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[1] Text with EEA relevance

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(1) Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2141/2005

of 23 December 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 24 December 2005.

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

Done at Brussels, 23 December 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 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 23 December 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	72,1
	204	47,6
	212	90,9
	999	70,2
0707 00 05	052	112,4
	204	60,1
	220	196,3
	628	155,5
	999	131,1
0709 90 70	052	101,5
	204	109,0
	999	105,3
0805 10 20	052	71,5
	204	51,8
	220	55,8
	388	22,5
	624	59,1
	999	52,1
0805 20 10	052	67,9
	204	56,8
	999	62,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	77,6
	220	36,7
	400	86,5
	464	143,9
	624	78,6
	999	84,7
0805 50 10	052	46,6
	999	46,6
0808 10 80	096	18,3
	400	109,7
	404	100,0
	528	48,0
	720	76,3
	999	70,5
0808 20 50	052	125,5
	400	99,3
	720	51,6
	999	92,1

(1) Country nomenclature as fixed by Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 2142/2005

of 23 December 2005

fixing the corrective amount applicable to the refund on cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 15(2) thereof,

Whereas:

(1) Article 14(2) of Regulation (EC) No 1784/2003 provides that the export refund applicable to cereals on the day on which an application for an export licence is made must be applied on request to exports to be effected during the period of validity of the export licence. In this case, a corrective amount may be applied to the refund.

(2) Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the cereals and the measures to be taken in the event of disturbance on the market for cereals [2], allows for the fixing of a corrective amount for the products listed in Article 1(1)(c) of Regulation (EEC) No 1766/92 [3]. That corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95.

(3) The world market situation or the specific requirements of certain markets may make it necessary to vary the corrective amount according to destination.

(4) The corrective amount must be fixed at the same time as the refund and according to the same procedure; it may be altered in the period between fixings.

(5) It follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto.

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

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 1(1)(a), (b) and (c) of Regulation (EC) No 1784/2003 which is applicable to export refunds fixed in advance except for malt shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 January 2006.

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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[1] OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).
[2] OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).
[3] OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

ANNEX

to the Commission Regulation of 23 December 2005 fixing the corrective amount applicable to the refund on cereals

(EUR/t)

Product code	Destination	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6	6th period 7
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	A00	0	0	0	0	0	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	C01	0	– 0,46	– 0,92	– 1,38	– 1,84	—	—
1002 00 00 9000	A00	0	0	0	0	0	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	C02	0	– 0,46	– 0,92	– 1,38	– 1,84	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	C03	0	– 0,46	– 0,92	– 1,38	– 1,84	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	A00	0	0	0	0	0	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	C01	0	– 0,63	– 1,26	– 1,89	– 2,52	—	—
1101 00 15 9130	C01	0	– 0,59	– 1,18	– 1,77	– 2,36	—	—
1101 00 15 9150	C01	0	– 0,54	– 1,09	– 1,63	– 2,17	—	—
1101 00 15 9170	C01	0	– 0,50	– 1,00	– 1,50	– 2,00	—	—
1101 00 15 9180	C01	0	– 0,47	– 0,94	– 1,41	– 1,88	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	A00	0	0	0	0	0	—	—
1102 10 00 9700	A00	0	0	0	0	0	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	A00	0	0	0	0	0	—	—
1103 11 10 9400	A00	0	0	0	0	0	—	—
1103 11 10 9900	—	—	—	—	—	—	—	—
1103 11 90 9200	A00	0	0	0	0	0	—	—
1103 11 90 9800	—	—	—	—	—	—	—	—

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 Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

C01: All third countries with the exception of Albania, Bulgaria, Romania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro, the former Yugoslav Republic of Macedonia, Lichtenstein and Switzerland.

C02: Algeria, Saudi Arabia, Bahrain, Egypt, United Arab Emirates, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Lybia, Morocco, Mauritania, Oman, Qatar, Syria, Tunisia and Yemen.

C03: All third countries with the exception of Bulgaria, Norway, Romania, Switzerland and Lichtenstein.

COMMISSION REGULATION (EC) No 2143/2005

of 23 December 2005

fixing the export refunds on malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ([1]), and in particular Article 13(3) thereof,

Whereas:

(1) Article 13 of Regulation (EC) No 1784/2003 provides that the difference between quotations or 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) The refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ([2]).

(3) The refund applicable in the case of malts must be calculated with amount taken of the quantity of cereals required to manufacture the products in question. The said quantities are laid down in Regulation (EC) No 1501/95.

(4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.

(5) The refund must be fixed once a month. It may be altered in the intervening period.

(6) It follows from applying these rules to the present situation on markets in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto.

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on malt listed in Article 1(1)(c) of Regulation (EC) No 1784/2003 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 January 2006.

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

([1]) OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).
([2]) OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

ANNEX

to the Commission Regulation of 23 December 2005 fixing the export refunds on malt

Product code	Destination	Unit of measurement	Amount of refunds
1107 10 19 9000	A00	EUR/t	0,00
1107 10 99 9000	A00	EUR/t	0,00
1107 20 00 9000	A00	EUR/t	0,00

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).

COMMISSION REGULATION (EC) No 2144/2005

of 23 December 2005

fixing the corrective amount applicable to the refund on malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organization of the market in cereals [1], and in particular Article 15(2),

Whereas:

(1) Article 14(2) of Regulation (EC) No 1784/2003 provides that the export refund applicable to cereals on the day on which application for an export licence is made must be applied on request to exports to be effected during the period of validity of the export licence. In this case, a corrective amount may be applied to the refund.

(2) Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals [2] allows for the fixing of a corrective amount for the malt referred to in Article 1(1)(c) of Regulation (EEC) No 1766/92 [3]. That corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95.

(3) It follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto.

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

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 15(3) of Regulation (EC) No 1784/2003 which is applicable to export refunds fixed in advance in respect of malt shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 January 2006.

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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[1] OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

[2] OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

[3] OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

ANNEX

to the Commission Regulation of 23 December 2005 fixing the corrective amount applicable to the refund on malt

(EUR/t)

Product code	Destination	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6
1107 10 11 9000	A00	0	0	0	0	0	0
1107 10 19 9000	A00	0	0	0	0	0	0
1107 10 91 9000	A00	0	0	0	0	0	0
1107 10 99 9000	A00	0	0	0	0	0	0
1107 20 00 9000	A00	0	0	0	0	0	0

(EUR/t)

Product code	Destination	6th period 7	7th period 8	8th period 9	9th period 10	10th period 11	11th period 12
1107 10 11 9000	A00	0	0	0	0	0	0
1107 10 19 9000	A00	0	0	0	0	0	0
1107 10 91 9000	A00	0	0	0	0	0	0
1107 10 99 9000	A00	0	0	0	0	0	0
1107 20 00 9000	A00	0	0	0	0	0	0

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 Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

COMMISSION REGULATION (EC) No 2145/2005

of 23 December 2005

fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1] and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice [2] and in particular Article 13(3) thereof,

Whereas:

(1) Article 2 of Council Regulation (EEC) No 2681/74 of 21 October 1974 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid [3] lays down that the portion of the expenditure corresponding to the export refunds on the products in question fixed under Community rules is to be charged to the European Agricultural Guidance and Guarantee Fund, Guarantee Section.

(2) In order to make it easier to draw up and manage the budget for Community food aid actions and to enable the Member States to know the extent of Community participation in the financing of national food aid actions, the level of the refunds granted for these actions should be determined.

(3) The general and implementing rules provided for in Article 13 of Regulation (EC) No 1784/2003 and in Article 13 of Regulation (EC) No 3072/95 on export refunds are applicable *mutatis mutandis* to the abovementioned operations.

(4) The specific criteria to be used for calculating the export refund on rice are set out in Article 13 of Regulation (EC) No 3072/95.

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

HAS ADOPTED THIS REGULATION:

Article 1

For Community and national food aid operations under international agreements or other supplementary programmes, and other Community free supply measures, the refunds applicable to cereals and rice sector products shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 1 January 2006.

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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[1] OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).
[2] OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).
[3] OJ L 288, 25.10.1974, p. 1.

ANNEX

to the Commission Regulation of 23 December 2005 fixing the refunds applicable to cereal and rice sector products supplied as Comunity and national food aid

(EUR/t)

Product code	Refund
1001 10 00 9400	0,00
1001 90 99 9000	0,00
1002 00 00 9000	0,00
1003 00 90 9000	0,00
1005 90 00 9000	0,00
1006 30 92 9100	0,00
1006 30 92 9900	0,00
1006 30 94 9100	0,00
1006 30 94 9900	0,00
1006 30 96 9100	0,00
1006 30 96 9900	0,00
1006 30 98 9100	0,00
1006 30 98 9900	0,00
1006 30 65 9900	0,00
1007 00 90 9000	0,00
1101 00 15 9100	10,96
1101 00 15 9130	10,24
1102 10 00 9500	0,00
1102 20 10 9200	48,99
1102 20 10 9400	41,99
1103 11 10 9200	0,00
1103 13 10 9100	62,98
1104 12 90 9100	0,00

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

COMMISSION REGULATION (EC) No 2146/2005

of 23 December 2005

fixing the production refund on white sugar used in the chemical industry for the period from 1 to 31 January 2006

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], and in particular the fifth indent of Article 7(5) thereof,

Whereas:

(1) Pursuant to Article 7(3) of Regulation (EC) No 1260/2001, production refunds may be granted on the products listed in Article 1(1)(a) and (f) of that Regulation, on syrups listed in Article 1(1)(d) thereof and on chemically pure fructose covered by CN code 1702 50 00 as an intermediate product, that are in one of the situations referred to in Article 23(2) of the Treaty and are used in the manufacture of certain products of the chemical industry.

(2) Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry [2] provides that these refunds shall be determined according to the refund fixed for white sugar.

(3) Article 9 of Regulation (EC) No 1265/2001 provides that the production refund on white sugar is to be fixed at monthly intervals commencing on the first day of each month.

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

HAS ADOPTED THIS REGULATION:

Article 1

The production refund on white sugar referred to in Article 4 of Regulation (EC) No 1265/2001 shall be equal to 31,180 EUR/100 kg net for the period from 1 to 31 January 2006.

Article 2

This Regulation shall enter into force on 1 January 2006.

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

[2] OJ L 178, 30.6.2001, p. 63.

COMMISSION REGULATION (EC) No 2147/2005

of 23 December 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, paragraph 3, third indent, 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 the conditions for granting of assistance concerning certain destinations.

(3) The increasing shortage of beef and veal on the Community market has pushed prices significantly beyond the basic price as referred to in Article 26(1) of Regulation (EC) No 1254/1999, which represents the desired support level on the Community market.

(4) There is increasing general public concern for the welfare of animals which are exported over particularly long distances and for which humane treatment cannot be completely ensured, in particular once they are delivered in third countries. As regards transport, although the conditions for transport of live animals are subject to massive substantive, procedural and control requirements that were reinforced in 2003 experience shows that the respect of animal welfare conditions is not always ensured. Moreover, animal welfare standards in the countries of destination are often lower than in the Community.

(5) Exports of live animals for slaughter represent a lower value added for the Community and export refunds granted for the export of those animals imply higher costs for the monitoring and control of animal welfare conditions. Therefore, in order to ensure equilibrium and the natural development of prices and trade on the internal market, as well as the welfare of animals, exports of live animals for slaughter to third countries should no longer be encouraged by virtue of export refunds.

(6) 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.

(7) Commission Regulation (EC) No 2000/2005 of 7 December 2005 fixing the export refunds on beef and veal [7] should therefore be repealed.

(8) In order to enable some Community beef and veal products to be disposed of on the international market, export refunds should be granted for certain destinations on some products under CN codes 0201, 0202 and 1602 50.

(9) The uptake of export refunds for certain categories of beef and veal products proves to be insignificant. This is also the case with regard to the uptake for certain destinations very close to the Community territory. For such categories, export refunds should no longer be fixed.

(10) The refunds provided for in this Regulation are set on the basis of the product codes as defined in the nomenclature adopted by Commission Regulation (EEC) No 3846/87 of 17 December 1987 establishing an agricultural product nomenclature for export refunds [8].

(11) The refunds on all frozen cuts should be in line with those on fresh or chilled cuts other than those from adult male bovine animals.

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[1] OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).
[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 amended by Regulation (EC) No 2333/96 (OJ L 317, 6.12.1996, p. 13).
[7] OJ L 320, 8.12.2005, p. 46.
[8] OJ L 366, 24.12.1987, p. 1. Regulation as last amended by Regulation (EC) No 558/2005 (OJ L 94, 13.4.2005, p. 22).

(12) 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 [1].

(13) 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 Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat [2], Council Directive 77/99/EEC of 21 December 1976 on health problems affecting intra-Community trade in meat products [3] and Council Directive 94/65/EC of 14 December 1994 laying down the requirements for the production and placing on the market of minced meat and meat preparations [4].

(14) Pursuant to the third subparagraph of 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.

(15) The negotiations within the framework of the Europe Agreements between the European Community and Romania and Bulgaria aim in particular to liberalise trade in products covered by the common organisation of the market concerned. For these two countries export refunds should therefore be abolished. That abolition should not, however, lead to a differentiated refund for exports to other countries.

(16) The Management Committee for Beef and Veal has not given an opinion within the time limit set by its President,

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 B to Directive 77/99/EEC,

— Chapter VI of Annex I to Directive 94/65/EC.

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 10 EUR/100 kg.

Article 3

The fact that no export refund is set for Romania and Bulgaria shall not be deemed to constitute a differentiation of the refund.

Article 4

Regulation (EC) No 2000/2005 is repealed.

Article 5

This Regulation shall enter into force on 24 December 2005.

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] 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).
[2] OJ 121, 29.7.1964, p. 2012/64. Directive as last amended by the 2003 Act of Accession.
[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).
[4] 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).

ANNEX

to the Commission Regulation of 23 December 2005 fixing export refunds on beef

Product code	Destination	Unit of measurement	Refunds (7)
0102 10 10 9140	B00	EUR/100 kg live weight	37,0
0102 10 30 9140	B00	EUR/100 kg live weight	37,0
0201 10 00 9110 (1)	B02	EUR/100 kg net weight	52,4
	B03	EUR/100 kg net weight	30,8
0201 10 00 9130 (1)	B02	EUR/100 kg net weight	69,8
	B03	EUR/100 kg net weight	41,1
0201 20 20 9110 (1)	B02	EUR/100 kg net weight	69,8
	B03	EUR/100 kg net weight	41,1
0201 20 30 9110 (1)	B02	EUR/100 kg net weight	52,4
	B03	EUR/100 kg net weight	30,8
0201 20 50 9110 (1)	B02	EUR/100 kg net weight	87,3
	B03	EUR/100 kg net weight	51,4
0201 20 50 9130 (1)	B02	EUR/100 kg net weight	52,4
	B03	EUR/100 kg net weight	30,8
0201 30 00 9050	US (3)	EUR/100 kg net weight	16,9
	CA (4)	EUR/100 kg net weight	16,9
0201 30 00 9060 (6)	B02	EUR/100 kg net weight	32,3
	B03	EUR/100 kg net weight	10,8
0201 30 00 9100 (2) (6)	B04	EUR/100 kg net weight	121,3
	B03	EUR/100 kg net weight	71,3
	EG	EUR/100 kg net weight	147,9
0201 30 00 9120 (2) (6)	B04	EUR/100 kg net weight	72,8
	B03	EUR/100 kg net weight	42,8
	EG	EUR/100 kg net weight	88,8
0202 10 00 9100	B02	EUR/100 kg net weight	23,3
	B03	EUR/100 kg net weight	7,8
0202 20 30 9000	B02	EUR/100 kg net weight	23,3
	B03	EUR/100 kg net weight	7,8
0202 20 50 9900	B02	EUR/100 kg net weight	23,3
	B03	EUR/100 kg net weight	7,8
0202 20 90 9100	B02	EUR/100 kg net weight	23,3
	B03	EUR/100 kg net weight	7,8
0202 30 90 9100	US (3)	EUR/100 kg net weight	16,9
	CA (4)	EUR/100 kg net weight	16,9
0202 30 90 9200 (6)	B02	EUR/100 kg net weight	32,3
	B03	EUR/100 kg net weight	10,8

Product code	Destination	Unit of measurement	Refunds (7)
1602 50 31 9125 (5)	B00	EUR/100 kg net weight	61,3
1602 50 31 9325 (5)	B00	EUR/100 kg net weight	54,5
1602 50 39 9125 (5)	B00	EUR/100 kg net weight	61,3
1602 50 39 9325 (5)	B00	EUR/100 kg net weight	54,5

(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.

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

The alphanumeric destination codes are set out in Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). 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 and Bulgaria.

B02: B04 and destination EG.

B03: Albania, Croatia, Bosnia and Herzegovina, Serbia, Kosovo, Montenegro, former Yugoslav Republic of Macedonia, 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)).

B04: 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, 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.

COMMISSION REGULATION (EC) No 2148/2005

of 23 December 2005

determining the quantity of certain products in the milk and milk products sector available for the first half of 2006 under quotas opened by the Community on the basis of an import licence alone

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1],

Having regard to Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas [2], and in particular Article 16(2) thereof,

Whereas:

When import licences were allocated for the second half of 2005 for certain quotas referred to in Regulation (EC) No 2535/2001, applications for licences covered quantities less than those available for the products concerned. As a result, the quantity available for each quota for the period 1 January to 30 June 2006 should be fixed, taking account of the unallocated quantities resulting from Commission Regulation (EC) No 1255/2005 [3] determining the extent to which the applications for import licences submitted in July 2005 for certain dairy products under certain tariff quotas opened by Regulation (EC) No 2535/2001 can be accepted,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities available for the period 1 January to 30 June 2006 for the second half of the year of importation of certain quotas referred to in Regulation (EC) No 2535/2001 shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 24 December 2005.

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

Done at Brussels, 23 December 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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

[2] OJ L 341, 22.12.2001, p. 29. Regulation as last amended by Regulation (EC) No 810/2004 (OJ L 149, 30.4.2004, corrected by OJ L 215, 16.6.2004, p. 104).

[3] OJ L 200, 30.7.2005, p. 65.

ANNEX I.A

Quota number	Quantity (t)
09.4590	68 000,0
09.4591	5 300,0
09.4592	18 400,0
09.4593	5 200,0
09.4594	20 000,0
09.4595	7 500,0
09.4596	19 275,34
09.4599	8 989,084

ANNEX I.B

1. Products originating in Roumania

Quota number	Quantity (t)
09.4771	750,0
09.4772	1 000,0
09.4758	1 500,0

2. Products originating in Bulgaria

Quota number	Quantity (t)
09.4773	3 300,0
09.4660	3 500,0
09.4675	770,0

ANNEX I.F

Products originating from Switzerland

Quota number	Quantity (t)
09.4155	1 000,0
09.4156	5 186,0

ANNEX I.H

Products originating in Norway

Quota number	Quantity (t)
09.4781	1 763,8
09.4782	266,5

COMMISSION REGULATION (EC) No 2149/2005

of 23 December 2005

fixing the reduction coefficients to be applied to applications for import licences for bananas originating in the ACP countries for the months of January and February 2006

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1964/2005 of 29 November 2005 on the tariff rates for bananas [1],

Having regard to Commission Regulation (EC) No 2015/2005 of 9 December 2005 on imports during January and February 2006 of bananas originating in ACP countries under the tariff quota opened by Council Regulation (EC) No 1964/2005 on the tariff rates for bananas [2], and in particular Article 6(2) thereof,

Whereas:

(1) The applications for import licences submitted in the Member States under Article 5 of Regulation (EC) No 2015/2005 and sent to the Commission in accordance with Article 6 of that Regulation exceed the available quantities fixed in Article 2 thereof, i.e. 135 000 tonnes and 25 000 tonnes for the operators referred to in Titles II and III respectively.

(2) The reduction coefficients to be applied to each application should therefore be fixed,

HAS ADOPTED THIS REGULATION:

Article 1

1. A reduction coefficient of 22,039 % shall be applied to each import licence application submitted by the operators referred to in Title II of Regulation (EC) No 2015/2005 under the tariff subquota of 135 000 tonnes.

2. A reduction coefficient of 1,294 % shall be applied to each import licence application submitted by the operators referred to in Title III of Regulation (EC) No 2015/2005 under the tariff subquota of 25 000 tonnes.

Article 2

This Regulation shall enter into force on the day 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, 23 December 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

[1] OJ L 316, 2.12.2005, p. 1.
[2] OJ L 324, 10.12.2005, p. 5.

COMMISSION REGULATION (EC) No 2150/2005

of 23 December 2005

laying down common rules for the flexible use of airspace

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of airspace in the single European sky ([1]) and in particular Article 7(3) thereof,

Having regard to Regulation (EC) No 549/2004 of the European Parliament and the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) ([2]), and in particular Article 8(2) thereof,

Whereas:

(1) Flexible use of airspace is an airspace management concept described by the International Civil Aviation Organisation (ICAO) and developed by the European Organisation for the Safety of Aviation (Eurocontrol), according to which airspace should not be designated as either purely civil or purely military airspace, but should rather be considered as one continuum in which all users' requirements have to be accommodated to the maximum extent possible.

(2) Eurocontrol has been mandated in accordance with Article 8(1) of Regulation (EC) No 549/2004 to assist the Commission in the development of implementing rules on flexible use of airspace. This Regulation takes full account of the resulting mandate report of 30 December 2004 issued by Eurocontrol.

(3) This Regulation does not cover military operations and training as referred to in Article 1(2) of Regulation (EC) No 549/2004.

(4) The Member States undertook, in a Statement on Military Issues related to the Single European Sky ([3]), to cooperate with each other, taking into account national military requirements, in order to ensure that the concept of flexible use of airspace is fully and uniformly applied in all Member States by all users of airspace.

(5) The report issued jointly by the Eurocontrol Performance Review Unit and the Eurocontrol agency in October 2001 states that there is a significant scope for improving the current application of the flexible use of airspace within Europe. Common rules for giving effect to that improvement should now be adopted.

(6) The of the flexible use of airspace concept covers also airspace over the high seas. Its application should therefore be without prejudice to the rights and duties of Member States under the Convention on International Civil Aviation (Chicago Convention) of 7 December 1944 and its annexes, or to the 1982 UN Convention on the Law of the Sea.

(7) There are activities which require the reservation of a volume of airspace for their exclusive or specific use for determined periods, owing to the characteristics of their flight profile or their hazardous attributes and the need to ensure effective and safe separation from non-participating air traffic.

(8) Effective and harmonised application of flexible use of airspace throughout the Community needs clear and consistent rules for civil-military coordination which should take into account all users' requirements and the nature of their various activities.

(9) Efficient civil-military coordination procedures should rely on rules and standards to ensure efficient use of airspace by all users.

(10) It is essential to further cooperation between neighbouring Member States and to take into account cross-border operations when applying the concept of flexible use of airspace.

(11) Differences in the organisation of civil-military cooperation in the Community restrict uniform and timely airspace management. It is therefore essential to identify the persons and/or organisations which are responsible for the application of the flexible use of airspace concept in every Member State. This information should be made available to the Member States.

(12) Consistent procedures for civil-military coordination and use of common airspace are an essential condition for the establishment of functional airspace blocks as defined in Regulation (EC) No 549/2004.

([1]) OJ L 96, 31.3.2004, p. 20.
([2]) OJ L 96, 31.3.2004, p. 1.
([3]) OJ L 96, 31.3.2004, p. 9.

(13) The flexible use of airspace addresses airspace management at strategic, pre-tactical and tactical levels, which are separate, but closely interdependent management functions and therefore need to be performed coherently to ensure efficient use of airspace.

(14) Air-traffic management programmes under development in European level cooperation should allow for the progressive achievement of consistency between airspace management, air traffic flow management and air traffic services.

(15) Where various aviation activities occur in the same airspace but meet different requirements, their coordination should seek both the safe conduct of flights and the optimum use of available airspace.

(16) Accuracy of information on airspace status and on specific air traffic situations and timely distribution of this information to civil and military controllers has a direct impact on the safety and efficiency of operations.

(17) Timely access to up-to-date information on airspace status is essential for all parties wishing to take advantage of airspace structures made available when filing or re-filing their flight plans.

(18) The regular assessment of airspace use is an important way of increasing confidence between civil and military service providers and users and is an essential tool for improving airspace design and airspace management.

(19) The annual report on application of the flexible use of airspace, as referred to in Article 7(2) of Regulation (EC) No 551/2004, should contain relevant information, gathered in the light of the original objectives and with the sole view of better accommodating users' requirements.

(20) A transitional period to meet requirements for coordination between civil air traffic services units and military air traffic services units and/or controlling military units should be provided.

(21) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee established by Article 5(1) of Regulation (EC) No 549/2004,

HAS ADOPTED THIS REGULATION:

Article 1

Subject-matter

This Regulation reinforces and harmonises the application, within the Single European Sky, of the concept of the flexible use of airspace as defined in Article 2 point (22) of Regulation (EC) No 549/2004, in order to facilitate airspace management and air traffic management within the limits of the common transport policy.

In particular, this Regulation sets out rules to ensure better cooperation between civil and military entities responsible for air traffic management that operate in the airspace under the responsibility of Member States.

Article 2

Definitions

1. For the purpose of this Regulation the definitions established by Regulation (EC) No 549/2004 shall apply.

2. In addition to the definitions referred to in paragraph 1, the following definitions shall apply:

(a) 'airspace management cell (AMC)' means a cell responsible for the day-to-day management of the airspace under the responsibility of one or more Member States;

(b) 'airspace reservation' means a defined volume of airspace temporarily reserved for exclusive or specific use by categories of users;

(c) 'airspace restriction' means a defined volume of airspace within which, variously, activities dangerous to the flight of aircraft may be conducted at specified times (a 'danger area'); or such airspace situated above the land areas or territorial waters of a State, within which the flight of aircraft is restricted in accordance with certain specified conditions (a 'restricted area'); or airspace situated above the land areas or territorial waters of a State, within which the flight of aircraft is prohibited (a 'prohibited area');

(d) 'airspace structure' means a specific volume of airspace designed to ensure the safe and optimal operation of aircraft;

(e) 'air traffic services unit' (ATS unit) means a unit, civil or military, responsible for providing air traffic services;

(f) 'civil-military coordination' means the coordination between civil and military parties authorised to make decisions and agree a course of action;

(g) 'controlling military unit' means any fixed or mobile military unit handling military air traffic and/or pursuing other activities which, owing to their specific nature, may require an airspace reservation or restriction;

(h) 'cross-border airspace' means an airspace structure extending across national borders and/or the boundaries of flight information regions;

(i) 'flight intention' means the flight path and associated flight data describing the planned trajectory of a flight to its destination, as updated at any moment;

(j) 'flight path' means the path of an aircraft through the air, defined in three dimensions;

(k) 'real-time' means the actual time during which a process or event occurs;

(l) 'separation' means spacing between aircraft, levels or tracks;

(m) 'users' means civil or military aircraft operating in the air as well as any other parties requiring airspace.

Article 3

Principles

The concept of 'flexible use of airspace' shall be governed by the following principles:

(a) coordination between civil and military authorities shall be organised at the strategic, pre-tactical and tactical levels of airspace management through the establishment of agreements and procedures in order to increase safety and airspace capacity, and to improve the efficiency and flexibility of aircraft operations;

(b) consistency between airspace management, air traffic flow management and air traffic services shall be established and maintained at the three levels of airspace management enumerated in point (a) in order to ensure, for the benefit of all users, efficiency in airspace planning, allocation and use;

(c) the airspace reservation for exclusive or specific use of categories of users shall be of a temporary nature, applied only during limited periods of time based on actual use and released as soon as the activity having caused its establishment ceases;

(d) Member States shall develop cooperation for the efficient and consistent application of the concept of flexible use of airspace across national borders and/or the boundaries of flight information regions, and shall in particular address cross-border activities; this cooperation shall cover all relevant legal, operational and technical issues;

(e) air traffic services units and users shall make the best use of the available airspace.

Article 4

Strategic airspace management (level 1)

1. Member States shall perform the following tasks:

(a) ensure the overall application of the flexible use of airspace concept at a strategic, pre-tactical and tactical level;

(b) regularly review users' requirements;

(c) approve the activities which require airspace reservation or restriction;

(d) define temporary airspace structures and procedures to offer multiple airspace reservation and route options;

(e) establish criteria and procedures providing for the creation and the use of adjustable lateral and vertical limits of the airspace required for accommodating diverse variations of flight paths and short-term changes of flights;

(f) assess the national airspace structures and route network with the aim of planning for flexible airspace structures and procedures;

(g) define the specific conditions under which the responsibility for separation between civil and military flights rests on the air traffic services units or controlling military units;

(h) develop cross-border airspace use with neighbouring Member States where needed by the traffic flows and users' activities;

(i) coordinate their airspace management policy with those of neighbouring Member States to jointly address use of airspace across national borders and/or the boundaries of flight information regions;

(j) establish and make available airspace structures to users in close cooperation and coordination with neighbouring Member States where the airspace structures concerned have a significant impact on the traffic across national borders and/or the boundaries of flight information regions, with a view to ensuring optimum use of airspace for all users throughout the Community;

(k) establish with neighbouring Member States one common set of standards for separation between civil and military flights for cross-border activities;

(l) set up consultation mechanisms between the persons or organisations as referred to in paragraph 3 and all relevant partners and organisations to ensure that users' requirements are properly addressed;

(m) assess and review airspace procedures and performance of flexible use of airspace operations;

(n) establish mechanisms to archive data on the requests, allocation and actual use of airspace structures for further analysis and planning activities.

The conditions referred to in point (g) shall be documented and taken into account in the safety assessment referred to in Article 7.

2. In those Member States where both civil and military authorities are responsible for or involved in airspace management, the tasks set out in paragraph 1 shall be performed through a joint civil-military process.

3. Member States shall identify and notify to the Commission those persons or organisations which are responsible for the execution of tasks listed in paragraph 1. The Commission shall maintain and publish a list of all persons or organisations identified in order to further the cooperation between Member States.

Article 5

Pre-tactical airspace management (level 2)

1. Member States shall appoint or establish an airspace management cell to allocate airspace in accordance with the conditions and procedures defined in Article 4(1).

In those Member States where both civil and military authorities are responsible for or involved in airspace management, this cell shall take the form of a joint civil military cell.

2. Two or more Member States may establish a joint airspace management cell.

3. Member States shall ensure that adequate supporting systems are put in place to enable the airspace management cell to manage airspace allocation and to communicate in good time the airspace availability to all affected users, airspace management cells, air traffic service providers and all relevant partners and organisations.

Article 6

Tactical airspace management (level 3)

1. Member States shall ensure the establishment of civil-military coordination procedures and communication facilities between appropriate air traffic service units and controlling military units permitting mutual provision of airspace data to allow the real-time activation, deactivation or reallocation of the airspace allocated at pre-tactical level.

2. Member States shall ensure that the relevant controlling military units and air traffic services units exchange any modification of the planned activation of airspace in a timely and effective manner and notify to all affected users the current status of the airspace.

3. Member States shall ensure the establishment of coordination procedures and the establishment of supporting systems between air traffic service units and controlling military units in order to ensure safety when managing interactions between civil and military flights.

4. Member States shall ensure that coordination procedures are established between civil and military air traffic service units so as to permit direct communication of relevant information to resolve specific traffic situations where civil and military controllers are providing services in the same airspace. This relevant information shall be made available, in particular where it is required for safety reasons, to civil and military controllers and controlling military units through a timely exchange of flight data, including the position and flight intention of the aircraft.

5. Where cross-border activities take place, Member States shall ensure that a common set of procedures to manage specific traffic situations and to enhance real time airspace management is agreed between civil air traffic services units and military air traffic services units and/or controlling military units which are concerned by those activities.

Article 7

Safety assessment

Member States shall, in order to maintain or enhance existing safety levels, ensure that, within the context of a safety management process, a safety assessment, including hazard identification, risk assessment and mitigation, is conducted, before they introduce any changes to the operations of the flexible use of airspace.

Article 8

Reporting

When reporting annually on the application of the flexible use of airspace as referred to in Article 7(2) of Regulation (EC) No 551/2004, Member States shall provide the elements detailed in the Annex to this Regulation.

Article 9

Compliance monitoring

Member States shall monitor compliance with this Regulation by means of inspections, surveys and safety audits.

Article 10

Entry into force

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

Article 6 shall apply 12 months after the day of entry into force of this Regulation.

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

Done at Brussels, 23 December 2005.

For the Commission
Jacques BARROT
Vice-President

ANNEX

LIST OF ELEMENTS REQUIRED FOR THE ANNUAL REPORT ON THE APPLICATION OF THE FLEXIBLE USE OF AIRSPACE

— General description of the national organisation and responsibilities at level 1, level 2 and level 3 of the flexible use of airspace concept.

— Evaluation of the functioning of agreements, procedures and supporting systems established at the strategic, pre-tactical and tactical levels of airspace management. This evaluation shall be conducted with regard to safety, airspace capacity, efficiency and flexibility of aircraft operations of all users.

— Problems encountered in the implementation of this Regulation, actions taken and need for changes.

— Outcome of national inspections, surveys and safety audits.

— Cooperation between Member States on airspace management and especially on the creation and management of cross-border airspace and cross-border activities.

COMMISSION REGULATION (EC) No 2151/2005

of 23 December 2005

laying down detailed rules for the opening and administration of the tariff quota for sugar products originating in the former Yugoslav Republic of Macedonia as provided for in 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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2005/914/CE of 21 November 2005 on the conclusion of a Protocol amending 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 on a tariff quota for the imports of sugar and sugar products originating in the former Yugoslav Republic of Macedonia into the Community [1], and in particular Article 3 thereof,

Whereas:

(1) The second subparagraph of Article 27(2) of 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 [2] (hereinafter referred to as 'SAA'), lays down that the Community is to apply duty-free access on imports into the Community for products originating in the former Yugoslav Republic of Macedonia of headings 1701 and 1702 of the Combined Nomenclature within the limit of an annual tariff quota of 7 000 tonnes (net weight).

(2) The SAA enters into force on 1 January 2006, therefore the quota should be opened and detailed rules of application should be in force as from 1 January 2006.

(3) In order to ensure the respect of the quantity of 7 000 tonnes of the annual tariff quota, any positive tolerance on the quantities imported should be avoided whilst the rights deriving from import licences should not be transferable. It is therefore necessary to derogate from some provisions laid down in Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down detailed rules fro the application of the system of import and export licenses and advance fixing certificates for agricultural products [3].

(4) To ensure efficient management of the imports within the annual tariff quota, measures need to be adopted making it possible for the Member States to keep records of the relevant data, and to report those data to the Commission.

(5) To improve controls, imports of the products falling under the annual tariff quota should be monitored in accordance with Article 308d of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [4].

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

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down detailed rules of implementation for imports into the Community of products under headings 1701 and 1702 of the Combined Nomenclature originating in the former Yugoslav Republic of Macedonia covered by the annual duty-free tariff quota of 7 000 tonnes (net weight) referred to in the second subparagraph of Article 27(2) of 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 (hereinafter referred to as 'SAA').

2. The quota referred to in paragraph 1 is opened as from 1 January 2006.

[1] OJ L 333, 20.12.2005, p. 44.
[2] OJ L 84, 20.3.2004, p. 13.
[3] OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 1856/2005 (OJ L 297, 15.11.2005, p. 7).
[4] OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 883/2005 (OJ L 148, 11.6.2005, p. 5).

Article 2

1. Imports referred to in Article 1 shall be subject to the production of an import licence which shall bear the quota order number 09.4327.

2. Import licences provided for in paragraph 1 shall be issued in accordance with Commission Regulation (EC) No 1291/2000 and Commission Regulation (EC) No 1464/95 [1], save where this Regulation provides otherwise.

Article 3

For the purpose of this Regulation, the following definitions shall apply:

(a) 'import period' means the one-year-period from 1 January to 31 December;

(b) 'working day', a working day at the Commission offices in Brussels.

Article 4

1. Import licence applications shall be lodged with the competent authorities of the Member States.

2. Import licence applications shall be accompanied by the proof that the applicant has lodged a security of EUR 2 per 100 kilograms.

Article 5

Import licence applications and import licences shall show:

(a) in section 8, 'former Yugoslav Republic of Macedonia', the word 'yes' being marked with a cross;

(b) in section 20, one of the entries listed in the Annex.

Import licences shall be valid only for products originating in the former Yugoslav Republic of Macedonia.

[1] OJ L 144, 28.6.1995, p. 14. Regulation as last amended by Regulation (EC) No 96/2004 (OJ L 15, 22.1.2004, p. 3).

Article 6

1. Import licence applications may be presented each week from Monday to Friday. No later than the first working day of the following week Member States shall notify the Commission of the quantities of sugar products, broken down by eight-digit CN code, for which import licence applications have been presented during the preceding week.

2. The Commission shall draw up a weekly total of the quantities for which import licence applications have been presented.

3. Where licence applications for the tariff quota referred to in the second subparagraph of Article 27(2) of the SAA exceed the level of that quota, the Commission shall suspend the submission of further applications for that quota for the current import period, fix an allocation coefficient to be applied and shall inform the Member States that the limit concerned has been reached.

4. Where, in application of measures adopted pursuant to paragraph 3, the quantity for which a licence is issued is less than the quantity applied for, the licence application may be withdrawn within three working days of the adoption of those measures. In the event of such a withdrawal the security shall be released immediately.

5. Licences shall be issued on the third working day following the notification referred to in paragraph 1, subject to measures taken by the Commission pursuant to paragraph 3.

6. Where, in application of measures adopted pursuant to paragraph 3, the quantity for which the import licence is issued is less than the quantity applied for, the amount of the security shall be reduced proportionately.

7. Together with the notification referred to in paragraph 1, Member States shall notify the Commission of the quantities of sugar for which import licences have been issued pursuant to paragraph 5 or withdrawn pursuant to paragraph 4 as well as the quantities of sugar for which import licences have been returned unused or only partially used. Those notifications shall relate to information received from Monday to Friday of the preceding week.

8. The notifications referred to in paragraphs 1 and 7 shall be effected by electronic means using forms communicated by the Commission to the Member States.

Article 7

Import licences shall be valid from their actual date of issue until the following 31 December.

Article 8

1. By way of derogation from Article 8(4) of Regulation (EC) No 1291/2000, the quantity released into free circulation may not exceed the quantity indicated in sections 17 and 18 of the import licence. To that effect, the figure '0' shall be entered in section 19 of the licence.

2. By way of derogation from Article 9(1) of Regulation (EC) No 1291/2000, rights deriving from import licences shall not be transferable.

Article 9

At the request of the Commission, the Member States shall forward to the Commission details of the quantities of products admitted for free circulation under the annual tariff quota during the months specified by the Commission in accordance with Article 308d of Regulation (EEC) No 2454/93.

Article 10

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

It shall apply as from 1 January 2006.

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

Entries referred to in Article 5(b):

— *in Spanish:* Exención de derechos de importación [SAA, artículo 27(2)], número de orden 09.4327

— *in Czech:* Osvobozeno od dovozního cla (SAA, čl. 27(2)), pořadové číslo 09.4327

— *in Danish:* Fritages for importtold (artikel 27(2) SAA), løbenummer 09.4327

— *in German:* Frei von Einfuhrabgaben (SAA, Artikel 27(2)), laufende Nummer 09.4327

— *in Estonian:* Impordimaksust vabastatud (SAA, artikkel 27(2)), järjekorranumber 09.4327

— *in Greek:* Δασμολογική απαλλαγή [SAA, άρθρο 27(2)], αύξων αριθμός 09.4327

— *in English:* Free from import duty (SAA, Article 27(2)), order number 09.4327

— *in French:* Exemption du droit d'importation [SAA, article 27(2)], numéro d'ordre 09.4327

— *in Italian:* Esenzione dal dazio all'importazione [SAA, articolo 27(2)], numero d'ordine 09.4327

— *in Latvian:* Atbrīvots no importa nodokļa (SAA, 27(2). pants), kārtas numurs 09.4327

— *in Lithuanian:* Atleista nuo importo muito (SAA, 27(2) straipsnis), kvotos numeris 09.4327

— *in Hungarian:* Mentes a behozatali vám alól (SAA, 27(2) cikk), rendelésszám 09.4327

— *in Maltese:* Eżenzjoni minn dazju fuq l-importazzjoni (SAA, Artikolu 27(2)), numru tas-serje 09.4327

— *in Dutch:* Vrij van invoerrechten (SAA, artikel 27(2)), volgnummer 09.4327

— *in Polish:* Wolne od przywozowych opłat celnych (SAA, art. 27(2)), numer kontyngentu 09.4327

— *in Portuguese:* Isenção de direitos de importação [SAA, artigo 27(2)], número de ordem 09.4327

— *in Slovak:* Oslobodený od dovozného cla [SAA, čl 27(2)], poradové číslo 09.4327

— *in Slovenian:* Brez uvozne carine (SAA, člen 27(2)), „številka kvote" 09.4327

— *in Finnish:* Vapaa tuontitulleista (SAA, 27(2) artikla), järjestysnumero 09.4327

— *in Swedish:* Importtullfri (SAA, artikel 27(2)), löpnummer 09.4327

COMMISSION REGULATION (EC) No 2152/2005

of 23 December 2005

amending Regulation (EC) No 327/98 opening and providing for the administration of certain tariff quotas for imports of rice and broken rice and Regulation (EC) No 1549/2004 derogating from Council Regulation (EC) No 1785/2003 as regards the arrangements for importing rice and laying down separate transitional rules for imports of basmati rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice [1], and in particular Articles 10(2) and 11(4) thereof,

Having regard to Council Decision of 20 December 2005 on the conclusion of an agreement in the form of an exchange of letters between the European Community and Thailand pursuant to Article XXVIII of GATT 1994 relating to the modification of concessions with respect to rice provided for in EC Schedule CXL annexed to the GATT 1994 [2], and in particular Article 2 thereof,

Whereas:

(1) Decision of 20 December 2005 provides for the opening of a new global annual import quota of 13 500 tonnes of semi-milled or wholly milled rice falling within code 1006 30 at zero duty and an increase in the annual import quota for broken rice falling within code 1006 40 00 referred to in Article 1(1)(c) of Commission Regulation (EC) No 327/98 of 10 February 1998 opening and providing for the administration of certain tariff quotas for imports of rice and broken rice [3] to 100 000 tonnes.

(2) Commission Regulation (EC) No 1549/2004 [4] derogates from Regulation (EC) No 1785/2003 as regards the arrangements for importing rice and lays down separate transitional rules for imports of basmati rice.

(3) To improve the management of the quotas provided for by Regulation (EC) No 327/98, the quotas should be given individual serial numbers.

(4) Decision of 20 December 2005 lays down detailed rules for calculating the rate of duty to be applied to imports into the Community of semi-milled or milled rice falling within CN code 1006 30, between 1 September 2005 and 30 June 2006. Appropriate measures should therefore be taken as regards the customs duties applicable to semi-milled or milled rice falling within CN code 1006 30 for the transitional period provided for.

(5) Decision of 20 December 2005 also lays down that the rate of duty applicable to imports of broken rice falling within code 1006 40 00 is EUR 65 per tonne.

(6) Given that the agreement approved by Decision of 20 December 2005 applies from 1 September 2005, provision should be made for the application from the same date of the provisions of this Regulation concerning the customs duties applicable to semi-milled and wholly milled rice and broken rice. Provision should also be made for the application, from 1 January 2006, of the new tariff quantities provided for in the agreement with Thailand and for increasing proportionately the quantities covered by the new global quota for semi-milled and wholly milled rice and that for broken rice to take account of the quantities corresponding to the period from 1 September 2005 to 31 December 2005.

(7) Regulations (EC) Nos 327/98 and 1549/2004 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 327/98 is hereby amended as follows:

1. Article 1 is replaced by the following:

'*Article 1*

1. Annual global tariff quotas, broken down by country of origin and by tranche in accordance with Annex IX, shall be opened on 1 January each year as follows:

(a) 63 000 tonnes of wholly milled or semi-milled rice falling within CN code 1006 30 at zero duty;

[1] OJ L 270, 21.10.2003, p. 96.
[2] Not yet published in the Official Journal (COM(2005) 601).
[3] OJ L 37, 11.2.1998, p. 5. Regulation as last amended by Commission Regulation (EC) No 1950/2005 (OJ L 312, 29.11.2005, p. 18).
[4] OJ L 280, 31.8.2004, p. 13. Regulation as amended by Regulation (EC) No 1006/2005 (OJ L 170, 1.7.2005, p. 26).

(b) 20 000 tonnes of husked rice falling within CN code 1006 20 at a duty of EUR 88 per tonne;

(c) 100 000 tonnes of broken rice falling within CN code 1006 40 00 with a 30,77 % reduction in the duty fixed in Article 1d of Commission Regulation (EC) No 1549/2004 (*);

(d) 13 500 tonnes of wholly milled or semi-milled rice falling within CN code 1006 30 at zero duty.

2. For 2006, the quotas referred to in paragraph 1 and the tranches relating thereto shall be as set out in Annex X.

(*) OJ L 280, 31.8.2004, p. 13.';

2. Article 2 is amended as follows:

(a) paragraphs 1, 2 and 2a are deleted;

(b) in the second subparagraph of paragraph 3 'paragraph 1(c)' is replaced by 'Article 1(1)(c) and (d)';

3. Article 3 is amended as follows:

(a) in the first subparagraph 'Article 2' is replaced by 'Article 1(1)(a), (b) and (c)';

(b) in the third subparagraph 'Article 2' is replaced by 'Articles 1 and 2';

4. Article 4 is amended as follows:

(a) in the first indent of paragraph 2 'Article (a)' is replaced by 'Article 1(1)(a) and (d)';

(b) in paragraph 4, the following point (d) is added:

'(d) in the case of the quota referred to in Article 1(1)(d), one of the entries listed in Annex VIII.';

5. in Article 5(1), the first subparagraph is replaced by the following:

'Within two working days of the closing date for the submission of licence applications, the Member States shall notify the Commission, by e-mail and in accordance with the Annex III to this Regulation, of the quantities covered by import licence applications, broken down by eight-digit CN code and quota serial number, specifying the country of origin; the number of the licence applied for and the name and address of the applicant. Where the export licence is requested, the number of that licence shall also be indicated.';

6. the introductory sentence of the first paragraph of Article 8 is replaced by the following:

'The competent bodies shall notify the Commission, by e-mail and in accordance with Annex III, as follows:';

7. Annex III is replaced by Annex I to this Regulation;

8. Annex V is replaced by Annex II to this Regulation;

9. Annex VII is replaced by Annex III to this Regulation;

10. Annex IV to this Regulation is added as Annexes VIII, IX and X.

Article 2

Regulation (EC) No 1549/2004 is hereby amended as follows:

1. in Article 1a 'husked rice' is replaced by 'husked rice, semi-milled rice and wholly milled rice';

2. Article 1b is replaced by the following:

'*Article 1b*

1. Notwithstanding Article 11(2) of Regulation (EC) No 1785/2003, the import duty for semi-milled or wholly milled rice falling within CN code 1006 30 shall be fixed by the Commission within 10 days after the end of the reference period concerned at:

(a) EUR 175 per tonne in the following cases:

— where it is noted that imports of semi-milled and wholly milled rice during the marketing year just ended exceed 387 743 tonnes,

— where it is noted that imports of semi-milled and wholly milled rice during the first six months of the marketing year exceed 182 239 tonnes;

(b) EUR 145 per tonne in the following cases:

— where it is noted that imports of semi-milled and wholly milled rice during the marketing year just ended do not exceed 387 743 tonnes,

— where it is noted that imports of semi-milled and wholly milled rice during the first six months of the marketing year do not exceed 182 239 tonnes.

The Commission shall fix a new applicable duty only if the calculations performed under this paragraph indicate a need to change it. Until such time as a new applicable rate is fixed, the duty previously fixed shall apply.

2. When calculating imports as referred to in paragraph 1, account shall be taken of the quantities for which import licences for semi-milled or wholly milled rice falling within CN code 1006 30 were issued under the first subparagraph of Article 10(1) of Regulation (EC) No 1785/2003 during the corresponding reference period.';

3. the following Article 1d is inserted:

'Article 1d

Notwithstanding Article 11(1) of Regulation (EC) No 1785/2003, the import duty for broken rice falling within CN code 1006 40 00 shall be EUR 65 per tonne.'

Article 3

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

Article 1 shall apply from 1 January 2006.

Article 2(2) and (3) shall apply from 1 September 2005. However, the first fixing of duties under Article 1b of Regulation (EC) No 1549/2004, as amended by Article 2(2) of this Regulation, shall be undertaken within three days of the publication of this Regulation.

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX I

'ANNEX III

RICE — Regulation (EC) No 327/98

Import licence application (1)

Issue of import licence (1)

Release into free circulation (1)

Addressee: DG AGRI/D/-2

E-mail address: AGRI-IMP-TRQ-RICE-CER@cec.eu.int

Consignor:

Date	Export licence No	Import licence No	Quota number	CN code	Quantity (tonnes)	Country of origin	Name and address of applicant/holder	Packaging ≤ 5 kg (2)

(1) Delete where not applicable.
(2) Complete only if affirmative.'

ANNEX II

'ANNEX V

Entries referred to in Article 4(4)(a)

— *In Spanish:* Exención del derecho de aduana hasta la cantidad indicada en las casillas 17 y 18 del presente certificado [Reglamento (CE) nº 327/98, artículo 1, apartado 1, letra a)]

— *In Czech:* Osvobození od cla až do množství uvedeného v kolonkách 17 a 18 této licence (nařízení (ES) č. 327/98, čl. 1 odst. 1 písm. a))

— *In Danish:* Toldfri op til den mængde, der er angivet i rubrik 17 og 18 i denne licens (forordning (EF) nr. 327/98, artikel 1, stk. 1, litra a))

— *In German:* Zollfrei bis zu der in den Feldern 17 und 18 dieser Lizenz angegebenen Menge (Verordnung (EG) Nr. 327/98, Artikel 1 Absatz 1 Buchstabe a)

— *In Estonian:* Tollimaksuvabastus kuni käeoleva litsentsi lahtrites 17 ja 18 näidatud koguseni (määruse (EÜ) nr 327/98 artikli 1 lõike 1 punkt a)

— *In Greek:* Απαλλαγή από τον τελωνειακό δασμό έως την ποσότητα που αναγράφεται στα τετραγωνίδια 17 και 18 του παρόντος πιστοποιητικού [κανονισμός (ΕΚ) αριθ. 327/98 άρθρο 1 παράγραφος 1 στοιχείο α)]

— *In English:* Exemption from customs duty up to the quantity indicated in boxes 17 and 18 of this licence (Regulation (EC) No 327/98, Article 1(1)(a))

— *In French:* Exemption du droit de douane jusqu'à la quantité indiquée dans les cases 17 et 18 du présent certificat [règlement (CE) nº 327/98, article 1er, paragraphe 1, point a)]

— *In Italian:* Esenzione dal dazio doganale fino a concorrenza del quantitativo indicato nelle caselle 17 e 18 del presente titolo [regolamento (CE) n. 327/98, articolo 1, paragrafo 1, lettera a)]

— *In Latvian:* Atbrīvojumi no muitas nodokļa līdz šīs atļaujas 17. un 18. ailē norādītajam daudzumam (Regulas (EK) Nr. 327/98 1. panta 1. punkta a) apakšpunkts)

— *In Lithuanian:* Atleidimas nuo muito mokesčio neviršijant šios licencijos 17 ir 18 langeliuose nurodyto kiekio (Reglamento (EB) Nr. 327/98 1 straipsnio 1 dalies a punktas)

— *In Hungarian:* Vámmentes az ezen engedély 17. és 18. rovatában feltüntetett mennyiségig (327/98/EK rendelet 1. cikk (1) bekezdés a) pont)

— *In Maltese:* Eżenzjoni tad-dazju tad-dwana sal-kwantità indikata fil-każi 17 u 18 taċ-ċertifikat preżenti (Regolament (KE) Nru 327/98, Artikolu 1, paragrafu 1, punt a))

— *In Dutch:* Vrijstelling van douanerecht voor hoeveelheden die niet groter zijn dan de in de vakken 17 en 18 van dit certificaat vermelde hoeveelheid (Verordening (EG) nr. 327/98, artikel 1, lid 1, onder a))

— *In Polish:* Zwolnienie z cła ilości do wysokości wskazanej w sekcjach 17 i 18 niniejszego pozwolenia (rozporządzenie (WE) nr 327/98, art. 1 ust. 1 lit. a))

— *In Portuguese:* Isenção do direito aduaneiro até à quantidade indicada nas casas 17 e 18 do presente certificado [Regulamento (CE) n.º 327/98, alínea a) do n.º 1 do artigo 1.º]

— *In Slovak:* Oslobodenie od cla až po množstvo uvedené v kolónkach 17 a 18 tejto licencie [článok 1 ods. 1 písm. a) nariadenia (ES) č. 327/98]

— *In Slovene:* Oprostitev uvozne dajatve do količine, navedene v poljih 17 in 18 tega dovoljenja (Uredba (ES) št. 327/98, člen 1(1)(a))

— *In Finnish:* Tullivapaa tämän todistuksen 17 ja 18 artiklassa ilmoitettuun määrään asti (asetuksen (EY) N:o 327/98 1 artiklan 1 kohdan a alakohta)

— *In Swedish:* Tullfri upp till den mängd som anges i fälten 17 och 18 i denna licens (Förordning (EG) nr 327/98, artikel 1.1 a)'

ANNEX III

'ANNEX VII

Entries referred to in Article 4(4)(c)

— *In Spanish:* Derecho reducido un 30,77 % con respecto al derecho fijado en la nomenclatura combinada hasta la cantidad indicada en las casillas 17 y 18 del presente certificado [Reglamento (CE) nº 327/98]

— *In Czech:* Snížení cla o 30,77 % cla stanoveného v kombinované nomenklatuře až do množství stanoveného v kolonkách 17 a 18 této licence (nařízení (ES) č. 327/98)

— *In Danish:* Nedsættelse på 30,77 % af tolden i den kombinerede nomenklatur op til den mængde, der er angivet i rubrik 17 og 18 i denne licens (forordning (EF) nr. 327/98)

— *In German:* Zollsatz, um 30,77 % des in der Kombinierten Nomenklatur festgesetzten Zollsatzes bis zu der in den Feldern 17 und 18 dieser Lizenz angegebenen Menge ermäßigt (Verordnung (EG) Nr. 327/98)

— *In Estonian:* Kombineeritud nomenklatuuris sätestatud tollimaksust 30,77 % võrra madalam tollimaks kuni käesoleva litsentsi lahtrites 17 ja 18 näidatud koguseni (määrus (EÜ) nr 327/98)

— *In Greek:* Δασμός μειωμένος κατά 30,77 % του δασμού που καθορίζεται στη συνδυασμένη ονοματολογία έως την ποσότητα που αναγράφεται στα τετραγωνίδια 17 και 18 του παρόντος πιστοποιητικού [κανονισμός (ΕΚ) αριθ. 327/98]

— *In English:* Duty fixed in the Combined Nomenclature reduced by 30,77 % up to the quantity indicated in boxes 17 and 18 of this licence (Regulation (EC) No 327/98)

— *In French:* Droit réduit de 30,77 % du droit fixé dans la nomenclature combinée jusqu'à la quantité indiquée dans les cases 17 et 18 du présent certificat [règlement (CE) nº 327/98]

— *In Italian:* Dazio ridotto in ragione del 30,77 % del dazio fissato nella nomenclatura combinata fino a concorrenza del quantitativo indicato nelle caselle 17 e 18 del presente titolo [regolamento (CE) n. 327/98]

— *In Latvian:* Muitas nodoklis samazināts par 30,77 %, salīdzinot ar nodokli, kas noteikts kombinētajā nomenklatūrā, līdz šīs atļaujas 17. un 18. ailē norādītajam daudzumam (Regula (EK) Nr. 327/98)

— *In Lithuanian:* Muito mokestis, 30,77 % mažesnis už Kombinuotoje nomenklatūroje nustatytą, neviršijant šios licencijos 17 ir 18 langeliuose nurodyto kiekio (Reglamentas (EB) Nr. 327/98)

— *In Hungarian:* A kombinált nómenklatúrában meghatározottnál 30,77 %-kal csökkentett vámtétel az ezen engedély 17. és 18. rovatában feltüntetett mennyiségig (327/98/EK rendelet)

— *In Maltese:* Dazju imnaqqas ta' 30,77 % tad-dazju ffissat fin-nomenklatura magħquda sal-kwantità indikata fil-każi 17 u 18 ta-ċertifikat preżenti (Regolament (KE) Nru 327/98)

— *In Dutch:* Verlaging met 30,77 % van het in de GN vastgestelde recht voor hoeveelheden die niet groter zijn dan de in de vakken 17 en 18 van dit certificaat vermelde hoeveelheid (Verordening (EG) nr. 327/98)

— *In Polish:* Stawka celna obniżona o 30,77 % wobec ustalonej w nomenklaturze scalonej do wysokości wskazanej w sekcjach 17 i 18 niniejszego pozwolenia na przywóz (rozporządzenie (WE) nr 327/98)

— *In Portuguese:* Direito reduzido de 30,77 % do direito fixado na Nomenclatura Combinada até à quantidade indicada nas casas 17 e 18 do presente certificado [Regulamento (CE) n.º 327/98]

— *In Slovak:* Clo znížené o 30,77 % z cla stanoveného v kombinovanej nomenklatúre až po množstvo uvedené v kolónkach 17 a 18 tejto licencie [nariadenie (ES) č. 327/98]

— *In Slovene:* Znižanje uvozne dajatve za 30,77 % dajatve, določene v kombinirani nomenklaturi, do količine, navedene v poljih 17 in 18 tega dovoljenja (Uredba (ES) št. 327/98)

— *In Finnish:* Yhdistetyssä nimikkeistössä vahvistetun tullin alennus 30,77 prosentilla tämän todistuksen 17 ja 18 kohdassa ilmoitettuun määrään asti (asetus (EY) N:o 327/98)

— *In Swedish:* Nedsättning med 30,77 % av den tull som fastställs i Kombinerade nomenklaturen upp till den mängd som anges i fälten 17 och 18 i denna licens (förordning (EG) nr 327/98)'

ANNEX IV

'ANNEX VIII

Entries referred to in Article 4(4)(d)

— *In Spanish:* Exención del derecho de aduana hasta la cantidad indicada en las casillas 17 y 18 del presente certificado [Reglamento (CE) nº 327/98, artículo 1, apartado 1, letra d)]

— *In Czech:* Osvobození od cla až do množství stanoveného v kolonkách 17 a 18 této licence (nařízení (ES) č. 327/98, čl. 1 odst. 1 písm. d))

— *In Danish:* Toldfri op til den mængde, der er angivet i rubrik 17 og 18 i denne licens (forordning (EF) nr. 327/98, artikel 1, stk. 1, litra d))

— *In German:* Zollfrei bis zu der in den Feldern 17 und 18 dieser Lizenz angegebenen Menge (Verordnung (EG) Nr. 327/98, Artikel 1 Absatz 1 Buchstabe d)

— *In Estonian:* Tollimaksuvabastus kuni käesoleva litsentsi lahtrites 17 ja 18 näidatud koguseni (määruse (EÜ) nr 327/98 artikli 1 lõike 1 punkt d)

— *In Greek:* Απαλλαγή από τον τελωνειακό δασμό έως την ποσότητα που αναγράφεται στα τετραγωνίδια 17 και 18 του παρόντος πιστοποιητικού [κανονισμός (ΕΚ) αριθ. 327/98 άρθρο 1 παράγραφος 1 στοιχείο δ)]

— *In English:* Exemption from customs duty up to the quantity indicated in boxes 17 and 18 of this licence (Regulation (EC) No 327/98, Article 1(1)(d))

— *In French:* Exemption du droit de douane jusqu'à la quantité indiquée dans les cases 17 et 18 du présent certificat [règlement (CE) nº 327/98, article 1er, paragraphe 1, point d)]

— *In Italian:* Esenzione dal dazio doganale fino a concorrenza del quantitativo indicato nelle caselle 17 e 18 del presente titolo [regolamento (CE) n. 327/98, articolo 1, paragrafo 1, lettera d)]

— *In Latvian:* Atbrīvojumi no muitas nodokļa līdz šīs atļaujas 17. un 18. ailē norādītajam daudzumam (Regulas (EK) Nr. 327/98 1. panta 1. punkta d) apakšpunkts)

— *In Lithuanian:* Atleidimas nuo muito mokesčio neviršijant šios licencijos 17 ir 18 langeliuose nurodyto kiekio (Reglamento (EB) Nr. 327/98 1 straipsnio 1 dalies d punktas)

— *In Hungarian:* Vámmentes az ezen engedély 17. és 18. rovatában feltüntetett mennyiségig (327/98/EK rendelet 1. cikk (1) bekezdés d) pont)

— *In Maltese:* Eżenzjoni tad-dazju tad-dwana sal-kwantità indikata fil-każi 17 u 18 taċ-ċertifikat preżenti [Regolament (KE) Nru 327/98, Artikolu 1, paragrafu 1, punt d)]

— *In Dutch:* Vrijstelling van douanerecht voor hoeveelheden die niet groter zijn dan de in de vakken 17 en 18 van dit certificaat vermelde hoeveelheid (Verordening (EG) nr. 327/98, artikel 1, lid 1, onder d))

— *In Polish:* Zwolnienie z cła ilości do wysokości wskazanej w sekcjach 17 i 18 niniejszego pozwolenia (rozporządzenie (WE) nr 327/98, art. 1 ust. 1 lit. d))

— *In Portuguese:* Isenção do direito aduaneiro até à quantidade indicada nas casas 17 e 18 do presente certificado [Regulamento (CE) n.º 327/98, alínea d) do n.º 1 do artigo 1.º]

— *In Slovak:* Oslobodenie od cla až po množstvo uvedené v kolónkach 17 a 18 tejto licencie [článok 1 ods. 1 písm. d) nariadenia (ES) č. 327/98]

— *In Slovene:* Oprostitev uvozne dajatve do količine, navedene v poljih 17 in 18 tega dovoljenja (Uredba (ES) št. 327/98, člen 1(1)(d))

— *In Finnish:* Tullivapaa tämän todistuksen 17 ja 18 artiklassa ilmoitettuun määrään asti (asetuksen (EY) N:o 327/98 1 artiklan 1 kohdan d alakohta)

— *In Swedish:* Tullfri upp till den mängd som anges i fälten 17 och 18 i denna licens (Förordning (EG) nr 327/98, artikel 1.1 d)

ANNEX IX

Quotas and tranches from 2007

(a) Quota of 63 000 tonnes of wholly milled or semi-milled rice provided for in Article 1(1)(a):

Country of origin	Quantity in tonnes	Number	Tranches (quantities in tonnes)				
			January	April	July	September	October
United States of America	38 721	09.4127	9 681	19 360	9 680	—	
Thailand	21 455	09.4128	10 727	5 364	5 364	—	
Australia	1 019	09.4129	—	1 019	—	—	
Other origins	1 805	09.4130	—	1 805	—	—	
All countries		09.4138					(1)
Total	63 000		20 408	27 548	15 044	—	

(1) Balance of unused quantities from previous tranches, published by Commission Regulation.

(b) Quota of 20 000 tonnes of husked rice provided for in Article 1(1)(b):

Country of origin	Quantity in tonnes	Number	Tranches (quantities in tonnes)				
			January	April	July	September	October
Australia	10 429	09.4139	2 608	5 214	2 607	—	
United States of America	7 642	09.4140	1 911	3 821	1 910	—	
Thailand	1 812	09.4144	—	1 812	—	—	
Other origins	117	09.4145	—	117	—	—	
All countries		09.4148					(1)
Total	20 000		4 519	10 964	4 517	—	

(1) Balance of unused quantities from previous tranches, published by Commission Regulation.

(c) Quota of 100 000 tonnes of broken rice provided for in Article 1(1)(c):

Country of origin	Quantity in tonnes	Number	Tranches (quantities in tonnes)	
			January	July
Thailand	52 000	09.4149	36 400	15 600
Australia	16 000	09.4150	8 000	8 000
Guyana	11 000	09.4152	5 500	5 500
United States of America	9 000	09.4153	4 500	4 500
Other origins	12 000	09.4154	6 000	6 000
Total	100 000		60 400	39 600

(d) Quota of 13 500 tonnes of wholly milled or semi-milled rice provided for in Article 1(1)(d):

Country of origin	Quantity in tonnes	Number	Tranches (quantities in tonnes)	
			January	July
Thailand	4 313	09.4112	4 313	—
United States of America	2 388	09.4116	2 388	—
India	1 769	09.4117	1 769	—
Pakistan	1 596	09.4118	1 595	—
Other origins	3 435	09.4119	3 435	—
Total	13 500		13 500	—

ANNEX X

Quotas and tranches for 2006

(a) Quota of 63 000 tonnes of wholly milled or semi-milled rice provided for in Article 1(1)(a):

Country of origin	Quantity in tonnes	Number	Tranches (quantities in tonnes)				
			January	April	July	September	October
United States of America	38 721	09.4127	9 681	19 360	9 680	—	
Thailand	21 455	09.4128	10 727	5 364	5 364	—	
Australia	1 019	09.4129	—	1 019	—	—	
Other origins	1 805	09.4130	—	1 805	—	—	
All countries		09.4138					(1)
Total	63 000		20 408	27 548	15 044	—	

(1) Balance of unused quantities from previous tranches, published by Commission Regulation.

(b) Quota of 20 000 tonnes of husked rice provided for in Article 1(1)(b):

Country of origin	Quantity in tonnes	Number	Tranches (quantities in tonnes)				
			January	April	July	September	October
Australia	10 429	09.4139	2 608	5 214	2 607	—	
United States of America	7 642	09.4140	1 911	3 821	1 910	—	
Thailand	1 812	09.4144	—	1 812	—	—	
Other origins	117	09.4145	—	117	—	—	
All countries		09.4148					(1)
Total	20 000		4 519	10 964	4 517	—	

(1) Balance of unused quantities from previous tranches, published by Commission Regulation.

(c) Quota of 106 667 tonnes of broken rice provided for in Article 1(1(c):

Country of origin	Quantity in tonnes	Number	Tranches (quantities in tonnes)	
			January	July
Thailand	55 467	09.4149	38 827	16 640
Australia	17 067	09.4150	8 533	8 534
Guyana	11 733	09.4152	5 866	5 867
United States of America	9 600	09.4153	4 800	4 800
Other origins	12 800	09.4154	6 400	6 400
Total	106 667		64 426	42 241

(d) Quota of 18 000 tonnes of wholly milled or semi-milled rice provided for in Article 1(1)(d):

Country of origin	Quantity in tonnes	Number	Tranches (quantities in tonnes)	
			January	July
Thailand	5 750	09.4112	5 750	—
United States of America	3 184	09.4116	3 184	—
India	2 358	09.4117	2 358	—
Pakistan	2 128	09.4118	2 128	—
Other origins	4 580	09.4119	4 580	—
Total	18 000		18 000	—’

COMMISSION REGULATION (EC) No 2153/2005

of 23 December 2005

on the aid scheme for the private storage of olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 865/2004 of 29 April 2004 on the common organisation of the market in olive oil and table olives and amending Regulation (EEC) No 827/68 [1], and in particular Article 6(3) thereof,

Whereas:

(1) Article 6 of Regulation (EC) No 865/2004 provides that an aid scheme for the private storage of olive oil may be implemented in the event of serious disturbance on the market in certain regions of the Community.

(2) In order to implement the aid scheme quickly as and when required, detailed rules for the application of that Regulation must be laid down. The aid scheme for private storage must be based on contracts with operators offering sufficient securities and authorised by the Member States on the basis of certain set conditions.

(3) For the scheme to have greater effect on the market at the level of producers and to make monitoring easier, the aid should be granted primarily for the bulk storage of virgin olive oil.

(4) Information should be available on changes in prices and in the production of olive oil. This information is needed to monitor the olive oil market on a permanent basis, in order to assess whether the conditions indicating a severe market disturbance pertain or not.

(5) To reflect the market situation as closely as possible, the aid amount must be established for those market sectors that need it. The oil categories are those listed in Part I of Annex I to Regulation (EC) No 865/2004.

(6) The information that must appear in tenders and the conditions in which they are to be presented and examined must be specified, with a view to having complete and thorough information for each tender.

(7) Invitations to tender should be opened in accordance with certain procedures, particularly as regards the time limits for lodging tenders and the minimum quantity of each tender lodged. In particular, if they are to have an effect on the market situation, tenders must be submitted for a long storage period and in respect of a minimum quantity in relation to the situation in the sector.

(8) Performance of the tender should be guaranteed by lodging a security under the conditions laid down in Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products [2], the amount and duration of which must be related to the likelihood of fluctuations in prices on the market and the number of days' storage conferring entitlement to the aid which have actually been completed.

(9) To be successful, tenders should not exceed a maximum amount of aid per day of storage, to be determined in relation to the market in olive oil. The tenders must be representative and the maximum quantities laid down under the procedure must be complied with for each category or region specified.

(10) The main points to be included in the contract should be specified. In order to prevent disturbances on the market, the Commission must be able to adjust the term of the contract in the light mainly of the harvest forecasts for the marketing year following that in which the contract was concluded.

(11) In order to ensure that the scheme is properly administered, it is necessary to indicate the conditions in which an advance on aid may be granted, the checks on compliance with entitlement to the aid which are essential, certain procedures for calculating the aid and the information to be notified to the Commission by the Member States.

[1] OJ L 161, 30.4.2004, p. 97, corrected by OJ L 206, 9.6.2004, p. 37.

[2] OJ L 205, 3.8.1985, p. 5. Regulation as last amended by Regulation (EC) No 673/2004 (OJ L 105, 14.4.2004, p. 17).

(12) With a view to clarity and transparency, Commission Regulation (EC) No 2768/98 of 21 December 1998 on the aid scheme for the private storage of olive oil [1] should be repealed and replaced by a new Regulation.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Olive Oil and Table Olives,

HAS ADOPTED THIS REGULATION:

Article 1

1. The competent bodies in producer Member States shall conclude contracts for the private storage of virgin olive oil in bulk on the conditions laid down in this Regulation.

2. In order to determine the aid to be granted for carrying out contracts for the private storage of virgin olive oil in bulk, the Commission may, in accordance with the procedure laid down in Article 18(2) of Regulation (EC) No 865/2004, open invitations to tender for a limited period. During a limited-period tendering procedure, partial invitations to tender shall be opened.

Article 2

1. An invitation to tender for a limited period may be opened where the following conditions are met:

(a) there are serious disturbances on the market in certain regions of the Community which may be reduced or resolved by measures for the private storage of virgin olive oil in bulk;

(b) the average price for one or more of the following products recorded on the market during a period of not less than two weeks is less than:

— EUR 1 779/tonne for extra virgin olive oil,

— EUR 1 710/tonne for virgin olive oil,

— EUR 1 524/tonne for lampante olive oil having two degrees of free acidity, this amount being reduced by EUR 36,70/tonne for each additional degree of acidity.

2. Invitations to tender for a limited period shall specify the maximum quantity for the whole tendering procedure and may specify maximum quantities for each:

— category of virgin olive oil as referred to in the Part I of Annex I to Regulation (EC) No 865/2004,

— Community region or Member State.

Invitations to tender for a limited period may be restricted to just some of the virgin olive oil categories or regions referred to in the first subparagraph.

Invitations to tender for a limited period may be closed before the end of the period in accordance with the procedure laid down in Article 18(2) of Regulation (EC) No 865/2004.

Article 3

Only olive oil operators approved to that end by the competent body in the Member State concerned may submit tenders in respect of partial invitations to tender.

Member States shall lay down the criteria and procedures for approving these operators, who shall fall into one of the following categories:

(a) an olive-oil producers' organisation comprising at least 700 olive growers where it acts as an organisation for the production and marketing of olives and olive oil;

(b) a producer organisation representing at least 25 % of olive growers or of the olive oil production in the region in which it is situated;

(c) an association of producer organisations from various economic areas and made up of at least 10 producer organisations as referred to in (a) and (b) above or a number of organisations representing at least 5 % of the olive oil production of the Member State concerned;

(d) a mill whose facilities can extract at least two tonnes of oil in an eight-hour working day and which has produced in the two preceding marketing years at total of at least 500 tonnes of virgin olive oil;

[1] OJ L 346, 22.12.1998, p. 14. Regulation as last amended by Regulation (EC) No 1432/2004 (OJ L 264, 11.8.2004, p. 6).

(e) a packaging firm with a capacity, in the territory of a single Member State, equal at least to six tonnes of oil put up per eight-hour working day, and which has put up over the two preceding marketing years a total of at least 500 tonnes of olive oil.

Should one or more of the organisations producing or marketing olives and olive oil be a member or members of the organisation referred to in point (a) of the second subparagraph, the olive growers involved in such a grouping shall be individually considered when calculating the minimum number of 700 growers.

Article 4

For the purposes of the approval referred to in Article 3, operators shall give an undertaking to:

(a) accept the sealing, by the competent body in the Member State, of the vats containing the olive oil covered by a storage contract;

(b) keep stock records of the oil and, where appropriate, the olives they are storing;

(c) undergo all checks provided for under this aid scheme for private storage contracts.

The operators concerned shall make a declaration of the capacity of their storage facilities, provide a plan of those facilities and supply evidence of compliance with the conditions in Article 3.

Article 5

1. Operators meeting the conditions in Articles 3 and 4 shall be approved and given an approval number within two months following the month in which the complete file containing the application for approval is submitted.

2. Without prejudice to Article 17(3):

(a) producer organisations in the olive oil sector, unions thereof and the mills and packaging enterprises that have been authorised by the Member States to undertake private storage in the 1998/99 to 2004/05 marketing years shall be deemed to be approved under this Regulation if they meet the criteria laid down in Articles 3 and 4;

(b) approval shall be refused or withdrawn immediately from an operator where that operator:

(i) does not meet the conditions for approval;

(ii) is subject to proceedings by the competent authorities for infringements of Regulation (EC) No 865/2004;

(iii) has been penalised for infringing the production aid scheme provided for in Council Regulation No 136/66/EEC [1] in the 2002/03, 2003/04 and 2004/05 marketing years;

(iv) has been penalised for infringing the scheme to fund the activities of oil operators' organisations provided for in Council Regulation (EC) No 1638/98 [2] in the 2002/03, 2003/04 and 2004/05 marketing years.

Article 6

1. No later than every Wednesday, Member States shall send the Commission the average prices recorded on their main representative markets the preceding week for the various categories of oil listed in Annex I to Regulation (EC) No 865/2004.

These prices shall be notified by e-mail, along with comments on the volume of transactions and how representative they are.

2. Before the 10th day of each month the Member States shall send the Commission an estimate of the total production of olive oil and table olives for the current marketing year.

3. From September to May of each marketing year, Member States shall send the Commission, no later than the 15th day of each month, an estimate of the olive oil and table olives produced since the start of the marketing year in question.

To obtain these data, the Member States may use various sources of information, including the data supplied by the mills and enterprises engaging in the processing of table olives, surveys of operators in the olive sector or the estimates of statistical bodies.

[1] OJ 172, 30.9.1966, p. 3025/66.
[2] OJ L 210, 28.7.1998, p. 32.

Member States shall notify the Commission, before the end of the marketing year concerned, of the total estimated volume of olive oil and quantity of table olives produced.

4. Member States shall establish the data-collection system they deem to be most appropriate for obtaining and preparing the notifications referred to in paragraphs 2 and 3 and they shall specify, as appropriate, the data-communication obligations of the olive-sector operators concerned.

5. The estimates of olive-oil and table-olive production referred to in paragraphs 2 and 3 shall be sent by e-mail on the form provided by the Commission.

6. The Commission may use other sources of information.

Article 7

The deadlines for the submission of tenders in respect of partial tendering procedures shall be as follows:

(a) for November, January, February, March, April, May, June, July, September and October, from the 4th to the 8th day at midday and from the 18th to the 22nd at midday;

(b) for August, from the 18th to the 23rd at midday;

(c) for December, from the 9th to the 14th at midday.

The time of the deadline shall be local Belgian time. Where the day on which the deadline expires in a Member State is a holiday for the body responsible for receiving the tenders, the deadline shall expire at midday on the preceding working day.

Article 8

1. Without prejudice to Article 15, tenders for a minimum quantity of 50 tonnes shall be made in respect of the amount of aid per day, for the private storage for 365 days in sealed vats and in accordance with the conditions laid down in this Regulation of virgin olive oil in bulk in one of the three categories listed in Part I of Annex I to Regulation (EC) No 865/2004.

2. Approved operators shall take part in the partial tendering procedure either by submitting a written tender to the competent body in a Member State, against receipt of delivery, or by e-mailing that body.

Where an operator takes part in a partial tendering procedure for more than one category of oil or for vats located at different addresses, he shall submit a separate tender in each case.

A tender shall be valid only for a single partial tendering procedure. Once submitted, tenders may not be withdrawn or altered after the closing date for submission of tenders.

Article 9

1. The tenders referred to in Article 8 shall specify:

(a) a reference to this Regulation and to the partial tendering procedure to which the tender refers;

(b) the name and address of the tenderer;

(c) the category of approved operator, referred to in Article 3(1), and the approval number;

(d) the quantity and category of olive oil(s) covered by the tender;

(e) the exact address of the place where the storage vats are located and the information needed to identify the vats to which the tenders refer;

(f) the amount of aid per day of private storage per tonne of olive oil, expressed in euro to two decimal places;

(g) the amount of the security to be established in accordance with Article 10 expressed in the currency of the Member State in which the tender is made.

2. To ensure that their validity is recognised, tenders must:

(a) be drawn up, together with the relevant documents, in the official language or one of the official languages of the Member State of the competent body which receives them;

(b) be submitted in accordance with this Regulation and contain all the particulars listed in paragraph 1;

(c) not contain conditions other than those provided for in this Regulation;

(d) be made by an operator approved by the Member State in which they are received, and concern storage vats located in that Member State;

(e) be accompanied, prior to the deadline for the submission of tenders, by proof that the tenderer has established the security specified in them.

Article 10

1. Tenderers shall establish a security of EUR 50 per tonne of olive oil covered by a tender.

2. Where tenders are unsuccessful, the security referred to in paragraph 1 shall be released forthwith following publication in the *Official Journal of the European Union* of the maximum amount of the aid for the partial tendering procedure concerned.

3. Where tenders are successful, in addition to the security referred to in paragraph 1, a security of EUR 200 per tonne of olive oil covered by the tender shall be established no later than the first day of performance of the contract as referred to in the second subparagraph of Article 13(3).

4. The primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85 for the release of the securities referred to in paragraphs 1 and 3 shall be the storage for six months provided for in the tender under the contract conditions laid down in this Regulation.

However, where the duration of the contract is reduced to less than six months pursuant to Article 15, the storage period referred to in the first subparagraph shall be the same as the period of performance of the contract.

Article 11

1. Tenders shall be examined by the competent body in the Member State concerned in the absence of members of the public. Subject to paragraph 2, persons present at the examination shall be under an obligation not to disclose any particulars relating thereto.

2. Valid tenders shall be notified to the Commission, classified in increasing order of amount, unnamed, by e-mail, not later than 48 hours following the expiry of the deadline for the submission of tenders.

If the deadline expires on a Friday tenders shall be notified no later than midday (Brussels time) the following Monday.

3. Particulars shall be given for each tender notified of the quantity, category of oil and amount referred to in Article 9(1)(d) and (f). In addition, where the procedure sets maximum quantities for each region, the regions concerned shall be indicated for each tender.

Article 12

1. In accordance with the procedure laid down in Article 18(2) of Regulation (EC) No 865/2004 and on the basis of the tenders received, a maximum amount of aid shall be set per day of private storage not later than the ninth working day following the expiry of each deadline set for the submission of tenders under partial tendering procedures.

2. The maximum amount of aid shall be set in the light of the situation and foreseeable developments on the market in olive oil, and the opportunities for contributing significantly to ensuring that the market is regulated by the measure concerned.

In addition, account shall be taken of quantities which are covered already by private storage contracts and of the quantities covered by the tenders received.

3. When the maximum amount is being set, and in accordance with the same procedure, all tenders in respect of a category of oil or a region for which a maximum quantity has been set under Article 2(2) may be rejected where, in the case of the category or region in question:

— the tenders are not representative, or

— the maximum amount set could result in an overrun of the maximum quantity concerned.

Article 13

1. The contract shall be awarded, without prejudice to Article 12(3), to the tenderer or tenderers whose tender has been notified in accordance with Article 11(2), and which corresponds to the maximum amount of aid per day of private storage, or less for the quantity shown in the tender.

The rights and obligations of the successful tenderer shall not be transferable.

2. The competent body in the Member State concerned shall notify all tenderers in writing of the outcome of their participation in the tendering procedure not later than the second working day following the date of publication of the maximum amount of the aid in the *Official Journal of the European Union*.

3. The date of conclusion of the contract shall be that on which the notice of acceptance of the tender is dispatched to the tenderer.

The starting date of performance of the contract, subject to the lodging of the security referred to in Article 10(3), shall be the day following the conclusion of the contract, and the oil in question must be stored in the conditions provided for in the contract.

However, performance of the contract may not begin until the vats are sealed after the taking of samples, in accordance with paragraph 4(c) and (d) below.

4. Within 30 days of the conclusion of the contract, the competent body in the Member State shall:

(a) identify the vats containing the olive oil concerned;

(b) record the net weight of the oil;

(c) take a sample representative of the tender;

(d) seal each vat.

Where the Member State can offer duly justified reasons, the 30-day time limit laid down in the first subparagraph may be extended by 15 days.

5. The sample referred to in paragraph 4(c) shall be analysed as quickly as possible to ensure that the oil corresponds to the category of virgin olive oils for which the contract was awarded.

If the analysis confirms that the oil in the vat does not correspond to the category for which the contract was awarded, the entire quantity covered by the tender shall be rejected and the security referred to in Article 10(1) shall be forfeit.

Article 14

1. The contract drawn up in two copies shall contain at least the following:

(a) the name and address of the competent body in the Member State;

(b) the full postal address, and the approval number and category of the contractor, as referred to in Article 3;

(c) the exact storage address and the location of the vats concerned;

(d) the date of conclusion of the contract;

(e) the starting and completion dates of performance of the contract, subject to Article 15;

(f) a reference to this Regulation and to the partial tendering procedure concerned.

2. The contract shall contain a reference in respect of each batch covered by it to:

(a) the category and net weight of the virgin olive oil;

(b) the particulars and location of the vats containing the oil.

3. The contract shall require the contractor:

(a) to keep in storage, for an agreed period, the agreed quantity of the product concerned, at his expense and risk;

(b) to store oil of different categories in separate vats, specified in the contract and sealed by the competent body in the Member State;

(c) to allow the competent body in the Member State to verify at all times compliance with the requirements of the contract.

Changes of vats referred to in (b) above must be authorised by that body, undertaken in its presence, representative samples of the vat concerned must be taken and new seals affixed in accordance with Article 13(4)(c) and (d).

4. Without prejudice to Article 15, where the contractor terminates the contract while it is being performed, the contractor shall lose the benefit of the aid for the whole of the period and for all the quantities provided for in the contract.

Article 15

1. The Commission, on the basis of developments on the market in olive oil and the outlook for the future, may decide in accordance with the procedure laid down in Article 18(2) of Regulation (EC) No 865/2004 to shorten the term of contracts which are being performed.

Changes to contracts may be adopted only during the period 1 September to 31 December, and may not take effect before the end of the month following that in which they are adopted.

2. Where a contract is changed under paragraph 1, the Commission shall set a percentage reduction to be applied to the numbers of days of performance provided for after a date specified for all contracts which are being performed on that date.

Article 16

1. From the starting date of performance of the contract as referred to in the second subparagraph of Article 13(3), an advance corresponding to the aid provided for in respect of the period starting on the starting date of performance of the contract and ending on 31 August following may be paid on condition that a security is lodged for an amount equal to 120 % of the advance.

In the case of contracts that are being performed, from 1 January a further advance may be paid for the period beginning on 1 September and ending on expiry of those contracts, under the terms specified in the first subparagraph.

2. The security referred to in paragraph 1 shall be released forthwith upon payment of the balance of the aid in accordance with Article 18(3).

Article 17

1. Before final payment of the aid is made, the competent body in the Member State shall:

(a) collect and verify proof of compliance with the conditions laid down in this Regulation;

(b) carry out the necessary checks to ensure that the olive oil in question has remained in storage during the whole of the storage period referred to in the contract;

(c) take all the measures necessary to ensure that checks are made on compliance with the requirements of the contract.

2. Checks on compliance shall include a physical inspection of the goods stored, together with scrutiny of the accounts.

The physical inspection shall cover in particular the compliance of the stocks covered by the contract with the categories of oil provided for in the contract, the presence of the seals and of the quantities provided for.

3. Where there is failure to comply with the requirements of the contract, the aid shall not be granted, and without prejudice to other penalties that may be applied, approval of the operator shall be withdrawn. In addition, the securities as referred to in Articles 10 and 16 shall be forfeit under the terms of Regulation (EEC) No 2220/85.

Article 18

1. The aid amount shall be calculated in relation to the net weight recorded in accordance with Article 13(4)(b).

The rate to be applied when converting the amount of private storage aid into national currency shall be the agricultural conversion rate applicable on the date of commencement of performance of the contract as referred to in the second subparagraph of Article 13(3).

2. The requirements relating to the quantities provided for in the tenders and contracts shall be regarded as met if they are in fact met in respect of 98 % of those quantities.

Where the analysis referred to in Article 13(5) does not suffice to confirm that the oil corresponds to the category for which the contract was awarded, the entire quantity covered by the tender shall be deemed not to be in conformity.

3. The aid, or, where an advance has been granted under Article 16, the balance of the aid, shall be paid only when all the requirements of the contract have been met. Payment of the aid, or the balance of the aid, shall be made following a check on compliance with the requirements, within 60 days following expiry of the contract.

Article 19

1. The Member States concerned shall notify the Commission of the national measures taken to apply this Regulation and of the specimen contract.

2. The Member States shall electronically notify the Commission of the quantities of olive oil for which an aid has been awarded and which, as appropriate, are not the subject of:

— a contract,

— compliance with or the performance in full of the contract.

The notices referred to in the first subparagraph shall specify the partial tendering procedure concerned and, as appropriate, the categories of oil, operators, or regions concerned. Notification shall take place at the earliest opportunity and not later than the 10th day of the month following the month concerned.

Article 20

Regulation (EC) No 2768/98 is hereby repealed.

Article 21

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 1 November 2005.

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 2154/2005

of 23 December 2005

supplementing the Annex to Regulation (EC) No 2400/96 as regards the entry of a name in the 'Register of protected designations of origin and protected geographical indications' *('Sidra de Asturias'* or *'Sidra d'Asturies')* [PDO]

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs [1], and in particular Article 6(3) and (4) thereof,

Whereas:

(1) In accordance with Article 6(2) of Regulation (EEC) No 2081/92, the request from Spain to enter the name '*Sidra de Asturias*' or '*Sidra d'Asturies*' has been published in the *Official Journal of the European Union* [2].

(2) Since the Commission has received no statement of objection pursuant to Article 7 of Regulation (EEC) No 2081/92, this name must be entered in the 'Register of protected designations of origin and protected geographical indications',

HAS ADOPTED THIS REGULATION:

Article 1

The name in the Annex to this Regulation is hereby added to the Annex to Commission Regulation (EC) No 2400/96 [3].

Article 2

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

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 208, 24.7.1992, p. 1. Regulation last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).
[2] OJ C 98, 22.4.2005, p. 3.
[3] OJ L 327, 18.12.1996, p. 11.

ANNEX

Products listed in Annex I to the Treaty, intended for human consumption

Other Annex I products (spices, etc.)

SPAIN

'Sidra de Asturias' or 'Sidra d'Asturies' (PDO)

COMMISSION REGULATION (EC) No 2155/2005

of 23 December 2005

amending the specification of a designation of origin appearing in the Annex to Regulation (EC) No 1107/96 *(Miel de sapin des Vosges)* (PDO)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs [1], and in particular Article 6(3), the second indent of Article 6(4) and the third paragraph of Article 9,

Whereas:

(1) In accordance with the first paragraph of Article 9 of Regulation (EEC) No 2081/92, France has requested the amendment of the specification for the protected designation of origin 'Miel de sapin des Vosges', registered by Commission Regulation (EC) No 1107/96 [2].

(2) The purpose of the requested amendment is to alter the method of assessing the colour of the honey, which is currently carried out by measuring its intensity according to the Pfund scale.

(3) Following the amendment, the criterion of the colour of the honey will be verified on the basis of an organoleptic examination conducted in relation to a reference sample with characteristic colour. This method is considered to be more reliable.

(4) The request for an amendment has been considered and the amendment has been deemed to be a minor one. This is due to the fact that the amendment does not alter the characteristics of the designation of origin, since the characteristic relating to colour is maintained. The only difference is the method of assessing that colour.

(5) For the protected designation of origin 'Miel de sapin des Vosges', the 'description' in the specification, provided for in Article 4(2)(b) of Regulation (EEC) No 2081/92, should be altered by deleting the reference to intensity on the Pfund scale.

(6) In accordance with Article 4 of Commission Regulation (EC) No 383/2004 [3], the Commission is publishing the summary in the *Official Journal of the European Union*.

(7) The amendment is considered also to comply with Regulation (EEC) No 2081/92. Consequently, the alteration of the description for the product bearing the name 'Miel de sapin des Vosges' must be registered and published. The summary should therefore include the details, contained in the specification, of the colour of the honey bearing the designation.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Regulatory Committee on the Protection of Geographical Indications and Designations of Origin for Agricultural Products and Foodstuffs,

HAS ADOPTED THIS REGULATION:

Article 1

The procedure provided for in Article 6(1) and (2) of Regulation (EEC) No 2081/92 shall not apply to the amendments referred to in Article 2.

Article 2

The specification for the designation of origin 'Miel de sapin des Vosges' is amended in accordance with Annex I to this Regulation.

Article 3

A summary of the main points of the specification is given in Annex II to this Regulation.

Article 4

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

[1] OJ L 208, 24.7.1992, p. 1. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

[2] OJ L 148, 21.6.1996, p. 1. Regulation as last amended by Regulation (EC) No 704/2005 (OJ L 118, 5.5.2005, p. 14).

[3] OJ L 64, 2.3.2004, p. 16.

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX I

Point '4.2. Description' in the specification for the designation of origin 'Miel de sapin des Vosges' (France) is replaced by the following:

'4.2. *Description:*

Liquid honey from honeydew collected by bees from Vosges fir trees; it has balsamic aromas and a malty flavour and is free of bitterness and extraneous flavours. It is dark brown with pale green highlights.'

ANNEX II

SUMMARY

Council Regulation (EEC) No 2081/92

MIEL DE SAPIN DES VOSGES

EC No: FR/00204/11.7.2004

PDO (X) PGI ( )

This summary has been produced for information only. For full details, the producers of the products covered by the PDO or PGI in question in particular are invited to consult the full version of the product specification at national level or at the European Commission ([1]).

1. **Responsible department in the Member State**

Name: Institut national des appellations d'origine

Address: 51, rue d'Anjou — 75008 Paris

Telephone: (33) 153 89 80 00

Fax: (33) 142 25 57 97

2. **Applicant group**

2.1. *Name:* Syndicat de défense du miel de sapin des Vosges

2.2. *Address:* 2, chemin du Cant — 88700 Roville-aux-Chênes

2.3. *Composition:* producers/processors (X) other ( )

3. **Type of product**

Class 1-4 — Honey

4. **Specification**

(summary of requirements under Article 4(2))

4.1. *Name*

Miel de sapin des Vosges

4.2. *Description*

Liquid honey from honeydew collected by bees from Vosges fir trees; it has balsamic aromas and a malty flavour and is free of bitterness and extraneous flavours. It is dark brown with pale green highlights.

4.3. *Geographical area*

Vosges fir honey is produced widely on the Lorraine slopes of the Vosges mountains comprising, in addition to the department of Vosges, some communes of the departments of Meurthe-et-Moselle, Moselle, Haute-Saône and the territory of Belfort.

([1]) European Commission, Directorate-General for Agriculture, Agricultural product quality policy, B-1049 Brussels.

4.4. *Proof of origin*

The honey must be harvested (the term 'harvesting' means production by bees, removal of the frames and extraction), decanted and accredited within the geographical area specified for the designation.

The accreditation process will include:

— a declaration that the hives are in place with a list for each holding of the date on which they were put in place, their number and precise location,

— a harvest declaration drawn up by the producer annually giving the number of hives, the total production of honey of the holding and that which may qualify for the designation.

In addition, each operator will be required to draw up a stock declaration annually.

The keeping of registers will mean that the identity of the origin and destination of the honey together with the volume obtained and put into circulation.

This procedure will be completed by a scientific analysis and taste test to ensure that the products are typical and of high quality.

The honey may be marketed under the registered designation of origin 'Miel de sapin des Vosges' only with an accreditation certificate issued on completion of the above tests by the Institut national des appellations d'origine under the conditions laid down in the national rules relating to the name.

Assurances as to the origin of the product will be accompanied by the affixing to each container of an identifying mechanism that is destroyed on opening the container. These identifying mechanisms will be issued on production of accreditation certificates.

4.5. *Method of production*

The honey comes from honeydew collected by bees from the Vosges fir (*Abies pectinata*). The honeydew is produced by aphids from the sap of the firs and then collected by the bees. Extraction is by means of cold centrifuging and the honey must be filtered and then decanted for at least two weeks. Pasteurisation of the honey is prohibited. The honey is presented in liquid form. The production of Vosges fir honey varies considerably from year to year depending on the volume of honeydew production (miellée).

4.6. *Link*

Vosges fir honey is a product that is very closely linked with the terrain in which it originates since it forms part of an uninterrupted chain from the Vosges fir, by far the commonest species of conifer in the Vosges Massif, which develops in symbiosis with the acidic substratum, granite and sandstone soil. From this plant species aphids extract the sap which they process into honeydew that is stored by bees to produce the very characteristic honey.

The production of this honey is closely linked therefore with the location of conifer forests specific to the Vosges region from which beekeepers have been able to draw and preserve their specific character.

4.7. *Inspection body*

Name: INAO

Address: 51, rue d'Anjou — 75008 Paris

Name: DGCCRF

Address: 59, Bd V.-Auriol — 75703 Paris Cedex 13

4.8. *Labelling*

The labelling of honey qualifying for the registered designation of origin 'Miel de sapin des Vosges' includes the words 'Miel de sapin des Vosges' and 'Appellation d'origine contrôlée' or 'AOC'. The words 'Appellation d'origine contrôlée' must appear immediately below the designation in characters at least half as big. All this information must be in the same visual field.

4.9. *National requirements*

Decree governing the designation 'Miel de sapin des Vosges'.

COMMISSION REGULATION (EC) No 2156/2005

of 23 December 2005

amending the specification of a protected designation of origin listed in the Annex to Regulation (EC) No 1107/96 (*Siurana*) (PDO)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs [1], and in particular Article 6(3), the second indent of Article 6(4) and Article 9 thereof,

Whereas:

(1) In accordance with Article 6(2) of Regulation (EEC) No 2081/92, Spain's request for amendments to the specification for the protected designation of origin 'Siurana', registered by Commission Regulation (EC) No 1107/96 [2] has been published in the *Official Journal of the European Union* [3].

(2) No statement of objection within the meaning of Article 7 of Regulation (EEC) No 2081/92 has been sent to the Commission so the amendments must be registered and published in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The specification of the protected designation of origin 'Siurana' is amended in accordance with Annex I to this Regulation.

Article 2

A summary listing the main points of the specification is given in Annex II to this Regulation.

Article 3

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

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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[1] OJ L 208, 24.7.1992, p. 1. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).
[2] OJ L 148, 21.6.1996, p. 1. Regulation as last amended by Regulation (EC) No 708/2005 (OJ L 119, 11.5.2005, p. 3).
[3] OJ C 162, 11.7.2003, p. 8 ('Siurana').

ANNEX I

SPAIN

'Siurana'

Amendment(s):

— Specification headings:

☐ Name

☐ Description

☒ Geographical area

☐ Proof of origin

☐ Method of production

☐ Link

☐ Labelling

☐ National requirements

— Amendment(s):

Extend the geographical area of the name to include the following municipalities:

Region	Municipality
Alt Camp	Aiguamúrcia; Alió; Bràfim; Cabra del Camp; Els Garidells; Figuerola del Camp; Masó, el; Milà, el; Montferri; Nulles; Pla de Santa Maria, el; Pont d'Armentera, el; Puigpelat; Querol; Riba, la; Rodonyà; Rourell, el; Vallmoll; Vilabella; Vilarodona
Baix Camp	Arbolí; Colldejou; Vilaplana
Baix Penedès	Albinyana; Arboç, l'; Banyeres del Penedès; Bellvei; Bisbal del Penedès, la; Bonastre; Calafell; Cunit; Llorenç del Penedès; Masllorenç; Montmell, el; Sant Jaume dels Domenys; Santa Oliva; Vendrell, el
Conca de Barberà	Barberà de la Conca; Blancafort; Espluga de Francolí, l'; Montblanc; Pira; Sarral; Senan; Solivella; Vallclara; Vilanova de Prades; Vilaverd; Vimbodí
Ribera d'Ebre	Garcia [1]
Tarragonès	Altafulla; Catllar, el; Creixell; Morell, el; Nou de Gaià, la; Pallaresos, els; Perafort; Pobla de Mafumet, la; Pobla de Montornès, la; Renau; Riera de Gaià, la; Roda de Barà; Salomó: Salou; Secuita, la; Tarragona; Torredembarra; Vespella de Gaià; Vilallonga del Camp

[1] Garcia: zones 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 22 and 23.

As regards the link with the environment (history, soil, relief and climate), the geographical area to be extended continues to demonstrate a cohesion and degree of homogeneity similar to what it had prior to the requested extension (initial PDO) and fulfils all the basic requirements set out in the specification for this protected designation of origin listed in the Community register, producing an extra virgin olive oil with the same characteristics as the protected olive oil.

ANNEX II

COUNCIL REGULATION (EEC) No 2081/92

'SIURANA'

(EC No: ES/0072/24.1.1994)

PDO (X) PGI ( )

This summary has been drawn up for information purposes only. For full details, in particular the producers of the PDO or PGI concerned, please consult the complete version of the product specification obtainable at national level or from the European Commission ([1]).

1. **Responsible department in the Member State**

Name: Subdirección General de Sistemas de Calidad Diferenciada. Dirección General de Alimentación. Secretaría General de Agricultura, Pesca y Alimentación del Ministerio de Agricultura, Pesca y Alimentación.

Address: Paseo Infanta Isabel, 1 — E-28071 MADRID

Telephone: (34) 913 47 53 94

Fax: (34) 913 47 54 10

2. **Applicant group**

2.1. *Name:* CONSEJO REGULADOR DE LA D.O.P. 'SIURANA'

2.2. *Address:* Antoni Gaudí, 66 D-1 B (43203) Reus

Telephone: (34) 977 33 19 37

Fax: (34) 977 33 19 37

2.3. *Composition:* producers/processors (X) other ( )

3. **Type of product**

Group 1.5: Oils and fats (butter, margarine, oil, etc.)

4. **Specification**

(summary of requirements under Article 4(2))

4.1. *Name*

'Siurana'

4.2. *Description*

Virgin olive oil obtained from olives of the varieties 'Arbequina', 'Royal' and 'Morrut', with acidity of less than 0,5, maximum peroxide level of 12, moisture and impurities content of no more than 0,1. Greeny yellow colour with a sweet, fruity taste.

([1]) European Commission, Directorate-General for Agriculture, Agricultural product quality policy, B-1049 Brussels.

4.3. *Geographical area*

The area runs across the Province of Tarragona from Lérida to the Mediterranean coast and is made up of the following municipalities:

Region	Municipality
Alt Camp	Aiguamúrcia; Alcover; Alió; Bràfim; Cabra del Camp; Els Garidells; Figuerola del Camp; Masó, la; Milà, el; Montferri; Nulles; Pla de Santa Maria, el; Pont d'Armentera, el; Puigpelat; Querol; Riba, la; Rodonyà; Rourell, el; Vallmoll; Valls; Vilabella; Vila-rodona.
Baix Camp	Albiol, l'; Aleixar, l'; Alforja; Almoster; Arbolí; Argentera l'; Borges del Camp, les; Botarell; Cambrils; Castellvell del Camp;Colldejou; Duesaigües; Maspujols; Montbrió del Camp; Mont-Roig del Camp; Pratdip; Reus; Riudecanyes; Riudecols; Riudoms; Selva del Camp, la; Vilanova d'Escornalbou; Vilaplana; Vinyols i els Arcs.
Baix Penedès	Albinyana; Arboç,l'; Banyeres del Penedès; Bellvei; Bisbal del Penedès, la; Bonastre; Calafell; Cunit; Llorenç del Penedès; Masllorenç; Montmell, el; Sant Jaume dels Domenys; Santa Oliva; Vendrell, el.
Conca de Barberà	Barberà de la Conca; Blancafort; Espluga de Francolí, l'; Montblanc; Pira; Sarral; Senan; Solivella; Vallclara; Vilanova de Prades; Vilaverd; Vimbodí.
Priorat	Bellmunt del Priorat; Bisbal de Falset, la; Cabacés; Capçanes; Cornudella de Montsant; Falset; Figuera, la; Gratallops; Guiamets, els; Lloar, el; Marçà; Margalef; Masroig, el; Molar, el; Morera de Montsant, la; Poboleda; Porrera; Pradell de La Teixeta; Torre de Fontaubella, la; Torroja del Priorat; Ulldemolins; Vilella Alta, la; Vilella Baixa, la.
Ribera d'Ebre	Flix ([1]); Garia ([1]); Palma D'Ebre, la; Tivissa ([1]); Torre de L'Espanyol, la ([1]); Vinebre ([1]).
Tarragonès	Altafulla; Montmell, el; Constantí; Creixell; Morell, el; Nou de Gaià, la; Pallaresos, els; Perafort; Pobla de Mafumet, la; Pobla de Montornès, la; Renau; Riera de Gaià, la; Roda de Barà; Salomó: Salou; Secuita, la; Tarragone; Torredembarra; Vespella de Gaià; Vilallonga del Camp; Vila-Seca.

([1]) ZONES: Flix, 13, 18, 19, 20 and 21; Garcia: 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 22 and 23; Tivissa: 2, 7, 8, 9, 10, 11, 12, 21, 22 and 23 (La Serra d'Almòs district); Torre de l'Espanyol: 1 and 2; Vinebre: 8 and 9.

4.4. *Proof of origin*

Olives from groves located within the production area and registered with the Regulatory Board are pressed at registered mills to produce oil, which is then bottled at registered plants. Bottles are labelled and also bear a numbered secondary label issued by the Regulatory Board.

4.5. *Method of production*

Clean, healthy olives harvested directly from the tree are pressed using suitable methods that do not affect the characteristics of the product.

4.6. *Link*

A Mediterranean climate, with average annual rainfall of 380 mm to 550 mm and an average annual temperature of between 14,5 °C and 16 °C, together with the differing features of the two districts that make up the production area, one characterised by an irregular landscape and the other by a more even topography with well-constituted soils, provide a suitable environment for olive production. Suitable and controlled cultivation, harvesting and processing methods are used.

4.7. *Inspection body*

Name: CONSEJO REGULADOR DE LA D.O.P. 'SIURANA'

Address: Antoni Gaudí, 66 D-1 B (43203) Reus

Telephone: (34) 977 33 19 37

Fax: (34) 977 33 19 37

The Regulating Board of the 'Siurana' Designation of Origin is able to fulfil the requirements laid down in standard EN-45011.

4.8. *Labelling*

The words 'Denominación de Origen "Siurana" aceite virgen' are prominent. Labels are authorised by the Regulatory Board. Numbered secondary labels are issued by the Regulatory Board.

4.9. *National requirements*

Law 25/1970 of 2 December 1970. Order of 19 November 1979 concerning the 'Siurana' Designation of Origin for virgin olive oils and its Regulatory Board.

COMMISSION REGULATION (EC) No 2157/2005

of 23 December 2005

setting out the licence fees applicable in 2006 to Community vessels fishing in Greenland waters

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1245/2004 of 28 June 2004 on the conclusion of the Protocol modifying the fourth Protocol laying down the conditions relating to fishing provided for in the Agreement on fisheries between the European Economic Community, on the one hand, and the Government of Denmark and the local Government of Greenland, on the other [1], and in particular the second paragraph of Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 1245/2004 provides that owners of Community vessels who receive a licence for a Community vessel authorised to fish in waters in the exclusive economic zone of Greenland are to pay a licence fee in accordance with Article 11(5) of the fourth Protocol.

(2) Commission Regulation (EC) No 2140/2004 of 15 December 2004 laying down detailed rules for the application of Regulation No 1245/2004 as regards applications for fisheries licences in waters in the exclusive economic zone of Greenland [2] implements an Administrative Arrangement on fisheries licences as set out in Article 11(5) of the fourth Protocol.

(3) Part B.4 of the Administrative Agreement specifies that license fees for 2006 are to be fixed by an annex to that Arrangement and based on 3 % of the price per tonne per species.

(4) It is appropriate to set out in this Regulation licence fees for 2006, which were agreed by the Community and Greenland on 12 December 2005 in an annex to the Administrative Arrangement.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee on fisheries and aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

The licence fees for 2006 for Community vessels authorised to fish in waters in the exclusive economic zone of Greenland shall be as set out in the Annex to the Administrative Agreement referred to in Regulation (EC) No 2140/2004.

The text of the Annex to the Administrative Agreement is attached to this Regulation.

Article 2

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

It shall apply from 1 January 2006.

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

Done at Brussels, 23 December 2005.

For the Commission
Joe BORG
Member of the Commission

[1] OJ L 237, 8.7.2004, p. 1.
[2] OJ L 369, 16.12.2004, p. 49.

ANNEX

The licence fees for 2006 are as follows:

Species	EUR per tonne
Redfish	42
Greenland Halibut	77
Shrimp	64
Atlantic Halibut	85
Capelin	3
Roundnose Grenadier	19
Snowcrab	122

COMMISSION REGULATION (EC) No 2158/2005

of 23 December 2005

amending Council Regulation (EC) No 32/2000 as regards the extension of the Community tariff quotas for jute and coconut-fibre products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 32/2000 of 17 December 1999 opening and providing for the administration of Community tariff quotas bound in GATT and certain other Community tariff quotas and establishing detailed rules for adjusting the quotas, and repealing Council Regulation (EC) No 1808/95 [1], and in particular the second indent of Article 9(1)(b), thereof,

Whereas:

(1) In accordance with the offer it made within the United Nations Conference on Trade and Development (Unctad) and alongside its scheme of generalised preferences (GSP), the Community introduced tariff preferences in 1971 for jute and coconut-fibre products originating in certain developing countries. These preferences took the form of a gradual reduction of Common Customs Tariff duties and, from 1978 to 31 December 1994, the complete suspension of these duties.

(2) Since the entry into force of the GSP-scheme in 1995, the Community has, alongside the GATT, opened autonomous zero-duty Community tariff quotas for specific quantities of jute and coconut-fibre products. The tariff quotas opened for those products by Regulation (EC) No 32/2000 have been extended until 31 December 2005 by Commission Regulation (EC) No 25/2005 [2].

(3) As the GSP-scheme has been extended until 31 December 2008 by Council Regulation (EC) No 980/2005 of 27 June 2005 applying generalised tariff preferences [3], the tariff quota arrangement for jute and coconut-fibre products should also be extended until 31 December 2008.

(4) Regulation (EC) No 32/2000 should therefore be amended accordingly.

(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 phrase, for serial numbers 09.0107, 09.0109 and 09.0111, in the fifth column (Quota period) of Annex III to Regulation (EC) No 32/2000, 'from 1.1.2005 to 31.12.2005' is replaced by 'from 1.1.2006 to 31.12.2006, from 1.1.2007 to 31.12.2007 and from 1.1.2008 to 31.12.2008'.

Article 2

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

It shall apply from 1 January 2006.

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

Done at Brussels, 23 December 2005.

For the Commission
László KOVÁCS
Member of the Commission

[1] OJ L 5, 8.1.2000, p. 1. Regulation as last amended by Commission Regulation (EC) No 1102/2005 (OJ L 183, 14.7.2005, p. 65).
[2] OJ L 6, 8.1.2005, p. 4.
[3] OJ L 169, 30.6.2005, p. 1.

COMMISSION REGULATION (EC) No 2159/2005

of 23 December 2005

fixing the import duties in the cereals sector applicable from 1 January 2006

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1],

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector [2], and in particular Article 2(1) thereof,

Whereas:

(1) Article 10 of Regulation (EC) No 1784/2003 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.

(2) Pursuant to Article 10(3) of Regulation (EC) No 1784/2003, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market.

(3) Regulation (EC) No 1249/96 lays down detailed rules for the application of Regulation (EC) No 1784/2003 as regards import duties in the cereals sector.

(4) The import duties are applicable until new duties are fixed and enter into force.

(5) In order to allow the import duty system to function normally, the representative market rates recorded during a reference period should be used for calculating the duties.

(6) Application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in Annex I to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the cereals sector referred to in Article 10(2) of Regulation (EC) No 1784/2003 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 1 January 2006.

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

Done at Brussels, 23 December 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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[1] OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

[2] OJ L 161, 29.6.1996, p. 125. Regulation as last amended by Regulation (EC) No 1110/2003 (OJ L 158, 27.6.2003, p. 12).

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EC) No 1784/2003 applicable from 1 January 2006

CN code	Description	Import duty [1] (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	Common high quality wheat other than for sowing	0,00
1002 00 00	Rye	41,20
1005 10 90	Maize seed other than hybrid	53,35
1005 90 00	Maize other than seed [2]	53,35
1007 00 90	Grain sorghum other than hybrids for sowing	41,20

[1] For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:
— EUR 3/t, where the port of unloading is on the Mediterranean Sea, or
— EUR 2/t, where the port of unloading is in Ireland, the United Kingdom, Denmark, Estonia, Latvia, Lithuania, Poland, Finland, Sweden or the Atlantic coasts of the Iberian peninsula.

[2] The importer may benefit from a flat-rate reduction of EUR 24/t, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

period from 15.12.2005-22.12.2005

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Exchange quotations	Minneapolis	Chicago	Minneapolis	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2	YC3	HAD2	Medium quality (*)	Low quality (**)	US barley 2
Quotation (EUR/t)	130,01 (***)	68,92	180,01	170,01	150,01	92,73
Gulf premium (EUR/t)	—	19,03	—			—
Great Lakes premium (EUR/t)	30,34	—	—			—

(*) A discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).
(**) A discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).
(***) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight/cost: Gulf of Mexico–Rotterdam: 17,87 EUR/t; Great Lakes–Rotterdam: 25,24 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)
0,00 EUR/t (SRW2).

COMMISSION REGULATION (EC) No 2160/2005

of 23 December 2005

altering the export refunds on white sugar and raw sugar exported in the natural state fixed by Regulation (EC) No 1918/2005

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], and in particular the third subparagraph of Article 27(5) thereof,

Whereas:

(1) The export refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 2131/2005 [2].

(2) Since the data currently available to the Commission are different to the data at the time Regulation (EC) No 2131/2005 was adopted, those refunds should be adjusted,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 2131/2005 are hereby altered to the amounts shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 24 December 2005.

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

Done at Brussels, 23 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).
[2] OJ L 340, 23.12.2005, p. 45.

ANNEX

AMENDED AMOUNTS OF REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING APPLICABLE FROM 24 DECEMBER 2005 [a]

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	32,19 [1]
1701 11 90 9910	S00	EUR/100 kg	30,92 [1]
1701 12 90 9100	S00	EUR/100 kg	32,19 [1]
1701 12 90 9910	S00	EUR/100 kg	30,92 [1]
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,3500
1701 99 10 9100	S00	EUR/100 kg	35,00
1701 99 10 9910	S00	EUR/100 kg	33,62
1701 99 10 9950	S00	EUR/100 kg	33,62
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,3500

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).

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:

S00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including Kosovo, as defined in UN Security Council Resolution No 1244 of 10 June 1999), the former Yugoslav Republic of Macedonia, save for sugar incorporated in the products referred to in Article 1(2)(b) of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).

[a] The amounts set out in this Annex are not applicable with effect from 1 February 2005 pusrsuant to Council Decision 2005/45/EC of 22 December 2004 concerning the conclusion and the provisional application of the Agreement between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products (OJ L 23, 26.1.2005, p. 17).

[1] This amount is applicable to raw sugar with a yield of 92 %. Where the yield for exported raw sugar differs from 92 %, the refund amount applicable shall be calculated in accordance with Article 28(4) of Regulation (EC) No 1260/2001.

COMMISSION REGULATION (EC) No 2161/2005

of 23 December 2005

amending the representative prices and additional duties for the import of certain products in the sugar sector fixed by Regulation (EC) No 1011/2005 for the 2005/2006 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1],

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses [2], and in particular the second sentence of the second subparagraph of Article 1(2), and Article 3(1) thereof,

Whereas:

(1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups for the 2005/2006 marketing year are fixed by Commission Regulation (EC) No 1011/2005 [3]. These prices and duties were last amended by Commission Regulation (EC) No 2101/2005 [4].

(2) The data currently available to the Commission indicate that the said amounts should be changed in accordance with the rules and procedures laid down in Regulation (EC) No 1423/95,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95, as fixed by Regulation (EC) No 1011/2005 for the 2005/2006 marketing year are hereby amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 24 December 2005.

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

Done at Brussels, 23 December 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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[1] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

[2] OJ L 141, 24.6.1995, p. 16. Regulation as last amended by Regulation (EC) No 624/98 (OJ L 85, 20.3.1998, p. 5).

[3] OJ L 170, 1.7.2005, p. 35.

[4] OJ L 335, 21.12.2005, p. 36.

ANNEX

Amended representative prices and additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99 applicable from 24 December 2005

(EUR)

CN code	Representative price per 100 kg of the product concerned	Additional duty per 100 kg of the product concerned
1701 11 10 (1)	30,08	2,26
1701 11 90 (1)	30,08	6,49
1701 12 10 (1)	30,08	2,13
1701 12 90 (1)	30,08	6,06
1701 91 00 (2)	28,38	11,04
1701 99 10 (2)	28,38	6,52
1701 99 90 (2)	28,38	6,52
1702 90 99 (3)	0,28	0,37

(1) Fixed for the standard quality defined in Annex I.II to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).
(2) Fixed for the standard quality defined in Annex I.I to Regulation (EC) No 1260/2001.
(3) Fixed per 1 % sucrose content.

COMMISSION REGULATION (EC) No 2162/2005

of 23 December 2005

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 22,051 EUR/100 kg.

Article 2

This Regulation shall enter into force on 24 December 2005.

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

Done at Brussels, 23 December 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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[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).

COMMISSION REGULATION (EC) No 2163/2005

of 22 December 2005

providing for the rejection of applications for export licences for beef and veal products

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],

Having regard to Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80 [2], and in particular points (b) and (c) of the first subparagraph of Article 10(2) and Article 10(2a) thereof,

Whereas:

(1) On 20 December 2005, the Commission announced its intention of amending Regulation (EC) No 2000/2005 of 7 December 2005 fixing the export refunds on beef and veal [3] to abolish the payment of refunds for exports of adult male bovine animals for slaughter to Egypt and Lebanon.

(2) In the days following that announcement, applications were received for licences for the export to the above-mentioned countries of numbers of adult male bovine animals for slaughter exceeding those normally exported. These applications must be considered to be speculative in view of the amendment to Regulation (EC) No 2000/2005.

(3) The applications for export licences that have not yet been issued should therefore be rejected and the lodging of applications for export licences shall be suspended for five working days from the date of entry into force of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for export licences with advance fixing of the refund for the export of adult male bovine animals for slaughter (CN code 0102 90 71 9000) to Egypt and the Lebanon lodged during the four working days preceding the entry into force of this Regulation shall be rejected.

The lodging of applications for export licences for these animals shall be suspended for five working days following the entry into force of this Regulation.

Article 2

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

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

Done at Brussels, 22 December 2005.

For the Commission
J. M. SILVA RODRÍGUEZ
Director-General for Agriculture and Rural Development

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[1] OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).
[2] OJ L 143, 27.6.1995, p. 35. Regulation as last amended by Regulation (EC) No 1118/2004 (OJ L 217, 17.6.2004, p. 10).
[3] OJ L 320, 8.12.2005, p. 46.

COMMISSION REGULATION (EC) No 2164/2005

of 23 December 2005

reopening the fishery for Greenland halibut in NAFO zone 3LMNO by vessels flying the flag of Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ([1]), and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to common fisheries policy ([2]), and in particular Article 21(3) thereof,

Whereas:

(1) Council Regulation (EC) No 27/2005 of 22 December 2004 fixing for 2005 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required ([3]), lays down quotas for 2005.

(2) On 24 August 2005 Spain notified the Commission, pursuant to Article 21(2) of Regulation (EC) No 2847/93, that it would provisionally close the fishery for Greenland halibut in the waters of NAFO zone 3LMNO for vessels flying its flag, with effect from 1 September 2005.

(3) On 14 September 2005 the Commission, pursuant to Article 21(3) of Regulation (EC) No 2847/93 and Article 26(4) of Regulation (EC) No 2371/2002, adopted Regulation (EC) No 1486/2005 ([4]) prohibiting fishing for Greenland halibut in the waters of NAFO zone 3LMNO by vessels flying the flag of Spain or registered in Spain.

(4) According to new information received by the Commission from the Spanish authorities, a quantity of Greenland halibut is still available in the Spanish quota for NAFO zone 3LMNO. Consequently, fishing for Greenland halibut in these waters by vessels flying the flag of Spain or registered in Spain should be authorised.

(5) This authorisation should take effect on 10 December 2005, in order to allow the quantity of Greenland halibut in question to be fished before the end of the year.

(6) Commission Regulation (EC) No 1486/2005 should consequently be repealed with effect from 10 December 2005,

HAS ADOPTED THIS REGULATION:

Article 1

Repeal

Regulation (EC) No 1486/2005 is hereby repealed.

Article 2

Entry into force

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

It shall apply from 10 December 2005.

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

Done at Brussels, 23 December 2005.

For the Commission
Jörgen HOLMQUIST
Director-General for Fisheries and Maritime Affaires

([1]) OJ L 358, 31.12.2002, p 59.
([2]) OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 768/2005 (OJ L 128, 21.5.2005, p. 1).
([3]) OJ L 12, 14.1.2005, p. 1. Regulation as last amended by Regulation (EC) No 1300/2005 (OJ L 207, 10.8.2005, p.1).
([4]) OJ L 238, 14.9.2005 p. 5.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 1 October 2003

on the State aid implemented by Germany for Jahnke Stahlbau GmbH, Halle

(notified under document number C(2003) 3375)

(Only the German text is authentic)

(Text with EEA relevance)

(2005/940/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above [1],

Whereas:

I. PROCEDURE

(1) By letter dated 30 December 1999, Germany informed the Commission of various aid measures for Jahnke Stahlbau GmbH, Halle (hereinafter Jahnke). The case was registered under NN 9/2000.

(2) By letter dated 2 March 2001, the Commission informed Germany that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid and the notified asset sale. The Commission's decision was published in the *Official Journal of the European Communities* [2]. The Commission called on interested parties to submit their comments.

(3) Pursuant to Article 10(3) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty [3], the Commission ordered Germany to submit all the information necessary to enable it to verify whether a consolidation loan from the *Land* of Saxony-Anhalt had been granted in accordance with an approved aid scheme.

(4) The Commission received no comments from interested parties.

(5) On 17 May 2001, 22 November 2002 and 17 January 2003 Germany submitted its comments on the opening of the procedure.

(6) On 17 January 2003, Germany informed the Commission that Jahnke had applied for insolvency. On 31 July 2003, Germany informed the Commission that Jahnke's insolvency proceedings had been opened in February 2003.

II. DESCRIPTION

(7) Jahnke is based in Halle, Saxony-Anhalt, Germany. Jahnke is a steel construction company. Saxony-Anhalt is an area eligible for regional aid pursuant to Article 87(3)(a) of the EC Treaty.

[1] OJ C 160, 2.6.2001, p. 2.

[2] See footnote 1.

[3] OJ L 83, 27.3.1999, p. 1.

1. **Background**

(8) Jahnke was set up on 12 November 1999 by Mr Bernd Jahnke, managing director of the steel construction company Jahnke Stahlbau GmbH Lenzen (hereinafter Jahnke Lenzen). Its object was to take over the assets of HAMESTA Steel GmbH (hereinafter HAMESTA), a company which had filed for bankruptcy in May 1999. HAMESTA was the successor to Hallesche Metall- und Stahlbau GmbH i.Gv., in bankruptcy since 1998. Hallesche Metall- und Stahlbau GmbH was privatised in 1995 by the Treuhandanstalt by being sold to Thuringia AG. The privatisation involved lawful aid of some EUR 37 million.

(9) In November 1999, HAMESTA's receiver informed Mr Jahnke that he could not sell HAMESTA's assets without the agreement of the meeting of creditors. With a view to a later sale, he envisaged that Jahnke might utilise the assets for a monthly fee of about EUR 13 000, payable after 1 January 2000.

(10) On 3 February 2001, a draft takeover agreement was drawn up between HAMESTA's receiver and Mr Jahnke, under the terms of which assets were to be acquired by the investor for an envisaged purchase price of about EUR 2,5 million. However, in the meantime the creditors' meeting had decided not to proceed with the execution of the takeover agreement, but instead to sell the assets by public auction. The takeover agreement, therefore, was not certified and remains ineffective.

(11) In May 2000 HAMESTA's receiver and Mr Jahnke signed a new rental agreement (monthly rent of about EUR 11 300; duration unlimited; six months' notice of termination at year's end).

(12) In November 2002, Germany informed the Commission that, in order to obtain the assets, Jahnke now envisaged first taking over the liens held by two of HAMESTA's creditors in order to secure its position as buyer. To this end Jahnke concluded an agreement with the two creditors to take over their liens in return for EUR 1,54 million.

(13) According to Germany, the public auction of HAMESTA's assets has not yet taken place. Jahnke is still the subject of insolvency proceedings. The public auction of HAMESTA's assets was originally scheduled for 2002 but will now take place at the end of 2003. The insolvency proceedings against Jahnke will not be concluded before mid-2004.

(14) In March 2001, Jahnke had about 80 employees. It generated a turnover of about EUR 5 million (2000: about EUR 2 million) and an operating profit of about EUR 18 000 (2000: about EUR 100 000). Jahnke Lenzen generated in 2001 a turnover of about EUR 3,3 million (2000: about EUR 4,4 million) and an operating profit of about EUR 21 000 (2000: about EUR 71 000). Jahnke Lenzen employs about 40 people.

2. **The aid measures**

(15) The proposed costs and funding of the restructuring have changed significantly compared with the information initially provided to the Commission in 1999 and 2000. By letter dated 4 September 2000, the following financing requirement was set out:

Financing requirement (EUR)	Origin of funds (EUR) (rounded figures)			
	Investor's own funds	Sparkasse Halle	*Land* of Saxony-Anhalt	Bundesanstalt für vereinigungsbedingte Sonderaufgaben (BvS)
Purchase price Up to 2,5 million		20 % of 2,5 million 500 000	Guarantee for 80 % of loan 2 million	
Assets/Current account 410 000	Share capital: 260 000			150 000
Financing of orders and start-up costs: 670 000			Consolidation loan 260 000	410 000
Total: 3,58 million	260 000	500 000	2,26 million	560 000

Purchase price of the assets of up to EUR 2,5 million

(16) The purchase price for the assets was to be financed by a bank loan of EUR 2,5 million, 80 % of which was to be secured by a guarantee provided by the *Land* of Saxony-Anhalt. The remaining 20 % was to be secured by liens and property.

(17) The guarantee of the *Land* of Saxony-Anhalt was to be provided under an approved guarantee scheme ([4]). One of the conditions of the scheme is that the criteria set out in the Community guidelines on State aid for rescuing and restructuring firms in difficulty (hereinafter the guidelines) have to be fulfilled ([5]).

(18) According to Germany, neither the bank loan for the purchase of the assets nor the guarantee has been provided.

Financing of start-up measures

(19) To cover its start-up costs Jahnke needed working capital totalling EUR 1,08 million mainly for order financing and for its current account facility. To this end the investor contributed EUR 260 000, the BvS two loans totalling EUR 560 000 and the *Land* of Saxony-Anhalt a loan of EUR 260 000 ([6]).

(20) Subject to approval by the Commission, the loans from the BvS were to be converted into grants.

(21) The working capital was needed for maintenance measures, interim financing of outstanding claims and order financing. According to the German authorities it is normal practice in the steel construction industry for about 10 % of the order value to be guaranteed by a bank at the outset. After the work has been completed and the product delivered, the customer has a guarantee claim of 5 % for two to five years.

3. **The restructuring plan**

(22) According to Germany, central to the restructuring plan drawn up by the investor is the investor's acquired know-how; the introduction of effective control and tightening-up of management; the reduction of administrative expenditure; the restructuring of operational areas; and the increased use of the distribution network of Jahnke Lenzen. The restructuring period was given as 1 December 1999 to 30 November 2002.

(23) The restructuring plan foresaw a turnover/annual result of about EUR 8 million/EUR 250 000 in 2000, EUR 9 million/EUR 600 000 in 2001 and EUR 10 million/EUR 600 000 in 2002. The actual turnover/annual result was EUR 2 million/EUR 100 000 in 2000 and EUR 5 million/EUR 15 000 in 2001.

(24) The restructuring plan consisted, according to Germany, of the following measures.

Management and employees

(25) According to Germany, one of the reasons that ultimately resulted in the insolvency of HAMESTA was inadequate management. HAMESTA was overstaffed in its operational and administrative departments, resulting in high costs and inefficient management.

(26) The total staff was reduced to 80, of which 45 were production staff. Management staff levels were cut especially. In addition to the permanent staff, two external consultants, a lawyer and a business adviser were to take over some of the tasks previously performed in-house.

Control

(27) According to Germany, in the past HAMESTA's management of orders was unbusinesslike. The management failed to keep track of any additional work done under contracts and consequently customers were not charged for it. This led in turn to contracts being wrongly costed.

(28) As part of the restructuring of the enterprise, in December 1999 a start was made with the introduction of a comprehensive business-management plan incorporating the formulation of targets, target-based management and an indication of targets attained, involving the use of modern software for accounting and business planning. In this way, real-time costing became possible for contracts processed.

Production and more efficient manufacture

(29) Existing warehouse stocks were to be properly listed and monitored using a warehouse management system. In order to reduce waste and offcuts, Jahnke was to obtain its steel requirements directly from the steelworks. The idea was that the steelworks would cut the raw materials to the required size for each contract and then deliver them to Jahnke by a private rail link.

([4]) Guarantee guidelines of the *Land* of Saxony-Anhalt, circular of 4 April 2000 (*Bürgschaftsrichtlinie des Landes Sachsen-Anhalt RdErl vom 4.4.2000*), N 413/91; E 5/94; E 8/01.

([5]) OJ C 288, 9.10.1999, p. 2.

([6]) Granted under the guidelines for granting consolidation loans to small and medium-sized businesses in the *Land* of Saxony-Anhalt (*Richtlinie über die Gewährung von Konsolidierungsdarlehen an mittelständische Unternehmen im Land Sachsen-Anhalt*), an aid scheme approved by the Commission under number N 452/97.

A new focus for business areas

(30) The range of customers was to be diversified by branching out into newer, more profitable activities. While HAMESTA's management aimed to process as much steel as possible in the shortest possible time, Jahnke's objective is to produce high-quality, sophisticated steel structures.

(31) While HAMESTA did not specialise in any particular areas of steel structures manufacture, Jahnke Halle has developed a range of higher quality products. In cooperation with an architect, the enterprise's management has developed a wide range of hangars that incorporate glass and wood elements into the main steel structure. In order to facilitate the in-house production of turnkey hangars, Jahnke Bau GmbH was set up in conjunction with Jahnke Lenzen in 1998 with a view to carrying out work such as the production of concrete foundations for steel hangars.

Marketing and distribution

(32) Jahnke was to be linked to the existing distribution network of Jahnke Lenzen and a systematic approach to marketing was to be adopted. According to Germany, Jahnke already has a well-established customer base, including well-known enterprises that rate it as a skilled and reliable supplier and are interested in placing further business with it.

4. **Market analysis**

(33) Jahnke is active in the steel construction industry (Nace code 1 28.1).

(34) Geographically the most important market for Jahnke is Germany where it has a market share of about 0,3 %. Its market share in Europe is less than 0,01 %. According to the German authorities, so far it has had only one supply contract for the European market, amounting to EUR 154 000.

(35) According to information provided by Germany, there is no structural excess of production capacity either in the German market (about 80 % capacity utilisation in western Germany and about 90 % in eastern Germany) or in the EU market.

(36) Starting in 1990 Jahnke has continuously reduced its capacity and discontinued a number of activities to improve cost structures. It has also reduced its staff from 650 in 1991 to 80 at present. The purpose of the aid is not to enable the recipient to expand production capacity but to finance mainly start-up costs.

5. **Opening of the investigation procedure**

(37) By letter dated 28 February 2001, the Commission informed Germany that it had decided to open the procedure laid down in Article 88(2) of the EC Treaty in the absence of clarification of the following questions:

(a) Is Jahnke, as a newly created firm, eligible for restructuring aid in accordance with the guidelines?

(b) Does the restructuring plan, as presented, fulfil the viability criteria of the guidelines?

(c) Is competition unduly distorted by the aid?

(d) Would the guarantee of the *Land* of Saxony-Anhalt, as envisaged, be provided in accordance with the criteria laid down in the applicable aid scheme? The Commission accordingly considered the guarantee to be ad hoc aid.

(38) The Commission also ordered Germany, pursuant to Article 10(3) of Regulation (EC) No 659/1999, to submit all the information necessary to enable it to verify whether the consolidation loan from the *Land* of Saxony-Anhalt had actually been granted in accordance with the criteria laid down in the applicable aid scheme.

III. **COMMENTS FROM GERMANY**

(39) In its response to the opening of the investigation procedure, Germany took the view that a letter dated 30 November 1999 from HAMESTA's receiver to Mr Jahnke was to be regarded as a takeover agreement and that Jahnke therefore fell within the exception to the general prohibition on restructuring aid to a newly created firm, provided for in footnote 10 of the guidelines. The German authorities also pointed out that Jahnke had already taken over HAMESTA's stock and between 2000 and 2002 had invested some EUR 237 000 in repairs.

(40) Germany maintained that the restructuring plan was suited to restoring Jahnke to long-term viability while avoiding undue distortions of competition.

(41) The German authorities also submitted additional information on the application of the scheme under which the *Land* of Saxony-Anhalt had granted the consolidation loan. In their opinion, the loan had been granted in accordance with all the conditions of the scheme.

(42) Germany reminded the Commission that restructuring aid to newly created firms had been approved in the past and referred in particular to the Commission's decision of 2 August 2000 on aid to Homatec Industrietechnik GmbH (Homatec) and Ambau Stahl- und Anlagenbau GmbH (Ambau) ([7]).

(43) In January and July 2003 Germany informed the Commission that Jahnke had applied for insolvency and that the proceedings would last at least until mid-2004.

IV. ASSESSMENT OF THE AID

1. State aid within the meaning of Article 87(1) of the EC Treaty

(44) According to Article 87(1) of the EC Treaty, any aid granted by a Member State or through State resources, in any form whatsoever, which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market. Pursuant to the established case-law of the Courts of the European Communities, the criterion of trade being affected is met if the recipient firm carries out an economic activity involving trade between Member States.

(45) Jahnke has received from the BvS two loans totalling EUR 560 000 and from the *Land* of Saxony-Anhalt a consolidation loan amounting to EUR 260 000. The *Land* was prepared to provide an additional guarantee in order to secure a bank loan, which was to be granted in order to finance the sales price of the assets. These measures confer on Jahnke advantages that a company in such economic difficulties would not have obtained on the financial market.

(46) The *Land* of Saxony-Anhalt is part of the federal structure of Germany, and as a constituent State of the Federation shares in public authority. The BvS is likewise a public body. It finances its activities with public money, and acts as a public institution whose terms of reference require it to privatise the enterprises in its keeping on behalf of the authorities and in the public interest. For these reasons, the measures taken by it are also imputable to the State.

(47) The measures at issue are granted through State resources to an individual company favouring it by reducing the costs it would normally have to bear if it wanted to carry out its restructuring project. Moreover, the recipient of the aid, Jahnke, is active in steel construction and manufactures products that are traded between Member States. As the aid threatens to distort competition, it falls within the scope of Article 87(1) of the EC Treaty.

(48) A derogation from the prohibition in Article 87(1) of the EC Treaty may be granted under either Article 87(2) or Article 87(3) of that Treaty.

(49) Germany has not claimed that the aid should be authorised under Article 87(2). Indeed, it is evident that this provision does not apply.

(50) This case falls under Article 87(3) of the EC Treaty, which gives the Commission discretion to permit State aid in certain specified circumstances. The derogations in Article 87(3)(b), (d) and (e) were not invoked in the present case and are indeed not relevant. Article 87(3)(a) of the EC Treaty empowers the Commission to approve State aid meant for the improvement and economic development of regions with especially low living standards or employment levels. The *Land* of Saxony-Anhalt is such a region. In this case, however, the main purpose of the aid is to promote the development of a certain economic sector rather than to promote the economic development of a region. Hence the aid for restructuring the company in accordance with the restructuring plan presented falls to be assessed under Article 87(3)(c) of the EC Treaty rather than under Article 87(3)(a).

(51) Jahnke is an SME within the meaning of Commission Recommendation 96/280/EC of 3 April 1996 concerning the definition of small and medium-sized enterprises ([8]).

2. Granting of aid under an approved scheme

(52) In its decision to open the investigation procedure the Commission noted that the *Land* of Saxony-Anhalt intended to provide a loan guarantee under the guarantee guidelines of the *Land* of Saxony-Anhalt ([9]), which is a scheme approved by the Commission (N 413/91) (hereinafter called the guarantee scheme). The guarantee of EUR 2 million was to be provided in order to secure 80 % of a loan totalling EUR 2,5 million.

([7]) Homatec: decision of 12.7.2002 (OJ C 310, 13.12.2002, p. 22); Ambau: Commission Decision 2003/261/EC (OJ L 103, 24.4.2003, p. 51).

([8]) OJ L 107, 30.4.1996, p. 4. See also Annex, Article 11 paragraphs 1 and 6.

([9]) As adapted by circulars of the Ministry of Finance dated 4 April 2000 and 3 March 2001.

(53) The *Land* of Saxony-Anhalt also granted a consolidation loan amounting to EUR 260 000. According to Germany, the loan was granted in accordance with the guidelines for granting consolidation loans to small and medium-sized businesses in the *Land* of Saxony-Anhalt, which is also a scheme approved by the Commission (N 452/97) (hereinafter called the second scheme).

(54) In the case of both schemes, in order for aid to be granted, certain conditions must be met. In the case of a restructuring, the aid must be limited to restructuring plans that will restore the long-term viability of the recipient; in addition, it must be combined with a substantial contribution from the recipient; and lastly, it must be the minimum required to restore the recipient's competitiveness. Both schemes prohibit investment aid to newly created firms.

(55) As to the consolidation loan from the *Land* of Saxony-Anhalt, the Commission issued an information injunction pursuant to Article 10(3) of Regulation (EC) No 659/1999 to enable it to determine whether this measure fulfilled all the conditions of the second scheme.

(56) As to the envisaged guarantee, the Commission raised doubts whether it would fulfil all the conditions of the guarantee scheme (restoration of long-term viability; no aid for initial investment to a newly created firm). The Commission therefore considered the envisaged guarantee to be ad hoc aid.

(57) In its response to the information injunction and the decision to open the formal investigation procedure, Germany took the view that both measures were granted/would be granted in accordance with the conditions laid down in the respective scheme.

(58) As for the reasons given in point 3 below, the Commission considers that the restructuring plan presented does not fulfil the viability criterion of the guidelines. It also considers Jahnke to be ineligible for restructuring aid. It therefore considers that the loan and the guarantee from the *Land* of Saxony-Anhalt was not granted/would not be granted in accordance with all the conditions of the respective scheme.

(59) As both measures do not fulfil the conditions of the applicable aid scheme, they must be treated as ad hoc aid.

(60) Accordingly, the total amount of ad hoc State aid within the meaning of Article 87(1) of the EC Treaty to be assessed in the present Decision is EUR 2,82 million.

3. **Restructuring aid to Jahnke**

(61) In the Community guidelines on State aid for rescuing and restructuring firms in difficulty ([10]), the Commission spelled out in detail the criteria for assessing aid for the purpose of restructuring a company.

Eligibility for restructuring aid

(62) According to point 3.2.2 of the guidelines, a newly created firm is not eligible for rescue or restructuring aid, even if its initial financial position is insecure. This is the case, for instance, where a new firm emerges from the liquidation of a previous firm or merely takes over such firm's assets. The only exceptions to this rule are cases dealt with by the BvS in the context of its privatisation remit and other similar cases in the new *Länder*, involving companies emerging from a liquidation or a takeover of assets occurring up to 31 December 1999.

(63) In its decision to open the formal investigation procedure the Commission noted that Jahnke, which was registered in November 1999, was a newly created firm. It raised doubts whether Jahnke fell within the exception to the general prohibition on restructuring aid to a newly created firm because there had been no liquidation of HAMESTA's assets, nor can Jahnke be considered to have taken over the assets since the creditors' meeting had decided not to proceed with the sale of the assets to Jahnke Halle but instead to dispose of them by public auction.

(64) In its comments Germany took the view that a letter dated 30 November 1999 from the receiver to Mr Jahnke was to be regarded as a takeover agreement. In this letter the receiver envisaged that Jahnke could utilise the assets until such time as a sale took place. The German authorities also pointed out that since December 1999 Jahnke had operated the business of HAMESTA and that both Mr Jahnke and his other company Jahnke Lenzen had made commitments.

(65) Germany also argued that the Commission had already approved aid to newly created firms in a number of instances. It referred in particular to the Homatec and Ambau cases.

(66) According to the German authorities, the takeover of HAMESTA's assets by Jahnke occurred in the following way:

([10]) OJ C 288, 9.10.1999, p. 2. These guidelines are applicable inasmuch as part of the aid was granted after they were published (see point 101 of the guidelines).

(67) On 30 November 1999, the receiver informed Mr Jahnke that he envisaged selling the assets to Jahnke provided he secured the agreement of the creditors' meeting. In the meantime, and in agreement with another tenant of the assets, Mr Jahnke might utilise the assets for a price of about EUR 13 000, payable after 1 January 2000.

(68) In February 2000 a draft sales contract was drawn up. After it appeared that HAMESTA's creditors' meeting would not agree to the sales contract but preferred to sell the assets by public auction, a new rental agreement for an unlimited duration was signed (in May 2000).

(69) Germany first arranged for the auction to take place in 2002, then in 2003. In order to ensure that Jahnke might acquire the assets at this auction, it was first to acquire the liens from HAMESTA's creditors and then the assets.

(70) Jahnke also took over HAMESTA's stock for a purchase price of EUR 76 694. Moreover, between 2000 and 2002 it invested some EUR 237 000 in repairs to the assets.

(71) HAMESTA's receiver informed Mr Jahnke by letter dated 30 November 1999 of his intention to sell Jahnke HAMESTA's assets for a purchase price of EUR 2,5 million, provided he secured the agreement of the creditors' meeting. The assets were at that time rented out to someone else (until 31 March 2000 at the latest). The receiver also proposed to Mr Jahnke that he might, in agreement with the other tenant, utilise the assets for a fee of about EUR 13 000, payable after 1 January 2000.

(72) The sales contract concluded between the receiver and Jahnke in February 2000 never became effective as HAMESTA's creditors' meeting preferred to sell the assets by public auction.

(73) A new rental agreement between the receiver and Jahnke was concluded in May 2000. This agreement could be terminated at six months' notice at year's end. It would expire when HAMESTA came out of receivership.

(74) The Commission considers that it does not follow clearly from the letter of 30 November 1999 that the receiver was committing himself to a final takeover of the assets by Jahnke. The receiver was merely proposing to Mr Jahnke that he might, in agreement with the other tenant, utilise the assets for an indeterminate duration. Mr Jahnke could utilise the assets until such time as the receiver terminated the agreement within the legal deadline.

(75) The receiver was manifestly unable in November 1999 to enter into a long-term commitment for a takeover of the assets as he did not have the agreement of the creditors' meeting. As became clear in February 2000, the creditors' meeting was not in favour of a direct asset sale to Jahnke but preferred to sell the assets via a public auction.

(76) The public auction of HAMESTA's assets has not yet taken place. According to the German authorities, the value of the assets has to be re-established before the auction can take place (now scheduled for the end of 2003). The Commission cannot therefore assume that Jahnke will be able to acquire the assets or operate them on a permanent basis.

(77) The present case is different from the Homatec and Ambau cases, both of which fell under the 1994 guidelines on State aid for rescuing and restructuring firms in difficulty [11]. Owing to the exceptional circumstances prevailing in the new *Länder*, the Commission authorised under the 1994 guidelines restructuring aid to firms newly created in the form of so-called '*Auffanglösung*' [12]. As Homatec and Ambau were both *Auffanglösungen* and as all the relevant criteria of the 1994 guidelines were satisfied, the Commission was able to approve the restructuring aid for these two companies at that time.

(78) The present case, however, concerns the application of the 1999 guidelines, under which the *Auffanglösung* concept was limited to cases dealt with before 31 December 1999. Moreover, the circumstances of the present case are factually different inasmuch as the economic operation of HAMESTA was not taken over by Jahnke on a long-term basis but only on the basis of an offer from the receiver to utilise the assets and only until such time as the receivership was closed. The present case is therefore different from the two aforementioned cases. As the case falls to be assessed under the new, stricter guidelines, the Commission must apply different criteria from those used in the Homatec and Ambau cases.

(79) For the reasons set out above, the Commission cannot consider that Jahnke fulfils the criteria for exemption from the general prohibition on restructuring aid to a newly created firm.

[11] OJ C 386, 23.12.1994, p. 12.

[12] New firms evolving out of the bankruptcy proceedings and taking over the economic operation of the bankrupt business.

(80) The Commission believes that its considerations about the non-eligibility for restructuring aid are reason enough to find that the aid does not meet the conditions for a favourable exercise of its discretion under Article 87(3)(c) of the EC Treaty. However, in order to assess whether the measures fulfil the other criteria of the approved aid schemes, the Commission has also examined the other relevant criteria of the guidelines.

Restoration of viability

(81) According to the guidelines, the restructuring plan must restore the long-term viability and health of the firm within a reasonable timescale and on the basis of realistic assumptions as to its future operating conditions. To fulfil the viability criterion, the restructuring plan must be considered capable of putting the firm into a position of covering all its costs including depreciation and financial charges and generating a minimum return on capital such that, after completing its restructuring, the firm will not require further injections of State aid and will be able to compete in the market place on its own merits.

(82) In its decision to open the formal investigation procedure the Commission noted that the cooperation with Jahnke Lenzen was a main element of the restructuring plan. The Commission pointed out in this connection that it could not endorse a restructuring plan under which the definitive beneficiary of the aid would not necessarily be in a position to carry out the restructuring measures. Furthermore, the Commission raised doubts whether the investor would have the necessary financial resources to acquire the assets. In the light of the fact that the restructuring period was to end in November 2002 but the public auction was only to take place between March and September 2002, the Commission also raised doubts whether the restructuring plan could restore the long-term viability of Jahnke in accordance with the guidelines.

(83) From the information set out above it appears that so far Jahnke has been unable to permanently acquire HAMESTA's assets, which in itself shows that the undertaking is not viable. For the following reasons it seems hardly possible that Jahnke will be able to acquire the assets in the near future:

(a) the bank loan of EUR 2,5 million, necessary for financing the sales price of the assets, has not been granted;

(b) the investor himself has only limited financial resources; and

(c) Jahnke applied for insolvency in 2002.

(84) The weakness of the restructuring plan lies in the fact that at no time was the precondition for its implementation, i.e. the takeover of the assets, financially secured. The information submitted after the opening of the procedure does not allow the conclusion to be drawn that at any point has a clear commitment been given by the financing bank. Nor does this information show that the investor could have obtained the lacking financial support from out of his own resources, as they had already been allocated to financing the start-up measures, or from the planned profits of the business itself, as these would have been insufficient.

(85) The Commission's initial doubts have been confirmed by the fact that the actual performance of Jahnke has been below expectations. Whereas the restructuring plan foresaw an annual result of EUR 250 000 in 2000 and EUR 600 000 in 2001, the actual result has been about EUR 100 000 in 2000 and EUR 15 000 in 2001.

(86) The Commission cannot consider the restructuring plan as being based on realistic assumptions or that Jahnke will be restored to long-term viability within a reasonable timescale.

Distortion of competition

(87) The restructuring plan must contain measures to offset as far as possible adverse effects on competitors, otherwise the aid involved is contrary to the common interest and not eligible for exemption pursuant to Article 87(3)(c) of the EC Treaty.

(88) This implies that, if the undertaking concerned is active in a market in the EU where an objective assessment of supply and demand shows that there is a structural excess of production capacity, the restructuring plan must make a significant contribution, proportionate to the amount of aid received, to the restructuring of the industry serving the relevant market by irreversibly reducing or closing capacity. In cases where there is no structural excess of production capacity, the Commission will not normally require a reduction of capacity in return for the aid.

(89) Germany has provided the Commission with detailed information concerning the situation in the steel construction market. The Commission is satisfied that there is no structural excess of production capacity in the market in which Jahnke Halle is predominantly active, namely the German market, in which its market share is less than 1 %, and in the European market, where its market share is less than 0,001 %.

(90) Since Jahnke is an SME and the restructuring plan does not provide for any increase in production capacity, the Commission considers the corresponding criterion of the guidelines to be fulfilled.

Proportionality to the restructuring costs and benefits

(91) The amount and intensity of the aid must be limited to the strict minimum needed to enable the restructuring to be undertaken and in the Commission's opinion must be proportionate to the expected benefits. The investor must therefore make a significant contribution towards the restructuring costs from out of his own resources.

(92) On the basis of the information provided by Germany, the proposed own contribution of the investor is about 21 % of the total costs. Because Jahnke is a firm in the small to medium-sized category, the Commission is justified in taking a less restrictive attitude towards the aid. It is, therefore, of the opinion that the investor contribution is reasonable.

V. **CONCLUSION**

(93) In the light of the above considerations, the Commission finds that, even though its initial doubts concerning the undue distortion of competition and the proportionality of the aid have been allayed, neither the conditions set out in the guidelines concerning the eligibility of the company nor those concerning the viability of the restructuring plan have been met. Consequently, the aid has to be considered incompatible with the common market.

(94) The Commission finds that the Federal Republic of Germany has unlawfully granted aid of about EUR 820 000 in breach of Article 88(3) of the EC Treaty.

(95) The unlawfully granted aid, consisting of two loans from the BvS totalling EUR 560 000 and a loan from the *Land* of Saxony-Anhalt amounting to EUR 260 000, must, in so far as it has not been repaid, be recovered from the recipient,

HAS ADOPTED THIS DECISION:

Article 1

The aid which Germany has granted to Jahnke Stahlbau GmbH in the form of two loans from the BvS totalling EUR 560 000 and a loan from the *Land* of Saxony-Anhalt amounting to EUR 260 000 is incompatible with the common market.

Article 2

The aid which Germany has granted in the form of a EUR 2 000 000 guarantee from the *Land* of Saxony-Anhalt in favour of Jahnke Stahlbau GmbH is incompatible with the common market.

Article 3

1. Germany shall take all necessary measures to recover the aid referred to in Article 1 and unlawfully made available to the recipient.

2. Recovery shall be effected without delay and in accordance with the procedures of national law provided that they allow the immediate and effective execution of the decision. The aid to be recovered shall include interest from the date on which it was at the disposal of the recipient until the date of its recovery. Interest shall be calculated on the basis of the reference rate used for calculating the grant-equivalent of regional aid.

Article 4

Germany shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with it.

Article 5

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 October 2003.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 1 December 2004

on the State aid which France is planning to implement for Bull

(notified under document number C(2004) 4514)

(Only the French text is authentic)

(Text with EEA relevance)

(2005/941/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above [1] and having regard to those comments,

Whereas:

I. PROCEDURE

(1) On 13 November 2002, the procedure laid down in Article 88(2) of the Treaty opened in respect of a EUR 450 million cash advance granted by France to Bull was closed by the Commission by Decision 2003/599/EC [2] — a positive decision conditional on the aid being repaid by 17 June 2003. On 26 November 2003, the Commission brought an action before the Court of Justice of the European Communities for France's failure to comply with the decision [3]. At the end of 2003 and beginning of 2004, a number of meetings took place in the course of which the French authorities and Bull explained the content of Bull's restructuring plan, and in particular its third stage, that of recapitalisation. France notified the aid proposal to which the present Decision relates by letter dated 20 February 2004.

(2) By letter dated 16 March 2004, the Commission informed France of its decision to open the procedure laid down in Article 88(2) of the Treaty in respect of the said proposal.

(3) The Commission Decision to open the procedure was published in the *Official Journal of the European Union* [4]. The Commission called on interested parties to submit their comments on the aid in question.

(4) The Commission received comments from representatives of Bull's employees. A meeting between a delegation of those representatives and the Commission took place on 8 June 2004, following which the representatives provided the Commission with additional information. The Commission forwarded the information to France for its comments, and at the same time asked a number of questions about several aspects of the case. It received France's comments and replies by letters dated 28 May and 29 July 2004. A meeting between the Commission, the French authorities and Bull took place on 10 September 2004.

II. DESCRIPTION

1. The aid recipient

(5) Bull is an international information technology (IT) group based in Europe doing business in over 100 countries [5]. It is active mainly in two areas:

— high-end professional computer servers: Bull designs and markets a range of large servers for professional use and provides maintenance services directly linked to those servers. Bull's market share in the Community as constituted on 30 April 2004 (hereinafter called the Community of Fifteen) came to approximately 3 % (approximately 5 % in the case of medium and high-end servers). Its main competitors in this field are IBM (34,3 % market share), Hewlett Packard (HP), which took over Compaq in 2001 (29,4 %), Sun (12,6 %) and Fujitsu/Siemens (8,9 %),

— specialised IT engineering services: Bull develops and integrates different applications, builds software architectures, etc. Following the sale of its Integris division to Steria, Bull's activities in this market sector have been centred particularly on France and Italy. Bull's main competitors here are IBM and HP. Bull's market share in the Community of Fifteen comes to less than 1 %.

[1] OJ C 102, 28.4.2004, p. 12.
[2] OJ L 209, 19.8.2003, p. 1.
[3] Case registered under the number C-504/03.
[4] See footnote 1.
[5] http://www.bull.com

(6) In 2003, Bull's turnover amounted to EUR 1 265 million, broken down as follows: products 46 %, associated maintenance 27 % and services 27 %.

(7) Bull is a limited company incorporated under French law. Its shareholders, after the July 2004 recapitalisation and the exercise of share warrants by existing bondholders, are France Télécom and NEC, each with 10,1 %, Axa Private Equity and Artemis with 8,6 %, Bull's senior management with 5,1 %, Motorola with 3,0 % and Debeka with 2,9 %. The French State now holds only 2,9 %, the remaining 57,3 % being accounted for by floating shareholders.

(8) Starting in 1994, to resolve the difficulties encountered in the early 1990s Bull introduced the measures provided for under an earlier restructuring plan in accordance with the commitments given by France of which the Commission took note in its Decision 94/1073/EC of 12 October 1994 concerning the grant of State aid by France to the Bull group in the form of a non-notified capital increase ([6]). In particular, Zenith Data Systems was sold off and the OSS (open systems and software) division was closed down. France privatised Bull by opening up its capital. In 1999, Bull again had to dispose of assets and announce redundancies. In 2000, a plan resulted in a strategic refocusing of the company, the sale of non-strategic assets and a reduction in costs. At the end of 2001, Bull employed only 9 500 people throughout Europe, compared with 11 500 in 1999.

2. **Bull's difficulties prior to the restructuring plan to which this Decision relates**

(9) In spite of the measures referred to in paragraph 8, in 2001 the strategic plan failed. First of all, the crisis in the technology stock market prevented Bull from selling its heavily loss-making Integris division to an outside buyer. Secondly, the crisis in the Internet sector hit Internet-based technology businesses hard. The collapse of the telecommunications market, the bursting of the Internet bubble, greatly reduced corporate margins and international tensions resulted in a contraction in demand. Corporate expenditure on computers fell sharply in 2002 (– 25 % in the case of medium and high-end servers). The services market suffered a drastic fall compared with the earlier rise owing to the Year 2000 problem and the changeover to the euro. The worsening economic situation after the events of 11 September 2001 weakened Bull's situation still further.

([6]) OJ L 386, 31.12.1994, p. 1.

(10) For a number of years, Bull had invested heavily in Internet technologies, focusing its commercial activities on the concepts of 'e-services' and 'net-infrastructure'. The crisis in the Internet sector revealed that Bull had made, in this respect, poor technological choices and had concentrated on markets in which it was unsuccessful. Moreover, Bull showed a marked lack of consistency between, on the one hand, its ambitions in terms of markets targeted and products offered for sale and, on the other, the technological development investment and commercial and administrative expenditure undertaken.

(11) In addition, the group felt the backlash from the very high charges linked with its employees' pension schemes in the United States. In accordance with American standards, the assets of the consolidated balance sheet included the cost of pensions due, which represented the excess value of the pension fund assets (current market value) over the discounted liability of the projected pension rights. In 2002, Bull decided to transfer all of its pension obligations to insurance companies. In combination with falling stock values, this decision resulted in a financial loss of EUR 87 million for the whole of the years 2002 and 2003.

(12) The uncertainty surrounding the company's financial health led to a degree of reticence on the part of customers to carry out large projects, given that they were no longer sure that the company could fulfil its obligations in the years ahead. Suppliers imposed stricter payment terms at a time when Bull's access to bank guarantees had almost dried up.

3. **Restructuring plan**

(13) On 2 December 2001, a new chairman was appointed at the head of Bull. His restructuring plan, which was adopted by the board of directors in March 2002, involves a massive reduction in overheads and staff together with a refocusing on the company's strengths through substantial industrial asset sales. The growth strategy is based on three main elements:

— upgrading of the range of large business servers while at the same time guaranteeing the continuity of solutions used by customers, coupled with competitive technological development,

— a positioning as European leader in Intel 64-bit architecture-based solutions and open source software in target markets,

— continued development of service activities in those areas where Bull stands apart, in particular the provision of complete solutions (hardware + middleware + applications) to priority sectors such as the public sector (tax and customs authorities, social services, e-government), defence and security, and telecommunications operators ([7]).

(14) The main strands of the financial component are as follows:

— a 90 % reduction in the EUR 204 million debt owed to convertible bond holders, combined with an offer to convert their securities into equity or into equity coupled with stock-options. This is reflected in an extension of the due date of their bonds, a reduction in the yearly coupon payment and the abolition of the redemption premium. The terms of the offer to exchange their bonds are either, in the first alternative, 20 new shares per bond or, in the second alternative, 16 shares plus 16 stock options exercisable by 15 December 2004. Inasmuch as the vast majority have chosen the second alternative and supposing they systematically exercise their stock options, convertible bond holders will thus contribute EUR 17,2 million,

— a capital increase launched on the market and guaranteed to the tune of EUR 33 million by a group of investors: NEC and France Télécom (Bull's historical shareholders) for EUR 7,5 million each, Debeka (a German insurance company and one of Bull's major customers) for EUR 3 million, the investment funds Axa Private Equity and Artemis for EUR 7 million and EUR 2 million respectively and, lastly, 350 senior managers of the Bull group for EUR 6 million. In reality, the public has contributed EUR 13,8 million. Consequently, investors' contributions amount to only some 90 % of the amounts guaranteed. The total increase comes to EUR 44,2 million,

— the aid described in section 4, which consists of a EUR 517 million payment coupled with a better fortunes clause.

(15) Once all these measures have been implemented, the Bull group's equity capital should amount to EUR 59,2 million. The financial projections associated with the plan are given in the table below.

([7]) For more details of the restructuring plan, see Decision 2003/599/EC.

Table

(EUR million)

	2004	2005	2006	2007
Turnover	[…] (*)	[…]*	[…]*	[…]*
EBIT (**)	[…]*	[…]*	[…]*	[…]*
Net result	[…]*	[…]*	[…]*	[…]*

(*) Parts of this text have been edited to ensure that confidential information is not disclosed; those parts are enclosed in square brackets and marked with an asterisk.
(**) Earnings before interest and tax.

4. **Description of the aid**

(16) The notified aid will take the form of a EUR 517 million payment by the French State, to be made on 31 December 2004 at the earliest. This amount is equivalent to the rescue aid authorised by Decision 2003/599/EC, including interest since its payment in December 2001 and June 2002. The new aid will not actually be paid until after Bull has reimbursed the rescue aid. In exchange, the French State is imposing a better fortunes clause in the form of payment to the State by Bull of 23,5 % of its annual consolidated current result before tax for a period of eight years starting from the financial year ending 31 December 2005.

(17) According to the French authorities, the clause represents a present value of between EUR 50 million and EUR 60 million. The maximum amount of aid therefore comes to EUR 467 million, or approximately 90 % of the existing debt. In this way, the French authorities are seeking to ensure a treatment similar to that of convertible bond holders, who are likewise foregoing approximately 90 % of their claims.

III. **GROUNDS FOR OPENING THE PROCEDURE LAID DOWN IN ARTICLE 88(2) OF THE TREATY**

(18) The decision to open the procedure laid down in Article 88(2) of the Treaty includes a preliminary assessment of the aid measure in the light of the Community guidelines on State aid for rescuing and restructuring firms in difficulty ([8]) (hereinafter called the guidelines). In its decision, the Commission doubted whether the plan guaranteed a return to viability. The latest financial figures pointed to a return to viability in the event of the balance sheet being restored, but the Commission considered that one year was too short a period in which to demonstrate a return to viability. The

([8]) OJ C 288, 9.10.1999, p. 2.

forecasts for the relevant markets were not very detailed and they did not all agree, and it appeared that several of those markets would remain problematic, especially in the short term. More importantly, the information provided by the French authorities did not make it possible to assess whether Bull would be capable of benefiting from a growth in the markets inasmuch as the group's remaining industrial activities relied heavily on the manufacture of systems where the competition was intense. Furthermore, the recapitalisation plan did not involve any new partners beyond those already present, namely France Télécom and NEC.

(19) In view of the large amount of aid involved, the Commission also doubted whether undue distortions of competition were avoided, whether the aid was limited to the minimum needed and whether it avoided providing the company with surplus cash which could be used for aggressive, market-distorting activities not linked to the restructuring process. For instance, it was not clear what the solvency and liquidity ratios would be after the aid was paid and how they would compare with those of competitors in the relevant markets.

IV. COMMENTS FROM THIRD PARTIES AND FROM FRANCE

(20) France communicated discounted projections for the relevant markets together with information on leading competitors, on the financial data and on events in recent months, including the success of the recapitalisation plan.

(21) France stresses that the aid is accompanied by substantial financial commitments from certain private shareholders and creditors. From a competition standpoint, Bull's continued existence is more likely to promote competition in the European market than to hamper it. Bull's market share is not such as to enable it to play a price leader role; it would play more the role of outsider, helping to make competition livelier. The implementation of Bull's strategy based on Itanium and open source would enhance this role in future.

(22) France observes that the improvement in the company's results held up throughout 2003 despite the poor market conditions. The forecasts for 2004, which again must be viewed against the background of a difficult environment, show an operating result similar to that for 2003: an EBIT of EUR 17 million and a net profit of EUR 2 million for the first half of 2004. This indicates that the company has succeeded in appreciably reducing its break-even point. Under the circumstances, the improvement in discounted turnover next year due to a hoped-for market recovery in 2005, the launch of Bull's new offerings and a restored financial situation will necessarily lead to a further growth in profitability. The business plan for the period 2004 to 2007 also shows that the company's return to viability will be lasting.

(23) By also basing its growth on Intel 64-bit architecture-based servers, Bull has made technological choices which correspond to customers' needs in the years ahead. Moreover, the use of this technology on Bull servers offers fresh avenues for growth, especially in the scientific calculation field.

(24) In relation to services, Bull's strategy stands at the meeting point between three distinct competences and three priority sectors. The areas of competence are: (1) the integration and deployment of open infrastructures; (2) the security of information systems; and (3) the info-management of distributed systems. The priority sectors are those to which Bull's most faithful customers belong: government departments, telecommunications operators and public services (utilities).

(25) These competences and these sectoral choices are perfectly in phase with the leading market trends apparent from expert analyses: optimisation of and reduction in infrastructure costs (which generate the need for open infrastructure deployment), urbanisation and consolidation of information systems (areas of excellence for Bull), and administration and securitisation (in which Bull is active in various guises: cryptographic equipment supplier, software publisher and integrator). Bull has also very quickly established itself in certain emerging markets: mobile platforms, electronic administration, and generalisation of electronic identity and signature.

(26) Inasmuch as Bull's strength is highly relative and the degree of concentration in the market is very high, the aid to Bull is not likely to lead to undue distortions of competition. In certain specific markets, Bull's offering is the only credible alternative to IBM. Moreover, Bull's open-source-oriented strategy is likely to make competition in the servers market more dynamic in the years to come.

(27) The aid will be kept to a minimum. The company's viability depends in fact on the reconstitution of the equity capital, of which the aid and the debt reduction are essential elements. The various investors would not have agreed to invest if part of the financing needed to restore the company's viability had been provided by borrowing.

(28) Bull will not have any surplus cash once the aid has been paid. The aid will help to restore the equity capital to an adequate, but far from excessive, level, as is borne out by the debt to capital ratio and the ratio of coverage of short-term debt by circulating assets compared with the same ratios among leading competitors.

(29) As far as the private contribution to the restructuring plan is concerned, three elements must be combined: the effort made by the company itself in 2002 to 2003, the capital increase and the contribution from convertible bond holders.

(30) France recalls that, in recitals 60 and 70 of Decision 2003/599/EC authorising the payment of rescue aid to Bull, the Commission expressly states that France must not grant restructuring aid to Bull before 31 December 2004.

(31) The representatives of Bull's employees support the restructuring plan and stress the importance of the aid when it comes to ensuring the company's survival and safeguarding existing jobs. They endorse the information provided by the French authorities, while transmitting additional data and reference material concerning, in particular, the company's viability and competitiveness. Their comments were forwarded to the French authorities, which voiced their agreement.

V. ASSESSMENT OF THE AID

1. Existence of aid

(32) Article 87(1) of the Treaty states that 'any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market'.

(33) The measure notified by France constitutes aid within the meaning of Article 87(1) of the Treaty. Granted by the State, it will be financed through State resources and will favour a specific undertaking, Bull. It is incompatible with the principle of a private investor in a market economy. In particular, it cannot be maintained that the State is acting in the same capacity and under the same conditions as convertible bond holders because France's claim concerns State rescue aid whose reimbursement deadline has expired and because the renouncing of such a claim, or the granting of new aid of an amount equivalent to that of the aid which is to be reimbursed, is inconsistent with the conduct of a private investor and cannot therefore be assessed in accordance with the private investor principle. Moreover, the notified measure differs both as regards its form and as regards its underlying conditions from the financial measures taken by the shareholders and convertible bond holders. In any event, the notified measure is not accompanied by any comparable financial commitments on the part of the other shareholders. The aid affects trade between Member States and distorts or threatens to distort competition owing to the fact that Bull is an international company and its products are the subject of international trade. Furthermore, Bull has competitors in the common market, such as IBM, Fujitsu/Siemens, Sun and HP. The French authorities do not question this assessment.

2. Compatibility of the aid

(34) The notified measure must be assessed as ad hoc State aid. Article 87(2) and (3) of the Treaty provides for derogations from the general incompatibility rule set out in Article 87(1).

(35) Article 87(3)(c) of the Treaty provides that aid to facilitate the development of certain economic activities, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, shall be compatible with the common market. On this basis, the Commission has adopted specific guidelines for the purpose of assessing aid for rescuing and restructuring firms in difficulty ([9]). In the light of the figures relating to its capital, it is clear that Bull must be considered to be in difficulty within the meaning of point 5(a) of the guidelines and that the group as a whole is also in difficulty within the meaning of points 4 to 8 of the guidelines ([10]). After consideration, the Commission takes the view that no other Community framework or other provision allows the aid in the present case to be declared compatible with the common market. France has, moreover, invoked no other derogation from the Treaty and has based itself exclusively on the guidelines in defending the compatibility of the aid in question. The Commission has therefore assessed the aid in the light of the guidelines.

([9]) A new version of the guidelines was published recently (OJ C 244, 1.10.2004, p. 2). In accordance with point 103 of this new version, the aid measure in the present case must be examined in the light of the criteria that were in force when the measure was notified, that is to say, in the light of the 1999 guidelines.

([10]) Since 2001, the equity capital has been negative, amounting to minus EUR 726 million at the end of 2003. Losses in 2000, 2001 and 2002 came to EUR 243 million, EUR 253 million and EUR 548 million.

(36) The guidelines lay down four cumulative conditions for authorising restructuring aid: a plan guaranteeing long-term viability, the avoidance of distortions of competition, aid limited to the minimum and full implementation of the restructuring plan. Moreover, the principle of 'one time, last time' and that laid down in the judgment in *Deggendorf* ([11]) are applicable.

Restoration of viability (points 32 to 34 of the guidelines)

(37) In accordance with the guidelines, the grant of the aid must be conditional on implementation of the restructuring plan, which must be endorsed by the Commission in all cases of individual aid. The restructuring plan, the duration of which must be as short as possible, must restore the long-term viability of the firm within a reasonable timescale and on the basis of realistic assumptions as to future operating conditions. Restructuring aid must therefore be linked to a viable restructuring plan to which the Member State concerned commits itself.

(38) The aid in question is linked to the restructuring plan of March 2002 and its financial component as described in the aid notification. The plan concerns the period up to the end of 2007, after which the financial situation will have been restored and the new structure put in place. Most of the measures have already been implemented and the recapitalisation has already been completed. However, the period up to the end of 2007 may be considered to be a reasonable time-span which is necessary in order to restructure the company's offerings and adapt its activities to reflect trends in the relevant markets.

(39) The plan seems to be based on realistic hypotheses concerning future operating conditions. It takes into account the slow market recovery and does not appear over-optimistic. It presents three scenarios for the outcome of the recapitalisation, the most optimistic of which is the closest to the current outcome. It underscores the re-establishment of consistency between the company's strategy, its strengths, customers' needs and technological developments. Given the technological and commercial uncertainties, the plan appears sufficiently precise in view of the additional information sent by the French authorities.

(40) The improvement in viability stems mainly from internal measures, in particular the cessation of non-core business activities, the restructuring of offerings and the reduction of overheads.

(41) The company's difficulties were brought about above all by poor technological choices and by the concentration on markets in which Bull was unsuccessful. These activities have been abandoned, including the network of services in a number of European countries. Several reasons underlying specific losses, such as those related to pension schemes, are unlikely to recur. Most of the senior managers have been replaced. Bull has refocused on its strengths.

Restructuring and operational performance

(42) For the years 2000 to 2002, the gross margin on turnover was between 21 % and 25 %. However, research and development expenditure, commercial expenses and administrative costs together exceeded the gross margin by about EUR 100 million a year. The restructuring plan provides for a righting of this imbalance: research and development expenditure is set to fall from EUR 160 million in 2000 to EUR […] (*) million by the years 2005 to 2007. Commercial expenses and administrative costs are set to fall from EUR 706 million in 2000 to EUR […] (*) million by the years 2006 to 2007. The projections take account of contingency provisions for possible judicial awards. This heading will increase to […] (*) % of turnover by 2007. On the basis of these projections, future EBIT is estimated at […] (*) % after contingencies. Current costs for 2003 and the first half of 2004 support the projections. From this point of view, the Commission considers that the restructuring plan makes for a satisfactory operational performance.

Forecasts for the relevant markets

(43) In the future, demand is expected to pick up, albeit more slowly than during the past decade, owing to several factors combined: lower communication charges, the development of high-speed networks, the growth of teleprocedures in the public sector, the upsurge in applications sharing via the Internet, increased mobility, the increasing account taken of security constraints and, lastly, the generalisation of digital technologies everywhere in place of the pre-existing analogue tools. According to the latest forecasts by IDC (International Data Corporation) for the years 2003 to 2007, the European market for servers should grow in volume by 44 % and that for medium and high-end servers by 39 %. The market for servers based on Intel 64-bit components, which is a major growth area for Bull, should enjoy considerable expansion. It is estimated that it should be worth USD 2,4 billion in 2007, accounting for 16 % of the servers market (compared with less than 1 % in 2003).

([11]) Judgment of the Court of Justice of 15 May 1997 in Case C-355/95 P *Textilwerke Deggendorf GmbH v Commission of the European Communities and Federal Republic of Germany* [1997] ECR I-2549.

(44) Thus, IDC, in a study dating from December 2002, foresees in western Europe an increase of 30 % in corporate expenditure on services and of almost 20 % on servers between now and 2006. The more recent forecasts by Gartner (November 2003) concerning services in western Europe are for + 3 % in 2004 and an annual average growth rate of 6,2 % between 2002 and 2007. In the case of servers, the amount of growth will depend above all on the technologies used; in particular, Intel Itanium components, which form the basis of Bull's new range of servers and which were first used in 2003, should generate a turnover of EUR 8 billion in 2008. The market for services is highly dispersed, highly competitive and in a permanent state of restructuring, but in the medium to long term it will expand more rapidly than the market for products. In conclusion, conditions in the relevant markets are not such as to call in question the return to viability and they make possible an increase in the share of total sales and of the gross margin accounted for by services, as provided for in the restructuring plan.

(45) Several studies confirm the growth projections in the niche markets targeted by Bull and the opportunities in the technologies chosen ([12]).

Viability in the medium and long term

(46) The large GCOS servers installed in current customers' businesses are an important cash cow. However, after […] (*), the replacement for the GCOS servers will be almost ready and Bull will have to face up to its competitors and fulfil its ambitions, even if they are modest, under other conditions. Against this background, the Commission has noted, in particular, what follows in recitals 47 to 54.

(47) In opting for Intel 64-bit architecture-based solutions, open source software and the benefits of component standardisation (commoditisation), it would appear that Bull is plotting the right technological course, corresponding as it does to market developments and customer needs. These developments are going to increase the intensity of competition in the markets for servers and in the markets for services, but thanks to its size Bull is capable of investing not inconsiderable amounts in R & D and of offering a broader and more coherent range than start-ups and more specialised small firms. Its size may also provide it with a degree of dependability in the eyes of customers who attach strategic importance to their choice of server supplier. The giants such as IBM, HP and Dell, on the other hand, specialise more in large-series products whose scope of application is wider and where customers do not have the same need for 'tailor-made' products.

([12]) For example, Forrester, 'Market overview — Exploiting open source in Europe', 22.6.2004.

(48) The plan targets those sectors where customers are the most faithful: the public sector, defence and security, and telecommunications operators. Bull has no ambitions beyond that of being a niche player.

(49) The market introduction of the new NovaScale range of servers, which is designed to replace the GCOS systems, has been viewed favourably by independent experts ([13]). Bull has achieved substantial reference sales and this product line is said to differ from competing products in terms of cost, reliability, ease of use and size adaptability.

(50) Bull's restructuring is enabling it to re-establish consistency between its know-how, its offerings, its organisation and its short-term objectives. A major cause of the company's difficulties was precisely the lack of such consistency. The rejuvenation of its staff, which was largely completed in 2002, and the substantial range of strategic partnerships should provide a technological springboard for the future.

(51) The role planned for the new family of servers based on Intel processors, and in particular the 64-bit processor, is very important: in 2007, turnover should attain […] (*) % of total sales, with a gross margin of […] (*) %. As a 'proprietary' technology is no longer involved, it is logical that this margin should not attain the level of the margins on the old servers, the GCOS servers. Although 64-bit servers make it possible to support more complex and broad systems, they are naturally more expensive than 'standard' 32-bit servers. Bull will try to gain its customers' trust through the technical quality of its 64-bit servers, adding its services offering, the specialised competences of which are recognised, to those products. It will establish cooperation between its own teams and those of its customers. The Commission acknowledges that this strategy is consistent with Bull's concentration on certain sectors.

([13]) See The Clipper Group Navigator, 'Bull transitions GCOS 8 to Open Systems — Novascale 9000 to the Rescue', 15.10.2003 and IDC, 'Vendor needs and Strategies, Bull fills out Novascale line — targets commercial and High-Performance Computing (HPC) Customers in 2004', April 2004. IDC, for example, concludes that 'Bull's introduction of NovaScale servers in 2003 saw it enhancing its approach to the high-performance computing market — a market it had previously addressed. It has won a reasonable number of reference customers in this sector over the last year. … The addition of the Microsoft Windows 2003 Server operating system and SQL Server, plus new ISV software — especially from Oracle, SAP and BEA — will see it matching an expected growth in demand for high-end commercial applications in the recovering European market.'

(52) In the services segment, mention should be made of a few conclusions of the abovementioned Forrester report ([14]). Concerning open source services, Bull's expertise is considered superior to that of other global generalists such as IBM. Among global generalists and those of medium size, Bull is alone in offering full technological coverage. The report mentions only one small open source specialist offering the same coverage.

(53) The recapitalisation plan involves no new industrial partner apart from the operators who are already present, i.e. France Télécom and NEC. However, the participation of Debeka, an insurance company, backs up the strategy of focusing on a limited number of sectors. In addition, Bull has entered into a number of partnerships and has embarked upon several projects for developing technologies that are key to future activities. Lastly, by way of example, mention should be made of the signature of an initial original equipment manufacturer contract with Kraftway, the leading Russian producer of Intel-based servers. Another agreement concerns the distribution of servers in China.

(54) In conclusion, the Commission considers that the restructuring plan enables Bull to position itself satisfactorily. Notwithstanding the technological and commercial risks inherent in the relevant markets, the Commission considers that the return to viability is sufficiently guaranteed.

Avoidance of undue distortions of competition (points 35 to 39 of the guidelines)

(55) In order for it to be authorised by the Commission, restructuring aid must fulfil a second condition, namely that measures must be taken to mitigate as far as possible any adverse effects of the aid on competitors.

(56) As was pointed out by France, Bull's market shares in the area of services and in that of servers are very small. In the area of servers, the relevant geographic market must be considered to be worldwide or at least Europe-wide. In 2002, in the whole servers market in the Community of Fifteen, Bull held a market share of the order of 3 %. In the segment of medium and high-end servers, Bull had retained a position evaluated at approximately 5 %, far behind its main competitors IBM (40 %), HP-Compaq (24 %), Sun (17 %) and Fujitsu (9 %). In the high-end segment, the market share will be higher. Bull wishes to position itself as European leader in Intel 64-bit architecture-based solutions and open source software in target markets. The market for Intel 64-bit architecture-based servers is estimated at nearly USD 2,4 billion in 2007, which would account for 16 % of the servers market (compared with less than 1 % in 2003).

(57) In the area of services, there is evidence to suggest that the relevant geographic market must be considered to be Europe-wide, although the existence of regional or national markets cannot be ruled out. In the services market of the Community of Fifteen, Bull held in 2002 a market share of approximately 0,4 %, and since 2002 Bull has refocused itself even more on infrastructure services and its other specificities, experiencing strong reductions in its turnover in services. In a study dated September 2003, published by the Gartner Institute, Bull does not number among the first 10 competitors in the world market for IT services and in 2002 it occupied only 22nd place in the European market. That market is, moreover, highly competitive, a circumstance which made possible, by way of illustration, the authorisation by the Commission of the merger operations concerning several competitors of Bull (HP — Compaq ([15]), Cap Gemini — Transiciel ([16]), ATOS Origin — SEMA ([17])) on the ground that these mergers would not affect competition in the markets for IT services.

(58) Clearly, the company's presence is stronger in certain geographic areas, notably France. But the competition remains strong, including at the level of these geographic areas.

(59) In some segments of the servers market in Europe, Bull's continued existence is quite likely to stimulate competition in the market, especially in those segments where IBM's position is preponderant. In the segment of high transactional intensity systems, for example, Bull's offerings seem to be the only alternative to IBM for all customers who cannot easily migrate to the solutions proposed by Sun, HP or Wintel (banks, insurance companies, social services, social security organisations, etc.). […] (*) shows that this type of customer wishes to see Bull's offerings maintained. The markets concerned are, however, highly specific niche markets and Bull's continued existence has little impact on competition in the high-end server segment as a whole.

([14]) See footnote 12.

([15]) Commission Decision of 31 January 2002 declaring a concentration to be compatible with the common market (Case No IV/M.2609 — HP/Compaq) on the basis of Council Regulation (EEC) No 4064/89 (OJ C 39, 13.2.2002, p. 23).

([16]) Commission Decision of 24 November 2003 declaring a concentration to be compatible with the common market (Case No IV/M.3307 — Cap Gemini/Transiciel) on the basis of Council Regulation (EEC) No 4064/89 (OJ C 295, 5.12.2003, p. 16).

([17]) Commission Decision of 10 November 2003 declaring a concentration to be compatible with the common market (Case No IV/M.3295 — Atos Origin/Sema Group) on the basis of Council Regulation (EEC) No 4064/89 (OJ C 295, 5.12.2003, p. 16).

(60) The Commission also takes account of the fact that Bull's strategy is geared towards open source. The majority of competitors are, moreover, at the same time partners in several development projects. No competitor spoke of distortions of competition when the procedure was opened.

(61) No external growth operation is planned, apart from the acquisition of 'grey matter', which is common practice in the sector. Bull considers that any major purchase would fly in the face of the restructuring plan's strategy and would pose problems of integration.

(62) Bull has sold substantial assets. In the products segment, it has sold all of its businesses involving automated teller machines, payment terminals and smart cards and a large part of its businesses involving middleware software. In the services market, it has disposed of most of its commercial network outside of France and Italy by selling its Integris division to Steria. The restructuring plan provides for a refocusing on core activities. This also limits the aid's negative impact on competition between Member States. In this context, it is important that this strategy, which is provided for in the restructuring plan, is actually implemented.

(63) In the light of the above, the Commission considers that undue distortions of competition are avoided. Bull's position in the relevant markets, combined with compliance with the restructuring plan and the refocusing carried out, does not render any further quid pro quos necessary.

Aid limited to the minimum (points 40 and 41 of the guidelines)

(64) In order for the aid to be authorised, a third condition must be fulfilled, i.e. the amount and intensity of the aid must be limited to the strict minimum needed to enable restructuring to be undertaken in the light of the existing financial resources of the company, its shareholders or the business group to which it belongs. Aid recipients must make a significant contribution to the restructuring plan from their own resources. In any event, it must be demonstrated to the Commission that the aid will be used only for the purpose of restoring the firm's viability and that it will not enable the recipient during the implementation of the restructuring plan to expand production capacity.

(65) The contribution from the recipient and its shareholders is substantial. Since 31 December 2001, Bull has contributed EUR 160 million to the restructuring from the sale of non-core business assets in 2002 and during the first half of 2003. In addition, it had reserved for restructuring measures EUR 94 million out of its free cash available on 31 December 2001 ([18]). Shareholders, both existing and new, have contributed to the recapitalisation to the tune of EUR 44,2 million, which is a substantial contribution. The fact that the subscription to the investors' capital stems partly from companies having partnerships with Bull (France Télécom, NEC), from customers (Debeka) and from senior managers of the Bull group in no way detracts from this finding. The Commission can also take into account the capital contributed at the time of exercise of share warrants to the tune of EUR 17 million, since former convertible bond holders were not obliged to choose this option.

(66) The solvency and liquidity ratios, after payment of the aid and viewing the aid as a debt, are at levels comparable to those of competitors. The restoration of financial health will make it possible above all to obtain bank guarantees for current activities. Bull is to continue to have recourse to external short-term financing based on the securitisation of its assets to the tune of EUR […] (*) — […] (*) million. In view of the risks inherent in the markets and Bull's niche player strategy, it is unlikely that financial institutions will be prepared to grant fresh credit lines for aggressive activities not linked to the restructuring process.

(67) According to the French authorities, had there been less aid on the table the other partners would not have agreed to invest and convertible bond holders would not have agreed to exchange their claims for new securities. As for the main alternative proposed by an American investment fund — an alternative which was rejected — the French authorities explained to the Commission's satisfaction that it would not have led to less aid. The fund proposed a larger capital injection than the EUR 33 million proposed by the group of investors, but the EUR 11 million guarantee provided by convertible bond holders covers the difference.

(68) In conclusion, the Commission considers that the aid does not provide the company with surplus cash which could be used for aggressive, market-distorting activities not linked to the restructuring process.

([18]) This amount does not include the advance granted by the State at the end of December 2001 or the resources which Bull may have generated thanks to that advance.

One time, last time principle

(69) In order to prevent firms from being unfairly assisted, point 48 of the guidelines states that restructuring aid should be granted only once. If the company concerned has already received restructuring aid in the past and if less than 10 years has elapsed since the restructuring period came to an end, the Commission will normally allow further restructuring aid only in exceptional and unforeseeable circumstances for which the company is not responsible. The aid notified in the present case will be paid on 31 December 2004 at the earliest. In 1993 and 1994, the French State granted Bull restructuring aid which was approved by the Commission at the end of 1994. The restructuring plan in question concerned, however, a period lasting until the end of 1995. Decision 2003/599/EC, by which the Commission approved the rescue aid ([19]) and which in recital 60 refers to the date of 31 December 2004 as being the date as from which further restructuring aid may be granted, is incorrect on this point. The 10-year period has therefore not elapsed in the present case.

(70) However, the one time, last time principle cannot be applied absolutely. As the Court of Justice has held ([20]), admittedly within the framework of the ECSC Treaty, although it holds true even more so within the framework of the EC Treaty, the purpose of the provisions concerning aid is to grant the Commission power to meet unforeseen situations by taking account of the changing nature of market conditions. This being so, indiscriminate application of the one time, last time principle would excessively restrict the category of aid capable of being regarded as necessary and would not allow the Commission to examine, in each particular case, whether a project for restructuring aid was necessary in order to attain Treaty objectives. Similarly, the Commission cannot in principle base itself exclusively on the existence of an earlier decision in order to prohibit subsequent aid to the same recipient ([21]).

(71) It is against this background that the guidelines provide for the possibility of derogating from the one time, last time principle in exceptional and unforeseeable circumstances for which the company is not responsible. In this respect, it should be pointed out that, although the crisis in the information and communication technologies sector in 2001 was neither exceptional nor unforeseeable, its scale, especially in the segment of technologies related to the Internet and telecommunications, was exceptional, unforeseeable and not the fault of Bull. Another consideration to be taken into account in the present case is the very high speed of technological developments in the relevant sector.

(72) Moreover, it should be stressed in this context that Bull and the French State had scrupulously adhered to the earlier restructuring plan, notably as regards the privatisation, the partnership with NEC and France Télécom and the sale of several assets, as proposed by an independent expert and as supported by the Commission, and that the said plan could not have foreseen the current difficulties. The financial difficulties at that time were largely linked to divisions and subsidiaries which were sold under the restructuring plan, notably Zenith Data Systems in the microcomputers sector and the OSS division. A first restructuring of Bull has indeed taken place, in the course of which the company tried to adapt to its environment. The downsizing of the company's workforce reflects this radical change: from 44 500 in 1990, it shrank to 24 000 in 1995 and to 11 500 in 1999. The current difficulties, as described in recitals 9 to 12, differ in their nature from those which led to the 1993-95 restructurings.

(73) It follows that, in the present case, the philosophy behind the one time, last time principle, namely the wish to prevent firms from being unfairly assisted, is respected. The State has not propped up Bull artificially despite the fact that its difficulties are of a recurring nature; on the contrary, the aid to which this Decision relates was intended to deal with difficulties that are new in nature.

(74) It should be added that the 10-year period has almost elapsed.

(75) In conclusion, in the circumstances of the present case, the Commission considers that the one time, last time criterion is not a bar to the notified aid being authorised.

'Deggendorf' principle

(76) According to the judgment of the Court of Justice in *Deggendorf* ([22]), when the Commission examines the compatibility of aid, it must take all the relevant factors into account, including any cumulative effect of that aid and other aid which has not been repaid. In the present case, Bull has at its disposal the rescue aid the authorisation of which was subject to its being reimbursed by Bull by 17 June 2003 at the latest. According to the French authorities, the notified aid will, however, not be paid until after the rescue aid has been reimbursed. This being so, the 'Deggendorf' principle is respected, although the Commission will have to ensure that that is the case.

([19]) See footnote 7.

([20]) Judgment of the Court of 23 November 2000 Case C-441/97 P *Wirtschaftsvereinigung Stahl, Thyssen Stahl AG, Preussag Stahl AG and Hoogovens Staal BV, formerly Hoogovens Groep BV v Commission of the European Communities* [2000] ECR I-10293, paragraph 55.

([21]) Opinion of Mr Advocate General Jacobs in Case C-110/02 *Commission* v *Council*, paragraph 43 (not yet reported).

([22]) See footnote 11.

Implementation of the restructuring plan communicated

(77) In accordance with point 43 of the guidelines, the restructuring plan communicated to the Commission, as explained and added to, must be implemented in full.

Monitoring and reports

(78) In accordance with points 45 and 46 of the guidelines, annual reports must be communicated to the Commission.

VI. **CONCLUSION**

(79) The Commission considers that the restructuring aid for Bull notified by France may be declared compatible with the common market provided that all the commitments undertaken by France and all the conditions imposed are fulfilled,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which France is planning to implement for Bull, which consists of a EUR 517 million payment coupled with a better fortunes clause, is compatible with the common market subject to the conditions laid down in Article 2.

Article 2

1. Bull's restructuring plan, as communicated to the Commission by France, shall be implemented in full.

2. The aid referred to in Article 1 shall not be paid until the rescue aid approved by Decision 2003/599/EC has been reimbursed. It shall be paid on 31 December 2004 at the earliest.

3. France shall submit to the Commission annual reports on the implementation of the restructuring plan for the period up to the end of 2007.

Article 3

France shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with it.

Article 4

This Decision is addressed to the French Republic.

Done at Brussels, 1 December 2004.

For the Commission

Neelie KROES

Member of the Commission

COMMISSION DECISION

of 21 December 2005

authorising Member States to take decisions under Council Directive 1999/105/EC on assurances afforded in respect of forest reproductive material produced in third countries

(notified under document number C(2005) 5485)

(2005/942/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material [1], and in particular Article 19(3) thereof,

Whereas:

(1) Pursuant to Article 19(1) of Directive 1999/105/EC, the Council on a proposal from the Commission is to determine whether forest reproductive material produced in a third country affords the same assurances as regards the approval of its basic material and the measures taken for its production with a view to marketing as does forest reproductive material produced within the Community and complying with the provisions of that Directive.

(2) The information presently available on the conditions applying in third countries is, however, still not sufficient to enable the Community to make any such decision in respect of any third country.

(3) In order to prevent trade patterns from being disrupted, Member States should, therefore, be authorised to take such decisions in respect of specific material imported from particular countries. The Commission's analysis shows that this material offers equivalent guarantees to those applicable to forest reproductive material produced in the Community in accordance with Directive 1999/105/EC.

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

HAS ADOPTED THIS DECISION:

Article 1

Member States are authorised to decide in respect of the third countries listed in the Annex, and in respect of the species, categories and types of basic material set out therein whether forest reproductive material produced in those countries affords the same assurances as regards the approval to its basic material and the measures taken for its production with a view to marketing as does forest reproductive material produced within the Community and complying with the provisions of Directive 1999/105/EC.

Forest reproductive material imported from those third countries shall be accompanied by a master certificate or an official certificate issued by the country of origin and records which shall contain details of all consignments to be exported, to be provided by the supplier in the third country.

Article 2

Member States shall immediately notify the Commission and other Member States of any decisions taken pursuant to this Decision, and of any withdrawal of such decisions.

Article 3

The authorisation provided for in Article 1 shall apply from 1 January 2006 and shall expire 31 December 2008.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 21 December 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

[1] OJ L 11, 15.1.2000, p. 17.

ANNEX

Country of origin	Species	Category	Type of basic material
Belarus	*Picea abies* Karst.	SI	SS, St
Canada (British Columbia)	*Abies grandis* Lindl.	SI, Q, T	SS, St, SO, PF
	Picea sitchensis Carr.	SI, Q	SS, St, SO
	Pinus contorta Loud.	SI	SS, St
	Pseudotsuga menziesii Franco	SI, Q, T	SS, St, SO, PF
Croatia (I-1. Podravina, Podunavlje, I-2. Posavina)	*Quercus robur* L.	SI	SS, St
Norway	*Picea abies* Karst	SI	SS, St
	Pinus sylvestris L.	SI	SS, St
	Quercus petraea Liebl.	SI	SS, St
	Quercus robur L.	SI	SS, St
Romania	*Abies alba* Mill.	SI	SS, St
	Acer platanoides L.	SI	SS, St
	Fagus sylvatica L.	SI	SS, St
	Larix decidua Mill.	SI	SS, St
	Picea abies Karst.	SI	SS, St
	Pinus nigra Arnold	SI	SS, St
	Prunus avium L.	SI	SS, St
	Quercus cerris L.	SI	SS, St
	Quercus petraea Liebl.	SI	SS, St
	Quercus robur L.	SI	SS, St
	Quercus rubra L.	SI	SS, St
	Robinia pseudoacacia L.	SI	SS, St
Switzerland	*Fagus sylvatica* L.	SI	SS, St
Turkey	*Cedrus libani* A. Richard	SI, SE	SS, St
	Pinus brutia Ten.	SI, SE	SS, St
United States of America (Washington, Oregon, California)	*Abies grandis* Lindl.	SI, Q, T	SS, St, SO, PF
	Picea sitchensis Carr	SI	SS, St
	Pinus contorta Loud	SI	SS, St
	Pseudotsuga menziesii Franco	SI, Q, T	SS, St, SO, PF

Legend:

Category	Type of basic material
SI Source identified	SS Seed source
SE Selected	St Stand
Q Qualified	SO Seed orchard
T Tested	PF Parents of family

COMMISSION DECISION

of 21 December 2005

amending Decision 93/195/EEC on animal health conditions and veterinary certification for the re-entry of registered horses for racing, competition and cultural events after temporary export

(notified under document number C(2005) 5496)

(2005/943/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/426/EEC of 26 June 1990 on animal health conditions governing the movement and import from third countries of equidae [1], and in particular Article 19(ii) thereof,

Whereas:

(1) In accordance with Commission Decision 93/195/EEC [2], the re-entry of registered horses for racing, competition and cultural events after temporary export is restricted to horses kept for less than 30 days in a third country.

(2) Under that Decision, however, horses that have taken part in the United Arab Emirates Endurance World Cup and meet the requirements laid down in that Decision are authorised to re-enter Community territory after temporary export for less than 60 days.

(3) In order to make it easier for horses originating in the Community to take part in those competitions, this special rule should apply to all Endurance World Cup competitions carried out under the rules, including the veterinary supervision, of the Federation Equestre International (FEI), irrespective of in which of the countries approved in accordance with Directive 90/426/EEC the competition takes place.

(4) Decision 93/195/EEC should therefore be amended accordingly.

(5) 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

Decision 93/195/EEC is amended as follows:

1. In Article 1, the seventh indent is replaced by the following:

'— have taken part in the Endurance World Cup, irrespective of in which of the countries approved in accordance with Directive 90/426/EEC the competition takes place, and meet the requirements laid down in a health certificate in accordance with the model set out in Annex VII to this Decision.'

2. Annex VII is replaced by the Annex to this Decision.

Article 2

This Decision shall apply from 27 December 2005.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 21 December 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

[1] OJ L 224, 18.8.1990, p. 42. Directive as last amended by Directive 2004/68/EC (OJ L 139, 30.4.2004, p. 320; corrected version in OJ L 226, 25.6.2004, p. 128).
[2] OJ L 86, 6.4.1993, p. 1. Decision as last amended by Decision 2005/771/EC (OJ L 291, 5.11.2005, p. 38).

ANNEX

'ANNEX VII

HEALTH CERTIFICATE

for re-entry of registered horses that have taken part in the Endurance World Cup after temporary export for less than 60 days

Certificate No: .....

Exporting third country: .....

Responsible ministry: .....

I. **Identification of horse**

(a) No of identification document: .....

(b) Validated by: .....
(name of competent authority)

II. **Origin of horse**

The horse is to be sent from: .....
(place whence consigned)

to: .....
(place of destination)

by air: .....
(give flight number)

Name and address of consignor: .....

Name and address of consignee: .....

III. **Health information**

I, the undersigned, certify that the above horse meets the requirements set out in point III (a), (b), (c), (e), (f), (g) and (h) of Annex II to Decision 93/195/EEC and that it has been kept on officially approved holdings under official veterinary supervision since entering the territory of ..... (name of the exporting country) on ..... (less than 60 days) and during that period has been kept in separated stabling out of contact with equidae of lower health status, except during the competitions.

IV. The horse will be consigned in a means of transport cleaned and disinfected in advance with a disinfectant officially recognised in ..... (name of the exporting country).

V. This certificate is valid for 10 days.

Date	Place	Stamp and signature of the official veterinarian [1]

Name in block capitals and capacity.

[1] The colour of the stamp and the signature must be different to that of the printing.'

COMMISSION DECISION

of 19 December 2005

termination of the anti-absorption proceeding concerning imports of sodium cyclamate originating in the People's Republic of China

(2005/944/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 ('the basic Regulation') [1], and in particular Articles 9 and 12 thereof,

Whereas:

A. PROCEDURE

1. Original measures

(1) In March 2004, the Council imposed a definitive anti-dumping duty ('the original measure') on imports of sodium cyclamate ('product concerned') originating in the People's Republic of China ('the PRC') by Regulation (EC) No 435/2004 [2]. Individual duty rates ranging from 0 to EUR 0,11 per kilo were imposed on cooperating exporting producers in the PRC. The rate applicable to imports from all other companies is EUR 0,26 per kilo.

2. Request for reinvestigation

(2) On 14 March 2005 a request for a reinvestigation of the original measure was lodged pursuant to Article 12 of the basic Regulation. The request was submitted by Productos Aditivos SA ('the applicant'), the sole Community producer of sodium cyclamate, which alleged and provided sufficient evidence showing that, following the imposition of the original measures, export prices have decreased and there has been insufficient movement in resale prices or subsequent selling prices in the Community.

3. The reinvestigation

(3) On 27 April 2005 the Commission announced the initiation of a reinvestigation, pursuant to Article 12 of the basic Regulation, of the anti-dumping measures applicable to imports of sodium cyclamate originating in the PRC by a notice published in the *Official Journal of the European Union* [3].

(4) The Commission officially advised the producers/exporters known to be concerned, the representatives of the exporting country, importers and users of the initiation of the reinvestigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time-limit set out in the notice of initiation. The Commission sent questionnaires to all parties known to be concerned.

(5) Complete replies to the questionnaire were received from one exporter and its two related producers in the PRC, and from three importers in the Community. It should be noted that exporting producers with 0 EUR duty rate represented around 60 % of the total exports of sodium cyclamate from the PRC during the investigation period of this reinvestigation.

(6) The Commission sought and verified all the information deemed necessary for the purpose of this reinvestigation. Verification visits were carried out at the premises of the following companies:

Exporter and its related producers in the PRC

— Rainbow Rich Industrial Ltd., Hong Kong

— Golden Time Enterprises (Shenzhen) Co. Ltd. and Jintian Enterprises Nanjing Co. Ltd., Shenzhen, the PRC

Importers

— Emilio Peña SA, Valencia, Spain

— Kraemer & Martin GmbH, Sankt Augustin, Germany.

(7) Three other importers declared that they did not import the product concerned during the investigation period. One importer declared that it would not reply to the questionnaire because it had only imported very marginal quantities of the product concerned during the investigation period.

[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 72, 11.3.2004, p. 1.
[3] OJ C 101, 27.4.2005, p. 26.

(8) The investigation period of this reinvestigation ('new IP') ran from 1 January 2004 to 31 December 2004. The new IP was used to determine the current level of export prices and the level of the resale prices in the Community. In establishing whether the export prices and the resale prices or subsequent selling prices in the Community had moved sufficiently, the price levels charged during the new IP were compared to those charged during the investigation period used in the investigation which led to the imposition of the original measures ('original IP'), which had covered the period from 1 October 2001 to 30 September 2002.

B. **PRODUCT CONCERNED**

(9) The product concerned by the request and for which the reinvestigation was initiated is the same as in the original investigation, i.e. sodium cyclamate, currently classifiable under CN code ex 2929 90 00.

(10) Sodium cyclamate is a commodity product used as a food additive, permitted in the European Community and in many other countries as a sweetener for low-caloric and dietetic food and beverages. It is widely used as an additive by the food industry, as well as by the producers of low caloric and dietetic table-top sweeteners. Small volumes are also used by the pharmaceutical industry.

C. **FINDINGS**

(11) The purpose of this reinvestigation was first, to establish whether or not export prices had decreased or whether there had been insufficient movement in resale prices or subsequent selling prices in the Community of sodium cyclamate originating in the PRC since the imposition of the original measures. If it were then found that absorption had occurred, the dumping margin would have to be recalculated.

(12) In accordance with Article 12 of the basic Regulation, importers/users and exporters were provided with an opportunity to submit evidence to justify a decrease in export prices and lack of movement in resale prices in the Community following the imposition of measures for reasons other than absorption of the anti-dumping duty.

1. **Decrease in export prices**

(13) Sales of the product concerned originating in the PRC were, in the new IP, normally made directly to independent importers and/or distributors in the EU. Movements in export prices were assessed by comparing, for the same delivery conditions, the average price observed in the new IP with that determined during the original IP.

(14) The comparison of prices of co-operating companies showed no decrease in the average export price of sodium cyclamate originating in the PRC.

2. **Movement of resale prices in the Community**

(15) The movement of prices in the Community at the level of importer and/or distributor was assessed by comparing the average resale price for the same delivery conditions (DDP), including the conventional duty plus the anti-dumping duty, of the original IP with that determined in the new IP, including both the conventional duty and the anti-dumping duty. It should be noted that the average conventional duty rate applicable to imports of sodium cyclamate originating in the PRC decreased by 1,5 % between the two IPs. The resale price was established on the basis of information submitted by the importer in the Community which accounted for the majority of the imports of the co-operating exporter in the PRC.

(16) The comparison showed that the average resale price in the Community, expressed in euro, of sodium cyclamate originating in the PRC, had decreased by 10 %.

Exchange rate variation

(17) It was noted that sodium cyclamate imported from the PRC was invoiced in US dollars during both the original and the new IP. Therefore any decrease in resale prices in the Community of sodium cyclamate should be estimated taking into account the USD/EUR exchange rate variation between the original IP and the new IP.

(18) This was verified and it was found that the US dollar had depreciated against the euro by 35 % between the original IP and the new IP. Therefore, when the comparison was carried out by taking into account the effect of the above-mentioned depreciation of the US dollar against the euro, no decrease in the level of resale prices in the Community was observed between the original IP and the new IP in the sense of Article 12(2) of the basic Regulation.

3. **Non co-operating companies**

(19) It was found that in this reinvestigation, a group of exporting producers who are not liable to anti-dumping duty on their imports into the Community accounted for around 60 % of current exports from the PRC to the EU and the co-operating exporting producer accounted for 35 % of the above-mentioned exports.

(20) It was concluded that the non co-operating companies represented only a minor part, i.e. less than 5 %, of total exports of the product concerned to the Community during the new IP, the country-wide duty should therefore be left unchanged.

D. **CONCLUSION**

(21) It was concluded that, in the sense of Article 12(2) of the basic Regulation, absorption of the anti-dumping duties had not occurred, since no decrease in the export price was found and the decrease observed in the resale prices in the Community of sodium cyclamate originating in the PRC was less than it could have been expected from the exchange rate fluctuations.

(22) Therefore the absorption reinvestigation concerning imports into the Community of the product concerned originating in the PRC should be terminated,

HAS DECIDED AS FOLLOWS:

Article 1

The reinvestigation pursuant to Article 12 of Regulation (EC) No 384/96 of the anti-dumping measures applicable to imports of sodium cyclamate originating in the People's Republic of China is hereby terminated.

Article 2

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

Done at Brussels, 19 December 2005.

For the Commission

Peter MANDELSON

Member of the Commission

COMMISSION DECISION

of 23 December 2005

on the continuation in the year 2006 of Community comparative trials and tests on propagating material of *Paeonia* spp. and *Geranium* spp. under Council Directive 98/56/EC started in 2005

(2005/945/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants [1],

Having regard to Commission Decision 2005/2/EC of 27 December 2004 setting out the arrangements for Community comparative trials and tests on propagating material of certain species under Council Directive 98/56/EC for the years 2005 and 2006 [2], and in particular Article 3 thereof,

Whereas:

(1) Decision 2005/2/EC sets out the arrangements for the comparative trials and tests to be carried out under Directive 98/56/EC as regards *Paeonia* spp. and *Geranium* spp. for 2005 and 2006.

(2) Tests and trials carried out in 2005 should be continued in 2006,

HAS DECIDED AS FOLLOWS:

Sole Article

Community comparative trials and tests which began in 2005 on propagating material of *Paeonia* spp. and *Geranium* spp. shall be continued in 2006 in accordance with Decision 2005/2/EC.

Done at Brussels, 23 December 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

[1] OJ L 226, 13.8.1998, p. 16. Directive as last amended by Directive 2003/61/EC (OJ L 165, 3.7.2003, p. 23).

[2] OJ L 1, 4.1.2005, p. 12.

COMMISSION DECISION

of 23 December 2005

amending Decision 2003/526/EC as regards classical swine fever control measures in Germany and Slovakia

(notified under document number C(2005) 5631)

(Text with EEA relevance)

(2005/946/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 the completion of the internal market [1], and in particular Article 10(4) thereof,

Whereas:

(1) In response to outbreaks of classical swine fever in certain Member States, Commission Decision 2003/526/EC of 18 July 2003 concerning protection measures relating to classical swine fever in certain Member States [2] was adopted. That Decision establishes certain additional disease control measures concerning classical swine fever.

(2) Germany has informed the Commission about the recent evolution of that disease in feral pigs in the federal state of North Rhine-Westphalia. In the light of the epidemiological information available, the areas in Germany where disease control measures apply should be amended to include certain areas in North Rhine-Westphalia and Rhineland-Palatinate.

(3) The disease situation in Slovakia has significantly improved in District Veterinary and Food Administrations of Trnava (comprising Trnava, Piešťany and Hlohovec districts) and Banská Bystrica (comprising Banská Bystrica and Brezno districts). The measures provided for in Decision 2003/526/EC concerning those areas should therefore no longer apply.

(4) Decision 2003/526/EC should therefore be amended accordingly.

(5) 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 2003/526/EC is replaced by the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 December 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

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[1] 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).

[2] OJ L 183, 22.7.2003, p. 46. Decision as last amended by Decision 2005/339/EC (OJ L 108, 29.4.2005, p. 87).

ANNEX

'ANNEX

PART I

Areas of Germany and France referred to in Articles 2, 3, 5, 6, 7 and 8

1. Germany

A. In the federal state Rhineland-Palatinate:

(a) the Kreise: Bad Dürkheim, Donnersbergkreis and Südliche Weinstraße;

(b) the cities of: Speyer, Landau, Neustadt an der Weinstraße, Pirmasens and Kaiserslautern;

(c) in the Kreis Alzey-Worms: the localities Stein-Bockenheim, Wonsheim, Siefersheim, Wöllstein, Gumbsheim, Eckelsheim, Wendelsheim, Nieder-Wiesen, Nack, Erbes-Büdesheim, Flonheim, Bornheim, Lonsheim, Bermershein vor der Höhe, Albig, Bechenheim, Offenheim, Mauchenheim, Freimersheim, Wahlheim, Kettenheim, Esselborn, Dintesheim, Flomborn, Eppelsheim, Ober-Flörsheim, Hangen-Weisheim, Gundersheim, Bermersheim, Gundheim, Framersheim, Gau-Heppenheim, Monsheim and Alzey;

(d) in the Kreis Bad Kreuznach: the localities Becherbach, Reiffelbach, Schmittweiler, Callbach, Meisenheim, Breitenheim, Rehborn, Lettweiler, Abtweiler, Raumbach, Bad Sobernheim, Odernheim a. Glan, Staudernheim, Oberhausen a. d. Nahe, Duchroth, Hallgarten, Feilbingert, Hochstätten, Niederhausen, Norheim, Bad Münster a. Stein-Ebernburg, Altenbamberg, Traisen, Fürfeld, Tiefenthal, Neu-Bamberg, Frei-Laubersheim, Hackenheim, Volxheim, Pleitersheim, Pfaffen-Schwabenheim, Biebelsheim, Guldental, Bretzenheim, Langenlonsheim, Laubenheim, Dorsheim, Rümmelsheim, Windesheim, Stromberg, Waldlaubersheim, Warmsroth, Schweppenhausen, Eckenroth, Roth, Boos, Hüffelsheim, Schloßböckelheim, Rüdesheim, Weinsheim, Oberstreit, Waldböckelheim, Mandel, Hargesheim, Roxheim, Gutenberg and Bad Kreuznach;

(e) in the Kreis Germersheim: the municipalities Lingenfeld, Bellheim and Germersheim;

(f) in the Kreis Kaiserslautern: the municipalities Weilerbach, Otterbach, Otterberg, Enkenbach-Alsenborn, Hochspeyer, Kaiserslautern-Süd, Landstuhl and Bruchmühlbach-Miesau, the localities Ramstein-Miesenbach, Hütschenhausen, Steinwenden and Kottweiler-Schwanden;

(g) in the Kreis Kusel: the localities Odenbach, Adenbach, Cronenberg, Ginsweiler, Hohenöllen, Lohnweiler, Heinzenhausen, Nussbach, Reipoltskirchen, Hefersweiler, Relsberg, Einöllen, Oberweiler-Tiefenbach, Wolfstein, Kreimbach-Kaulbach, Rutsweiler a.d. Lauter, Rothselberg, Jettenbach and Bosenbach;

(h) in the Rhein-Pfalz-Kreis: the municipalities Dudenhofen, Waldsee, Böhl-Iggelheim, Schifferstadt, Römerberg and Altrip;

(i) in the Kreis Südwestpfalz: the municipalities Waldfischbach-Burgalben, Rodalben, Hauenstein, Dahner-Felsenland, Pirmasens-Land and Thaleischweiler-Fröschen, the localities Schmitshausen, Herschberg, Schauerberg, Weselberg, Obernheim-Kirchenarnbach, Hettenhausen, Saalstadt, Wallhalben and Knopp-Labach;

(j) in the Kreis Ahrweiler: the municipalities Adenau and Ahrweiler;

(k) in the Kreis Daun: the munipalities Nohn and Üxheim.

B. In the federal state North Rhine-Westphalia:

— in the Kreis Euskirchen: the city Bad Münstereifel, the municipality Blankenheim (localities Lindweiler, Lommersdorf and Rohr), the city Euskirchen (localities Billig, Euenheim, Flamersheim, Kirchheim, Kreuzweingarten, Niederkastenholz, Rheder, Schweinheim, Stotzheim and Wißkirchen), the city Mechernich (localities Antweiler, Harzheim, Holzheim, Lessenich, Rissdorf, Wachendorf and Weiler am Berge), the municipality Nettersheim (localities Bouderath, Buir, Egelgau, Frohngau, Holzmühlheim, Pesch, Roderath and Tondorf).

2. France

The territory of the Department of Bas-Rhin and Moselle located west of the Rhine and the channel Rhine-Marne, north of the motorway A 4, east of the river Sarre and south of the border with Germany and the municipalities Holtzheim, Lingolsheim and Eckbolsheim.

PART II

Areas of Slovakia referred to in Articles 2, 3, 5, 7 and 8

The territory of the District Veterinary and Food Administrations (DVFA) of Trenčín (comprising Trenčín and Bánovce nad Bebravou districts), Prievidza (comprising Prievidza and Partizánske districts), Púchov (comprising Ilava district only), Žiar nad Hronom (comprising Žiar nad Hronom, Žarnovica and Banská Štiavnica districts), Zvolen (comprising Zvolen, Krupina and Detva districts), Lučenec (comprising Lučenec and Poltár districts) and Veľký Krtíš.'

COMMISSION DECISION

of 23 December 2005

on the continuation in the year 2006 of Community comparative trials and tests on seeds and propagating material of *Agrostis* spp., *D. glomerata* L., *Festuca* spp., *Lolium* spp., *Phleum* spp., *Poa* spp. including mixtures and *Asparagus officinalis* under Council Directives 66/401/EEC and 2002/55/EC started in 2005

(Text with EEA relevance)

(2005/947/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed [1],

Having regard to Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed [2],

Having regard to Commission Decision 2005/5/EC of 27 December 2004 setting out the arrangements for Community comparative trials and tests on seeds and propagating material of certain plants of agricultural and vegetable species and vine under Council Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 92/33/EEC, 2002/54/EC, 2002/55/EC, 2002/56/EC and 2002/57/EC for the years 2005 to 2009 [3], and in particular Article 3 thereof,

Whereas:

(1) Decision 2005/5/EC sets out the arrangements for the comparative trials and tests to be carried out under Council Directives 66/401/EEC and 2002/55/EC as regards *Agrostis* spp., *D. glomerata* L., *Festuca* spp., *Lolium* spp., *Phleum* spp., *Poa* spp. including mixtures and *Asparagus officinalis* from 2005 to 2009.

(2) Tests and trials carried out in 2005 should be continued in 2006,

HAS DECIDED AS FOLLOWS:

Sole Article

Community comparative trials and tests which began in 2005 on seeds and propagating material of *Agrostis* spp., *D. glomerata* L., *Festuca* spp., *Lolium* spp., *Phleum* spp., *Poa* spp. including mixtures and *Asparagus officinalis* shall be continued in 2006 in accordance with Decision 2005/5/EC.

Done at Brussels, 23 December 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

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[1] OJ 125, 11.7.1966, p. 2298/66. Directive as last amended by Directive 2004/117/EC (OJ L 14, 18.1.2005, p. 18).

[2] OJ L 193, 20.7.2002, p. 33. Directive as last amended by Directive 2004/117/EC.

[3] OJ L 2, 5.1.2005, p. 12.

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 2134/2005 of 22 December 2005 fixing the export refunds on products processed from cereals and rice

(Official Journal of the European Union L 340 of 23 December 2005)

On page 53, in the Annex, in the table, second part, last line, second column 'Destination', concerning product code '2106 90 55 9000':

for: 'C10',

read: 'C14'.