Fruchtmark beträgt mindestens

— 350 g im Allgemeinen,

— 250 g bei roten Johannisbeeren/Ribiseln, Vogelbeeren, Sanddorn, schwarzen Johannisbeeren/Ribiseln, Hagebutten und Quitten,

— 150 g bei Ingwer,

— 160 g bei Kaschuäpfeln,

— 60 g bei Passionsfrüchten.

— ‚Konfitüre extra' ist die auf die geeignete gelierte Konsistenz gebrachte Mischung von Zuckerarten, nicht konzentrierter Pülpe aus einer oder mehreren Fruchtsorte(n) und Wasser. Konfitüre extra von Hagebutten sowie kernlose Konfitüre extra von Himbeeren, Brombeeren, schwarzen Johannisbeeren/Ribiseln, Heidelbeeren und roten Johannisbeeren/Ribiseln kann jedoch ganz oder teilweise aus nicht konzentriertem Fruchtmark hergestellt werden. Konfitüre extra von Zitrusfrüchten darf aus der in Streifen und/oder in Stücke geschnittenen ganzen Frucht hergestellt werden.

Aus Mischungen der nachstehenden Früchte mit anderen Früchten kann keine Konfitüre extra hergestellt werden: Äpfeln, Birnen, nicht steinlösenden Pflaumen, Melonen, Wassermelonen, Trauben, Kürbissen, Gurken, Tomaten/Paradeisern.

Die für die Herstellung von 1 000 g Enderzeugnis verwendete Menge Pülpe beträgt mindestens

— 450 g im Allgemeinen,

— 350 g bei roten Johannisbeeren/Ribiseln, Vogelbeeren, Sanddorn, schwarzen Johannisbeeren/Ribiseln, Hagebutten und Quitten,

— 250 g bei Ingwer,

— 230 g bei Kaschuäpfeln,

— 80 g bei Passionsfrüchten.

— ‚Gelee' ist die hinreichend gelierte Mischung von Zuckerarten sowie Saft und/oder wässrigen Auszügen einer oder mehrerer Fruchtsorte(n).

Die für die Herstellung von 1 000 g Enderzeugnis verwendete Menge an Saft und/oder wässrigen Auszügen entspricht mindestens der für die Herstellung von Konfitüre vorgeschriebenen Menge. Die Mengenangaben gelten nach Abzug des Gewichts des für die Herstellung der wässrigen Auszüge verwendeten Wassers.

— Bei der Herstellung von ‚Gelee extra' entspricht die für die Herstellung von 1 000 g Enderzeugnis verwendete Menge an Fruchtsaft und/oder wässrigen Auszügen mindestens der für die Herstellung von Konfitüre extra vorgeschriebenen Menge. Die Mengenangaben gelten nach Abzug des Gewichts des für die Herstellung der wässrigen Auszüge verwendeten Wassers. Aus Mischungen der nachstehenden Früchte mit anderen Früchten kann kein Gelee extra hergestellt werden: Äpfeln, Birnen, nicht steinlösenden Pflaumen, Melonen, Wassermelonen, Trauben, Kürbissen, Gurken, Tomaten/Paradeisern.

— ‚Marmelade' ist die auf die geeignete gelierte Konsistenz gebrachte Mischung von Wasser, Zuckerarten und einem oder mehreren der nachstehenden, aus Zitrusfrüchten hergestellten Erzeugnisse: Pülpe, Fruchtmark, Saft, wässriger Auszug, Schale (**).

Die für die Herstellung von 1 000 g Enderzeugnis verwendete Menge Zitrusfrüchte beträgt mindestens 200 g, von denen mindestens 75 g dem Endokarp entstammen.

— Mit ‚Gelee-Marmelade' wird das Erzeugnis bezeichnet, aus dem sämtliche unlöslichen Bestandteile mit Ausnahme etwaiger kleiner Anteile feingeschnittener Schale entfernt worden sind.

(*) In Österreich und Deutschland kann für den Verkauf an den Endverbraucher auf bestimmten lokalen Märkten auch die Bezeichnung ‚Marmelade' verwendet werden.

(**) In Österreich und Deutschland kann für den Verkauf an den Endverbraucher auf bestimmten lokalen Märkten auch die Bezeichnung ‚Marmelade aus Zitrusfrüchten' verwendet werden.

— ‚Maronenkrem' ist die auf die geeignete Konsistenz gebrachte Mischung von Wasser, Zucker und mindestens 380 g Maronenmark (von Castanea sativa) je 1 000 g Enderzeugnis.

II. Die in Abschnitt I definierten Erzeugnisse müssen mindestens 60 % lösliche Trockenmasse (Refraktometerwert) enthalten; hiervon ausgenommen sind die Erzeugnisse, bei denen der Zucker ganz oder teilweise durch Süßungsmittel ersetzt wurde.

Unbeschadet des Artikels 5 Absatz 1 der Richtlinie 2000/13/EG können die Mitgliedstaaten jedoch die vorbehaltenen Bezeichnungen für die in Abschnitt I definierten Erzeugnisse, die weniger als 60 % lösliche Trockenmasse enthalten, zulassen, um bestimmten Sonderfällen Rechnung zu tragen.

III. Bei Mischungen wird der in Abschnitt I vorgeschriebene Mindestanteil der einzelnen Fruchtsorten proportional zu den verwendeten Prozentanteilen angepasst."

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 14 June 2004

amending Decision 98/161/EC authorising the Kingdom of the Netherlands to apply a measure derogating from Articles 2 and 28a(1) of the Sixth Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes

(2004/514/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment [1], and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Pursuant to Article 27(1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce or extend special measures for derogation from that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance.

(2) By letter registered with the Secretariat-General of the Commission on 26 November 2003, the Dutch Government requested the extension of Decision 98/161/EC [2] authorising it to apply special tax measures to the recyclable waste sector.

(3) The other Member States were informed of the request on 14 January 2004.

(4) Decision 98/161/EC, authorised the Kingdom of the Netherlands to apply, until 31 December 2003, the following measures:

— an exemption for the supply and intracommunity acquisition of used and waste materials by firms with an annual turnover of less than NLG 2,5 million. For the purposes of calculating that threshold, turnover in non-ferrous metals may be disregarded,

— an exemption for the supply and intracommunity acquisition of non-ferrous metals.

(5) Taxable entities carrying out transactions which are exempt pursuant to Articles 2 and 3 of Decision 98/161/EC may be authorised not to make supplies and intra-Community acquisitions of used and waste materials effected by them subject to the special measures provided for by that Decision.

(6) The derogating measure was needed because of the difficulty in dealing with fraud in this sector, where certain operators, mainly small dealers, did not comply with their obligations under Article 21(1)(a) of Directive 77/388/EEC to pay to the authorities the tax they had charged for their supplies. Enforcing collection of the tax in this sector is especially difficult because of the complications of identifying and supervising the activities of non-compliant traders. Hence these arrangements constitute an effective fraud-prevention measure.

(7) On 7 June 2000, the Commission published a strategy to improve the operation of the VAT system in the short term, in which it undertook to rationalise the large number of derogations currently in force. In some cases, however, this rationalisation could involve extending certain particularly effective derogations to all Member States. The Commission's communication of 20 October 2003 reiterates this compromise.

(8) The Kingdom of the Netherlands should be granted an extension for the current derogation until the date of entry into force of a special scheme for the application of VAT to the recycled waste sector, but not later than 31 December 2005.

[1] OJ L 145, 13.6.1977, p. 1. Directive as last amended by Commission Regulation (EC) No 290/2004 (OJ L 50, 20.2.2004, p. 5).

[2] OJ L 53, 24.2.1998, p. 19. Decision as amended by Decision 2000/435/EC (OJ L 172, 12.7.2000, p. 24).

(9) The derogation has no adverse impact on the Communities' own resources accruing from VAT, nor does it have an effect on the amount of VAT charged at the final stage.

(10) In order to ensure legal continuity, this Decision should apply as from 1 January 2004,

HAS ADOPTED THIS DECISION:

Article 1

In Article 1 of Decision 98/161/EC, the date '31 December 2003' shall be replaced by the following wording: 'until the date of entry into force of a special scheme for the application of VAT to the recycled waste sector amending Directive 77/388/EEC, but not later than 31 December 2005'.

Article 2

This Decision shall apply as from 1 January 2004.

Article 3

This Decision is addressed to the Kingdom of the Netherlands.

Done at Luxembourg, 14 June 2004.

For the Council

The President

B. COWEN

EUROPEAN ECONOMIC AREA

THE EEA JOINT COMMITTEE

DECISION OF THE EEA JOINT COMMITTEE

No 78/2004

of 8 June 2004

amending Annex XIV (Competition), Protocol 21 (on the implementation of competition rules applicable to undertakings), Protocol 22 (concerning the definition of 'undertaking' and 'turnover' (Article 56)) and Protocol 24 (on cooperation in the field of control of concentrations) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex XIV to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg ([1]).

(2) Protocol 21 to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg.

(3) Protocol 22 to the Agreement has not previously been amended by the EEA Joint Committee.

(4) Protocol 24 to the Agreement has not previously been amended by the EEA Joint Committee,

([1]) OJ L 130, 29.4.2004, p. 3.

(5) Article 57 of the Agreement provides the legal basis for the control of concentrations within the European Economic Area.

(6) Article 57 must be applied in accordance with Protocols 21 and 24 and Annex XIV, laying down the applicable rules on the control of concentrations.

(7) Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings [1], as last amended by Regulation (EC) No 1310/97 [2], is incorporated into Annex XIV and Protocol 21, and referred to in Protocol 24 to the Agreement.

(8) Annex XIV and Protocol 21 were amended by Decision of the EEA Joint Committee No 27/1998 of 27 March 1998 [3], incorporating Council Regulation (EC) No 1310/97 of 30 June 1997, amending Regulation (EEC) No 4064/89, into the Agreement in line with the objective of maintaining a dynamic and homogenous EEA based on common rules and equal conditions on competition.

(9) Regulation (EC) No 1310/97 amending Regulation (EEC) No 4064/89 amends Article 5(3) of that Regulation. It is appropriate to amend Protocol 22 to the Agreement correspondingly.

(10) Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) [4] repeals and replaces Regulation (EEC) No 4064/89.

(11) Regulation (EC) No 139/2004 should be incorporated into Annex XIV and Protocol 21, and referred to in Protocol 24 to the Agreement in order to maintain equal conditions of competition within the EEA,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XIV to the Agreement shall be amended as specified in Annex I to this Decision.

Article 2

Protocol 21 to the Agreement shall be amended as specified in Annex II to this Decision.

Article 3

Protocol 22 to the Agreement shall be amended as specified in Annex III to this Decision.

Article 4

Protocol 24 to the Agreement shall be replaced as specified in Annex IV to this Decision.

(1) OJ L 395, 30.12.1989, p. 1.
(2) OJ L 180, 9.7.1997, p. 1.
(3) OJ L 310, 19.11.1998, p. 9 and, EEA Supplement No 48, 19.11.1998, p. 190.
(4) OJ L 24, 29.1.2004, p. 1.

Article 5

The texts of Regulation (EC) No 139/2004 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 6

This Decision shall enter into force on 9 June 2004, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 7

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

(*) No constitutional requirements indicated.

ANNEX I

The text of point 1 (Council Regulation (EEC) No 4064/89) in Annex XIV to the Agreement shall be replaced by the following:

'**32004 R 0139**: Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

The provisions of the Regulation shall, for the purposes of the Agreement, be read with the following adaptations:

(a) in Article 1(1), the phrase "or the corresponding provisions in Protocol 21 and Protocol 24 to the EEA Agreement" shall be inserted after the words "Without prejudice to Article 4(5)";

furthermore, the term "Community dimension" shall read "Community or EFTA dimension";

(b) in Article 1(2), the term "Community dimension" shall read "Community or EFTA dimension respectively";

furthermore, the term "Community-wide turnover" shall read "Community-wide turnover or EFTA-wide turnover";

in the last subparagraph, the term "Member State" shall read "EC Member State or EFTA State";

(c) in Article 1(3), the "Community dimension" shall read "Community or EFTA dimension respectively";

furthermore, the term "Community-wide turnover" shall read "Community-wide turnover or EFTA-wide turnover";

in Article 1(3)(b) and (c), the term "Member States" shall read "EC Member States or in each of at least three EFTA States";

in the last subparagraph, the term "Member State" shall read "EC Member State or EFTA State";

(d) Article 1(4) and (5) shall not apply;

(e) in Article 2(1), first subparagraph, the term "common market" shall read "functioning of the EEA Agreement";

(f) In Article 2(2), at the end, the term "common market" shall read "functioning of the EEA Agreement";

(g) in Article 2(3), at the end, the term "common market" shall read "functioning of the EEA Agreement";

(h) in Article 2(4), at the end, the term "common market" shall read "functioning of the EEA Agreement";

(i) in Article 3(5)(b), the term "Member State" shall read "EC Member State or EFTA State";

(j) in Article 4(1), first subparagraph, the term "Community dimension" shall read "Community or EFTA dimension";

furthermore, in the first sentence, the phrase "in accordance with Article 57 of the EEA Agreement" shall be inserted after the words "shall be notified to the Commission";

in Article 4(1), second subparagraph, the term "Community dimension" shall read "Community or EFTA dimension";

(k) in Article 5(1), the last subparagraph shall read:

"Turnover, in the Community or in an EC Member State, shall comprise products sold and services provided to undertakings or consumers, in the Community or in that EC Member State as the case may be. The same shall apply as regards turnover in the territory of the EFTA States as a whole or in an EFTA State.";

(l) in Article 5(3)(a), the last subparagraph shall read:

"The turnover of a credit or financial institution in the Community or in an EC Member State shall comprise the income items, as defined above, which are received by the branch or division of that institution established in the Community or the EC Member State in question as the case may be. The same shall apply as regards turnover of a credit or financial institution in the territory of the EFTA States as a whole or in an EFTA State.";

(m) in Article 5(3)(b), the last phrase, "... gross premiums received from Community residents and from residents of one Member State respectively shall be taken into account." shall read:

"… gross premiums received from Community residents and from residents of one EC Member State respectively shall be taken into account. The same shall apply as regards gross premiums received from residents in the territory of the EFTA States as a whole and from residents in one EFTA State, respectively." '.

ANNEX II

The text of point 1(1) (Council Regulation (EEC) No 4064/89) in Article 3 of Protocol 21 to the Agreement shall be replaced by the following:

'**32004 R 0139**: Article 4(4) and (5), Articles 6 to 12, Articles 14 to 21 and Articles 23 to 26 of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).'

ANNEX III

The text of Article 3 in Protocol 22 to the Agreement shall be replaced by the following:

'In place of turnover the following shall be used:

(a) for credit institutions and other financial institutions, the sum of the following income items as defined in Council Directive 86/635/EEC, after deduction of value added tax and other taxes directly related to those items, where appropriate:

(i) interest income and similar income;

(ii) income from securities:

— income from shares and other variable yield securities,

— income from participating interests,

— income from shares in affiliated undertakings;

(iii) commissions receivable;

(iv) net profit on financial operations;

(v) other operating income.

The turnover of a credit or financial institution in the territory covered by the Agreement shall comprise the income items, as defined above, which are received by the branch or division of that institution established in the territory covered by the Agreement;

(b) for insurance undertakings, the value of gross premiums written which shall comprise all amounts received and receivable in respect of insurance contracts issued by or on behalf of the insurance undertakings, including also outgoing reinsurance premiums, and after deduction of taxes and parafiscal contributions or levies charged by reference to the amounts of individual premiums or the total volume of premiums; as regards Article 1(2)(b) and (3)(b), (c) and (d) and the final part of Article 1(2) and (3) of Council Regulation (EC) No 139/2004, gross premiums received from residents in the territory covered by the Agreement shall be taken into account.'

ANNEX IV

Protocol 24 to the Agreement shall be replaced by the following:

'PROTOCOL 24

on cooperation in the field of control of concentrations

GENERAL PRINCIPLES

Article 1

1. The EFTA Surveillance Authority and the EC Commission shall exchange information and consult each other on general policy issues at the request of either of the surveillance authorities.

2. In cases falling under Article 57(2)(a) of the Agreement, the EC Commission and the EFTA Surveillance Authority shall cooperate in the handling of concentrations as provided for in the provisions set out below.

3. For the purposes of this Protocol, the term "territory of a surveillance authority" shall mean for the EC Commission the territory of the EC Member States to which the Treaty establishing the European Community applies, upon the terms laid down in that Treaty, and for the EFTA Surveillance Authority the territories of the EFTA States to which the Agreement applies.

Article 2

1. Cooperation shall take place, in accordance with the provisions set out in this Protocol, where:

(a) the combined turnover of the undertakings concerned in the territory of the EFTA States equals 25 % or more of their total turnover within the territory covered by the Agreement; or

(b) each of at least two of the undertakings concerned has a turnover exceeding EUR 250 million in the territory of the EFTA States; or

(c) the concentration is liable to significantly impede effective competition, in the territories of the EFTA States or a substantial part thereof, in particular as a result of the creation or strengthening of a dominant position.

2. Cooperation shall also take place where:

(a) the concentration fulfils the criteria for referral pursuant to Article 6.

(b) an EFTA State wishes to adopt measures to protect legitimate interests as set out in Article 7.

INITIAL PHASE OF THE PROCEEDINGS

Article 3

1. The EC Commission shall transmit to the EFTA Surveillance Authority copies of notifications of the cases referred to in Article 2(1) and (2)(a) within three working days and, as soon as possible, copies of the most important documents lodged with or issued by the EC Commission.

2. The EC Commission shall carry out the procedures set out for the implementation of Article 57 of the Agreement in close and constant liaison with the EFTA Surveillance Authority. The EFTA Surveillance Authority and EFTA States may express their views upon those procedures. For the purposes of Article 6(1) of this Protocol, the EC Commission shall obtain information from the competent authority of the EFTA State concerned and give it the opportunity to make known its views at every stage of the procedures up to the adoption of a decision pursuant to that Article. To that end, the EC Commission shall give it access to the file.

Documents to be transmitted from the Commission to an EFTA State and from an EFTA State to the Commission pursuant to this Protocol shall be submitted via the EFTA Surveillance Authority.

HEARINGS

Article 4

In cases referred to in Article 2(1) and (2)(a), the EC Commission shall invite the EFTA Surveillance Authority to be represented at the hearings of the undertakings concerned. The EFTA States may likewise be represented at those hearings.

THE EC ADVISORY COMMITTEE ON CONCENTRATIONS

Article 5

1. In cases referred to in Article 2(1) and (2)(a), the EC Commission shall in due time inform the EFTA Surveillance Authority of the date of the meeting of the EC Advisory Committee on Concentrations and transmit the relevant documentation.

2. All documents forwarded for that purpose from the EFTA Surveillance Authority, including documents emanating from EFTA States, shall be presented to the EC Advisory Committee on Concentrations together with the other relevant documentation sent out by the EC Commission.

3. The EFTA Surveillance Authority and the EFTA States shall be entitled to be present in the EC Advisory Committee on Concentrations and to express their views therein; they shall not have, however, the right to vote.

RIGHTS OF INDIVIDUAL STATES

Article 6

1. The EC Commission may, by means of a decision notified without delay to the undertakings concerned, to the competent authorities of the EC Member States and to the EFTA Surveillance Authority, refer a notified concentration, in whole or in part, to an EFTA State where:

(a) a concentration threatens to affect significantly competition in a market within that EFTA State, which presents all the characteristics of a distinct market, or

(b) a concentration affects competition in a market within that EFTA State, which presents all the characteristics of a distinct market and which does not constitute a substantial part of the territory covered by the Agreement.

2. In cases referred to in paragraph 1, any EFTA State may appeal to the Court of Justice of the European Communities, on the same grounds and conditions as an EC Member State under Articles 230 and 243 of the Treaty establishing the European Community, and in particular request the application of interim measures, for the purpose of applying its national competition law.

3. (No text)

4. Prior to the notification of a concentration within the meaning of Article 4(1) of Regulation (EC) No 139/2004 the persons or undertakings referred to in Article 4(2) of Regulation (EC) No 139/2004 may inform the EC Commission, by means of a reasoned submission, that the concentration may significantly affect competition in a market within an EFTA State which presents all the characteristics of a distinct market and should therefore be examined, in whole or in part, by that EFTA State.

The EC Commission shall transmit all submissions pursuant to Article 4(4) of Regulation (EC) No 139/2004 and this paragraph to the EFTA Surveillance Authority without delay.

5. With regard to a concentration as defined in Article 3 of Regulation (EC) No 139/2004 which does not have a Community dimension within the meaning of Article 1 of that Regulation and which is capable of being reviewed under the national competition laws of at least three EC Member States and at least one EFTA State, the persons or undertakings referred to in Article 4(2) of that Regulation may, before any notification to the competent authorities, inform the EC Commission by means of a reasoned submission that the concentration should be examined by the Commission.

The EC Commission shall transmit all submissions pursuant to Article 4(5) of Regulation (EC) No 139/2004 to the EFTA Surveillance Authority without delay.

Where at least one such EFTA State has expressed its disagreement as regards the request to refer the case, the competent EFTA State(s) shall retain their competence, and the case shall not be referred from the EFTA States pursuant to this paragraph.

Article 7

1. Notwithstanding the sole competence of the EC Commission to deal with concentrations of a Community dimension as set out in Council Regulation (EC) No 139/2004, EFTA States may take appropriate measures to protect legitimate interests other than those taken into consideration according to the above Regulation and compatible with the general principles and other provisions as provided for, directly or indirectly, under the Agreement.

2. Public security, plurality of media and prudential rules shall be regarded as legitimate interests within the meaning of paragraph 1.

3. Any other public interest must be communicated to the EC Commission and shall be recognised by the EC Commission after an assessment of its compatibility with the general principles and other provisions as provided for, directly or indirectly, under the Agreement before the measures referred to above may be taken. The EC Commission shall inform the EFTA Surveillance Authority and the EFTA State concerned of its decision within 25 working days of that communication.

ADMINISTRATIVE ASSISTANCE

Article 8

1. When the EC Commission requires by decision a person, an undertaking or an association of undertakings located within the territory of the EFTA Surveillance Authority to supply information, it shall without delay forward a copy of the decision to the EFTA Surveillance Authority. At the specific request of the EFTA Surveillance Authority, the EC Commission shall also forward to the EFTA Surveillance Authority copies of simple requests for information relating to a notified concentration.

2. At the request of the EC Commission, the EFTA Surveillance Authority and the EFTA States shall provide the EC Commission with all necessary information to carry out the duties assigned to it by Article 57 of the Agreement.

3. When the EC Commission interviews a consenting natural or legal person in the territory of the EFTA Surveillance Authority, the EFTA Surveillance Authority shall be informed in advance thereof. The EFTA Surveillance Authority may be present during the interview, as well as officials from the competition authority on whose territory the interviews are conducted.

4. (No text)

5. (No text)

6. (No text)

7. Where the EC Commission carries out investigations within the territory of the Community, it shall, as regards cases falling under Article 2(1) and (2)(a), inform the EFTA Surveillance Authority of the fact that such investigations have taken place and on request transmit in an appropriate way the relevant results of the investigations.

PROFESSIONAL SECRECY

Article 9

1. Information acquired as a result of the application of this Protocol shall be used only for the purpose of procedures under Article 57 of the Agreement.

2. The EC Commission, the EFTA Surveillance Authority, the competent authorities of the EC Member States and of the EFTA States, their officials and other servants and other persons working under the supervision of these authorities as well as officials and civil servants of other authorities of the Member States and of the EFTA States shall not disclose information acquired by them as a result of the application of this Protocol and of the kind covered by the obligation of professional secrecy.

3. Rules on professional secrecy and restricted use of information provided for in the Agreement or the legislation of the Contracting Parties shall not prevent the exchange and use of information as set out in this Protocol.

NOTIFICATIONS

Article 10

1. Undertakings shall address their notifications to the competent surveillance authority in accordance with Article 57 (2) of the Agreement.

2. Notifications or complaints addressed to the authority which, pursuant to Article 57 of the Agreement, is not competent to take decisions on a given case shall be transferred without delay to the competent surveillance authority.

Article 11

The date of submission of a notification shall be the date on which it is received by the competent surveillance authority.

LANGUAGES

Article 12

1. Undertakings shall be entitled to address and be addressed by the EFTA Surveillance Authority and the EC Commission in an official language of an EFTA State or the Community which they choose as regards notifications. This shall also cover all instances of a proceeding.

2. If undertakings choose to address a surveillance authority in a language which is not one of the official languages of the States falling within the competence of that authority, or a working language of that authority, they shall simultaneously supplement all documentation with a translation into an official language of that authority.

3. As far as undertakings are concerned which are not parties to the notification, they shall likewise be entitled to be addressed by the EFTA Surveillance Authority and the EC Commission in an appropriate official language of an EFTA State or of the Community or in a working language of one of those authorities. If they choose to address a surveillance authority in a language which is not one of the official languages of the States falling within the competence of that authority, or a working language of that authority, paragraph 2 shall apply.

4. The language which is chosen for the translation shall determine the language in which the undertakings may be addressed by the competent authority.

TIME LIMITS AND OTHER PROCEDURAL QUESTIONS

Article 13

As regards time limits and other procedural provisions, including the procedures for referral of a concentration between the EC Commission and one or more EFTA States, the rules implementing Article 57 of the Agreement shall apply also for the purpose of the cooperation between the EC Commission and the EFTA Surveillance Authority and EFTA States, unless otherwise provided for in this Protocol.

The calculation of the time limits referred to in Article 4(4) and (5) and Article 9(2) and (6) of Regulation (EC) No 139/2004 shall start, for the EFTA Surveillance Authority and the EFTA States, upon receipt of the relevant documents by the EFTA Surveillance Authority.

TRANSITION RULE

Article 14

Article 57 of the Agreement shall not apply to any concentration which was the subject of an agreement or announcement or where control was acquired before the date of entry into force of the Agreement. It shall not in any circumstances apply to a concentration in respect of which proceedings were initiated before that date by a national authority with responsibility for competition.'

DECISION OF THE EEA JOINT COMMITTEE

No 79/2004

of 8 June 2004

amending Annex XIV (Competition), Protocol 21 (on the implementation of competition rules applicable to undertakings) and Protocol 24 (on cooperation in the field of control of concentrations) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex XIV to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg [1].

(2) Protocol 21 to the Agreement was amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area signed on 14 October 2003 in Luxembourg.

(3) Protocol 24 to the Agreement has not previously been amended by the EEA Joint Committee.

(4) Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) [2] was incorporated into the Agreement by Decision of the EEA Joint Committee No 78/2004 of 8 June 2004 [3].

(5) Articles 13 and 22 of Regulation (EC) No 139/2004 were not incorporated by Decision of the EEA Joint Committee No 78/2004 of 8 June 2004.

(6) Articles 13 and 22 of Regulation (EC) No 139/2004 should be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

In point 1 (Council Regulation (EC) No 139/2004) of Annex XIV to the Agreement, the text of adaptation (a) shall be replaced by the following:

'In Article 1(1), the phrase "or the corresponding provisions in Protocol 21 and Protocol 24 to the EEA Agreement" shall be inserted after the words "Without prejudice to Article 4(5) and Article 22";

furthermore, the term "Community dimension" shall read "Community or EFTA dimension";'.

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(1) OJ L 130, 29.4.2004, p. 3.
(2) OJ L 24, 29.1.2004, p. 1.
(3) See page 13 of this Official Journal.

Article 2

The text of point 1(1) (Council Regulation (EC) No 139/2004) in Article 3 of Protocol 21 to the Agreement shall be replaced by the following:

'**32004 R 0139**: Article 4(4) and (5) and Articles 6 to 26 of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).'.

Article 3

Protocol 24 to the Agreement shall be amended as follows:

1. The following new paragraph 3 shall be inserted in Article 6:

'3. Where the concentration may affect trade between one or more EC Member States and one or more EFTA States, the EC Commission shall inform the EFTA Surveillance Authority of any request received from an EC Member State pursuant to Article 22 of Regulation (EC) No 139/2004 without delay.

One or more EFTA States may join a request as referred to in subparagraph 1 where the concentration affects trade between one or more EC Member States and one or more EFTA States and threatens to significantly affect competition within the territory of the EFTA State or States joining the request.

Upon receipt of a copy of a request as referred to in subparagraph 1, all national time limits relating to the concentration shall be suspended in the EFTA States until it has been decided where the concentration shall be examined. As soon as an EFTA State has informed the Commission and the undertakings concerned that it does not wish to join the request, the suspension of its national time limits shall end.

Where the Commission decides to examine the concentration, the EFTA State or States having joined the request shall no longer apply their national legislation on competition to the concentration.'.

2. The following new paragraphs 4, 5 and 6 shall be inserted in Article 8:

'4. At the request of the EC Commission, the EFTA Surveillance Authority shall undertake investigations within its territory.

5. The EC Commission is entitled to be represented and take an active part in investigations carried out pursuant to paragraph 4.

6. All information obtained during such investigations on request shall be transmitted to the EC Commission immediately after their finalization.'.

3. In Article 13, second subparagraph, the words 'Article 4(4) and (5) and Article 9(2) and (6)' shall be replaced by the words 'Article 4(4) and (5), Article 9(2) and (6) and Article 22(2)'.

Article 4

This Decision shall enter into force on 9 June 2004, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 5

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 8 June 2004.

For the EEA Joint Committee

The President

S. GILLESPIE

(*) Constitutional requirements indicated.