

# Official Journal

## of the European Union

L 302

Volume 49

1 November 2006

English edition

### Legislation

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## I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 1623/2006****of 17 October 2006****repealing Regulation (EC) No 7/2005 adopting autonomous and transitional measures to open a Community tariff quota for certain agricultural products originating in Switzerland**

THE COUNCIL OF THE EUROPEAN UNION,

open a Community tariff quota for certain agricultural products originating in Switzerland <sup>(2)</sup>.

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

- (4) Annex 2 to the Agreement, as adapted by Decision No 3/2005 of the Joint Committee for Agriculture set up by the Agreement between the European Community and the Swiss Confederation on trade in agricultural products of 19 December 2005 on the adaptation, following the enlargement of the European Union, of Annexes 1 and 2 <sup>(3)</sup>, sets out tariff quotas expanded to cover the products of CN code 0705 21 00.

Having regard to the proposal from the Commission,

Whereas:

- (1) Following the enlargement of the European Union on 1 May 2004, the Community and Switzerland agreed to adapt the tariff concessions laid down in the Agreement between the European Community and the Swiss Confederation of 21 June 1999 on trade in agricultural products <sup>(1)</sup>, (hereinafter referred to as the Agreement), which entered into force on 1 June 2002. In particular, they agreed to amend Annexes 1 and 2 to the Agreement, which listed the concessions, in order to widen an existing duty-free Community tariff quota to cover a new product, witloof chicory of CN code 0705 21 00.

- (5) Annex 2 to the Agreement is implemented by Commission Regulation (EC) No 1630/2006 of 31 October 2006 amending Regulation (EC) No 933/2002 opening and providing for the management of tariff quotas for certain agricultural products originating in Switzerland <sup>(4)</sup> with effect from 1 September 2006.

- (6) Regulation (EC) No 7/2005 should therefore be repealed with effect from the same date,

HAS ADOPTED THIS REGULATION:

*Article 1*

- (2) Pending the formal amendment, the Community and Switzerland agreed to provide for the application of the adapted concessions, as from 1 May 2004, on an autonomous and transitional basis.

Regulation (EC) No 7/2005 is hereby repealed.

*Article 2*

- (3) To ensure that quota benefit for products of CN code 0705 21 00 would be available from 1 May 2004, a new autonomous Community tariff quota limited to those products was provided for during a transitional period by Council Regulation (EC) No 7/2005 of 13 December 2004 adopting autonomous and transitional measures to

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

It shall apply from 1 September 2006.

<sup>(1)</sup> OJ L 114, 30.4.2002, p. 132.

<sup>(2)</sup> OJ L 4, 6.1.2005, p. 1.

<sup>(3)</sup> OJ L 346, 29.12.2005, p. 33.

<sup>(4)</sup> OJ L 302, 1.11.2006, p. 43.

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

Done at Luxembourg, 17 October 2006.

*For the Council*  
*The President*  
E. TUOMIOJA

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**COMMISSION REGULATION (EC) No 1624/2006****of 31 October 2006****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 <sup>(1)</sup>, 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 1 November 2006.

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

Done at Brussels, 31 October 2006.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> 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 31 October 2006 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)		
CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	052	51,1
	096	27,3
	204	46,3
	999	41,6
0707 00 05	052	109,1
	096	81,8
	204	36,5
	999	75,8
0709 90 70	052	98,0
	204	39,5
	999	68,8
0805 50 10	052	67,9
	388	48,3
	524	56,1
	528	46,3
	999	54,7
0806 10 10	052	84,0
	400	206,2
	508	274,1
	999	223,8
0808 10 80	096	29,0
	388	89,1
	400	101,9
	404	100,4
	800	159,5
	804	153,2
0808 20 50	999	105,5
	052	113,5
	720	55,5
	999	84,5

<sup>(1)</sup> 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 1625/2006****of 31 October 2006****amending the representative prices and additional duties for the import of certain products in the sugar sector fixed by Regulation (EC) No 1002/2006 for the 2006/2007 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector <sup>(2)</sup>, and in particular of the Article 36,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2006/2007 marketing year are fixed by Commission Regulation (EC) No 1002/2006 <sup>(3)</sup>. These prices and duties have been last amended by Commission Regulation (EC) No 1571/2006 <sup>(4)</sup>.

- (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 951/2006,

HAS ADOPTED THIS REGULATION:

*Article 1*

The representative prices and additional duties on imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 1002/2006 for the 2006/2007 marketing year are hereby amended as set out in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 1 November 2006.

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

Done at Brussels, 31 October 2006.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 55, 28.2.2006, p. 1.  
<sup>(2)</sup> OJ L 178, 1.7.2006, p. 24.

<sup>(3)</sup> OJ L 179, 1.7.2006, p. 36.  
<sup>(4)</sup> OJ L 290, 20.10.2006, p. 27.

## 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 1 November 2006**

(EUR)

CN code	Representative price per 100 kg of the product concerned	Additional duty per 100 kg of the product concerned
1701 11 10 <sup>(1)</sup>	23,66	4,47
1701 11 90 <sup>(1)</sup>	23,66	9,70
1701 12 10 <sup>(1)</sup>	23,66	4,28
1701 12 90 <sup>(1)</sup>	23,66	9,27
1701 91 00 <sup>(2)</sup>	31,27	9,60
1701 99 10 <sup>(2)</sup>	31,27	5,08
1701 99 90 <sup>(2)</sup>	31,27	5,08
1702 90 99 <sup>(3)</sup>	0,31	0,34

<sup>(1)</sup> Fixed for the standard quality defined in Annex I.III to Council Regulation (EC) No 318/2006 (OJ L 58, 28.2.2006, p. 1).

<sup>(2)</sup> Fixed for the standard quality defined in Annex I.II to Regulation (EC) No 318/2006.

<sup>(3)</sup> Fixed per 1 % sucrose content.



**COMMISSION REGULATION (EC) No 1626/2006****of 31 October 2006****fixing the import duties in the cereals sector applicable from 1 November 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 <sup>(1)</sup>,

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 <sup>(2)</sup>, 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 November 2006.

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

Done at Brussels, 31 October 2006.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> 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).

<sup>(2)</sup> 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 November 2006**

CN code	Description	Import duty <sup>(1)</sup> (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	0,00
1005 10 90	Maize seed other than hybrid	15,13
1005 90 00	Maize other than seed <sup>(2)</sup>	15,13
1007 00 90	Grain sorghum other than hybrids for sowing	0,00

<sup>(1)</sup> 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.

<sup>(2)</sup> 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**

(17.10.2006-30.10.2006)

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)	163,35 (***)	100,75	174,96	164,96	144,96	155,86
Gulf premium (EUR/t)	—	18,98	—			—
Great Lakes premium (EUR/t)	10,81	—	—			—

(\*) 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: 22,88 EUR/t; Great Lakes–Rotterdam: 32,69 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 1627/2006****of 24 October 2006****amending Regulation (EC) No 794/2004 as regards the standard forms for notification of aid**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty <sup>(1)</sup>, and in particular Article 27 thereof,

After consulting the Advisory Committee on State Aid,

Whereas:

- (1) Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty <sup>(2)</sup> established a compulsory comprehensive State aid notification form.

- (2) Following the adoption by the Commission of new guidelines on national regional aid for 2007 to 2013 <sup>(3)</sup> it is necessary to modify parts of the notification form.

- (3) Regulation (EC) No 794/2004 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I to Regulation (EC) No 794/2004 is amended in accordance with the Annex to this Regulation.

*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, 24 October 2006.

*For the Commission*

Neelie KROES

*Member of the Commission*

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<sup>(1)</sup> OJ L 83, 27.3.1999, p. 1. Regulation as amended by the 2003 Act of Accession.

<sup>(2)</sup> OJ L 140, 30.4.2004, p. 1.

<sup>(3)</sup> OJ C 54, 4.3.2006, p. 13.

## ANNEX

In Part III of Annex I to Regulation (EC) No 794/2004, Supplementary Information sheets 4 and 5 are replaced by the following:

## PART III.4

**SUPPLEMENTARY INFORMATION SHEET ON REGIONAL AID**

*This supplementary information sheet must be used for the notification of any aid scheme or ad hoc aid covered by the guidelines on national regional aid for 2007-2013 (RAG) <sup>(1)</sup>. The present annex cannot be used for the particular purpose of notification of new regional aid maps for the period 2007-2013. Transparent investment aid schemes falling under the scope of the exemption regulation on regional investment aid are exempted from the notification obligation. Therefore, Member States are invited to clarify the scope of their notification; in the particular case that a scheme covers both transparent and non-transparent forms of investment aid, they are invited to limit the scope of the notification only to the second category.*

*In the case of ad hoc aid (i.e. aid granted outside existing aid schemes), Member States will have to demonstrate that the project contributes towards a coherent regional development strategy and that, having regard to the nature and size of the project, it will not result in unacceptable distortions of competition. Moreover, Member States will have to demonstrate that the aid will not be unduly concentrated on a particular sector of activity and that it creates no adverse sectoral effects.*

*Another supplementary information sheet (Part III.5) must be submitted in case of notification of regional investment aid to large investment projects in the accordance with section 4.3 of the RAG.*

**1. Scheme or ad hoc aid**

The scheme or the ad hoc aid relates to

**1.1. ☐ initial investment**

☐ The aid is calculated as a percentage of the investment's eligible material and immaterial costs

☐ The aid is calculated as a percentage of the expected wage costs of the persons to be hired

☐ operating aid

☐ aid for newly-created small enterprises

☐ combination of any above

**1.2. The aid is granted:**

☐ automatically, should the conditions of the scheme be fulfilled

☐ on a discretionary basis, following a decision of the authorities

Should the aid be granted on a discretionary basis, please provide a short description of the criteria followed and attach a copy of the administrative provisions applicable for the awarding of aid:

.....  
 .....

**1.3. Does the aid respect the regional aid ceilings determined in the regional aid map in force at the time of awarding the aid, including those resulting from the provisions applicable to aid for large investment projects (section 4.3 of RAG)?**

☐ yes

☐ no

Does the scheme include a reference to the regional aid map in force?

☐ yes

☐ no

<sup>(1)</sup> Guidelines on national regional aid for 2007-2013 (OJ C 54, 4.3.2006, p. 13).

**2. Initial investment aid**

2.1. Does the scheme cover investment in fixed capital or job creation linked to initial investment relating to:

- ☐ the setting-up of a new establishment?
- ☐ the extension of an existing establishment?
- ☐ diversification of the output of an establishment into new, additional products?
- ☐ a fundamental change in the overall production process of an existing establishment?
- ☐ the acquisition by an independent investor of capital assets directly linked to an establishment which has closed or which would have closed had it not been purchased?

2.2. Where the aid is calculated on the basis of material or immaterial investment costs, or of acquisition costs in the case of a takeover, does the aid include a clause stipulating that the beneficiary makes a financial contribution of at least 25 % of the total eligible costs and that this contribution will be free of any public support, including *de minimis* aid?

☐ yes ☐ no

2.3. Where the aid is granted automatically on the basis of objective criteria under a legal basis giving rights to the beneficiaries to receive the aid, does the scheme exclude the award of aid to projects which have started before the entry into force of the legal basis?

☐ yes ☐ no

Where the aid is not granted automatically, does the scheme provide that the application for aid must be submitted before work is started on the project and the competent authorities must have confirmed in writing that, subject to the final outcome of a detailed verification, the project meets the conditions of eligibility laid down by the scheme (see p. 38 of the RAG)?

☐ yes ☐ no

In the case of ad hoc aid, did the competent authority issue a letter of intent to award aid before work started on the project, which was conditional on the Commission approval of the measure?

☐ yes ☐ no

If any of the previous points mentioned above under 2.3 are not fulfilled, please explain why and how the authorities intend to comply with these necessary conditions:

.....

2.4. What are the aid intensities under the scheme or ad hoc aid expressed in gross terms?

.....

What are the parameters enabling the calculation of aid intensities?

.....

2.4.1. ☐ Grants

☐ in nominal amount

.....

☐ in present (discounted) value

.....

2.4.2. ☐ *Tax measures*

How is the discounted value of the tax capped and to which aid intensity?

.....

2.4.3. ☐ *Public soft loans*

maximum period of the loan:

.....

maximum proportion (amount of the loan as a % of the eligible investment):

.....

maximum length of the grace period:

.....

minimum interest rate:

.....

— Is the loan covered by normal securities required by banks?

☐ yes

☐ no

If yes, to what extent?

.....

— What is the expected default rate, by categories of beneficiaries?

.....

— Is the interest rate increased in situations involving a particular risk?

☐ yes

☐ no

— Is the interest rate fixed, variable, dependent on profits, a combination of above?

.....

— Are the loans subordinated?

☐ yes

☐ no

2.4.4. ☐ *Interest rate subsidy:*

maximum amount of the rebate:

.....

maximum proportion (amount of the loan as a % or proportion of the eligible investment):

.....

maximum length of the grace period:

.....

duration of the loan:

.....

2.4.5. ☐ *Guarantee schemes*

Please indicate the types of loans for which guarantees may be granted:

.....

Please indicate the method and the parameters used for the calculation of the grant equivalent of the guarantee, including duration, proportion and amount of the loan:

.....

Please specify the premiums paid by the State to the bank:

.....

What is the expected default rate, by categories of beneficiaries?

.....

What is the maximum coverage (percentage) of a loan by the guarantee?

.....

What are the conditions for the mobilisation of guarantees?

.....

2.4.6. ☐ *Public participations*

Please indicate if the scheme involves aid in form of public participations:

.....

To what extent does the public participation deviate from the Market Economy Investor principle?

.....

Please provide relevant information in order to calculate the aid element of the public participation:

.....

2.4.7. ☐ *Other:*

.....

## 2.5. Is replacement investment excluded from the scheme?

☐ yes☐ no

If not, the authorities are requested to fill in section 3 of this form on operating aid.

2.6. Is assistance for firms in difficulty <sup>(1)</sup> and/or for the financial restructuring of firms in difficulty excluded from the scheme?☐ yes☐ no

<sup>(1)</sup> As defined in the Community guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 244, 1.10.2004, p. 2).



2.7. Investment aid calculated as a percentage of the investment's eligible material and immaterial costs

Does the eligible expenditure under the scheme relate to:

2.7.1. ☐ *Material assets:*

The value of the investment is established on the basis of <sup>(1)</sup>:

☐ land

☐ buildings

☐ plant/machinery (equipment)

☐ in case of a takeover, capital assets

Please provide a short description:

.....  
.....

Are the assets acquired new, except in the case of SMEs and takeovers?

☐ yes

☐ no

Please specify:

.....

Does the scheme ensure that any aid awarded in the past for the acquisition of assets in case of takeovers has been taken into account/deducted prior to the purchase (see p. 54 of the RAG)?

☐ yes

☐ no

Please specify:

.....

How is it ensured that the transactions in case of takeovers will take place under market conditions?

.....

Are costs related to the acquisition of assets — other than land and buildings — under financial lease included in the eligible expenditure?

☐ yes

☐ no

Does the lease contain an obligation to purchase the asset — other than land and buildings — at the expiry of the term of the lease?

☐ yes

☐ no

---

<sup>(1)</sup> In the transport sector, expenditure on the purchase of transport equipment (movable assets) is not eligible for investment aid.

For the financial lease of land and buildings, does the lease continue for at least five years after the anticipated date of the completion of the investment project, for large companies, and three years for SMEs?

☐ yes

☐ no

Should one of the previous questions under 2.7 be answered in the negative, please explain how the authorities intend to comply with the necessary conditions:

.....  
.....

2.7.2. ☐ *Immaterial assets:*

The value of the investment is established on the basis of expenditure entailed by the transfer of technology through the acquisition of:

☐ patent rights

☐ licences

☐ know-how

☐ unpatented technical knowledge

Please provide a short description:

.....  
.....

Does the scheme include a clause stipulating that the expenditure on eligible intangible investment must not exceed 50 % of the total eligible investment expenditure for the project in the case of large firms?

☐ yes

☐ no

Does the measure ensure that eligible immaterial assets:

☐ are used exclusively in the establishment receiving the regional aid?

☐ are regarded as amortisable assets?

☐ are purchased from third parties under market conditions?

☐ are included in the capital assets of the firm and remain in the establishment receiving the regional aid for at least five years for large companies and three years for SMEs?

Should one of these conditions not be explicitly reflected in the scheme, explain why and how the authorities intend to respect these requirements:

.....  
.....

Does the scheme include in the eligible expenditure for SMEs the costs of preparatory studies and consultancy costs linked to the investment?

☐ yes ☐ no

Does the scheme provide that consultancy costs for SMEs are limited to an aid intensity of up to 50 % of the actual costs incurred?

☐ yes ☐ no

2.7.3. How is it ensured that aid for initial investment (both material and immaterial assets) is made conditional on the maintenance of the investment for a minimum period of five years in case of large companies and three years in case of SMEs?

.....  
.....

2.8. Investment aid calculated on the basis of wage costs

2.8.1. Does the measure ensure that the aid calculated on the basis of wage costs is linked to an initial investment project?

☐ yes ☐ no

2.8.2. Does the measure ensure that job creation means a net increase in the number of employees (ALU) directly employed in a particular establishment compared with the average over the previous 12 months, after deducting any jobs lost during that 12 month period in the same establishment?

☐ yes ☐ no

2.8.3. How is it ensured that the eligible expenditure will not exceed the wage costs of a person hired, calculated over a period of two years?

.....

2.8.4. Does the measure ensure that the posts will be filled within three years of the completion of works?

☐ yes ☐ no

2.8.5. Does the measure ensure that the jobs created will be maintained within the region concerned for a minimum period of five years (or three years in the case of SMEs) from the date the post was first filled?

☐ yes ☐ no

Should one of the previous questions mentioned under 2.8 be answered in the negative, please explain how the authorities intend to comply with these necessary conditions:

.....  
.....

**3. Operating aid**

3.1. What is the direct link between the awarding of operating aid and the contribution to regional development?

.....  
.....

3.2. What are the structural handicaps that the operating aid is seeking to redress?

.....  
.....

3.3. How is it ensured that the nature and the level of the operating aid are proportional to the handicaps it seeks to alleviate?

.....  
.....

3.4. What arrangements have been made to ensure that the operating aid is progressively reduced and limited in time?

.....  
.....

3.5. Is the operating aid scheme open to all sectors?

☐ yes ☐ no

3.6. Is the scheme designed to offset additional transport or employment costs?

☐ yes ☐ no

3.7. If one of the above questions (3.5—3.6) is answered negatively, how is it ensured that p. 78 of the RAG is respected?

.....  
.....

3.8. Is operating aid intended to promote exports excluded?

☐ yes ☐ no

**Specific questions relating to the outermost regions or to regions with low population density or regions with least population density**

3.9. Should operating aid not be progressively reduced and not be limited in time, please specify whether the following conditions are met:

3.9.1. Does the aid benefit an outermost region or a region with low population density or with least population density?

☐ yes ☐ no

3.9.2. Is this aid intended to offset in part additional transport costs?

☐ yes ☐ no

Please provide proof of the existence of these additional costs and the method of calculation used to determine their amount <sup>(1)</sup>. In particular, please provide proof that the conditions of point 81 of the RAG are respected:

.....  
.....

Indicate what will be the maximum amount of aid (on the basis of an aid-per-passenger/kilometre ratio or aid per tonne/kilometre) and the percentage of the additional costs covered by the aid:

.....  
.....

<sup>(1)</sup> The description should reflect how the authorities intend to ensure that the aid is given only in respect of the extra cost of transport of goods inside the national borders, it must not be allowed to become export aid, it is calculated on the basis of the most economical form of transport and the shortest route between the place of production or processing and commercial outlets, and cannot be given for the transport of the products of businesses without an alternative location.

- 3.9.3. In the outermost regions, is the aid intended to offset the additional costs arising in the pursuit of economic activity from the factors identified in Article 299(2) of the EC Treaty?

☐ yes ☐ no

Please determine the amount of the additional cost and the method of calculation:

.....  
 .....

How can the authorities establish the link between the additional costs and the factors identified in Article 299(2) of the EC Treaty?

.....  
 .....

- 3.9.4. Is the aid intended to prevent or reduce the continuing depopulation of the least populated regions?

☐ yes ☐ no

How can the authorities demonstrate that the aid proposed is necessary and appropriate to prevent or reduce continuing depopulation and that it will not affect trading conditions to an extent contrary to the common interest?

.....  
 .....

#### 4. Aid for newly-created small enterprises

*Information on the beneficiaries*

- 4.1. Are the beneficiaries small enterprises on the date of granting the aid within the meaning of Article 2 of Annex I to Commission Recommendation 2003/361/EC <sup>(1)</sup>?

☐ yes ☐ no

- 4.2. Is the aid awarding authority required to verify that all the beneficiaries are autonomous in the meaning of Article 3 of Annex I to Recommendation 2003/361/EC?

☐ yes ☐ no

- 4.3. Does the scheme ensure that aid is only granted to small enterprises which have been created less than five years before the date of granting the aid?

☐ yes ☐ no

- 4.4. Please describe the mechanisms put in place in order to ensure that no misuse of the aid measure takes place in the form of existing enterprises being artificially closed down and re-started in order to receive this type of aid:

.....  
 .....

*Geographical application of the scheme*

- 4.5. Is the aid scheme limited to assisted areas only?

☐ yes ☐ no

<sup>(1)</sup> OJ L 124, 20.5.2003, p. 36.

- 4.6. The beneficiaries conduct their economic activity in the following regions (please specify in conformity with the denomination of the regions as defined in the regional aid map):

— All assisted areas in the Member State concerned

☐ yes ☐ no

— Article 87(3)(a) region(s)

☐ yes ☐ no

Please specify the region(s) (NUTS):

.....

— Article 87(3)(c) region(s)

☐ yes ☐ no

Please specify the region(s) (NUTS):

.....

*Eligible expenditure*

- 4.7. Are legal, advisory, consultancy and administrative costs directly related to the creation of the enterprise included in the eligible expenditure?

☐ yes ☐ no

If yes, please specify: .....

- 4.8. Are the eligible costs strictly limited to those that are incurred within the first five years after the creation of the enterprise and, within those five years, to the time when the company qualifies as a small enterprise according to Article 2 and 3 of Annex I to Recommendation 2003/361/EC?

☐ yes ☐ no

- 4.9. Please indicate in the following list, which costs are included in the eligible expenditures:

— Interests on external finance

☐

— Dividend on own capital employed, not exceeding the reference rate

☐

— Fees for renting production facilities/equipment

☐

— Energy, water, heating costs

☐

— Taxes (other than VAT and corporate taxes on business income)

☐

Please specify: .....

— Administrative charges

☐

Please specify: .....

— Depreciation

☐

— Fees for leasing production facilities/equipment

☐

— Wage costs

☐

Are compulsory social charges included in the wage costs?

☐ yes

☐ no

As regards depreciation, fees for leasing production facilities/equipment or wage costs, can you confirm that the underlying investments or job creation and recruitment measures have not benefited or will not benefit from other forms of aid?

☐ yes

☐ no

#### *Aid intensities*

- 4.10. What is the aid intensity foreseen by the measure for eligible expenses incurred within the first three years after the creation of the enterprises or for expenditures directly related to the creation of the enterprise?

... % for Article 87(3)(a) region(s)

... % for Article 87(3)(c) region(s)

- 4.11. What is the aid intensity foreseen by the measure for eligible expenses incurred in the fourth and fifth year after the creation of the enterprises?

... % for Article 87(3)(a) region(s)

... % for Article 87(3)(c) region(s)

- 4.12. Is the aid intensity increased by five percentage points as indicated under point 89 of the RAG?

☐ yes

☐ no

If yes, please specify:

— For Article 87(3)(a) regions with a GDP <sup>(1)</sup> of less than 60 % of Community average

☐ yes

☐ no

— For low population density regions with less than 12,5 inhabitants/km<sup>2</sup>

☐ yes

☐ no

— For small islands with a population of less than 5 000

☐ yes

☐ no

— For other communities with a population of less than 5,000 suffering from similar isolation like islands

☐ yes

☐ no

Please specify the region(s): .....

- 4.13. In case the beneficiaries have establishments located in more than one type of region (Article 87(3)(a) or (c), outside assisted areas or those indicated under 4.12.), please indicate how it will be ensured that intensities or a possible top-up are applied correctly:

.....  
 .....

#### *Aid amount*

- 4.14. Is the maximum aid amount awarded to beneficiaries located in Article 87(3)(a) regions limited to EUR 2 million per enterprise and in Article 87(3)(c) regions to EUR1 million per enterprise?

☐ yes

☐ no

- 4.15. Are the annual aid amounts awarded limited to 33 % of the abovementioned maximum amounts?

☐ yes

☐ no

<sup>(1)</sup> GDP per capita in Purchasing Power Standard (PPS).

- 4.16. Please provide a description on the mechanisms used or the form in which the aid is awarded to the beneficiary enterprises (e.g. grant, loan, etc.) and explain in detail how aid intensities and maximum aid amounts are calculated, in particular, for non transparent forms of aid:

.....  
.....

*Cumulation*

- 4.17. Can any other form of public support be granted on the basis of the same eligible costs as regards interest on external finance, dividend on own capital employed, fees for renting production facilities/equipment, energy, water, heating costs, or taxes (other than VAT and corporate taxes)?

☐ yes ☐ no

If yes, please describe the mechanism put in place in order to ensure that the upper limits for the aid amount per enterprise in total and per year as well as aid intensities are respected:

.....  
.....

**5. Scope of the scheme or ad hoc aid**

- 5.1. Does the aid scheme apply to all sectors?

☐ yes ☐ no

Is the aid scheme targeted at a particular sector of activity?

☐ yes ☐ no

If yes, please explain

.....

- 5.2. Does the scheme apply to the production of the agricultural products listed in Annex I to the Treaty?

☐ yes ☐ no

Does the scheme apply to the processing and marketing of agricultural products, but only to the extent laid down in the Community guidelines for State aid in the agriculture sector <sup>(1)</sup>, or any replacement Guidelines?

☐ yes ☐ no

- 5.3. Does the scheme apply to the transport sector?

☐ yes ☐ no

If yes,

— Transport Services

- ☐ Maritime Transport  
☐ Air Transport  
☐ Road Transport  
☐ Rail Transport  
☐ Urban Transport  
☐ Inland waterway Transport  
☐ Combined transport

<sup>(1)</sup> OJ C 28, 1.2.2000, p. 2. Corrected by OJ C 232, 12.8.2000, p. 17.



## Management of transport infrastructure

- ☐ Port infrastructure  
☐ Airport infrastructure  
☐ Road infrastructure  
☐ Rail infrastructure  
☐ Urban Transport infrastructure  
☐ Inland waterway infrastructure

## — Monitoring

Will the annual report trace any individual aid falling under the abovementioned categories with its amount and its beneficiary?

☐ yes ☐ no

5.4. Does the scheme apply to the shipbuilding sector?

☐ yes ☐ no

5.5. Does the scheme respect the specific provisions, such as the prohibition to grant aid to the steel sector <sup>(1)</sup> and/or synthetic fibres <sup>(2)</sup>?

☐ yes ☐ no

5.6. Does the scheme provide for respect of individual notification obligation foreseen in section 4.3. of the RAG – Aid for large investment projects <sup>(3)</sup>?

☐ yes ☐ no

6. **Cumulation**

6.1. Where regional aid under one scheme can be combined with aid under other scheme(s), please specify, in each scheme, the method by which compliance is ensured with the conditions on cumulation listed in section 4.4 of the RAG.

.....

6.2. Is it ensured that regional investment aid shall not be cumulated with *de minimis* support in respect of the same eligible expenses in order to circumvent the maximum aid intensities laid down in the approved regional aid map?

☐ yes ☐ no

6.3. Where aid calculated on the basis of (material or immaterial) investment costs is combined with aid calculated on the basis of wage costs, does the aid scheme respect the intensity ceiling laid down for the region concerned?

☐ yes ☐ no

7. **Transparency**

7.1. Does the scheme exclude projects for which eligible expenditure was incurred before the date of publication of the final scheme in the Internet (see p. 108 of the RAG)?

☐ yes ☐ no

8. **Other information**

Please indicate here any other information (e.g. environmental impacts or benefits) you consider relevant to the assessment of the measure(s) concerned under the guidelines on national regional aid.

.....

<sup>(1)</sup> In the sense of Annex I to the RAG.

<sup>(2)</sup> In the sense of Annex II to the RAG.

<sup>(3)</sup> Please note that you have to fill in a specific notification form (Part III.5) in case of aid to large investment projects.

## PART III.5

**SUPPLEMENTARY INFORMATION SHEET ON REGIONAL AID FOR LARGE INVESTMENT PROJECTS**

This supplementary information sheet must be used for the notification of any regional investment aid exceeding the threshold for individual notification defined in point 64 of the Guidelines for national regional aid for 2007-2013.

For *ad hoc aid* (aid granted outside existing schemes) the Member State must also provide the Supplementary Information Sheet on regional aid (Part III.4). In addition, Member States will have to demonstrate that the project contributes towards a coherent regional development strategy and that, having regard to the nature and size of the project, it will not result in unacceptable distortions of competition. Moreover, Member States will have to demonstrate that the aid will not be unduly concentrated on a particular sector of activity and that it creates no adverse sectoral effects.

The Commission reserves the right to ask for further information in order to carry out an in-depth assessment if the thresholds for such an assessment as defined in point 68 of the Regional Aid Guidelines are reached.

Additionally to this supplementary information sheet(s) the Member State must provide:

— Part I. General Information,

— Part II. Summary Information for publication in the Official Journal of the European Union.

The Member State must also provide the relevant investment agreement, the (draft) aid contract and any other relevant document (including, in the case of *ad hoc aid*, the letter of intent), in order to confirm that the granting of the aid is in conformity with the general rules under the Guidelines for national regional aid for 2007-2013 and with any underlying aid scheme.

If amounts are converted into the euro or other currencies, please provide the implicit exchange rate assumptions. Please always indicate if the amounts mentioned are in nominal amounts or discounted.

**1. Additional information on beneficiaries**

**1.1. Structure of the company or companies investing in the project**

**1.1.1. Identity of aid recipient(s):**

.....

**1.1.2. If the legal identity of the aid recipient is different from the undertaking(s) that finance(s) the project or from the actual beneficiary(ies) of the aid, describe also these differences.**

.....

**1.1.3. Please give a clear description of the relation between the beneficiary, the group of enterprises it belongs to and other associated enterprises, including joint ventures.**

.....

**1.2. For the company or companies investing in the project, provide the following data for the last three financial years (at group level).**

**1.2.1. Worldwide turnover, EEA turnover, turnover in the Member State concerned:**

.....

**1.2.2. Net operating income, return on capital employed and free cash flow:**

.....

**1.2.3. Employment worldwide, at EEA level and in the Member State concerned:**

.....

**1.2.4. Audited financial statements and annual report(s) for the last three years:**

.....

**1.3. If the investment takes place in an existing establishment (plant), provide the following data for the last three financial years of that entity (data for the existing establishment/plant).**

**1.3.1. Worldwide turnover, EEA turnover, turnover in Member State concerned:**

.....

1.3.2. Net operating income, return on capital employed and free cash flow:

.....

1.3.3. Employment:

.....

1.3.4. Aid history — Did the beneficiary receive aid for any other investment in the same establishment (plant) in the last three years?

☐ yes ☐ no

If yes, please give more details:

.....

1.4. *Firms in difficulty*

Does the aid benefit a firm in difficulty <sup>(1)</sup> or will it be used for the financial restructuring of a firm in difficulty?

☐ yes ☐ no

If yes, please note that the Community guidelines on State aid for rescuing and restructuring firms in difficulty are applicable.

2. **Aid**

2.1. *Form of aid*

Please give a detailed description of each form of aid:

.....

2.2. *Amount of aid*

For each form of aid, provide the following information:

2.2.1. Amount of support, both in nominal and discounted terms:

.....

2.2.2. A complete schedule of the payment of the proposed assistance:

.....

In case of aid awarded in the form of exemptions on future taxes, please indicate how the discounted aid amount will be capped:

.....

2.2.3. The applicable existing aid scheme(s), including title, State aid number and reference to Commission approval, submission under interim procedure, or supplementary information sheet pursuant to an exemption regulation:

.....

2.2.4. The application for aid was submitted before work was started on the project and the competent authorities have confirmed in writing that, subject to the final outcome of a detailed verification, the project meets the conditions of eligibility laid down by the scheme.

☐ yes ☐ no

If no, please explain.

.....

2.3. *Characteristics*

2.3.1. Are any of the assistance measures of the overall package not yet defined?

☐ yes ☐ no

If yes, please specify, and explain how the total discounted aid amount will be capped:

.....

<sup>(1)</sup> As defined in the Community guidelines on State aid for Rescuing and Restructuring firms in difficulty (OJ C 244, 1.10.2004, p. 2).

2.3.2. Indicate which of the abovementioned measures does not constitute State aid and for what reason(s):

.....

2.3.3. How is it ensured that the aid is made conditional on the maintenance of the investment or the jobs created for a minimum period of five years in case of large companies and three years in case of SMEs?

.....

2.4. *Financing from Community and other sources*

2.4.1. Are some of the abovementioned measures to be co-financed by Community funds (European Investment Bank, European Social Fund, European Regional Development Fund, other)? Please explain.

.....

2.4.2. Is some additional support for the same project to be requested from any other European or international financing institutions?

☐ yes

☐ no

If so, for what amounts?

.....

2.5. *Reporting*

Please confirm that the following documents will be provided to the Commission:

☐ within two months of granting the aid, a copy of the aid contract between the granting authority and the beneficiary;

☐ on a five-yearly basis, starting from the approval of the aid by the Commission, an intermediary report (including information on the aid amounts being paid, on the execution of the aid contract and on any other investment projects started at the same establishment/plant);

☐ within six months after payment of the last tranche of the aid, based on the notified payment schedule, a detailed final report.

3. **Assisted project**

3.1. *Timeline*

Specify the planned start date of the investment, the planned date of completion of the investment and the planned year by which full production will be reached, if necessary for each product envisaged by the investment project.

.....

3.2. *Description of the project*

3.2.1. Specify the type of the project and whether it is a new establishment; the extension of an existing establishment; diversification of the output of an establishment into new, additional products; a fundamental change in the overall production process of an existing establishment; or the acquisition of capital assets directly linked to an establishment by an independent investor which has closed or which would have closed had it not been purchased:

.....

3.2.2. Provide a short description of the project:

.....

3.3. *Breakdown of the project costs*

3.3.1. Specify the total cost of the investment over the lifetime of the project:

.....

3.3.2. Provide a detailed breakdown per year and per category (land, buildings, plant/machinery, or other) of the eligible costs associated with the investment project, where relevant for each product envisaged by the investment project:

.....

### 3.4. *Financing of total project costs*

Please provide a complete description of the financing of the project and how it ensures that at least 25 % of the eligible costs are financed in a way which is free of public support, including *de minimis* aid.

.....

## 4. **Product and market characteristics**

In this section, if applicable, please take account of any relevant marketing or similar arrangements with other companies for the calculation of the capacity and the market share (e.g. exclusive licenses for sales).

### 4.1. *Characterisation of product(s) envisaged by the project*

- 4.1.1. Specify all the product(s) that will be produced in the aided facility upon the completion of the investment and indicate, where appropriate, the Prodcom code or CPA nomenclature for projects in the service sectors.
- .....

- 4.1.2. Will the products envisaged by the project replace any other products produced by the beneficiary (at group level)? What product(s) will it replace? If these replaced products are not produced at the location of the project, indicate where they are currently produced. Please provide a description of the link between the replaced production and the current investment and give a time schedule for the replacement.
- .....

- 4.1.3. What other product(s) can be produced with the same new facilities (through flexibility of the production installations of the beneficiary) at little or no additional cost?
- .....

### 4.2. *Product concerned and relevant product market*

- 4.2.1. Explain if the project concerns an intermediate product and if a significant part of the output is not sold on the market (under market conditions). Based on the above explanation, for the purpose of calculating the market share and capacity increase in the remainder of this section. Please indicate if the product concerned is the product envisaged by the project or if it is the downstream product.
- .....

- 4.2.2. Please indicate the demand side substitutes and the supply side substitutes of the product concerned. The relevant product market includes the product concerned and its substitutes considered to be such either by the consumer (by reason of the product's characteristics, prices and intended use) or by the producer (through flexibility of the production installations of the beneficiary and its competitors).
- .....

### 4.3. *Market share data*

Please answer the following questions for all products concerned.

- 4.3.1. For the purpose of applying point 68(a) of the RAG, the Commission will normally assume that the relevant geographic market is the European Economic Area (EEA). Please provide arguments if another geographic market for the product(s) is considered relevant.
- .....

- 4.3.2. Please provide an estimate of all sales of the aid recipient on the relevant market (at group level, in value and volume terms), from the year preceding the start year of the investment to the year following full production of the product envisaged by the project. If applicable, provide a breakdown of these sales into product concerned and other categories of products sold by the aid beneficiary on the relevant market.
- .....

- 4.3.3. Please provide an estimate of the overall sales of all producers on the relevant market (in value and volume terms), from the year preceding the start year of the investment to the year following full production of the product envisaged by the project. If available, include statistics prepared by public and/or independent sources.
- .....

4.3.4. Please explain the methodology underlying the estimates and the implicit price assumptions.

.....

#### 4.4. *Market evolution*

Please answer the following questions for all products concerned.

4.4.1. Provide for each of the last six years data on apparent consumption <sup>(1)</sup> (in value and volume terms) in the relevant product market in the EEA. Please also provide implicit price assumptions. If available, include statistics prepared by the public and/or independent sources.

.....

4.4.2. Please calculate from the above figures the Compound Annual Growth Rate (CAGR) <sup>(2)</sup> of apparent consumption in the relevant product market in the EEA.

.....

4.4.3. Please calculate the average annual growth rate of the EEA's GDP over the last five years as a Compound Annual Growth Rate (CAGR) using Eurostat figures <sup>(3)</sup> ([www.eu.int/comm/eurostat/](http://www.eu.int/comm/eurostat/) — currently the figures can be found under "Themes/Economy and finance/National accounts/Annual national accounts/GDP and main aggregates").

.....

4.4.4. Is the average annual growth rate of the apparent consumption on the relevant product market in the EEA over the last five years below the average annual growth rate of the EEA GDP over the last five years?

☐ yes

☐ no

#### 4.5. *Capacity considerations*

Please answer the following questions for all products concerned.

If from point 4.4 on market evolution follows that the average annual growth rate of the apparent consumption on the relevant market is below the average annual growth rate of the EEA GDP, provide the following information:

4.5.1. Provide an estimate of the production capacity created by the investment (in volume and value terms).

.....

4.5.2. Provide an estimate of any changes in the total capacity of the beneficiary (at group level) in the EEA between the year preceding the start year of the project and the year following completion of the project (in volume and in value terms). Please also provide implicit price assumptions. If available, include statistics prepared by public and/or independent sources.

.....

4.5.3. Provide an estimate of the total apparent consumption on the relevant product market(s) in the EEA for the year preceding the start year and for the year following the completion of the project (in volume and in value terms). Please also provide implicit price assumptions. If available, include statistics prepared by public and/or independent sources.

.....

#### 5. **Other information**

Please indicate here any other information (e.g. environmental impacts or benefits) you consider relevant to the assessment of the measure(s) concerned.

.....

<sup>(1)</sup> Apparent consumption is production plus imports minus exports. If no apparent consumption data are readily available, other relevant data can be used.

<sup>(2)</sup> The CAGR is calculated as  $[y(t) / y(t - 5)]^{1/5} - 1$ .

<sup>(3)</sup> EU25 can be used as a proxy for the EEA in this context.

**COMMISSION REGULATION (EC) No 1628/2006**  
**of 24 October 2006**  
**on the application of Articles 87 and 88 of the Treaty to national regional investment aid**  
**(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid <sup>(1)</sup>, and in particular points (a)(i) and (b) of Article 1(1) thereof,

Having published a draft of this Regulation <sup>(2)</sup>,

After consulting the Advisory Committee on State Aid,

Whereas:

(1) Regulation (EC) No 994/98 empowers the Commission to declare, in accordance with Article 87 of the Treaty, that under certain conditions aid that complies with the map approved by the Commission for each Member State for the grant of regional aid is compatible with the common market and is not subject to the notification requirement of Article 88(3) of the Treaty.

(2) The Commission has applied Articles 87 and 88 of the Treaty to regional investment aid schemes in assisted areas in numerous decisions and has also stated its policy, in particular in the guidelines on national regional aid for 2007 to 2013 <sup>(3)</sup> as well as in Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises <sup>(4)</sup>. In the light of the Commission's considerable experience in applying Articles 87 and 88 of the Treaty to regional investment aid and in the light of the guidelines on national regional aid issued by the Commission on the basis of those provisions, it is appropriate,

with a view to ensuring efficient supervision and simplifying administration without weakening Commission monitoring, that the Commission should make use of the powers conferred by Regulation (EC) No 994/98.

(3) By addressing the handicaps of the disadvantaged regions, national regional aid promotes the economic, social and territorial cohesion of Member States and the Community as a whole. National regional investment aid is designed to assist the development of the most disadvantaged regions by supporting investment and job creation in a sustainable context. It promotes the expansion, rationalisation, modernisation and diversification of the economic activities of undertakings located in the less-favoured regions, in particular by encouraging firms to set up new establishments there.

(4) In order to determine whether or not aid is compatible with the common market pursuant to this Regulation, it is necessary to take into consideration the aid intensity and thus the aid amount expressed as a grant equivalent. The calculation of the grant equivalent of aid payable in several instalments requires the use of market interest rates prevailing at the time of grant. With a view to a uniform, transparent, and simple application of the State aid rules, the market rates for the purposes of this Regulation should be deemed to be the reference rates which are periodically fixed by the Commission on the basis of objective criteria and published in the *Official Journal of the European Union* and on the Internet.

(5) In order to ensure transparency and effective monitoring, this Regulation should apply only to regional investment aid schemes which are transparent. These are aid schemes in which it is possible to calculate precisely the gross grant equivalent as a percentage of eligible expenditure *ex ante* without a need to undertake a risk assessment (for example grants, interest rate subsidies and capped fiscal measures). Public loans should be considered to be transparent provided that they are backed by normal security and do not involve abnormal risk and are therefore not considered to contain a state guarantee element. In principle, aid schemes involving state guarantees or public loans with a state guarantee element should not be considered as transparent. However, such aid schemes should be considered as transparent if, before the implementation of the scheme, the methodology used to calculate the aid intensity of the state guarantee has been accepted by the Commission following notification to the Commission after adoption of this Regulation. The

<sup>(1)</sup> OJ L 142, 14.5.1998, p. 1.

<sup>(2)</sup> OJ C 120, 20.5.2006, p. 2.

<sup>(3)</sup> OJ C 54, 4.3.2006, p. 13.

<sup>(4)</sup> OJ L 10, 13.1.2001, p. 33. Regulation as amended by Regulation (EC) No 1040/2006 (OJ L 187, 8.7.2006, p. 8).

methodology will be assessed by the Commission in accordance with the Notice on the application of Article 87 and 88 of the EC treaty to State aid in the Forms of Guarantees<sup>(5)</sup>. Public participation and aid comprised in risk capital measures should not be considered as transparent aid. Regional aid schemes which are not transparent should always be notified to the Commission. Notifications of non-transparent regional aid schemes will be assessed by the Commission in particular in the light of the criteria set out in the Guidelines on national regional aid for 2007 to 2013.

- (6) This Regulation should also apply to ad hoc aid, that is to say, individual aid that is not awarded on the basis of an aid scheme, if the ad hoc aid is used to supplement aid granted on the basis of a transparent regional investment aid scheme and the ad hoc component does not exceed 50 % of the total aid to be granted for the investment. It should be recalled that individual aid to small and medium-sized enterprises granted outside of any aid scheme in accordance with Article 3(1) of Regulation (EC) No 70/2001 is compatible with the common market within the meaning of Article 87(3) of the Treaty and is exempted from the notification requirement of Article 88(3) of the Treaty.
- (7) Any aid that meets all the requirements of this Regulation should be exempted from the notification requirement. Regional aid schemes exempted under this Regulation should contain an express reference to this Regulation.
- (8) This Regulation should not apply to certain sectors in which special rules apply. Aid awarded in these sectors remains subject to prior notification to the Commission in accordance with Article 88(3) of the Treaty. This is the case for the coal and steel industry, the synthetic fibres and shipbuilding sectors, fisheries and aquaculture. In the agricultural sector, this Regulation should not apply to activities linked to the primary production of agricultural products listed in Annex I to the Treaty. It should apply to the processing and marketing of agricultural products with the exception of the manufacture and marketing of products which imitate or substitute for milk and milk products, as referred to in Article 3(2) of Council Regulation (EEC) No 1898/87 of 2 July 1987 on the protection of designations used in marketing of milk and milk products<sup>(6)</sup>. On-farm activities necessary for preparing a product for the first sale, as well as the first sale to resellers and processors should not be regarded as processing or marketing in this respect. This Regulation should ensure that the aid intensities in favour of undertakings processing and marketing agri-

cultural products set out in Article 28(3) of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)<sup>(7)</sup> can always be attained.

- (9) The Commission has a consistently less favourable view of aid targeted at particular sectors. Investment aid schemes which are targeted at specific sectors of economic activity within manufacturing or services should not therefore be covered by the exemption from notification provided by this Regulation. However, regional investment aid schemes aimed at tourism activities should not be considered as targeted at specific sectors and should be exempt from the notification requirement of Article 88(3) of the Treaty, provided that the aid awarded fulfils all the conditions of this Regulation.
- (10) Aid to small and medium-sized enterprises for consultancy and other services awarded in accordance with Article 5(a) of Regulation (EC) No 70/2001 is compatible with the common market within the meaning of Article 87(3) of the Treaty and is exempted from the notification requirement of Article 88(3) of the Treaty. Such aid should therefore not fall within the scope of this Regulation.
- (11) In accordance with the established practice of the Commission, and with a view to better ensuring that aid is proportionate and limited to the amount necessary, thresholds should be expressed in terms of aid intensities in relation to a set of eligible costs, rather than in terms of maximum aid amounts.
- (12) It is appropriate to establish further conditions that should be fulfilled by any aid scheme or individual aid exempted by this Regulation. Having regard to Article 87(3)(c) of the Treaty, such aid should not normally have the sole effect of continuously or periodically reducing the operating costs which the beneficiary would normally have to bear, and should be proportionate to the handicaps that have to be overcome in order to secure the socioeconomic benefits deemed to be in the Community interest. It is therefore appropriate to limit the scope of this Regulation to regional aid granted in relation to initial investments within the meaning of this Regulation. Regional aid schemes which provide for operating aid remain subject to the notification requirements of Article 88(3) of the Treaty. Aid to newly created small undertakings, other than investment or consultancy aid, also remains subject to the notification requirements of Article 88(3) of the Treaty.

<sup>(5)</sup> OJ C 71, 11.3.2000, p. 14.

<sup>(6)</sup> OJ L 182, 3.7.1987, p. 36. Regulation as last amended by 1994 Act of Accession.

<sup>(7)</sup> OJ L 277, 21.10.2005, p. 1.



- (13) Since the Commission has to ensure that authorised aid does not alter trading conditions in a way contrary to the general interest, investment aid awarded in favour of a beneficiary which is subject to an outstanding recovery order following a previous Commission decision declaring the aid illegal and incompatible with the common market, should be excluded from the scope of this Regulation. Such aid therefore remains subject to the notification requirements of Article 88(3) of the Treaty.
- (14) In order not to favour the capital factor of an investment over the labour factor, provision should be made for the possibility of measuring aid to investment on the basis of either the investment costs or the costs of new employment directly linked to the carrying-out of the investment project.
- (15) Large amounts of aid should remain subject to an individual assessment by the Commission before they are put into effect. Accordingly, aid amounts exceeding a certain threshold granted to a single undertaking or establishment on the basis of an existing aid scheme should be excluded from the exemption provided for in this Regulation and remain subject to the notification requirements of Article 88(3) of the Treaty. In order to prevent large investment projects being artificially divided into sub-projects, a large investment project should be considered to be a single investment project if the initial investment is undertaken within a period of three years by the same undertaking or undertakings and consists of fixed assets combined in an economically indivisible way. To assess whether an initial investment is economically indivisible, the Commission will take into account the technical, functional and strategic links and the immediate geographical proximity. The economic indivisibility will be assessed independently from ownership. This implies that to establish whether a large investment project constitutes a single investment project, the assessment should be the same irrespective of whether the project is carried out by one undertaking, by more than one undertaking sharing the investment costs or by more undertakings bearing the costs of separate investments within the same investment project (for example in the case of a joint venture).
- (16) It is important to ensure that regional aid produces a real incentive effect and encourages investments which would not otherwise be made in the assisted areas and acts as an incentive to develop new activities. Before the start of work on the aided project, the responsible authorities should therefore confirm in writing that the project *prima facie* meets the conditions of eligibility. Confirmation in writing should be taken to include communication by fax or e-mail.
- (17) In view of the specificities of regional aid, this Regulation should not exempt aid cumulated with other State aid, including aid granted by national, regional or local authorities or with Community assistance, in relation to the same eligible costs, when such cumulation exceeds the thresholds fixed in this Regulation. Regional investment aid exempted under this Regulation should not be cumulated with *de minimis* support within the meaning of Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid <sup>(8)</sup> in respect of the same eligible expenditure, if such cumulation would result in an aid intensity exceeding that fixed by this Regulation.
- (18) This Regulation should not apply to aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to export activities and aid contingent upon the use of domestic over imported goods.
- (19) In order to ensure transparency and effective monitoring in accordance with Article 3 of Regulation (EC) No 994/98, it is appropriate to establish a standard format to be used by Member States to provide the Commission with summary information whenever, in accordance with this Regulation, an aid scheme is implemented, or an ad hoc aid is granted, with a view to publication in the *Official Journal of the European Union*. For the same reasons, it is appropriate to establish rules concerning the records that Member States should keep regarding the aid schemes exempted by this Regulation. In order to facilitate administrative treatment and in view of the wide availability of the necessary technology, the summary information should be provided in computerised form. In order to improve the transparency of regional aid in an enlarged Community, Member States should publish the full text of the aid scheme and communicate to the Commission the internet address of the publication.
- (20) In the light of the Commission's experience in this area, and in particular the frequency with which it is generally necessary to revise State aid policy, it is appropriate to limit the period of application of this Regulation.
- <sup>(8)</sup> OJ L 10, 13.1.2001, p. 30.

(21) This Regulation is without prejudice to any obligation on a Member State to notify individual grants of aid under obligations entered into in the context of other State aid instruments, and in particular the obligation to notify, or to inform the Commission of, aid to an undertaking receiving rescue and restructuring aid within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty <sup>(9)</sup>,

(a) aid to export related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to the other current expenditure linked to export activity;

(b) aid contingent upon the use of domestic in preference to imported goods.

HAS ADOPTED THIS REGULATION:

#### Article 1

##### Scope

1. This Regulation shall apply to transparent regional investment aid schemes which constitute State aid within the meaning of Article 87(1) of the Treaty.

It shall also apply to ad hoc aid which constitutes State aid within the meaning of Article 87(1) of the Treaty if the ad hoc aid is used to supplement aid granted on the basis of a transparent regional investment aid scheme, and the ad hoc component does not exceed 50 % of the total aid to be granted for the investment.

2. This Regulation shall not apply to aid in the following sectors:

(a) the fisheries and aquaculture sector;

(b) the shipbuilding sector;

(c) the coal industry;

(d) the steel industry;

(e) the synthetic fibres sector.

It shall not apply to activities linked to the primary production of agricultural products listed in Annex I to the Treaty. It shall apply to the processing and marketing of agricultural products to the exclusion of the manufacture and marketing of products which imitate or substitute for milk and milk products, as referred to in Article 3(2) of Regulation (EEC) No 1898/87.

3. This Regulation shall not apply to the following types of aid:

#### Article 2

##### Definitions

1. For the purpose of this Regulation the following definitions shall apply:

(a) 'aid' means any measure fulfilling all the criteria laid down in Article 87(1) of the Treaty;

(b) 'small and medium-sized enterprises (SMEs)' means small and medium-sized enterprises as defined in Annex I to Regulation (EC) No 70/2001;

(c) 'initial investment' means:

(i) an investment in material and immaterial assets relating to the setting-up of a new establishment, the extension of an existing establishment, diversification of the output of an establishment into new additional products or a fundamental change in the overall production process of an existing establishment; or

(ii) the acquisition of the capital assets directly linked to an establishment, where the establishment has closed or would have closed had it not been purchased, and the assets are bought by an independent investor.

The sole acquisition of the shares of an undertaking does not constitute initial investment;

(d) 'ad hoc aid' means individual aid that is not awarded on the basis of an aid scheme;

(e) 'material assets' means assets relating to land, buildings and plant/machinery;

(f) 'immaterial assets' means assets entailed by the transfer of technology through the acquisition of patent rights, licences, know-how or unpatented technical knowledge;

<sup>(9)</sup> OJ C 244, 1.10.2004, p. 2.

- (g) 'large investment project' means an initial investment in capital assets with an eligible expenditure above EUR 50 million, calculated at prices and exchange rates on the date when the aid is granted; a large investment project will be considered to be a single investment project when the initial investment is undertaken within a period of three years by the same undertaking or undertakings and consists of fixed assets combined in an economically indivisible way;
- (h) 'aid intensity in present gross grant equivalent (GGE)' means the discounted value of the aid expressed as a percentage of the discounted value of the eligible costs;
- (i) 'transparent regional investment aid schemes' means regional investment aid schemes in which it is possible to calculate precisely the Gross grant equivalent as a percentage of eligible expenditure ex ante without need to undertake a risk assessment (for example schemes which use grants, interest rate subsidies, capped fiscal measures);
- (j) 'start of work' means either the start of construction work or the first legally binding commitment to order equipment, excluding preliminary feasibility studies, whichever is the earlier;
- (k) 'job creation' means a net increase in the number of annual labour units (ALU) directly employed in a particular establishment compared with the average over the previous 12 months; ALU are the number of persons employed full time in one year, part-time and seasonal work being ALU fractions;
- (l) 'wage cost' means the total amount actually payable by the beneficiary of the aid in respect of the employment concerned, comprising the gross wage, before tax, and the compulsory contributions such as social security charges;
- (m) 'jobs directly created by an investment project' means jobs concerning the activity to which the investment relates and created within three years of completion of the investment, including jobs created following an increase in the utilisation rate of the capacity created by the investment;
- (n) 'agricultural product' means:
- (i) the products listed in Annex I of the Treaty, except fishery and aquaculture products covered by Council Regulation (EC) No 104/2000 <sup>(10)</sup>;
  - (ii) products falling under CN codes 4502, 4503 and 4504 (cork products);
  - (iii) products intended to imitate or substitute milk and milk products, as referred to in Article 3(2) of Regulation (EEC) No 1898/87;
- (o) 'products intended to imitate or substitute milk and milk products' mean products which could be confused with milk and/or milk products but whose composition differs from such products in that they contain fat and/or protein of non-milk origin with or without protein derived from milk ('products other than milk products' as referred to in Article 3(2) of Regulation (EEC) No 1898/87);
- (p) 'processing of agricultural products' means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale;
- (q) 'marketing of an agricultural product' means holding or displaying with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers and processors and any activity preparing a product for such first sale; a sale by a farmer to final consumers shall only be considered as marketing if it takes place in separate premises reserved for that purpose;
- (r) 'tourism activities' means the following business activities in terms of NACE Rev. 1.1 <sup>(11)</sup>:
- (i) NACE 55: Hotels and restaurants;
  - (ii) NACE 63.3: Activities of travel agencies and tour operators, tourist assistance activities;
  - (iii) NACE 92: Recreational, cultural and sporting activities.
2. Schemes which use public loans are considered as transparent regional investment aid schemes within the meaning of paragraph 1(i) if they are backed by normal security and do not involve abnormal risk, and are therefore not considered to contain a state guarantee element; schemes which use state guarantees or public loans with a state guarantee element, are considered as transparent if, before the implementation of the scheme, the methodology to calculate the aid intensity of the state guarantee has been accepted following notification to the Commission after adoption of this Regulation. Public participations and aid comprised in risk capital measures shall not be considered as transparent.

<sup>(10)</sup> OJ L 17, 21.1.2000, p. 22.

<sup>(11)</sup> Classification of Economic Activities in the European Community.

### Article 3

#### Conditions for exemption

1. Transparent regional investment aid schemes fulfilling all the conditions of this Regulation shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that:

- (a) any aid awarded under such a scheme fulfils all the conditions of this Regulation;
- (b) the scheme contains an express reference to this Regulation, citing its title and publication reference in the *Official Journal of the European Union*.

2. Aid up to the amount determined in accordance with Article 7(e) awarded on the basis of schemes referred to in paragraph 1 of this Article shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that the aid awarded directly fulfils all the conditions of this Regulation.

3. Ad hoc aid which is only used to supplement aid granted on the basis of transparent regional investment aid schemes and which does not exceed 50 % of the *total* aid to be granted for the investment, shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that the ad hoc aid awarded directly fulfils all the conditions of this Regulation.

### Article 4

#### Aid for initial investment

1. Aid for initial investment shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that:

- (a) the aid is granted in regions eligible for regional aid, as determined in the approved regional aid map for the Member State concerned for the period 2007 to 2013; and
- (b) the aid intensity in present gross grant equivalent does not exceed the regional aid ceiling which is in force at the time the aid is granted for the region in which the investment takes place, as determined in the approved regional aid map for the Member State concerned for the period 2007 to 2013.

With the exception of aid granted in favour of large investment projects and aid for the transport sector, the ceilings in point (b) may be increased by 20 percentage points for aid for initial investment awarded to small enterprises and by 10 percentage points for aid awarded to medium-sized enterprises.

2. In addition to the general conditions for exemption laid down in this Regulation, aid for initial investment shall satisfy the following specific conditions:

- (a) the investment must be maintained in the recipient region for at least five years, or three years in the case of SMEs, after the whole investment has been completed;
- (b) to be eligible, immaterial assets must:
  - (i) be used exclusively in the establishment receiving the regional aid;
  - (ii) be regarded as amortizable assets;
  - (iii) be purchased from third parties under market conditions;
  - (iv) be included in the assets of the firm and remain in the establishment receiving the regional aid for at least five years or three years in the case of SMEs;

- (c) where the aid is calculated on the basis of material or immaterial investment costs, or of acquisition costs in case of takeovers, the beneficiary must provide a financial contribution of at least 25 % of the eligible costs, either through its own resources or by external financing, in a form which is free of any public support. However, where the maximum aid intensity approved under the national regional aid map for the Member State concerned, increased in accordance with the second subparagraph of paragraph 1, if appropriate, exceeds 75 %, the financial contribution of the beneficiary is reduced accordingly.

The condition in point (a) of the first subparagraph shall not prevent the replacement of plant or equipment which has become out-dated within the period referred to in that point due to rapid technological change, provided the economic activity is retained in the region concerned for the minimum period.

3. The ceilings fixed in paragraph 1 shall apply to the intensity of the aid calculated either as a percentage of the investment's eligible material and immaterial costs or as a percentage of the estimated wage costs of the person hired, calculated over a period of two years, for jobs directly created by the investment project, or a combination thereof, provided the aid does not exceed the most favourable amount resulting from the application of either calculation.

4. The eligible investment costs shall be discounted to their value at the moment of granting of the aid. Aid payable in several instalments shall be discounted to its value at the moment of granting of the aid. The interest rate to be used for discounting purposes shall be the reference rate applicable at the time of grant. In cases where aid is awarded by means of tax exemptions or reductions on future taxes due, subject to the respect of a certain aid intensity defined in GGE, discounting of aid tranches takes place on the basis of the reference rates applicable at the various times the tax advantages become effective.

5. In case of acquisition of an establishment, only the costs of buying assets from third parties shall be taken into consideration, provided the transaction has taken place under market conditions. Where the acquisition is accompanied by other initial investment, the expenditure relating to the latter shall be added to the cost of the purchase.

6. Costs related to the acquisition of assets under lease, other than land and buildings, shall only be taken into consideration if the lease takes the form of financial leasing and contains an obligation to purchase the asset at the expiry of the term of the lease. For the lease of land and buildings, the lease must continue for at least five years after the anticipated date of the completion of the investment project or three years in the case of SMEs.

7. In the transport sector, expenditure on the purchase of transport equipment (movable assets) shall not be eligible for aid for initial investment.

8. Except in the case of SMEs and takeovers, the assets acquired shall be new. In the case of takeovers, assets for the acquisition of which aid has already been granted prior to the purchase shall be deducted. For SMEs, the full costs of investments in immaterial assets may also be taken into consideration. For large undertakings, such costs are eligible only up to a limit of 50 % of the total eligible investment expenditure for the project.

9. Where the aid is calculated on the basis of wage costs, the following conditions shall be satisfied:

(a) jobs must be directly created by an investment project;

(b) the job creation must occur within three years of the completion of the investment and each job shall be maintained for a minimum period of five years, or three years in the case of SMEs.

10. By way of derogation from paragraph 1, the maximum aid intensities for investments in the processing and marketing of agricultural products may be increased to:

(a) 50 % of eligible investments in regions eligible under 87(3)(a) of the Treaty and 40 % of eligible investments in other regions eligible for regional aid, as determined in the regional aid map approved for the Member States concerned for the period 2007 to 2013, if the beneficiary is a small or medium-sized enterprise;

(b) 25 % of eligible investments in regions eligible under 87(3)(a) of the Treaty and 20 % of eligible investments in other regions eligible for regional aid, as determined in the regional aid map approved for the Member States concerned for the period 2007 to 2013, if the beneficiary has less than 750 employees and/or less than EUR 200 million turnover, calculated in line with Commission Recommendation 2003/361/EC <sup>(12)</sup>, and if such beneficiary fulfils all other conditions of that Recommendation.

#### Article 5

##### Necessity for the aid

1. This Regulation shall only exempt aid awarded under regional investment aid schemes if, before the start of work on the project, the beneficiary has submitted an application to the national or regional authorities for aid and, in respect of applications submitted from 1 January 2007, the authority responsible for administering the scheme has confirmed in writing that, subject to the final outcome of a detailed verification, the project meets the conditions of eligibility laid down by the scheme. An express reference to both conditions must also be included in the aid scheme. If work begins before the conditions laid down in this Article are fulfilled, the whole project shall not be eligible for regional aid.

2. Paragraph 1 shall not apply to aid schemes where a tax exemption or reduction is granted automatically to eligible expenditure without any discretion on the part of the authorities.

<sup>(12)</sup> OJ L 124, 20.5.2003, p. 36.

## Article 6

### Cumulation

1. The aid ceilings fixed in Article 4 shall apply to the total amount of public support for the aided project regardless of whether that support is financed from local, regional, national or Community sources.

2. Aid exempted by this Regulation shall not be cumulated with any other State aid within the meaning of Article 87(1) of the Treaty or with other Community or national funding, in relation to the same eligible costs, if such cumulation would result in an aid intensity exceeding that fixed by this Regulation.

3. Regional investment aid exempted by this Regulation shall not be cumulated with *de minimis* support within the meaning of Regulation (EC) No 69/2001 in respect of the same eligible expenditure, if such cumulation would result in an aid intensity exceeding that fixed by this Regulation.

## Article 7

### Aid subject to prior notification to the Commission

The following aid shall not be exempted from notification under this Regulation and shall remain subject to the notification requirement of Article 88(3) of the Treaty:

- (a) non-transparent regional investment aid schemes;
- (b) regional aid schemes targeted at specific sectors of economic activity within manufacturing or services. Regional investment aid schemes aimed at tourism activities are not considered as targeted at specific sectors;
- (c) regional aid schemes which provide for operating aid;
- (d) regional aid schemes which provide for aid other than investment or consultancy aid to newly created small undertakings;
- (e) regional aid awarded in favour of large investment projects on the basis of existing aid schemes if the total amount of aid from all sources exceeds 75 % of the maximum amount of aid an investment with eligible expenditure of EUR 100 million could receive, applying the standard aid ceiling in force for large undertakings in the approved regional aid map on the date the aid is to be granted;
- (f) ad hoc regional aid, other than that exempted pursuant to Article 3(1) of Regulation (EC) No 70/2001 and Article 3(3) of this Regulation;

- (g) investment aid in favour of a beneficiary which is subject to an outstanding recovery order following a previous Commission decision declaring the aid illegal and incompatible with the common market.

## Article 8

### Transparency and monitoring

1. On implementation of an aid scheme or grant of ad hoc aid exempted by this Regulation, Member States shall, within 20 working days, forward to the Commission, with a view to its publication in the *Official Journal of the European Union*, a summary of the information regarding such aid in the form laid down in Annex I. This shall be provided electronically in computerised form.

2. Whenever regional aid is granted on the basis of an existing aid scheme for large investment projects which fall below the threshold for individual notification laid down by Article 7(e), the Member States shall, within 20 working days starting from the day on which the aid is granted by the competent authority, provide the Commission with the information requested in the standard form laid down in Annex II, electronically in computerised form. The Commission will make the summary information available to the public through its website (<http://ec.europa.eu/comm/competition/>).

3. Member States shall maintain detailed records regarding the aid schemes exempted by this Regulation and the individual aid awarded under those schemes. Such records shall contain all information necessary to establish that the conditions for exemption, as laid down in this Regulation, are fulfilled, including information on the status of any undertaking whose entitlement to aid depends on its status as an SME. Member States shall keep a record regarding an aid scheme, for 10 years from the date on which the last individual aid was awarded under such scheme. On written request, the Member State concerned shall provide the Commission, within a period of 20 working days or such longer period as may be fixed in the request, with all the information which the Commission considers necessary to assess whether the conditions of this Regulation have been complied with.

4. Member States shall submit a report to the Commission on the application of this Regulation in respect of each whole or part calendar year during which this Regulation applies, in the form laid down in Chapter III of Commission Regulation (EC) No 794/2004 <sup>(13)</sup>.

5. Member State shall publish the full text of the aid schemes which fall within the scope of this Regulation and shall communicate to the Commission the internet address of the publication. That information shall also be contained in the annual report submitted pursuant to paragraph 4. Projects for which expenses were incurred before the date of publication of the aid scheme shall not be eligible for regional aid.

<sup>(13)</sup> OJ L 140, 30.4.2004, p. 1.

*Article 9***Entry into force and period of validity**

1. This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*. It shall apply to aid schemes which enter into force, or are put into effect, after 31 December 2006.

It shall remain in force until 31 December 2013.

2. Notifications pending at the time of entry into force of this Regulation shall be assessed in accordance with its

provisions. Aid schemes put into effect before the date of entry into force of this Regulation and aid granted under those schemes, in the absence of a Commission authorisation and in breach of the obligation to notify laid down in Article 88(3) of the Treaty, shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempted under this Regulation if they fulfil all the conditions of this Regulation.

At the end of the period of validity of this Regulation, the exemption for aid schemes exempted under this Regulation shall expire at the date of expiry of the approved regional aid maps.

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

Done at Brussels, 24 October 2006.

*For the Commission*

Neelie KROES

*Member of the Commission*

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## ANNEX I

**Information communicated by Member States regarding state aid granted under Commission Regulation (EC) No 1628/2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid**

(to be provided in computerised form, by electronic mail, to stateaidgreffe@ec.europa.eu)

<b>Aid No</b>	XR (to be completed by DG COMP)/year		
<b>Member State</b>			
<b>Region in which the scheme applies</b> (NUTS II)			
<b>Title of aid scheme or the name of the undertaking receiving ad hoc aid supplement</b>			
<b>Legal basis</b>  (for the scheme or for the ad hoc aid)			
<b>Annual expenditure planned under the scheme.</b> Amounts are to be given in EUR or, if applicable, in national currency. Indicate the annual overall amount of the budget appropriation(s) or the estimated tax loss per year for all aid instruments contained in the scheme.  <b>In case of ad hoc aid,</b> Indicate the overall aid amount. If appropriate, indicate also for how many years the ad hoc aid will be paid in instalments or how many years tax losses will be incurred.	<b>Annual overall amount under the scheme</b>  EUR ... million  <b>Overall amount of ad hoc aid</b>  EUR ... million  Paid over ... years		
<b>Maximum aid intensity</b>  Please specify the %	In conformity with Article 4 of the Regulation	<b>Yes</b>	<b>No</b>
<b>Date of implementation</b>  (indicate the date from which aid may be granted under the scheme or when the ad hoc aid is granted)	.../.../20...		
<b>Duration</b>  (indicate the date until which aid may be granted under the scheme or in case of an ad hoc aid the expected date of the last instalment to be paid)	Until .../.../20...		



<b>Economic sectors concerned</b>	All sectors eligible for regional investment aid	<b>Yes</b>
	Limited to specific sectors  Please specify which according to NACE Rev.1.1 classification (1):	<b>Yes/No</b>
<b>Name and address of the granting authority</b>  (Include the telephone No and the address for electronic mail)  Indicate the internet address of the publication of the aid scheme.	Name	
	Address	
(1) NACE Rev.1.1 is the Statistical classification of economic activities in the European Community.		

## ANNEX II

**Form for the provision of summary information for aid for large investments projects where the aid does not exceed the thresholds referred to in Article 7(e)**

1. Aid in favour of (name of the undertaking(s) receiving the aid).
  2. Aid scheme reference (Commission reference of the existing scheme or schemes under which the aid is awarded).
  3. Public entity/entities providing the assistance (name and co-ordinates of the granting authority or authorities).
  4. Member State where the investment takes place.
  5. Region (NUTS 3 level) where the investment takes place.
  6. Municipality (previously NUTS 5 level, now LAU 2) where the investment takes place.
  7. Type of project (setting-up of a new establishment, extension of existing establishment, diversification of the output of an establishment into new additional products or a fundamental change in the overall production process of an existing establishment).
  8. Products manufactured or services provided on the basis of the investment project (with PRODCOM/NACE nomenclature or CPA nomenclature for projects in the service sectors).
  9. Short description of investment project.
  10. Discounted eligible cost of investment project (in EUR).
  11. Discounted aid amount (gross) in EUR.
  12. Aid intensity (% in GGE).
  13. Conditions attached to the payment of the proposed assistance (if any).
  14. Planned start and end date of the project.
  15. Date of award of the aid.
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**COMMISSION REGULATION (EC) No 1629/2006****of 31 October 2006****amending Regulation (EC) No 1010/2006 on certain exceptional market support measures in the eggs and poultry sector in certain Member States**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs <sup>(1)</sup>, and in particular point (b) of the first subparagraph of Article 14(1) thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat <sup>(2)</sup>, and in particular point (b) of the first subparagraph of Article 14(1) thereof,

Whereas:

- (1) Council Directive 93/119/EC <sup>(3)</sup> on the protection of animals at the time of slaughter or killing defines the concepts of 'slaughter' and 'killing'.
- (2) Articles 4 and 7 of Commission Regulation (EC) No 1010/2006 <sup>(4)</sup> do not stipulate that the 'killing' of animals must be considered to be an exceptional market support measure in the same way as slaughter.
- (3) Given that the Member States did not have time to take the concept of 'killing' into account in their national legislation and in view of the recent amendment of Regulation (EC) No 1010/2006, some Member States might have problems meeting the deadline laid down in Article 10 of that Regulation for making payments to the beneficiaries of exceptional market support measures, i.e. 31 December 2006. The payment deadline should therefore be extended by several months.

(4) Regulation (EC) No 1010/2006 should therefore be amended.

(5) Article 14 of Regulation (EEC) No 2771/75 and Article 14 of Regulation (EEC) No 2777/75 providing for the adoption of the measures concerned have been in force since 11 May 2006. This Regulation should therefore also apply from that date.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 1010/2006 is amended as follows:

1. Article 4 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The slaughter or killing of part of a breeding flock shall, where it is brought forward by six weeks or more in order to reduce the production of eggs for hatching falling within CN codes 0105 92 00, 0105 93 00, 0105 99 10, 0105 99 20, 0105 99 30 and 0105 99 50, be regarded as an exceptional market support measure pursuant to Article 14 of Regulation (EEC) No 2777/75, provided no bird is then put into production at the location in question during that period.'

(b) the first subparagraph of paragraph 2 is replaced by the following:

'Compensation shall be payable, in respect of each Member State concerned, for the early slaughter or killing referred to in paragraph 1, subject to both the maximum number of pieces laid down in Annex IV and the time limits specified therein.'

<sup>(1)</sup> OJ L 282, 1.11.1975, p. 49. Regulation last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1).

<sup>(2)</sup> OJ L 282, 1.11.1975, p. 77. Regulation last amended by Regulation (EC) No 679/2006.

<sup>(3)</sup> OJ L 340, 31.12.1993, p. 21.

<sup>(4)</sup> OJ L 180, 4.7.2006, p. 3. Regulation amended by Regulation (EC) No 1256/2006 (OJ L 228, 22.8.2006, p. 9).

2. Article 7 is replaced by the following:

*'Article 7*

1. The early slaughter or killing of ready-to-lay pullets shall be regarded as an exceptional market support measure pursuant to Article 14 of Regulation (EEC) No 2777/75.

2. Compensation shall be payable, in respect of each Member State concerned, for slaughter or killing as referred to in paragraph 1, subject to both the maximum number of birds laid down in Annex VII and the time limits specified therein.

The maximum level of compensation shall be set at a flat rate of EUR 3,2 per ready-to-lay pullet.'

3. In Article 10, '31 December 2006' is replaced by '31 March 2007'.

*Article 2*

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

It shall apply from 11 May 2006.

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

Done at Brussels, 31 October 2006.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

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## COMMISSION REGULATION (EC) No 1630/2006

of 31 October 2006

**amending Regulation (EC) No 933/2002 opening and providing for the management of tariff quotas for certain agricultural products originating in Switzerland, and repealing Regulation (EC) No 851/95**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Decision 2002/309/EC, Euratom of the Council, and of the Commission as regards the Agreement on Scientific and Technological Cooperation, of 4 April 2002 on the conclusion of seven Agreements with the Swiss Confederation <sup>(1)</sup>, and in particular Article 5(3) thereof,

Whereas:

- (1) Following the enlargement of the European Union on 1 May 2004, the Community and Switzerland agreed to adapt the tariff concessions laid down in the Agreement between the European Community and the Swiss Confederation of 21 June 1999 on trade in agricultural products <sup>(2)</sup>, hereinafter referred to as the Agreement, which entered into force on 1 June 2002. In particular, they agreed to amend Annexes 1 and 2 to the Agreement, which listed the concessions, in order to widen an existing duty-free Community tariff quota to cover a new product, witloof chicory of CN code 0705 21 00.
- (2) Pending the formal amendment, the Community and Switzerland agreed to provide for the application of the adapted concessions, as from 1 May 2004, on an autonomous and transitional basis.
- (3) To ensure that the quota benefit for products of CN code 0705 21 00 would be available from 1 May 2004, an autonomous Community tariff quota limited to those

products was provided for during a transitional period by Council Regulation (EC) No 7/2005 of 13 December 2004 adopting autonomous and transitional measures to open a Community tariff quota for certain agricultural products originating in Switzerland <sup>(3)</sup>.

- (4) Annex 2 to the Agreement, as amended by Decision No 3/2005 of the Joint Committee on Agriculture set up by the Agreement between the European Community and the Swiss Confederation on trade in agricultural products of 19 December 2005 on the adaptation, following the enlargement of the European Union, of Annexes 1 and 2 <sup>(4)</sup> sets out tariff quotas expanded to cover the products of CN code 0705 21 00. It is therefore necessary to adjust the corresponding implementation provisions.
- (5) Commission Regulation (EC) No 933/2002 <sup>(5)</sup> should therefore be amended accordingly.
- (6) Regulation (EC) No 7/2005 is repealed from 1 September 2006 by Regulation (EC) No 1623/2006 <sup>(6)</sup>. This Regulation should therefore apply from the same date.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

## Article 1

In the Annex to Regulation (EC) No 933/2002 the row for order No 09.0925 is replaced by the following:

Order No	CN code	TARIC code	Description	Rate of duty	Annual volume (in tonnes net weight)
09.0925	0705 11 00 0705 19 00 0705 21 00 0705 29 00		Lettuce ( <i>Lactuca sativa</i> ) and chicory ( <i>Cichorium spp.</i> ), including Witloof chicory ( <i>Cichorium intybus</i> var. <i>foliosum</i> ), fresh or chilled	Free	3 000'

<sup>(1)</sup> OJ L 114, 30.4.2002, p. 1.

<sup>(2)</sup> OJ L 114, 30.4.2002, p. 132.

<sup>(3)</sup> OJ L 4, 6.1.2005, p. 1.

<sup>(4)</sup> OJ L 346, 29.12.2005, p.33.

<sup>(5)</sup> OJ L 144, 1.6.2002, p. 22.

<sup>(6)</sup> See page 1 of this Official Journal.

*Article 2*

For the year 2006, the volume of Community tariff quota No 09.0925 shall be reduced by the quantity used before the date provided for in Article 3, under Community tariff quota No 09.0947 provided for in Regulation (EC) No 7/2005.

*Article 3*

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

It shall apply from 1 September 2006.

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

Done at Brussels, 31 October 2006.

*For the Commission*

László KOVÁCS

*Member of the Commission*

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**COMMISSION REGULATION (EC) No 1631/2006****of 31 October 2006****establishing a prohibition of fishing for common sole in ICES zone IIIa, IIIb,c,d (EC waters) by vessels flying the flag of Sweden**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy <sup>(1)</sup>, 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 <sup>(2)</sup>, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 51/2006 of 22 December 2005 fixing for 2006 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 <sup>(3)</sup>, lays down quotas for 2006.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2006.

- (3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2006 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

*Article 3***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*.

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

Done at Brussels, 31 October 2006.

*For the Commission*

Jörgen HOLMQUIST

*Director-General for Fisheries and Maritime Affairs*

<sup>(1)</sup> OJ L 358, 31.12.2002, p. 59.

<sup>(2)</sup> 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).

<sup>(3)</sup> OJ L 16, 20.1.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 1262/2006 (OJ L 230, 24.8.2006, p. 4).

## ANNEX

No	44
Member State	Sweden
Stock	SOL/3A/BCD
Species	Common sole ( <i>Solea Solea</i> )
Zone	IIIa, IIIb,c,d (EC waters)
Date	6 October 2006



## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 31 October 2006

**amending Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt**

(notified under document number C(2006) 5109)

(2006/749/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community <sup>(1)</sup>, and in particular Article 16(3) thereof,

Whereas:

- (1) Under Commission Decision 2004/4/EC <sup>(2)</sup>, tubers of *Solanum tuberosum* L., originating in Egypt, must not in principle be introduced into the Community. However, for the 2005/2006 import season the entry into the Community of such tubers was permitted from 'pest-free areas' and subject to specific conditions.
- (2) During the 2005/2006 import season, a small number of interceptions of *Pseudomonas solanacearum* (Smith) Smith were recorded.
- (3) Egypt has submitted a report into the causes of these interceptions. That report details further stricter measures which have been taken by Egypt as regards the 'pest free areas' and exporters involved in those interceptions. Certain areas have been taken off the list of 'pest free areas' for the 2006/2007 import season. Two of the exporters involved have been formally warned and

one exporter has been banned from exporting in the 2006/2007 season.

- (4) In the light of the information provided by Egypt, the Commission has established that there is no risk of spreading *Pseudomonas solanacearum* (Smith) Smith with the entry into the Community of tubers of *Solanum tuberosum* L. from 'pest-free areas' of Egypt, provided that specific conditions are satisfied.
- (5) The entry into the Community of tubers of *Solanum tuberosum* L., originating in 'pest-free areas' of Egypt, should therefore be permitted for the 2006/2007 import season.
- (6) Decision 2004/4/EC should therefore be amended accordingly.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

*Article 1*

Decision 2004/4/EC is amended as follows:

1. Article 2 is amended as follows:

- (a) in paragraph 1, '2005/2006' is replaced by '2006/2007';
- (b) in paragraph 2, 'import season 2005/2006' is replaced by 'import season referred to in paragraph 1'.

<sup>(1)</sup> OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2006/35/EC (OJ L 88, 25.3.2006, p. 9).

<sup>(2)</sup> OJ L 2, 6.1.2004, p. 50. Decision as last amended by Decision 2005/840/EC (OJ L 312, 29.11.2005, p. 63).

2. In Article 3, '2005/2006 import season' is replaced by 'import season referred to in Article 2(1)'.  
(c) in point 1(b)(xii), '1 January 2006' is replaced by '1 January 2007';
3. In Article 4, '30 August 2006' is replaced by '31 August 2007'.  
(d) in the second paragraph of point 5, 'import season 2005/2006' is replaced by 'import season referred to in Article 2(1)'.
4. In Article 7, '30 September 2006' is replaced by '30 September 2007'.
- Article 2*
- This Decision is addressed to the Member States.
5. The Annex is amended as follows:
- Done at Brussels, 31 October 2006.
- (a) in point 1(b)(iii), '2005/2006' is replaced by '2006/2007';
- For the Commission*  
Markos KYPRIANOU  
*Member of the Commission*
- (b) in the second indent of point 1(b)(iii), '1 January 2006' is replaced by '1 January 2007';
-

## COMMISSION DECISION

of 31 October 2006

**amending Decision 2005/359/EC as regards the ports of unloading of oak (*Quercus* L.) logs with bark attached, originating in the United States**

(notified under document number C(2006) 5142)

(2006/750/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community <sup>(1)</sup>, and in particular Article 15(1) thereof,

Whereas:

- (1) Under Directive 2000/29/EC, oak (*Quercus* L.) logs with bark attached, originating in the United States, may, in principle, not be introduced into the Community because of the risk of introducing *Ceratocystis fagacearum* (Bretz) Hunt, the cause of oak wilt.
- (2) Commission Decision 2005/359/EC of 29 April 2005 providing for a derogation from certain provisions of Council Directive 2000/29/EC as regards oak (*Quercus* L.) logs with bark attached, originating in the United States of America <sup>(2)</sup> permits the import of such logs, originating in the United States under certain conditions.
- (3) Article 3(1) of Decision 2005/359/EC provides for unloading only in the ports listed in Annex II to that Decision. It is appropriate to add the ports of Riga and

Koper to the list of ports in Annex II, as requested by Latvia and Slovenia respectively, and to delete the port of Lauterborg as requested by France, following consultation with the other Member States as provided for in Article 3(2) of the above Decision.

- (4) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

*Article 1*

Annex II to Decision 2005/359/EC is replaced by the Annex to this Decision.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 31 October 2006.

*For the Commission*

Markos KYPRIANOU

*Member of the Commission*

<sup>(1)</sup> OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2006/35/EC (OJ L 88, 25.3.2006, p. 9).

<sup>(2)</sup> OJ L 114, 4.5.2005, p. 14.

## ANNEX

## ‘ANNEX II

**PORTS OF UNLOADING**

1. Amsterdam
  2. Antwerp
  3. Århus
  4. Bilbao
  5. Bremen
  6. Bremerhaven
  7. Copenhagen
  8. Hamburg
  9. Klaipeda
  10. Koper
  11. Larnaca
  12. Leghorn
  13. Le Havre
  14. Lemesos
  15. Lisbon
  16. Marseilles
  17. Marsaxlokk
  18. Muuga
  19. Naples
  20. Nordenham
  21. Oporto
  22. Piraeus
  23. Ravenna
  24. Riga
  25. Rostock
  26. Rotterdam
  27. Salerno
  28. Sines
  29. Stralsund
  30. Valencia
  31. Valletta
  32. Venice
  33. Vigo
  34. Wismar
  35. Zeebrugge’
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