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1 November 2004 — New version of EUR-Lex! (See inside back cover)



⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1986/2004
of 19 November 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 20 November 2004.

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

Done at Brussels, 19 November 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 19 November 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	127,5
	070	56,3
	204	62,3
	999	82,0
0707 00 05	052	100,1
	204	46,4
	999	73,3
0709 90 70	052	101,8
	204	96,8
	999	99,3
0805 20 10	204	62,0
	999	62,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	72,1
	624	99,1
	999	85,6
0805 50 10	052	52,5
	388	49,8
	524	65,7
	528	33,0
	999	50,3
0806 10 10	052	110,7
	400	203,8
	508	286,7
	999	200,4
0808 10 20, 0808 10 50, 0808 10 90	388	139,3
	400	81,6
	404	77,4
	720	65,4
	800	194,8
	804	106,7
	999	110,9
0808 20 50	720	69,7
	999	69,7

⁽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 1987/2004**of 19 November 2004****applying a reduction coefficient to refund certificates for goods not covered by Annex I to the Treaty, as provided for by Article 8(5) of Regulation (EC) No 1520/2000**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty and the criteria for fixing the amount of such refunds ⁽²⁾, and in particular Article 8(5) thereof,

Whereas:

- (1) Member States' notifications pursuant to Article 8(2) of Regulation (EC) No 1520/2000 indicate that the total amount of applications received reaches 248 761 823 EUR while the available amount for the tranche of

refund certificates as referred to in Article 8(4) of Regulation (EC) No 1520/2000 is 78 594 136 EUR.

- (2) A reduction coefficient shall be calculated on the basis of Article 8(3) and (4) of Regulation (EC) No 1520/2000. Such coefficient should therefore be applied to amounts requested in the form of refund certificates for use from 1 December 2004 as established in Article 8(6) of Regulation (EC) No 1520/2000,

HAS ADOPTED THIS REGULATION:

Article 1

The amounts for applications of refund certificates for use from 1 December 2004 are subject to a reduction coefficient of 0,685.

Article 2

This Regulation shall enter into force on 20 November 2004.

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

Done at Brussels, 19 November 2004.

For the Commission

Olli REHN

Member of the Commission

⁽¹⁾ OJ L 318, 20.12.1993, p. 18. Regulation as last amended by Regulation (EC) No 2580/2000 (OJ L 298, 25.11.2000, p. 5).

⁽²⁾ OJ L 177, 15.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 886/2004 (OJ L 168, 1.5.2004, p. 14).

COMMISSION REGULATION (EC) No 1988/2004**of 18 November 2004****repealing Regulation (EC) No 1501/2004 of 24 August 2004 prohibiting fishing for northern prawn by vessels flying the flag of Sweden**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽¹⁾, and in particular Article 21(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 1501/2004⁽²⁾ prohibits fishing for northern prawn in Norwegian waters south of 62°00' N by vessels flying the flag of Sweden or registered in Sweden.

(2) Following a transfer of fishing opportunities, the quota available for Sweden is no longer exhausted. Conse-

quently, fishing for northern prawn in Norwegian waters south of 62°00' N by vessels flying the flag of Sweden or registered in Sweden should be authorised. Commission Regulation (EC) No 1501/2004 should therefore be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Commission Regulation (EC) No 1501/2004 is hereby repealed.

Article 2

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

It shall apply from 1 October 2004.

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

Done at Brussels, 18 November 2004.

For the Commission

Jörgen HOLMQUIST

Director-General for Fisheries

⁽¹⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last modified by Regulation (EC) No 1954/2003 (OJ L 289, 7.11.2003, p. 13).

⁽²⁾ OJ L 275, 25.8.2004, p. 13.

COMMISSION REGULATION (EC) No 1989/2004
of 19 November 2004
concerning the classification of certain goods in the Combined Nomenclature

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules also apply to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific Community provisions, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to the said general rules, the goods described in column 1 of the table set out in the Annex to this Regulation should be classified under the CN codes indicated in column 2, by virtue of the reasons set out in column 3.

(4) It is appropriate to provide that binding tariff information issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature and which is not in accordance with this Regulation, can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column 1 of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN codes indicated in column 2 of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States which is not in accordance with this Regulation can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 19 November 2004.

For the Commission

Frederik BOLKESTEIN

Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 1558/2004 (OJ L 283, 2.9.2004, p. 7).

⁽²⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by the Act of Accession of 2003.

ANNEX

Description of the goods	Classification (CN code)	Reasons																																														
(1)	(2)	(3)																																														
<p>1. Cooked meat preparation with the following composition (percentage by weight):</p> <table><tr><td>Liver:</td><td>15</td></tr><tr><td>Chopped pork:</td><td>5</td></tr><tr><td>Collar:</td><td>2</td></tr><tr><td>Kidney:</td><td>6</td></tr><tr><td>Lung:</td><td>13</td></tr><tr><td>Spleen:</td><td>7</td></tr><tr><td>Rind:</td><td>20</td></tr><tr><td>Fat with rind:</td><td>20</td></tr><tr><td>Other ingredients:</td><td>2</td></tr><tr><td>Water:</td><td>10</td></tr></table> <p>The preparation is put up in cans.</p>	Liver:	15	Chopped pork:	5	Collar:	2	Kidney:	6	Lung:	13	Spleen:	7	Rind:	20	Fat with rind:	20	Other ingredients:	2	Water:	10	1602 20 90	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2 to Chapter 16 and by the wording of CN codes 1602, 1602 20 and 1602 20 90.</p> <p>The liver content is considered to be present in a sufficient quantity as to give the product its character of liver preparation (see the Explanatory Notes to the Combined Nomenclature to sub-headings 1602 20 11 to 1602 20 90).</p>																										
Liver:	15																																															
Chopped pork:	5																																															
Collar:	2																																															
Kidney:	6																																															
Lung:	13																																															
Spleen:	7																																															
Rind:	20																																															
Fat with rind:	20																																															
Other ingredients:	2																																															
Water:	10																																															
<p>2. Products consisting of sugar solution and small quantities of other ingredients with the following composition (percentage by weight):</p> <p>PRODUCT 1</p> <table><tr><td>Sugar:</td><td>31,5</td></tr><tr><td>Glucose syrup:</td><td>28,5</td></tr><tr><td>Citric acid:</td><td>5</td></tr><tr><td>Malic acid:</td><td>2,5</td></tr><tr><td>Xanthan gum:</td><td>0,2</td></tr><tr><td>Sodium benzoate:</td><td>0,05</td></tr><tr><td>Acesulfame potassium:</td><td>0,03</td></tr><tr><td>Aspartame:</td><td>0,009</td></tr><tr><td>Flavouring:</td><td>0,5</td></tr><tr><td>Colouring:</td><td>0,002</td></tr><tr><td>Water:</td><td>remainder</td></tr></table> <p>The product is put up for retail sale in a small plastic bottle with a dropper (h = 6 cm; ø = 2 cm) (See photograph No 1) (*)</p> <p>PRODUCT 2</p> <table><tr><td>Sugar:</td><td>34</td></tr><tr><td>Citric acid:</td><td>5</td></tr><tr><td>Malic acid:</td><td>3</td></tr><tr><td>Fumaric acid:</td><td>0,05</td></tr><tr><td>Sodium carboxymethyl cellulose:</td><td>0,07</td></tr><tr><td>Potassium sorbate:</td><td>0,016</td></tr><tr><td>Sodium benzoate:</td><td>0,01</td></tr><tr><td>Acesulfame potassium:</td><td>0,03</td></tr><tr><td>Aspartame:</td><td>0,01</td></tr><tr><td>Flavouring:</td><td>0,5</td></tr><tr><td>Colouring:</td><td>0,002</td></tr><tr><td>Water:</td><td>remainder</td></tr></table> <p>The product is put up for retail sale as a spray in a small plastic bottle (h = 10 cm; ø = 1,5 cm) (See photograph No 2) (*)</p> <p>Both products are intended for immediate consumption without further dilution with water.</p>	Sugar:	31,5	Glucose syrup:	28,5	Citric acid:	5	Malic acid:	2,5	Xanthan gum:	0,2	Sodium benzoate:	0,05	Acesulfame potassium:	0,03	Aspartame:	0,009	Flavouring:	0,5	Colouring:	0,002	Water:	remainder	Sugar:	34	Citric acid:	5	Malic acid:	3	Fumaric acid:	0,05	Sodium carboxymethyl cellulose:	0,07	Potassium sorbate:	0,016	Sodium benzoate:	0,01	Acesulfame potassium:	0,03	Aspartame:	0,01	Flavouring:	0,5	Colouring:	0,002	Water:	remainder	2106 90 59	<p>Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 2106, 2106 90 and 2106 90 59.</p> <p>The preparations being in liquid form do not meet the criteria for sugar confectioneries in heading 1704 as the HS Explanatory Notes state 'this heading covers most of the sugar preparations which are marketed in a solid or semi-solid form'.</p> <p>Neither do they have to be regarded as non-alcoholic beverages of subheading 2202 10 00, as they are not directly consumed as beverages because of their acid content (Additional note 1 to chapter 22).</p>
Sugar:	31,5																																															
Glucose syrup:	28,5																																															
Citric acid:	5																																															
Malic acid:	2,5																																															
Xanthan gum:	0,2																																															
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Water:	remainder																																															

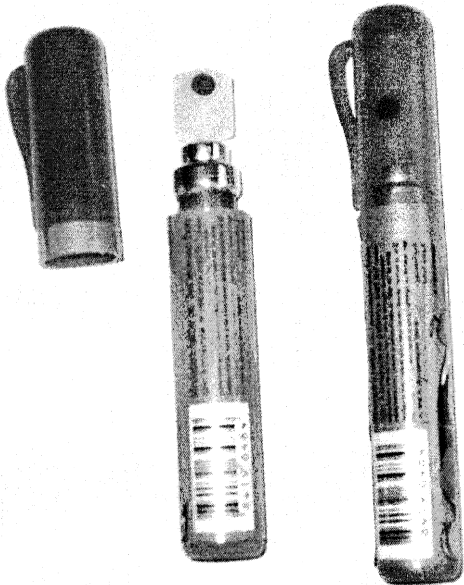
(1)	(2)	(3)
<p>3. Whey protein isolates, in powder form, containing more than 90 % protein by weight calculated on dry matter. The product is obtained by microfiltration of whey.</p> <p>The protein profile is as follows:</p> <ul style="list-style-type: none">— beta-lactoglobulin: 50-60 %— alfa-lactalbumin: 10-25 %— immunoglobulin: 5-7 %— glycopeptides: ca. 20 % <p>The lactose and fat content is less than 1 %.</p> <p>Lecithin can be present in small quantities when used as a wetting agent during manufacturing.</p> <p>The product is intended for human consumption.</p>	3502 20 91	<p>Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 4 (b) to Chapter 4 and the wording of CN codes 3502, 3502 20 and 3502 20 91.</p> <p>The products are to be considered concentrates of two or more whey proteins in the meaning of heading text 3502 and cannot be regarded as an isolate of lactoglobulins of heading 3504.</p>

(*) The photographs are purely for information.

Photograph No 1



Photograph No 2



COMMISSION REGULATION (EC) No 1990/2004**of 19 November 2004****laying down transitional measures in the wine sector by reason of the accession of Hungary to the European Union**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular the first subparagraph of Article 41 thereof,

Whereas:

- (1) Article 27(3) of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine⁽¹⁾ lays down that any natural or legal person or group of persons having made wine is required to deliver for distillation all the by-products of that wine-making.
- (2) Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms⁽²⁾ establishes the rules applicable to such distillation and Article 49 thereof provides for certain exceptions to that obligation.
- (3) Hungary has adopted the necessary measures for carrying out this distillation, but the capacity of distilleries for processing the by-products is as yet inadequate.

Moreover, for the 2004/2005 marketing year, a sizeable crop is anticipated. Hungary should therefore be authorised to exempt certain categories of producers from the obligation to distil by-products of wine-making.

- (4) In order that the exception granted to Hungary may be applied to the entire wine year, this Regulation should apply from 1 August 2004.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

By way of exemption from Article 49(4)(a) of Regulation (EC) No 1623/2000, Hungary may lay down that, for the 2004/2005 marketing year, producers who do not exceed a production level of 500 hl obtained personally on their individual premises may fulfil the obligation to deliver by-products for distillation by having those products withdrawn under supervision.

Article 2

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

It shall apply from 1 August 2004.

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

Done at Brussels, 19 November 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Commission Regulation (EC) No 1795/2003 (OJ L 262, 14.10.2003, p. 13).

⁽²⁾ OJ L 194, 31.7.2000, p. 45. Regulation as last amended by Regulation (EC) No 1774/2004 (OJ L 316, 15.10.2004, p. 61).

**COMMISSION REGULATION (EC) No 1991/2004
of 19 November 2004**

amending Regulation (EC) No 753/2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

(4) Commission Regulation (EC) No 753/2002⁽³⁾ should therefore be amended accordingly.

Having regard to the Treaty establishing the European Community,

(5) This Regulation should apply from 25 November 2004, the deadline for the transposal of Directive 2003/89/EC.

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine⁽¹⁾, and in particular Article 53 thereof,

(6) The Management Committee for Wine has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Whereas:

Article 1

Regulation (EC) No 753/2002 is hereby amended as follows:

(1) Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs⁽²⁾, as regards indication of the ingredients present in foodstuffs, provides in the first paragraph of its Article 6(3a) that any ingredient referred to in its Annex IIIa is to be indicated on the labelling of any beverages containing more than 1,2% by volume of alcohol.

1. Article 3 is amended as follows:

(a) in paragraph 1, the second paragraph is replaced by the following:

(2) As regards the products referred to in Article 1(2) of Regulation (EC) No 1493/1999, the second paragraph of Article 6(3a)(a) of Directive 2000/13/CE provides that detailed rules for the presentation of the ingredients referred to in its Annex IIIa may be adopted according to the procedure laid down in Article 75 of Regulation (EC) No 1493/1999.

'However, the compulsory particulars of the importer, the lot number and the ingredients referred to in Article 6(3a) of Directive 2000/13/EC may appear outside the visual field in which the other compulsory particulars appear.';

(b) the following paragraph 3 is added:

(3) The first paragraph of point D of Annex VII and the first paragraph of point F of Annex VIII to Regulation (EC) No 1493/1999 stipulates that the information on the labelling must be given in one or more other official languages of the Community so that the final consumer can easily understand each of these items of information.

'3. Where one or more of the ingredients listed in Annex IIIa to Directive 2000/13/EC are present in one of the products referred to in Article 1(2) of Regulation (EC) No 1493/1999, they must be indicated on the labelling, preceded by the term "contains". For sulphites, the following terms can be used: "sulphites" or "sulphur dioxide".'

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation last amended by Commission Regulation (EC) No 1794/2003 (OJ L 262, 14.10.2003, p. 13).

⁽²⁾ OJ L 109, 6.5.2000, p. 29. Directive last amended by Directive 2003/89/EC (OJ L 308, 25.11.2003, p. 15).

⁽³⁾ OJ L 118, 4.5.2002, p. 1. Regulation last amended by Regulation (EC) No 908/2004 (OJ L 263, 10.8.2004, p. 11).

2. in Article 11, paragraph 2 is replaced by the following:

Article 2

‘2. The provisions of Article 3, paragraphs 1 and 3, shall apply *mutatis mutandis* to the compulsory particulars referred to in Article 12.’

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

It shall apply from 25 November 2004.

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

Done at Brussels, 19 November 2004.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1992/2004**of 19 November 2004****amending Regulation (EC) No 2799/1999 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**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

In Article 7 of Regulation (EC) No 2799/1999, paragraph 1 is replaced by the following:

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 Articles 10 and 15 thereof,

‘1. Aid is fixed at:

Whereas:

(1) Article 7(1) of Commission Regulation (EC) No 2799/1999⁽²⁾ fixes the amount of aid for skimmed milk and skimmed-milk powder intended for animal feed taking into account the factors set out in Article 11(2) of Regulation (EC) No 1255/1999. In view of the developments in the market price and in the selling prices of intervention skimmed-milk powder the amount of aid should be reduced.

(a) 3,23 EUR per 100 kg of skimmed milk with a protein content of not less than 35,6 % of the non-fatty dry extract;

(b) 2,85 EUR per 100 kg of skimmed milk with a protein content of not less than 31,4 % but less than 35,6 % of the non-fatty dry extract;

(c) 40,00 EUR per 100 kg of skimmed-milk powder with a protein content of not less than 35,6 % of the non-fatty dry extract;

(d) 35,28 EUR per 100 kg of skimmed-milk powder with a protein content of not less than 31,4 % but less than 35,6 % of the non-fatty dry extract.’

(2) Regulation (EC) No 2799/1999 should therefore be amended accordingly.

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

*Article 2*This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 19 November 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽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 340, 31.12.1999, p. 3. Regulation last amended by Regulation (EC) No 1839/2004 (OJ L 322, 23.10.2004, p. 4).

COMMISSION REGULATION (EC) No 1993/2004**of 19 November 2004****amending Regulation (EC) 999/2001 of the European Parliament and of the Council as regards Portugal****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market⁽¹⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to completion of the internal market⁽²⁾, and in particular Article 10(4) thereof,

Having regard to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies⁽³⁾, and in particular the first paragraph of Article 23 thereof,

Whereas:

(1) Commission Decision 2001/376/EC of 18 April 2001 concerning measures made necessary by the occurrence of bovine spongiform encephalopathy in Portugal and implementing a date-based export scheme⁽⁴⁾ prohibits the dispatch from Portugal of live bovine animals and certain products derived therefrom. That Decision replaced and repealed Commission Decision 98/653/EC⁽⁵⁾ which was adopted because of the high bovine spongiform encephalopathy (BSE) incidence rate and the lack of adequate management of that disease in Portugal at that time.

⁽¹⁾ OJ L 395, 30.12.1989, p. 13. Directive as last amended by Directive 2004/41/EC of the European Parliament and of the Council (OJ L 157, 30.4.2004, p. 33).

⁽²⁾ OJ L 224, 18.8.1990, p. 29. Directive as last amended by Directive 2002/33/EC of the European Parliament and of the Council (OJ L 315, 19.11.2002, p. 14).

⁽³⁾ OJ L 147, 31.5.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 1492/2004 (OJ L 274, 24.8.2004, p. 3).

⁽⁴⁾ OJ L 132, 15.5.2001, p. 17. Decision as last amended by Decision 2004/653/EC (OJ L 298, 23.9.2004, p. 25).

⁽⁵⁾ OJ L 311, 20.11.1998, p. 23.

(2) The Scientific Steering Committee (SSC) recognised three major issues for considering the risk of BSE. First, the risk of human exposure arising from the direct consumption of potentially infective material; secondly, the risk to man from ingesting or being exposed to processed, potentially infective material; and thirdly, the risk of propagating the infection by recycling the infective material through animal feed. The International Animal Health Organisation (OIE) has also proposed that the assessment of the risk to human and animal health in countries be based on a combination of the spread of BSE and the application of measures to control the risk.

(3) At its general session in May 2003, the OIE amended the Animal Health Code Chapter on BSE and altered the criteria defining the limit between moderate-risk and high-risk countries. The limit is now set at a BSE incidence rate calculated over the previous 12 months of 200 cases per million animals within the cattle population over 24 months of age, for countries carrying out active surveillance.

(4) In Portugal, 103 cases of BSE were notified between 1 September 2003 and 31 August 2004. Accordingly, that results in a BSE incidence rate calculated over the previous 12 months of 131,7. In addition, the results of the active monitoring and passive surveillance indicate that the BSE incidence rate is decreasing in that Member State.

(5) Therefore, the BSE incidence rate is below the upper limit for a moderate BSE risk country as set out in the OIE Animal Health Code. The favourable evolution of the BSE incidence rate indicates the effectiveness of the measures taken by Portugal.

(6) A ban on the feeding of mammalian protein to farmed animals and of mammalian fat to ruminants was introduced in Portugal on 4 December 1998. At the same time the keeping, storage and marketing of mammalian protein and certain fats was prohibited and the recall of existing stocks was organised.

(7) A mission carried out in Portugal by the Food and Veterinary Office (FVO) in June 1999 concluded that the recall of those existing stocks was completed and that the controls on the effectiveness of the feed ban were applied properly. The ban was considered to be effective from 1 July 1999.

- (8) A ban on the use of specified risk materials in human food or animal feed was introduced in Portugal on 4 December 1998. That ban was extended in accordance with Regulation (EC) No 999/2001.
- (9) A centralised national system for the identification and registration of bovine animals was introduced in Portugal as of 1 July 1999.
- (10) Regulation (EC) No 999/2001 provides for measures targeting all animal and public health risks resulting from all animal TSE, and governing the entire chain of production and placing on the market of live animals and products of animal origin. In particular, it lays down rules at Community level on the systematic monitoring of BSE, the removal of specified risk materials and on prohibitions concerning animal feeding.
- (11) Regulation (EC) No 999/2001 has been applied from 1 July 2001. Several FVO missions in Portugal have evaluated the implementation of the measures laid down in that Regulation which are aimed at the eradication, control and prevention of TSEs.
- (12) A mission by the FVO in February 2004 showed that Portugal had taken all the necessary actions and addressed satisfactorily all the recommendations as regards the implementation of the protection measures against BSE laid down in Regulation (EC) No 999/2001, and in particular those related to BSE surveillance, removal of specified risk materials and to the feed ban.
- (13) The three major issues for considering the risk of BSE: first, the risk of human exposure arising from the direct consumption of potentially infective material; secondly, the risk to man from ingesting or being exposed to processed, potentially infective material; and, thirdly, the risk of propagating the infection by recycling the infective material through animal feed, as recognised by the SSC; now appear to be adequately managed by Portugal.
- (14) Accordingly, it is appropriate to repeal Decision 2001/376/EC.
- (15) Under Regulation (EC) No 999/2001, the vertebral column of bovine animals over the age of 12 months is considered as specified risk material. Portugal benefits from a derogation allowing the use of vertebral column derived from bovine animals under the age of 30 months. In addition, that Regulation establishes for Portugal an extended list of specified risk material.
- (16) In the interests of harmonisation of trade, the age limit for the removal of the vertebral column of bovine animals and the list of specified risk materials applicable in the other Member States should also apply in Portugal. Regulation (EC) No 999/2001 should be amended accordingly.
- (17) In the interest of clarity and coherence of Community legislation, Commission Decision 2000/345/EC of 22 May 2000 setting the date on which dispatch from Portugal to Germany of certain products for the purpose of incineration may commence by virtue of Article 3(6) of Decision 98/653/EC⁽¹⁾, Commission Decision 2000/371/EC of 6 June 2000 setting the date on which dispatch of fighting bulls from Portugal to France may commence by virtue of Article 3(7) of Decision 98/653/EC⁽²⁾, and Commission Decision 2000/372/EC of 6 June 2000 setting the date on which dispatch of fighting bulls from Portugal to Spain may commence by virtue of Article 3(7) of Decision 98/653/EC⁽³⁾, should be repealed.
- (18) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XI to Regulation (EC) No 999/2001 is amended in accordance with the Annex to this Regulation.

Article 2

Decisions 2000/345/EC, 2000/371/EC, 2000/372/EC and 2001/376/EC are repealed.

Article 3

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

⁽¹⁾ OJ L 121, 23.5.2000, p. 9.

⁽²⁾ OJ L 134, 7.6.2000, p. 34.

⁽³⁾ OJ L 134, 7.6.2000, p. 35.

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

Done at Brussels, 19 November 2004.

For the Commission

David BYRNE

Member of the Commission

ANNEX

Annex XI is amended as follows:

1. In Annex XI, Part A, points 1 and 2 are replaced by the following:

‘1. (a) The following tissues are designated as specified risk material:

- (i) the skull excluding the mandible and including the brain and eyes, the vertebral column excluding the vertebrae of the tail, the spinous and transverse processes of the cervical, thoracic and lumbar vertebrae and the median sacral crest and wings of the sacrum, but including the dorsal root ganglia, and the spinal cord of bovine animals aged over 12 months, and the tonsils, the intestines from the duodenum to the rectum and the mesentery of bovine animals of all ages;
- (ii) the skull including the brain and eyes, the tonsils and the spinal cord of ovine and caprine animals aged over 12 months or which have a permanent incisor erupted through the gum, and the spleen and ileum of ovine and caprine animals of all ages.

The age specified in (i) for the removal of the bovine vertebral column may be adjusted by amending this Regulation in the light of the statistical probability of the occurrence of BSE in the relevant age groups of the Community's bovine population, based on the results of BSE monitoring as established by Chapter A.I of Annex III.

(b) In addition to the specified risk material listed in (a), the following tissues must be designated as specified risk material in the United Kingdom of Great Britain and Northern Ireland: the entire head excluding the tongue, including the brain, eyes and trigeminal ganglia; the thymus, the spleen and the spinal cord of bovine animals aged over six months.

2. By way of derogation from point 1(a)(i), a decision may be taken in accordance with the procedure referred to in Article 24(2) to allow the use of the vertebral column and dorsal root ganglia from bovine animals:

- (a) born, continuously reared and slaughtered in Member States for which a scientific evaluation established that the occurrence of BSE in native bovine animals is highly unlikely, or unlikely but not excluded; or
- (b) born after the date of effective enforcement of the prohibition on the feeding of mammalian protein to ruminants in Member States with reported BSE in native animals or for which a scientific evaluation established that the occurrence of BSE in native bovine animals is likely.

The United Kingdom and Sweden may benefit from this derogation on the basis of previously submitted and evaluated evidence. Other Member States may apply for this derogation by submitting conclusive supporting evidence to the Commission regarding point (a) or (b), as appropriate.

Member States benefiting from this derogation shall, in addition to the requirements laid down in Annex III, Chapter A, Section I, ensure that one of the approved rapid tests listed in Annex X, Chapter C, point 4, is applied to all bovine animals over 30 months of age which:

- (i) have died on the farm or in transport, but which have not been slaughtered for human consumption, with the exception of those dead animals in remote areas with a low animal density situated in Member States where the occurrence of BSE is unlikely;
- (ii) were subject to normal slaughter for human consumption.

This derogation shall not be granted to allow the use of vertebral column and dorsal root ganglia from bovine animals aged over 30 months from the United Kingdom.

Experts from the Commission may carry out on-the-spot checks to further verify the submitted evidence in accordance with Article 21.'

2. In Annex XI, Part D, point 1, the references to Decisions 2000/345/EC, 2000/371/EC, 2000/372/EC and 2001/376/EC are deleted.
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COMMISSION REGULATION (EC) No 1994/2004**of 19 November 2004****amending Regulation (EC) No 998/2003 of the European Parliament and of the Council as regards the lists of countries and territories****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Health), the results of inspections carried out by the Commission's Food and Veterinary Office in the third countries concerned and information gathered by Member States.

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 998/2003 of the European Parliament and of the Council of 26 May 2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC⁽¹⁾, and in particular Articles 10 and 21 thereof,

(4) The list should also be based on the data provided by the World Health Organization (WHO), the WHO Collaborating Centre for Rabies Surveillance and Research in Wusterhausen, and the Rabies Bulletin.

Whereas:

(5) The provisional list of third countries should include countries which are free of rabies and countries in respect of which the risk of rabies entering the Community as a result of movements from their territories has been found to be no higher than the risk associated with movements between Member States.

(1) Regulation (EC) No 998/2003 lays down the animal health requirements applicable to the non-commercial movement of pet animals and the rules applying to checks on such movement. Part C of Annex II to that Regulation contains a list of third countries where the risk of rabies entering the Community, as a result of movements from their territories of pet animals, has been found to be no higher than the risk associated with such movements between Member States.

(6) Following requests of the competent authorities of Chile, Hong Kong and the United Arab Emirates to be included in the list in part C of Annex II to Regulation (EC) No 998/2003, it appears appropriate to modify the provisional list established in accordance with Article 10.

(2) Under Regulation (EC) No 998/2003 a list of third countries was to be drawn up before 3 July 2004. To be included on that list, a third country should demonstrate its rabies status and that it complies with certain conditions relating to notification, monitoring, veterinary services, prevention and control of rabies and regulation of vaccines.

(7) In addition, by Council Decision 2004/650/EC of 13 September 2004 amending Regulation (EC) No 998/2003⁽²⁾, Malta was added to the list of countries in part A of Annex II to the Regulation. Consequently specific provisions applying to entries of pet animals into Ireland, Sweden and the United Kingdom should be extended to Malta.

(3) In order to avoid any unnecessary disturbance in the movements of pet animals, and to allow time for the third countries to provide where necessary additional guarantees, it is appropriate to establish a provisional list of third countries. That list should be based on the data available through the International Office of Epizootic Diseases (OIE-World Organisation for Animal

(8) Finally, measures adopted by Spain in Ceuta and Melilla as regard entries from Morocco and controls on those territories of stray dogs and movements of pet animals from those territories to Morocco now permit the rabies status of those territories to be considered as equivalent to the status of Member states in continental Europe. Accordingly, it is appropriate to include Ceuta and Melilla in the list in section I of part B of Annex II to Regulation (EC) No 998/2003.

⁽¹⁾ OJ L 146, 13.6.2003, p. 1. Regulation as last amended by Council Decision 2004/650/EC (OJ L 298, 23.9.2004, p. 22).

⁽²⁾ OJ L 298, 23.9.2004, p. 22.

- (9) In the interests of clarity of Community legislation, it is appropriate to replace Annex II to Regulation (EC) No 998/2003 in its entirety.

HAS ADOPTED THIS REGULATION:

Article 1

- (10) Regulation (EC) No 998/2003 should therefore be amended accordingly.

Annex II to Regulation (EC) No 998/2003 is replaced by the Annex to this Regulation.

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

Article 2

This Regulation shall enter into force on 23 November 2004.

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

Done at Brussels, 19 November 2004.

For the Commission

David BYRNE

Member of the Commission

ANNEX

‘ANNEX II

LIST OF COUNTRIES AND TERRITORIES

PART A

IE — Ireland
MT — Malta
SE — Sweden
UK — United Kingdom

PART B

Section 1

- (a) DK — Denmark, including GL — Greenland and FO — Faeroes Islands;
- (b) ES — Spain, including the continental territory, Balearic Islands, Canary Islands, Ceuta and Melilla;
- (c) FR — France, including GF — French Guiana, GP — Guadeloupe, MQ — Martinique and RE — Réunion;
- (d) GI — Gibraltar;
- (e) PT — Portugal, including the continental territory, Azores Islands and Madeira Islands;
- (f) Member States other than those listed in part A and points (a), (b), (c) and (e) of this section.

Section 2

AD — Andorra
CH — Switzerland
IS — Iceland
LI — Liechtenstein
MC — Monaco
NO — Norway
SM — San Marino
VA — Vatican City State

PART C

AC — Ascension Island
AE — United Arab Emirates
AG — Antigua and Barbuda
AN — Netherlands Antilles
AU — Australia
AW — Aruba
BB — Barbados
BH — Bahrain
BM — Bermuda

CA — Canada

CL — Chile

FJ — Fiji

FK — Falkland Islands

HK — Hong Kong

HR — Croatia

JM — Jamaica

JP — Japan

KN — Saint Kitts and Nevis

KY — Cayman Islands

MS — Montserrat

MU — Mauritius

NC — New Caledonia

NZ — New Zealand

PF — French Polynesia

PM — Saint Pierre et Miquelon

SG — Singapore

SH — Saint Helena

US — United States of America

VC — Saint Vincent and the Grenadines

VU — Vanuatu

WF — Wallis and Futuna

YT — Mayotte'

COMMISSION REGULATION (EC) No 1995/2004

of 19 November 2004

accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of certain grain oriented electrical sheets and strips of silicon-electrical steel with a width of more than 500 mm originating in the Russian Federation and continuing to make imports of certain grain oriented electrical sheets originating in the Russian Federation subject to registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Articles 8, 21 and 22(c) thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) By Regulation (EC) No 990/2004⁽²⁾, following interim reviews, the Council amended Regulation (EC) No 151/2003⁽³⁾ (measures) imposing a definitive anti-dumping duty on imports of certain grain oriented electrical sheets with a width of more than 500 mm (the product concerned) originating in the Russian Federation (Russia).
- (2) In March 2004, the Commission announced, through the publication of a notice in the *Official Journal of the European Union*⁽⁴⁾, the initiation of a partial interim review of the measures on imports of the product concerned originating in Russia to examine whether they should be adapted to take account of certain consequences of the enlargement of the European Union to 25 Member States (enlargement).
- (3) The Council concluded that it was in the interest of the Community to provide for the temporary adaptation of the existing measures so as to avoid a sudden and excessively negative impact on importers and users in the ten

new Member States acceding to the European Union (the EU-10) immediately following enlargement. It was considered that the best means of achieving this was through the acceptance of undertakings offered by the cooperating parties, with an element for quantitative ceilings.

- (4) Accordingly, by Regulation (EC) No 1000/2004⁽⁵⁾ the Commission accepted, as a special measure, short-term undertakings offered by: (i) an exporting producer of the product concerned in Russia, Novolipetsk Iron & Steel Corporation jointly with a company in Switzerland (Stinol AG); and (ii) a second exporting producer of the product concerned in Russia, OOO Viz Stal jointly with its related company in Switzerland (Duferco SA).
- (5) In order to provide for an exemption from the anti-dumping duties afforded by the acceptance of the undertakings, Regulation (EC) No 151/2003 was amended by Council Regulation (EC) No 989/2004⁽⁶⁾.
- (6) It was stipulated in Regulation (EC) No 1000/2004 that the acceptance of the undertakings would be limited to an initial period of six months (the original period) without prejudice to the normal duration of the measures and that they would lapse after this period, unless the Commission considered it appropriate to extend their period of application.
- (7) Accordingly, the Commission has examined whether the exceptional and negative conditions for end users, distributors and consumers in the EU-10 which led to the acceptance of the undertakings still exist. As part of the overall appraisal, an evaluation of the compliance of the companies concerned with their undertakings was also made.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 182, 19.5.2004, p. 5.

⁽³⁾ OJ L 25, 30.1.2003, p. 7.

⁽⁴⁾ OJ C 70, 20.3.2004, p. 15.

⁽⁵⁾ OJ L 183, 20.5.2004, p. 10.

⁽⁶⁾ OJ L 182, 19.5.2004, p. 1.

B. APPRAISAL

1. Content of the current undertakings

- (8) The existing undertakings offered by the companies oblige them, *inter alia*, to export in accordance with their traditional pattern of trade to customers in the EU-10 within the framework of quantitative ceilings established on the basis of previous, traditional export flows to the EU-10.
- (9) The terms of the undertakings also oblige the signatory companies to provide the Commission with regular and detailed information, in the form of a monthly report of their sales to the EU-10 (or resales by any related parties in the Community) and to accept verification visits by the Commission. In order, also, to be able to fully monitor the effectiveness of the undertakings, written agreement was received from the exporters' traditional customers in the EU-10 that they too would allow on-the-spot verification visits at their premises.

2. Compliance with the current undertakings

- (10) Verification visits to the exporting producers and certain of their traditional customers in the EU-10 confirmed that the volumes exported to the EU-10 by the companies concerned had not exceeded the level of the quantitative ceilings stipulated in the undertakings. In addition, it was found that the companies were broadly respecting their traditional patterns of trade with individual customers in the EU-10. Moreover, according to the information available, there have been no apparent 'spill-overs' from the EU-10 into the EU-15 of imports of the product concerned which had benefited from the exemption to the anti-dumping duties afforded by the undertakings.

3. Analysis of conditions for continued acceptance of undertakings

- (11) Analysis of the monthly reports submitted to the Commission by the companies concerned backed up by available official statistical data and the findings of the on-the-spot verification visits showed that the volumes of the product concerned exported to the EU-10 by the companies concerned had declined following enlargement and that the quantities established in the undertakings had not been used. This lack of 'take-up' of the quantitative ceilings in the first few months of the original period of application of the undertakings was due in part to one of the two producing exporters reorganising its sales operations. However, this exporting producer stated that it intended to use the export volumes established for its quantitative ceiling in the latter part of the original period.
- (12) In addition, as indicated in recital 23 of Regulation (EC) No 989/2004, abnormal increases in export volumes to the EU-10 were found prior to enlargement in 2003 and the first months of 2004. It is considered that this might

have also contributed to the decrease in the quantities imported into the EU-10 following enlargement.

C. CONCLUSION

1. Acceptance of undertakings

- (13) In view of the foregoing and the limited amount of imports into the EU-10, it is considered too soon to conclude that the transitional measures have achieved their intended results and that the negative conditions which necessitated the undertakings no longer exist. For this reason, and as the terms of the undertakings have been observed during the initial period of their application by the companies concerned, it is concluded that the acceptance of undertakings offered by the companies concerned for a further period is justified.
- (14) In relation to the length of this further period, it is considered that a period of application of more than six months would negate the notion of undertakings being of a transitional nature, therefore, their acceptance will only be from 21 November 2004 to 20 May 2005 (the final period).
- (15) With regard to the level of the quantitative ceilings to be applied for the final period, it should be noted that these have been calculated following the same methodology as was used to establish the quantitative ceilings for the original period (however, unlike in the original period when deductions from the traditional volumes were made to take account of abnormal import volumes prior to enlargement, no such adjustments were made for determining the quantitative ceilings for the final period).
- (16) In conformity with Regulation (EC) 989/2004, the undertakings oblige each individual producing exporter to respect the import ceilings and in order that the undertakings can be monitored, the exporting producers concerned have also agreed to broadly respect their traditional selling patterns to individual customers in the EU-10. The exporting producers are also aware that if it is found that these sales patterns change significantly, or that the undertakings become in any way difficult or impossible to monitor, the Commission is entitled to withdraw acceptance of the company's undertaking resulting in definitive anti-dumping duties being imposed in its place, or it may adjust the level of the ceiling, or it may take other remedial action.
- (17) It is also a condition of the undertakings that if they are breached in any way, the Commission will be entitled to withdraw acceptance thereof resulting in definitive anti-dumping duties being imposed in their place.
- (18) The companies will also provide the Commission with regular and detailed information concerning their exports to the Community, meaning that the undertakings can be monitored effectively by the Commission.

- (19) In order that the Commission can monitor effectively the companies' compliance with the undertakings, when the request for release for free circulation pursuant to an undertaking is presented to the relevant customs authority, exemption from the duty will be conditional upon the presentation of an invoice containing at least the items of information listed in the Annex to Regulation (EC) 989/2004. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that the shipment corresponds to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate anti-dumping duty will instead be payable.

2. Disclosure to interested parties

- (20) All interested parties, which had previously made themselves known, were advised of the intention to accept undertakings. The Community Industry did not express any negative comments regarding acceptance of undertakings. No comments were received from any other interested parties which caused the Commission to alter its views on the matter.

D. REGISTRATION OF IMPORTS

- (21) In Regulation (EC) No 1000/2004, customs authorities were directed to register imports into the Community of the product concerned originating in Russia exported by the companies from which undertakings were accepted and for which an exemption from the anti-dumping duties imposed by Regulation (EC) No 151/2003 was sought.
- (22) As acceptance of the undertakings for the original period began on 21 May 2004, and as acceptance of the undertakings for the final period will follow on directly from the original period, these two periods are to be regarded as one continuous period. In accordance, however, with Article 14(5) of the basic Regulation, the maximum period for registration is nine months, therefore customs authorities should register such imports only until 20 February 2005,

HAS ADOPTED THIS REGULATION:

Article 1

1. The undertakings offered by the exporting producers mentioned below, in connection with the anti-dumping proceeding concerning imports of grain oriented cold-rolled sheets and strips of silicon-electrical steel with a width of more than 500 mm originating in the Russian Federation are hereby accepted.

Country	Company	TARIC additional code
Russian Federation	Produced by Novolipetsk Iron & Steel Corporation, Lipetsk, Russia, and sold by Stinol AG, Lugano, Switzerland, to its first customer in the Community acting as an importer	A524
Russian Federation	Produced by OOO Viz Stal, Ekaterinburg, Russia, and sold by Duferco SA, Lugano, Switzerland, to the first independent customer in the Community acting as an importer	A525

2. Customs authorities are hereby directed, pursuant to Article 14(5) of Regulation (EC) No 384/96 to continue to take the appropriate steps to register until 20 February 2005 imports into the Community of grain oriented cold-rolled sheets and strips of silicon-electrical steel with a width of more than 500 mm originating in the Russian Federation and falling within CN code 7225 11 00 (sheets of a width of 600 mm or more) and ex 7226 11 00 (sheets of a width of more than 500 mm but less than 600 mm) produced and sold by the companies listed in paragraph 1.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union* and shall remain in force until 20 May 2005.

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

Done at Brussels, 19 November 2004.

For the Commission

Pascal LAMY

Member of the Commission

COMMISSION REGULATION (EC) No 1996/2004**of 19 November 2004**

accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of ammonium nitrate originating in the Russian Federation and Ukraine and continuing to make imports of ammonium nitrate originating in the Russian Federation or Ukraine subject to registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

(the measures) to examine whether they should be adapted to take account of certain consequences of the enlargement of the European Union to 25 Member States (enlargement).

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Articles 8, 21 and 22(c) thereof,

- (3) The Council concluded that it was in the interest of the Community to provide for the temporary adaptation of the existing measures so as to avoid a sudden and excessively negative impact on importers and users in the 10 new Member States acceding to the European Union (the EU-10) immediately following enlargement. It was considered that the best means of achieving this was through the acceptance of undertakings offered by the cooperating parties, with elements for minimum import prices and quantitative ceilings.

After consulting the Advisory Committee,

Whereas:

- (4) Accordingly, by Regulation (EC) No 1001/2004⁽⁵⁾, the Commission accepted as a special measure short-term undertakings from: (i) an exporting producer of the product concerned in Ukraine (OJSC 'Azot'); (ii) an exporting producer in Russia (OJSC MCC Eurochem in respect of goods produced at its production facilities of JSC Nak Azot, Russia) and sold by its related company (Cumberland Sound Ltd, British Virgin Islands); (iii) two related Russian exporting producers jointly (Joint Stock Company 'Acron' and Joint Stock Company 'Dorogobuzh').

A. PROCEDURE

- (1) By Regulation (EC) No 132/2001⁽²⁾, the Council imposed a definitive anti-dumping duty on imports of ammonium nitrate (the product concerned) originating in Ukraine. By Regulation (EC) No 658/2002⁽³⁾, following an expiry and interim review, the Council imposed a definitive anti-dumping duty on imports of the product concerned originating in the Russian Federation (Russia).

- (5) In order to provide for an exemption from the anti-dumping duties afforded by the acceptance of the undertakings, Regulation (EC) No 658/2002 and Regulation (EC) No 132/2001 were amended by Council Regulation (EC) No 993/2004.

- (2) In March 2004, the Commission announced, through the publication of a notice in the *Official Journal of the European Union*⁽⁴⁾, the initiation of a partial interim review of the existing measures on imports of the product concerned originating in Russia and Ukraine

- (6) It was stipulated in Regulation (EC) No 1001/2004 that acceptance of the undertakings would be limited to an initial period of six months (the original period) without prejudice to the normal duration of the existing measures and that they would lapse after this period unless the Commission considered it appropriate to extend their period of application.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 23, 25.1.2001, p. 1. Regulation as amended by Regulation (EC) No 993/2004 (OJ L 182, 19.5.2004, p. 28).

⁽³⁾ OJ L 102, 18.4.2002, p. 1. Regulation as amended by Regulation (EC) No 993/2004.

⁽⁴⁾ OJ C 70, 20.3.2004, p. 15.

⁽⁵⁾ OJ L 183, 20.5.2004, p. 13.

- (7) As set out in recital 15 of Regulation (EC) No 1001/2004, the continued acceptance of the undertakings would be subject to an appraisal at the end of the six-month period to verify whether the exceptional and negative conditions for end-users in the EU-10 which led to the acceptance of the undertakings still exist. As part of the overall appraisal, an evaluation of the compliance of the companies concerned with their undertakings was also made.

B. APPRAISAL

1. Content of the current undertakings

- (8) The existing undertakings offered by the companies oblige them, *inter alia*, to export in accordance with their traditional pattern of trade to customers in the EU-10 at or above certain minimum import prices (MIPs). These MIPs significantly eliminate the injurious dumping found in the original investigations. Such exports are also to be made within the framework of quantitative ceilings established on the basis of previous, traditional export flows to the EU-10.
- (9) The terms of the undertakings also oblige the signatory companies to provide the Commission with regular and detailed information in the form of a monthly report of their sales to the EU-10 (or resales by any related parties in the Community) and to accept verification visits by the Commission. In order, also, to be able to fully monitor the effectiveness of the undertakings, written agreement was received from the exporters' traditional customers in the EU-10 that they too would allow on-the-spot verification visits at their premises.

2. Compliance with the current undertakings

- (10) Verification visits to the exporting producers showed that the companies concerned had observed the MIPs and that the volumes exported to the EU-10 had not exceeded the levels of the quantitative ceilings stipulated in the undertakings. In addition, it was found that the companies were broadly respecting their traditional patterns of trade with individual customers in the EU-10. Moreover, according to the information available, there have been no apparent 'spill-overs' from the EU-10 into the EU-15 of imports of the product concerned which had benefited from the exemption to the anti-dumping duties afforded by the undertakings.

3. Analysis of conditions for continued acceptance of undertakings

- (11) Analysis of the monthly sales reports submitted to the Commission by the companies concerned backed up by available official statistical data showed that although there had been some convergence in prices, a marked difference still existed between the prices for the product concerned in the EU-10 and the EU-15. In addition, it was noted that import volumes from Russia and Ukraine into the EU-10 had declined since enlargement, however, in view of the fact that the period under examination is one of the 'low seasons' for the product concerned, they still remained significant. In addition, as indicated in recital 28 of Regulation (EC) No 993/2004, abnormal increases in export volumes to the EU-10 were found prior to enlargement in 2003 and the first few months of 2004. It is considered that this might also have contributed to the decrease in the quantities imported into the EU-10 following enlargement.

C. CONCLUSION

1. Acceptance of undertakings

- (12) Given that the exceptional and negative conditions which prevailed prior to enlargement and which necessitated that the undertakings still exist, and that the terms of the undertakings have been observed during the initial period of their application by the companies concerned, it is considered that the acceptance of undertakings offered by the companies concerned for a further period is justified.
- (13) As concerns the length of this further period, it is considered that a period of application of more than six months would negate the notion of the undertakings being of a transitional nature, therefore, their acceptance will only be from 21 November 2004 to 20 May 2005 (the final period).
- (14) With regard to the level of the quantitative ceilings to be applied for the final period, it should be noted that these have been calculated following the same methodology as was used to establish the quantitative ceilings for the original period (however, unlike in the original period when deductions from the traditional volumes were made to take account of abnormal import volumes prior to enlargement, no such adjustments will be made for determining the quantitative ceilings for the final period). Nevertheless, given the trend of increased consumption for this product in the EU-10, a growth factor has been taken into account when establishing the quantitative ceilings for the final period for each exporting producer benefiting from an undertaking.

- (15) In conformity with Regulation (EC) No 993/2004, the undertakings oblige each individual producing exporter to respect MIPs within framework of import ceilings and in order that the undertakings can be monitored, the exporting producers concerned have also agreed to broadly respect their traditional selling patterns to individual customers in the EU-10. The exporting producers are also aware that if it is found that these sales patterns change significantly, or that the undertakings become in any way difficult or impossible to monitor, the Commission is entitled to withdraw acceptance of the company's undertaking resulting in definitive anti-dumping duties being imposed in its place, or it may adjust the level of the ceiling, or it may take other remedial action.
- (16) It is also a condition of the undertakings that if they are breached in any way, the Commission will be entitled to withdraw acceptance thereof resulting in definitive anti-dumping duties being imposed in their place.
- (17) The companies will also provide the Commission with regular and detailed information concerning their exports to the Community, meaning that the undertakings can be monitored effectively by the Commission.
- (18) In order that the Commission can monitor effectively the companies' compliance with the undertakings, when the request for release for free circulation pursuant to an undertaking is presented to the relevant customs authority, exemption from the duty will be conditional upon the presentation of an invoice containing at least the items of information listed in the Annex to Regulation (EC) No 993/2004. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that the shipment corresponds to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate anti-dumping duty will instead be payable.

2. Consultation of Member States

- (19) In conformity with recital 15 of Regulation (EC) No 1001/2004, Member States were consulted on the proposal to accept undertakings for a further period. Certain Member States considered that the level of the MIPs should be raised. It should be recalled, however, that these undertakings are not equivalent to an anti-dumping duty since the MIPs established are at lower levels than would usually be the case. Rather, they serve as a 'safety net' below which, prices in the EU-10 should not fall. In view of this and the short-term character of the undertakings, together with the excep-

tional circumstances under which the undertakings were accepted, revision of the MIP levels at the present time is not considered to be appropriate.

3. Disclosure to interested parties

- (20) All interested parties which had previously made themselves known were advised of the intention to accept undertakings. The Community Industry producers' association stated that it would not oppose such acceptance for a further period provided that this did not adversely affect its situation. A national producer organisation in Poland echoed, however, the views of certain Member States that the level of the MIPs should be raised since the price levels established did not allow its producers to cover their costs. However, for the reasons stated in the previous recital, revision of the MIPs is not considered to be appropriate at the present time.
- (21) One exporting producer in Russia advised the Commission that it intended to export to the Community via its newly established related trading company in Switzerland.
- (22) No other comments were received which caused the Commission to alter its views on the matter.

D. REGISTRATION OF IMPORTS

- (23) In Regulation (EC) No 1001/2004, customs authorities were directed to register imports into the Community of the product concerned, originating in Russia and Ukraine, exported by the companies from which undertakings were accepted and for which an exemption from the anti-dumping duties imposed by Regulation (EC) No 132/2001 and by Regulation (EC) No 658/2002, as amended by Regulation (EC) No 993/2004, was sought.
- (24) As acceptance of the undertakings for the original period commencing 21 May 2004, and as acceptance of the undertakings for the final period will follow on directly from the original period, these two periods are to be regarded as one continuous period. In accordance, however, with Article 14(5) of the basic Regulation, the maximum period for registration is nine months; therefore customs authorities should register such imports only until 20 February 2005,

HAS ADOPTED THIS REGULATION:

Article 1

1. The undertakings offered by the exporting producers mentioned below, in connection with the anti-dumping proceeding concerning imports of ammonium nitrate originating in Ukraine and the Russian Federation are hereby accepted.

Country	Company	TARIC additional code
Ukraine	Produced and exported by OJSC 'Azot', Cherkassy, Ukraine to its first independent customer in the Community acting as an importer	A521
Russian Federation	Produced by OJSC MCC Eurochem, Moscow, Russia at its production facilities of JSC Nak Azot, Novomoskovsk, Russia and sold by Cumberland Sound Ltd, Tortola, British Virgin Islands or EuroChem Trading GmbH, Zug, Switzerland to the first independent customer in the Community acting as an importer	A522
Russian Federation	Produced and exported by Joint Stock Company 'Acron', Veliky Novgorod, Russia or Joint Stock Company 'Dorogobuzh' Verkhnedneprovsky, Smolensk Region, Russia to the first independent customer in the Community acting as an importer	A532

2. Customs authorities are hereby directed, pursuant to Article 14(5) of Regulation (EC) No 384/96 to continue to take the appropriate steps to register until 20 February 2005 imports into the Community of ammonium nitrate originating in the Russian Federation or Ukraine falling within CN codes 3102 30 90 and 3102 40 90 produced and sold or produced and exported by the companies listed in paragraph 1.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union* and shall remain in force until 20 May 2005.

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

Done at Brussels, 19 November 2004.

For the Commission

Pascal LAMY

Member of the Commission

COMMISSION REGULATION (EC) No 1997/2004
of 19 November 2004
amending Regulation (EC) No 14/2004 as regards the forecast supply balance for beef and veal for
Madeira

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1453/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Azores and Madeira and repealing Regulation (EEC) No 1600/92 (Poseima)⁽¹⁾, and in particular Article 3(6) thereof,

Whereas:

- (1) Commission Regulation (EC) No 14/2004 of 30 December 2003 establishing the supply balances and Community aid for the supply of certain essential products for human consumption, for processing and as agricultural inputs and for the supply of live animals and eggs to the outermost regions under Council Regulation (EC) No 1453/2001⁽²⁾ establishes forecast supply balances and Community aid for products covered by the specific supply arrangements in the Azores and Madeira.

- (2) Current execution of the annual supply balances for Madeira for frozen meat of bovine animals indicates that the quantities fixed for the supply of the above products are below requirements because of the higher-than-expected demand.

- (3) The quantities of the above product should therefore be adjusted in line with the actual needs of the outermost region concerned.

- (4) Regulation (EC) No 14/2004 should therefore be amended accordingly.

- (5) The measures provided for in this Regulation are in accordance with the opinions of the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Part 7 of Annex III to Regulation (EC) No 14/2004 is replaced by Annex I hereto.

Article 2

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

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

Done at Brussels, 19 November 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 198, 21.7.2001, p. 26. Regulation as last amended by Regulation (EC) No 1690/2004 (OJ L 305, 1.10.2004, p. 1).

⁽²⁾ OJ L 3, 7.1.2004, p. 6. Regulation as last amended by Regulation (EC) No 1796/2004 (OJ L 317, 16.10.2004, p. 23).

ANNEX I

Part 7

Beef and veal sector

Forecast supply balance and Community aid for the supply of Community products per calendar year

MADEIRA

Description	Code (*)	Quantity	Aid (EUR/tonne)		
			I	II	III
Meat:					
— meat of bovines, fresh or chilled	0201	4 800	153	171	(**)
	0201 10 00 9110 ⁽¹⁾				
	0201 10 00 9120				
	0201 10 00 9130 ⁽¹⁾				
	0201 10 00 9140				
	0201 20 20 9110 ⁽¹⁾				
	0201 20 20 9120				
	0201 20 30 9110 ⁽¹⁾				
	0201 20 30 9120				
	0201 20 50 9110 ⁽¹⁾				
	0201 20 50 9120				
	0201 20 50 9130 ⁽¹⁾				
	0201 20 50 9140				
	0201 20 90 9700				
	0201 30 00 9100 ⁽²⁾ ⁽⁶⁾		123	141	(**)
	0201 30 00 9120 ⁽²⁾ ⁽⁶⁾				
	0201 30 00 9060 ⁽⁶⁾				
— meat of bovines, frozen	0202	1 400	119	137	(**)
	0202 10 00 9100				
	0202 10 00 9900				
	0202 20 10 9000				
	0202 20 30 9000				
	0202 20 50 9100				
	0202 20 50 9900				
	0202 20 90 9100				
	0202 30 90 9200 ⁽⁶⁾		95	113	(**)

(*) The product codes and footnotes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), as amended.

(**) The amount shall be equal to the refund for products falling within the same CN code granted under Article 33 of Regulation (EC) No 1254/1999. Where the refunds granted under Article 33 of that Regulation have more than one rate, the amount of aid shall be equal to the amount of the refund for products falling within the same code under the agricultural product nomenclature for export refunds for destination B03 in force at the time the aid application is submitted.

COMMISSION REGULATION (EC) No 1998/2004
of 19 November 2004
determining the world market price for unginned cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Protocol 4 on cotton, annexed to the Act of Accession of Greece, as last amended by Council Regulation (EC) No 1050/2001⁽¹⁾,

Having regard to Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton⁽²⁾, and in particular Article 4 thereof,

Whereas:

- (1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for unginned cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for unginned cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 laying down detailed rules for applying the cotton aid scheme⁽³⁾. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.
- (2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginned cotton is to be determined in respect of a product of specific characteristics and by reference to the most

favourable offers and quotations on the world market among those considered representative of the real market trend. To that end, an average is to be calculated of offers and quotations recorded on one or more European exchanges for a product delivered cif to a port in the Community and coming from the various supplier countries considered the most representative in terms of international trade. However, there is provision for adjusting the criteria for determining the world market price for ginned cotton to reflect differences justified by the quality of the product delivered and the offers and quotations concerned. Those adjustments are specified in Article 3(2) of Regulation (EC) No 1591/2001.

- (3) The application of the above criteria gives the world market price for unginned cotton determined hereinafter,

HAS ADOPTED THIS REGULATION:

Article 1

The world price for unginned cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling 16,930 EUR/100 kg.

Article 2

This Regulation shall enter into force on 20 November 2004.

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

Done at Brussels, 19 November 2004.

For the Commission

J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 148, 1.6.2001, p. 1.

⁽²⁾ OJ L 148, 1.6.2001, p. 3.

⁽³⁾ OJ L 210, 3.8.2001, p. 10. Regulation as amended by Regulation (EC) No 1486/2002 (OJ L 223, 20.8.2002, p. 3).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 15 November 2004

appointing two Czech members and three alternate Czech members of the Committee of the Regions

(2004/779/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal from the Czech Government,

Whereas:

- (1) On 22 January 2002⁽¹⁾ the Council adopted Decision 2002/60/EC appointing the members and alternate members of the Committee of the Regions.
- (2) Two seats as members of the Committee of the Regions have become vacant following the resignations of Mr Jan BŘEZINA, notified to the Council on 22 July 2004, and of Mr Oldřich VLASÁK, notified to the Council on 30 August 2004; one seat as an alternate member of the Committee of the Regions has become vacant following the resignation of Mr Petr DUCHOŇ, notified to the Council on 30 August 2004. Two seats as alternate members of the Committee of the Regions have become vacant following the nomination of Mr František SLAVÍK and Mr Tomáš ÚLEHLA to be full members,

HAS DECIDED AS FOLLOWS:

Sole Article

The following are appointed to the Committee of the Regions:

(a) as members:

1. Mr František SLAVÍK,
President of the Regional Council of Zlínský kraj
to replace M. Jan BŘEZINA
2. Mr Tomáš ÚLEHLA
Mayor of the City of Zlín, Zlínský kraj
to replace M. Oldřich VLASÁK;

⁽¹⁾ OJ L 24, 26.1.2002, p. 38.

(b) as alternate members:

1. Ms Ivana ČERVINKOVÁ
Mayor of the Municipality of Kostelec nad Orlicí, Královehradecký kraj
to replace Mr Petr DUCHOŇ
2. Mr Ivan KOSATÍK,
2nd Deputy of the President of the Regional Council of Olomoucký kraj
to replace Mr František SLAVÍK
3. Mr Petr OSVALD
Member of the local authority of the City of Plzeň, Plzeňský kraj
to replace Mr Tomáš ÚLEHLA;

for the remainder of their term of office, which runs until 25 January 2006.

Done at Brussels, 15 November 2004.

For the Council
The President
M. VAN DER HOEVEN

COUNCIL DECISION
of 19 November 2004
appointing the President and Members of the Commission of the European Communities
(2004/780/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Article 1

Having regard to the Treaty establishing the European Community, and in particular Article 213(1) and the third subparagraph of Article 214(2) thereof,

The following are hereby appointed to the Commission of the European Communities for the period from 22 November 2004 to 31 October 2009:

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 126(1) and the third subparagraph of Article 127(2) thereof,

— as President:

Mr José Manuel DURÃO BARROSO

Whereas:

— as members:

Mr Joaquín ALMUNIA AMANN

(1) A new Commission, consisting of one national of each Member State, must be appointed for the period from the date of its appointment to 31 October 2009.

Mr Jacques BARROT

(2) On 29 June 2004 the Council, meeting in the composition of the Heads of State or Government, nominated Mr José Manuel DURÃO BARROSO as the person it intends to appoint as President of the Commission ⁽¹⁾.

Mr Joe BORG

(3) The European Parliament approved that nomination by its Resolution dated 22 July 2004.

Mr Stavros DIMAS

Ms Benita FERRERO-WALDNER

(4) By Decision 2004/753/EC, Euratom ⁽²⁾, which repeals and replaces Decision 2004/642/EC, Euratom ⁽³⁾ the Council adopted by common accord with the nominee for President of the Commission the list of other persons whom the Council intends to appoint as Members of the Commission.

Mr Ján FIGEL

Ms Mariann FISCHER BOEL

(5) By means of a vote held on 18 November 2004, the European Parliament gave its approval to the appointment of the President and the other Members of the Commission as a college.

Mr Franco FRATTINI

Ms Dalia GRYBAUSKAITĖ

Ms Danuta HÜBNER

(6) The President and other Members of the Commission should therefore be appointed.

Mr Siim KALLAS

Mr László KOVÁCS

Ms Neelie KROES

(7) The entry into force of the Treaty establishing a Constitution for Europe will entail the expiry of the term of the Member of the Commission who has the same nationality as the future European Union Minister for Foreign Affairs, who will be Vice-President of the Commission,

Mr Markos KYPRIANOU

Mr Peter MANDELSON

Mr Charlie McCREEVY

Mr Louis MICHEL

Mr Andris PIEBALGS

Mr Janez POTOČNIK

Ms Viviane REDING

⁽¹⁾ OJ L 236, 7.7.2004, p. 15.

⁽²⁾ OJ L 333, 9.11.2004, p. 12.

⁽³⁾ OJ L 294, 17.9.2004, p. 30.

Mr Olli REHN

Article 3

Mr Vladimír ŠPIDLA

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

Mr Günter VERHEUGEN

Done at Brussels, 19 November 2004.

Ms Margot WALLSTRÖM.

Article 2

For the Council

The President

This Decision shall take effect on 22 November 2004.

J. P. H. DONNER

COMMISSION

COMMISSION DECISION

of 18 November 2004

amending Decision 1999/815/EC concerning measures prohibiting the placing on the market of toys and childcare articles intended to be placed in the mouth by children under three years of age made of soft PVC containing certain phthalates

(notified under document number C(2004) 4403)

(Text with EEA relevance)

(2004/781/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety⁽¹⁾, and in particular Article 13(2) thereof,

Whereas:

(1) The Commission adopted, on 7 December 1999, Decision 1999/815/EC⁽²⁾, based on Article 9 of Directive 92/59/EEC⁽³⁾, requiring the Member States to prohibit the placing on the market of toys and childcare articles intended to be placed in the mouth by children under three years of age, made of soft PVC containing one or more of the substances di-iso-nonyl phthalate (DINP), di(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), di-iso-decyl phthalate (DIDP), di-n-octyl phthalate (DNOP), and butylbenzyl phthalate (BBP).

(2) The validity of Decision 1999/815/EC was limited to three months, in accordance with the provision of Article 11(2) of Directive 92/59/EEC. Therefore, the validity of the Decision was to expire on 8 March 2000.

(3) When adopting Decision 1999/815/EC it was envisaged to prolong its validity if necessary. The validity of the measures adopted under Decision 1999/815/EC was

prolonged under several Decisions for additional periods of three months or six months each time, and last time for an additional period of three months, and is now to expire on 20 November 2004.

(4) Some relevant developments have taken place concerning the validation of phthalates migration test methods, the assessment of the safety of substitute substances and the comprehensive risk assessment of these phthalates under Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances⁽⁴⁾.

(5) Pending the adoption by the Parliament and Council of the permanent measures, and the entry into force of the corresponding implementing measures in the Member States and in order to guarantee the objectives of Decision 1999/815/EC and its prolongations, it is necessary to maintain the prohibition of the placing on the market of the products considered.

(6) Certain Member States have implemented Decision 1999/815/EC by measures applicable until 20 November 2004. Therefore it is necessary to ensure that the validity of these measures is prolonged.

(7) It is therefore necessary to prolong the validity of Decision 1999/815/EC in order to ensure that all the Member States maintain the prohibition provided for by that Decision.

⁽¹⁾ OJ L 11, 15.1.2002, p. 4.

⁽²⁾ OJ L 315, 9.12.1999, p. 46. Decision as last amended by Decision 2004/624/EC (OJ L 280, 31.8.2004, p. 34).

⁽³⁾ OJ L 228, 11.8.1992, p. 24. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽⁴⁾ OJ L 84, 5.4.1993, p. 1. Regulation as amended by Regulation (EC) NO 1882/2003.

- (8) Article 13(2) of Directive 2001/95/EC, which has repealed and replaced Directive 92/59/EC from 15 January 2004, states that Commission decisions requiring Member States to take measures to prevent serious risks posed by certain products shall be valid for periods not exceeding one year and may be confirmed for additional periods none of which shall exceed one year. It is appropriate to prolong the validity of Decision 1999/815/EC for a period of 10 months, in order to allow sufficient time for the adoption and implementation of the permanent measures referred to in recital 5.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 15 of Directive 2001/95/EC,

HAS ADOPTED THIS DECISION:

Article 1

In Article 5 of Decision 1999/815/EC the words '20 November 2004' are replaced by the words '20 September 2005'.

Article 2

Member States shall immediately take the necessary measures to comply with this Decision and publish those measures. They shall immediately inform the Commission thereof.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 18 November 2004.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION

of 19 November 2004

accepting an undertaking offered in connection with the anti-dumping proceeding concerning imports of silicon carbide originating, *inter alia*, in Ukraine

(2004/782/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ ('the basic Regulation'), and in particular Articles 8, 21 and 22 (c) thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) By Regulation (EC) No 1100/2000⁽²⁾, the Council imposed a definitive anti-dumping duty on imports of silicon carbide originating, *inter alia*, in Ukraine ('the existing measures').
- (2) In March 2004, the Commission announced through the publication of a notice in the *Official Journal of the European Union*⁽³⁾ the initiation of a partial interim review of the existing measures on imports of the product concerned originating, *inter alia*, in Ukraine to examine whether they should be amended to take account of certain consequences of the enlargement of the European Union to 25 Member States ('enlargement').

- (3) The Council concluded that it was in the interest of the Community to provide for the temporary adaptation of

the existing measures so as to avoid a sudden and excessively negative impact on importers and users in the 10 new Member States acceding to the European Union ('the EU-10') immediately following enlargement. It was considered that the best means of achieving this was through the acceptance of an undertaking offered by the co-operating party with an element for a quantitative ceiling.

- (4) Accordingly, by Decision 2004/498/EC⁽⁴⁾, the Commission accepted as a special measure a short-term undertaking from an exporting producer in Ukraine (Open Joint Stock Company Zaporozhsky Abrasivny Combinat).
- (5) In order to provide for an exemption from the anti-dumping duties afforded by the acceptance of the undertaking, Regulation (EC) No 1100/2000 was amended by Regulation (EC) No 991/2004.
- (6) It was stipulated in Decision 2004/498/EC that the acceptance of the undertaking would be limited to an initial period of six months ('the original period') without prejudice to the normal duration of the existing measures and that it would lapse after this period unless the Commission considered it appropriate to extend its period of application.
- (7) Accordingly, the Commission has examined whether the exceptional and negative conditions for interested parties in the EU-10 which led to acceptance of the undertaking still exist. As part of the overall appraisal, an evaluation of the compliance of the company concerned with its undertaking was also made.

B. APPRAISAL

1. Content of the current undertaking

- (8) The existing undertaking offered by the company concerned obliges it, *inter alia*, to export in accordance with its traditional pattern of trade to customers in the EU-10 within the framework of a quantitative ceiling established on the basis of previous, traditional export flows to the EU-10.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 125, 26.5.2000, p. 3. Regulation as last amended by Regulation (EC) No 991/2004 (OJ L 182, 19.5.2004, p. 18).

⁽³⁾ OJ C 70, 20.3.2004, p. 15.

⁽⁴⁾ OJ L 183, 20.5.2004, p. 88.

- (9) The terms of the undertaking also oblige the signatory company to provide the Commission with regular and detailed information in the form of a monthly report of its sales to the EU-10 (or re-sales by any related parties in the Community) and to accept verification visits by the Commission. In order, also, to be able to fully monitor the effectiveness of the undertakings, written agreement was received from the exporter's traditional customers in the EU-10 that they too would allow on-spot verification visits at their premises.
- (13) As concerns the length of this further period, it is considered that a period of application of more than six months would negate the notion of the undertaking being of a transitional nature, therefore, acceptance will only be from 21 November 2004 to 20 May 2005 ('the final period').
- (14) With regard to the level of the quantitative ceiling to be applied for the final period, this has been calculated following the same methodology as was used to establish the quantitative ceiling for the original period.

2. Compliance with the current undertaking

- (10) Verification visits to the exporting producer and certain of its traditional customers in the EU-10 confirmed that the company concerned had not exceeded the level of the quantitative ceiling stipulated in the undertaking. In addition, it was found that the company was broadly respecting its traditional pattern of trade with individual customers in the EU-10. Moreover, according to the information available, there have been no apparent 'spill-overs' from the EU-10 into the EU-15 of imports of the product concerned which had benefited from the exemption to the anti-dumping duties afforded by the undertaking.
- (15) In conformity with Regulation (EC) No 991/2004, the undertaking obliges the exporting producer to respect the import ceilings and in order that the undertakings can be monitored, the exporting producer concerned has also agreed to broadly respect its traditional selling patterns to individual customers in the EU-10. The exporting producer is also aware that if it is found that these sales patterns change significantly, or that the undertaking become in any way difficult or impossible to monitor, the Commission is entitled to withdraw acceptance of the company's undertaking resulting in definitive anti-dumping duties being imposed in its place, or it may adjust the level of the ceiling, or it may take other remedial action.

3. Analysis of conditions for continued acceptance of undertakings

- (11) Analysis of the monthly reports submitted to the Commission by the company concerned backed up by available official statistical data showed that a marked difference still existed between the prices for the product concerned in the EU-10 and the EU-15. In addition, it was noted that import volumes from Ukraine into the EU-10 had declined since enlargement, however, as indicated in recital (30) of Regulation (EC) No 991/2004, abnormal increases were found in import volumes prior to enlargement in 2003 and the first months of 2004. It is considered that this might have also contributed to the decrease in quantities imported into the EU-10 following enlargement.
- (16) It is also a condition of the undertaking that if it is breached in any way, the Commission will be entitled to withdraw acceptance thereof resulting in definitive anti-dumping duties being imposed in its place.
- (17) The company will also provide the Commission with regular and detailed information concerning its exports to the Community, meaning that the undertaking can be monitored effectively by the Commission.

C. CONCLUSION

1. Acceptance of an undertaking

- (12) Given that the exceptional and negative conditions which prevailed prior to enlargement and which necessitated the undertaking still exist, and that the terms of the undertaking have been observed during the initial period of its application by the company concerned, it is considered that the acceptance of an undertaking offered by the company concerned for a further period is justified.
- (18) In order that the Commission can monitor effectively the company's compliance with the undertakings, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty will be conditional upon the presentation of an invoice containing at least the items of information listed in the Annex to Council Regulation (EC) No 991/2004. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that the shipment corresponds to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate anti-dumping duty will instead be payable.

2. Disclosure to interested parties

(19) All interested parties which had previously made themselves known were advised of the intention to accept an undertaking. The Community Industry raised certain concerns that a possible 'spill-over' of Ukrainian silicon carbide into the EU-15 had occurred, however, during a verification visit by the Commission, it was established that the silicon carbide in question was not of Ukrainian origin. The Community Industry nevertheless expressed the view that an undertaking should not be accepted.

(20) Whilst the position of the Community Industry regarding the acceptance of an undertaking is noted, the circumstances and needs of importers and users in the EU-10 must also be taken into account. On balance, in view of the importance of continued supply for customers in the EU-10, it is considered that this outweighs the concerns of the Community Industry.

(21) No other comments or submissions were made which caused the Commission to alter its views on the matter,

HAS DECIDED AS FOLLOWS:

Article 1

The undertaking offered by the exporting producer mentioned below, in connection with the anti-dumping proceeding concerning imports of silicon carbide originating in Ukraine is hereby accepted:

Country	Company	Taric Additional Code
Ukraine	Produced and exported by Open Joint Stock Company 'Zaporozhsky Abrasivny Combinat', Zaporozhye, Ukraine, to the first independent customer in the Community acting as an importer	A523

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union* and remain in force until 20 May 2005.

Done at Brussels, 19 November 2004.

For the Commission

Pascal LAMY

Member of the Commission

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 746/2004 of 22 April 2004 adapting certain regulations concerning organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union

(Official Journal of the European Union L 122 of 26 April 2004)

On page 14, Article 1(2) should read as follows:

2. Part B.3.1 is replaced as follows:

“B.3.1. *Single indications:*

ES: AGRICULTURA ECOLÓGICA

CS: EKOLOGICKÉ ZEMĚDĚLSTVÍ

DA: ØKOLOGISK JORDBRUG

DE: BIOLOGISCHE LANDWIRTSCHAFT, ÖKOLOGISCHER LANDBAU

ET: MAHEPÕLLUMAJANDUS, ÖKOLOOGILINE PÕLLUMAJANDUS

EL: ΒΙΟΛΟΓΙΚΗ ΓΕΩΠΙΑ

EN: ORGANIC FARMING

FR: AGRICULTURE BIOLOGIQUE

IT: AGRICOLTURA BIOLOGICA

LV: BIOLOĢISKĀ LAUKSAIMNIECĪBA

LT: EKOLOGINIS ŽEMĖS ŪKIS

HU: ÖKOLÓGIAI GAZDÁLKODÁS

MT: AGRIKULTURA ORGANIKA

NL: BIOLOGISCHE LANDBOUW

PL: ROLNICTWO EKOLOGICZNE

PT: AGRICULTURA BIOLÓGICA

SK: EKOLOGICKÉ POĽNOHOSPODÁRSTVO

SL: EKOLOŠKO KMETIJSTVO

FI: LUONNONMUKAINEN MAATALOUSTUOTANTO

SV: EKOLOGISKT JORDBRUK”

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