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Contents

I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 390/2005 of 7 March 2005 terminating the partial interim review of the anti-dumping measures applicable to imports of polyethylene terephthalate (PET) film originating, *inter alia*, in India** 1
- Commission Regulation (EC) No 391/2005 of 9 March 2005 establishing the standard import values for determining the entry price of certain fruit and vegetables 4
- ★ **Commission Regulation (EC) No 392/2005 of 8 March 2005 establishing unit values for the determination of the customs value of certain perishable goods** 6
- Commission Regulation (EC) No 393/2005 of 9 March 2005 fixing the export refunds on beef and veal 12
- ★ **Commission Regulation (EC) No 394/2005 of 8 March 2005 amending Regulation (EC) No 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and derogating from Regulation (EC) No 1782/2003**..... 17
- Commission Regulation (EC) No 395/2005 of 9 March 2005 providing for reallocation of import rights under Regulation (EC) No 1206/2004 opening and providing for the administration of an import tariff quota for frozen beef intended for processing 20

II Acts whose publication is not obligatory

Council

Commission

2005/192/EC, Euratom:

- ★ **Council and Commission Decision of 21 February 2005 on the conclusion of the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union** 21

Commission

2005/193/EC:

- ★ **Commission Decision of 8 March 2005 amending Decision 2004/475/EC adopting a transitional measure in favour of certain establishments in the meat and milk sectors in Slovenia** (*notified under document number C(2005) 518*) ⁽¹⁾ 23

2005/194/EC:

- ★ **Commission Decision of 8 March 2005 amending for the fourth time Decision 2004/122/EC concerning certain protection measures in relation to avian influenza in several Asian countries** (*notified under document number C(2005) 521*) ⁽¹⁾ 25

2005/195/EC:

- ★ **Commission Decision of 9 March 2005 concerning the partial non-conformity of standard EN 71-1:1998 'Safety of Toys — Part 1: mechanical and physical properties' with the essential safety requirements of Council Directive 88/378/EEC** (*notified under document number C(2005) 542*) ⁽¹⁾ 27

EUROPEAN ECONOMIC AREA

EFTA Surveillance Authority

- ★ **EFTA Surveillance Authority Decision No 371/04/COL of 15 December 2004 amending for the 49th time the Procedural and Substantive Rules in the Field of State aid by deleting Chapter 26 of the State aid guidelines on multisectoral framework on regional aid for large investment projects** 29



⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 390/2005**of 7 March 2005****terminating the partial interim review of the anti-dumping measures applicable to imports of polyethylene terephthalate (PET) film originating, *inter alia*, in India**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Article 11(3) thereof,

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

Whereas:

A. PROCEDURE**1. Previous procedure and existing measures**

- (1) Following an investigation initiated in May 2000 (the original investigation), the Council imposed definitive anti-dumping duties in August 2001, pursuant to Regulation (EC) No 1676/2001⁽²⁾, on imports of polyethylene terephthalate (PET) film originating, *inter alia*, in India. The duties ranged from 0 % to 62,6 % on imports of PET film originating in India.
- (2) The existing anti-dumping duty applicable to imports from Jindal Poly Films Limited, previously Jindal Polyester Limited (notice of change of name published on 2 December 2004⁽³⁾), is 0 %. Imports of PET film from the company are also subject to a countervailing duty of 7 %, which was imposed in 1999 by Council Regulation (EC) No 2597/1999⁽⁴⁾.

2. Request for a review

- (3) A request for a partial interim review limited to dumping in respect of Jindal Poly Films Limited was lodged by the

following Community producers: Du Pont Teijin Films, Mitsubishi Polyester Film GmbH and Nuroll SpA (the applicants). The applicants represent a major proportion of the Community production of PET film. Toray Plastics Europe indicated its support for the request although it was not a formal applicant.

- (4) The applicants alleged that the dumping margin of Jindal Poly Films Limited had changed and was higher than in the original investigation leading to the imposition of the existing measures.

3. Investigation

- (5) Having determined, after consulting the Advisory Committee, that the request contained sufficient *prima facie* evidence, the Commission announced on 19 February 2004 the initiation of a partial interim review pursuant to Article 11(3) of the basic Regulation by a notice of initiation published in the *Official Journal of the European Union*⁽⁵⁾.
- (6) The review was limited in scope to the examination of dumping in respect of Jindal Poly Films Limited. The investigation period was from 1 January 2003 to 31 December 2003.
- (7) The Commission officially informed Jindal Poly Films Limited, the representatives of the exporting country and the Community producers about the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.
- (8) In order to obtain the information deemed necessary for its investigation, the Commission sent a questionnaire to Jindal Poly Films Limited, the exporting producer concerned, which cooperated by replying to the questionnaire. A verification visit was carried out at the premises of the company in New Delhi to ensure the integrity of the information submitted.

⁽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 227, 23.8.2001, p. 1.

⁽³⁾ OJ C 297, 2.12.2004, p. 2.

⁽⁴⁾ OJ L 316, 10.12.1999, p. 1.

⁽⁵⁾ OJ C 43, 19.2.2004, p. 14.

B. PRODUCT CONCERNED AND LIKE PRODUCT**1. Product concerned**

- (9) The product concerned is, as defined in the original investigation, polyethylene terephthalate (PET) film originating in India, normally declared under CN codes ex 3920 62 19 and ex 3920 62 90.

2. Like product

- (10) As in the original investigation, it was found that PET film produced and sold on the domestic market in India and PET film exported to the Community from India, as well as PET film produced and sold by the Community industry on the Community market, have the same physical and technical characteristics and uses. Therefore, they are like products within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING**1. Normal value**

- (11) In order to establish normal value, it was first verified that the total domestic sales of the exporting producer were representative in accordance with Article 2(2) of the basic Regulation, i.e. that they accounted for 5 % or more of the total sales volume of the product concerned exported to the Community.
- (12) It was then ascertained whether total domestic sales of each product type constituted 5 % or more of the sales volume of the same type exported to the Community.
- (13) For those product types where domestic sales constituted 5 % or more of the sales volume of the same type exported to the Community, it was then examined whether sufficient sales had been made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. For each product type where the volume of domestic sales made above the cost of production represented at least 80 % of sales, normal value was established on the basis of the weighted average price actually paid for all domestic sales. For those product types where the volume of profitable transactions was equal to or lower than 80 %, but not lower than 10 % of sales, normal value was based on the weighted average price actually paid for the profitable domestic sales only.
- (14) For the product types where domestic prices of the exporting producer could not be used to establish normal value owing to insufficient representativity or to a lack of sales in the ordinary course of trade, normal value was constructed on the basis of the manufacturing costs incurred by the exporting producer concerned plus a reasonable amount for selling, general and administrative costs (SG&A costs) and for profits, in accordance with Article 2(3) and (6) of the basic Regulation.

- (15) The SG&A costs were based on such costs incurred by the exporting producer with regard to its domestic sales of the product concerned, which were found to be representative. The profit margin was calculated on the basis of the weighted average profit margin of the company for those product types sold on the domestic market in sufficient quantities in the ordinary course of trade.

2. Export price

- (16) The exporting producer reported sales (one consignment) made to a related company in the Community. Given that the quantity involved was negligible, these sales were disregarded.
- (17) The other export sales of the product concerned to the Community during the investigation period had been made to independent customers. Therefore, the export price was established in accordance with Article 2(8) of the basic Regulation on the basis of export price actually paid or payable.

3. Comparison

- (18) The normal value and export price were compared on an ex-works basis. For the purpose of ensuring a fair comparison, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation. Accordingly, adjustments were made for differences in discounts, rebates, transport, insurance, handling, loading and ancillary costs, packing, credit and commissions, where applicable and supported by verified evidence.
- (a) *Import charges*
- (19) Jindal Poly Films Limited claimed an adjustment to the normal value for the import duty not collected under the Advance Licence Scheme (ALS) on imports of raw material used in the manufacture of goods for export. The ALS permits the importation of raw materials free of duty, provided that the company exports a corresponding quantity and value of finished product determined in accordance with officially set standard input-output norms. Imports under the ALS can either be used for the production of export goods or for the replenishment of domestic inputs used to produce such goods. The company claimed that exports of the product concerned to the EC were used to satisfy the requirements under the ALS in respect of raw materials imported.
- (20) No conclusion was made as to whether or not an adjustment was warranted for this claim, given that it would have no impact on the final outcome of the review investigation.

(b) *Other adjustments*

- (21) The exporting producer claimed, for a limited number of exports, an adjustment on the export price pursuant to Article 2(10)(k) of the basic Regulation, based on the amount of the benefits received on exportation under the Duty Entitlement Passbook Scheme (DEPB) on a post-export basis. Under this scheme, the credits received when exporting the product concerned could be used to offset customs duties due on imports of any goods or could be freely sold to other companies. In addition, there is no constraint that the imported goods should only be used in the production of the exported product. The producer did not demonstrate that the benefit under the DEPB scheme on a post-export basis affected price comparability and, in particular, that the customers consistently paid different prices on the domestic market because of the DEPB benefits. Therefore, the claim was rejected.

4. Dumping margin

- (22) The dumping margin was established on the basis of a comparison of a weighted average normal value with a weighted average export price, in accordance with Article 2(11) of the basic Regulation.
- (23) This comparison showed a dumping margin of 0 %.

D. CONCLUSION

- (24) On the basis of the above facts and considerations, and in view of the information available, it was concluded that, in accordance with Article 11(3) of the basic Regulation, the current review investigation should be terminated and the anti-dumping duty of 0 % imposed by Regulation (EC) No 1676/2001 on imports of PET film produced and exported to the European Community by Jindal Poly Films Limited should be maintained.
- (25) All parties concerned were informed of the essential facts and considerations on the basis of which the decision to maintain the current anti-dumping duty was made and were given the opportunity to comment.

- (26) The applicants argued that the dumping calculation should have been made on the basis of a comparison of the weighted average normal value to individual export transactions, since they alleged that targeted dumping to a special category of purchaser existed. They argued that if sales of a particular film type were made only to customers within a specific end-use segment, this would amount to targeting by customer. They also considered that their approach was justified in view of an increase in Indian production capacity, which they believed related mainly to that particular film type. In this regard, it should first be noted that the film type concerned was sold not only to customers solely purchasing that film type, but also to customers purchasing other film types. A comparison of prices for the same film types sold to different customers did not show a pattern of price differentiation by customer. In the absence of such a pattern, the existence of an alleged pattern of dumping by model is irrelevant for the purpose of the selection of the dumping calculation methodology, as indicated in Article 2(11) of the basic Regulation. Moreover, it should also be noted that changes in production capacity are not a relevant factor in determining the methodology to be followed for the determination of the dumping margin either. Since no targeting by customer, region or time period was identified, the applicants' claim was rejected and the comparison of normal value to export price on the basis of a weighted average to weighted average approach was maintained as the appropriate methodology,

HAS ADOPTED THIS REGULATION:

Article 1

The partial interim review of the anti-dumping measures applicable to imports of polyethylene terephthalate (PET) film originating, *inter alia*, in India, normally declared under CN codes ex 3920 62 19 and ex 3920 62 90, insofar as these measures concern the Indian exporting producer Jindal Poly Films Limited, is hereby terminated.

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, 7 March 2005.

For the Council
The President
J. KRECKÉ

COMMISSION REGULATION (EC) No 391/2005**of 9 March 2005****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 10 March 2005.

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

Done at Brussels, 9 March 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽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 9 March 2005 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	113,4
	204	92,3
	212	143,7
	624	150,9
	999	125,1
0707 00 05	052	152,2
	068	159,6
	096	128,5
	204	87,3
	999	131,9
0709 10 00	220	21,9
	999	21,9
0709 90 70	052	170,1
	204	142,3
	999	156,2
0805 10 20	052	47,9
	204	48,4
	212	56,2
	220	49,6
	421	39,1
	624	60,0
	999	50,2
0805 50 10	052	47,0
	220	70,4
	624	51,0
	999	56,1
0808 10 80	388	84,6
	400	128,6
	404	77,0
	508	66,9
	512	67,1
	528	71,7
	720	61,5
	999	79,6
0808 20 50	052	186,2
	388	66,6
	400	93,4
	512	53,1
	528	52,1
	999	90,3

⁽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 392/2005**of 8 March 2005****establishing unit values for the determination of the customs value of certain perishable goods**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾,

Having regard to Commission Regulation (EEC) No 2454/93 ⁽²⁾ laying down provisions for the implementation of Regulation (EEC) No 2913/92, and in particular Article 173(1) thereof,

Whereas:

- (1) Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish unit values for the products referred to in the classification in Annex 26 to that Regulation.

- (2) The result of applying the rules and criteria laid down in the abovementioned Articles to the elements communicated to the Commission in accordance with Article 173(2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 173(1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 11 March 2005.

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

Done at Brussels, 8 March 2005.

For the Commission
Günter VERHEUGEN
Vice-President

⁽¹⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 (OJ L 311, 12.12.2000, p. 17).

⁽²⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 2286/2003 (OJ L 343, 31.12.2003, p. 1).

ANNEX

Code	Description	Amount of unit values per 100 kg					
	Species, varieties, CN code	EUR LTL SEK	CYP LVL GBP	CZK MTL	DKK PLN	EEK SIT	HUF SKK
1.10	New potatoes 0701 90 50	38,16	22,23	1 131,88	284,02	597,00	9 250,37
		131,74	26,57	16,44	149,90	9 145,44	1 445,48
		345,52	26,24				
1.30	Onions (other than seed) 0703 10 19	7,28	4,24	215,96	54,19	113,91	1 764,96
		25,14	5,07	3,14	28,60	1 744,94	275,80
		65,92	5,01				
1.40	Garlic 0703 20 00	123,38	71,90	3 660,21	918,45	1 930,55	29 913,44
		426,02	85,93	53,17	484,74	29 574,13	4 674,31
		1 117,31	84,84				
1.50	Leeks ex 0703 90 00	62,54	36,44	1 855,27	465,54	978,55	15 162,37
		215,94	43,55	26,95	245,70	14 990,38	2 369,29
		566,34	43,00				
1.60	Cauliflowers 0704 10 00	—	—	—	—	—	—
1.80	White cabbages and red cabbages 0704 90 10	120,88	70,44	3 585,89	899,80	1 891,35	29 306,00
		417,37	84,18	52,09	474,90	28 973,58	4 579,40
		1 094,62	83,12				
1.90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) Alef var. <i>italica</i> Plenck) ex 0704 90 90	—	—	—	—	—	—
		—	—	—	—	—	—
		—	—	—	—	—	—
1.100	Chinese cabbage ex 0704 90 90	95,81	55,83	2 842,20	713,19	1 499,10	23 228,18
		330,81	66,72	41,28	376,41	22 964,70	3 629,67
		867,61	65,88				
1.110	Cabbage lettuce (head lettuce) 0705 11 00	—	—	—	—	—	—
1.130	Carrots ex 0706 10 00	37,82	22,04	1 121,93	281,52	591,75	9 169,08
		130,58	26,34	16,30	148,58	9 065,08	1 432,77
		342,48	26,01				
1.140	Radishes ex 0706 90 90	67,05	39,07	1 989,08	499,12	1 049,13	16 255,97
		231,52	46,69	28,89	263,43	16 071,57	2 540,18
		607,18	46,10				
1.160	Peas (<i>Pisum sativum</i>) 0708 10 00	306,48	178,59	9 091,84	2 281,40	4 795,43	74 303,91
		1 058,23	213,44	132,06	1 204,08	73 461,08	11 610,83
		2 775,36	210,74				

Code	Description	Amount of unit values per 100 kg					
	Species, varieties, CN code	EUR LTL SEK	CYP LVL GBP	CZK MTL	DKK PLN	EEK SIT	HUF SKK
1.170	Beans:						
1.170.1	— Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 00	214,99 742,30 1 946,80	125,27 149,72 147,82	6 377,54 92,64	1 600,31 844,61	3 363,79 51 529,80	52 121,01 8 144,50
1.170.2	— Beans (<i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus</i> Savi) ex 0708 20 00	414,36 1 430,70 3 752,24	241,45 288,56 284,91	12 291,99 178,55	3 084,41 1 627,90	6 483,33 99 317,95	100 457,44 15 697,61
1.180	Broad beans ex 0708 90 00	—	—	—	—	—	—
1.190	Globe artichokes 0709 10 00	—	—	—	—	—	—
1.200	Asparagus:						
1.200.1	— green ex 0709 20 00	242,47 837,21 2 195,71	141,29 168,86 166,72	7 192,95 104,48	1 804,92 952,60	3 793,87 58 118,23	58 785,03 9 185,83
1.200.2	— other ex 0709 20 00	514,48 1 776,39 4 658,86	299,79 358,28 353,76	15 262,01 221,69	3 829,68 2 021,23	8 049,84 123 315,42	124 730,24 19 490,51
1.210	Aubergines (eggplants) 0709 30 00	177,04 611,28 1 603,19	103,16 123,29 121,73	5 251,89 76,29	1 317,85 695,54	2 770,07 42 434,72	42 921,58 6 706,98
1.220	Ribbed celery (<i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	95,51 329,76 864,85	55,65 66,51 65,67	2 833,17 41,15	710,92 375,21	1 494,34 22 891,74	23 154,38 3 618,13
1.230	Chantarelles 0709 59 10	926,44 3 198,81 8 389,38	539,84 645,17 637,02	27 482,84 399,20	6 896,23 3 639,70	14 495,64 222 058,40	224 606,11 35 097,25
1.240	Sweet peppers 0709 60 10	167,06 576,82 1 512,80	97,35 116,34 114,87	4 955,81 71,99	1 243,55 656,33	2 613,91 40 042,40	40 501,81 6 328,87
1.250	Fennel 0709 90 50	—	—	—	—	—	—
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	114,53 395,46 1 037,16	66,74 79,76 78,75	3 397,63 49,35	852,56 449,97	1 792,06 27 452,51	27 767,48 4 338,98
2.10	Chestnuts (<i>Castanea</i> spp.) fresh ex 0802 40 00	—	—	—	—	—	—
2.30	Pineapples, fresh ex 0804 30 00	101,48 350,37 918,91	59,13 70,67 69,77	3 010,26 43,73	755,36 398,67	1 587,74 24 322,57	24 601,62 3 844,28

Code	Description	Amount of unit values per 100 kg					
	Species, varieties, CN code	EUR LTL SEK	CYP LVL GBP	CZK MTL	DKK PLN	EEK SIT	HUF SKK
2.40	Avocados, fresh ex 0804 40 00	152,09 525,13 1 377,22	88,62 105,91 104,57	4 511,66 65,53	1 132,10 597,50	2 379,64 36 453,71	36 871,95 5 761,66
2.50	Guavas and mangoes, fresh ex 0804 50	—	—	—	—	—	—
2.60	Sweet oranges, fresh:						
2.60.1	— Sanguines and semi-sanguines 0805 10 10	— — —	— — —	— — —	— — —	— — —	— — —
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamoutis, ovalis, trovita and hamlins 0805 10 30	— — —	— — —	— — —	— — —	— — —	— — —
2.60.3	— Others 0805 10 50	— — —	— — —	— — —	— — —	— — —	— — —
2.70	Mandarins (including tangerines and satsumas), fresh; clementines, wilkins and similar citrus hybrids, fresh:						
2.70.1	— Clementines ex 0805 20 10	93,93 324,32 850,57	54,73 65,41 64,59	2 786,39 40,47	699,18 369,02	1 469,66 22 513,72	22 772,03 3 558,39
2.70.2	— Monreales and satsumas ex 0805 20 30	92,53 319,49 837,91	53,92 64,44 63,62	2 744,90 39,87	688,77 363,52	1 447,78 22 178,52	22 432,97 3 505,41
2.70.3	— Mandarines and wilkins ex 0805 20 50	64,05 221,15 579,99	37,32 44,60 44,04	1 900,01 27,60	476,77 251,63	1 002,15 15 351,88	15 528,02 2 426,43
2.70.4	— Tangerines and others ex 0805 20 70 ex 0805 20 90	48,71 168,20 441,12	28,39 33,92 33,50	1 445,07 20,99	362,61 191,38	762,19 11 676,04	11 810,00 1 845,45
2.85	Limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>), fresh 0805 50 90	50,54 174,51 457,69	29,45 35,20 34,75	1 499,36 21,78	376,23 198,57	790,83 12 114,65	12 253,64 1 914,77
2.90	Grapefruit, fresh:						
2.90.1	— white ex 0805 40 00	71,34 246,31 645,99	41,57 49,68 49,05	2 116,21 30,74	531,02 280,26	1 116,18 17 098,77	17 294,94 2 702,53
2.90.2	— pink ex 0805 40 00	85,03 293,59 769,98	49,55 59,21 58,47	2 522,40 36,64	632,94 334,06	1 330,42 20 380,72	20 614,55 3 221,26

Code	Description	Amount of unit values per 100 kg					
	Species, varieties, CN code	EUR LTL SEK	CYP LVL GBP	CZK MTL	DKK PLN	EEK SIT	HUF SKK
2.100	Table grapes 0806 10 10	155,08 535,46 1 404,33	90,37 108,00 106,63	4 600,47 66,82	1 154,39 609,27	2 426,48 37 171,27	37 597,74 5 875,07
2.110	Water melons 0807 11 00	39,08 134,94 353,89	22,77 27,22 26,87	1 159,31 16,84	290,90 153,53	611,47 9 367,09	9 474,56 1 480,51
2.120	Melons (other than water melons):						
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onte- niente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	65,22 225,20 590,63	38,01 45,42 44,85	1 934,84 28,10	485,51 256,24	1 020,52 15 633,30	15 812,66 2 470,91
2.120.2	— Other ex 0807 19 00	87,03 300,51 788,13	50,71 60,61 59,84	2 581,84 37,50	647,86 341,93	1 361,77 20 860,99	21 100,33 3 297,17
2.140	Pears						
2.140.1	— Pears — nashi (<i>Pyrus pyrifolia</i>), Pears — Ya (<i>Pyrus bretschneideri</i>) ex 0808 20 50	— — —	— — —	— — —	— — —	— — —	— — —
2.140.2	— Other ex 0808 20 50	— — —	— — —	— — —	— — —	— — —	— — —
2.150	Apricots 0809 10 00	562,13 1 940,92 5 090,36	327,55 391,47 386,52	16 675,56 242,22	4 184,38 2 208,44	8 795,41 134 736,72	136 282,58 21 295,70
2.160	Cherries 0809 20 95 0809 20 05	610,83 2 109,07 5 531,37	355,93 425,38 420,01	18 120,27 263,21	4 546,90 2 399,77	9 557,41 146 409,84	148 089,63 23 140,68
2.170	Peaches 0809 30 90	104,41 360,52 945,53	60,84 72,71 71,80	3 097,47 44,99	777,24 410,21	1 633,74 25 027,21	25 314,35 3 955,65
2.180	Nectarines ex 0809 30 10	125,90 434,69 1 140,05	73,36 87,67 86,57	3 734,70 54,25	937,14 494,61	1 969,84 30 175,94	30 522,15 4 769,43
2.190	Plums 0809 40 05	102,29 353,18 926,26	59,60 71,23 70,33	3 034,35 44,08	761,41 401,86	1 600,45 24 517,22	24 798,51 3 875,05
2.200	Strawberries 0810 10 00	231,53 799,43 2 096,62	134,91 161,24 159,20	6 868,34 99,77	1 723,46 909,61	3 622,66 55 495,45	56 132,16 8 771,29

Code	Description	Amount of unit values per 100 kg					
	Species, varieties, CN code	EUR LTL SEK	CYP LVL GBP	CZK MTL	DKK PLN	EEK SIT	HUF SKK
2.205	Raspberries 0810 20 10	304,95	177,69	9 046,34	2 269,99	4 771,43	73 932,08
		1 052,93	212,37	131,40	1 198,06	73 093,47	11 552,73
		2 761,47	209,68				
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	1 081,63	630,27	32 086,55	8 051,44	16 923,83	262 230,38
		3 734,65	753,25	466,07	4 249,40	259 255,89	40 976,47
		9 794,70	743,73				
2.220	Kiwi fruit (<i>Actinidia chinensis</i> Planch.) 0810 50 00	64,65	37,67	1 917,84	481,24	1 011,55	15 673,75
		223,22	45,02	27,86	253,99	15 495,96	2 449,20
		585,44	44,45				
2.230	Pomegranates ex 0810 90 95	165,65	96,52	4 914,01	1 233,07	2 591,86	40 160,19
		571,96	115,36	71,38	650,79	39 704,65	6 275,48
		1 500,04	113,90				
2.240	Khakis (including sharon fruit) ex 0810 90 95	134,81	78,55	3 999,14	1 003,50	2 109,32	32 683,36
		465,47	93,88	58,09	529,63	32 312,63	5 107,15
		1 220,77	92,70				
2.250	Lychees ex 0810 90	—	—	—	—	—	—

COMMISSION REGULATION (EC) No 393/2005**of 9 March 2005****fixing the export refunds on beef and veal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal⁽¹⁾, and in particular Article 33(12) thereof,

Whereas:

- (1) Article 33 of Regulation (EC) No 1254/1999 provides that the difference between prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Commission Regulations (EEC) No 32/82⁽²⁾, (EEC) No 1964/82⁽³⁾, (EEC) No 2388/84⁽⁴⁾, (EEC) No 2973/79⁽⁵⁾ and (EC) No 2051/96⁽⁶⁾ lay down the conditions for granting special export refunds on certain cuts of beef and veal and certain preserved beef and veal products, and for certain destinations.
- (3) It follows from applying those rules and criteria to the foreseeable situation on the market in beef and veal that the refund should be as set out below.
- (4) With regard to live animals, for reasons of simplification export refunds should not be granted for categories with insignificant trade with third countries. Moreover, in the light of the general concern of animal welfare, export refunds for live animals for slaughter should be limited as much as possible. Consequently, export refunds for such animals should only be granted for third countries which for cultural and/or religious reasons traditionally import substantial numbers of animals for domestic slaughter. As to live animals for reproduction, in order to prevent any abuse, export refunds for pure-bred breeding animals should be limited to heifers and cows of no more than 30 months of age.

- (5) Export refunds should be granted for certain destinations on some fresh or chilled meat listed in the Annex under CN code 0201, on some frozen meat listed in the Annex under CN code 0202, on some meat or offal listed in the Annex under CN code 0206 and on some other prepared or preserved meat or offal listed in the Annex under CN code 1602 50 10.
- (6) In the case of meat of bovine animals, boned or boneless, salted and dried, there are traditional trade flows to Switzerland. To allow this trade to continue, the refund should be set to cover the difference between prices on the Swiss market and export prices in the Member States.
- (7) In the case of certain other cuts and preserves of meat or offal shown in the Annex under CN codes 1602 50 31 to 1602 50 80, the Community presence of international trade may be maintained by granting a refund corresponding to that at present available.
- (8) In the case of other beef and veal products, a refund need not be fixed since the Community's share of world trade is not significant.
- (9) Commission Regulation (EEC) No 3846/87⁽⁷⁾ establishes the agricultural product nomenclature for the purposes of export refunds. The refunds are set on the basis of the product codes as defined in that nomenclature.
- (10) The refunds on all frozen cuts should be brought into line with those on fresh or chilled cuts other than those from adult male bovine animals.
- (11) Checks on products covered by CN code 1602 50 should be stepped up by making the granting of refunds on these products conditional on manufacture under the arrangements provided for in Article 4 of Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products⁽⁸⁾.

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

⁽²⁾ OJ L 4, 8.1.1982, p. 11. Regulation as last amended by Regulation (EC) No 744/2000 (OJ L 89, 11.4.2000, p. 3).

⁽³⁾ OJ L 212, 21.7.1982, p. 48. Regulation as last amended by Regulation (EC) No 2772/2000 (OJ L 321, 19.12.2000, p. 35).

⁽⁴⁾ OJ L 221, 18.8.1984, p. 28. Regulation as last amended by Regulation (EEC) No 3661/92 (OJ L 370, 19.12.1992, p. 16).

⁽⁵⁾ OJ L 336, 29.12.1979, p. 44. Regulation as last amended by Regulation (EEC) No 3434/87 (OJ L 327, 18.11.1987, p. 7).

⁽⁶⁾ OJ L 274, 26.10.1996, p. 18. Regulation as last amended by Regulation (EC) No 2333/96 (OJ L 317, 6.12.1996, p. 13).

⁽⁷⁾ OJ L 366, 24.12.1987, p. 1. Regulation as last amended by Regulation (EC) No 2199/2004 (OJ L 380, 24.12.2004, p. 1).

⁽⁸⁾ OJ L 62, 7.3.1980, p. 5. Regulation as last amended by Commission Regulation (EC) No 444/2003 (OJ L 67, 12.3.2003, p. 3).

- (12) Refunds should be granted only on products that are allowed to move freely in the Community. Therefore, to be eligible for a refund, products should be required to bear the health mark laid down in Council Directives 64/433/EEC⁽¹⁾, 94/65/EC⁽²⁾ and 77/99/EEC⁽³⁾, respectively.
- (13) Pursuant to Article 6(2) of Regulation (EEC) No 1964/82, the special refund is to be reduced if the quantity of boned meat to be exported amounts to less than 95 %, but not less than 85 %, of the total weight of cuts produced by boning.
- (14) The negotiations on the adoption of additional concessions, held within the framework of the Europe Agreements between the European Community and the associated central and eastern European Countries, aim in particular to liberalise trade in products covered by the common organisation of the market in beef and veal. To this end, it was decided, *inter alia*, to abolish export refunds on products intended for export to Romania. This country should therefore be excluded from the list of destinations giving rise to the grant of a refund, while ensuring that the abolition of refunds for this country may not lead to the creation of a differentiated refund for exports to other countries.
- (15) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

1. The list of products on which export refunds as referred to in Article 33 of Regulation (EC) No 1254/1999 are granted and the amount thereof and the destinations shall be as set out in the Annex to this Regulation.
2. The products must meet the relevant health marking requirements of:
 - Chapter XI of Annex I to Directive 64/433/EEC,
 - Chapter VI of Annex I to Directive 94/65/EC,
 - Chapter VI of Annex B to Directive 77/99/EEC.

Article 2

In the case referred to in the third subparagraph of Article 6(2) of Regulation (EEC) No 1964/82 the rate of the refund on products falling within product code 0201 30 00 9100 shall be reduced by EUR 14,00/100 kg.

Article 3

The fact of not setting an export refund for Romania shall not be deemed to constitute a differentiation of the refund.

Article 4

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, 9 March 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 121, 29.7.1964, p. 2012/64. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽²⁾ OJ L 368, 31.12.1994, p. 10. Directive as amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽³⁾ OJ L 26, 31.1.1977, p. 85. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

ANNEX

to the Commission Regulation of 9 March 2005 fixing export refunds on beef

Product code	Destination	Unit of measurement	Refunds (7)
0102 10 10 9140	B00	EUR/100 kg live weight	53,00
0102 10 30 9140	B00	EUR/100 kg live weight	53,00
0102 90 71 9000	B11	EUR/100 kg live weight	41,00
0201 10 00 9110 ⁽¹⁾	B02	EUR/100 kg net weight	71,50
	B03	EUR/100 kg net weight	43,00
	039	EUR/100 kg net weight	23,50
0201 10 00 9120	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0201 10 00 9130 ⁽¹⁾	B02	EUR/100 kg net weight	97,00
	B03	EUR/100 kg net weight	56,50
	039	EUR/100 kg net weight	33,50
0201 10 00 9140	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	14,00
	039	EUR/100 kg net weight	16,00
0201 20 20 9110 ⁽¹⁾	B02	EUR/100 kg net weight	97,00
	B03	EUR/100 kg net weight	56,50
	039	EUR/100 kg net weight	33,50
0201 20 20 9120	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	14,00
	039	EUR/100 kg net weight	16,00
0201 20 30 9110 ⁽¹⁾	B02	EUR/100 kg net weight	71,50
	B03	EUR/100 kg net weight	43,00
	039	EUR/100 kg net weight	23,50
0201 20 30 9120	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0201 20 50 9110 ⁽¹⁾	B02	EUR/100 kg net weight	123,00
	B03	EUR/100 kg net weight	71,50
	039	EUR/100 kg net weight	41,00
0201 20 50 9120	B02	EUR/100 kg net weight	58,50
	B03	EUR/100 kg net weight	17,50
	039	EUR/100 kg net weight	19,50
0201 20 50 9130 ⁽¹⁾	B02	EUR/100 kg net weight	71,50
	B03	EUR/100 kg net weight	43,00
	039	EUR/100 kg net weight	23,50
0201 20 50 9140	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0201 20 90 9700	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0201 30 00 9050	400 ⁽³⁾	EUR/100 kg net weight	23,50
	404 ⁽⁴⁾	EUR/100 kg net weight	23,50

Product code	Destination	Unit of measurement	Refunds (7)
0201 30 00 9060 ⁽⁶⁾	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	13,00
	039	EUR/100 kg net weight	15,00
	809, 822	EUR/100 kg net weight	37,00
0201 30 00 9100 ⁽²⁾ ⁽⁶⁾	B08, B09	EUR/100 kg net weight	172,00
	B03	EUR/100 kg net weight	102,00
	039	EUR/100 kg net weight	60,00
	809, 822	EUR/100 kg net weight	152,50
0201 30 00 9120 ⁽²⁾ ⁽⁶⁾	220	EUR/100 kg net weight	205,00
	B08	EUR/100 kg net weight	94,50
	B09	EUR/100 kg net weight	88,00
	B03	EUR/100 kg net weight	56,50
0202 10 00 9100	039	EUR/100 kg net weight	33,00
	809, 822	EUR/100 kg net weight	83,50
	220	EUR/100 kg net weight	123,00
	B02	EUR/100 kg net weight	33,50
0202 10 00 9900	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	14,00
0202 20 10 9000	039	EUR/100 kg net weight	16,00
	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	14,00
	039	EUR/100 kg net weight	16,00
0202 20 30 9000	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
	B02	EUR/100 kg net weight	58,50
0202 20 50 9100	B03	EUR/100 kg net weight	17,50
	039	EUR/100 kg net weight	19,50
	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
0202 20 50 9900	039	EUR/100 kg net weight	11,50
	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0202 30 90 9100	B02	EUR/100 kg net weight	23,50
	B03	EUR/100 kg net weight	23,50
	039	EUR/100 kg net weight	11,50
	400 ⁽³⁾	EUR/100 kg net weight	23,50
0202 30 90 9200 ⁽⁶⁾	404 ⁽⁴⁾	EUR/100 kg net weight	23,50
	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	13,00
	039	EUR/100 kg net weight	15,00
0202 30 90 9200 ⁽⁶⁾	809, 822	EUR/100 kg net weight	37,00
	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	13,00
	039	EUR/100 kg net weight	15,00

Product code	Destination	Unit of measurement	Refunds (7)
0206 10 95 9000	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	13,00
	039	EUR/100 kg net weight	15,00
	809, 822	EUR/100 kg net weight	37,00
0206 29 91 9000	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	13,00
	039	EUR/100 kg net weight	15,00
	809, 822	EUR/100 kg net weight	37,00
0210 20 90 9100	039	EUR/100 kg net weight	23,00
1602 50 10 9170 (8)	B02	EUR/100 kg net weight	22,50
	B03	EUR/100 kg net weight	15,00
	039	EUR/100 kg net weight	17,50
1602 50 31 9125 (2)	B00	EUR/100 kg net weight	88,50
1602 50 31 9325 (2)	B00	EUR/100 kg net weight	79,00
1602 50 39 9125 (2)	B00	EUR/100 kg net weight	88,50
1602 50 39 9325 (2)	B00	EUR/100 kg net weight	79,00
1602 50 39 9425 (2)	B00	EUR/100 kg net weight	30,00
1602 50 39 9525 (2)	B00	EUR/100 kg net weight	30,00
1602 50 80 9535 (8)	B00	EUR/100 kg net weight	17,50

(1) Entry under this subheading is subject to the submission of the certificate appearing in the Annex to amended Regulation (EEC) No 32/82.

(2) The refund is granted subject to compliance with the conditions laid down in amended Regulation (EEC) No 1964/82.

(3) Carried out in accordance with amended Regulation (EEC) No 2973/79.

(4) Carried out in accordance with amended Regulation (EC) No 2051/96.

(5) The refund is granted subject to compliance with the conditions laid down in amended Regulation (EEC) No 2388/84.

(6) The lean bovine meat content excluding fat is determined in accordance with the procedure described in the Annex to Commission Regulation (EEC) No 2429/86 (OJ L 210, 1.8.1986, p. 39). The term 'average content' refers to the sample quantity as defined in Article 2(1) of Regulation (EC) No 765/2002 (OJ L 117, 4.5.2002, p. 6). The sample is to be taken from that part of the consignment presenting the highest risk.

(7) Article 33(10) of amended Regulation (EC) No 1254/1999 provides that no export refunds shall be granted on products imported from third countries and re-exported to third countries.

(8) The refund is granted only on products manufactured under the arrangement provided for in Article 4 of amended Council Regulation (EEC) No 565/80.

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are defined as follows:

B00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Romania.

B02: B08, B09 and destination 220.

B03: Ceuta, Melilla, Iceland, Norway, Faroe Islands, Andorra, Gibraltar, Holy See, Bulgaria, Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro, former Yugoslav Republic of Macedonia, the communes of Livigno and Campione d'Italia, Helgoland, Greenland, stores and provisions (destinations referred to in Articles 36 and 45, and if appropriate in Article 44, of Commission Regulation (EC) No 800/1999, as amended (OJ L 102, 17.4.1999, p. 11)).

B08: Turkey, Ukraine, Belarus, Moldova, Russia, Georgia, Armenia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan, Morocco, Algeria, Tunisia, Libya, Lebanon, Syria, Iraq, Iran, Israel, West Bank/Gaza Strip, Jordan, Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Yemen, Pakistan, Sri Lanka, Myanmar (Burma), Thailand, Vietnam, Indonesia, Philippines, China, North Korea, Hong Kong.

B09: Sudan, Mauritania, Mali, Burkina Faso, Niger, Chad, Cape Verde, Senegal, Gambia, Guinea-Bissau, Guinea, Sierra Leone, Liberia, Côte d'Ivoire, Ghana, Togo, Benin, Nigeria, Cameroon, Central African Republic, Equatorial Guinea, São Tomé and Príncipe, Gabon, Congo, Congo (Democratic Republic), Rwanda, Burundi, Saint Helena and dependencies, Angola, Ethiopia, Eritrea, Djibouti, Somalia, Uganda, Tanzania, Seychelles and dependencies, British Indian Ocean Territory, Mozambique, Mauritius, Comoros, Mayotte, Zambia, Malawi, South Africa, Lesotho.

B11: Lebanon and Egypt.

COMMISSION REGULATION (EC) No 394/2005

of 8 March 2005

amending Regulation (EC) No 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and derogating from Regulation (EC) No 1782/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001⁽¹⁾, and in particular Article 145(c) and (d) and (q) thereof,

Whereas:

- (1) Commission Regulation (EC) No 795/2004⁽²⁾ introduces the implementing rules for the single payment scheme that will apply from 2005. The administrative and operational implementation of the scheme which has started, on that basis, at national level, has shown the need of further detailed rules on some aspects of the scheme and to clarify and adapt certain aspects of the existing rules.
- (2) In particular, it is appropriate to specify the application of the definition of multiannual crops in relation to the eligibility conditions for land to be put on set-aside and in relation to the energy crops aid scheme referred to in Article 88 of Regulation (EC) No 1782/2003.
- (3) For administrative reasons, in order to limit the creation of fractions of payment entitlements to the extent necessary, Article 3(4) of Regulation (EC) No 795/2004 provides that in case of transfer, before splitting an existing entitlement, all existing fractions should be used. It is appropriate to specify that that provision should refer to existing fractions of entitlements of the same nature, such as normal entitlements, set-aside entitlements, entitlements accompanied by an authorisation in accordance with Article 60 of Regulation (EC) No 1782/2003.

(4) According to Article 7(6) of Regulation (EC) No 795/2004, farmers who leased or sold hectares shall not benefit from the mechanism provided for in that Article. As far as the aim of that mechanism is not undermined by the fact of buying and selling or leasing an equivalent number of hectares, it should be provided that the mechanism should also apply in those cases.

(5) Article 10 of Regulation (EC) No 795/2004 provides for the reversion to the national reserve of a part of the reference amount in particular situations. For administrative reasons it is appropriate to allow Member States to apply such reduction above a ceiling to be defined.

(6) Article 21(4) of Regulation (EC) No 795/2004 assimilates lease to purchase of land for investment purpose. Investments in production capacity made under the form of a lease should also be taken into account.

(7) Article 22(2) of Regulation (EC) No 795/2004 aims to take into account the cases of farmers who find themselves in special situations deriving from the fact of having bought land that was under a lease during the reference period. It is appropriate to specify the scope of application of the provision by giving a definition of the condition of the lease to be taken into account.

(8) The second subparagraph of Article 46(2) of Regulation (EC) No 1782/2003 provides that, except in case of *force majeure* or exceptional circumstances, a farmer may transfer his payment entitlements without land only after he has used, within the meaning of Article 44 of that Regulation, at least 80 % of his payment entitlements during at least one calendar year or, after he has given up voluntarily to the national reserve all the payment entitlements he has not used in the first year of application of the single payment scheme. It is appropriate to specify the conditions of application of that provision.

(9) Regulation (EC) No 795/2004 should therefore be amended accordingly.

⁽¹⁾ OJ L 270, 21.10.2003, p. 1. Regulation last amended by Regulation (EC) No 118/2005 (OJ L 24, 27.1.2005, p. 15).

⁽²⁾ OJ L 141, 30.4.2004, p. 1. Regulation amended by Regulation (EC) No 1974/2004 (OJ L 345, 20.11.2004, p. 85).

(10) From 1 January 2006, Article 51 of Regulation (EC) No 1782/2003, as amended by Council Regulation (EC) No 864/2004⁽¹⁾, authorises Member States to allow secondary crops to be cultivated on the eligible hectares during a period of maximum three months starting each year on 15 August. Taking into account that until 31 December 2004 such practices are compatible with the existing rules on direct payments and that farmers could again be authorised under that new provision from 1 January 2006, the fact of interrupting such practices for one year would result in severe economical problems for farmers used to such practices and would also provoke practical and specific problems in terms of eligibility of the land. Therefore, in order to guarantee the continuity of the measure and to allow farmers, in Member States where such decision would be taken, to take their sowing decisions in time, it is necessary and duly justified to provide, by way of derogation from Regulation (EC) No 1782/2003, for the application in 2005 of that option.

(11) Due to the fact that the single payment scheme is applicable starting from 1 January 2005, it is appropriate that this Regulation applies retroactively from that date.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

— the areas planted with those crops between 30 April 2004 and 10 March 2005,

— the areas planted with these crops before 30 April 2004 and leased or acquired, between 30 April 2004 and 10 March 2005 in view of applying for the single payment scheme.

d) “multiannual crops” shall mean crops of the following products:

CN code	
0709 10 00	Artichokes
0709 20 00	Asparagus
0709 90 90	Rhubarb
0810 20	Raspberries, blackberries, mulberries and loganberries
0810 30	Black-, white- or redcurrants and gooseberries
0810 40	Cranberries, bilberries and other fruits of the genus <i>Vaccinium</i>

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 795/2004 is amended as follows:

1. in Article 2, points (c) and (d) are replaced by the following:

‘c) “permanent crops” shall mean non-rotational crops other than permanent pasture that occupy the land for five years or longer and yield repeated harvests including nurseries as defined in point (G/5) of Annex I to Commission Decision 2000/115/EC^(*), with the exception of multiannual crops and the nurseries of such multiannual crops.

For the purpose of Article 54(2) of Regulation (EC) No 1782/2003 and in case of areas which are also subject to an application for the aid for energy crops provided for in Article 88 of that Regulation, short rotation coppice (CN code ex 0602 90 41) *Miscanthus sinensis* (CN code ex 0602 90 51) *Phalaris arundacea* (reed canary grass) (CN code ex 1214 90 90) shall be considered as multiannual crops. However, for the purpose of Article 44(2) of Regulation (EC) No 1782/2003, shall be considered as eligible hectares:

(*) OJ L 38, 12.2.2000, p. 1.’

2. in Article 3, paragraph 4 is replaced by the following:

‘4. Paragraphs 2 and 3 shall apply only if the farmer still needs to declare or transfer a payment entitlement or a fraction of a payment entitlement with a fraction of a hectare after having declared or transferred existing payment entitlements or fractions of payment entitlements of the same nature.’;

3. in Article 7, paragraph 6 is replaced by the following:

‘6. For the purpose of paragraphs 1, 2, 3 and 4, hectares transferred by sale or by lease, and not replaced by a corresponding number of hectares, shall be included in the number of hectares which the farmer declares.’;

4. in Article 10 the following paragraph 6 is added:

‘6. Member States may fix a ceiling above which paragraph 1 shall apply.’;

⁽¹⁾ OJ L 161, 30.4.2005, p. 48.

5. in Article 21, paragraph 4 is replaced by the following:

‘4. Long term lease of six and more years started by 15 May 2004 at the latest shall be considered as a purchase of land or investment in production capacity for the application of paragraph 1.’;

6. in Article 22(2), the following subparagraph is added:

‘For the purposes of application of this paragraph, “land under a lease” shall mean land which was, at the time of, or after the purchase under a lease which has never been renewed except when the renewal was imposed by a legal obligation.’

7. in Article 25, the following paragraph is added:

‘4. For the application of the second subparagraph of Article 46(2) of Regulation (EC) No 1782/2003, the percentage of the payment entitlements the farmer has used shall be calculated on the number of payment entitlements allocated to him in the first year of application of the single payment scheme, with the exception of payment entitlements sold with land, and must be used during one calendar year.’;

8. Article 47 is replaced by the following:

‘Article 47

Overrun of the ceilings

Where the sum of the amounts to be paid under each of the schemes provided for in Articles 66 to 71 of Regulation (EC) No 1782/2003 exceeds the ceiling fixed in accordance with Article 64(2) of that Regulation, the amount to be paid shall be reduced proportionately in the year concerned.’

Article 2

By way of derogation from Article 51 of Regulation (EC) No 1782/2003, Member States may decide for the year 2005 to apply the second subparagraph of Article 51(b) of that Regulation as amended by Regulation (EC) No 864/2004.

Article 3

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 January 2005.

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

Done at Brussels, 8 March 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

COMMISSION REGULATION (EC) No 395/2005**of 9 March 2005****providing for reallocation of import rights under Regulation (EC) No 1206/2004 opening and providing for the administration of an import tariff quota for frozen beef intended for processing**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1206/2004 of 29 June 2004 opening and providing for the administration of an import tariff quota for frozen beef intended for processing (1 July 2004 to 30 June 2005) ⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

Regulation (EC) No 1206/2004 provides for the opening of a tariff quota for 50 700 t of frozen beef intended for processing from 1 July 2004 to 30 June 2005. Article 9 of that Regulation provides for the reallocation of unused quantities on the basis of the actual utilisation of import rights for A products and B products respectively by the end of February 2005,

HAS ADOPTED THIS REGULATION:

Article 1

1. The quantities referred to in Article 9(1) of Regulation (EC) No 1206/2004 amount to 1 179,43 t.

2. The breakdown referred to in Article 9(2) of Regulation (EC) No 1206/2004 shall be as follows:

— 930,57 t intended for Aproducts,

— 248,86 t intended for Bproducts.

Article 2

This Regulation shall enter into force on 10 March 2005.

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

Done at Brussels, 9 March 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 230, 30.6.2004, p. 42.

II

(Acts whose publication is not obligatory)

COUNCIL

COMMISSION

COUNCIL AND COMMISSION DECISION

of 21 February 2005

on the conclusion of the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union

(2005/192/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,
THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with the second sentence of Article 300(2), first subparagraph, and the second subparagraph of Article 300(3) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the Treaty of Accession of 16 April 2003 and in particular Article 2(3) thereof,

Having regard to the Act of Accession of 2003 and in particular Article 6(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament,

Having regard to the approval of the Council pursuant to Article 101 of the Treaty establishing the European Atomic Energy Community,

Whereas:

(1) The Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to

take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union, has been signed on behalf of the European Community and the Member States on 12 December 2004 in accordance with Council Decision 2004/896/EC ⁽¹⁾.

(2) Pending its entry into force the Protocol has been applied on a provisional basis as from 1 May 2004.

(3) The Protocol should be concluded,

HAVE DECIDED AS FOLLOWS:

Article 1

The Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union is hereby approved on behalf of the European Community, the European Atomic Energy Community and the Member States.

⁽¹⁾ OJ L 388, 29.12.2004, p. 1.

The text of the Protocol⁽¹⁾ is annexed to this Decision.

Article 2

The President of the Council shall, on behalf of the European Community and its Member States, give the notification provided for in Article 15 of the Protocol. The President of the Commission shall simultaneously give such notification on behalf of the European Atomic Energy Community.

Done at Brussels, 21 February 2005.

For the Council
The President
J. ASSELBORN

For the Commission
The President
José Manuel BARROSO

⁽¹⁾ OJ L 388, 29.12.2004, p. 6.

COMMISSION

COMMISSION DECISION

of 8 March 2005

amending Decision 2004/475/EC adopting a transitional measure in favour of certain establishments in the meat and milk sectors in Slovenia

(notified under document number C(2005) 518)

(Text with EEA relevance)

(2005/193/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular Article 42 thereof,

Whereas:

- (1) Since Commission Decision 2004/475/EC⁽¹⁾ was adopted, the situation concerning establishments benefiting from a transitional period to achieve full compliance with Community requirements has changed.
- (2) One meat plant ceased its activity on 31 December 2004.
- (3) One milk plant on the list of establishments in transition will cease its activity as a high-capacity establishment. It will reduce its production with a view to being in compliance with the rules laid down by Community legislation for establishments with limited capacity. Therefore it should be deleted from the list of establishments in transition.
- (4) Three meat establishments on the list of establishments in transition have made considerable efforts to build new facilities. However, those establishments are not in a position to finish their upgrading process by the

prescribed deadline due to exceptional technical constraints. Therefore it is justified to allow them further time to complete the upgrading process.

- (5) The Annex to Decision 2004/475/EC should therefore be amended accordingly. For the sake of clarity, it should be replaced.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2004/475/EC is replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 8 March 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

⁽¹⁾ OJ L 160, 30.4.2004, p. 78, corrected version (OJ L 212, 12.6.2004, p. 47).

ANNEX

'ANNEX

MEAT ESTABLISHMENTS IN TRANSITION

No	Veterinary approval number	Name and address of establishment	Sector: meat			Date of compliance
			Activity of the establishments			
			Fresh meat, slaughter, cutting	Meat products	Cold store	
1	14	Meso Kamnik, Kamnik	X			1.10.2005
2	19	Meso Kamnik, Domžale	X	X		1.10.2005
3	306	Arvaj Anton s.p., Kranj	X	X		1.10.2005'

COMMISSION DECISION

of 8 March 2005

amending for the fourth time Decision 2004/122/EC concerning certain protection measures in relation to avian influenza in several Asian countries

(notified under document number C(2005) 521)

(Text with EEA relevance)

(2005/194/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC⁽¹⁾, and in particular Article 18 (7) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries⁽²⁾, and in particular Article 22 (6) thereof,

Whereas:

- (1) Commission Decision 2004/122/EC⁽³⁾ was adopted in response to outbreaks of avian influenza in several Asian countries, including Japan and South Korea.
- (2) Japan and South Korea have submitted their final report on the avian influenza situation in their territory and on the measures taken to control the disease to the World Organisation for Animal Health (OIE). In addition Japan and South Korea have declared their countries free of avian influenza and sent information on the animal health situation to the Commission with a request to amend Decision 2004/122/EC accordingly. The protection measures adopted under Decision 2004/122/EC for those countries should therefore no longer apply.
- (3) The conditions for imports of live birds other than poultry from third countries are laid down in Commission Decision 2000/666/EC⁽⁴⁾ and thus these rules also apply to Japan and South Korea. Live birds

other than poultry must be *inter alia* subjected to quarantine and testing for avian influenza.

- (4) Taking account of the disease situation in Cambodia, China, Indonesia, Laos, Malaysia, Pakistan, Thailand and Vietnam, it is necessary to further prolong the duration of the protective measures concerning these countries provided for in decision 2004/122/EC.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee of the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2004/122/EC is amended as follows:

1. Article 3 is replaced by the following:

‘Article 3

Member States shall suspend the importation from Malaysia of:

- raw petfood and unprocessed feed material containing any parts of poultry, and
- eggs for human consumption and non-treated game trophies from any birds.’

2. Article 4 (1) is replaced by the following:

‘Article 4

1. Member States shall suspend the importation from Cambodia, the People’s Republic of China including the territory of Hong Kong, Indonesia, Laos, Malaysia, Pakistan, Thailand and Vietnam of:

- unprocessed feathers and parts of feathers, and
- “live birds other than poultry” as defined in Decision 2000/666/EC, including birds accompanying their owners (pet birds).’

⁽¹⁾ OJ L 268, 24.9.1991, p. 56. Directive as last amended by the 2003 Act of Accession.

⁽²⁾ OJ L 24, 30.1.1998, p. 9. Directive as last amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council (OJ L 165, 30.4.2004, p. 1).

⁽³⁾ OJ L 36, 7.2.2004, p. 59. Decision as last amended by Decision 2004/851/EC (OJ L 368, 15.12.2004, p. 48).

⁽⁴⁾ OJ L 278, 31.10.2000, p. 26. Decision as last amended by Decision 2002/279/EC (OJ L 99, 16.4.2002, p. 17).

3. In Article 7 the date '31 March 2005' is replaced by the date '30 September 2005'.

Article 2

The Member States shall amend the measures they apply to imports so as to bring them into compliance with this Decision and they shall give immediate appropriate publicity to the measures adopted. They shall immediately inform the Commission thereof.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 8 March 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

COMMISSION DECISION

of 9 March 2005

concerning the partial non-conformity of standard EN 71-1:1998 'Safety of Toys — Part 1: mechanical and physical properties' with the essential safety requirements of Council Directive 88/378/EEC

(notified under document number C(2005) 542)

(Text with EEA relevance)

(2005/195/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 88/378/EEC of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys ⁽¹⁾, and in particular the second subparagraph of Article 6(1) thereof,

Having regard to the opinion of the Standing Committee established by Article 5 of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽²⁾ and of rules on Information Society services,

Whereas:

(1) Under Directive 88/378/EEC, toys are presumed to comply with the essential safety requirements referred to in Article 3 of that Directive if they conform to the national standards applicable to them transposing the harmonised standards, the reference numbers of which have been published in the *Official Journal of the European Union*.

(2) Member States are required to publish the reference numbers of national standards transposing harmonised standards, the reference numbers of which have been published in the *Official Journal of the European Union*.

(3) The European Committee for Standardisation (CEN), under mandate from the Commission, drew up and adopted the harmonised standard EN 71-1:1998 'Safety of toys — Part 1: mechanical and physical properties' on 15 July 1998, the references of which were published for the first time in the *Official Journal of the European Communities* of 28 July 1999 ⁽³⁾.

(4) Under Clause 4.6 of that harmonised standard, toys and components of toys made up of expanding materials

which, in accordance with the cylinder test, are graded as small parts must not expand more than 50 % in any dimension when tested in accordance with Clause 8.14, that is to say, when completely submerged in a container under certain conditions for a period of 24 hours.

(5) The Spanish authorities claim that despite compliance with the relevant harmonised standard, these products can still represent a risk to children's health if small parts are detached and swallowed.

(6) After carrying out tests on a series of toys made of expanding materials, the Spanish authorities have concluded that toys may continue to increase in size if they are submerged for longer than the 24-hour period specified in Clause 8.14. Bearing in mind that an object may take longer than 24 hours to pass through the gastrointestinal tract, the time period of 24 hours specified for the test method may not be sufficient to test the risk of physical injury in cases where small toys or components of toys are swallowed.

(7) Furthermore, the risk of physical injury is particularly serious when small portions or segments can be detached easily. Although Clause 4.6 of the relevant harmonised standard requires toys and component parts of toys to undergo the cylinder test, it does not take into account the possibility that, in the case of certain toys which do not fit into the cylinder and have no small component parts, children can nevertheless easily bite, twist or gouge small portions out of the material.

(8) Consequently, on the basis of the information submitted by the Spanish authorities, the other national authorities, the European Committee for Standardisation (CEN) and the Standing Committee established by Directive 98/34/EC, it is clear that compliance with harmonised standard EN 71-1:1998 'Safety of Toys — Part 1: mechanical and physical properties' can no longer be presumed to entail conformity with the essential safety requirements, in so far as concerns Clause 4.6 of that standard, and Clause 8.14 thereof, to the extent that it relates to the 24-hour submergence test.

(9) It is therefore necessary to provide for an appropriate notice to accompany publication of the references of the harmonised standard EN 71-1:1998 'Safety of Toys — Part 1: mechanical and physical properties',

⁽¹⁾ OJ L 187, 16.7.1988, p. 1. Directive as amended by Directive 93/68/EEC (OJ L 220, 30.8.1993, p. 1).

⁽²⁾ OJ L 204, 21.7.1998, p. 37. Directive as last amended by the 2003 Act of Accession.

⁽³⁾ OJ C 215, 28.7.1999, p. 4.

HAS ADOPTED THIS DECISION:

Article 1

In the case of toys and component parts of toys made of expanding materials, harmonised standard EN 71-1:1998 'Safety of Toys — Part 1: mechanical and physical properties', as adopted by the European Committee for Standardisation (CEN) on 15 July 1998, does not satisfy the essential safety requirements referred to in Article 3 of Directive 88/378/EEC, in so far as concerns Clause 4.6 thereof and Clause 8.14, to the extent that it relates to the 24-hour period during which a toy is to be submerged in a container.

Article 2

The publication in the *Official Journal of the European Union* of the references of harmonised standard EN 71-1:1998 'Safety of Toys — Part 1: mechanical and physical properties', as adopted by the European Committee for Standardisation (CEN) on 15 July 1998, shall be accompanied by the following additional notice:

'Clause 4.6 of standard EN 71-1:1998 and Clause 8.14 thereof, in so far as it relates to the 24 hour period during which a toy must be submerged in a container, do not cover

all the risks presented by toys and component parts of toys made of expanding materials. The standard does not give a presumption of conformity in that respect.'

Article 3

A notice identical to that provided for in Article 2 of this Decision shall accompany the reference of a national standard transposing harmonised EN 71-1:1998 'Safety of Toys — Part 1: mechanical and physical properties', to be published by the Member States pursuant to Article 5(1) of Directive 88/378/EEC.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 9 March 2005.

For the Commission
Günter VERHEUGEN
Vice-President

EUROPEAN ECONOMIC AREA
EFTA SURVEILLANCE AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION

No 371/04/COL

of 15 December 2004

amending for the 49th time the Procedural and Substantive Rules in the Field of State aid by deleting Chapter 26 of the State aid guidelines on multisectoral framework on regional aid for large investment projects

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement on the European Economic Area ⁽¹⁾, in particular to Articles 61 to 63 and Protocol 26 thereof,

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice ⁽²⁾, in particular to Article 24, Article 5(2)(b) and Article 1 in Part I of Protocol 3 thereof,

Whereas under Article 24 of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall give effect to the provisions of the EEA Agreement concerning State aid.

Whereas under Article 5(2)(b) of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the EFTA Surveillance Authority considers it necessary.

Recalling the Procedural and Substantive Rules in the Field of State Aid ⁽³⁾ adopted on 19 January 1994 by the EFTA Surveillance Authority.

Whereas the EFTA Surveillance Authority adopted guidelines concerning multisectoral framework on regional aid for large investment projects on 4 November 1998 ⁽⁴⁾ for an initial trial period of three years which later was extended to 31 December 2002 and for some sectors remained applicable until 31 December 2003.

Whereas the Commission of the European Communities issued a new communication on multisectoral framework on regional aid for large investment projects on 19 March 2002 ⁽⁵⁾.

⁽¹⁾ Hereinafter referred to as the EEA Agreement.

⁽²⁾ Hereinafter referred to as the Surveillance and Court Agreement.

⁽³⁾ Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the EFTA Surveillance Authority on 19 January 1994 (OJ L 231, 3.9.1994, EEA Supplement No 32), as last amended by the Authority's Decision No 305/04/COL of 1 December 2004 (not yet published), hereinafter referred to as the State Aid Guidelines.

⁽⁴⁾ OJ L 111, 29.4.1999, EEA Supplement No 18, corresponding to the Communication from the Commission — Multisectoral framework on regional aid for large investment projects (OJ C 107, 7.4.1998, p. 7).

⁽⁵⁾ OJ C 70, 19.3.2002, p. 8.

Whereas the EFTA Surveillance Authority adopted a similar framework in its College Decision 263/02/COL on 18 December 2002 ⁽¹⁾ as a new Chapter 26A of the Guidelines.

Whereas Chapter 26A consists of the new multisectoral framework which entered into force respectively on 1 January 2003 or 1 January 2004 dependent on the relevant sector.

Whereas the former multisectoral framework on regional aid for large investment projects therefore should be deleted,

HAS ADOPTED THIS DECISION:

1. The State Aid Guidelines Chapter 26 shall be deleted.
2. The EFTA States shall be informed by means of a letter, including a copy of this Decision.
3. The Commission of the European Communities shall be informed, in accordance with point (d) of Protocol 27 of the EEA Agreement, by means of a copy of this Decision.
4. The Decision shall be published in the EEA Section of the *Official Journal of the European Union* and in the EEA Supplement thereto.
5. The Decision shall be authentic in the English language.

Done at Brussels, 15 December 2004.

For the EFTA Surveillance Authority

The President
Hannes HAFSTEIN

College Member
Bernd HAMMERMANN

⁽¹⁾ Not yet published.