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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1312/2004**of 16 July 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 17 July 2004.

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

Done at Brussels, 16 July 2004.

For the Commission

J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽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 Commission Regulation of 16 July 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables

<i>(EUR/100 kg)</i>		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	39,9
	096	46,2
	999	43,1
0707 00 05	052	83,4
	999	83,4
0709 90 70	052	80,3
	999	80,3
0805 50 10	382	134,1
	388	50,8
	524	57,4
	528	51,6
	999	73,5
0808 10 20, 0808 10 50, 0808 10 90	388	83,5
	400	106,8
	404	86,6
	508	74,9
	512	89,1
	524	83,4
	528	74,4
	720	74,2
	804	91,7
	999	85,0
	0808 20 50	052
388		91,7
512		90,4
528		80,3
999		95,7
0809 10 00	052	195,1
	999	195,1
0809 20 95	052	270,7
	400	297,1
	404	303,6
	999	290,5
0809 30 10, 0809 30 90	052	162,9
	999	162,9
0809 40 05	388	108,3
	512	91,6
	624	171,0
	999	123,6

⁽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 1313/2004**of 16 July 2004****fixing the minimum selling prices for butter for the 145th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

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⁾, and in particular Article 10 thereof,

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs⁽²⁾, to sell by invitation to tender certain quantities of butter from intervention stocks that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further stipulated that the price or aid may vary according to the

intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

The minimum selling prices of butter from intervention stocks and processing securities applying for the 145th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 July 2004.

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

Done at Brussels, 16 July 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 921/2004 (OJ L 163, 30.4.2004, p. 94).

ANNEX

to the Commission Regulation of 16 July 2004 fixing the minimum selling prices for butter for the 145th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula		A		B		
Incorporation procedure		With tracers	Without tracers	With tracers	Without tracers	
Minimum selling price	Butter \geq 82 %	Unaltered	211,1	215,1	—	215,1
		Concentrated	209,1	—	—	213,1
Processing security		Unaltered	129	129	—	129
		Concentrated	129	—	—	129

COMMISSION REGULATION (EC) No 1314/2004**of 16 July 2004****fixing the maximum aid for cream, butter and concentrated butter for the 145th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

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⁾, and in particular Article 10 thereof,

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice cream and other foodstuffs⁽²⁾, to sell by invitation to tender certain quantities of butter of intervention stocks that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further

stipulated that the price or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

The maximum aid and processing securities applying for the 145th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 July 2004.

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

Done at Brussels, 16 July 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 921/2004 (OJ L 163, 30.4.2004, p. 94).

ANNEX

to the Commission Regulation of 16 July 2004 fixing the maximum aid for cream, butter and concentrated butter for the 145th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula		A		B	
		With tracers	Without tracers	With tracers	Without tracers
Incorporation procedure					
Maximum aid	Butter \geq 82 %	59	55	59	55
	Butter < 82 %	57	53	—	—
	Concentrated butter	74	67	74	65
	Cream	—	—	26	23
Processing security	Butter	65	—	65	—
	Concentrated butter	81	—	81	—
	Cream	—	—	29	—

COMMISSION REGULATION (EC) No 1315/2004

of 16 July 2004

fixing the minimum selling price for skimmed-milk powder for the 64th individual invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 2799/1999

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⁾, and in particular Article 10 thereof,

Whereas:

- (1) Pursuant to Article 26 of Commission Regulation (EC) No 2799/1999 of 17 December 1999 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the grant of aid for skimmed milk and skimmed-milk powder intended for animal feed and the sale of such skimmed-milk powder⁽²⁾, intervention agencies have put up for sale by standing invitation to tender certain quantities of skimmed-milk powder held by them.
- (2) According to Article 30 of the said Regulation, in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no award. The amount of the processing security shall also be fixed taking account of the difference between the market price of skimmed-milk powder and the minimum selling price.

(3) In the light of the tenders received, the minimum selling price should be fixed at the level specified below and the processing security determined accordingly.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 64th individual invitation to tender pursuant to Regulation (EC) No 2799/1999, in respect of which the time limit for the submission of tenders expired on 13 July 2004, the minimum selling price and the processing security are fixed as follows:

- | | |
|--------------------------|--------------------|
| — minimum selling price: | 189,52 EUR/100 kg, |
| — processing security: | 50,00 EUR/100 kg. |

Article 2

This Regulation shall enter into force on 17 July 2004.

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

Done at Brussels, 16 July 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 340, 31.12.1999, p. 3. Regulation as last amended by Regulation (EC) No 922/2004 (OJ L 163, 30.4.2004, p. 96).

COMMISSION REGULATION (EC) No 1316/2004**of 16 July 2004****fixing the maximum aid for concentrated butter for the 317th special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90**

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⁾, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community ⁽²⁾, the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter. Article 6 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 % or a decision is to be taken to make no award; the end-use security must be fixed accordingly.

- (2) In the light of the tenders received, the maximum aid should be fixed at the level specified below and the end-use security determined accordingly.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 317th tender under the standing invitation to tender opened by Regulation (EEC) No 429/90 the maximum aid and the end-use security are fixed as follows:

- | | |
|---------------------|----------------|
| — maximum aid: | 74 EUR/100 kg, |
| — end-use security: | 82 EUR/100 kg. |

Article 2

This Regulation shall enter into force on 17 July 2004.

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

Done at Brussels, 16 July 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 45, 21.2.1990, p. 8. Regulation as last amended by Commission Regulation (EC) No 921/2004 (OJ L 163, 30.4.2004, p. 94).

COMMISSION REGULATION (EC) No 1317/2004
of 16 July 2004
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⁾,

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⁽²⁾, 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 1269/2004⁽³⁾ establishes the most recent list of Member States in which intervention is suspended. This list must be adjusted as a result of the market prices communicated by Germany, Ireland, Portugal and the United Kingdom pursuant to Article 8 of Regulation (EC) No 2771/1999. In the interests of clarity, the list in question should be replaced and Regulation (EC) No 1269/2004 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, France, Ireland, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden and the United Kingdom.

Article 2

Regulation (EC) No 1269/2004 is hereby repealed.

Article 3

This Regulation shall enter into force on 17 July 2004.

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

Done at Brussels, 16 July 2004.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 333, 24.12.1999, p. 11. Regulation as last amended by Regulation (EC) No 1236/2004 (OJ L 235, 6.7.2004, p. 4).

⁽³⁾ OJ L 240, 10.7.2004, p. 3.

COMMISSION REGULATION (EC) No 1318/2004**of 16 July 2004****fixing the minimum selling price for butter for the first individual invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 2771/1999**

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⁾, and in particular Article 10(c) thereof,

Whereas:

- (1) Pursuant to Article 21 of 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⁽²⁾, intervention agencies have put up for sale by standing invitation to tender certain quantities of butter held by them.
- (2) In the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no award, in accordance with Article 24a of Regulation (EC) No 2771/1999.

(3) In the light of the tenders received, a minimum selling price should be fixed.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the first individual invitation to tender pursuant to Regulation (EC) No 2771/1999, in respect of which the time limit for the submission of tenders expired on 13 July 2004, the minimum selling price for butter is fixed at 281 EUR/100 kg.

Article 2

This Regulation shall enter into force on 17 July 2004.

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

Done at Brussels, 16 July 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 333, 24.12.1999, p. 11. Regulation as last amended by Regulation (EC) No 1236/2004 (OJ L 235, 6.7.2004, p. 4).

COMMISSION REGULATION (EC) No 1319/2004

of 16 July 2004

amending Regulation (EC) No 214/2001 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in skimmed-milk powder

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⁾, and in particular Article 10 thereof,

Whereas:

(1) Pursuant to Article 7(4) of Regulation (EC) No 1255/1999 skimmed-milk powder bought in by the intervention agency is to be disposed of at a minimum price and under conditions to be determined so as to avoid disturbing the balance on the market and to ensure purchasers equal treatment and access to the skimmed-milk powder to be sold.

(2) Commission Regulation (EC) No 214/2001⁽²⁾ laid down intervention measures for the disposal of skimmed-milk powder, including its sale at a fixed price.

(3) To ensure the proper management of intervention stocks, the skimmed-milk powder must be resold as soon as outlets become available. To this end, the system of sale of skimmed-milk powder from intervention stocks at a fixed price should be replaced by a system of sale by invitation to tender which allows the selling price to be fixed in accordance with market conditions.

(4) Experience has shown that the Member States must notify the Commission more rapidly if it is to be in a position to follow the evolution in the quantities of skimmed-milk powder offered for public intervention and, where appropriate, to suspend intervention buying-in once the quantities offered reach the level fixed by Article 7(2) of Regulation (EC) No 1255/1999.

(5) Regulation (EC) No 214/2001 should therefore be amended.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 214/2001 is hereby amended as follows:

1. Article 1(c) is replaced by the following:

‘(c) the sale of skimmed-milk powder from public storage in a standing invitation to tender;’

2. Chapter II is amended as follows:

(a) Section 5 is replaced by the following:

‘SECTION 5

SALE BY INVITATION TO TENDER OF SKIMMED-MILK POWDER FROM PUBLIC STORAGE

Article 21

1. Skimmed-milk powder which entered storage before 1 July 2002 shall be sold by means of a standing invitation to tender organised by each intervention agency.

2. Intervention agencies shall issue a notice of standing invitation to tender, indicating in particular the closing date and place for the submission of tenders. They shall also indicate, for the skimmed-milk powder they hold:

(a) the locations of the warehouses where the powder to be sold is in store;

(b) the quantity held for sale in each warehouse.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 37, 7.2.2001, p. 100. Regulation last amended by Regulation (EC) No 2131/2003 (OJ L 320, 5.12.2003, p. 3).

A standing invitation to tender shall be published in the *Official Journal of the European Union* at least eight days before the first closing date for the submission of tenders.

3. Intervention agencies shall keep an up-to-date list of the information referred to in paragraph 2, which they shall make available to interested parties on request. They shall also publish regular updates of the list in an appropriate form, to be indicated in the notice of standing invitation to tender.

4. Intervention agencies shall make the necessary arrangements to enable interested parties:

- (a) to examine samples of the skimmed-milk powder put up for sale at their own expense before submitting a tender;
- (b) to verify the results of the analyses referred to in Article 2(2).

Article 22

1. During the period of validity of the standing invitation to tender, the intervention agencies shall issue individual invitations to tender.

2. The closing date for submission of tenders for each individual tendering round shall be 12 noon (Brussels time) on the second and fourth Tuesday of the month, except for the second Tuesday of August and the fourth Tuesday of December. If the Tuesday is a public holiday, the closing date shall be the last preceding working day at 12 noon (Brussels time).

Article 23

1. Tendere for each individual tendering round shall be submitted in writing either by delivery by hand to the intervention agency against proof of receipt, or by any other written means of telecommunication against proof of receipt.

Tenders shall be submitted to the intervention agency holding the skimmed-milk powder for which an offer is made.

2. Tendere shall contain:

- (a) the name and address of the tenderer;
- (b) the quantity desired;
- (c) the price in euro tendered per 100 kilograms of skimmed-milk powder, not including national taxes and charges, ex-warehouse;
- (d) if appropriate, the warehouse where the skimmed-milk powder is and if desired a substitute warehouse.

3. A tender shall not be valid unless:

- (a) it relates to at least 10 tonnes, except where the quantity available in a warehouse is less than 10 tonnes;
- (b) it is accompanied by the tenderer's written undertaking to comply with the provisions of this Regulation;
- (c) proof is provided that the tenderer has lodged a tendering security of EUR 50 per tonne, in the Member State where the tender is submitted, for the individual tendering round in question before the closing date for submission of the tenders referred to in Article 22(2).

4. Tendere may not be withdrawn after the closing date provided for in Article 22(2).

Article 24

For the purposes of the tendering security provided for in Article 23(3)(c), the primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be that tendere are maintained after the closing date referred to in Article 22(2) and that the price is paid within the deadline laid down in Article 24f(2).;

- (b) The following Section 6 is added:

SECTION 6

IMPLEMENTATION OF THE TENDERING PROCEDURE

Article 24a

1. On the closing date referred to in Article 22(2), the Member States shall inform the Commission of the quantities and prices offered by tenderers and the quantity of skimmed-milk powder offered for sale.

Member States shall forward this information identifying each operator by means of a coded number whose meaning is unknown to the Commission. They shall indicate whether the same tenderer has submitted multiple tendere.

Where no tendere have been submitted, Member States shall inform the Commission of this fact by the same date.

2. The Commission shall fix a minimum selling price for the skimmed-milk powder on the basis of the tendere received under each individual tendering round and in accordance with the procedure laid down in Article 42 of Regulation (EC) No 1255/1999. This price may vary according to the date of entry into storage and location of the quantities of skimmed-milk powder offered for sale.

It may be decided to make no award under the round.

The decision on each individual tendering round shall be published in the *Official Journal of the European Union*.

Article 24b

Tenders shall be rejected if the price offered is lower than the minimum price.

Article 24c

1. The intervention agency shall make the award in accordance with the rules laid down in paragraphs 2 to 5.

2. The skimmed-milk powder shall be allocated on the basis of its date of entry into storage, starting with the oldest product of the total quantity available in the warehouse(s) designated by the tenderer.

3. The successful tenderer shall be the tenderer offering the highest price. If the full quantity available is not allocated, the remainder shall be awarded to the other tenderers on the basis of the prices tendered, starting with the highest price.

4. Where acceptance of a tender would result in contracts being awarded in excess of the quantity of skimmed-milk powder available in a particular warehouse, only the quantity available shall be awarded to the tenderer in question.

However, the intervention agency may designate other warehouses to make up the quantity set out in the tender, provided the tenderer agrees.

5. Where the acceptance of two or more tenders offering the same price for skimmed-milk powder in a particular warehouse would lead to contracts being awarded in excess of the quantity available, the award shall be made by allocation of the quantity available in proportion to the quantities tendered for.

However, should such a division lead to the award of quantities of less than five tonnes, awards shall be made by drawing lots.

6. No later than the third working day of the week following publication of the decision referred to in Article 24a(2), Member States shall send the Commission the name and address of each tenderer corresponding to the code number referred to in Article 24a(1).

Article 24d

Rights and obligations arising in connection with the invitation to tender shall not be transferable.

Article 24e

1. Tenderers shall be notified without delay by the intervention agency of the result of their participation in an individual tendering round.

Where tenders have been unsuccessful, the securities provided for in Article 23(3)(c) shall be released immediately.

2. Within the period specified in Article 24f(2) successful tenderers shall, before the removal of the skimmed-milk powder, pay the intervention agency the amount corresponding to their tender, for each quantity that they wish to withdraw.

Article 24f

1. Once the amount referred to in Article 24e(2) has been paid the intervention agency shall issue a removal order indicating:

- (a) the quantity in respect of which the corresponding amount has been paid;
- (b) the warehouse in which the skimmed-milk powder is in store;
- (c) the final date for removal of the skimmed-milk powder.

2. Successful tenderers shall remove the skimmed-milk powder awarded to them within 30 days of the closing date referred to in Article 22(2). Removal may be effected by instalments of not less than five tonnes each. However, where the quantity remaining in a warehouse is less than five tonnes, that smaller quantity may be delivered.

Except in cases of *force majeure*, if the skimmed-milk powder has not been removed by the closing date referred to in the first subparagraph, the cost of storage shall be borne by successful tenderers from the day following that date. Moreover, storage shall be at their own risk.

3. The security lodged in accordance with Article 23(3)(c) shall be released immediately in respect of quantities removed within the period provided for in the first subparagraph of paragraph 2 of this Article.

In the event of *force majeure* as referred to in the second subparagraph of paragraph 2, the intervention agency shall take such action as it considers necessary having regard to the circumstances invoked.;

3. Article 36 is replaced by the following:

Article 36

1. Not later than 15.00 (Brussels time) each Monday, the Member States shall inform the Commission of the quantities of skimmed-milk powder which, during the preceding week, have been the subject of:

(a) an offer to sell in accordance with Article 5,

(b) a private storage contract in accordance with Article 28.

2. Once it is observed that the offers referred to in Article 5 have reached 80 000 tonnes, the information referred to in paragraph 1(a) of this Article shall be communicated each day before 15.00 (Brussels time) for the quantities of skimmed-milk powder offered the preceding day.'

Article 2

This Regulation shall enter into force on the third 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, 16 July 2004.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 1320/2004**of 16 July 2004****on the issue of licences for the import of garlic in the quarter from 1 September to 30 November 2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables⁽¹⁾,Having regard to Commission Regulation (EC) No 565/2002 of 2 April 2002 establishing the method for managing the tariff quotas and introducing a system of certificates of origin for garlic imported from third countries⁽²⁾, and in particular Article 8(2) thereof,

Whereas:

- (1) The quantities for which licence applications have been lodged by traditional importers and by new importers on 12 and 13 July 2004, under Article 5(2) of Regulation (EC) No 565/2002 exceed the quantities available for products originating in China and third countries other than China or Argentina.
- (2) It is now necessary to establish the extent to which the licence applications sent to the Commission on 15 July

2004 can be met and to fix, for each category of importer and product origin, the dates until which the issue of certificates must be suspended,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for import licences lodged under Article 3(1) of Regulation (EC) No 565/2002 on 12 and 13 July 2004 and sent to the Commission on 15 July 2004, shall be met at a percentage rate of the quantities applied for as set out in Annex I hereto.

Article 2

For each category of importer and the origin involved, applications for import licences under Article 3(1) of Regulation (EC) No 565/2002 relating to the quarter from 1 September 2004 to 30 November 2004 and lodged after 13 July 2004 but before the date in Annex II hereto, shall be rejected.

Article 3

This Regulation shall enter into force on 17 July 2004.

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

Done at Brussels, 16 July 2004.

For the Commission

J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Commission Regulation (EC) No 47/2003 (OJ L 7, 11.1.2003, p. 64).

⁽²⁾ OJ L 86, 3.4.2002, p. 11.

ANNEX I

Origin of the products	Percentage allocations		
	China	Third countries other than China or Argentina	Argentina
— traditional importers (Article 2(c) of Regulation (EC) No 565/2002)	12,404 %	100,000 %	X
— new importers (Article 2(e) of Regulation (EC) No 565/2002)	0,845 %	31,988 %	X

'X': No quota for this origin for the quarter in question.

'—': No application for a licence has been sent to the Commission.

ANNEX II

Origin of the products	Dates		
	China	Third countries other than China or Argentina	Argentina
— traditional importers (Article 2(c) of Regulation (EC) No 565/2002)	30.11.2004	—	—
— new importers (Article 2(e) of Regulation (EC) No 565/2002)	30.11.2004	4.10.2004	—

(Acts adopted under Title V of the Treaty on European Union)

COUNCIL JOINT ACTION 2004/551/CFSP

of 12 July 2004

on the establishment of the European Defence Agency

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14 thereof,

Whereas:

- (1) On 19 and 20 June 2003 the European Council at Thessaloniki tasked 'the appropriate bodies of the Council to undertake the necessary actions towards creating, in the course of 2004, an intergovernmental agency in the field of defence capabilities development, research, acquisition and armaments'.
- (2) The European Security Strategy endorsed by the European Council identifies the establishment of a Defence Agency as an important element towards the development of more flexible and efficient European military resources.
- (3) The European Defence Agency (the Agency), which should be subject to the Council's authority and open to participation by all Member States, will aim at developing defence capabilities in the field of crisis management, promoting and enhancing European armaments cooperation, strengthening the European defence industrial and technological base (DTIB) and creating a competitive European defence equipment market, as well as promoting, in liaison with the Community's research activities where appropriate, research aimed at leadership in strategic technologies for future defence and security capabilities, thereby strengthening Europe's industrial potential in this domain.
- (4) Relevant policies and strategies should be brought forward, in consultation with the Commission and industry as appropriate, to develop the European DTIB in a balanced fashion, taking into account the strengths of the industrial capacities of the Member States.
- (5) The establishment of the Agency should contribute to the implementation of the Common Foreign and Security Policy (CFSP), in particular the European Security and Defence Policy (ESDP).
- (6) Such an Agency is also envisaged in the draft Treaty establishing a Constitution for Europe.
- (7) The Agency structure should enable it to respond to the requirements of the European Union and its Member States and, where necessary to fulfil its functions, to cooperate with third countries, organisations and entities.
- (8) The Agency should develop close working relations with existing arrangements, groupings and organisations such as Letter of Intent (LoI), Organisation de coopération conjointe en matière d'armement (OCCAR) and Western European Armaments Group (WEAG)/Western European Armaments Organisation (WEAO), with a view to assimilation or incorporation of relevant principles and practices as appropriate.
- (9) The Secretary-General/High Representative (SG/HR), in accordance with Article 26 of the Treaty on European Union (TEU), should have a leading role in the Agency's structure and provide the essential link between the Agency and the Council.
- (10) In the exercise of its role of political supervision and policy-making, the Council should issue guidelines to the Agency.
- (11) When adopting guidelines and decisions in relation to the work of the Agency, the Council should meet in Defence Ministers' composition.
- (12) Any guidelines or decisions adopted by the Council in relation with the Agency's work shall be prepared in accordance with Article 207 of the Treaty establishing the European Community.
- (13) The competences of the Council's preparatory and advisory bodies, notably those of the Committee of Permanent Representatives under Article 207 of the Treaty establishing the European Community, the Political and Security Committee (PSC) and the EU Military Committee (EUMC) shall remain unaffected.
- (14) The National Armaments Directors (NAD) should, in a way to be defined, receive reports and contribute on issues of their competence in preparation of Council decisions relating to the Agency.

- (15) The Agency should have the legal personality necessary to perform its functions and attain its objectives, while maintaining close links with the Council and fully respecting the responsibilities of the European Union and its institutions.
- (16) It should be provided that the budgets administered by the Agency may, on a case-by-case basis, receive contributions towards the non-administrative costs, from the general budget of the European Union, in full respect of the rules, procedures and decision-making processes applicable to it, including Article 28(3) TEU.
- (17) The Agency, while being open to participation by all Member States, should also provide for the possibility of specific groups of Member States establishing ad hoc projects or programmes.
- (18) The Agency should have decision-making procedures allowing it to fulfil its tasks efficiently, while respecting the national security and defence policies of participating Member States.
- (19) The Agency should fulfil its mission in accordance with Article 3 TEU and in full respect of Article 47 TEU.
- (20) The Agency should act in full conformity with the EU security standards and rules.
- (21) In conformity with Article 6 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not participate in the elaboration and implementation of decisions and actions of the European Union which have defence implications. Denmark has therefore not participated in the elaboration and adoption of this Joint Action and shall not be bound by it,

HAS ADOPTED THIS JOINT ACTION:

CHAPTER I

ESTABLISHMENT, MISSION AND TASKS OF THE AGENCY

Article 1

Establishment

1. An Agency in the field of defence capabilities development, research, acquisition and armaments (the European Defence Agency), hereinafter referred to as 'the Agency', is hereby established.
2. The Agency shall act under the Council's authority, in support of the CFSP and the ESDP, within the single institu-

tional framework of the European Union, and without prejudice to the responsibilities of the EU institutions and the Council bodies. The Agency's mission shall be without prejudice to the competences of the European Community, in full respect of Article 47 TEU.

3. The Agency shall be open to participation by all EU Member States bound by this Joint Action. Member States who wish to participate immediately in the Agency shall notify their intention to do so to the Council and inform the SG/HR at the time of the adoption of this Joint Action.

4. Any Member State wishing to participate in the Agency after the adoption of this Joint Action or wishing to withdraw from the Agency shall notify its intention to the Council and inform the SG/HR. Any necessary technical and financial arrangements for such participation or withdrawal shall be determined by the Steering Board.

5. The Agency shall have its headquarters in Brussels.

Article 2

Mission

1. The mission of the Agency is to support the Council and the Member States in their effort to improve the EU's defence capabilities in the field of crisis management and to sustain the ESDP as it stands now and develops in the future.

2. The Agency's mission shall be without prejudice to the competences of Member States in defence matters.

Article 3

Definitions

For the purpose of this Joint Action:

— 'participating Member States', shall mean the Member States of the European Union who participate in the Agency,

— 'contributing Member States', shall mean the participating Member States of the European Union contributing to a particular project or programme.

Article 4

Political supervision and reporting arrangements

1. The Agency shall operate under the authority and the political supervision of the Council, to which it shall provide regular reports and from which it shall receive regular guidelines.

2. The Agency shall report regularly to the Council on its activities, and shall notably:

- (a) submit to the Council in May each year a report on the Agency's activities during the previous and the current year;
- (b) submit to the Council in November each year a report on the Agency's activities during the current year and provide information on the draft elements for the Agency's work programme and budgets for the following year.

The Agency shall provide the Council in good time with information on important matters to be submitted to the Steering Board for decision.

3. The Council, acting by unanimity, and with advice from the PSC or other competent Council bodies as appropriate, shall issue guidelines annually in relation to the work of the Agency, notably with regard to its work programme. The Agency's work programme shall be established within the framework of these guidelines.

4. Every three years, the Council, acting by unanimity, shall approve a financial framework for the Agency for the following three years. This financial framework shall set out agreed priorities and shall constitute a legally binding ceiling. The first financial framework shall cover the period 2006 to 2008.

5. The Agency may make recommendations to the Council and to the Commission as necessary for the implementation of its mission.

Article 5

Functions and tasks

1. In fulfilling its functions and tasks, the Agency shall respect the competences of the European Community and those of the EU institutions.

2. The Agency's fulfilment of its functions and tasks shall be without prejudice to the competences of Member States in defence matters.

3. The Agency shall work in the following principal fields:

3.1. Development of defence capabilities in the field of crisis management, in particular by:

- 3.1.1. identifying, in association with the competent Council bodies, and utilising the Capability Development Mechanism (CDM), the EU's future defence capability requirements in quantitative and quali-

tative terms (encompassing both forces and equipment);

3.1.2. coordinating the implementation of the European Capabilities Action Plan (ECAP) and any successor plan;

3.1.3. scrutinising, assessing and evaluating against criteria to be agreed by the Member States the capability commitments given by the Member States through the ECAP process, and utilising the CDM;

3.1.4. promoting and coordinating harmonisation of military requirements;

3.1.5. identifying and proposing collaborative activities in the operational domain;

3.1.6. providing appraisals on financial priorities for capabilities development and acquisition.

3.2. Promotion and enhancement of European armaments cooperation, in particular by:

3.2.1. promoting and proposing new multilateral cooperative projects to meet ESDP capabilities requirements as they stand now and develop in the future;

3.2.2. working for coordination of existing programmes implemented by Member States;

3.2.3. assuming, at the request of Member States, responsibility for managing specific programmes (through OCCAR or other programme management arrangements as appropriate);

3.2.4. promoting cost-effective and efficient procurement by identifying and disseminating best practices.

3.3. Working to strengthen the DTIB and for the creation of an internationally competitive European Defence Equipment Market in particular by:

3.3.1. developing relevant policies and strategies, in consultation with the Commission and industry as appropriate;

3.3.2. pursuing EU-wide development and harmonisation of relevant rules and regulations (particularly by an EU-wide application of relevant rules of the LoI Framework Agreement).

3.4. Enhancement of the effectiveness of European Defence Research and Technology (R & T), in particular by:

- 3.4.1. promoting, in liaison with the Community's research activities where appropriate, research aimed at fulfilling future defence and security capability requirements and thereby strengthening Europe's industrial and technological potential in this domain;
- 3.4.2. promoting more effectively targeted joint defence R & T, drawing on the experience of relevant elements of the WEAG and the WEAO;
- 3.4.3. coordinating and planning joint research activities;
- 3.4.4. catalysing defence R & T through studies and projects;
- 3.4.5. managing defence R & T contracts;
- 3.4.6. working in liaison with the Commission to maximise complementarity and synergy between defence and civil or security related research programmes.

Article 6

Legal personality

The Agency shall have the legal personality necessary to perform its functions and attain its objectives. Member States shall ensure that the Agency enjoys the most extensive legal capacity accorded to legal persons under their laws. The Agency may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings. The Agency shall have the capacity to conclude contracts with private or public entities or organisations.

CHAPTER II

ORGANS AND STAFF OF THE AGENCY

Article 7

Head of the Agency

1. The Head of the Agency shall be the SG/HR for the CFSP.
2. The Head of the Agency shall be responsible for the Agency's overall organisation and functioning and shall ensure that the guidelines issued by the Council and the decisions of the Steering Board are implemented by the Chief Executive, who shall report to him/her.

3. The Head of the Agency shall present the Agency's reports to the Council as referred to in Article 4(2).

4. The Head of the Agency shall be responsible for the negotiation of administrative arrangements with third countries and other organisations, groupings or entities in accordance with directives given by the Steering Board. Within such arrangements, as approved by the Steering Board, the Head of the Agency shall be responsible for establishing appropriate working relations with them.

Article 8

Steering Board

1. A Steering Board composed of one representative of each participating Member State, authorised to commit its government, and a representative of the Commission, shall be the decision-making body of the Agency. The Steering Board shall act within the framework of the guidelines issued by the Council.

2. The Steering Board shall meet at the level of the Ministers of Defence of the participating Member States or their representatives. The Steering Board shall in principle hold at least two meetings each year at the level of Ministers of Defence.

3. The Head of the Agency shall convene and chair the Steering Board's meetings. If a participating Member State so requests, the Head of the Agency shall convene a meeting within one month.

4. The Head of the Agency may delegate the power to chair the Steering Board's meetings at the level of the representatives of the Ministers of Defence.

5. The Steering Board may meet in specific compositions (such as National Defence Research Directors, National Armaments Directors, National Defence Planners or Policy Directors).

6. The Steering Board meetings are attended by:

- the Chief Executive of the Agency or his/her representative,
- the Chairman of EUMC and the NAD of the EU Presidency, or their representative.

7. The Steering Board may decide to invite, on matters of common interest:

- the NATO Secretary-General,

- the Heads/Chairs of other arrangements, organisations or groupings whose work is relevant to that of the Agency (such as LoI, WEAG/WEAO, OCCAR),
- as appropriate, representatives of other third parties.

Article 9

Tasks and powers of the Steering Board

1. Within the framework of the guidelines of the Council referred to in Article 4(1), the Steering Board:

- 1.1. approves the reports to be submitted to the Council;
- 1.2. approves, on the basis of a draft submitted by the Head of the Agency, and no later than 31 December of each year, the Agency's annual work programme for the following year;
- 1.3. adopts the Agency's general budget no later than 31 December of each year within the limits set in the Agency's financial framework as decided by the Council;
- 1.4. approves the establishment within the Agency of ad hoc projects or programmes in accordance with Article 20;
- 1.5. appoints the Chief Executive and his/her deputy;
- 1.6. decides that the Agency may be entrusted by one or more Member States with the administrative and financial management of certain activities within its remit in accordance with Article 17;
- 1.7. approves any recommendation to the Council or the Commission;
- 1.8. adopts the Agency's rules of procedure;
- 1.9. may amend the financial provisions for the implementation of the Agency's general budget;
- 1.10. may amend the rules and regulations applicable to the contractual staff and national seconded experts;
- 1.11. determines the technical and financial arrangements regarding Member States' participation or withdrawal referred to in Article 1(4);
- 1.12. adopts directives regarding the negotiation of administrative arrangements by the Head of the Agency;

1.13. approves the ad hoc arrangements referred to in Article 23(1);

1.14. concludes the administrative arrangements between the Agency and third parties referred to in Article 25(1);

1.15. approves the annual accounts and balance sheet;

1.16. adopts all other relevant decisions relating to the fulfilment of the Agency's mission.

2. The Steering Board shall take decisions by qualified majority. The votes of the participating Member States shall be weighted in accordance with Article 23(2) TEU. Decisions to be adopted by the Steering Board by qualified majority shall require at least two thirds of the votes of the participating Member States. Only the representatives of the participating Member States shall take part in the vote.

3. If a representative of a participating Member State in the Steering Board declares that, for important and stated reasons of national policy, it intends to oppose the adoption of a decision to be taken by qualified majority, a vote shall not be taken. That representative may refer the matter, through the Head of the Agency, to the Council with a view to issuing guidelines to the Steering Board, as appropriate. Alternatively, the Steering Board, acting by qualified majority, may decide to refer the matter to the Council for decision. The Council shall act by unanimity.

4. The Steering Board, on a proposal from the Chief Executive or from a participating Member State, may decide to set up:

- (a) committees for the preparation of administrative and budgetary decisions of the Steering Board, composed of delegates of the participating Member States and a representative of the Commission;
- (b) committees specialised in specific issues within the Agency's remit. These committees shall be composed of delegates of the participating Member States and, unless the Steering Board decides otherwise, a representative of the Commission.

The decision to establish such committees shall specify their mandate and duration.

Article 10

The Chief Executive

1. The Chief Executive, and his/her Deputy, are appointed by the Steering Board on a proposal from the Head of the Agency for three years. The Steering Board may grant a two-year extension. The Chief Executive, and his/her Deputy, shall act under the authority of the Head of the Agency and in accordance with the decisions of the Steering Board.

2. The Chief Executive, assisted by his/her deputy, shall take all necessary measures to ensure the efficiency and effectiveness of the Agency's work. He/she is responsible for the oversight and coordination of the functional units, in order to ensure the overall coherence of their work. He/she shall be the head of the Agency's staff.

3. The Chief Executive is responsible for:

- 3.1. ensuring the implementation of the Agency's annual work programme;
- 3.2. preparing the work of the Steering Board, in particular the draft annual work programme of the Agency;
- 3.3. ensuring close cooperation with and providing information to the Council preparatory bodies, notably the PSC and the EUMC;
- 3.4. preparing the draft annual general budget to be submitted to the Steering Board;
- 3.5. preparing the reports referred to in Article 4(2);
- 3.6. preparing the statement of revenue and expenditure and implementing the Agency's general budget and the budgets of ad hoc projects or programmes entrusted to the Agency;
- 3.7. the day-to-day administration of the Agency;
- 3.8. all security aspects;
- 3.9. all staff matters.

4. Within the work programme and the general budget of the Agency, the Chief Executive shall be empowered to enter into contracts and to recruit staff. The Chief Executive shall be the authorising officer responsible for the implementation of the budgets administered by the Agency.

5. The Chief Executive shall be accountable to the Board.

6. The Chief Executive shall be the legal representative of the Agency.

Article 11

Staff

1. The staff of the Agency, including the Chief Executive, shall consist of contract and statutory staff members recruited from among candidates from all participating Member States on the broadest possible geographical basis, and from the EU institutions. The staff of the Agency shall be selected by the Chief Executive on the basis of relevant competence and expertise and through fair and transparent competition procedures. The Chief

Executive shall publish in advance details of all available positions and the criteria relevant to the selection process. In all cases, recruitment shall be directed to securing for the Agency the services of staff of the highest standard of ability and efficiency.

2. The Head of the Agency, upon a proposal from the Chief Executive and following consultation with the Steering Board, shall appoint the staff of the Agency at senior management level.

3. The Agency's staff shall consist of:

- 3.1. personnel recruited directly by the Agency under fixed-term contracts, selected among nationals of participating Member States. The Council, acting by unanimity, shall approve the regulations applicable to such staff. The Steering Board shall, within one year of the adoption of this Joint Action, review and amend, as necessary, these regulations;
- 3.2. national experts seconded by participating Member States either to posts within the Agency organisational structure or for specific tasks and projects. The Council, acting by unanimity, shall approve the rules applicable to such experts. The Steering Board shall, within one year of the adoption of this Joint Action, review and amend, as necessary, these rules;
- 3.3. Community officials seconded to the Agency for a fixed period and/or for specific tasks or projects as required.

CHAPTER III

BUDGET AND FINANCIAL RULES

Article 12

Budgetary principles

1. Budgets, drawn up in euro, are the acts which for each financial year lay down and authorise all the revenue and expenditure administered by the Agency.

2. The appropriations entered in a budget are authorised for the duration of a financial year which begins on 1 January and ends on 31 December of the same year.

3. For each budget, revenue and expenditure must be balanced. All revenue and expenditure shall be entered in full in the relevant budget without any adjustment against each other.

4. The budget shall contain differentiated appropriations, which shall consist of commitment appropriations and payment appropriations and non-differentiated appropriations.

5. Commitment appropriations shall cover the total cost of the legal commitments entered into during the current financial year. However, commitments may be made globally or in annual instalments. Commitments shall be entered into the accounts on the basis of the legal commitments entered into up to 31 December.

6. Payment appropriations shall cover payments made to honour the legal commitments entered into in the current financial year and/or earlier financial years. Payments shall be entered in the accounts on the basis of the budget commitments up to 31 December.

7. The revenue of a financial year shall be entered in the accounts for the financial year on the basis of the amounts collected during the financial year.

8. Neither revenue nor expenditure may be implemented other than by allocation to a heading in the budget and within the limit of the appropriations entered there.

9. Appropriations shall be used in accordance with the principles of sound financial management, namely in accordance with the principles of economy, efficiency and effectiveness.

Article 13

The general budget

1. The Head of the Agency shall provide the Steering Board by 30 June each year with an overall estimate of the draft general budget for the following year, fully respecting the limits set down in the financial framework.

2. The Head of the Agency shall propose the draft general budget to the Steering Board by 30 September each year. The draft shall include:

(a) the appropriations deemed necessary:

- (i) to cover the Agency's running, staffing and meeting costs;
- (ii) for procuring external advice, notably operational analysis, essential for the Agency to discharge its tasks, and for specific research and technology activities for

the common benefit of all participating Member States, notably technical case-studies and pre-feasibility studies;

(b) a forecast of the revenue needed to cover expenditure.

3. The Steering Board shall aim to ensure that the appropriations referred to in paragraph 2(a)(ii) shall represent a significant share of the total appropriations referred to in paragraph 2. These appropriations shall reflect actual needs and shall allow for an operational role for the Agency.

4. The draft general budget shall be accompanied by a detailed staff establishment plan and detailed justifications.

5. The Steering Board, acting by unanimity, may decide that the draft general budget shall furthermore cover a particular project or programme where this is clearly for the common benefit of all participating Member States.

6. The appropriations shall be classified in titles and chapters grouping expenditure together by type or purpose, subdivided as necessary into articles.

7. Each title may include a chapter entitled 'provisional appropriations'. These appropriations shall be entered where there is uncertainty, based on serious grounds, about the amount of appropriations needed or the scope for implementing the appropriations entered.

8. Revenue shall consist of:

(a) miscellaneous revenue;

(b) contributions payable by the Member States participating in the Agency based on the gross national income (GNI) scale.

The draft general budget shall carry lines to accommodate earmarked revenue and, wherever possible, shall indicate the amount foreseen.

9. The Steering Board shall adopt the draft general budget by 31 December of each year within the Agency's financial framework. When doing so, the Steering Board shall be chaired by the Head of the Agency, or by a representative appointed by him/her from within the General Secretariat of the Council, or by a member of the Steering Board invited to do so by him/her. The Chief Executive shall declare that the budget has been adopted and notify the participating Member States.

10. If, at the beginning of a financial year, the draft general budget has not been adopted, a sum equivalent to not more than one twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter or other subdivision of the budget. This arrangement shall not, however, have the effect of placing at the disposal of the Agency appropriations in excess of one twelfth of those provided for in the draft general budget in course of preparation. The Steering Board, acting by a qualified majority on a proposal from the Chief Executive, may authorise expenditure in excess of one twelfth. The Chief Executive may call for the contributions necessary to cover the appropriations authorised under this provision, which shall be payable within 30 days from dispatch of the call for contributions.

Article 14

Amending budgets

1. In the case of unavoidable, exceptional or unforeseen circumstances, the Chief Executive may propose a draft amending budget within the limits set down in the financial framework.

2. The draft amending budget shall be drawn up, proposed, and adopted and notification given in accordance with the same procedure as the general budget, within the limits set down in the financial framework. The Steering Board shall act with due account to the urgency.

3. In the situation where the limits set down in the financial framework would be considered insufficient due to exceptional and unforeseen circumstances, taking also in full account rules set out in Article 13(2) and (3), the Steering Board will submit the amending budget for adoption by the Council, acting by unanimity.

Article 15

Earmarked revenue

1. The Agency may receive in its general budget as earmarked revenue for a specific purpose financial contributions to cover costs other than those referred to under Article 13(2)(a)(i):

(a) from the general budget of the European Union on a case-by-case basis, in full respect of the rules, procedures and decision-making processes applicable to it;

(b) from Member States, third countries or other third parties.

2. Earmarked revenue may only be used for the specific purpose to which it is assigned.

Article 16

Contributions and reimbursements

1. Determination of contributions where the GNI scale is applicable

1.1. Where the GNI scale is applicable, the breakdown of contributions between the Member States from whom a contribution is required shall be determined in accordance with the gross national product scale as specified in Article 28(3) TEU and in accordance with Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the European Communities' own resources⁽¹⁾, or any other Council Decision which may replace it.

1.2. The data for the calculation of each contribution shall be those set out in the 'GNI own resources' column in the 'Summary of financing of the general budget by type of own resource and by Member State' table appended to the latest budget adopted by the European Communities. The contribution of each Member State from whom a contribution is due shall be proportional to the share of that Member State's GNI in the total GNI aggregate of the Member States from whom a contribution is due.

2. Schedule for payment of contributions

2.1. The contributions intended to finance the general budget shall be paid by the participating Member States in three equal instalments, by 15 February, 15 June and 15 October of the financial year concerned.

2.2. When an amending budget is adopted, the necessary contributions shall be paid by the Member States concerned within 60 days from dispatch of the call for contributions.

2.3. Each Member State shall pay the bank charges relating to the payment of its own contributions.

Article 17

Management by the Agency of expenditure on behalf of Member States

1. The Steering Board, on a proposal from the Chief Executive or a Member State, may decide that the Agency may be entrusted by Member States, on a contractual basis, with the administrative and financial management of certain activities within its remit.

⁽¹⁾ OJ L 253, 7.10.2000, p. 42.

2. The Steering Board, in its decision, may authorise the Agency to enter into contracts on behalf of certain Member States. It may authorise the Agency to collect the necessary funds from these Member States in advance to honour the contracts entered into.

Article 18

Implementation of the budget

1. The financial provisions applicable to the Agency's general budget shall be adopted by the Council, acting by unanimity. The Steering Board shall, within one year of the adoption of this Joint Action, review and amend these provisions, as necessary.

2. The Steering Board, acting on a proposal from the Chief Executive, shall as necessary adopt the implementing rules regarding the implementation and control of the general budget, notably as regards public procurement, without prejudice to relevant Community rules. The Steering Board shall ensure, in particular, that security of supply and protection both of defence secret and intellectual property rights requirements are taken into account in a proper manner.

3. The financial provisions and rules referred to in this Article are not applicable to ad hoc projects and programmes as referred to in Articles 20 and 21.

Article 19

Initial budget 2004 and budget for 2005

1. The initial general budget for the financial year 2004, focused on start-up arrangements, shall be as shown in the financial statement to be submitted with the Joint Action. The first financial year shall begin one day after the entry into force of this Joint Action.

2. The initial general budget shall be financed by contributions from the participating Member States payable as soon as possible and in any case no later than within 45 days from despatch of the calls for contributions by the Head of the Agency, Secretary-General of the Council of the European Union.

3. The general budget for the financial year 2005 shall be adopted by the Steering Board with the approval of the Council, acting by unanimity.

CHAPTER IV

AD HOC PROJECTS OR PROGRAMMES AND ASSOCIATED BUDGETS

Article 20

Approval of ad hoc projects or programmes and ad hoc budgets associated with them (Category A)

1. One or more participating Member States or the Chief Executive may submit to the Steering Board an ad hoc project or programme within the Agency's remit, which shall presume general participation by the participating Member States. The Steering Board shall be informed of the ad hoc budget, if any, to be associated with the proposed project or programme, as well as of potential contributions by third parties.

2. All participating Member States shall in principle contribute. They shall inform the Chief Executive of their intentions in this regard.

3. The Steering Board shall approve the establishment of the ad hoc project or programme.

4. The Steering Board, on a proposal from the Chief Executive or from a participating Member State, may decide to set up a committee to supervise the management and implementation of the ad hoc project or programme. The committee shall be composed of delegates from each of the contributing Member States and, when the Community contributes to the project or programme, a representative of the Commission. The decision of the Steering Board shall specify the committee's mandate and duration.

5. For the ad hoc project or programme, the contributing Member States, meeting within the Steering Board, shall approve:

- (a) the rules governing the management of the project or programme;
- (b) where appropriate, the ad hoc budget associated with the project or programme, the key for contributions and the necessary implementing rules;
- (c) participation of third parties in the committee referred to in paragraph 4. Their participation shall be without prejudice to the decision-making autonomy of the EU.

6. Where the Community contributes to an ad hoc project or programme, the Commission shall participate in the decisions referred to in paragraph 5, in full respect of the decision-making procedures applicable to the general budget of the EU.

*Article 21***Approval of ad hoc projects, or programmes and ad hoc budgets associated with them (Category B)**

1. One or more participating Member States may inform the Steering Board that they intend to establish an ad hoc project or programme within the Agency's remit, and where appropriate the ad hoc budget associated with it. The Steering Board shall be informed of the ad hoc budget, if any, to be associated with the proposed project or programme, and details, if relevant, on human resources for such project or programme, as well as of potential contributions by third parties.

2. In the interest of maximising opportunities for cooperation, all participating Member States shall be informed of the ad hoc project or programme, including the basis upon which participation might be expanded, in a timely manner so that any participating Member State who wishes to do so may express an interest in joining. Moreover, the initiator(s) of the project or programme will endeavour to make their membership as wide as possible. Participation will be established on a case-by-case basis by the initiators.

3. The ad hoc project or programme shall then be regarded as an Agency project or programme, unless the Steering Board decides otherwise within one month of receiving the information foreseen in paragraph 1.

4. Any participating Member State which, at a later stage, wishes to participate in the ad hoc project or programme shall notify the contributing Member States of its intentions. The contributing Member States, within two months of receiving this notification, shall decide among themselves, having due regard to the basis set out when participating Member States are informed of the project or programme, on the participation of the Member State concerned.

5. The contributing Member States shall take amongst them the decisions necessary for the establishment and implementation of the ad hoc project or programme and, where appropriate, the budget associated with it. Where the Community contributes to such a project or programme, the Commission shall participate in the decisions referred to in this paragraph in full respect of the decision-making procedures applicable to the general budget of the EU. The contributing Member States shall keep the Steering Board informed, as appropriate, of developments relating to such project or programme.

*Article 22***Contributions from the general budget of the European Union to ad hoc budgets**

Contributions from the general budget of the EU may be made to the ad hoc budgets established for ad hoc projects or programmes referred to in Articles 20 and 21.

*Article 23***Participation of third parties**

1. Third parties may contribute to a particular ad hoc project or programme, established in accordance with Articles 20 or 21, and to the budget associated with it. The Steering Board shall, acting by qualified majority, approve as necessary ad hoc arrangements between the Agency and third parties for each particular project or programme.

2. For projects established under Article 20, the contributing Member States meeting within the Steering Board shall approve any necessary modalities with the relevant third parties relating to their contribution.

3. For projects established under Article 21, the contributing Member States shall decide any necessary modalities with the relevant third parties relating to their contribution.

4. Where the Community contributes to an ad hoc project or programme, the Commission shall participate in the decisions referred to in paragraphs 2 and 3.

CHAPTER V

RELATIONS WITH THE COMMISSION*Article 24***Association with the Agency's work**

1. The Commission is a member of the Steering Board without voting rights and shall be fully associated with the work of the Agency.

2. The Commission, on behalf of the Community, may also participate in projects and programmes of the Agency.

3. The Agency shall establish the necessary administrative arrangements and working relations with the Commission, in particular with a view to exchanging expertise and advice in those areas where the activities of the Community have a bearing on the Agency's missions and where the activities of the Agency are relevant to those of the Community.

4. Necessary arrangements to cover a contribution, on a case-by-case basis, from the general budget of the EU under Articles 15 and 22, shall be established between the Agency and the Commission by mutual agreement, or between the contributing Member States and the Commission by mutual agreement.

CHAPTER VI

RELATIONS WITH THIRD COUNTRIES, ORGANISATIONS AND ENTITIES*Article 25***Relations with third countries, organisations and entities**

1. For the purpose of fulfilling its mission, the Agency may enter into administrative arrangements with third States, organisations and entities. Such arrangements shall notably cover:

- (a) the principle of a relationship between the Agency and the third party;
- (b) provisions for consultation on subjects related to Agency's work;
- (c) security matters.

In so doing, it shall respect the single institutional framework and the decision-making autonomy of the EU. Each such arrangement shall be concluded by the Steering Board upon approval by the Council, acting by unanimity.

2. The Agency shall develop close working relations with the relevant elements of OCCAR, the LoI Framework Agreement, and WEAG/WEAO with a view to incorporate those elements or assimilate their principles and practices in due course, as appropriate and by mutual agreement.

3. Reciprocal transparency and coherent development in the field of capabilities shall be ensured by the application of CDM procedures. Other working relations between the Agency and relevant NATO bodies shall be defined through an administrative arrangement referred to in paragraph 1, in full respect of the established framework of cooperation and consultation between the EU and NATO.

4. With a view to facilitating their possible participation in projects and programmes and within the framework of arrangements referred to in paragraph 1, the Agency shall be entitled to establish working relations with organisations and entities other than those mentioned in paragraphs 2 and 3.

5. With a view to facilitating their possible participation in specific projects and programmes and within the framework of arrangements referred to in paragraph 1, the Agency shall be entitled to establish working relations with third countries.

6. The non-EU WEAG members shall be provided with the fullest possible transparency regarding the Agency's specific projects and programmes with a view to their participation therein as appropriate. A consultative committee shall be set up for this purpose, to provide a forum for exchanging views and information on matters of common interest falling within the scope of the Agency's mission. It shall be chaired by the Chief Executive or his/her representative. It shall include a representative of each participating Member State and a representative of the Commission, and representatives of the non-EU WEAG members in accordance with modalities to be agreed with them.

7. Upon request, other non-EU European NATO members may also participate in the Consultative Committee referred to in paragraph 6, in accordance with modalities to be agreed with them.

8. The Consultative Committee referred to in paragraph 6 may also serve as a forum for dialogue with other third parties on specific matters of mutual interest within the Agency's remit, and may serve to ensure that they are kept fully informed of developments in matters of common interest and of opportunities for future cooperation

CHAPTER VII

MISCELLANEOUS PROVISIONS*Article 26***Privileges and immunities**

Privileges and immunities necessary for the performance of the duties of the Agency, the Chief Executive and its staff shall be provided for in an agreement between participating Member States.

*Article 27***Review clause**

The Head of the Agency shall present no later than three years from the entry into force of this Joint Action or upon the entry into force of the Treaty establishing a Constitution for Europe, whichever is the earlier, a report to the Steering Board on the implementation of this Joint Action, with a view to its possible review by the Council.

*Article 28***Legal liability**

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

2. The personal liability of staff towards the Agency shall be governed by the relevant rules applying to the Agency.

*Article 29***Access to documents**

Upon a proposal by the Chief Executive, the Steering Board shall adopt rules on public access to the documents of the Agency, taking into account the principles and limits laid down in Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents⁽¹⁾.

*Article 30***Security**

1. The Agency shall apply the Council's security regulations set out in Decision 2001/264/EC⁽²⁾.
2. The Agency shall ensure appropriate security and speed in its external communications.

*Article 31***Language regime**

The language regime of the Agency shall be established by the Council, acting by unanimity.

*Article 32***Transitional measures**

The SG/HR shall take the necessary measures for the operational setting-up of the Agency. For this purpose, he/she may also exercise the powers granted to the Chief Executive under this Joint Action until his/her appointment.

Article 33

This Joint Action shall enter into force on the day of its adoption.

Article 34

This Joint Action shall be published in the *Official Journal of the European Union*.

Done at Brussels, 12 July 2004.

For the Council

The President

B. BOT

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

⁽²⁾ OJ L 101, 11.4.2001, p. 1.

NOTICE TO READERS

In view of the situation which has arisen following enlargement, some editions of the Official Journal of 30 April 2004 have been published, in a simplified manner, in the 11 official languages of that date.

It has been decided to republish, as corrigenda and in the Official Journal's traditional presentation, Acts which appear in those Official Journals.

It is for this reason that Official Journals which contain only those corrigenda have been published in the 11 pre-enlargement language versions. The translations of Acts in the languages of the new Member States will be published in a special edition of the *Official Journal of the European Union* comprising texts of the institutions and the European Central Bank adopted prior to 1 May 2004.

Given below is a list of the Official Journals published on 30 April and their corresponding corrigenda.

OJ of 30 April 2004	Corrected OJ
L 139	L 226 of 25 June
L 144	L 199 of 7 June
L 146	L 225 of 25 June
L 149	L 215 of 16 June
L 150	L 185 of 24 May
L 151	L 208 of 10 June
L 152	L 216 of 16 June
L 153	L 231 of 30 June
L 154	L 189 of 27 May
L 155	L 193 of 1 June
L 156	L 202 of 7 June
L 157	L 195 of 2 June
L 158	L 229 of 29 June
L 159	L 184 of 24 May
L 160	L 212 of 12 June
L 161	L 206 of 9 June
L 164	L 220 of 21 June
L 165	L 191 of 28 May
L 166	L 200 of 7 June
L 167	L 201 of 7 June