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## I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

## REGULATIONS

**COMMISSION REGULATION (EC) No 897/2008****of 16 September 2008****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 Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector <sup>(2)</sup>, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 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 Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 17 September 2008.

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

Done at Brussels, 16 September 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

**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	MK	28,9
	TR	68,0
	ZZ	48,5
0707 00 05	EG	162,5
	MK	43,3
	TR	95,0
	ZZ	100,3
0709 90 70	TR	90,1
	ZZ	90,1
0805 50 10	AR	69,5
	TR	104,3
	UY	47,5
	ZA	88,3
	ZZ	77,4
0806 10 10	IL	248,7
	TR	101,8
	US	110,9
	ZZ	153,8
0808 10 80	AR	92,1
	AU	195,4
	BR	74,2
	CL	109,7
	CN	78,4
	NZ	107,1
	US	100,5
	ZA	80,5
0808 20 50	ZZ	104,7
	AR	76,1
	CN	90,5
	TR	139,0
	ZA	89,8
0809 30	ZZ	98,9
	TR	142,7
	US	150,3
0809 40 05	ZZ	146,5
	IL	122,2
	TR	82,5
	XS	62,1
	ZZ	88,9

<sup>(1)</sup> Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 898/2008**  
**of 16 September 2008**  
**amending Regulation (EC) No 896/2008 fixing the import duties in the cereals sector applicable**  
**from 16 September 2008**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <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 in respect of import duties in the cereals sector <sup>(2)</sup>, and in particular Article 2(1) thereof,

Whereas:

- (1) The import duties in the cereals sector applicable from 16 September 2008 were fixed by Commission Regulation (EC) No 896/2008 <sup>(3)</sup>.

- (2) As the average of the import duties calculated differs by more than EUR 5/tonne from that fixed, a corresponding adjustment must be made to the import duties fixed by Regulation (EC) No 896/2008.

- (3) Regulation (EC) No 896/2008 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annexes I and II to Regulation (EC) No 896/2008 are hereby replaced by the text in the Annex to this Regulation.

*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 17 September 2008.

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

Done at Brussels, 16 September 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 161, 29.6.1996, p. 125.

<sup>(3)</sup> OJ L 247, 16.9.2008, p. 20.

## ANNEX I

**Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 17 September 2008**

CN code	Description	Import duties <sup>(1)</sup> (EUR/t)
1001 10 00	Durum wheat, high quality	0,00 <sup>(2)</sup>
	medium quality	0,00 <sup>(2)</sup>
	low quality	0,00 <sup>(2)</sup>
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	High quality common wheat, other than for sowing	0,00 <sup>(2)</sup>
1002 00 00	Rye	4,57 <sup>(2)</sup>
1005 10 90	Maize seed other than hybrid	0,00
1005 90 00	Maize, other than seed <sup>(3)</sup>	0,00 <sup>(2)</sup>
1007 00 90	Grain sorghum other than hybrids for sowing	9,56 <sup>(2)</sup>

<sup>(1)</sup> For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal the importer may benefit, under Article 2(4) of Regulation (EC) No 1249/96, from a reduction in the duty of:

- 3 EUR/t, where the port of unloading is on the Mediterranean Sea, or
- 2 EUR/t, where the port of unloading is in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or the Atlantic coast of the Iberian peninsula.

<sup>(2)</sup> In accordance with Regulation (EC) No 608/2008, application of this duty is suspended.

<sup>(3)</sup> The importer may benefit from a flatrate reduction of EUR 24 per tonne where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

## ANNEX II

**Factors for calculating the duties laid down in Annex I**

15 September 2008

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

(EUR/t)

	Common wheat <sup>(1)</sup>	Maize	Durum wheat, high quality	Durum wheat, medium quality <sup>(2)</sup>	Durum wheat, low quality <sup>(3)</sup>	Barley
Exchange	Minneapolis	Chicago	—	—	—	—
Quotation	223,83	152,19	—	—	—	—
Fob price USA	—	—	305,61	295,61	275,61	124,55
Gulf of Mexico premium	—	13,93	—	—	—	—
Great Lakes premium	4,68	—	—	—	—	—

<sup>(1)</sup> Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).<sup>(2)</sup> Discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).<sup>(3)</sup> Discount of 30 EUR/t (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 costs: Gulf of Mexico–Rotterdam: 32,68 EUR/t

Freight costs: Great Lakes–Rotterdam: 27,91 EUR/t

**COMMISSION REGULATION (EC) No 899/2008****of 15 September 2008****establishing a prohibition of fishing for cod in Norwegian waters of I and II by vessels flying the flag of United Kingdom**

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 40/2008 of 16 January 2008 fixing for 2008 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 2008.
- (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 2008.

- (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 2008 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, 15 September 2008.

*For the Commission*

Fokion FOTIADIS

*Director-General for Maritime Affairs and Fisheries*

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

<sup>(2)</sup> OJ L 261, 20.10.1993, p. 1.

<sup>(3)</sup> OJ L 19, 23.1.2008, p. 1.



## ANNEX

No	36/T&Q
Member State	GBR
Stock	COD/1N2AB.
Species	Cod ( <i>Gadus morhua</i> )
Area	Norwegian waters of I and II
Date	14.8.2008

## COMMISSION REGULATION (EC) No 900/2008

of 16 September 2008

laying down the methods of analysis and other technical provisions necessary for the application of the arrangements for imports of certain goods resulting from the processing of agricultural products

(Codified version)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 2

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Commission Regulation (EEC) No 4154/87 of 22 December 1987 laying down the methods of analysis and other technical provisions necessary for the implementation of Council Regulation (EEC) No 3033/80 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products <sup>(2)</sup> has been substantially amended <sup>(3)</sup>. In the interests of clarity and rationality the said Regulation should be codified.

(2) In order to ensure that goods subject to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products <sup>(4)</sup> receive uniform treatment on import throughout the Community, it is necessary that, when laying down analytic methods and other technical provisions, account should be taken of the scientific and technological evolution of analytical methods.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Tariff and Statistical Nomenclature Section of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

## Article 1

This Regulation lays down the methods of analysis necessary for the application of Regulation (EC) No 3448/93 as far as imports are concerned and Commission Regulation (EC) No 1460/96 <sup>(5)</sup>, or, in the absence of a method of analysis, the nature of the analytical operations to be carried out or the principle of a method to be applied.

In accordance with the definitions set out in Annex III to Regulation (EC) No 1460/96 concerning starch/glucose content, and sucrose/invert sugar/isoglucose content, and for the purpose of applying Annexes II and III to that Regulation, the following formulae, procedures and methods shall be used for starch/glucose and sucrose/invert sugar/isoglucose content:

## 1. Starch/glucose content:

(expressed as 100 % anhydrous starch content of the goods as presented)

(a)  $(Z - F) \times 0,9$ ,

if the glucose content is not less than the fructose content; or

(b)  $(Z - G) \times 0,9$ ,

if the glucose content is less than the fructose content

where:

Z = is the glucose content determined by the method set out in Annex I to this Regulation;

F = is the fructose content determined by HPLC (high performance liquid chromatography);

G = is the glucose content determined by HPLC.

In the case of point (a), where the presence of a lactose hydrolysate is declared and/or quantities of lactose and galactose are detected, a glucose content equivalent to the galactose content (determined by HPLC) shall be deducted from the glucose content (Z) before any other calculation is made.

## 2. Sucrose/invert sugar/isoglucose content:

(expressed as sucrose content of the goods as presented)

(a)  $S + (2F) \times 0,95$ ,

if the glucose content is not less than the fructose content;

<sup>(1)</sup> OJ L 256, 7.9.1987, p. 1.

<sup>(2)</sup> OJ L 392, 31.12.1987, p. 19.

<sup>(3)</sup> See Annex IV.

<sup>(4)</sup> OJ L 318, 20.12.1993, p. 18.

<sup>(5)</sup> OJ L 187, 26.7.1996, p. 18.

(b)  $S + (G + F) \times 0,95$ ,

if the glucose content is less than the fructose content

where:

S = is the sucrose content determined by HPLC;

F = is the fructose content determined by HPLC;

G = is the glucose content determined by HPLC.

Where the presence of a lactose hydrolysate is declared and/or quantities of lactose and galactose are detected, a glucose content equivalent to the galactose content (determined by HPLC) shall be deducted from the glucose (G) content before any other calculation is made.

### 3. Milk fat content:

(a) Save as otherwise provided in point (b), the milk fat content by weight of the goods as presented shall be determined by extraction with light petroleum after hydrolysis with hydrochloric acid;

(b) Where fats other than milk fats are also declared in the composition of the goods, the following procedure shall be applied:

— the percentage of weight of the total fats in the goods shall be determined as mentioned in point (a),

— for the purposes of determining the milk fat content, a method based on extraction with light petroleum, preceded by hydrolysis with hydrochloric acid and followed by gas chromatography of the methyl esters of the fatty acids shall be used. If the presence of milk fats is detected, the percentage proportion thereof shall be calculated by multiplying the percentage concentration of methyl butyrate by 25, multiplying the product by the total percentage fat content by weight of the goods and dividing by 100.

### 4. Milk protein content:

(a) Save as otherwise provided in point (b), the milk protein content of the goods shall be calculated by multiplying the nitrogen content (determined by the Kjeldahl method) by the factor 6,38;

(b) Where components containing proteins other than milk proteins are also declared in the composition of the goods:

— the total percentage nitrogen content by weight shall be determined by the Kjeldahl method,

— the milk protein content shall be calculated as indicated in point (a) by subtracting from the total percentage nitrogen content the nitrogen content corresponding to the non-milk proteins.

### Article 3

For the purposes of applying Annex I to Regulation (EC) No 1460/96, the following methods and/or procedures shall be used:

1. For the purposes of classifying goods falling within CN codes 0403 10 51 to 0403 10 59, 0403 10 91 to 0403 10 99, 0403 90 71 to 0403 90 79 and 0403 90 91 to 0403 90 99, the milk fat content by weight shall be determined by the method referred to in point 3 of Article 2 of this Regulation;
2. For the purposes of classifying goods falling within CN codes 1704 10 11 to 1704 10 99 and 1905 20 10 to 1905 20 90, the sucrose content, including invert sugar expressed as sucrose, shall be determined by HPLC; (invert sugar expressed as sucrose means the sum of equal amounts of glucose and fructose multiplied by 0,95);
3. For the purposes of classifying goods falling within CN codes 1806 10 10 to 1806 10 90, the sucrose/invert sugar/isoglucose content shall be determined in accordance with the formulae, method and procedures set out in point 2 of Article 2 of this Regulation;
4. For the purposes of classifying goods falling within CN codes 3505 20 10 to 3505 20 90, the starch, dextrin or other modified starch content shall be determined by the method set out in Annex II to this Regulation;
5. For the purposes of classifying goods falling within CN codes 3809 10 10 to 3809 10 90, the amylaceous substances shall be determined by the method set out in Annex II to this Regulation;
6. For the purposes of classifying goods falling within either CN code 1901 90 11 or CN code 1901 90 19, the distinction shall be drawn on the basis of the dry extract determined by drying at a temperature of  $103 \pm 2^\circ\text{C}$  to constant weight;

7. For the purposes of classifying goods falling within CN codes 1902 19 10 and 1902 19 90, the method set out in Annex III to this Regulation shall be used to test for the presence of common wheat flours and semolinas in pasta;
8. The content of mannitol and D-glucitol (sorbitol) of the goods falling within CN codes 2905 44 11 to 2905 44 99 and 3824 60 11 to 3824 60 99 shall be determined by HPLC.

#### Article 4

1. A test report shall be drawn up.
2. The test report shall include the following particulars:
  - all the information necessary for identifying the sample,
  - the Community method used and precise reference to the legal instrument in which it is laid down, or, where appropriate, detailed reference to a method, specifying the nature of the analytical operations to be carried out, or the

principle of the method to be applied, as indicated in this Regulation,

- any factors liable to have influenced the results,
- the results of the analysis, with due regard to the way in which they are expressed in the method used and the means of expression dictated by the needs of the customs or administrative departments that requested the analysis.

#### Article 5

Regulation (EEC) No 4154/87 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex V.

#### Article 6

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, 16 September 2008.

*For the Commission*

*The President*

José Manuel BARROSO

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## ANNEX I

**Determination of starch content and its degradation products including glucose**

## 1. PURPOSE AND FIELD OF APPLICATION

(a) The method permits the determination of the starch content, its degradation products including glucose, hereafter referred to as 'starch'.

(b) 'Starch' content referred to in point (a) is equal to value E, as calculated in point 6(a) of the present Annex.

## 2. PRINCIPLE

The sample is broken down by means of sodium hydroxide and the 'starch' divided into glucose units with amyloglucosidase. The glucose determination is performed by the enzymatic route.

## 3. REAGENTS

(Use double-distilled water)

3.1. 0,5 N sodium hydroxide solution (0,5 mol/l).

3.2. 96 % (minimum) glacial acetic acid.

3.3. Solution of amyloglucosidase:

Immediately before use, dissolve approximately 10 mg of amyloglucosidase (EC 3.2.1.3) (60 U per mg) in one ml of water <sup>(1)</sup>.

3.4. Triethanolamine buffer solution:

dissolve 14,0 g of triethanolamine hydrochloride [tris(2-hydroxyethyl)ammonium chloride] and 0,25 g of magnesium sulphate  $MgSO_4 \cdot 7H_2O$  in 80 ml of water, add approximately 5 ml of 5 N sodium hydroxide solution (5 mol/l) and adjust the pH to 7,6, using a 1 N sodium hydroxide solution (1 mol/l).

Make up to 100 ml with water. This buffer solution can be kept for at least four weeks at 4 °C.

3.5. NADP (nicotinamide adenine dinucleotide phosphate, disodium salt) solution:

dissolve 60 mg of NADP in 6 ml of water. This solution can be kept for at least four weeks at 4 °C.

3.6. ATP (adenosine-5'-triphosphate, disodium salt) solution:

dissolve 300 mg of ATP.  $3H_2O$  and 300 mg of sodium hydrogen carbonate ( $NaHCO_3$ ) in 6 ml of water. This solution can be kept for at least four weeks at 4 °C.

3.7. Suspension HK/G6P-DH [Hexokinase (EC 2.7.1.1) and glucose-6-phosphate-dehydrogenase (EC 1.1.1.49)]:

suspend 280 U HK and 140 U of G6P-DH in 1 ml of 3,2 M ammonium sulphate solution. This suspension can be kept for at least one year at 4 °C.

## 4. APPARATUS

4.1. Magnetic stirrer water bath at 60 °C.

4.2. Magnetic rods.

4.3. UV spectrophotometer with 1 cm optical cells.

4.4. Pipettes for enzymatic analysis.

<sup>(1)</sup> U is the international unit of enzyme activity.

## 5. METHOD

## 5.1. The sample is digested in sodium hydroxide and the 'starch' subject to enzymatic hydrolysis

5.1.1. Select the weight of sample as follows, according to the presumed 'starch' content (the 'starch' content must not exceed 0,4 g per sample) as follows:

Presumed 'starch' content of product in g/100 g	Approximate weight of sample in g (p)	Volume of graduated flask in ml	Dilution factor up to 1 litre (f)
> 70	0,35-0,4	500	2
20-70	max. 0,5	500	2
5-20	max. 1	250	4
< 5	max. 2	200	5

5.1.2. Weigh the sample exactly to 0,1 mg.

5.1.3. Add 50 ml of 0,5 N sodium hydroxide solution (point 3.1) and stir continuously for 30 minutes in the water bath (point 4.1) with a magnetic stirrer at 60 °C.

5.1.4. Add a few ml of concentrated acetic acid (point 3.2) and bring the pH to 4,6 to 4,8.

5.1.5. Place in the water bath with the magnetic stirrer (point 4.1) at 60 °C, add 1,0 ml of enzyme solution (point 3.3) and allow to react whilst stirring continuously for 30 minutes.

5.1.6. After cooling, transfer quantitatively to a graduated flask (point 5.1.1) and make up to the mark with water.

5.1.7. If necessary, filter through a fluted filter (see Note 1).

## 5.2. Quantitative determination of glucose

5.2.1. The test solution must contain 100 to 1 000 mg of glucose per litre, which corresponds to a  $\Delta E_{340}$  of between 0,1 and 1,0.

The absorbance of the test solution in a 1 + 30 dilution with water must not exceed 0,4 (measured against air), at 340 nm.

5.2.2. Bring the buffer solution (point 3.4) to ambient temperature (20 °C).

5.2.3. The temperature of the reagents and of the sample must be between 20 and 25 °C.

5.2.4. Measure the absorbance at 340 nm against air (i.e. with no optical cell in the reference path).

5.2.5. Proceed in accordance with the pipetting chart below:

Pour into the optical cells	Control (ml)	Test (ml)
Buffer (reagent 3.4)	1,00	1,00
NADP (reagent 3.5)	0,10	0,10
ATP (reagent 3.6)	0,10	0,10
Test solution (5.1.6 or 5.1.7)	—	0,10
Double-distilled water	2,00	1,90

Mix and, after about three minutes, measure the absorbance of the solutions ( $E_1$ ).  
Initiate the reaction by adding:

HK/G6P.DH (reagent 3.7)	0,02	0,02
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Mix, allow the reaction to proceed to completion (approximately 15 minutes) and measure the absorbance of the solutions ( $E_2$ ).  
If the reaction has not stopped after 15 minutes read absorbances at five-minute intervals until the rate of increase is constant.  
Then extrapolate backwards to the time of addition of suspension (referred to in point 3.7 (see Note 2)).

- 5.2.6. Calculate the absorbance differences for reagent blank and sample ( $E_2 - E_1$ ). Subtract absorbance difference of the reagent blank ( $\Delta E$  reagent blank) from that of the sample ( $\Delta E$  sample):

$$\Delta E = \Delta E_{\text{sample}} - \Delta E_{\text{reagent blank}}$$

This difference gives the glucose content of the test solution:

*Glucose content contained in test solution, g/l*

$$Gl = ((3,22 \times 180,16)/(6,3 \times 1 \times 0,1 \times 1\,000)) \times \Delta E_{340} = 0,921 \times \Delta E_{340}$$

(3,22: volume of the solution to be measured; 1: cell thickness; 0,1: volume of the sample solution; the molecular weight of glucose is 180,16 (g/mol)).

- 5.2.7. If, for any reason, a measurement cannot be made of 340 nm, the measurement may be made at a wavelength of 365 nm or 334 nm, in which case the figure 6,3 in the formula for Gl above should be replaced by the figure 3,5 or 6,18 respectively.

## 6. CALCULATION AND EXPRESSION OF RESULTS

- (a) E = 'Starch' content in g/100 g:

$$E = ((100 \times 0,9 \times Gl)/(p \times f))$$

- (b) Z = 'Glucose' content in g/100 g:

$$Z = ((100 \times Gl)/(p \times f))$$

where:

Gl = glucose in G/l (5.2.6);

F = dilution factor (5.1.1);

p = weight of sample in g;

0,9 = glucose conversion factor for starch.

Notes:

- (1) Where a test solution cannot be filtered according to point 5.1.7, appropriate methods should be taken in order to obtain a clear solution.
- (2) Where an inhibition of enzymes occurs, it is advisable to apply a method which involves the addition of known amounts of pure starch.

## ANNEX II

**Determination of starches or dextrans or other modified starches content in goods of CN codes 3505 20 10 to 3505 20 90 and of amylaceous substances content in goods of CN codes 3809 10 10 to 3809 10 90**

## I. PRINCIPLE

Starch is converted by acid hydrolysis into reducing sugars which are determined by volume using Fehling's solution.

## II. APPARATUS AND REAGENTS

1. 250 ml flask;
2. 200 ml graduated flask;
3. 25 ml graduated burette;
4. Hydrochloric acid at 1,19 density;
5. Potassium hydroxide solution;
6. Decolourising charcoal;
7. Fehling's solution;
8. Methylene blue solution (1 %).

## III. METHOD

Into a 250 ml flask place a sample containing about 1 g of starch. Add 100 ml of distilled water and 2 ml of hydrochloric acid. Bring to the boil and reflux for three hours.

Transfer the contents of the flask and rinsings into a 200 ml graduated flask. Cool and nearly neutralise with potassium hydroxide solution. Add distilled water to 200 ml and filter through a little decolourising charcoal.

Then pour the solution into a graduated burette and reduce 10 ml of Fehling's solution by the following method:

Into a flat-bottomed flask of about 250 ml pour 10 ml of Fehling's solution (5 ml of solution A and 5 ml of solution B). Shake until clear and add 40 ml of distilled water and a small quantity of quartz or pumice.

Place the flask on a square asbestos plate with a round hole of about 6 cm diameter in the centre, the asbestos in turn resting on a piece of wire gauze. Heat the flask at such a rate that the liquid begins boiling after about two minutes.

From the burette, add to the boiling liquid successive quantities of the sugar solution until the blue colour of the Fehling's solution becomes hardly discernible; then add 2 or 3 drops of methylene blue solution as indicator, and complete the titration by adding further quantities of the sugar solution, drop by drop, until the blue colour of the indicator disappears.

For greater accuracy repeat the titration under the same conditions, but adding without a break almost all the sugar solution required to reduce the Fehling's solution. In this second titration, the reduction of the Fehling's solution should occur within three minutes. Keep boiling for exactly two further minutes, adding the reagent within one minute drop by drop to the boiling solution until the blue colour disappears.

The percentage by weight of starch in the sample is determined by means of the following formula:

$$\text{starch \%} = ((T \times 200 \times 100)/(n \times p)) \times 0,95$$

where:

T: is the quantity in grams of anhydrous dextrose corresponding to 10 ml of Fehling's solution (5 ml of solution A and 5 ml of solution B). This titer corresponds to 0,04945 g of anhydrous dextrose when solution A contains 17,636 g of copper per litre;

n: is the number of ml of the sugar solution used for titration;

p: is the weight of the sample amount;

0,95: is the rate of conversion of anhydrous dextrose into starch.



#### IV. PREPARATION OF FEHLING'S SOLUTIONS

Solution A: In a graduated flask dissolve 69,278 g of pure crystallised copper sulphate — Analytical Reagent ( $\text{CuSO}_4 \cdot 5\text{H}_2\text{O}$ ) — free from iron in distilled water and bring the volume to 1 litre with distilled water. The correct strength of this solution must be verified by a quantitative determination of the copper.

Solution B: In a graduated flask dissolve 100 g of sodium hydroxide and 346 g of double sodium potassium tartrate (Rochelle salt) in distilled water and bring the volume to 1 litre with distilled water.

The two solutions A and B must be mixed in equal quantities immediately before use. 10 ml of Fehling's solution (5 ml of solution A and 5 ml of solution B) is completely reduced, under the conditions described at section III, by 0,04945 g of anhydrous dextrose.

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## ANNEX III

**Detection of common wheat flour or meal in macaroni, spaghetti and similar products (pasta)**

(by the Young and Gilles method, modified by Bernaerts and Gruner)

## I. PRINCIPLE

An extract of the sample of the pasta for analysis is prepared by using a non-polar solvent.

This extract is chromatographed on a thin layer of silica gel so as to separate the sterols present in various band form fractions.

According to the number of brightly coloured bands it is possible to determine whether the product under examination has been manufactured exclusively from durum wheat or common wheat, or from a mixture of the two. It is also possible to determine whether eggs have been added.

## II. APPARATUS AND REAGENTS

1. Homogeniser or grinder to obtain a grist that will pass through a standard sieve with a 0,200 mm mesh;
2. Standard sieve with a 0,200 mm mesh;
3. Evaporator with a water bath for evaporation under reduced pressure;
4. Glass plate, aluminium sheet or other appropriate backing measuring 20 cm × 20 cm covered with a thin layer of silica gel. If the thin layer has to be prepared, silica gel mixed with about 13 % plaster should be used, and it should be applied in a 0,25 mm layer with suitable apparatus in accordance with the manufacturer's instructions;
5. Micropipette for measuring 20 microlitres;
6. Container with lid suitable for the development of chromatograms;
7. Atomiser;
8. Petroleum ether with a boiling point between 40 and 60 °C, redistilled before use;
9. Anhydrous ethyl ether for analysis;
10. Carbon tetrachloride for chromatography, redistilled before use;
11. Phosphomolybdic acid for analysis;
12. 94° ethyl alcohol.

## III. METHOD

Grind about 20 g of the sample for analysis so that all of it passes through the sieve. Put the sample in an Erlenmeyer flask and cover with 150 ml petroleum ether. Leave at normal temperature until the following day. Shake from time to time.

Then filter on a Büchner funnel fitted with a filtering aid or on a sintered filter. Gradually transfer the clear solution thus obtained into a 100 ml calibrated flask. Evaporate the solvent under reduced pressure by heating the flask in a water bath at 40 °C to 50 °C. When the solvent has evaporated, heat under reduced pressure for a further ten minutes.

When the flask has cooled, determine the weight of the extract. Dilute the extract in ethyl ether on the basis of 1 ml ethyl ether per 60 mg of extract.

Activate the thin layers by bringing them to 130 °C for three hours. Leave to cool in a desiccator containing silica gel. Plates which are not used immediately can be preserved in the same desiccator.

Apply, drop by drop, 20 microlitres of the clear solution to form a band of constant width and 3 cm in length on a layer preferably newly activated. Let the solvent evaporate.

Develop the chromatogram under normal temperature with carbon tetrachloride using a chromatographic container the walls of which are covered with filter paper soaked in solvent. After about an hour the solvent will reach a height of 18 cm. Remove the plate and leave the solvent to evaporate in the open. For better separation of the bands, develop the chromatogram a second time. Again let the solvent evaporate in the open.

Spray the thin layer of silica gel with a solution of 20 % phosphomolybdic acid in ethyl alcohol. The colour of the layer must be a uniform yellow. Develop the bands by the heating the sprayed plate at 110 °C for five minutes.

## IV. INTERPRETATION OF THE CHROMATOGRAM

If the chromatogram shows a single main brightly coloured band with an  $R_f$  of about 0,4 to 0,5, the wheat used for the manufacture of the pasta in question is durum wheat. If, on the other hand, two main bands of equal brightness appear, the raw material used is common wheat. Mixtures of durum wheat and common wheat can be assessed by an evaluation of the relative brightness of the two bands.

If there are three bands (two bands at the height where the main bands for common wheat are to be found, with a further band between them) eggs have been added to pasta. In this case, the raw material used is durum wheat if the middle band is brighter than the upper band. On the other hand, if the upper band is brighter than the middle band, the raw material used is common wheat.

## ANNEX IV

**Repealed Regulation with its amendment**

Commission Regulation (EEC) No 4154/87 (OJ L 392, 31.12.1987, p. 19).

Commission Regulation (EC) No 203/98 (OJ L 21, 28.1.1998, p. 6).

## ANNEX V

**Correlation Table**

Regulation (EEC) No 4154/87	This Regulation
Articles 1 to 4	Articles 1 to 4
Article 5	—
—	Article 5
Article 6	Article 6
Annexes I, II and III	Annexes I, II and III
—	Annex IV
—	Annex V

**COMMISSION REGULATION (EC) No 901/2008****of 16 September 2008****suspending the application of import duties on certain quantities of industrial sugar for the 2008/2009 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>, and in particular Article 142 in conjunction with Article 4 thereof,

Whereas:

- (1) Under Article 142 of Regulation (EC) No 1234/2007, in order to guarantee the supplies necessary for the production of the products referred to in Article 62(2) of that Regulation, the Commission may suspend, in whole or in part, the application of import duties for certain quantities of sugar.
- (2) Articles 30 to 30d of Commission Regulation (EC) No 950/2006 of 28 June 2006 laying down detailed rules of application for the 2006/2007, 2007/2008 and 2008/2009 marketing years for the import and refining of sugar products under certain tariff quotas and preferential agreements <sup>(2)</sup> laid down detailed rules of application for importing the industrial sugar referred to in Article 62(2) of Regulation (EC) No 1234/2007.
- (3) In order to ensure that the supplies necessary for the production of the products referred to in Article 62(2) of Regulation (EC) No 1234/2007 are available at a price

corresponding to the world price, a complete suspension of import duties on sugar intended for the production of those products is in the Community's interest for the 2008/2009 marketing year, for a quantity corresponding to half of its industrial sugar needs.

- (4) The quantities of industrial import sugar for the 2008/2009 marketing year should therefore be set accordingly.
- (5) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 2008/2009 marketing year, the application of import duties shall be entirely suspended for a quantity of 400 000 tonnes of industrial sugar falling within CN code 1701 and bearing the order number 09.4390, in accordance with Article 30 of Regulation (EC) No 950/2006.

*Article 2*

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

It shall apply from 1 October 2008.

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

Done at Brussels, 16 September 2008.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

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

## II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

## DECISIONS

## COMMISSION

## COMMISSION DECISION

of 4 June 2008

**on State aid C 57/07 (ex N 843/06) which the Slovak Republic is planning to implement for Alas Slovakia, s.r.o.**

(notified under document number C(2008) 2254)

(Only the Slovak version is authentic)

(Text with EEA relevance)

(2008/734/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

for investment activities by Alas Slovakia, s.r.o. at nine different locations <sup>(2)</sup>.

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

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

Having called on interested parties to submit their comments pursuant to those provisions <sup>(1)</sup> and having regard to their comments,

Whereas:

- (2) Requests for information were sent out on 13 February 2007 (D/50598), 8 May 2007 (D/51936), 25 July 2007 (D/53139) and 12 October 2007 (D/54058) respectively. The Slovak authorities transmitted additional information by letters dated 12 March 2007 (A/32162), 4 June 2007 (A/34580), 13 August 2007 (A/36769) and 31 October 2007 (A/39017).
- (3) By letter dated 11 December 2007 (hereafter 'the opening decision') the Commission informed Slovakia that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the measure.
- (4) The Commission Decision to initiate the procedure was published in the *Official Journal of the European Union* <sup>(3)</sup>. The Commission called on interested parties to submit their comments.

## I. PROCEDURE

- (1) By letter dated 15 December 2006, registered by the Commission on 18 December 2006 (A/40324), the Slovak authorities, in accordance with Article 88(3) of the EC Treaty, notified their intention to grant regional individual investment aid in the form of a tax concession

<sup>(1)</sup> OJ C 30, 2.2.2008, p. 13.

<sup>(2)</sup> By letter dated 13 February 2006, the Commission asked the Slovak authorities to submit for evaluation nine different notifications so that it could assess the compatibility of each of the nine projects on the basis of their individual merits. In their reply of 12 March 2007, the Slovak authorities explained to the Commission that Alas Slovakia s.r.o., constituted a single tax entity with several establishments, with a single tax liability. The applicable Slovak legislation does not allow taxpayers to calculate the tax base and the corporate tax for each organisational unit separately. Therefore, the Slovak authorities consider that it is not possible to calculate the amount of aid received by each establishment.

<sup>(3)</sup> See footnote 1.

- (5) The Commission did not receive any comments from interested parties or from the Slovak Republic.

## II. DETAILED DESCRIPTION OF THE MEASURE

### 2.1. Aim of the measure

- (6) The aim of the aid measure is to promote the regional development of the regions of Nitra<sup>(4)</sup>, Trnava<sup>(5)</sup> and Trenčín<sup>(6)</sup>, all situated in Western Slovakia, which was at the time of notification an assisted area pursuant to Article 87(3)(a) of the EC Treaty; the aid intensity ceiling according to the Slovak regional aid map 2004-2006<sup>(7)</sup> is 50 % NGE.
- (7) The proposed project constitutes an individual aid measure notified by the Slovak authorities, i.e. it is not granted under an existing aid scheme within the meaning of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty<sup>(8)</sup>.

### 2.2. The form and nature of the aid

- (8) The notified measure is to be provided in the form of a tax concession applied on an annual basis between 2007 and 2011. The annual concession is limited to 50 % of the corporate tax liability of Alas Slovakia, s.r.o. The total amount of the tax concession is limited to SKK 100 813 444 at current value<sup>(9)</sup> (approximately EUR 2,89 million). The aid cannot be utilised concurrently with aid from other sources to cover the same eligible costs.
- (9) The notified aid follows earlier aid in the form of a tax concession (based on Section 35a of the Income Tax Act) which was approved by the Slovak Office for State Aid before the accession of the Slovak Republic to the EU<sup>(10)</sup>.

<sup>(4)</sup> In the municipalities of: Nitra, Komjatice, Veľký Cetín, Hontianske Trstany-Hrončín.

<sup>(5)</sup> In the municipalities of: Červeník, Veľký Grob, Okoč.

<sup>(6)</sup> In the municipalities of: Kamenec pod Vtáčnikom, Prievidza.

<sup>(7)</sup> State aid SK 72/2003 — Slovak Republic — 'Regional State aid map of the Slovak Republic'.

<sup>(8)</sup> OJ L 83, 27.3.1999, p. 1.

<sup>(9)</sup> Expressed at 2007 value and calculated at a reference rate of 5,62 % applicable on the date of the notification.

<sup>(10)</sup> By notification No 1108/2003 of the Slovak Office for State Aid, issued on 25 August 2003, State aid was approved for Alas Slovakia, s.r.o. (2003 to 2012), in accordance with Section 35a of Act No 472/2002, as amended, and Act No 366/1999, for a maximum level of SKK 87 145 485. Under the interim procedure, this State aid (SK 53/03) was considered 'existing aid'.

- (10) According to Section 35a of the Income Tax Act, an aid beneficiary is granted a corporate tax credit of 100 % over a period of five consecutive years and afterwards, it has the possibility to apply for a further tax credit of 50 % during the subsequent five years. The submitted notification concerns this second period of five years. The notified aid concerns other eligible expenditure and partially also other establishments than those covered by the pre-accession aid.

### 2.3. Legal basis of the individual aid

- (11) The national legal basis for the aid is Act No 231/1999 Coll. on State aid, as amended, Act No 595/2003 Coll. on income tax, as amended, and Act No 366/1999 Coll. on income taxes, as amended, as in force on 31 December 2003, in particular Section 52(3) of Act No 595/2003 Coll. on income tax, as amended, under the conditions specified in Section 35a of Act No 366/1999 Coll. on income taxes, as amended, as in force on 31 December 2003<sup>(11)</sup>.

### 2.4. Beneficiaries

- (12) The aid beneficiary, Alas Slovakia, s.r.o., is a large enterprise. It took over the activities carried out by the former state enterprises 'Západoslovenské kameňolomy a štrkopiesky' and 'Strmáč Comp.Ltd'. The beneficiary is active in the extraction and processing of non-reserved minerals (gravel, stone) that fall under Division 08, Group 08.1, Classes 08.11 and 08.12 of the NACE statistical classification of economic activities. It is also involved in the production and sale of cement and concrete mixes — Division 23, Group 23.6 of the NACE classification.
- (13) According to the information provided on the website of the company, Alas Slovakia, s.r.o. ranks among the leading stoneware producers in the Slovak Republic. Its market share in Slovakia is around 15 %.
- (14) The major shareholder (67,45 %) of Alas Slovakia, s.r.o. is Alas International Baustoffproduktions AG (hereafter 'Alas International') based in Ohlsdorf (Austria), which in turn belongs to the ASAMER holding group. Alas International was founded in 1998 as a holding company to carry out international activities in the field of aggregates and concrete.

<sup>(11)</sup> Act No 231/1999 Coll. on State aid, as amended, Act No 595/2003 Coll. on income tax, as amended, and Act No 366/1999 Coll. on income taxes, as amended, as in force on 31 December 2003, in particular Section 52(3) of Act No 595/2003 Coll. on income tax, as amended, under the conditions specified in Section 35a of Act No 366/1999 Coll. on income taxes, as amended, as in force on 31 December 2003.

## 2.5. The investment project

- (15) According to Slovakia, the aid concerns both the setting-up of three new establishments (Červeník, Okoč and Prievidza) and the modernisation, rationalisation and diversification of six existing production facilities (Veľký Grob, Veľký Cetín, Komjatice, Kamenec pod Vtáčnikom, Hontianske Trstany — Hronďín and Nitra). The investment project will involve purchasing modern and environmentally friendly technical equipment from third parties and constructing and improving various sites for the extraction of raw materials (stone and gravel, aggregates). It would appear that all these establishments are completely independent from one another since there is no functional connection or any economic link between them.
- (16) Through these investment activities the company wishes to improve the quality of its products and services and guarantee the reliability of the supply of the required quantities and varieties for construction investors. The eligible costs of the project are estimated at SKK 345 026 285 (approximately EUR 9,90 million) at current value.
- (17) The works on the investment projects were notified to start in 2007. The project implementation should be completed by 2011. Details are given in the table below.

Establishment	Type of initial investment	Investment period	Number of newly created jobs	Amount of investment in nominal value (in SKK 000)
Veľký Grob	Rationalisation Extension of an existing establishment	2007, 2008	—	26 400
Veľký Cetín	Modernisation	2007	—	9 000
Komjatice	Modernisation	2008	—	10 200
Kamenec pod Vtáčnikom	Modernisation Diversification	2007, 2008 2010, 2011	27	151 000
Hontianske Trstany — Hronďín	Diversification	2008, 2009	20	49 000
Červeník	Setting-up of a new establishment	2007, 2009	16	40 000
Okoč	Setting-up of a new establishment	2007	14	29 000
Nitra	Diversification	2008	—	14 000
Prievidza	Setting-up of a new establishment	2009, 2010	4	51 000
Total			81	379 600



### III. GROUNDS FOR INITIATING THE PROCEDURE

(18) In its decision to initiate the formal investigation procedure in the present case the Commission, noted that it had doubts on the compatibility of the aid with the common market based on Article 87(3)(a) of the EC Treaty and on the Guidelines on National Regional Aid<sup>(12)</sup> (hereinafter referred to as RAG 1998) for the following reasons.

— First, the Commission had doubts as to whether the limitation of regional investment aid to initial investment, as laid down in point 4.4 of the RAG 1998, was respected. According to point 4.4 of RAG 1998, initial investment is defined as an investment in fixed capital relating to the setting-up of a new establishment, the extension of an existing establishment or the starting-up of an activity involving a fundamental change in the product or production process of an existing establishment (through rationalisation, diversification or modernisation). This definition excludes from its scope replacement investment. Aid to replacement investment is to be considered as operating aid, which is allowed only if specific conditions are met (cf. points 4.15, 4.16 and 4.17 of RAG 1998).

— It appeared that in at least three establishments (Veľký Grob, Veľký Cetín and Kamenec pod Vtáčnikom) the beneficiary is purchasing the same type of machinery/equipment as it currently uses and rents. The improved quality of the purchased equipment or the significant increase in the production concerned may be questioned, although the beneficiary claimed that new equipment would be more modern than the one currently leased.

— At its Nitra establishment, the beneficiary will offer its customers only a 'complementary' service in order to 'maintain the company's market share, cash flow and economic results' <sup>(13)</sup>. It seemed difficult to justify aid in a situation where no additional activity is to be carried out.

— Second, the measure at issue constitutes individual aid, to be granted to a company active in a specific sector of extraction of raw materials. Consequently,

this aid measure is to be considered selective with a greater impact on other companies active in the same sector. According to point 2 of RAG 1998, an individual ad hoc aid made to a single firm, or confined to one area of activity, may have a major impact on competition in the relevant market, and its effects on regional development are likely to be fairly limited. Such aid generally comes within the scope of specific sectoral industrial policies and is not in line with the spirit of regional aid policy as such. The latter must remain neutral towards the allocation of productive resources between the various economic sectors and activities. In conclusion, the RAG 1998 take a negative stance towards individual aid measures unless it can be proved that the regional contribution of the aid outweighs the distortion of competition and the effects on trade. In this case, the Commission had doubts whether the limited contribution to regional development can justify the relatively high amount of aid per job created.

— It transpires from the information submitted that only 81 direct jobs would be newly created, whereas some 57 direct jobs created by the beneficiary in the past would be maintained by the aided investments. The new jobs would concern only five of the nine establishments of the project (see table above). The Commission noted that 34 out of the 81 newly created jobs should be created in the three new establishments envisaged <sup>(14)</sup>. Consequently, the Commission had doubts as to whether the relatively high amount of aid per direct job created, in particular in a low wage sector (the aid per direct job created would correspond to around seven annual salaries), was justified.

— Concerning the number of indirect jobs, in their letter dated 17 February 2007 the Slovak authorities initially indicated that 100 indirect jobs would be created. Later on, in their second letter of 4 June 2007 providing additional information, they referred to the statistics of the European Aggregates Association, claiming that indirect jobs would amount to 414-690. According to this study, in the sector in which the company is pursuing its business activities, approximately 3-5 jobs are created in respect of each newly created job. In the information submission dated 13 August 2007, the Slovak authorities referred finally to a survey furnished to Alas by the University of Leoben (Austria), according to which in the sector of processing of raw materials, each new direct job corresponds

<sup>(12)</sup> OJ C 74, 10.3.1998, p. 9.

<sup>(13)</sup> Letter from the Slovak Ministry of Finance, dated 31 May 2007 (ref. MF/8790/2007-832).

<sup>(14)</sup> In this respect, it should be underlined that 16 new jobs out of 81 should be created at the site of Červeník, for which the permit for extraction has not yet been granted.



to 30-40 indirect jobs<sup>(15)</sup>. The Commission had doubts as to whether this general statement on mineral extraction was transferable to the situation of building materials.

- Moreover, the aid is granted to activities in the extraction industry whose location is determined not by the granting of aid, but by the availability of minerals; this is less affected by the regional handicaps that normally hamper regional development. Consequently, it can be assumed that it would be possible to exploit the resources even without the aid. In addition, since Alas was already operating in most of the establishments on the basis of long-term licences, the incentive effect of additional regional aid was doubtful.
- Third, the likely limited contribution to regional development has to be balanced against the effect on trade and distortion of competition of the aid measure which, according to the Slovak authorities, is also expected to be small. The selling radius of the products concerned is limited (approximately 50 km by road or 150 km by rail) owing to their relatively small value with regard to the cost of transport. The Slovak authorities indicated that only one establishment (Hontianske Trstany — Hrončín) would be in a position to export part of its production (up to 50 thousand tonnes of building stone annually worth SKK 9 million) to Hungary. Three other establishments (Veľký Cetín, Okoč and Komjatice) are expected to compete with imports from Hungary. Alas Slovakia, s.r.o. does not expect to compete with other companies mining and processing minerals from Austria or the Czech Republic. However, this seemed to be in contradiction with the information contained in the application for the first part of the aid, submitted to the Slovak authorities on 16 April 2003, where potential competitors from these two countries were mentioned.

Taking into account the location of the establishments concerned, the Commission had doubts about the extent to which trade with other Member States (e.g. Austria or the Czech Republic) would be distorted.

- Finally, as laid down in the Commission notice on the definition of the relevant market for the purposes

of Community competition law<sup>(16)</sup>, in certain cases, even if the deliveries from a given plant are limited to a certain area around that plant, the distribution of plants may be such that the areas around the different plants overlap significantly. If so, it is possible that the pricing of those products would be affected by a chain substitution effect, leading to impacts on a broader geographic market.

As a result, the Commission had doubts as to whether the expected contribution of the aid to regional development would offset its negative effects on trade.

#### IV. COMMENTS FROM THE SLOVAK REPUBLIC AND INTERESTED PARTIES

- (19) No comments were received from the Slovak authorities or from third parties to dispel the doubts raised when the formal investigation was initiated.

#### V. ASSESSMENT OF THE MEASURE

##### V.1. *Legality of the measure*

- (20) By notifying the aid measure with a standstill clause until authorised by the Commission, the Slovak authorities have complied with the procedural requirements of Article 88(3) of the EC Treaty.

##### V.2. *State aid character of the measure*

- (21) The Commission considers that the measure constitutes State aid within the meaning of Article 87(1) of the EC Treaty for the following reasons, already indicated in the opening decision.

##### V.2.1. *Presence of state resources*

- (22) State resources are involved since an exemption from the payment of corporate income tax is provided for.

##### V.2.2. *Economic advantage*

- (23) The measure relieves Alas Slovakia, s.r.o. of costs it would have to bear under normal market conditions. It will therefore provide an advantage to Alas Slovakia, s.r.o. over other companies.

<sup>(15)</sup> 'Socioeconomic study in the sector of final products made from minerals reveals that the number of jobs created in the sector minerals processing is 30-40 times higher than the number of jobs in the mineral sector' (quoted on page 31 of the study entitled 'Survey of minerals planning politics in Europe' commissioned by DG Enterprise and Industry).

<sup>(16)</sup> OJ C 372, 9.12.1997, p. 5.

### V.2.3. Presence of selectivity

- (24) The measure is selective since it addresses only one undertaking.

### V.2.4. Distortion of competition and trade

- (25) Finally, the production covered by the project is subject to trade. Therefore, trade between Member States is affected. In addition, the advantage granted to Alas Slovakia, s.r.o. and its production distorts competition or is liable to distort competition.

### V.3. Compatibility

- (26) In so far as the measure constitutes State aid within the meaning of Article 87(1) of the EC Treaty, its compatibility must be assessed in the light of the exceptions provided for in Article 87(2) and (3) of the EC Treaty. The exceptions provided for in Article 87(2) of the EC Treaty, which concern aid of a social character granted to individual consumers, aid to make good the damage caused by natural disasters or exceptional occurrences and aid granted to certain areas of the Federal Republic of Germany, do not apply in this case. The measure cannot be considered to be an important project of common European interest or aid to remedy a serious disturbance in the Slovak economy, as provided for by Article 87(3)(b) of the EC Treaty. The measure does not qualify either for the exception allowed by Article 87(3)(c) of the EC Treaty that provides for the authorisation of aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent that is contrary to the common interest. In the same way, it does not have as its objective the promotion of culture and heritage conservation as provided for by Article 87(3)(d) of the EC Treaty.
- (27) Article 87(3)(a) of the EC Treaty provides for the authorisation of aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment. The regions of Nitra, Trnava and Trenčín (Western Slovakia) are eligible under this derogation.
- (28) In its decision to open the formal investigation procedure, the Commission explained the reasons, summarised in Section III of this Decision, for which it

doubted that the measure under scrutiny could qualify for the derogation under Article 87(3)(a) of the EC Treaty. In the absence of any comments from the Slovak Republic or third parties, the Commission can deem these doubts to be confirmed.

## VI. CONCLUSION

- (29) The Commission finds that the measure notified by the Slovak Republic, as set out in paragraphs 6 to 10 above, is not compatible with the common market under any derogation laid down in the EC Treaty, and must be prohibited. According to the Slovak authorities, the aid has not yet been granted and, therefore, there is no need for its recovery,

HAS ADOPTED THIS DECISION:

### Article 1

The notified tax concession constitutes State aid within the meaning of Article 87(1) of the EC Treaty.

The State aid which the Slovak Republic is planning to implement for Alas Slovakia, s.r.o. for up to SKK 100 813 444 (approximately EUR 2,89 million) is not compatible with the common market.

In view of this, the aid may not be implemented.

### Article 2

The Slovak Republic shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with the Decision.

### Article 3

This Decision is addressed to the Slovak Republic.

Done at Brussels, 4 June 2008.

*For the Commission*

Neelie KROES

*Member of the Commission*

**COMMISSION DECISION****of 16 September 2008****appointing a Commission representative to the Management Board of the European Medicines Agency****(2008/735/EC)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency <sup>(1)</sup>, and in particular Article 65 thereof,

Whereas:

- (1) Pursuant to Article 65 of Regulation (EC) No 726/2004, the Management Board of the European Medicines Agency (hereinafter the Agency) is to include two representatives of the Commission.
- (2) Due to reallocation of competences within the Commission it is necessary to appoint one new member of the Management Board of the Agency from the Directorate General for Health and Consumers and an alternate who will replace the member in his absence and vote on his behalf,

HAS DECIDED AS FOLLOWS:

*Article 1*

The representative of the Commission to the Management Board of the European Medicines Agency shall be the person occupying the following position and exercising the following functions:

- (a) Principal adviser with special interest in public health, advising the Director-General of Directorate General for Health and Consumers on health strategy and supporting

the Director of the Public Health and Risk Assessment Directorate.

The alternate representative shall be the person occupying the following position and exercising the following functions:

- (b) Head of Unit 'Health Strategy and Health Systems', which includes the functions of determining and formulating public health policies and actions, including in the fields of pharmaceuticals, and providing overall direction of the activities within the unit on the basis of the work programme of the Directorate General for Health and Consumers and/or Directorate Public Health and Risk Assessment.

*Article 2*

This Decision shall apply to the persons occupying, including on a temporary basis, the positions referred to in Article 1 at the date of adoption of this Decision, or to any successor of those persons in those positions.

*Article 3*

The Director-General of the Directorate General for Health and Consumers shall inform the President of the Management Board and the Director of the Agency of the names of the persons occupying the positions referred to in Article 1, and any changes thereof.

Done at Brussels, 16 September 2008.

*For the Commission*  
Androulla VASSILIOU  
*Member of the Commission*

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<sup>(1)</sup> OJ L 136, 30.4.2004, p. 1.

## III

*(Acts adopted under the EU Treaty)*

## ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

## COUNCIL JOINT ACTION 2008/736/CFSP

of 15 September 2008

## on the European Union Monitoring Mission in Georgia, EUMM Georgia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14 and the third paragraph of Article 25 thereof,

Whereas:

Caucasus was a further step in the deepening of relations with Georgia and the other two countries of the region (Armenia and Azerbaijan). The European Council decided that, in addition, an EUSR for the crisis in Georgia should be appointed.

- (1) On 1 September 2008, the European Council expressed its grave concern at the open conflict which had broken out in Georgia, and expressed the readiness of the European Union (EU) to commit itself to support every effort to secure a peaceful and lasting solution to the conflict.
- (2) The European Council recalled that a peaceful and lasting solution to the conflict in Georgia must be based on full respect for the principles of independence, sovereignty and territorial integrity recognised by international law, the Final Act of the Helsinki Conference on Security and Cooperation in Europe and United Nations Security Council resolutions.
- (3) The six-point Agreement achieved on 12 August 2008 on the basis of the EU's mediation efforts, as supplemented by the Agreement reached on 8 September 2008 for its implementation, remains the basis for the stabilisation process.
- (4) The European Council also recalled on 1 September 2008 that the appointment in December 2003 of an EU Special Representative (EUSR) for the South

- (5) On 2 September 2008, an exploratory mission was deployed to Georgia and began operating in view of gathering relevant information and preparing a possible civilian European Security and Defence Policy (ESDP) Mission. This should take full regard of and act in complementarity with the mandates of the existing presences of the Organization for Security and Cooperation in Europe and the United Nations in Georgia.
- (6) On 3 September 2008, the Council approved a preparatory measure for a possible future ESDP Mission in Georgia.
- (7) In a letter dated 11 September 2008, the Government of Georgia invited the EU to deploy an ESDP civilian monitoring mission in Georgia.
- (8) Any third State's participation in the Mission should be in accordance with the general guidelines defined by the European Council.
- (9) The command and control structure of the Mission should be without prejudice to the contractual responsibility of the Head of Mission towards the Commission for implementing the budget of the Mission.

- (10) The Watch-Keeping Capability established within the General Secretariat of the Council should be activated for this Mission.
- (11) The ESDP Mission will be conducted in the context of a situation which may deteriorate and could harm the objectives of the Common Foreign and Security Policy as set out in Article 11 of the Treaty,

HAS ADOPTED THIS JOINT ACTION:

#### *Article 1*

##### **The Mission**

1. The European Union (EU) hereby establishes a European Union Monitoring Mission in Georgia, hereinafter referred to as 'EUMM Georgia'. EUMM Georgia shall be deployed in phases, with deployment beginning in September 2008 and the operational phase beginning no later than 1 October 2008.
2. EUMM Georgia shall operate in accordance with the mission statement as set out in Article 2 and shall carry out the tasks as set out in Article 3.

#### *Article 2*

##### **Mission statement**

1. EUMM Georgia shall provide civilian monitoring of Parties' actions, including full compliance with the six-point Agreement and subsequent implementing measures throughout Georgia, working in close coordination with partners, particularly the United Nations (UN) and the Organisation for Security and Cooperation in Europe (OSCE), and consistent with other EU activity, in order to contribute to stabilisation, normalisation and confidence building whilst also contributing to informing European policy in support of a durable political solution for Georgia.
2. The particular objectives of the Mission shall be:
- (a) to contribute to long-term stability throughout Georgia and the surrounding region;
- (b) in the short term, the stabilisation of the situation with a reduced risk of a resumption of hostilities, in full compliance with the six-point Agreement and the subsequent implementing measures.

#### *Article 3*

##### **Mission tasks**

In order to achieve the Mission, the tasks of EUMM Georgia shall be to:

##### **1. Stabilisation:**

Monitor, analyse and report on the situation pertaining to the stabilisation process, centred on full compliance with the six-point Agreement, including troop withdrawals, and on freedom of movement and actions by spoilers, as well as on violations of human rights and international humanitarian law.

##### **2. Normalisation:**

Monitor, analyse and report on the situation pertaining to the normalisation process of civil governance, focusing on rule of law, effective law enforcement structures and adequate public order. The Mission will also monitor the security of transport links, energy infrastructures and utilities, as well as the political and security aspects of the return of internally displaced persons and refugees.

##### **3. Confidence building:**

Contribute to the reduction of tensions through liaison, facilitation of contacts between parties and other confidence building measures.

##### **4. Contribute to informing European policy and to future EU engagement.**

#### *Article 4*

##### **Structure of the Mission**

##### **1. EUMM Georgia shall be structured as follows:**

- (a) Headquarters (HQ). The HQ shall consist of the Office of the Head of Mission and the HQ Staff, providing all necessary functions of command and control and mission support. The HQ shall be located in Tbilisi.
- (b) Field Offices. Geographically distributed Field Offices shall conduct monitoring tasks and provide necessary functions of mission support.
- (c) Support Element. The Support Element shall be located within the General Secretariat of the Council in Brussels.

2. As an initial enabling capability, monitoring teams of pre-equipped components provided by the Member States shall be established within EUMM Georgia.

3. The above elements shall be subject to further detailed arrangements in the Operation Plan (OPLAN).

*Article 5***Civilian Operation Commander**

1. The Civilian Planning and Conduct Capability (CPCC) Director shall be the Civilian Operation Commander for EUMM Georgia.

2. The Civilian Operation Commander, under the political control and strategic direction of the Political and Security Committee (PSC) and the overall authority of the Secretary-General/High Representative (SG/HR), shall exercise command and control of EUMM Georgia at the strategic level.

3. The Civilian Operation Commander shall ensure proper and effective implementation of the Council's decisions as well as the PSC's decisions, including by issuing instructions at the strategic level as required to the Head of Mission and providing him with advice and technical support.

4. All seconded staff shall remain under the full command of the national authorities of the seconding State or EU institution concerned. National authorities shall transfer Operational Control (OPCON) of their personnel, teams and units to the Civilian Operation Commander.

5. The Civilian Operation Commander shall have overall responsibility for ensuring that the EU's duty of care is properly discharged.

6. The Civilian Operation Commander and the EU Special Representative (EUSR) shall consult each other as required.

*Article 6***Head of Mission**

1. The Head of Mission shall assume responsibility for and exercise command and control of the Mission at theatre level.

2. The Head of Mission shall exercise command and control over personnel, teams and units from contributing States as assigned by the Civilian Operation Commander together with administrative and logistic responsibility including over assets, resources and information placed at the disposal of the Mission.

3. The Head of Mission shall issue instructions to all Mission staff, including in this case the support element in Brussels, for the effective conduct of EUMM Georgia in theatre, assuming its coordination and day-to-day management, and following the instructions at the strategic level of the Civilian Operation Commander.

4. The Head of Mission shall be responsible for the implementation of the Mission's budget. For this purpose, the Head of Mission shall sign a contract with the Commission.

5. The Head of Mission shall be responsible for disciplinary control over the staff. For seconded staff, disciplinary action shall be exercised by the national or EU authority concerned.

6. The Head of Mission shall represent EUMM Georgia in the operations area and shall ensure appropriate visibility of the Mission.

7. The Head of Mission shall coordinate, as appropriate, with other EU actors on the ground. The Head of Mission shall, without prejudice to the chain of command, receive local political guidance from the EUSR.

8. The Head of Mission shall draw up the OPLAN for the Mission so that it may be submitted for approval by the Council. The Head of Mission shall be assisted in this task by the General Secretariat of the Council.

*Article 7***Staff**

1. EUMM Georgia shall consist primarily of staff seconded by Member States or EU institutions. Each Member State or EU institution shall bear the costs related to any of the staff seconded by it, including travel expenses to and from the place of deployment, salaries, medical coverage and allowances other than applicable daily allowances, as well as hardship and risk allowances.

2. International civilian staff and local staff shall be recruited on a contractual basis by the Mission if the functions required are not provided by personnel seconded by Member States. Exceptionally, in duly justified cases, where no qualified applications from Member States are available, nationals from participating third States may be recruited on a contractual basis, as appropriate.

3. All staff shall abide by the Mission-specific minimum security operating standards and the Mission security plan supporting the EU field security policy. As regards the protection of EU classified information with which staff are entrusted in the course of their duties, all staff shall respect the security principles and minimum standards established by the Council's Security Regulations <sup>(1)</sup>.

<sup>(1)</sup> Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations (OJ L 101, 11.4.2001, p. 1).



*Article 8***Status of Mission and staff**

1. The status of the Mission and its staff, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of the Mission, shall be agreed in accordance with the procedure laid down in Article 24 of the Treaty. The SG/HR, assisting the Presidency, may negotiate such an agreement on its behalf.

2. The State or EU institution having seconded a member of staff shall be responsible for answering any claims linked to the secondment, from or concerning the member of staff. The State or EU institution in question shall be responsible for bringing any action against the seconded person.

3. The conditions of employment and the rights and obligations of international and local civilian staff shall be laid down in the contracts between the Head of Mission and the members of staff.

*Article 9***Chain of command**

1. EUMM Georgia shall have a unified chain of command, as a crisis management operation.

2. Under the responsibility of the Council, the PSC shall exercise political control and strategic direction of EUMM Georgia.

3. The Civilian Operation Commander, under the political control and strategic direction of the PSC and the overall authority of the SG/HR, shall be the commander of EUMM Georgia at the strategic level and, as such, shall issue the Head of Mission with instructions and provide him with advice and technical support.

4. The Civilian Operation Commander shall report to the Council through the SG/HR.

5. The Head of Mission shall exercise command and control of EUMM Georgia at theatre level and shall be directly responsible to the Civilian Operation Commander.

*Article 10***Political control and strategic direction**

1. The PSC shall exercise, under the responsibility of the Council, political control and strategic direction of the Mission. The Council hereby authorises the PSC to take the

relevant decisions in accordance with the third paragraph of Article 25 of the Treaty. This authorisation shall include the powers to appoint a Head of Mission, upon a proposal of the SG/HR, and to amend the Concept of Operations (CONOPS) and the OPLAN. The powers of decision with respect to the objectives and termination of the Mission shall remain vested in the Council.

2. The PSC shall report to the Council at regular intervals.

3. The PSC shall receive, on a regular basis and as required, reports by the Civilian Operation Commander and the Head of Mission on issues within their areas of responsibility.

*Article 11***Participation of third States**

1. Without prejudice to the decision-making autonomy of the EU and its single institutional framework, third States may be invited to contribute to the Mission, provided that they bear the cost of the staff seconded by them, including salaries, all risk insurance cover, daily subsistence allowances and travel expenses to and from Georgia, and that they contribute to the running costs of the Mission, as appropriate.

2. Third States contributing to the Mission shall have the same rights and obligations in terms of day-to-day management of the Mission as EU Member States.

3. The Council hereby authorises the PSC to take the relevant decisions on acceptance of the proposed contributions and to establish a Committee of Contributors.

4. Detailed arrangements regarding the participation of third States shall be covered by agreements concluded in accordance with Article 24 of the Treaty. The SG/HR, assisting the Presidency, may negotiate such agreements on its behalf. Where the EU and a third State conclude an agreement establishing a framework for the participation of that third State in EU crisis-management operations, the provisions of that agreement shall apply in the context of the Mission.

*Article 12***Security**

1. The Civilian Operation Commander shall direct the Head of Mission's planning of security measures and ensure their proper and effective implementation for EUMM Georgia in accordance with Articles 5 and 9, in coordination with the Council Security Office.

2. The Head of Mission shall be responsible for the security of the Mission and for ensuring compliance with minimum security requirements applicable to the Mission, in line with the policy of the EU on the security of personnel deployed outside the EU in an operational capacity under Title V of the Treaty, and its supporting instruments.

3. The Head of Mission shall be assisted by a Mission Security Officer (MSO), who shall report to the Head of Mission and also maintain a close functional relationship with the Council Security Office.

4. EUMM Georgia staff shall undergo mandatory security training before taking up their duties, in accordance with the OPLAN. They shall also receive regular in-theatre refresher training organised by the MSO.

5. The Head of Mission shall ensure the protection of EU classified information in accordance with the Council's Security Regulations.

#### Article 13

##### Watch-keeping Capability

The Watch-keeping Capability shall be activated for EUMM Georgia.

#### Article 14

##### Financial arrangements

1. The financial reference amount intended to cover the expenditure related to the Mission shall be EUR 31 000 000.

2. All expenditure shall be managed in accordance with the Community rules and procedures applicable to the general budget of the EU. Subject to the Commission's approval, the Head of Mission may conclude technical arrangements with EU Member States, participating third States, and other international actors regarding the provision of equipment, services and premises to EUMM Georgia. Nationals of third States shall be allowed to tender for contracts.

3. The Head of Mission shall report fully to, and be supervised by, the Commission regarding the activities undertaken in the framework of his contract.

4. The financial arrangements shall respect the operational requirements of the Mission including compatibility of equipment and interoperability of its teams.

5. The expenditure connected with the Mission shall be eligible as of the date of entry into force of this Joint Action.

#### Article 15

##### Coordination

1. Without prejudice to the chain of command, the Head of Mission shall act in close coordination with the Commission delegation to ensure the consistency of EU action in support of Georgia.

2. The Head of Mission shall coordinate closely with the local EU Presidency and other EU Heads of Missions.

3. The Head of Mission shall cooperate with the other international actors present in the country, in particular the UN and the OSCE.

#### Article 16

##### Release of classified information

1. The SG/HR shall be authorised to release to the third States associated with this Joint Action, as appropriate and in accordance with the needs of the Mission, EU classified information and documents up to 'CONFIDENTIEL UE' level generated for the purposes of the Mission, in accordance with the Council's Security Regulations.

2. The SG/HR shall also be authorised to release to the UN and OSCE, in accordance with the operational needs of the Mission, EU classified information and documents up to 'RESTREINT UE' level which are generated for the purposes of the Mission, in accordance with the Council's Security Regulations. Local arrangements shall be drawn up for this purpose.

3. In the event of a specific and immediate operational need, the SG/HR shall also be authorised to release to the host State any EU classified information and documents up to 'RESTREINT UE' level which are generated for the purposes of the Mission, in accordance with the Council's Security Regulations. In all other cases, such information and documents shall be released to the host State in accordance with the appropriate procedures for cooperation by the host State with the EU.

4. The SG/HR shall be authorised to release to the third States associated with this Joint Action any EU non-classified documents connected with the deliberations of the Council relating to the Mission and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure <sup>(1)</sup>.

#### Article 17

##### Review of the Mission

A Mission review shall be presented to the PSC six months after the beginning of the Mission, on the basis of a report by the Head of Mission and the General Secretariat of the Council.

<sup>(1)</sup> Council Decision 2006/683/EC, Euratom of 15 September 2006 adopting the Council's Rules of Procedure (OJ L 285, 16.10.2006, p. 47).



*Article 18***Entry into force and duration**

This Joint Action shall enter into force on the date of its adoption and its duration shall be for a period of 12 months.

*Article 19***Publication**

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

2. Decisions of the PSC pursuant to Article 10(1) regarding the appointment of the Head of Mission shall also be published in the *Official Journal of the European Union*.

Done at Brussels, 15 September 2008.

*For the Council*

*The President*

B. KOUCHNER

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#### **NOTE TO THE READER**

The institutions have decided no longer to quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.