

Official Journal

of the European Union

L 146

English edition

Legislation

Volume 51

5 June 2008

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I

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

REGULATIONS

COMMISSION REGULATION (EC) No 496/2008**of 4 June 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 Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽¹⁾, and in particular Article 138(1) thereof,

Whereas:

- (1) 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 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 138 of Regulation (EC) No 1580/2007 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 June 2008.

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

Done at Brussels, 4 June 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

to Commission Regulation of 4 June 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

| CN code | Third country code ⁽¹⁾ | Standard import value |
|------------|-----------------------------------|-----------------------|
| 0702 00 00 | MA | 41,9 |
| | MK | 44,3 |
| | TR | 70,2 |
| | ZZ | 52,1 |
| 0707 00 05 | MK | 30,3 |
| | TR | 121,8 |
| | ZZ | 76,1 |
| 0709 90 70 | TR | 100,9 |
| | ZZ | 100,9 |
| 0805 50 10 | AR | 131,9 |
| | IL | 134,6 |
| | TR | 144,8 |
| | US | 139,2 |
| | UY | 61,8 |
| | ZA | 132,2 |
| | ZZ | 124,1 |
| 0808 10 80 | AR | 104,4 |
| | BR | 85,8 |
| | CA | 61,8 |
| | CL | 90,1 |
| | CN | 96,5 |
| | MK | 50,7 |
| | NZ | 109,6 |
| | TR | 85,9 |
| | US | 100,8 |
| | UY | 107,4 |
| | ZA | 88,1 |
| | ZZ | 89,2 |
| 0809 10 00 | TR | 176,2 |
| | ZZ | 176,2 |
| 0809 20 95 | TR | 523,0 |
| | US | 204,8 |
| | ZZ | 363,9 |

⁽¹⁾ Country nomenclature as fixed 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 497/2008**of 4 June 2008****opening and providing for the management of Community tariff quotas for certain fish and fishery products originating in Montenegro**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 140/2008 of 19 November 2007 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, and for applying the Interim Agreement between the European Community, of the one part, and the Republic of Montenegro, of the other part ⁽¹⁾, and in particular Article 2 thereof,

Whereas:

- (1) A Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part (the Stabilisation and Association Agreement), was signed in Luxembourg on 15 October 2007. The Stabilisation and Association Agreement is in the process of ratification.
- (2) On 15 October 2007 an Interim Agreement was concluded on trade and trade-related matters between the European Community, of the one part, and the Republic of Montenegro, of the other part ⁽²⁾ (Interim Agreement), which was approved by Council Decision 2007/855/EC of 15 October 2007 ⁽³⁾. The Interim Agreement provides for the early entry into force of the trade and trade-related provisions of the Stabilisation and Association Agreement. It enters into force on 1 January 2008.
- (3) The Interim Agreement and the Stabilisation and Association Agreement provide that certain fish and fishery products originating in Montenegro may be imported into the Community, within the limits of Community tariff quotas, at a reduced or a zero-rate customs duty.
- (4) The tariff quotas provided for in the Interim Agreement and in the Stabilisation and Association Agreement are annual and have been provided for an indeterminate period. It is necessary to open the Community tariff quotas for 2008 and following years and to provide for a common system for their management.
- (5) This common management should ensure that all Community importers have equal and continuous access to the tariff quotas and that the rates laid down for the quotas are applied uninterruptedly to all imports of the products in question into all Member States until the quotas will be exhausted. In order to ensure the efficiency of the system, Member States should be authorised to draw from the quota volumes the necessary quantities corresponding to actual imports. Close cooperation between the Member States and the Commission is required and the latter must in particular be able to monitor the rate at which the quotas are used up and inform the Member States accordingly. For reasons of speed and efficiency, communication between the Member States and the Commission should, as far as possible, take place by electronic transmission.
- (6) The quotas opened by this Regulation should therefore be managed in accordance with the system for management of tariff preferences within tariff quotas designed to be used following the chronological order of dates of acceptance of customs declarations which is laid down in Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽⁴⁾.
- (7) In accordance with the Stabilisation and Association Agreement and the Interim Agreement, the tariff quotas volumes for prepared or preserved sardines and for prepared or preserved anchovies should from 1 January of the fourth year following the entry into force of the Interim Agreement, be increased to 250 tonnes provided that at least 80 % of the total amount of the previous tariff quota has been used by 31 December of that year. The increased quotas volumes, if implemented, should continue to apply until the parties to the Stabilisation and Association Agreement and the Interim Agreement agree other arrangements.
- (8) As the Interim Agreement enters into force on 1 January 2008, this Regulation should apply from the same date and should remain in application after the entry into force of the Stabilisation and Association Agreement.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

⁽¹⁾ OJ L 43, 19.2.2008, p. 1.

⁽²⁾ OJ L 345, 28.12.2007, p. 2.

⁽³⁾ OJ L 345, 28.12.2007, p. 1.

⁽⁴⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 214/2007 (OJ L 62, 1.3.2007, p. 6).

HAS ADOPTED THIS REGULATION:

Article 1

Fish and fishery products originating in Montenegro and listed in the Annex which are put into free circulation in the Community shall benefit from a reduced or a zero-rate of customs duty, at the levels and within the limits of the annual Community tariff quotas set out in the Annex.

In order to benefit from these preferential rates, those products shall be accompanied by a proof of origin as provided for in Protocol 3 to the Interim Agreement with Montenegro or in Protocol 3 to the Stabilisation and Association Agreement with Montenegro.

Article 2

1. The tariff quotas referred to in Article 1 shall be managed by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

2. Communications referring to the management of tariff quotas between the Member States and the Commission shall be effected, as far as possible, by electronic transmission.

Article 3

1. The tariff quotas for prepared or preserved sardines and for prepared or preserved anchovies referred to in the Annex under order numbers 09.1524 and 09.1525 shall be increased to 250 tonnes from 1 January 2012 for 2012 and the following years.

2. The increase referred to in paragraph 1 may be applied only if at least 80 % of the tariff quotas volumes opened within the previous year have been used in the fourth year following the entry into force of the Interim Agreement.

Article 4

The Member States and the Commission shall cooperate closely to ensure compliance with this Regulation.

Article 5

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

It shall apply from 1 January 2008.

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

Done at Brussels, 4 June 2008.

For the Commission

László KOVÁCS

Member of the Commission

ANNEX

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

FISH AND FISHERY PRODUCTS

| Order No | CN code | TARIC subdivision | Description | Annual tariff quota volume (in tonnes net weight) | Rate of quota duty |
|----------|---------------|-------------------|--|---|--------------------|
| 09.1516 | 0301 91 10 | | Trout (<i>Salmo trutta</i> , <i>Oncorhynchus mykiss</i> , <i>Oncorhynchus clarki</i> , <i>Oncorhynchus aguabonita</i> , <i>Oncorhynchus gilae</i> , <i>Oncorhynchus apache</i> and <i>Oncorhynchus chrysogaster</i>): live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption | 20 tonnes | Free |
| | 0301 91 90 | | | | |
| | 0302 11 10 | | | | |
| | 0302 11 20 | | | | |
| | 0302 11 80 | | | | |
| | 0303 21 10 | | | | |
| | 0303 21 20 | | | | |
| | 0303 21 80 | | | | |
| | 0304 19 15 | | | | |
| | 0304 19 17 | | | | |
| | ex 0304 19 19 | 30 | | | |
| | ex 0304 19 91 | 10 | | | |
| | 0304 29 15 | | | | |
| | 0304 29 17 | | | | |
| | ex 0304 29 19 | 30 | | | |
| | ex 0304 99 21 | 11, 12, 20 | | | |
| | ex 0305 10 00 | 10 | | | |
| | ex 0305 30 90 | 50 | | | |
| | 0305 49 45 | | | | |
| | ex 0305 59 80 | 61 | | | |
| | ex 0305 69 80 | 61 | | | |
| 09.1518 | 0301 93 00 | | Carp: live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption | 10 tonnes | Free |
| | 0302 69 11 | | | | |
| | 0303 79 11 | | | | |
| | ex 0304 19 19 | 20 | | | |
| | ex 0304 19 91 | 20 | | | |
| | ex 0304 29 19 | 20 | | | |
| | ex 0304 99 21 | 16 | | | |
| | ex 0305 10 00 | 20 | | | |
| | ex 0305 30 90 | 60 | | | |
| | ex 0305 49 80 | 30 | | | |
| | ex 0305 59 80 | 63 | | | |
| | ex 0305 69 80 | 63 | | | |
| 09.1520 | ex 0301 99 80 | 80 | Sea bream (<i>Dentex dentex</i> and <i>Pagellus</i> spp.): live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption | 20 tonnes | Free |
| | 0302 69 61 | | | | |
| | 0303 79 71 | | | | |
| | ex 0304 19 39 | 80 | | | |
| | ex 0304 19 99 | 77 | | | |
| | ex 0304 29 99 | 50 | | | |
| | ex 0304 99 99 | 20 | | | |
| | ex 0305 10 00 | 30 | | | |
| | ex 0305 30 90 | 70 | | | |
| | ex 0305 49 80 | 40 | | | |
| | ex 0305 59 80 | 65 | | | |
| | ex 0305 69 80 | 65 | | | |

| Order No | CN code | TARIC subdivision | Description | Annual tariff quota volume (in tonnes net weight) | Rate of quota duty |
|----------|---------------|-------------------|--|---|--------------------|
| 09.1522 | ex 0301 99 80 | 22 | Sea bass (<i>Dicentrarchus labrax</i>): live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption | 20 tonnes | Free |
| | 0302 69 94 | | | | |
| | ex 0303 77 00 | 10 | | | |
| | ex 0304 19 39 | 85 | | | |
| | ex 0304 19 99 | 79 | | | |
| | ex 0304 29 99 | 60 | | | |
| | ex 0304 99 99 | 70 | | | |
| | ex 0305 10 00 | 40 | | | |
| | ex 0305 30 90 | 80 | | | |
| | ex 0305 49 80 | 50 | | | |
| | ex 0305 59 80 | 67 | | | |
| | ex 0305 69 80 | 67 | | | |
| 09.1524 | 1604 13 11 | 10, 19 | Prepared or preserved sardines | 200 tonnes ⁽¹⁾ | 6 % |
| | 1604 13 19 | | | | |
| | ex 1604 20 50 | | | | |
| 09.1525 | 1604 16 00 | | Prepared or preserved anchovies | 200 tonnes ⁽¹⁾ | 12,5 % |
| | 1604 20 40 | | | | |

⁽¹⁾ From the 1 January 2012 the tariff quota volumes for 2012 and the following years shall be increased to 250 tonnes provided that at least 80 % of the quota of the previous year has been used by 31 December of that year. The increased quota volume, if implemented, will continue to apply until such time as the parties will agree other arrangements.

COMMISSION REGULATION (EC) No 498/2008**of 4 June 2008****amending Regulation (EC) No 1580/2007 as regards the trigger levels for additional duties on tomatoes, apricots, lemons, plums, peaches, including nectarines, pears and table grapes**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1182/2007 of 26 September 2007 laying down specific rules as regards the fruit and vegetable sector, amending Directives 2001/112/EC and 2001/113/EC and Regulations (EEC) No 827/68, (EC) No 2200/96, (EC) No 2201/96, (EC) No 2826/2000, (EC) No 1782/2003 and (EC) No 318/2006 and repealing Regulation (EC) No 2202/96 ⁽¹⁾, and in particular Article 35(4) and Article 42 thereof,

Whereas:

- (1) Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾ provides for surveillance of imports of the products listed in Annex XVII thereto. That surveillance is to be carried out in accordance with the rules laid down in Article 308d of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾.

- (2) For the purposes of Article 5(4) of the Agreement on Agriculture ⁽⁴⁾ concluded during the Uruguay Round of multilateral trade negotiations and in the light of the latest data available for 2005, 2006 and 2007, the trigger levels for additional duties of tomatoes, apricots, lemons, plums, peaches, including nectarines, pears and table grapes should be adjusted.

- (3) As a result, Regulation (EC) No 1580/2007 should be amended accordingly.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XVII to Regulation (EC) No 1580/2007 is replaced by the text set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 June 2008.

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

Done at Brussels, 4 June 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 273, 17.10.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1. Regulation as last amended by Regulation (EC) No 352/2008 (OJ L 109, 19.4.2008, p. 9).

⁽³⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 214/2007 (OJ L 62, 1.3.2007, p. 6).

⁽⁴⁾ OJ L 336, 23.12.1994, p. 22.

ANNEX

‘ANNEX XVII

ADDITIONAL IMPORT DUTIES: TITLE IV, CHAPTER II, SECTION 2

Without prejudice to the rules governing the interpretation of the combined nomenclature, the description of the products is deemed to be indicative only. The scope of the additional duties for the purposes of this Annex is determined by the scope of the CN codes as they exist at the time of the adoption of this Regulation.

| Serial No | CN code | Description | Trigger period | Trigger level (tonnes) |
|-----------|--|--|-------------------------------|------------------------|
| 78.0015 | 0702 00 00 | Tomatoes | 1 October to 31 May | 638 044 |
| 78.0020 | | | 1 June to 30 September | 181 614 |
| 78.0065 | 0707 00 05 | Cucumbers | 1 May to 31 October | 70 873 |
| 78.0075 | | | 1 November to 30 April | 46 491 |
| 78.0085 | 0709 90 80 | Artichokes | 1 November to 30 June | 19 799 |
| 78.0100 | 0709 90 70 | Courgettes | 1 January to 31 December | 117 360 |
| 78.0110 | 0805 10 20 | Oranges | 1 December to 31 May | 454 253 |
| 78.0120 | 0805 20 10 | Clementines | 1 November to end of February | 606 155 |
| 78.0130 | 0805 20 30 0805 20 50 0805 20 70 0805 20 90 | Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids | 1 November to end of February | 104 626 |
| 78.0155 | 0805 50 10 | Lemons | 1 June to 31 December | 335 545 |
| 78.0160 | | | 1 January to 31 May | 64 453 |
| 78.0170 | 0806 10 10 | Table grapes | 21 July to 20 November | 89 754 |
| 78.0175 | 0808 10 80 | Apples | 1 January to 31 August | 886 383 |
| 78.0180 | | | 1 September to 31 December | 81 237 |
| 78.0220 | 0808 20 50 | Pears | 1 January to 30 April | 257 029 |
| 78.0235 | | | 1 July to 31 December | 37 083 |
| 78.0250 | 0809 10 00 | Apricots | 1 June to 31 July | 4 199 |
| 78.0265 | 0809 20 95 | Cherries, other than sour cherries | 21 May to 10 August | 151 059 |
| 78.0270 | 0809 30 | Peaches, including nectarines | 11 June to 30 September | 39 144 |
| 78.0280 | 0809 40 05 | Plums | 11 June to 30 September | 7 658 |

COMMISSION REGULATION (EC) No 499/2008**of 4 June 2008****amending Regulation (EC) No 1501/95 and Regulation (EC) No 800/1999 as regards the conditions of granting export refunds on agricultural products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽¹⁾, and in particular Article 63 thereof,

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 ⁽²⁾, and in particular Article 167 and Article 170 in conjunction with Article 4 thereof,

Whereas:

- (1) In accordance with Article 162 of Regulation (EC) No 1234/2007 products listed in that article to be exported with or without further processing may be eligible to export refunds if they comply with specific conditions laid down in Article 167 of the said Regulation. Moreover, Article 167(7) of Regulation (EC) No 1234/2007 gives the possibility to the Commission to establish further conditions for the granting of export refunds for one or more products. Those conditions are currently laid down in the Council regulations on the common organisation of the market in the sectors listed in Article 162(1) of Regulation (EC) No 1234/2007. Since those regulations are to be repealed pursuant to Article 201 of Regulation (EC) No 1234/2007, horizontal provisions should be established as from the dates of application of Regulation (EC) No 1234/2007 as provided for in Article 204 of that Regulation.
- (2) Horizontal provisions already exist in Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system

of export refunds on agricultural products ⁽³⁾. It is therefore appropriate to adapt that Regulation in order to establish the conditions referred to in Article 167(7) of Regulation (EC) No 1234/2007.

- (3) Council regulations on the common organisation of the markets in the poultry, eggs, pigmeat and rice sectors enabled eligibility to export refunds for non-Community originating products which were imported and subsequently exported while they were not sufficiently processed within the meaning of Article 24 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽⁴⁾. The refunds in that case are limited to the import duties paid and in addition the exporter had to prove that import and export products are one and the same. As the application of the rule is cumbersome and of very low practical use, from a point of view of simplification and harmonisation it should not be maintained.
- (4) Community origin as a prerequisite for eligibility to export refunds is an important safeguard against abuse of the Community budget. In particular, it is aimed at preventing diversion of trade in the form of import operations which would have no commercial purpose related to the placing of goods on the EU market, but which would be motivated solely by the opportunity to collect export refunds upon export. This safeguard has been in place for the cereals, rice, beef and veal, milk and milk products, pigmeat, eggs and poultrymeat and should be maintained. In the interest of continuous protection against abuse of the Community budget, a horizontal provision covering all sectors listed in Article 162 of Regulation (EC) No 1234/2007 is necessary.
- (5) As regards sugar, with a view to organising flow of supplies to refineries throughout the Community, special preferential arrangement for access to the Community market has been introduced in the successive common market organisations for sugar, allowing the refining industry to import on special terms certain quantities of raw cane sugar originating in the ACP States party to Protocol No 3 to Annex IV to the ACP-EC Partnership Agreement and in India and other States under agreements with those States. This preferential

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽²⁾ OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Regulation (EC) No 361/2008 (OJ L 121, 7.5.2008, p. 1).

⁽³⁾ OJ L 102, 17.4.1999, p. 11. Regulation as last amended by Regulation (EC) No 159/2008 (OJ L 48, 22.2.2008, p. 19).

⁽⁴⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006.

import arrangement has been implemented within the framework of the common organisation of the market in sugar. Consequently, Article 27(12) (b) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector⁽¹⁾ provided that refunds had to be granted for the products imported under this arrangement. Following the same approach, the Council decided that the proof of Community origin had not to be required for eligibility of refunds under the common organisation of the markets in the sugar sector established by Council Regulation (EC) No 318/2006⁽²⁾. The requirement of Community origin should therefore not apply to the sugar sector.

- (6) Pursuant to the abolition of export refunds for some products, the list of products for which the refunds has to be fixed on the basis of an ingredient when compound products qualify for a refund became shorter. It is therefore appropriate to mention only the remaining products in this respect.
- (7) The requirement of Community origin in the cereals sector has already been laid down in Article 12 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾. For the sake of transparency and rationalisation this requirement should be replaced by the horizontal provision establishing the requirement of Community origin.
- (8) Regulations (EC) No 1501/95 and (EC) No 800/1999 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Article 12 of Regulation (EC) No 1501/95 is deleted.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation repealed by Regulation (EC) No 318/2006 (OJ L 58, 28.2.2006, p. 1).

⁽²⁾ OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Regulation (EC) No 1260/2007 (OJ L 283, 27.10.2007, p. 1). Regulation (EC) No 318/2006 will be replaced by Regulation (EC) No 1234/2007 as from 1 October 2008.

⁽³⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 1996/2006 (OJ L 398, 30.12.2006, p. 1).

Article 2

Regulation (EC) No 800/1999 is amended as follows:

- 1. Article 1 is replaced by the following:

'Article 1

Without prejudice to derogations provided for in Community regulations specific to certain products, this Regulation lays down common detailed rules for the application of the system of export refunds, hereinafter referred to as "refunds":

- (a) for the products of the sectors referred to in Article 162(1) of Council Regulation (EC) No 1234/2007^(*);
- (b) provided for in Article 63 of Council Regulation (EC) No 1493/1999^(**).

^(*) OJ L 299, 16.11.2007, p. 1.

^(**) OJ L 179, 14.7.1999, p. 1.'

- 2. Article 11 is replaced by the following:

'Article 11

1. Refunds shall be granted for products referred to in Article 162(1) of Regulation (EC) No 1234/2007 which, irrespective of the customs situation regarding the packaging, are in free circulation and of Community origin.

However, for sugar products referred to in Article 162(1)(2)(iii) 2nd (b) of Regulation (EC) No 1234/2007, refunds can be granted when they are only in free circulation.

2. For the grant of the refund, products are of Community origin if they are wholly obtained in the Community or if they underwent their last substantial processing or working in the Community in accordance with the provisions of Article 23 or 24 of Regulation (EEC) No 2913/92.

However, without prejudice to paragraph 4, products obtained from the following shall not qualify for refund:

- (a) materials originating in the Community; and

(b) agricultural materials covered by the regulations referred to in Article 1 imported from third countries which did not undergo a substantial processing in the Community.

3. Where the refund is granted on condition that the product is of Community origin, exporters shall declare the origin as defined in paragraph 2 in accordance with the Community rules in force.

4. Where compound products qualifying for a refund on one or more of their ingredients are exported, the refund on the latter shall be granted subject to its or their compliance with the condition set out in paragraph 1.

The refund shall also be granted where the ingredient, or ingredients, in respect of which the refund is claimed were originally of Community origin and/or in free circulation as provided for in paragraph 1 and are no longer in free circulation on account solely of their incorporation in other products.

5. For the purposes of paragraph 4, refunds on the following shall be deemed to be refunds fixed on the basis of an ingredient:

(a) products of the cereals, eggs, rice, sugar, milk and milk products sectors, exported in the form of goods referred to in Annex II to Commission Regulation (EC) No 1043/2005 (*);

(b) white sugar and raw sugar falling within CN code 1701, isoglucose falling within CN codes 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30 and beet

and cane syrups falling within CN codes 1702 60 95 and 1702 90 95, used in products listed in Article 1(2) of Regulation (EC) No 2201/96;

(c) milk and milk products and sugar exported in the form of products falling within CN codes 0402 10 91 to 99, 0402 29, 0402 99, 0403 10 31 to 39, 0403 90 31 to 39, 0403 90 61 to 69, 0404 10 26 to 38, 0404 10 72 to 84 and 0404 90 81 to 89 and exported in the form of products falling within CN code 0406 30 which are not products originating in Member States or products coming from third countries which are in free circulation in Member States.

(*) OJ L 172, 5.7.2005, p. 24.'

Article 3

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

However, it shall apply:

(a) as regards the cereals, beef and veal, pigmeat, milk and milk products, eggs and poultrymeat sectors, from 1 July 2008;

(b) as regards the rice sector, from 1 September 2008;

(c) as regards the sugar sector, from 1 October 2008.

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

Done at Brussels, 4 June 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 26 May 2008

authorising the placing on the market of alpha-cyclodextrin as a novel food ingredient under Regulation (EC) No 258/97 of the European Parliament and of the Council

(notified under document number C(2008) 1954)

(Only the German text is authentic)

(2008/413/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

marketing of the product were raised in accordance with that provision.

Having regard to the Treaty establishing the European Community,

(5) Therefore the European Food Safety Authority (EFSA) was consulted on 28 October 2006.

Having regard to Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 concerning novel foods and novel food ingredients⁽¹⁾, and in particular Article 7 thereof,

(6) On 6 July 2007 EFSA adopted the 'Opinion of the Scientific Panel on Dietetic Products, Nutrition and Allergies on a request from the Commission related to the safety of alpha-cyclodextrin'.

Whereas:

(1) On 12 October 2004 the company Wacker Chemie made a request to the competent authorities of Belgium to place alpha-cyclodextrin on the market as a novel food ingredient.

(7) In the opinion the panel came to the conclusion that there are no safety concerns at the proposed use levels and anticipated consumption of alpha-cyclodextrin.

(2) On 29 June 2005 the competent food assessment body of Belgium issued its initial assessment report. In that report it came to the conclusion that alpha-cyclodextrin is safe for human consumption.

(8) On the basis of the scientific assessment, it is established that alpha-cyclodextrin complies with the criteria laid down in Article 3(1) of Regulation (EC) No 258/97.

(3) The Commission forwarded the initial assessment report to all Member States on 28 September 2005.

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

(4) Within the 60-day period laid down in Article 6(4) of Regulation (EC) No 258/97 reasoned objections to the

HAS ADOPTED THIS DECISION:

Article 1

⁽¹⁾ OJ L 43, 14.2.1997, p. 1. Regulation as last amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

Alpha-cyclodextrin as specified in the Annex may be placed on the market in the Community as a novel food ingredient.

Article 2

The designation 'alpha-cyclodextrin' or 'α-cyclodextrin' shall be displayed in the list of ingredients of the foods containing it.

Article 3

This Decision is addressed to Wacker, Consortium für elektrochemische Chemie GmbH, Zielstattstrasse 20, D-81379 München.

Done at Brussels, 26 May 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

SPECIFICATIONS OF ALPHA-CYCLODEXTRIN

Synonyms

α -cyclodextrin, α -dextrin, cyclohexaamylose, cyclomaltohexaose, α -cycloamylase

Definition

A non-reducing cyclic saccharide consisting of six α -1,4-linked D-glucopyranosyl units produced by the action of cyclodextrin glucosyltransferase (CGTase, EC 2.4.1.19) on hydrolyzed starch. Recovery and purification of α -cyclodextrin may be carried out using one of the following procedures: precipitation of a complex of α -cyclodextrin with 1-decanol, dissolution in water at elevated temperature and re-precipitation, steam-stripping of the complexant, and crystallisation of α -cyclodextrin from the solution; or chromatography with ion-exchange or gel filtration followed by crystallisation of α -cyclodextrin from the purified mother liquor; or membrane separation methods such as ultra-filtration and reverse osmosis.

Chemical name

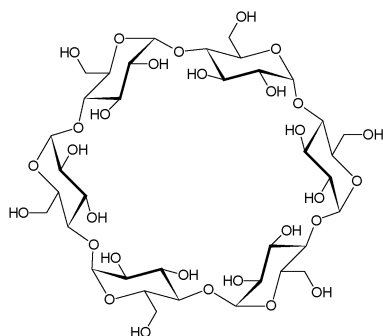
Cyclohexaamylose

CAS. number

10016-20-3

Chemical formula

$(C_6H_{10}O_5)_6$

Structural formula**Formula weight**

972,85

Assay

Not less than 98 % (dry basis)

Description

Virtually odorless, white or almost white crystalline solid.

Characteristics**Identification**

| | |
|-------------------|--|
| Melting range | Decomposes above 278 °C |
| Solubility | Freely soluble in water; very slightly soluble in ethanol |
| Specific rotation | $[\alpha]_{25}^D$: Between +145° and +151° (1 % solution) |
| Chromatography | The retention time for the major peak in a liquid chromatogram of the sample corresponds to that for α -cyclodextrin in a chromatogram of reference α -cyclodextrin (available from Consortium für Elektrochemische Industrie GmbH, München, Germany or Wacker Biochem Group, Adrian, MI, USA) using the conditions described in the METHOD OF ASSAY |

Purity

| | |
|------------------------------------|--|
| Water | Not more than 11 % (Karl Fischer Method) |
| Residual complexant (1-decanol) | Not more than 20 mg/kg |
| Reducing substances | Not more than 0,5 % (as glucose) |
| Sulfated ash | Not more than 0,1 % |
| Lead | Not more than 0,5 mg/kg |

Method of assay

Determine by liquid chromatography using the following conditions:

Sample solution: Weigh accurately about 100 mg of test sample into a 10-ml volumetric flask and add 8 ml of deionised water. Dissolve the sample completely using an ultra-sonification bath (10-15 min) and dilute to the mark with purified deionised water. Filter through a 0,45-micrometer filter.

Reference solution: Weigh accurately about 100 mg of α -cyclodextrin into a 10-ml volumetric flask and add 8 ml of deionised water. Dissolve the sample completely using an ultra-sonification bath and dilute to the mark with purified deionised water.

Chromatography: Liquid chromatograph equipped with a refractive index detector and an integrating recorder.

Column and packing: Nucleosil-100-NH2 (10 μ m) (Macherey & Nagel Co. Düren, Germany) or similar.

Length: 250 mm

Diameter: 4 mm

Temperature: 40 °C

Mobile phase: acetonitrile/water (67/33, v/v)

Flow rate: 2,0 ml/min

Injection volume: 10 μ l

Procedure: Inject the sample solution into the chromatograph, record the chromatogram, and measure the area of the α -CD peak. Calculate the percentage of α -cyclodextrin in the test sample as follows:

$$\% \alpha\text{-cyclodextrin (dry basis)} = 100 \times (A_S/A_R) (W_R/W_S)$$

where

A_S and A_R are the areas of the peaks due to α -cyclodextrin for the sample solution and reference solution, respectively.

W_S and W_R are the weights (mg) of the test sample and reference α -cyclodextrin, respectively, after correcting for water content.

COMMISSION DECISION**of 26 May 2008****on a financial contribution from the Community towards measures to combat foot-and-mouth disease in Cyprus in 2007***(notified under document number C(2008) 1974)***(Only the Greek text is authentic)****(2008/414/EC)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Article 3(3) and 11(4) thereof,

Whereas:

- (1) Outbreaks of foot-and-mouth disease occurred in Cyprus in 2007. The emergence of that disease represents a serious risk to the Community's livestock population.
- (2) In order to prevent the spread of the disease and to help eradicate it as quickly as possible, the Community should contribute financially towards the eligible expenditure incurred by the Member State under the measures taken to combat the disease, as provided for in Decision 90/424/EEC.
- (3) Payment of Community financial support towards measures to combat foot-and-mouth disease is subject to the rules laid down in Commission Regulation (EC) No 349/2005 of 28 February 2005 laying down rules on the Community financing of measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC ⁽²⁾.
- (4) On 7 January 2008, Cyprus submitted a final rough estimate of the costs incurred in taking measures to eradicate the disease.
- (5) The Cypriot authorities have fully complied with their technical and administrative obligations as set out in Article 11(2) of Decision 90/424/EEC and Article 6 of Regulation (EC) No 349/2005.
- (6) The payment of the Community financial contribution must be subject to the condition that the planned activities were actually implemented and the authorities

provide all necessary information within the set deadlines.

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

HAS ADOPTED THIS DECISION:

*Article 1***Financial contribution from the Community**

1. A financial contribution from the Community may be granted to Cyprus towards the costs incurred by that Member State in taking the measures referred to in Article 11(4)(a)(i) to (iv) and (b) of Decision 90/424/EEC to combat foot-and-mouth disease in 2007.
2. The financial contribution from the Community shall be 60 % of the expenditure eligible for Community funding as referred to in paragraph 1. It shall be paid under the conditions provided for in Regulation (EC) No 349/2005.

*Article 2***Payment arrangements**

A first tranche of EUR 185 000 shall be paid as part of the Community financial contribution provided for in Article 1.

*Article 3***Addressee**

This Decision is addressed to the Republic of Cyprus.

Done at Brussels, 26 May 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

⁽¹⁾ OJ L 224, 18.8.1990, p. 19. Decision as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽²⁾ OJ L 55, 1.3.2005, p. 12.

COMMISSION DECISION

of 28 May 2008

on a financial contribution from the Community towards emergency measures to combat avian influenza in the United Kingdom in 2007

(notified under document number C(2008) 2169)

(Only the English text is authentic)

(2008/415/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Articles 3(3) and 3a(1) thereof,

Whereas:

(1) Decision 90/424/EEC lays down the procedures governing the Community's financial contribution towards specific veterinary measures, including emergency measures. Pursuant to Article 3a of that Decision, Member States may obtain a Community financial contribution towards the costs of certain measures to eradicate avian influenza.

(2) Article 3a(3) of Decision 90/424/EEC lays down rules on the percentage of the costs incurred by Member States that may be covered by the Community's financial contribution.

(3) Commission Regulation (EC) No 349/2005 of 28 February 2005 laying down rules on the Community financing of emergency measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC ⁽²⁾, following the amendment of Decision 90/424/EEC by Decision 2006/53/EC ⁽³⁾, no longer covers avian influenza. It is therefore necessary to expressly provide in the present Decision that the granting of a financial contribution to the United Kingdom is subject to compliance with certain rules laid down in Regulation (EC) No 349/2005.

(4) Outbreaks of avian influenza occurred in the United Kingdom in 2007. The emergence of that disease represents a serious risk to the Community's livestock population. The United Kingdom took measures, as referred to in Article 3a(2) of Decision 90/424/EEC, to combat those outbreaks.

(5) The United Kingdom has fully complied with its technical and administrative obligations as set out in Articles 3(3) and 3a(2) of Decision 90/424/EEC and Article 6 of Regulation (EC) No 349/2005.

(6) The United Kingdom submitted to the Commission information on the costs incurred on 13 December 2007, and has continued to provide all necessary information on costs of compensation and operational expenditure.

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

HAS ADOPTED THIS DECISION:

*Article 1***Financial contribution from the Community to the United Kingdom**

1. A financial contribution from the Community may be granted to the United Kingdom towards the costs incurred by that Member State in taking the measures referred to in Article 3a(2) of Decision 90/424/EEC to combat avian influenza in 2007.

2. For the purposes of this Decision, Articles 2 to 5, Articles 7 and 8 and Article 9(2), (3) and (4) and Article 10 of Regulation (EC) No 349/2005 shall apply *mutatis mutandis*.

⁽¹⁾ OJ L 224, 18.8.1990, p. 19. Decision as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽²⁾ OJ L 55, 1.3.2005, p. 12.

⁽³⁾ OJ L 29, 2.2.2006, p. 37.

*Article 2***Addressee**

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 28 May 2008.

For the Commission

Androulla VASSILIOU

Member of the Commission

RECOMMENDATIONS

COMMISSION

COMMISSION RECOMMENDATION

of 10 April 2008

on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public research organisations

*(notified under document number C(2008) 1329)***(Text with EEA relevance)**

(2008/416/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 165 thereof,

Whereas:

- (1) When relaunching the Lisbon Strategy in 2005, the Heads of State or Government stressed the key role that better links between public research organisations, including universities, and industry can play in facilitating the circulation and use of ideas in a dynamic knowledge society and in enhancing competitiveness and welfare.
- (2) An effort should be made to better convert knowledge into socioeconomic benefits. Therefore, public research organisations need to disseminate and to more effectively exploit publicly funded research results with a view to translating them into new products and services. Means to realise this include in particular academia-industry collaborations — collaborative or contract research conducted or funded jointly with the private sector — licensing and the creation of spin-offs.
- (3) Effectively exploiting publicly funded research results depends on the proper management of intellectual property (i.e. knowledge in the broadest sense, encompassing e.g. inventions, software, databases and micro-organisms, whether or not they are protected by legal instruments such as patents), on the development of an entrepreneurial culture and associated skills within public research organisations, as well as on better communication and interaction between the public and private sector.
- (4) The active engagement of public research organisations in intellectual property management and knowledge transfer is essential for generating socioeconomic benefits, and for attracting students, scientists and further research funding.
- (5) Member States have in recent years taken initiatives to facilitate knowledge transfer at national level, but significant discrepancies between national regulatory frameworks, policies and practices, as well as varying standards in the management of intellectual property within public research organisations, prevent or hamper transnational knowledge transfer across Europe and the realisation of the European Research Area.
- (6) Following the 2007 Commission Communication ⁽¹⁾, setting out approaches for a common European framework for knowledge transfer, the European Council therefore invited the Commission, in June 2007, to develop guidance on the management of intellectual property by public research organisations in the form of a Recommendation to Member States.
- (7) This Recommendation seeks to provide Member States and their regions with policy guidelines for the development or updating of national guidelines and frameworks, and public research organisations with a Code of Practice, in order to improve the way public research organisations manage intellectual property and knowledge transfer.

⁽¹⁾ COM(2007) 182.

- (8) Collaboration in the field of research and development as well as knowledge transfer activities between the Community and third countries should be based on clear and uniform recommendations and practices that ensure equitable and fair access to intellectual property generated through international research collaborations, to the mutual benefit of all partners involved. The attached Code of Practice should be used as a reference in that context.
- (9) A number of good practices have been identified that should help Member States to implement this Recommendation. It is for each Member State to choose the procedures and practices best designed to ensure that the principles of this Recommendation are followed, having regard to what would be most effective in the context of that Member State, since practices that are effective in one Member State may not be as effective in another. Existing guidance provided at Community and OECD level should also be taken into account.
- (10) The Commission and the Member States should monitor the implementation of this Recommendation and its impact, and foster the exchange of good practices regarding knowledge transfer,
5. cooperate and take steps to improve the coherence of their respective ownership regimes as regards intellectual property rights in such a way as to facilitate cross-border collaborations and knowledge transfer in the field of research and development;
6. use the principles outlined in this Recommendation as a basis for introducing or adapting national guidelines and legislation concerning the management of intellectual property and knowledge transfer by public research organisations, as well as for concluding agreements concerning research cooperation with third countries, or for any other measures to promote knowledge transfer, or when creating new related policies or funding schemes, while observing State aid rules;
7. take steps to ensure the widest possible implementation of the Code of Practice, whether directly or through the rules laid down by national and regional research funding bodies;
8. ensure equitable and fair treatment of participants from Member States and third countries in international research projects regarding the ownership of and access to intellectual property rights, to the mutual benefit of all partners involved;
9. designate a national contact point, the tasks of which should include the coordination of measures regarding knowledge transfer between public research organisations and the private sector, including tackling transnational issues, in liaison with similar contact points in other Member States;
10. examine and make use of the best practices set out in Annex II, taking into account the national context;
11. inform the Commission by 15 July 2010 and every two years thereafter of measures taken on the basis of this Recommendation, as well as their impact.

HEREBY RECOMMENDS THAT MEMBER STATES SHOULD:

1. ensure that all public research organisations define knowledge transfer as a strategic mission;
2. encourage public research organisations to establish and publicise policies and procedures for the management of intellectual property in line with the Code of Practice set out in Annex I;
3. support the development of knowledge transfer capacity and skills in public research organisations, as well as measures to raise the awareness and skills of students — in particular in the area of science and technology — regarding intellectual property, knowledge transfer and entrepreneurship;
4. promote the broad dissemination of knowledge created with public funds, by taking steps to encourage open access to research results, while enabling, where appropriate, the related intellectual property to be protected;

Done at Brussels, 10 April 2008.

For the Commission
Janez POTOČNIK
Member of the Commission

ANNEX I

Code of Practice for universities and other public research organisations concerning the management of intellectual property in knowledge transfer activities

This Code of Practice consists of three main sets of principles.

The principles for an internal intellectual property (hereinafter IP) policy constitute the basic set of principles which public research organisations should implement in order to effectively manage the intellectual property resulting from their — own or collaborative — activities in the field of research and development.

The principles for a knowledge transfer (hereinafter KT) policy complement those relating to IP policy by focusing more specifically on the active transfer and exploitation of such intellectual property, regardless of whether or not it is protected by IP rights.

The principles for collaborative and contract research are meant to concern all kinds of research activities conducted or funded jointly by a public research organisation and the private sector, including in particular collaborative research (where all parties carry out R&D tasks) and contract research (where R&D is contracted out to a public research organisation by a private company).

Principles for an internal intellectual property policy

1. Develop an IP policy as part of the long-term strategy and mission of the public research organisation, and publicise it internally and externally, while establishing a single responsible contact point.
2. That policy should provide clear rules for staff and students regarding in particular the disclosure of new ideas with potential commercial interest, the ownership of research results, record keeping, the management of conflicts of interest and engagement with third parties.
3. Promote the identification, exploitation and, where appropriate, protection of intellectual property, in line with the strategy and mission of the public research organisation and with a view to maximising socioeconomic benefits. To this end, different strategies may be adopted — possibly differentiated in the respective scientific/technical areas — for instance the ‘public domain’ approach or the ‘open innovation’ approach.
4. Provide appropriate incentives to ensure that all relevant staff play an active role in the implementation of the IP policy. Such incentives should not only be of a financial nature but should also promote career progression, by considering intellectual property and knowledge transfer aspects in appraisal procedures, in addition to academic criteria.
5. Consider the creation of coherent portfolios of intellectual property by the public research organisation — e.g. in specific technological areas — and, where appropriate, the setting-up of patent/IP pools including intellectual property of other public research organisations. This could ease exploitation, through critical mass and reduced transaction costs for third parties.
6. Raise awareness and basic skills regarding intellectual property and knowledge transfer through training actions for students as well as research staff, and ensure that the staff responsible for the management of IP/KT have the required skills and receive adequate training.
7. Develop and publicise a publication/dissemination policy promoting the broad dissemination of research and development results (e.g. through open access publication), while accepting possible delay where the protection of intellectual property is envisaged, although this should be kept to a minimum.

Principles for a knowledge transfer policy

8. In order to promote the use of publicly funded research results and maximise their socioeconomic impact, consider all types of possible exploitation mechanisms (such as licensing or spin-off creation) and all possible exploitation partners (such as spin-offs or existing companies, other public research organisations, investors, or innovation support services or agencies), and select the most appropriate ones.
9. While proactive IP/KT policy may generate additional revenues for the public research organisation, this should not be considered the prime objective.

10. Ensure that the public research organisation has access to or possesses professional knowledge transfer services including legal, financial, commercial as well as intellectual property protection and enforcement advisors, in addition to staff with technical background.
11. Develop and publicise a licensing policy, in order to harmonise practices within the public research organisation and ensure fairness in all deals. In particular, transfers of ownership of intellectual property owned by the public research organisation and the granting of exclusive licences ⁽¹⁾ should be carefully assessed, especially with respect to non-European third parties. Licences for exploitation purposes should involve adequate compensation, financial or otherwise.
12. Develop and publicise a policy for the creation of spin-offs, allowing and encouraging the public research organisation's staff to engage in the creation of spin-offs where appropriate, and clarifying long-term relations between spin-offs and the public research organisation.
13. Establish clear principles regarding the sharing of financial returns from knowledge transfer revenues between the public research organisation, the department and the inventors.
14. Monitor intellectual property protection and knowledge transfer activities and related achievements, and publicise these regularly. The research results of the public research organisation, any related expertise and intellectual property rights should be made more visible to the private sector, in order to promote their exploitation.

Principles regarding collaborative and contract research ⁽²⁾

15. The rules governing collaborative and contract research activities should be compatible with the mission of each party. They should take into account the level of private funding and be in accordance with the objectives of the research activities, in particular to maximise the commercial and socioeconomic impact of the research, to support the public research organisation's objective to attract private research funding, to maintain an intellectual property position that allows further academic and collaborative research, and avoid impeding the dissemination of the R&D results.
16. IP-related issues should be clarified at management level and as early as possible in the research project, ideally before it starts. IP-related issues include allocation of the ownership of intellectual property which is generated in the framework of the project (hereinafter foreground), identification of the intellectual property which is possessed by the parties before starting the project (hereinafter background) and which is necessary for project execution or exploitation purposes, access rights ⁽³⁾ to foreground and background for these purposes, and the sharing of revenues.
17. In a collaborative research project, ownership of the foreground should stay with the party that has generated it, but can be allocated to the different parties on the basis of a contractual agreement concluded in advance, adequately reflecting the parties' respective interests, tasks and financial or other contributions to the project. In the case of contract research the foreground generated by the public research organisation is owned by the private sector party. The ownership of background should not be affected by the project.
18. Access rights ⁽³⁾ should be clarified by the parties as early as possible in the research project, ideally before it starts. Where necessary for the purpose of conducting the research project, or for the exploitation of foreground of a party, access rights to other parties' foreground and background should be available, under conditions which should adequately reflect the parties' respective interests, tasks, and financial and other contributions to the project.

⁽¹⁾ With regard to R&D results having several possible application fields, exclusive licences granted without any limitation to a specific field of use should be avoided. Moreover, as a rule, the PRO should reserve adequate rights to facilitate dissemination and further research.

⁽²⁾ When a PRO engages in contract or collaborative research with an industrial partner, the Commission will automatically (i.e. without any notification requirement) consider that no indirect State aid is granted to the industrial partner through the PRO if the conditions set out in the Community Framework for State aid for R&D&I (OJ C 323, 30.12.2006, in particular points 3.2.1 and 3.2.2 thereof) are fulfilled.

⁽³⁾ Access rights refer to rights granted by the parties to each other, as opposed to licences to third parties. They should determine which parties can use which pieces of foreground/background, for research purposes and/or for exploitation purposes, and on what conditions.

ANNEX II

Identified practices of public authorities that facilitate the management of intellectual property in knowledge transfer activities by universities and other public research organisations*Knowledge transfer as a strategic mission of public research organisations*

1. Knowledge transfer between universities and industry is made a permanent political and operational priority for all public research funding bodies within a Member State, at both national and regional level.
2. The subject clearly falls within the responsibility of a ministry, which is charged with coordinating knowledge transfer promotion initiatives with other ministries.
3. Each ministry and regional government body that carries out knowledge transfer activities designates an official responsible for monitoring their impact. They meet regularly in order to exchange information and discuss ways to improve knowledge transfer.

Policies for managing intellectual property

4. The proper management of intellectual property resulting from public funding is promoted, requiring that it be carried out according to established principles taking into account the legitimate interests of industry (e.g. temporary confidentiality constraints).
5. Research policy promotes reliance on the private sector to help identify technological needs and to foster private investment in research and encourage the exploitation of publicly funded research results.

Knowledge transfer capacities and skills

6. Sufficient resources and incentives are available to public research organisations and their staff to engage in knowledge transfer activities.
7. Measures are taken to ensure the availability and facilitate the recruitment of trained staff (such as technology transfer officers) by public research organisations.
8. A set of model contracts is made available, as well as a decision-making tool helping the most appropriate model contract to be selected, depending on a number of parameters.
9. Before establishing new mechanisms to promote knowledge transfer (such as mobility or funding schemes), relevant stakeholder groups, including SMEs and large industry as well as public research organisations, are consulted.
10. The pooling of resources between public research organisations at local or regional level is promoted where these do not have the critical mass of research spending to justify having their own knowledge transfer office or intellectual property manager.
11. Programmes supporting research spin-offs are launched, incorporating entrepreneurship training and featuring strong interaction of public research organisations with local incubators, financiers, business support agencies, etc.
12. Government funding is made available to support knowledge transfer and business engagement at public research organisations, including through hiring experts.

Coherence in transnational cooperation

13. In order to promote transnational knowledge transfer and facilitate cooperation with parties from other countries, the owner of intellectual property from publicly funded research is defined by clear rules and this information, together with any funding conditions which may affect the transfer of knowledge, is made easily available. Institutional ownership — as opposed to the 'professor's privilege' regime — is considered the default legal regime for intellectual property ownership at public research organisations in most EU Member States.
14. When signing international research cooperation agreements, the terms and conditions relating to projects funded under both countries' schemes provide all participants with similar rights, especially as regards access to intellectual property rights and related use restrictions.

Dissemination of knowledge

15. Open access is implemented by public research funding bodies with regard to peer reviewed scientific publications resulting from publicly funded research.
16. Open access to research data is promoted, in line with the OECD Principles and Guidelines for Access to Research Data from Public Funding, taking into account restrictions linked to commercial exploitation.
17. Archival facilities for research results (such as Internet-based repositories) are developed with public funding in connection with open access policies.

Monitoring implementation

18. The necessary mechanisms are put in place to monitor and review progress made by national public research organisations in knowledge transfer activities, e.g. through annual reports of the individual public research organisations. This information, together with best practices, is also made available to other Member States.
-