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## Legislation

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**Commission**

2002/755/EC:

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<sup>(1)</sup> Text with EEA relevance

## I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 1645/2002  
of 16 September 2002  
establishing the standard import values for determining the entry price of certain fruit and  
vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables <sup>(1)</sup>, as last amended by Regulation (EC) No 1498/98 <sup>(2)</sup>, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 17 September 2002.

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

Done at Brussels, 16 September 2002.

*For the Commission*  
J. M. SILVA RODRÍGUEZ  
*Agriculture Director-General*

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<sup>(1)</sup> OJ L 337, 24.12.1994, p. 66.

<sup>(2)</sup> OJ L 198, 15.7.1998, p. 4.

## ANNEX

**to the Commission Regulation of 16 September 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

| CN code                            | Third country code <sup>(1)</sup> | Standard import value |
|------------------------------------|-----------------------------------|-----------------------|
| 0702 00 00                         | 052                               | 49,0                  |
|                                    | 096                               | 46,3                  |
|                                    | 999                               | 47,6                  |
| 0707 00 05                         | 052                               | 107,9                 |
|                                    | 628                               | 143,3                 |
|                                    | 999                               | 125,6                 |
| 0709 90 70                         | 052                               | 74,9                  |
|                                    | 999                               | 74,9                  |
| 0805 50 10                         | 388                               | 54,1                  |
|                                    | 524                               | 57,0                  |
|                                    | 528                               | 51,7                  |
|                                    | 999                               | 54,3                  |
| 0806 10 10                         | 052                               | 62,7                  |
|                                    | 064                               | 84,5                  |
|                                    | 400                               | 172,8                 |
|                                    | 999                               | 106,7                 |
| 0808 10 20, 0808 10 50, 0808 10 90 | 388                               | 81,7                  |
|                                    | 400                               | 88,0                  |
|                                    | 512                               | 83,9                  |
|                                    | 800                               | 163,1                 |
|                                    | 804                               | 86,6                  |
|                                    | 999                               | 100,7                 |
| 0808 20 50                         | 052                               | 92,2                  |
|                                    | 388                               | 74,4                  |
|                                    | 720                               | 50,1                  |
|                                    | 999                               | 72,2                  |
| 0809 30 10, 0809 30 90             | 052                               | 114,6                 |
|                                    | 999                               | 114,6                 |
| 0809 40 05                         | 052                               | 78,6                  |
|                                    | 060                               | 63,5                  |
|                                    | 064                               | 59,2                  |
|                                    | 066                               | 81,6                  |
|                                    | 068                               | 46,0                  |
|                                    | 094                               | 53,9                  |
|                                    | 999                               | 63,8                  |

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 1646/2002**  
**of 16 September 2002**  
**on the supply of split peas as food aid**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security <sup>(1)</sup>, as last amended by Regulation (EC) No 1726/2001 of the European Parliament and of the Council <sup>(2)</sup>, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) The abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage.
- (2) Following the taking of a number of decisions on the allocation of food aid, the Commission has allocated split peas to certain beneficiaries.
- (3) It is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general

rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid <sup>(3)</sup>. It is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

*Article 1*

Split peas shall be mobilised in the Community, as Community food aid for supply to the recipients listed in the Annex, in accordance with Regulation (EC) No 2519/97, and under the conditions set out in the Annex.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

*Article 2*

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

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

Done at Brussels, 16 September 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 166, 5.7.1996, p. 1.

<sup>(2)</sup> OJ L 234, 1.9.2001, p. 10.

<sup>(3)</sup> OJ L 346, 17.12.1997, p. 23.

## ANNEX

## LOT A

1. **Action No:** 370/01
2. **Beneficiary** <sup>(2)</sup>: EuronAid, PO box 12, 2501 CA Den Haag, Nederland; tel. (31-70) 33 05 757; fax 36 41 701; telex 30960 EURON NL
3. **Beneficiary's representative:** to be designated by the beneficiary
4. **Country of destination:** Haiti
5. **Product to be mobilised:** split peas (green peas)
6. **Total quantity (tonnes net):** 637
7. **Number of lots:** 1
8. **Characteristics and quality of the product** <sup>(3)</sup> <sup>(4)</sup>: see OJ C 312, 31.10.2000, p. 1 (B.6)
9. **Packaging** <sup>(5)</sup> <sup>(7)</sup>: see OJ C 267, 13.9.1996, p. 1 (2.1 A 1.a, 2.a and B.4) or (4.0, A(1.c and 2.c) and B(4))
10. **Labelling or marking** <sup>(6)</sup>: see OJ C 114, 29.4.1991, p. 1 (IV.A(3))
  - Language to be used for the markings: French
  - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market  
The product must originate from the Community
12. **Specified delivery stage:** free at port of shipment
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —  
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:**
  - port or warehouse of transit: —
  - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
  - first deadline: 21.10. to 10.11.2002
  - second deadline: 4 to 24.11.2002
18. **Period or deadline of supply at the alternative stage:**
  - first deadline: —
  - second deadline: —
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
  - first deadline: 1.10.2002
  - second deadline: 15.10.2002
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** <sup>(1)</sup>: M. Vestergaard, European Commission, Office L 130, 7/46, B-1049 Brussels; Telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04
22. **Export refund:** —

*Notes:*

- (1) Supplementary information: Torben Vestergaard (tel. (32-2) 299 30 50; fax (32-2) 296 20 05).
- (2) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (3) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (4) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
  - phytosanitary certificate.
- (5) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (6) Notwithstanding OJ C 114 of 29.4.1991 Point IV.A(3)(c) is replaced by the following: 'the words "European Community"' and Point IV.A(3)(b) by the following: 'Split peas'.
- (7) Shipment to take place in 20-foot containers, condition FCL/FCL.

The supplier shall be responsible for the cost of making the container available in the stack position at the container terminal at the port of shipment. The beneficiary shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal.

The supplier has to submit to the recipient's agent a complete packing list of each container, specifying the number of bags belonging to each action number as specified in the invitation to tender.

The supplier has to seal each container with a numbered locktainer (Oneseal, Sysko, Locktainer 180 or a similar high-security seal), the number of which is to be provided to the beneficiary's representative.

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**COMMISSION REGULATION (EC) No 1647/2002**  
**of 16 September 2002**  
**on the supply of cereals as food aid**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security <sup>(1)</sup>, as modified by Regulation (EC) No 1726/2001 of the European Parliament and of the Council <sup>(2)</sup>, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) The abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage.
- (2) Following the taking of a number of decisions on the allocation of food aid, the Commission has allocated cereals to certain beneficiaries.
- (3) It is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied

under Council Regulation (EC) No 1292/96 as Community food aid <sup>(3)</sup>. It is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

*Article 1*

Cereals shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

*Article 2*

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

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

Done at Brussels, 16 September 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 166, 5.7.1996, p. 1.

<sup>(2)</sup> OJ L 234, 1.9.2001, p. 10.

<sup>(3)</sup> OJ L 346, 17.12.1997, p. 23.

## ANNEX

## LOT A

1. **Action No:** 375/01
2. **Beneficiary** <sup>(2)</sup>: World Food Programme (WFP), Via Cesare Giulio Viola 68, I-00148 Roma; tel. (39-06) 6513 2988; fax 6513 2844/3; telex 626675 WFP I
3. **Beneficiary's representative:** to be designated by the beneficiary
4. **Country of destination:** Sierra Leone
5. **Product to be mobilised:** malze grits
6. **Total quantity (tonnes net):** 7 000
7. **Number of lots:** 1
8. **Characteristics and quality of the product** <sup>(3)</sup> <sup>(5)</sup>: see OJ C 312, 31.10.2000, p. 1 (A.14)
9. **Packaging** <sup>(7)</sup>: see OJ C 267, 13.9.1996, p. 1 (2.2 A 1.d, 2.d and B.1)
10. **Labelling or marking** <sup>(6)</sup>: see OJ C 114, 29.4.1991, p. 1 (II.B(3))
  - Language to be used for the markings: English
  - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage** <sup>(8)</sup>: free at port of landing — landed
13. **Alternative delivery stage:** free at port of shipment — fob stowed
14. a) **Port of shipment:** —  
b) **Loading address:** —
15. **Port of landing:** Freetown
16. **Place of destination:**
  - port or warehouse of transit: —
  - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
  - first deadline: 30.11.2002
  - second deadline: 15.12.2002
18. **Period or deadline of supply at the alternative stage:**
  - first deadline: 28.10 to 10.11.2002
  - second deadline: 11 to 24.11.2002
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
  - first deadline: 1.10.2002
  - second deadline: 15.10.2002
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** <sup>(1)</sup>: M. Vestergaard, European Commission, Office: L130 7/46, B-1049 Bruxelles; Telex: 25670 AGREC B; fax (32-2) 296 70 03/296 70 04
22. **Export refund** <sup>(4)</sup>: Refund applicable on 11.9.2002, fixed by Commission Regulation (EC) No 1562/2002 (OJ L 234, 31.8.2002, p. 20)

## LOT B

1. **Action No:** 372/01
2. **Beneficiary** <sup>(2)</sup>: EuronAid, PO Box 12, 2501 CA Den Haag, Nederland; tel.: (31-70) 33 05 757; fax: 36 41 701; telex: 30960 EURON NL
3. **Beneficiary's representative:** to be designated by the beneficiary
4. **Country of destination:** Haiti
5. **Product to be mobilised:** milled rice (product code 1006 30 96 9900, 1006 30 98 9900)
6. **Total quantity (tonnes net):** 1 197
7. **Number of lots:** 1
8. **Characteristics and quality of the product** <sup>(3)</sup> <sup>(5)</sup>: see OJ C 312, 31.10.2000, p. 1 (A.7)
9. **Packaging** <sup>(7)</sup> <sup>(9)</sup>: see OJ C 267, 13.9.1996, p. 1 (1.0 A 1.c, 2.c and B.6)
10. **Labelling or marking** <sup>(6)</sup>: see OJ C 114, 29.4.1991, p. 1 (II.A(3))
  - Language to be used for the markings: French
  - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage** <sup>(10)</sup>: free at port of shipment
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —  
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:**
  - port or warehouse of transit: —
  - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
  - first deadline: 21.10 to 10.11.2002
  - second deadline: 4 to 24.11.2002
18. **Period or deadline of supply at the alternative stage:**
  - first deadline: —
  - second deadline: —
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
  - first deadline: 1.10.2002
  - second deadline: 15.10.2002
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** <sup>(1)</sup>: M. Vestergaard, European Commission, Office: L130 7/46, B-1049 Brussels; Telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04
22. **Export refund** <sup>(4)</sup>: refund applicable on 11.9.2002, fixed by Commission Regulation (EC) No 1562/2002 (OJ L 234, 31.8.2002, p. 20)

## LOT C

1. **Action No:** 371/01
2. **Beneficiary** <sup>(2)</sup>: EuronAid, PO Box 12, 2501 CA Den Haag, Nederland; tel.: (31-70) 33 05 757; fax: 36 41 701; telex 30960 EURON NL
3. **Beneficiary's representative:** to be designated by the beneficiary
4. **Country of destination:** Haiti
5. **Product to be mobilised:** common wheat flour
6. **Total quantity (tonnes net):** 220
7. **Number of lots:** 1
8. **Characteristics and quality of the product** <sup>(3)</sup> <sup>(5)</sup>: see OJ C 312, 31.10.2000, p. 1 (A.10)
9. **Packaging** <sup>(7)</sup> <sup>(9)</sup>: see OJ C 267, 13.9.1996, p. 1 (2.2 A 1.d, 2.d and B.4)
10. **Labelling or marking** <sup>(6)</sup>: see OJ C 114, 29.4.1991, p. 1 (II.B.(3))
  - Language to be used for the markings: French
  - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage** <sup>(10)</sup>: free at port of shipment
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —  
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:**
  - port or warehouse of transit: —
  - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
  - first deadline: 21.10 to 10.11.2002
  - second deadline: 4 to 24.11.2002
18. **Period or deadline of supply at the alternative stage:**
  - first deadline: —
  - second deadline: —
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
  - first deadline: 1.10.2002
  - second deadline: 15.10.2002
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** <sup>(1)</sup>: M. Vestergaard, European Commission, Office: L130 7/46, B-1049 Brussels; Telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04
22. **Export refund** <sup>(4)</sup>: refund applicable on 11.9.2002, fixed by Commission Regulation (EC) No 1562/2002 (OJ L 234, 31.8.2002, p. 20)

*Notes:*

- (<sup>1</sup>) Supplementary information: Torben Vestergaard (tel. (32-2) 299 30 50; fax (32-2) 296 20 05).
- (<sup>2</sup>) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (<sup>3</sup>) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (<sup>4</sup>) Commission Regulation (EC) No 2298/2001 (OJ L 308, 27.11.2001, p. 16), is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that indicated in point 22 of this Annex.
- (<sup>5</sup>) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:  
— phytosanitary certificate.
- (<sup>6</sup>) Notwithstanding OJ C 114 of 29 April 1991, point II.A(3)(c) or II.B(3)(c) is replaced by the following: 'the words "European Community"'.  
  
(<sup>7</sup>) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.  
  
(<sup>8</sup>) In addition to the provisions of Article 14(3) of the Regulation (EC) No 2519/97, vessels chartered shall not appear on any of the four most recent quaternary lists of detained vessels as published by the Paris Memorandum of Understanding on Port State Control (Council Directive 95/21/EC (OJ L 157, 7.7.1995, p. 1)).  
  
(<sup>9</sup>) Shipment to take place in 20-foot containers, condition FCL/FCL.  
  
The supplier shall be responsible for the cost of making the container available in the stack position at the container terminal at the port of shipment. The beneficiary shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal.  
  
The supplier has to submit to the beneficiary's agent a complete packing list of each container, specifying the number of bags belonging to each action number as specified in the invitation to tender.  
  
The supplier has to seal each container with a numbered locktainer (Oneseal, Sysko Locktainer 180 or a similar high-security seal) the number of which is to be provided to the beneficiary's representative.
- (<sup>10</sup>) The tenderer's attention is drawn to the second subparagraph of Article 7(6) of Regulation (EC) No 2519/97.
-

**COMMISSION REGULATION (EC) No 1648/2002****of 16 September 2002****fixing the minimum selling prices for beef put up for sale under the fourth invitation to tender referred to in Regulation (EC) No 1197/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal <sup>(1)</sup>, as last amended by Commission Regulation (EC) No 2345/2001 <sup>(2)</sup>, and in particular Article 28(2) thereof,

Whereas:

- (1) Tenders have been invited for certain quantities of beef fixed by Commission Regulation (EC) No 1197/2002 <sup>(3)</sup>.
- (2) Pursuant to Article 9 of Commission Regulation (EEC) No 2173/79 <sup>(4)</sup>, as last amended by Regulation (EC) No 2417/95 <sup>(5)</sup>, the minimum selling prices for meat put up for sale by tender should be fixed, taking into account tenders submitted.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

*Article 1*

The minimum selling prices for beef for the fourth invitation to tender held in accordance with Regulation (EC) No 1197/2002 for which the time limit for the submission of tenders was 9 September 2002 are as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 17 September 2002.

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

Done at Brussels, 16 September 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 21.

<sup>(2)</sup> OJ L 315, 1.12.2001, p. 29.

<sup>(3)</sup> OJ L 174, 4.7.2002, p. 19.

<sup>(4)</sup> OJ L 251, 5.10.1979, p. 12.

<sup>(5)</sup> OJ L 248, 14.10.1995, p. 39.

ANEXO — BILAG — ANHANG — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO — BIJLAGE — ANEXO —  
LIITE — BILAGA

|                |             |                                                     |
|----------------|-------------|-----------------------------------------------------|
| Estado miembro | Productos   | Precio mínimo<br>Expresado en euros por tonelada    |
| Medlemsstat    | Produkter   | Mindstepriser<br>i EUR/t                            |
| Mitgliedstaat  | Erzeugnisse | Mindestpreise<br>Ausgedrückt in EUR/Tonne           |
| Κράτος μέλος   | Προϊόντα    | Ελάχιστες πωλήσεις εκφραζόμενες σε<br>ευρώ ανά τόνο |
| Member State   | Products    | Minimum prices<br>Expressed in EUR per tonne        |
| État membre    | Produits    | Prix minimaux<br>exprimés en euros par tonne        |
| Stato membro   | Prodotti    | Prezzi minimi<br>Espressi in euro per tonnellata    |
| Lidstaat       | Producten   | Minimumprijzen<br>Uitgedrukt in euro per ton        |
| Estado-Membro  | Produtos    | Preço mínimo<br>Expresso em euros por tonelada      |
| Jäsenvaltio    | Tuotteet    | Vähimmäishinnat<br>euroina tonnia kohden ilmaistuna |
| Medlemsstat    | Produkter   | Minimipriser<br>i euro per ton                      |

**Carne con hueso — Kød, ikke udbenet — Fleisch mit Knochen — Κρέατα με κόκαλα — Bone-in beef — Viande  
avec os — Carni non disossate — Vlees met been — Carne com osso — Luullinen naudanliha — Kött med ben**

|             |                     |       |
|-------------|---------------------|-------|
| ITALIA      | — Quarti posteriori | 1 448 |
| DEUTSCHLAND | — Hinterviertel     | 1 446 |
| ESPAÑA      | — Cuartos traseros  | 1 450 |
| ÖSTERREICH  | — Hinterviertel     | 1 423 |
| FRANCE      | — Quartiers arrière | —     |

**COMMISSION REGULATION (EC) No 1649/2002****of 16 September 2002****fixing the minimum selling prices for beef put up for sale under the invitation to tender referred to in Regulation (EC) No 1573/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal <sup>(1)</sup>, as last amended by Commission Regulation (EC) No 2345/2001 <sup>(2)</sup>, and in particular Article 28(2) thereof,

Whereas:

- (1) Tenders have been invited for certain quantities of beef fixed by Commission Regulation (EC) No 1573/2002 <sup>(3)</sup>.
- (2) Pursuant to Article 9 of Commission Regulation (EEC) No 2173/79 <sup>(4)</sup>, as last amended by Regulation (EC) No 2417/95 <sup>(5)</sup>, the minimum selling prices for meat put up for sale by tender should be fixed, taking into account tenders submitted.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

*Article 1*

The minimum selling prices for beef for the invitation to tender held in accordance with Regulation (EC) No 1573/2002 for which the time limit for the submission of tenders was 10 September 2002 are as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 17 September 2002.

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

Done at Brussels, 16 September 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 21.

<sup>(2)</sup> OJ L 315, 1.12.2001, p. 29.

<sup>(3)</sup> OJ L 235, 3.9.2002, p. 5.

<sup>(4)</sup> OJ L 251, 5.10.1979, p. 12.

<sup>(5)</sup> OJ L 248, 14.10.1995, p. 39.

ANEXO — BILAG — ANHANG — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO — BIJLAGE — ANEXO —  
LIITE — BILAGA

|                |             |                                                     |
|----------------|-------------|-----------------------------------------------------|
| Estado miembro | Productos   | Precio mínimo<br>Expresado en euros por tonelada    |
| Medlemsstat    | Produkter   | Mindstepriser<br>i EUR/t                            |
| Mitgliedstaat  | Erzeugnisse | Mindestpreise<br>Ausgedrückt in EUR/Tonne           |
| Κράτος μέλος   | Προϊόντα    | Ελάχιστες πωλήσεις εκφραζόμενες σε<br>ευρώ ανά τόνο |
| Member State   | Products    | Minimum prices<br>Expressed in EUR per tonne        |
| État membre    | Produits    | Prix minimaux<br>exprimés en euros par tonne        |
| Stato membro   | Prodotti    | Prezzi minimi<br>Espressi in euro per tonnellata    |
| Lidstaat       | Producten   | Minimumprijzen<br>Uitgedrukt in euro per ton        |
| Estado-Membro  | Produtos    | Preço mínimo<br>Expresso em euros por tonelada      |
| Jäsenvaltio    | Tuotteet    | Vähimmäishinnat<br>euroina tonnia kohden ilmaistuna |
| Medlemsstat    | Produkter   | Minimipriser<br>i euro per ton                      |

**Carne con hueso — Kød, ikke udbenet — Fleisch mit Knochen — Κρέατα με κόκαλα — Bone-in beef — Viande  
avec os — Carni non disossate — Vlees met been — Carne com osso — Luullinen naudanliha — Kött med ben**

|             |                      |     |
|-------------|----------------------|-----|
| DEUTSCHLAND | — Vorderviertel      | 985 |
| DANMARK     | — Forfjerdingen      | 697 |
| ITALIA      | — Quarti anteriori   | —   |
| FRANCE      | — Quartiers avant    | —   |
| ÖSTERREICH  | — Vorderviertel      | 730 |
| NEDERLAND   | — Voorvoeten         | —   |
| ESPAÑA      | — Cuartos delanteros | —   |

**COMMISSION REGULATION (EC) No 1650/2002**  
**of 16 September 2002**  
**on the issuing of system A3 export licences in the fruit and vegetables sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1961/2001 of 8 October 2001 laying down detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables <sup>(1)</sup>, as last amended by Regulation (EC) No 1176/2002 <sup>(2)</sup>, and in particular Article 4(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1546/2002 <sup>(3)</sup> opens an invitation to tender setting the indicative refund rates and indicative quantities for system A3 export licences other than those tendered for as part of food aid.
- (2) In the light of the tenders submitted, the maximum refund rates and the percentages for reducing the quantities awarded for tenders quoting those maximum rates should be set.

- (3) In the case of apples, the maximum rate necessary to award licences for the indicative quantity up to the quantities tendered for is not more than one-and-a-half times the indicative refund rate,

HAS ADOPTED THIS REGULATION:

*Article 1*

In the case of apples, the maximum refund rates and the percentages for reducing the quantities awarded under the invitation to tender opened by Regulation (EC) No 1540/2002 shall be as set out in the Annex.

*Article 2*

This Regulation shall enter into force on 17 September 2002.

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

Done at Brussels, 16 September 2002.

*For the Commission*

J. M. SILVA RODRÍGUEZ

*Agriculture Director-General*

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<sup>(1)</sup> OJ L 268, 9.10.2001, p. 8.

<sup>(2)</sup> OJ L 170, 29.6.2002, p. 69.

<sup>(3)</sup> OJ L 233, 30.8.2002, p. 6.

## ANNEX

| Product | Maximum refund rate<br>(EUR/t net) | Percentage awarded of quantities<br>tendered for quoting the maximum<br>refund rate |
|---------|------------------------------------|-------------------------------------------------------------------------------------|
| Apples  | 15                                 | 3 %                                                                                 |

**COMMISSION REGULATION (EC) No 1651/2002****of 16 September 2002****altering the export refunds on white sugar and raw sugar exported in the natural state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector <sup>(1)</sup>, as amended by Commission Regulation (EC) No 680/2002 <sup>(2)</sup>, and in particular the third subparagraph of Article 27(5) thereof,

Whereas:

- (1) The refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 1585/2002 <sup>(3)</sup>, as last amended by Regulation (EC) No 1618/2002 <sup>(4)</sup>.
- (2) It follows from applying the detailed rules contained in Regulation (EC) No 1585/2002 to the information

known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 1585/2002 are hereby altered to the amounts shown in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 17 September 2002.

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

Done at Brussels, 16 September 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 178, 30.6.2001, p. 1.

<sup>(2)</sup> OJ L 104, 20.4.2002, p. 26.

<sup>(3)</sup> OJ L 239, 6.9.2002, p. 10.

<sup>(4)</sup> OJ L 246, 13.9.2002, p. 5.

## ANNEX

**to the Commission Regulation of 16 September 2002 altering the export refunds on white sugar and raw sugar exported in its unaltered state**

| Product code    | Destination | Unit of measurement                        | Amount of refund     |
|-----------------|-------------|--------------------------------------------|----------------------|
| 1701 11 90 9100 | A00         | EUR/100 kg                                 | 40,92 <sup>(1)</sup> |
| 1701 11 90 9910 | A00         | EUR/100 kg                                 | 39,30 <sup>(1)</sup> |
| 1701 11 90 9950 | A00         | EUR/100 kg                                 | <sup>(2)</sup>       |
| 1701 12 90 9100 | A00         | EUR/100 kg                                 | 40,92 <sup>(1)</sup> |
| 1701 12 90 9910 | A00         | EUR/100 kg                                 | 39,30 <sup>(1)</sup> |
| 1701 12 90 9950 | A00         | EUR/100 kg                                 | <sup>(2)</sup>       |
| 1701 91 00 9000 | A00         | EUR/1 % of sucrose × net 100 kg of product | 0,4448               |
| 1701 99 10 9100 | A00         | EUR/100 kg                                 | 44,48                |
| 1701 99 10 9910 | A00         | EUR/100 kg                                 | 46,09                |
| 1701 99 10 9950 | A00         | EUR/100 kg                                 | 46,09                |
| 1701 99 90 9100 | A00         | EUR/1 % of sucrose × net 100 kg of product | 0,4448               |

<sup>(1)</sup> Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 28(4) of Council Regulation (EC) No 1260/2001.

<sup>(2)</sup> Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ L 255, 26.9.1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ L 309, 21.11.1985, p. 14).

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

The numeric destination codes are set out in Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6).

## COMMISSION REGULATION (EC) No 1652/2002

of 16 September 2002

**fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip <sup>(1)</sup>, as last amended by Regulation (EC) No 1300/97 <sup>(2)</sup>, and in particular Article 5(2)(a) thereof,

Whereas:

Pursuant to Article 2(2) and Article 3 of abovementioned Regulation (EEC) No 4088/87, Community import and producer prices are fixed each fortnight for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses and apply for two-weekly periods. Pursuant to Article 1b of Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down detailed rules for the application of the arrangements for the import into the Community of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the

Gaza Strip <sup>(3)</sup>, as last amended by Regulation (EC) No 2062/97 <sup>(4)</sup>, those prices are determined for fortnightly periods on the basis of weighted prices provided by the Member States. Those prices should be fixed immediately so the customs duties applicable can be determined. To that end, provision should be made for this Regulation to enter into force immediately,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Community producer and import prices for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses as referred to in Article 1b of Regulation (EEC) No 700/88 for a fortnightly period shall be as set out in the Annex.

*Article 2*

This Regulation shall enter into force on 17 September 2002.

It shall apply from 18 September to 1 October 2002.

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

Done at Brussels, 16 September 2002.

*For the Commission*

J. M. SILVA RODRÍGUEZ

*Agriculture Director-General*

<sup>(1)</sup> OJ L 382, 31.12.1987, p. 22.

<sup>(2)</sup> OJ L 177, 5.7.1997, p. 1.

<sup>(3)</sup> OJ L 72, 18.3.1988, p. 16.

<sup>(4)</sup> OJ L 289, 22.10.1997, p. 1.

## ANNEX

**to the Commission Regulation of 16 September 2002 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip**

(EUR/100 pieces)

| Period: from 18 September to 1 October 2002 |                               |                                 |                      |                      |
|---------------------------------------------|-------------------------------|---------------------------------|----------------------|----------------------|
| Community producer price                    | Uniflorous (bloom) carnations | Multiflorous (spray) carnations | Large-flowered roses | Small-flowered roses |
|                                             | 17,21                         | 10,50                           | 28,60                | 20,01                |
| Community import prices                     | Uniflorous (bloom) carnations | Multiflorous (spray) carnations | Large-flowered roses | Small-flowered roses |
| Israel                                      | —                             | —                               | 8,09                 | 8,16                 |
| Morocco                                     | —                             | —                               | —                    | —                    |
| Cyprus                                      | —                             | —                               | —                    | —                    |
| Jordan                                      | —                             | —                               | —                    | —                    |
| West Bank and Gaza Strip                    | —                             | —                               | —                    | —                    |

**COMMISSION DIRECTIVE 2002/77/EC****of 16 September 2002****on competition in the markets for electronic communications networks and services****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 86(3) thereof,

Whereas:

- (1) Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services <sup>(1)</sup>, as last amended by Directive 1999/64/EC <sup>(2)</sup>, has been substantially amended several times. Since further amendments are to be made, it should be recast in the interest of clarity.
- (2) Article 86 of the Treaty entrusts the Commission with the task of ensuring that, in the case of public undertakings and undertakings enjoying special or exclusive rights, Member States comply with their obligations under Community law. Pursuant to Article 86(3), the Commission can specify and clarify the obligations arising from that Article and, in that framework, set out the conditions which are necessary to allow the Commission to perform effectively the duty of surveillance imposed upon it by that paragraph.
- (3) Directive 90/388/EEC required Member States to abolish special and exclusive rights for the provision of telecommunications services, initially for other services than voice telephony, satellite services and mobile radiocommunications, and then it gradually established full competition in the telecommunications market.
- (4) A number of other Directives in this field have also been adopted under Article 95 of the Treaty by the European Parliament and the Council aiming, principally, at the establishment of an internal market for telecommunications services through the implementation of open network provision and the provision of a universal service in an environment of open and competitive markets. Those Directives should be repealed with effect from 25 July 2003 when the new regulatory framework for electronic communications networks and services is applied.
- (5) The new electronic communications regulatory framework consists of one general Directive, Directive 2002/21/EC of the European Parliament and of the Council of

7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) <sup>(3)</sup> and four specific Directives: Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) <sup>(4)</sup>, Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) <sup>(5)</sup>, Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) <sup>(6)</sup>, and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications (Directive on privacy and electronic communications) sector <sup>(7)</sup>.

- (6) In the light of the developments which have marked the liberalisation process and the gradual opening of the telecommunications markets in Europe since 1990, certain definitions used in Directive 90/388/EEC and its amending acts should be adjusted in order to reflect the latest technological developments in the telecommunications field, or replaced in order to take account of the convergence phenomenon which has shaped the information technology, media and telecommunications industries over recent years. The wording of certain provisions should, where possible, be clarified in order to facilitate their application, taking into account, where appropriate, the relevant Directives adopted under Article 95 of the Treaty, and the experience acquired through the implementation of Directive 90/388/EEC as amended.
- (7) This Directive makes reference to 'electronic communications services' and 'electronic communications networks' rather than the previously used terms 'telecommunications services' and 'telecommunications networks'. These new definitions are indispensable in order to take account of the convergence phenomenon by bringing together under one single definition all electronic communications services and/or networks which are concerned with the conveyance of signals by wire, radio, optical or other electromagnetic means (i.e. fixed, wireless, cable television, satellite networks). Thus, the transmission and broadcasting of radio and television

<sup>(1)</sup> OJ L 192, 24.7.1990, p. 10.

<sup>(2)</sup> OJ L 175, 10.7.1999, p. 39.

<sup>(3)</sup> OJ L 108, 24.4.2002, p. 33.

<sup>(4)</sup> OJ L 108, 24.4.2002, p. 21.

<sup>(5)</sup> OJ L 108, 24.4.2002, p. 7.

<sup>(6)</sup> OJ L 108, 24.4.2002, p. 51.

<sup>(7)</sup> OJ L 201, 31.7.2002, p. 37.

programmes should be recognised as an electronic communication service and networks used for such transmission and broadcasting should likewise be recognised as electronic communications networks. Furthermore, it should be made clear that the new definition of electronic communications networks also covers fibre networks which enable third parties, using their own switching or routing equipment, to convey signals.

(8) In this context, it should be made clear that Member States must remove (if they have not already done so) exclusive and special rights for the provision of all electronic communications networks, not just those for the provision of electronic communications services and should ensure that undertakings are entitled to provide such services without prejudice to the provisions of Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC. The definition of electronic communications networks should also mean that Member States are not permitted to restrict the right of an operator to establish, extend and/or provide a cable network on the ground that such network could also be used for the transmission of radio and television programming. In particular, special or exclusive rights which amount to restricting the use of electronic communications networks for the transmission and distribution of television signals are contrary to Article 86(1), read in conjunction with Article 43 (right of establishment) and/or Article 82(b) of the EC Treaty insofar as they have the effect of permitting a dominant undertaking to limit 'production, markets or technical development to the prejudice of consumers'. This is, however, without prejudice to the specific rules adopted by the Member States in accordance with Community law, and, in particular, in accordance with Council Directive 89/552/EEC of 3 October 1989 <sup>(1)</sup>, on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, as amended by Directive 97/36/EC of the European Parliament and of the Council <sup>(2)</sup>, governing the distribution of audiovisual programmes intended for the general public.

(9) Pursuant to the principle of proportionality, Member States should no longer make the provision of electronic communications services and the establishment and provision of electronic communications networks subject to a licensing regime but to a general authorisation regime. This is also required by Directive 2002/20/EC, according to which electronic communications services or networks should be provided on the basis of a general authorisation and not on the basis of a license. An aggrieved party should have the right to challenge a decision preventing him from providing electronic communications services or networks before an independent body and, ultimately, before a court or a tribunal. It is a fundamental principle of Community law that an individual is entitled to effective judicial protection whenever a

State measure violates rights conferred upon him by the provisions of a Directive.

- (10) Public authorities may exercise a dominant influence on the behaviour of public undertakings, as a result either of the rules governing the undertaking or of the manner in which the shareholdings are distributed. Therefore, where Member States control vertically integrated network operators which operate networks which have been established under special or exclusive rights, those Member States should ensure that, in order to avoid potential breaches of the Treaty competition rules, such operators, when they enjoy a dominant position in the relevant market, do not discriminate in favour of their own activities. It follows that Member States should take all measures necessary to prevent any discrimination between such vertically integrated operators and their competitors.
- (11) This Directive should also clarify the principle derived from Commission Directive 96/2/EC of 16 January 1996 amending Directive 90/388/EC with regard to mobile and personal communications <sup>(3)</sup>, by providing that Member States should not grant exclusive or special rights of use of radio frequencies and that the rights of use of those frequencies should be assigned according to objective, non-discriminatory and transparent procedures. This should be without prejudice to specific criteria and procedures adopted by Member States to grant such rights to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Community law.
- (12) Any national scheme pursuant to Directive 2002/22/EC, serving to share the net cost of the provision of universal service obligations shall be based on objective, transparent and non-discriminatory criteria and shall be consistent with the principles of proportionality and of least market distortion. Least market distortion means that contributions should be recovered in a way that as far as possible minimises the impact of the financial burden falling on end-users, for example by spreading contributions as widely as possible.
- (13) Where rights and obligations arising from international conventions setting up international satellite organisations are not compatible with the competition rules of the Treaty, Member States should take, in accordance with Article 307 of the EC Treaty, all appropriate steps to eliminate such incompatibilities. This Directive should clarify this obligation because Article 3 of Directive 94/46/EC <sup>(4)</sup>, merely required Member States to 'communicate to the Commission' the information they possessed on such incompatibilities. Article 11 of this Directive should clarify the obligation on Member States to remove any restrictions which could still be in force because of those international conventions.

<sup>(1)</sup> OJ L 298, 17.10.1989, p. 23.

<sup>(2)</sup> OJ L 202, 30.7.1997, p. 60.

<sup>(3)</sup> OJ L 20, 26.1.1996, p. 59.

<sup>(4)</sup> OJ L 268, 19.10.1994, p. 15.

- (14) This Directive should maintain the obligation imposed on Member States by Directive 1999/64/EC, so as to ensure that dominant providers of electronic communications networks and publicly available telephone services operate their public electronic communication network and cable television network as separate legal entities.
- (15) This Directive should be without prejudice to obligations of the Member States concerning the time limits set out in Annex I, Part B, within which the Member States are to comply with the preceding Directives.
- (16) Member States should supply to the Commission any information which is necessary to demonstrate that existing national implementing legislation reflects the clarifications provided for in this Directive as compared with Directives 90/388/EC, 94/46/EC, 95/51/EC <sup>(1)</sup>, 96/2/EC, 96/19/EC <sup>(2)</sup> and 1999/64/EC.
- (17) In the light of the above, Directive 90/388/EC should be repealed,

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

##### Definitions

For the purposes of this Directive the following definitions shall apply:

1. 'electronic communications network' shall mean transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire, by radio, by optical or by other electromagnetic means, including satellite networks, fixed (circuit — and packet — switched, including Internet) and mobile terrestrial networks, and electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed;
2. 'public communications network' shall mean an electronic communications network used wholly or mainly for the provision of public electronic communications services;
3. 'electronic communications services' shall mean a service normally provided for remuneration which consists wholly or mainly in the conveyance of signals on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting but exclude services providing or exercising editorial control over, content transmitted using electronic communications networks and services; it does not include information society services as defined in Article 1 of Directive 98/34/EC which do not consist wholly or mainly in the conveyance of signals on electronic communications networks;

<sup>(1)</sup> OJ L 256, 26.10.1995, p. 49.

<sup>(2)</sup> OJ L 74, 22.3.1996, p. 13.

4. 'publicly available electronic communications services' shall mean electronic communications services available to the public;
5. 'exclusive rights' shall mean the rights that are granted by a Member State to one undertaking through any legislative, regulatory or administrative instrument, reserving it the right to provide an electronic communications service or to undertake an electronic communications activity within a given geographical area;
6. 'special rights' shall mean the rights that are granted by a Member State to a limited number of undertakings through any legislative, regulatory or administrative instrument which, within a given geographical area:
  - (a) designates or limits to two or more the number of such undertakings authorised to provide an electronic communications service or undertake an electronic communications activity, otherwise than according to objective, proportional and non-discriminatory criteria, or
  - (b) confers on undertakings, otherwise than according to such criteria, legal or regulatory advantages which substantially affect the ability of any other undertaking to provide the same electronic communications service or to undertake the same electronic communications activity in the same geographical area under substantially equivalent conditions;
7. 'satellite earth station network' shall mean a configuration of two or more earth stations which interwork by means of a satellite;
8. 'cable television networks' shall mean any mainly wire-based infrastructure established primarily for the delivery or distribution of radio or television broadcast to the public.

#### Article 2

##### Exclusive and special rights for electronic communications networks and electronic communications services

1. Member States shall not grant or maintain in force exclusive or special rights for the establishment and/or the provision of electronic communications networks, or for the provision of publicly available electronic communications services.
2. Member States shall take all measures necessary to ensure that any undertaking is entitled to provide electronic communications services or to establish, extend or provide electronic communications networks.
3. Member States shall ensure that no restrictions are imposed or maintained on the provision of electronic communications services over electronic communications networks established by the providers of electronic communications services, over infrastructures provided by third parties, or by means of sharing networks, other facilities or sites without prejudice to the provisions of Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC.

4. Member States shall ensure that a general authorisation granted to an undertaking to provide electronic communications services or to establish and/or provide electronic communications networks, as well as the conditions attached thereto, shall be based on objective, non-discriminatory, proportionate and transparent criteria.

5. Reasons shall be given for any decision taken on the grounds set out in Article 3(1) of Directive 2002/20/EC preventing an undertaking from providing electronic communications services or networks.

Any aggrieved party should have the possibility to challenge such a decision before a body that is independent of the parties involved and ultimately before a court or a tribunal.

#### Article 3

##### **Vertically integrated public undertakings**

In addition to the requirements set out in Article 2(2), and without prejudice to Article 14 of Directive 2002/21/EC, Member States, shall ensure that vertically integrated public undertakings which provide electronic communications networks and which are in a dominant position do not discriminate in favour of their own activities.

#### Article 4

##### **Rights of use of frequencies**

Without prejudice to specific criteria and procedures adopted by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Community law:

1. Member States shall not grant exclusive or special rights of use of radio frequencies for the provision of electronic communications services.
2. The assignment of radio frequencies for electronic communication services shall be based on objective, transparent, non-discriminatory and proportionate criteria.

#### Article 5

##### **Directory services**

Member States shall ensure that all exclusive and/or special rights with regard to the establishment and provision of directory services on their territory, including both the publication of directories and directory enquiry services, are abolished.

#### Article 6

##### **Universal service obligations**

1. Any national scheme pursuant to Directive 2002/22/EC, serving to share the net cost of the provision of universal service obligations shall be based on objective, transparent and non-discriminatory criteria and shall be consistent with the principle of proportionality and of least market distortion. In

particular, where universal service obligations are imposed in whole or in part on public undertakings providing electronic communications services, this shall be taken into consideration in calculating any contribution to the net cost of universal service obligations.

2. Member States shall communicate any scheme of the kind referred to in paragraph 1 to the Commission.

#### Article 7

##### **Satellites**

1. Member States shall ensure that any regulatory prohibition or restriction on the offer of space segment capacity to any authorised satellite earth station network operator are abolished, and shall authorise within their territory any space-segment supplier to verify that the satellite earth station network for use in connection with the space segment of the supplier in question is in conformity with the published conditions for access to such person's space segment capacity.

2. Member States which are party to international conventions setting up international satellite organisations shall, where such conventions are not compatible with the competition rules of the EC Treaty, take all appropriate steps to eliminate such incompatibilities.

#### Article 8

##### **Cable television networks**

1. Each Member State shall ensure that no undertaking providing public electronic communications networks operates its cable television network using the same legal entity as it uses for its other public electronic communications network, when such undertaking:

- (a) is controlled by that Member State or benefits from special rights; and
- (b) is dominant in a substantial part of the common market in the provision of public electronic communications networks and publicly available telephone services; and
- (c) operates a cable television network which has been established under special or exclusive right in the same geographic area.

2. The term 'publicly available telephone services' shall be considered synonymous with the term 'public voice telephony services' referred to in Article 1 of Directive 1999/64/EC.

3. Member States which consider that there is sufficient competition in the provision of local loop infrastructure and services in their territory shall inform the Commission accordingly.

Such information shall include a detailed description of the market structure. The information provided shall be made available to any interested party on demand, regard being had to the legitimate interest of undertakings in the protection of their business secrets.

4. The Commission shall decide within a reasonable period, after having heard the comments of these parties, whether the obligation of legal separation may be ended in the Member State concerned.

5. The Commission shall review the application of this Article not later than 31 December 2004.

#### *Article 9*

Member States shall supply to the Commission not later than 24 July 2003 such information as will allow the Commission to confirm that the provisions of this Directive have been complied with.

#### *Article 10*

##### **Repeal**

Directive 90/388/EC, as amended by the Directives listed in Annex I, Part A, is repealed with effect from 25 July 2003, without prejudice to the obligations of the Member States in respect of the time limits for transposition laid down in Annex I, Part B.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

#### *Article 11*

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

#### *Article 12*

This Directive is addressed to the Member States.

Done at Brussels, 16 September 2002.

*For the Commission*

Mario MONTI

*Member of the Commission*

## ANNEX I

## PART A

**List of Directives to be repealed**

Directive 90/388/EEC (OJ L 192, 24.7.1990, p. 10)  
Articles 2 and 3 of Directive 94/46/EC (OJ L 268, 19.1.1994, p. 15)  
Directive 95/51/EC (OJ L 256, 26.10.1995, p. 49)  
Directive 96/2/EC (OJ L 20, 26.1.1996, p. 59)  
Directive 96/19/EC (OJ L 74, 22.3.1996, p. 13)  
Directive 1999/64/EC (OJ L 175, 10.7.1999, p. 39)

## PART B

**Transposition dates for the above Directives**

Directive 90/388/EEC: transposition date: 31 December 1990  
Directive 94/46/EC: transposition date: 8 August 1995  
Directive 95/51/EC: transposition date: 1 October 1996  
Directive 96/2/EC: transposition date: 15 November 1996  
Directive 96/19/EC: transposition date: 11 January 1997  
Directive 1999/64/EC: transposition date: 30 April 2000

## ANNEX II

**Correlation table**

| This Directive                                        | Directive 90/388/EEC            |
|-------------------------------------------------------|---------------------------------|
| Article 1 (Definitions)                               | Article 1                       |
| Article 2 (withdrawal of exclusive/special rights)    | Article 2                       |
| Article 3 (vertically integrated public undertakings) | Article 3(a)(ii)                |
| Article 4 (rights of use of radio frequencies)        | Article 3(b)                    |
| Article 5 (directory services)                        | Article 4(b)                    |
| Article 6 (universal service obligations)             | Article 4(c)                    |
| Article 7 (satellites)                                | Article 3 of Directive 94/46/EC |
| Article 8 (cable networks)                            | Article 9                       |

## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION RECOMMENDATION

**of 16 September 2002**

**on the results of the risk evaluation and risk reduction strategy for the  
substance diphenyl ether, octabromo derivative**

*(notified under document number C(2002) 3394)*

**(Text with EEA relevance)**

(2002/755/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances <sup>(1)</sup>, and in particular Article 11(2) thereof,

Whereas:

- (1) In the framework of Regulation (EEC) No 793/93 diphenyl ether, octabromo derivative has been identified as a priority substance for evaluation in accordance with Commission Regulation (EC) No 1179/94 of 25 May 1994 concerning the first list of priority substances as foreseen under Council Regulation (EEC) No 793/93 <sup>(2)</sup>. In Regulation (EC) No 1179/94 France and the United Kingdom have been designated as rapporteur Member States for that substance.
- (2) Those rapporteur Member States have completed all the risk evaluation activities with regard to man and the environment for diphenyl ether, octabromo derivative <sup>(3)</sup> and have suggested a strategy for limiting the risks in accordance with Commission Regulation (EC) No 1488/94 of 28 June 1994 laying down the principles for the assessment of risks to man and the environment of existing substances in accordance with Council Regulation (EEC) No 793/93 <sup>(4)</sup>.
- (3) The Scientific Committee on Toxicity, Ecotoxicity and the Environment (CSTEE) has been consulted with respect to the risk evaluations carried out by the Member State rapporteurs.
- (4) The results of the risk evaluation are contained in the Annex to this recommendation.
- (5) The measures provided for in this recommendation are in accordance with the opinion of the Committee set up pursuant to Article 15 of Regulation (EEC) No 793/93,

<sup>(1)</sup> OJ L 84, 5.4.1993, p. 1.

<sup>(2)</sup> OJ L 131, 26.5.1994, p. 3.

<sup>(3)</sup> The comprehensive risk assessment report as forwarded to the Commission by the rapporteur Member States is publicly available. A short summary is also available. Both can be found on the internet site of the European Chemicals Bureau, Institute for Health and Consumer Protection of the Joint Research Centre in Ispra, Italy (<http://ecb.jrc.it/regulation-results/>).

<sup>(4)</sup> OJ L 161, 29.6.1994, p. 3.

HEREBY RECOMMENDS:

1. All sectors importing, producing, transporting, storing, formulating into a preparation or other processing, using and disposing or recovering:
  - diphenyl ether, octabromo derivative  
CAS No 32536-52-0  
EINECS No 251-087-9should take into account the results of the risk evaluation set out in the Annex.
2. The strategy for limiting risks set out in point II of the Annex should be implemented.

Done at Brussels, 16 September 2002.

*For the Commission*  
Margot WALLSTRÖM  
*Member of the Commission*

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## ANNEX

Diphenyl ether, octabromo derivative or octabromodiphenyl ether

CAS No: 32536-52-0

EINECS No: 251-087-9

Rapporteurs: France and United Kingdom

Classification: not yet classified

The risk assessment is based on current practices related to the life-cycle of the substance produced in or imported into the European Community as described in the risk assessment forwarded to the Commission by the Member States Rapporteurs.

The risk assessment has, based on the available information, determined that in the European Community the substance is mainly used as flame retardant mostly in applications in the plastics and textile industries.

## I. RISK ASSESSMENT

### A. Human health

The conclusions of the assessment of the risks to

WORKERS are:

1. that there is a need for further information and/or testing. This conclusion is reached since information is needed on transthyretin-T4 competition with octabromodiphenyl ether as well as information on the extent of excretion of commercial octabromodiphenyl ether into the breast milk and information on the effects of prolonged exposure; and
2. that there is a need for limiting the risks; risk reduction measures which are already being applied shall be taken into account. This conclusion is reached for manufacture (bagging and cleaning activities) and for compounding and master batching (bag emptying). There are concerns for:
  - systemic effects after inhalation and dermal repeated exposure,
  - local effects in the respiratory tract after inhalation repeated exposure, and
  - effects on female fertility after inhalation and dermal repeated exposure.

The conclusion of the assessment of the risks for

CONSUMERS is

that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied already.

This conclusion is reached because consumer exposure is considered negligible.

The conclusion of the assessment of the risks for

HUMANS EXPOSED VIA THE ENVIRONMENT is

that there is a need for further information and/or testing.

This conclusion is reached since further information is needed on emissions into the environment from use or on soil-plant transfer; on the extent of excretion of commercial octabromodiphenyl ether into the breast milk and cow's milk. Depending upon the results submitted by Industry on milk excretion further information might be requested. There is a need for exposure information from local and regional sources on the concentration of octabromodiphenyl ether in cows milk. Information is needed as well on transthyretin-T4 competition with octabromodiphenyl ether and on the effects of prolonged exposure.

The conclusion of the assessment of the risks to

HUMAN HEALTH (PHYSICO-CHEMICAL PROPERTIES) is

that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied already.

### B. Environment

The conclusions of the assessment of the risks to the

ENVIRONMENT are

1. that there is a need for further information and/or testing. This conclusion applies to the risk of secondary poisoning from all sources of octabromodiphenyl ether. It is possible that the current PEC/PNEC approach for secondary poisoning may not be appropriate in terms of both the PEC and the PNEC, and could underestimate the risk. This issue needs further investigation.

A second aspect of the concern for secondary poisoning is that although the substance is persistent, there is evidence that it can degrade under some conditions to more toxic and bioaccumulative compounds.

There is a high level of uncertainty associated with the suitability of the current risk assessment approach for secondary poisoning and the debromination issue. The combination of uncertainties raises a concern about the possibility of long-term environmental effects that can not easily be predicted. It is not possible to say whether or not on a scientific basis there is a current or future risk to the environment.

This uncertainty is sufficient to warrant risk reduction measures directly based on the information currently provided in the risk assessment;

2. that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied already. This conclusion applies to the environmental assessment of risks to the aquatic (surface water, sediment and waste water treatment plants), terrestrial and atmospheric compartments by the conventional PEC/PNEC approach for octabromodiphenyl ether itself from all sources (including the assessment of the hexabromodiphenyl ether component);
3. that there is a need for limiting the risks; risk reduction measures which are already being applied shall be taken into account. This conclusion applies to the assessment of secondary poisoning via the earthworm route for the hexabromodiphenyl ether component in the commercial octabromodiphenyl ether product from the use in polymer applications.

## II. STRATEGY FOR LIMITING RISKS

For HUMANS EXPOSED VIA THE ENVIRONMENT:

While the outcome of the human health risk assessment for exposure via the environment is that further information/testing is required, Member States noted the uncertainties regarding the risk characterisation for infants exposed to commercial octabromodiphenyl ether from human breast or cow's milk. In particular, there was concern that it would take a significant time to gather the information and that the resulting refined risk assessment could then indicate a risk to breast-feeding infants. Any risk reduction measures proposed for the substance must take account of the concern about infants exposed via milk.

For WORKERS:

The legislation for workers' protection currently in force at Community level is generally considered to give an adequate framework to limit the risks of the substance to the extent needed.

Within this framework it is recommended to develop at Community level occupational exposure limit values for the substance. Until such time as occupational exposure limit values for the substance have been adopted at Community level, exposure in the workplace should be reduced as low as technically feasible. The use of non-inhalable forms (pellets etc.) in place of the powder form should be considered. The need for such measures will be dependent on the outcome of proposals to protect human health and the environment.

For the ENVIRONMENT:

Marketing and use restrictions should be considered at Community level to protect the environment from the use of octabromodiphenyl ether.

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