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I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 2088/2002
of 26 November 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 ⁽¹⁾, as last amended by Regulation (EC) No 1947/2002 ⁽²⁾, 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 27 November 2002.

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

Done at Brussels, 26 November 2002.

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

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 299, 1.11.2002, p. 17.

ANNEX

to the Commission Regulation of 26 November 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	57,7
	204	61,5
	999	59,6
0707 00 05	052	121,5
	628	196,3
	999	158,9
0709 90 70	052	106,2
	204	114,0
	999	110,1
0805 20 10	052	72,1
	204	78,8
	999	75,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	61,7
	999	61,7
0805 50 10	052	74,4
	600	66,6
	999	70,5
0808 10 20, 0808 10 50, 0808 10 90	060	31,2
	400	92,8
	404	111,8
	720	105,0
	999	85,2
0808 20 50	052	112,6
	400	130,4
	720	43,1
	999	95,4

⁽¹⁾ 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 2089/2002
of 26 November 2002**

amending Regulations (EC) No 1938/2001, (EC) No 1939/2001 and (EC) No 1940/2001 on the opening of a standing invitation to tender for the resale on the Community internal market of rice held by the Spanish, Greek and Italian intervention agencies for use in animal feed

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 8(b) thereof,

Whereas:

- (1) Commission Regulation (EEC) No 75/91 of 11 January 1991 laying down the procedures and conditions for the disposal of paddy rice held by intervention agencies ⁽³⁾ lays down the procedures and conditions for such disposals.
- (2) The invitations to tender scheduled for 25 December 2002 and 1 January 2003 should not be held. Because the invitations for tender currently under way have not yet resulted in the disposal of the total quantities put up for sale, the date of the last partial invitation to tender for the invitations to tender provided for in Commission Regulations (EC) No 1938/2001 ⁽⁴⁾, (EC) No 1939/2001 ⁽⁵⁾ and (EC) No 1940/2001 ⁽⁶⁾, as last amended by Regulation (EC) No 1482/2002 ⁽⁷⁾, must be put back to a later date.

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 5(2) and (3) in Regulations (EC) No 1938/2001, (EC) No 1939/2001 and (EC) No 1940/2001 shall be replaced by the following text:

‘2. For subsequent partial invitations to tender, the closing date for the submission of tenders shall be every Wednesday at 12.00 (Brussels time), with the exception of Wednesday 25 December 2002 and Wednesday 1 January 2003.

3. The closing date for the submission of tenders for the last partial invitation to tender shall be 26 February 2003.’

Article 2

This Regulation shall enter into force on the day it is published 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, 26 November 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 9, 12.1.1991, p. 15.

⁽⁴⁾ OJ L 263, 3.10.2001, p. 11.

⁽⁵⁾ OJ L 263, 3.10.2001, p. 15.

⁽⁶⁾ OJ L 263, 3.10.2001, p. 19.

⁽⁷⁾ OJ L 221, 17.8.2002, p. 3.

**COMMISSION REGULATION (EC) No 2090/2002
of 26 November 2002**

laying down detailed rules for applying Council Regulation (EEC) No 386/90 as regards physical checks carried out when agricultural products qualifying for refunds are exported

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 386/90 of 12 February 1990 on the monitoring carried out at the time of export of agricultural products receiving refunds or other amounts ⁽¹⁾, as amended by Regulation (EC) No 163/94 ⁽²⁾, and in particular Article 6 thereof,

Whereas:

- (1) Commission Regulation (EC) No 2221/95 of 20 September 1995 laying down detailed rules for the application of Council Regulation (EEC) No 386/90 as regards physical checks carried out at the time of export of agricultural products qualifying for refunds ⁽³⁾, as last amended by Regulation (EC) No 2655/1999 ⁽⁴⁾, has been substantially amended. In the interests of clarity and administrative efficiency, therefore, that Regulation should be recast, at the same time making certain amendments which experience has shown to be desirable.
- (2) Account should be taken of existing inspection measures, in particular those introduced by Commission Regulations (EC) No 2298/2001 of 26 November 2001 laying down detailed rules for the export of products supplied as food aid ⁽⁵⁾ and (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 ⁽⁶⁾, as last amended by Regulation (EC) No 1253/2002 ⁽⁷⁾.
- (3) In its supplementary report to the Council on the application of Regulation (EEC) No 386/90 ⁽⁸⁾, the Commission stated its intention to define precisely the term 'physical check' as used in Article 2(a) of Regulation (EEC) No 386/90, in order to achieve uniform application of the Community rules in the Member States.
- (4) To make better use of the inspection possibilities, export declarations involving small quantities of products or a low amount of refund should be disregarded when calculating the minimum rates of checks.
- (5) A verification of laboratory tests has shown that the obligation to carry out a laboratory test should be simplified where satisfactory results, obtained repeatedly, concern the same product from the same exporter.
- (6) A measure should be introduced to take account of cases where the number of exports dealt with by a customs office is minimal.
- (7) Compared to the total amount of the refunds, the share of refunds granted to goods not listed in Annex I to the Treaty is small, while the share of physical checks carried out on these products is large. To make better use of the inspection resources, this discrepancy should be reduced, in particular by lowering the inspection rate for non-Annex I products.
- (8) There is a substantial difference between the customs treatment of goods intended for export in the large ports, where there is a great diversity of products coming from a wide range of exporters, and the customs treatment of goods at customs offices which handle only a limited range of products from a few exporters. In the latter case, the goods are subjected to a much higher level of checks. For these customs offices, the selection of goods with a view to carrying out physical checks should take account of the fact that the check is being carried out on the basis of a smaller representative sample.
- (9) In order to reduce the risk of substitution, all means of transport or packages should be sealed, save in cases where the products may be identified by some other means.
- (10) Measures should be taken to allow verification at any time of whether the check rate of 5 % has been reached.
- (11) Article 912c 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 ⁽⁹⁾, as last amended by Regulation (EC) No 444/2002 ⁽¹⁰⁾, specifies the office of destination where the T5 control copy should be presented for the check on the use and/or destination of the goods. It should therefore be stipulated that, if the customs office of exit and the office of destination are not the same, the substitution check must be carried out by the office to which the T5 control copy is sent.

⁽¹⁾ OJ L 42, 16.2.1990, p. 6.

⁽²⁾ OJ L 24, 29.1.1994, p. 2.

⁽³⁾ OJ L 224, 21.9.1995, p. 13.

⁽⁴⁾ OJ L 325, 17.12.1999, p. 12.

⁽⁵⁾ OJ L 308, 27.11.2001, p. 16.

⁽⁶⁾ OJ L 102, 17.4.1999, p. 11.

⁽⁷⁾ OJ L 183, 12.7.2002, p. 12.

⁽⁸⁾ OJ C 218, 12.8.1993, p. 14.

⁽⁹⁾ OJ L 253, 11.10.1993, p. 1.

⁽¹⁰⁾ OJ L 68, 12.3.2002, p. 11.

- (12) To tackle the risk of substitution in the case of export declarations accepted by an internal customs office within a Member State, a minimum number of 'substitution checks' to be carried out by the customs office of exit from the Community should be laid down. Having regard to the place where such 'substitution checks' are carried out, they must take the form of simplified checks.
- (13) For the purpose of evaluating the application of Regulation (EEC) No 386/90, the Member States are required to submit annual evaluations on the implementation and effectiveness of the checks carried out under this Regulation and of the procedures applied to selecting the goods subject to physical checks.
- (14) In the light of experience gained, appropriate and commensurate measures are required, which must be uniformly applied.
- (15) The measures provided for in this Regulation are in accordance with the opinion of all the Management Committees concerned,

- (ii) 1 000 kg in the case of fruit and vegetables and products not listed in Annex I to the Treaty,
- (iii) 500 kg in the case of other products;
- (b) or refund amounts of less than EUR 200.

3. When implementing paragraphs 1 and 2, Member States shall adopt appropriate provisions to prevent fraud and abuses. Any checks made to that end may be counted for the purposes of calculating compliance with the minimum rates of checks referred to in paragraph 2.

Article 3

With a view to determining the basis for calculating the percentage for the physical checks referred to in Article 2(a) of Regulation (EEC) No 386/90, for the purposes of the first indent of the first subparagraph of Article 3(2) of that Regulation, 'customs office' shall mean all offices competent to complete the export formalities for the products concerned.

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down the detailed rules for applying the physical check and the substitution check referred to in Article 2(a) and (b) of Regulation (EEC) No 386/90.
2. This Regulation shall not apply to exports involving Community or national food aid covered by Regulation (EC) No 2298/2001.
3. For the purposes of this Regulation:
- 'customs office of export' means the custom office as referred to in Article 5(7)(a) of Regulation (EC) No 800/1999,
 - 'customs office of exit' means the customs office referred to in Article 793(2) of Regulation (EEC) No 2454/93,
 - 'office to which the T5 control copy is sent' means the office of destination as referred to in Article 912c of Regulation (EEC) No 2454/93.

Article 2

1. Without prejudice to the inspection measures referred to in Article 36(4), Article 37(4) and Article 44(4) of Regulation (EC) No 800/1999, Member States may opt to waive the physical and substitution checks provided for in this Regulation on deliveries as referred to in Articles 36 and 44 of Regulation (EC) No 800/1999.
2. When calculating the minimum rates of checks to be carried out in accordance with Article 3(2) and Article 3a of Regulation (EEC) No 386/90, Member States shall disregard export declarations involving:

- (a) either quantities not exceeding:
- (i) 5 000 kg in the case of cereals and rice,

Article 4

For the purposes of the third indent of the first subparagraph of Article 3(2) of Regulation (EEC) No 386/90, products covered by the same agricultural market organisation shall be regarded as coming under one product sector.

However, products covered by the common organisations of the markets in cereals and rice, on the one hand, and goods not listed in Annex I to the Treaty, on the other hand, shall each be treated as a single product sector.

Article 5

1. For the purposes of Article 2(a) of Regulation (EEC) No 386/90, 'physical check' shall mean verification that the export declaration, including documents submitted in support thereof, corresponds with the goods as regards quantity, nature and characteristics.

In the cases referred to in Annex I, the methods indicated therein shall be applied.

The customs office of export shall ensure compliance with Article 21 of Regulation (EC) No 800/1999. Where there are specific grounds for suspecting the sound, fair and merchantable quality of a product, the customs office shall verify compliance with the applicable Community provisions, in particular those relating to animal and plant health. Where the customs office deems it necessary, it shall perform laboratory tests, or have them performed, stating the grounds for such tests.

2. Physical checks concerning which the exporter has received express or tacit prior warning shall not count as checks.

The first subparagraph shall not apply where the accounts of an undertaking are audited in accordance with point 3(a) of Annex I.

3. Where a customs office of export accepts fewer than 20 export declarations per sector per year, at least one export declaration per sector per year must be subjected to a physical check.

This requirement shall not apply where the customs office of export, having carried out a risk analysis in accordance with the second subparagraph of Article 3(2) of Regulation (EEC) No 386/90, has not checked the first two declarations and no further exports are carried out thereafter in that sector.

4. Where the refund rate depends on the level of a particular component, as part of the physical check the customs office of export shall take representative samples with a view to having the composition analysed by a competent laboratory.

Article 6

Where the Member States apply a selection system based on risk analysis as referred to in the second subparagraph of Article 3(2) of Regulation (EEC) No 386/90, the following rules shall apply:

- (a) The percentage of physical checks carried out on products not listed in Annex I to the Treaty shall not be taken into account when calculating the overall rate of 5 % for all sectors. In this case, a minimum rate of 0,5 % shall be compulsory for non-Annex I goods.
- (b) As an exception to Article 5(4), where the refund rate depends on the level of a particular component and the same exporter regularly exports a product with the same refund code or CN code, and where laboratory tests during the past six months have revealed no non-conformities having financial consequences greater than EUR 200 on the gross amount of the refund, then representative samples need be taken in only 50 % of physical checks. If laboratory testing detects a non-conformity having financial consequences greater than EUR 200 on the gross amount of the refund, samples must be taken for all physical checks in the following six months.
- (c) For customs offices of export where a range of products from no more than two sectors is presented for export by no more than five exporters, physical checks may be reduced to a minimum rate of 2 % per product sector. Sectors with fewer than 20 export declarations per year per customs office shall not be taken into account when determining the number of sectors. Customs offices may apply these rules for a full calendar year, based on the statistics for the previous calendar year, even where export declarations are made by additional exporters or for additional product sectors during the course of the year.

Article 7

In order to ensure that the goods passing through the customs office of exit from the Community's customs territory or the office to which the T5 control copy is sent, where this is not the customs office of exit, are the same goods that passed through the customs office of export, the means of transport or packaging shall be sealed in accordance with Article 357 of Regulation (EEC) No 2454/93.

Article 8

1. Each customs office of export shall make the necessary arrangements to ensure that compliance with the inspection rate of 5 % can be verified at any time.

These arrangements must show, for each sector:

- (a) the number of export declarations taken into account for the physical checks;
- (b) the number of physical checks carried out.

2. The competent customs officer shall produce a detailed inspection report on each physical check carried out.

Inspection reports shall bear the date and the name of the competent officer. They shall be kept accessible for consultation at the customs office of export or at another office for three years from the year of export.

3. On the control copy T5 accompanying the goods, the following shall be noted in box D:

- (a) 'Regulation (EEC) No 386/90', if the customs office of export has carried out a physical check;
- (b) 'Regulation (EC) No 2298/2001', in the case of food aid exports.

Where the customs office of exit from the Community's customs territory is located in the same Member State as the customs office of export, this information shall appear on the national document accompanying the goods.

Article 9

1. Where refunds are paid in advance in accordance with Articles 26 to 31 of Regulation (EC) No 800/1999, the following physical checks may be taken into account to calculate the minimum rate of checks to be carried out in accordance with Article 3 of Regulation (EEC) No 386/90:

- (a) checks on entry into or during storage as referred to in Article 29 of Regulation (EC) No 800/1999;
- (b) checks on processing as referred to in Article 28 of Regulation (EC) No 800/1999:
 - (i) from the time of acceptance of the payment declaration, where the refund is granted for one or more basic products,
 - (ii) after processing, where the refund is granted for the processed product.

For the purposes of the first paragraph, the following requirements must also be met:

- (a) the physical checks carried out prior to completion of the customs export formalities must meet the same intensity criteria as those to be carried out under Article 5 of this Regulation;
- (b) the products, goods or basic products used to manufacture the goods subjected to previous physical checks must be identical to those covered by the export declaration.

2. Where analyses and other physical checks are carried out prior to the completion of customs export formalities under Community or national rules governing either the customs arrangements concerned or the manufacturing processes which the products and goods have undergone, paragraph 1 shall apply *mutatis mutandis*.

Article 10

1. Where the export declaration has been accepted at a customs office of export which is not the customs office of exit or the office to which the T5 control copy is sent, the customs office of exit from the Community's customs territory shall perform a substitution check in accordance with this Article. If the customs office of exit is not the customs office to which the T5 control copy is sent, the substitution check must be carried out by the latter.

2. If the customs office of export has not sealed the means of transport or the packaging, then substitution checks shall be carried out, wherever possible in the light of a risk analysis, without prejudice to checks carried out under other provisions.

The number of substitution checks carried out each calendar year shall not be less than the number of days on which export refund products leave the Community's customs territory through the customs office of exit concerned.

Where only one exporter is subject to the substitution check, that number may not be less than half the number of days on which export refund products leave the Community's customs territory through the customs office of exit concerned.

3. Where, in addition to a customs seal, a veterinary seal has been applied in compliance with the requirements of the third country of destination, the substitution check is required only if there is a suspicion of fraud.

4. The substitution check shall be carried out by checking, visually, whether the goods tally with the document which has accompanied them from the customs office of export to the customs office of exit.

A sample for testing shall be taken only in cases where the customs office of exit cannot check, visually and using the information on the packaging and in the documentation, whether the goods tally with the accompanying document. In such cases, Article 5(4) shall not apply.

5. Each customs office of exit or office to which the T5 control copy is sent shall apply measures to allow verification at any time of:

- (a) the number of export declarations taken into account for the substitution checks;
- (b) the number of substitution checks carried out.

If the customs office of exit or the office to which the T5 control copy is sent has taken a sample, one of the following shall be noted on the T5 control copy or, where applicable, on the national document to be returned to the competent authorities:

- muestra recogida
- udtaget prøve
- Probe gezogen
- ελήφθη δείγμα
- Sample taken
- échantillon prélevé
- campione prelevato
- monster genomen
- Amostra colhida
- näyte otettu
- varuprov.

A duplicate or a copy of the document shall remain at the customs office of exit or the office to which the T5 control copy is sent, as the case may be.

6. The customs office of exit or the office to which the T5 control copy is sent shall inform the competent authorities referred to in paragraph 5 in writing, using a copy of the original document, of the result of the tests, reporting:

- (a) either one of the following:
 - resultado del análisis conforme
 - analyseresultat i orden
 - konformes Analyseergebnis
 - αποτέλεσμα της ανάλυσης σύμφωνο
 - Results of tests conform
 - résultat d'analyse conforme
 - risultato di analisi conforme
 - analyseresultaat conform
 - Resultado da análise conforme
 - analyysin tulos yhtäpitävä
 - Analysresultatet överensstämmer med exportdeklarationen
- (b) or the results of the tests if there is a discrepancy between the results and the product declared.

7. Where the substitution check reveals that the refund rules have not been complied with, the paying agency shall inform the customs office referred to in paragraph 5, at the latter's request, of the action taken as a result of the findings.

In such cases, the customs office of exit or the office to which the T5 control copy is sent shall indicate one of the following on the T5 control copy or, where applicable, on the national document to be returned to the competent authorities:

— Solicitud de aplicación del apartado 7 del artículo 10 del Reglamento (CE) n° 2090/2002

Oficina de aduana de salida o de destino del T5: ...

— Anmodning om anvendelse af artikel 10, stk. 7, i forordning (EF) nr. 2090/2002

Identifikation af udgangstoldstedet eller bestemmelsestoldstedet for T5: ...

— Antrag auf Anwendung von Artikel 10 Absatz 7 der Verordnung (EG) Nr. 2090/2002

Identifizierung der Ausgangszollstelle oder der Bestimmungsstelle des Kontrollexemplars T5: ...

— Αίτηση εφαρμογής του άρθρου 10 παράγραφος 7 του κανονισμού (ΕΚ) αριθ. 2090/2002

Εξακρίβωση του τελωνείου εξόδου ή του τελωνείου προορισμού του T5: ...

— Request for application of Article 10(7) of Regulation (EC) No 2090/2002

Identity of the customs office of exit or customs office receiving the control copy T5: ...

— Demande d'application de l'article 10, paragraphe 7, du règlement (CE) n° 2090/2002

Identification du bureau de douane de sortie ou de destination du T5: ...

— Domanda di applicazione dell'articolo 10, paragrafo 7, del regolamento (CE) n. 2090/2002

Identificazione dell'ufficio doganale di uscita o di destinazione del T5: ...

— Verzoek om toepassing van artikel 10, lid 7, van Verordening (EG) nr. 2090/2002

Identificatie van het kantoor van uitgang of van bestemming van de T5: ...

— Pedido de aplicação do n.º 7 do artigo 10.º do Regulamento (CE) n.º 2090/2002

Identificação da estância aduaneira de saída ou de destino do T5: ...

— Asetuksen (EY) N:o 2090/2002 10 artiklan 7 kohdan soveltamista koskeva pyyntö

Poistumistullitoimipaikan tai toimipaikan, johon T5-valvontakappale toimitetaan, tunnistustiedot: ...

— Begäran om tillämpning av artikel 10.7 i förordning (EG) nr 2090/2002

Uppgift om utfartstullkontor eller bestämmelseullkontor enligt kontrollexemplaret T5: ...

Article 11

Before 1 May each year, the Member States shall send the Commission a report evaluating the implementation and effectiveness of the checks carried out under this Regulation and the procedures applied to selecting the goods subject to physical checks.

The report to be submitted on 1 May 2003 shall cover export declarations accepted between 1 January and 31 December 2002.

Article 12

1. Regulation (EC) No 2221/95 is hereby repealed with effect from 1 January 2003.

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

Article 13

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

It shall apply from 1 January 2003 for export declarations accepted from that date.

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

Done at Brussels, 26 November 2002.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

METHODS TO BE FOLLOWED FOR PHYSICAL CHECKS

1. (a) Where an exporter uses sealed facilities for automatic loading and calibrated automatic weighing of bulk goods, verification that the goods tally with the export declaration shall consist of measuring the quantity by calibrated automatic weighing and checking the nature and characteristics of the goods by representative sampling.

The customs office of export shall also check by sampling that:

- the weighing and loading systems do not permit goods to be re-routed inside these sealed circuits or any other manipulations,
- the time limits specified for calibrated weighing equipment have not expired and that seals are intact where sealed weighing systems are used,
- the consignments weighed are actually loaded on the means of transport specified,
- the data entered in the weighing records or certificates correspond to the data contained in the loading documents.

- (b) In the rare cases where the quantity of bulk goods is not recorded by a calibrated automatic weighing system, the customs office shall use any other means of checking which is satisfactory from the commercial point of view.

2. (a) Where an exporter has declared goods packaged using automatic systems for bagging, canning, bottling, etc., and calibrated automatic weighing/measuring equipment, or put up in packaging or bottles within the meaning of Council Directives 75/106/EEC ⁽¹⁾, 75/107/EEC ⁽²⁾ and 76/211/EEC ⁽³⁾, the total number of bags, cans, bottles, etc., must in principle be counted and the nature and characteristics of the goods must be checked on the basis of a representative selection made by the customs office of export. The weight or volume shall be determined by calibrated automatic weighing/measuring or by the packaging or bottles, within the meaning of the above Directives. The customs office of export may weigh or measure one bag, can or bottle.

If the equipment has a calibrated automatic counter, the records of the automatic counter may be taken into account for the physical check on quantity.

The second subparagraph of point 1(a) shall apply *mutatis mutandis*.

Where an exporter uses pallets loaded with cartons, cans, etc., the customs office of export shall select representative pallets and check whether the number of cartons, cans, etc. declared is really present. It shall select from these pallets a number of representative cartons, cans, etc., and check whether the number of bottles, units, etc., is present.

- (b) Where the exporter does not use facilities as referred to in the first and second subparagraphs, the customs office of export must count the number of bags, cans, etc. The nature, characteristics and weight/volume shall be checked on the basis of a representative selection. The preceding subparagraph shall apply *mutatis mutandis*.

Notwithstanding the second sentence of the preceding paragraph, where the contents and exact weight are indicated on the immediate packaging of the goods, that information need be verified only in 50 % of physical checks if the goods are packed in containers or packs intended for wholesale, and the goods are exported regularly by the same exporter and no non-conformities having financial consequences greater than EUR 200 have been found during the previous six months.

3. (a) In the case of goods not listed in Annex I to the Treaty which are packaged for retail sale or subject to appropriate marking with details of content and weight on the immediate packaging and which either meet the requirements of the third subparagraph of Article 3(2) of Commission Regulation (EC) No 1520/2000, or for which the quantities of product used are those set out in Annex C to that Regulation, the customs office of export may begin by checking the weight and content of the non-Annex I goods put up in immediate packaging against the details on the immediate packaging. It may weigh a unit without packaging. It shall then count and/or weigh — in principle — the total quantity of non-Annex I goods in immediate packaging.

Points 2(a) and (b) shall apply *mutatis mutandis*.

The customs office may take a sample to verify that no substitution has taken place. Article 5(4) of this Regulation shall not apply.

The composition of the non-Annex I goods may be assumed by the customs office of export to be correct if the description and the content indicated on the immediate packaging are consistent with the details given in the export declaration or the registered manufacturing formula.

⁽¹⁾ OJ L 42, 15.2.1975, p. 1.

⁽²⁾ OJ L 42, 15.2.1975, p. 14.

⁽³⁾ OJ L 46, 21.2.1976, p. 1.

If the manufacturing formula has not yet been checked by the competent authorities, the customs office of export shall have the auditor of the competent authorities verify the formula and the identity of the goods afterwards.

For the purposes of this method for verifying the composition of goods not listed in Annex I to the Treaty, Member States shall introduce in advance a procedure whereby:

- the composition of non-Annex I goods can be checked through the accounts and specific documents relating to production,
 - it is verified, through the undertaking's production documents, that the non-Annex I goods produced are the same as those covered by the export declaration and the manufacturing formula and the goods to be exported, and
 - the auditor of the competent authority can verify ex-post that the goods exported tally with the export declaration concerned, the manufacturing formula and the goods produced.
- (b) The specific documents relating to the manufacture of non-Annex I goods must be kept by the undertakings concerned for three years from the year of export.
- (c) In cases where the procedure provided for in point 3(a) is not applied, the customs office of export must take representative samples, without prejudice to Article 16(1) of Regulation (EC) No 1520/2000.

ANNEX II

CORRELATION TABLE

This Regulation	Regulation (EC) No 2221/95
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
Article 6	Article 5a
Article 7	Article 6
Article 8	Article 7
Article 9	Article 8
Article 10	Article 9
Article 11	Article 9a
Article 12	Article 10
Article 13	Article 11

COMMISSION REGULATION (EC) No 2091/2002
of 26 November 2002
amending Regulation (EC) No 2870/2000 laying down Community reference methods for the
analysis of spirits drinks

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks ⁽¹⁾, as amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 4(8) thereof,

Whereas:

- (1) Commission Regulation (EC) No 2870/2000 of 19 December 2000 laying down Community reference methods for the analysis of spirits drinks ⁽²⁾ describes these methods in an Annex.
- (2) Four methods of analysis for the determination of trans-anethole in aniseed-flavoured spirit drinks, glycyrrhizic acid and chalcones in pastis and egg yolk in egg liqueur and liqueur with egg have been validated according to internationally recognised procedures as part of a research project supported by the Commission.
- (3) These four methods may be recognised as Community reference methods and must be added to the Annex to Regulation (EC) No 2870/2000.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Implementation Committee for Spirit Drinks,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 2870/2000 is hereby amended as follows:

1. In the summary of the Annex, the term '(p.m.)' under points V, VI, VII and IX shall be deleted.
2. Chapters V, VI, VII and IX in the Annex to this Regulation shall be added after Chapter III.

Article 2

This Regulation shall enter into force on the seventh 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, 26 November 2002.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 160, 12.6.1989, p. 1.

⁽²⁾ OJ L 333, 29.12.2000, p. 20.

ANNEX

V. ANETHOLE. GAS CHROMATOGRAPHIC DETERMINATION OF TRANS-ANETHOLE IN SPIRIT DRINKS

1. **Scope**

This method is suitable for the determination of trans-anethole in aniseed-flavoured spirit drinks using capillary gas chromatography.

2. **Normative references**

ISO 3696: 1987 Water for analytical laboratory use — Specifications and test methods.

3. **Principle**

The trans-anethole concentration of the spirit is determined by gas chromatography (GC). The same quantity of an internal standard, e.g. 4-allylanisole (estragole) when estragole is not naturally present in the sample, is added to the test sample and to a trans-anethole reference solution of known concentration, both of which are then diluted with a 45 % ethanol solution and injected directly into the GC system. An extraction is necessary before sample preparation and analysis for liqueurs that contain large amounts of sugars.

4. **Reagents and materials**

During the analysis, use only reagents of a purity of at least 98 %. Water of at least grade 3 as defined by ISO 3696 should be used.

Reference chemicals should be stored cold (at 4 °C), away from light, in aluminium containers or in tinted (amber) glass reagent bottles. The stoppers should preferably be fitted with an aluminium seal. Trans-anethole will need to be 'thawed' from its crystalline state before use, but in this case its temperature should never exceed 35 °C.

- 4.1. Ethanol 96 % vol. (CAS 64-17-5)
- 4.2. 1-methoxy-4-(1-propenyl) benzene; (trans-anethole) (CAS 4180-23-8)
- 4.3. 4-allylanisole, (estragole) (CAS 140-67-0), suggested internal standard (IS)
- 4.4. Ethanol 45 % vol.

Add 560 g of distilled water to 378 g of ethanol 96 % vol.

4.5. **Preparation of standard solutions**

All standard solutions should be stored at room temperature (15 to 35 °C) away from light in aluminium containers or in tinted (amber) glass reagent bottles. The stopper should preferably be fitted with an aluminium seal.

Trans-anethole and 4-allylanisole are practically insoluble in water, and it is therefore necessary to dissolve the trans-anethole and 4-allylanisole in some 96 % ethanol (4.1) before the addition of 45 % ethanol (4.4).

The stock solutions must be freshly prepared each week.

4.5.1. **Standard solution A**

Stock solution of trans-anethole (concentration: 2 g/l)

Weigh 40 mg of trans-anethole (4.2) in a 20 ml volumetric flask (or 400 mg in 200 ml, etc.). Add some 96 % ethanol (4.1) and make up to volume with 45 % vol. ethanol (4.4), mix thoroughly.

4.5.2. **Internal standard solution B**

Stock solution of internal standard, e.g. estragole (concentration: 2 g/l)

Weigh 40 mg of estragole (4.3) in a 20 ml volumetric flask (400 mg in 200 ml etc.). Add some 96 % vol. ethanol (4.1) make up to volume with 45 % vol. ethanol (4.4), mix thoroughly.

4.5.3. Solutions used to check the linearity response of the flame ionisation detector (FID)

The linearity response of the FID must be checked for the analysis taking into account a range of concentrations of trans-anethole in spirits from 0 g/l up to 2.5 g/l. In the procedure of analysis, the unknown samples of spirits to be analysed are diluted 10 times (8.3). For the conditions of the analysis described in the method, stock solutions corresponding to concentrations of 0, 0,05, 0,1, 0,15, 0,2, and 0,25 g/l of trans-anethole in the sample to be analysed are prepared as follows: take 0,5, 1, 1,5, 2, and 2,5 ml of stock solution A (4.5.1) and pipette in separate 20 ml volumetric flasks; pipette into each flask 2 ml of internal standard solution B (4.5.2) and make up to volume with 45 % vol. ethanol (4.4), mix thoroughly.

The blank solutions (8.4) is used as the 0 g/l solution.

4.5.4. Standard solution C

Take 2 ml of standard solution A (4.5.1) and pipette into a 20 ml volumetric flask, then add 2 ml of internal standard solution B (4.5.2) and make up to volume with 45 % vol. ethanol (4.4), mix thoroughly.

5. **Apparatus and equipment**

5.1. A capillary gas chromatograph fitted with a flame ionisation detector (FID) and integrator or other data handling system capable of measuring peak heights or areas, and with an automatic sampler or the necessary equipment for manual sample injection.

5.2. Split/splitless injector

5.3. Capillary column, for example:

Length: 50 m

Internal diameter: 0,32 mm

Film thickness: 0,2 µm

Stationary phase: FFAP — modified TPA polyethylene glycol cross-linked porous polymer.

5.4. Common laboratory equipment: A grade volumetric glassware, analytical balance (precision: ± 0,1 mg).

6. **Chromatography conditions**

The column type and dimensions, and the GC conditions, should be such that anethole and the internal standard are separated from each other and from any interfering substances. Typical conditions for the column given as an example in 5.3 are:

6.1. Carrier gas: analytical helium

6.2. Flow rate: 2 ml/min

6.3. Injector temperature: 250 °C

6.4. Detector temperature: 250 °C

6.5. Oven temperature conditions: isothermal, 180 °C, run time 10 minutes

6.6. Injection volume: 1 µl, split 1:40.

7. **Samples**

Samples should be stored at room temperature, away from light and cold.

8. **Procedure**

8.1. Sample screening for estragole

To ensure that there is no estragole naturally present in the sample, a blank analysis should be carried out without the addition of any internal standard. If estragole is naturally present then another internal standard must be chosen (for instance menthol).

Pipette 2 ml sample into a 20 ml volumetric flask and make up to volume with 45 % vol. ethanol (4.4), mix thoroughly.

8.2. Preparation of unknown samples

Pipette 2 ml sample into a 20 ml volumetric flask then add 2 ml of internal standard solution B (4.5.2) and make up to volume with 45 % vol. ethanol (4.4), mix thoroughly.

8.3. Blank

Pipette 2 ml of internal standard solution B (4.5.2) into a 20 ml volumetric flask and make up to volume with 45 % vol. ethanol (4.4), mix thoroughly.

8.4. Linearity test

Prior to the commencement of the analysis the linearity of the response of the FID should be checked by successively analysing in triplicate each of the linearity standard solutions (4.5.3).

From the integrator peak areas or peak heights for each injection plot a graph of their mother solution concentration in g/l versus the ratio R for each.

$R = \text{trans-anethole peak height or area divided by the estragole peak height or area.}$

A linear plot should be obtained.

8.5. Determination

Inject the blank solution (8.3), followed by standard solution C (4.5.4), followed by one of the linearity standards (4.5.3) which will act as a quality control sample (this may be chosen with reference to the probable concentration of trans-anethole in the unknown), followed by five unknowns (8.2); insert a linearity (quality control) sample after every five unknown samples, to ensure analytical stability.

9. Calculation of response factor

Measure either peak areas (using an integrator or other data system) or peak heights (manual integration) for trans-anethole and internal standard peaks.

9.1. Response factor (RF_i) calculation

The response factor is calculated as follows

$$RF_i = (C_i / \text{area or height}_i) * (\text{area or height}_{is} / C_{is})$$

where:

C_i is the concentration of trans-anethole in the standard solution A (4.5.1)

C_{is} is the concentration of internal standard in the standard solution B (4.5.2)

area_i is the area (or height) of the trans-anethole peak

area_{is} the area (or height) of the internal standard peak

RF_i is calculated from the five samples of solution C (4.5.4).

9.2. Analysis of the linearity response test solutions

Inject the linearity response test solutions (4.5.3).

9.3. Analysis of the sample

Inject the unknown sample solution (8.2).

10. Calculation of results

The formula for the calculation of the concentration of trans-anethole is the following:

$$c_i = C_{is} * (\text{area or height}_i / \text{area or height}_{is}) * RF_i$$

where:

c_i is the unknown trans-anethole concentration

C_{is} is the concentration of internal standard in the unknown (4.5.2)

Area or height_i is the area or height of the trans-anethole peak

Area or height_{is} the area or height of the internal standard peak

RF_i is the response coefficient (calculated as in 9.1)

The trans-anethole concentration is expressed as grams per litre, to one decimal place.

11. Quality assurance and control

The chromatograms should be such that anethole and the internal standard are separated from each other and from any interfering substances. The RF_i value is calculated from the results for the five injections of solution C (4.5.4). If the coefficient of variation ($CV \% = (\text{standard deviation}/\text{mean}) \times 100$) is within plus or minus 1 %, the RF_i average value is acceptable.

The calculation above should be used to calculate the concentration of trans-anethole in the sample selected for the quality control from the linearity control solutions (4.5.3).

If the mean calculated results from analysis of the linearity solution selected for internal quality control sample (IQC) are within plus or minus 2,5 % of their theoretical value, then the results for the unknown samples can be accepted.

12. Treatment of spirits sample containing large amount of sugar and of liqueur sample prior to GC analysis

Extraction of alcohol from spirit drink containing a large amount of sugar, in order to be able to determine the trans-anethole concentration using capillary gas chromatography.

12.1. Principle

An aliquot of the liqueur sample is taken and to this is added the internal standard, at a concentration similar to that of the analyte (trans-anethole) in the liqueur. To this are added sodium phosphate dodecahydrate and anhydrous ammonium sulphate. The resulting mixture is well shaken and chilled, two layers develop, and the upper alcohol layer is removed. An aliquot of this alcohol layer is taken and diluted with 45 % ethanol solution (4.4) (Note: no internal standard is added at this stage, because it has already been added). The resulting solution is analysed in gas chromatography.

12.2. Reagents and materials

During the extraction use only reagents of a purity greater than 99 %.

12.2.1. Ammonium sulphate, anhydrous, (CAS 7783-20-2).**12.2.2. Sodium phosphate, dibasic, dodecahydrate, (CAS 10039-32-4).****12.3. Apparatus and equipment**

Conical flasks, separating flasks, refrigerator.

12.4. Procedure**12.4.1. Sample screening for estragole**

To ensure that there is no estragole naturally present in the sample, a blank extraction (12.6.2) and analysis should be carried out without the addition of any internal standard. If estragole is naturally present then another internal standard must be chosen.

12.4.2. Extraction

Pipette 5 ml of 96 % ethanol (4.1) into a conical flask, weigh into this flask 50 mg of internal standard (4.3), and add 50 ml of the sample. Add 12 g of ammonium sulphate, anhydrous (12.2.1), and 8.6 g of dibasic sodium phosphate, dodecahydrate (12.2.2). Stopper the conical flask.

Shake the flask for at least 30 minutes. A mechanical shaking device may be used, but not a Teflon coated magnetic stirring bar, as the Teflon will absorb some of the analyte. Note that the added salts will not dissolve completely.

Place the stoppered flask in a refrigerator ($T < 5^\circ\text{C}$) for at least two hours.

After this time, there should be two distinct liquid layers and a solid residue. The alcohol layer should be clear; if not, replace in the refrigerator until a clear separation is achieved.

When the alcohol layer is clear, carefully take an aliquot (e.g. 10 ml), without disturbing the aqueous layer, place in an amber vial and close securely.

12.4.3. Preparation of the extracted sample to be analysed

Allow extract (12.4.2) to reach room temperature.

Take 2 ml of the alcohol layer of the attemperated extracted sample and pipette into a 20 ml volumetric flask, make up to volume with 45 % ethanol (4.4), mix thoroughly.

12.5. Determination

Follow the procedure as outlined in 8.5.

12.6. Calculation of results

Use the following formula to calculate the results:

$$C_i = (m_{is}/V) * (area_i/area_{is}) * RF_i$$

where:

m_{is} is the weight of internal standard (4.3) taken (12.4.2) (in milligrams)

V is the volume of unknown sample (50 ml)

RF_i is the response factor (9.1)

$area_i$ is the area of the trans-anethole peak

$area_{is}$ is the area of the internal standard peak

The results are expressed in grams per litre, to one decimal place.

12.7. Quality control and assurance

Follow the procedure as outlined in 11 above.

13. Method performance characteristics (precision)

Statistical results of the interlaboratory test:

the following tables give the values for anethole.

The following data were obtained from an international method performance study carried out to internationally agreed procedures.

Year of interlaboratory test 1998

Number of laboratories 16

Number of samples 10

Analyte anethole

Pastis:

Samples	A	B	C	D	E	F
Number of laboratories retained after eliminating outliers	15	15	15	13	16	16
Number of outliers (laboratories)	1	1	1	3	—	—
Number of accepted results	30	30	30	26	16	16
Mean value g/l	1,477	1,955	1,940	1,833	1,741	1,754
Repeatability standard deviation (S_r) g/l	0,022	0,033	0,034	0,017	—	—
Repeatability relative standard deviation (RSD_r) (%)	1,5	1,7	1,8	0,9	—	—
Repeatability limit (r) g/l	0,062	0,093	0,096	0,047	—	—
Reproducibility standard deviation (S_R) g/l	0,034	0,045	0,063	0,037	0,058	0,042
Reproducibility relative standard deviation (RSD_R) (%)	2,3	2,3	3,2	2,0	3,3	2,4
Reproducibility limit (R) g/l	0,094	0,125	0,176	0,103	0,163	0,119

Sample types:

A pastis, blind duplicates

B pastis, blind duplicates

C pastis, blind duplicates

- D pastis, blind duplicates
 E pastis, single duplicates
 F pastis, single duplicates

Other aniseed-flavoured spirit drinks:

Samples	G	H	I	J
Number of laboratories retained after eliminating outliers	16	14	14	14
Number of outliers (Laboratories)	—	2	1	1
Number of accepted results	32	28	28	28
Mean value g/l	0,778 0,530 (*)	1,742	0,351	0,599
Repeatability standard deviation (S_r) g/l	0,020	0,012	0,013	0,014
Repeatability relative standard deviation (RSD_r) (%)	3,1	0,7	3,8	2,3
Repeatability limit (r) g/l	0,056	0,033	0,038	0,038
Reproducibility standard deviation (S_R) g/l	0,031	0,029	0,021	0,030
Repeatability relative standard deviation (RSD_R) (%)	4,8	1,6	5,9	5,0
Reproducibility limit (R) g/l	0,088	0,080	0,058	0,084

Sample types:

- G ouzo, split levels (*)
 H anis, blind duplicates
 I aniseed-flavoured liqueur, duplicates
 J aniseed-flavoured liqueur, duplicates.

VI. GLYCYRRHIZIC ACID. DETERMINATION OF GLYCYRRHIZIC ACID USING HIGH PERFORMANCE LIQUID CHROMATOGRAPHY

1. Scope

This method is suitable for the determination of glycyrrhizic acid in aniseed-flavoured spirit drinks using high performance liquid chromatography (HPLC). Regulation (EEC) No 1576/89 specifies that any aniseed-flavoured spirit called 'pastis' must contain between 0,05 and 0,5 g of glycyrrhizic acid per litre.

2. Normative references

ISO 3696: 1987 Water for analytical laboratory use — Specifications and test methods.

3. Principle

The glycyrrhizic acid concentration is determined using high-performance liquid chromatography (HPLC) with UV detection. A standard solution and the test sample are filtered and they are separately injected directly into the HPLC system.

4. Reagents and materials

During the analysis, use only reagents of HPLC grade, absolute ethanol and water of grade 3 as defined by ISO 3696.

- 4.1. Ethanol 96 % vol. (CAS 64-17-5).
- 4.2. Ammonium glycyrrhizinate, $C_{42}H_{62}O_{16} \cdot NH_3$ (Glycyrrhizic acid ammonium salt)
(Mol. Wt.: 839,98)(CAS 53956-04-0): purity at least 90 %
(Mol. Wt.: glycyrrhizic acid 822,94).
- 4.3. Glacial acetic acid, CH_3COOH , (CAS 64-19-7).
- 4.4. Methanol, CH_3OH (CAS 67-56-1).
- 4.5. Ethanol 50 % vol.
For 1 000 ml at 20 °C:
— 96 % vol. ethanol (4.1): 521 ml
— Water (2.0): 511 ml.
- 4.6. Preparation of the HPLC elution solutions
- 4.6.1. Elution solvent A (example)
80 parts (by volume) of water (2.0)
20 parts (by volume) of acetic acid (4.3).
Degas the elution solvent for five minutes.
Note: If the water being used has not been microfiltered, it is advisable to filter the prepared elution solvent on a filter for organic solvents with a pore size less than or equal to 0,45 µm.
- 4.6.2. Elution solvent B
Methanol (4.4).
- 4.7. Preparation of standard solutions
All standard solutions must be freshly prepared after two months.
- 4.7.1. Reference solution C
Weigh to the nearest 0,1 mg, 25 mg of ammonium glycyrrhizinate (4.2) in a 100 ml volumetric flask. Add some 50 % vol. ethanol (4.5) and dissolve the ammonium glycyrrhizinate. When it has dissolved make up to the mark with 50 % vol. ethanol (4.5).
Filter through a filter for organic solvents.
- 4.7.2. Standard solutions used to check the linearity of the response of the instrumentation
A 1,0 g/l stock solution is prepared by weighing, to the nearest 0,1 mg, 100 mg of ammonium glycyrrhizinate in a 100 ml volumetric flask. Add some 50 % vol. ethanol (4.5) and dissolve the ammonium glycyrrhizinate. When it has dissolved make up to the mark with 50 % vol. ethanol (4.5).
At least four other solutions corresponding to 0,05, 0,1, 0,25 and 0,5 g/l of ammonium glycyrrhizinate are prepared by pipetting respectively 5 ml, 10 ml, 25 ml and 50 ml of the 1,0 g/l stock solution in separate 100 ml volumetric flasks. Then make up to the mark with 50 % vol. ethanol (4.5) and mix up thoroughly.
Filter all solutions through a filter for organic solvents.
5. **Apparatus and equipment**
- 5.1. Separation system
- 5.1.1. High-performance liquid chromatograph.
- 5.1.2. Pumping system enabling one to achieve and maintain a constant or programmed rate of flow with great precision.
- 5.1.3. UV spectrophotometric detection system: to be set at 254 nm.
- 5.1.4. Solvent degassing system.
- 5.2. Computational integrator or recorder, the performance of which is compatible with the rest of the system.

- 5.3. Column (example):
 Material: stainless steel or glass
 Internal diameter: 4 to 5 mm
 Length: 100 to 250 mm
 Stationary phase: cross-linked silica with a (preferably spherical) octadecyl functional group (C18), maximum particle size: 5 µm.
- 5.4. Laboratory equipment
- 5.4.1. Analytical balance with a precision of 0,1 mg
- 5.4.2. A-grade volumetric glassware
- 5.4.3. Micromembrane filtration arrangement for small volumes.

6. Chromatography conditions

- 6.1. Elution characteristics: (example)
 — flow rate: 1 ml/minute,
 — solvent A = 30 %,
 — solvent B = 70 %.
- 6.2. Detection:
 — UV = 254 nm

7. Procedure

- 7.1. Preparation of the spirit sample
 Filter, if necessary, through a filter for organic solvents (pore diameter: 0,45 µm).
- 7.2. Determination
 Once the chromatography conditions have stabilised,
 — inject 20 µl of the reference solution C (4.7.1),
 — inject 20 µl of the sample solution,
 — compare the two chromatograms. Identify the glycyrrhizic acid peaks from their retention times. Measure their areas (or heights) and calculate the concentration in g/l to two decimal figures using the following equation:

$$c = c \times \frac{h \times P \times 823}{H \times 100 \times 840}$$

where:

- c is the concentration in grams per litre of glycyrrhizic acid in the spirit being analysed
 C is the concentration in grams per litre of ammonium glycyrrhizinate in the reference solution
 h is the area (or height) of the glycyrrhizic acid peak of the spirit being analysed
 H is the area (or height) of the glycyrrhizic acid peak of the reference solution
 P is the purity of the reference ammonium glycyrrhizinate (in %)
 823 is the mass of one mole of glycyrrhizic acid
 840 is the mass of one mole of ammonium glycyrrhizinate.

8. Method performance characteristics (precision)

Statistical results of the interlaboratory test:
 the following table give the values for glycyrrhizic acid.

The following data were obtained from an international method performance study carried out to internationally agreed procedures.

Year of interlaboratory test 1998
 Number of laboratories 16
 Number of samples 5
 Analyte glycyrrhizic acid

Samples	A	B	C	D	F
Number of laboratories retained after eliminating outliers	13	14	15	16	16
Number of outliers (laboratories)	3	2	1	—	—
Number of accepted results	26	28	30	32	32
Mean value g/l	0,046	0,092 (*) 0,099	0,089	0,249	0,493
Repeatability standard deviation (S_r) g/l	0,001	0,001	0,001	0,002	0,003
Repeatability relative standard deviation (RSD_r) (%)	1,5	1,3	0,7	1,0	0,6
Repeatability limit (r) g/l	0,002	0,004	0,002	0,007	0,009
Reproducibility standard deviation (S_R) g/l	0,004	0,007	0,004	0,006	0,013
Reproducibility relative standard deviation (RSD_R) (%)	8,6	7,2	4,0	2,5	2,7
Reproducibility limit (R) g/l	0,011	0,019	0,010	0,018	0,037

Sample types:

- A pastis, blind duplicates
- B pastis, split levels (*)
- C pastis, blind duplicates
- D pastis, blind duplicates
- E pastis, blind duplicates

VII. CHALCONES. HIGH-PERFORMANCE LIQUID CHROMATOGRAPHY METHOD FOR VERIFYING THE PRESENCE OF CHALCONES IN PASTIS

1. Scope

This method is suitable for determining whether chalcones are present in aniseed-flavoured drinks or not. Chalcones are natural colorants of the flavonoid family that are present in liquorice root (*Glycyrrhiza glabra*).

For an aniseed-flavoured spirit to be called 'pastis', it must contain chalcones (Regulation (EEC) No 1576/89).

2. Normative references

ISO 3696: 1987, Water for analytical laboratory use — Specifications and test methods.

3. Principle

A reference liquorice extract solution is prepared. The presence or absence of chalcones is determined using high-performance liquid chromatography (HPLC) with UV detection.

4. Reagents and materials

During the analysis, use only reagents of HPLC grade. The ethanol should be 96 % vol. Only water of grade 3 as defined by ISO 3696 should be used.

- 4.1. Ethanol 96 % vol. (CAS 64-17-5)
- 4.2. Acetonitrile, CH_3CN , (CAS 75-05-8)

- 4.3. Reference substance: *Glycyrrhiza glabra*: liquorice, 'sweet root'
- Coarsely ground liquorice roots (*Glycyrrhiza glabra*). Average dimensions of the rodlike particles: length: 10 to 15 mm, thickness: 1 to 3 mm.
- 4.4. Sodium acetate, CH_3COONa , (CAS 127-09-3)
- 4.5. Glacial acetic acid, CH_3COOH , (CAS 64-19-7)
- 4.6. Preparation of solutions
- 4.6.1. Ethanol 50 % volume
- For 1 000 ml at 20 °C:
- 96 % vol. ethanol (4.1): 521 ml,
 - Water (2.0): 511 ml.
- 4.6.2. Solvent A: acetonitrile
- Acetonitrile (4.2) of HPLC analytical purity.
- Degas
- 4.6.3. Solvent B: 0,1 M sodium acetate buffer solution, pH 4,66.
- Weigh 8,203 g of sodium acetate (4.4), add 6,005 g of glacial acetic acid (4.5) and make up to 1 000 ml with water (2) in a volumetric flask.

5. **Preparation of the reference extract from *Glycyrrhiza glabra* (4.3)**

- 5.1. Weigh 10 g of ground liquorice root (*Glycyrrhiza glabra*) (4.3) and place in a round-bottomed distillation flask
- add 100 ml of 50 % vol. ethanol (4.6.1),
 - boil under reflux for one hour,
 - filter,
 - set the filtrate aside for later use.
- 5.2. Recover the liquorice extract from the filter
- place in a round-bottomed distillation flask,
 - add 100 ml of 50 % vol. ethanol (4.6.1),
 - boil under reflux for one hour,
 - filter. Set aside the filtrate for later use.
- 5.3. The liquorice root extraction must be performed three times in succession.
- 5.4. Combine the three filtrates.
- 5.5. Evaporate the solvent phase (of 5.4) on a rotary evaporator.
- 5.6. Take up the residual extract (of 5.5) with 100 ml 50 % vol. ethanol (4.6.1).

6. **Apparatus and equipment**

- 6.1. Separation system.
- 6.1.1. High-performance liquid chromatograph.
- 6.1.2. Pumping system capable of achieving and maintaining a constant or programmed rate of flow at high pressure.
- 6.1.3. UV/visible spectrophotometric detection system that can be set at 254 and 370 nm.
- 6.1.4. Solvent degassing system:
- 6.1.5. Column oven that can be set at a temperature of $40 \pm 0,1$ °C.
- 6.2. Computational integrator or recorder, the performance of which is compatible with the rest of the separation system.

6.3. Column

Material: stainless steel or glass

Internal diameter: 4 to 5 mm

Stationary phase: cross-linked silica with an octadecyl derived functional group (C18), particle size: 5 µm at most (cross-linked phase).

6.4. Common laboratory equipment, including:

6.4.1. analytical balance. (precision: ± 0,1 mg);

6.4.2. distillation apparatus with a reflux condenser, comprising, for example:

— a 250 ml round-bottomed flask with a standardised ground-glass joint,

— a 30 cm long reflux condenser, and

— a heat source (any pyrogenic reaction involving the extractive matter must be avoided by using an appropriate arrangement).

6.4.3. Rotary evaporation apparatus.

6.4.4. Filtration set-up (i.e. Buchner funnel).

6.5. Chromatography conditions (example).

6.5.1. Elution characteristics of solvents A (4.6.2) and B (4.6.3):

— shift from 20/80 (v/v) to 50/50 (v/v) gradient in 15 minutes,

— shift from 50/50 (v/v) to 75/25 (v/v) gradient in five minutes,

— equal strength at 75/25 (v/v) for five minutes,

— stabilisation of the column between injections,

— equal strength at 20/80 (v/v) for five minutes.

6.5.2. Flow rate: 1 ml/minute.

6.5.3. UV detector settings:

the detector must be set at 370 nm to detect the presence of chalcones and then at 254 nm to detect glycyrrhizic acid.

Note: the change of wavelength (from 370 nm to 254 nm) must be carried out 30 seconds before the beginning of the peak of elution of glycyrrhizic acid.

7. **Procedure**

7.1. Preparation of the spirit sample

Filter through a filter for organic solvents (pore diameter: 0,45 µm).

7.2. Preparation of the residual liquorice extract (5.6)

Make a one in ten dilution with 50 % vol. ethanol (4.6.1) before analysis.

7.3. Determination

7.3.1. Inject 20 µl of the prepared liquorice extract (7.2). Perform the analysis using the chromatography conditions described above (6.5).

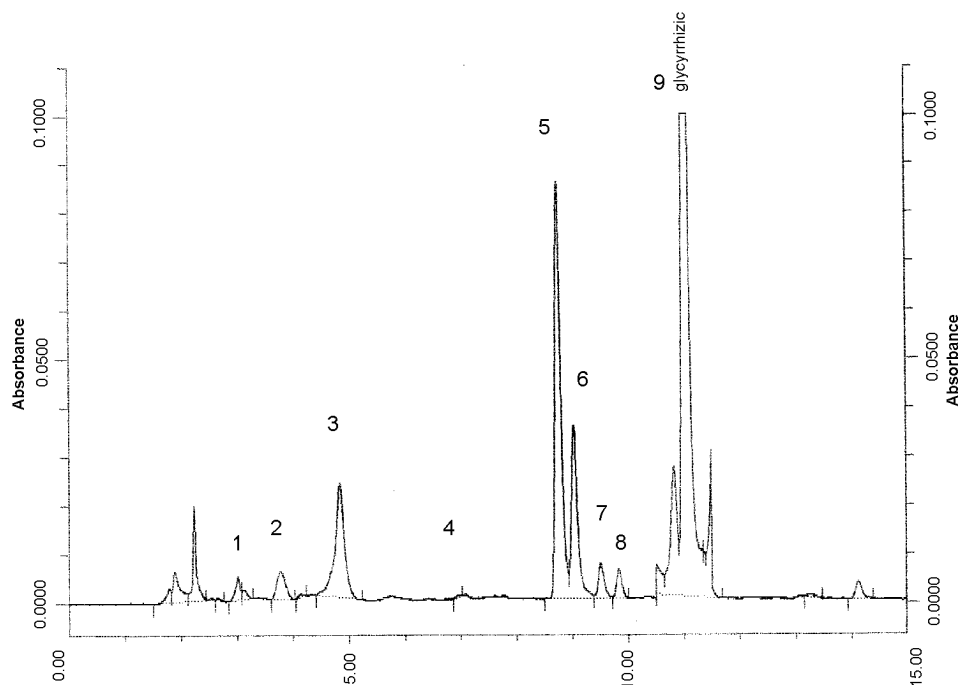
7.3.2. Inject 20 µl of the sample (7.1) (aniseed-flavoured spirit sample). Perform the analysis using the chromatography conditions described above (6.5).

7.3.3. Compare the two chromatograms. There must be a great similarity between the two chromatograms in the chalcone exit zone (during the detection at 370 nm under the analysis conditions described above) (see Figure 1).

8. Characteristic chromatogram for a pastis

Figure 1

Chromatogram obtained by the method described above, showing the presence of chalcones in a 'pastis'. Peaks 1 to 8 are chalcones and peak 9 is glycyrrhizic acid.



9. Method performance characteristics (precision)

Results of the interlaboratory test:

the following table gives the performance for recognition of presence or absence of chalcones in pastis and aniseed-flavoured spirits.

The following data were obtained from an international method performance study carried out to internationally agreed procedures.

Year of interlaboratory test	1998
Number of laboratories	14
Number of samples	11
Analyte	chalcones

Samples	A	B	C	D	E	F
Number of laboratories retained after eliminating outliers	14	14	14	14	14	13
Number of outliers (laboratories)	—	—	—	—	—	1 (*)
Number of accepted results	28	14	14	28	28	26
Number of results for presence of chalcones	28	14	14	0	28	0
Number of results for absence of chalcones	0	0	0	28	0	26
Percentage of correct results (%)	100	100	100	100	100	100

(*) Inconsistent results between the two duplicates, attributed to a sampling error

Samples	G	H	I	J	K
Number of laboratories retained after eliminating outliers	14	14	14	14	14
Number of outliers (laboratories)	—	—	—	—	—
Number of accepted results	28	14	14	28	28
Number of results for presence of chalcones	0	0	0	0	0
Number of results for absence of chalcone	28	14	14	28	28
Percentage of correct results (%)	100	100	100	100	100

Sample types:

- A pastis, blind duplicates
- B pastis, single sample
- C pastis, single sample
- D 'pastis' (not containing chalcones), blind duplicates
- E 'pastis' (not containing chalcones), blind duplicates
- F aniseed-flavoured liqueur (not containing chalcones), blind duplicates
- G aniseed-flavoured liqueur (not containing chalcones), blind duplicates
- H ouzo (not containing chalcones), single sample
- I ouzo (not containing chalcones), single sample
- J anis (not containing chalcones), blind duplicates
- K 'pastis' (not containing chalcones), blind duplicates.

IX. EGG YOLK. DETERMINATION OF EGG YOLK CONCENTRATION IN SPIRIT DRINKS — PHOTOMETRIC METHOD

1. Scope

This method is suitable for the determination of egg yolk concentration in the range of 40 to 250 g/l in egg liqueur and liqueur with egg.

2. Normative references

ISO 3696:1897 Water for analytical laboratory use — Specifications and test methods.

3. Principle

The ethanol-soluble phosphorus compounds found in egg yolk are extracted and assayed photometrically as a phosphorus molybdate complex.

4. Reagents and materials

- 4.1. Double-distilled water
- 4.2. Diatomaceous earth
- 4.3. Ethanol 96 % vol. (CAS 64-17-5)
- 4.4. 15 % magnesium acetate (CAS 16674-78-5) solution
- 4.5. 10 % sulphuric acid (CAS 7664-93-9)

- 4.6. 1 N sulphuric acid.
- 4.7. 0,16 g/l potassium dihydrogen phosphate (CAS 778-77-0), KH_2PO_4 solution
- 4.8. Reagent for phosphate determination:
dissolve 20 g of ammonium molybdate (CAS 12054-85-2), $(\text{NH}_4)_6\text{Mo}_7\text{O}_{24} \cdot 4\text{H}_2\text{O}$ in 400 ml water at 50 °C;
dissolve, in another vessel, 1 g of ammonium vanadate (CAS 7803-55-6), NH_4VO_3 , in 300 ml hot water, allow to cool, then add 140 ml of concentrated nitric acid (CAS 7697-37-2). Combine the cooled solutions in a 1 000 ml volumetric flask and make up to the 1 000 ml mark.

5. **Apparatus and equipment**

- 5.1. 100 ml conical flask
- 5.2. Ultrasonic bath (or magnetic stirrer)
- 5.3. 100 ml volumetric flask
- 5.4. 20 °C water bath
- 5.5. Filter (Whatman No 4 or equivalent)
- 5.6. Porcelain (or platinum) crucible
- 5.7. Boiling water bath
- 5.8. Hot plate
- 5.9. Muffle furnace
- 5.10. 50 ml volumetric flask
- 5.11. 20 ml volumetric flask
- 5.12. Spectrophotometer set at 420 nm
- 5.13. 1 cm cuvette.

6. **Samples**

Samples are stored at room temperature prior to analysis.

7. **Procedure**

- 7.1. Sample preparation
- 7.1.1. Weigh 10 g of the sample into a 100 ml conical flask (5.1).
- 7.1.2. Add gradually 70 ml of ethanol (4.3) in small portions, swirling with each addition, and place in an ultrasonic bath (5.2) for 15 minutes (or stir the mixture with a magnetic stirrer (5.2) for 10 minutes at room temperature).
- 7.1.3. Transfer the contents of the flask to a 100 ml volumetric flask (5.3) with washings of ethanol (4.3). Adjust to the calibration mark with ethanol (4.3) and place the flasks in a 20 °C water bath (5.4). Adjust to the calibration mark at 20 °C.
- 7.1.4. Add a small amount of diatomaceous earth (4.2) and filter (5.5), discarding the first 20 ml.
- 7.1.5. Transfer 25 ml of the filtrate to a porcelain (or platinum) crucible (5.6). The filtrate must then be concentrated by gentle evaporation in a boiling water bath (5.7), with the addition of 5 ml of 15 % magnesium acetate solution (4.4).
- 7.1.6. Place the crucibles on a hot plate (5.8) and heat until just dry.
- 7.1.7. Ash the residue by heating to incandescence at 600 °C in a muffle furnace (5.9) until the ash is white, minimum of one and a half hours but can be left overnight.
- 7.1.8. Take up the ash with 10 ml of 10 % sulphuric acid (4.5) and transfer it with washings of distilled water (4.1) to a 50 ml volumetric flask (5.10), and fill to the mark at room temperature with distilled water (4.1). A 5 ml aliquot of this ash solution is to be used to prepare the sample solution of the photometric phosphate assay.
- 7.2. Photometric phosphate assay
- 7.2.1. Comparative solution
- 7.2.1.1. Place 10 ml of 10 % sulphuric acid (4.5) in a 50 ml volumetric flask (5.10) and fill to the mark with distilled water (4.1).

7.2.1.2. Add to a 5 ml aliquot of this solution (7.2.1.1), contained in a 20 ml volumetric flask (5.11), 1 ml of 1 N sulphuric acid (4.6) and 2 ml of the phosphate reagent (4.8) and make up to 20 ml with distilled water (4.1).

7.2.1.3. Stopper with a loosely inserted stopper, shake, and heat in a boiling water bath (5.7) for 10 minutes, then cool in a 20 °C water bath (5.4) for 20 minutes.

7.2.1.4. Fill a 1 cm cuvette (5.13) with this comparative solution.

7.2.2. Sample solution

7.2.2.1. Add to a 5 ml aliquot of the ash solution (7.1.8), contained in a 20 ml volumetric flask (5.11), 1 ml of 1 N sulphuric acid (4.6) and 2 ml of the phosphate reagent (4.8) and make up to 20 ml with distilled water (4.1).

7.2.2.2. Stopper with a loosely inserted stopper, shake, and heat in a boiling water bath (5.7) for 10 minutes, then cool in a 20 °C water bath (5.4) for 20 minutes.

7.2.2.3. The yellow solution that develops is immediately analysed spectrophotometrically (5.12) in a 1 cm cuvette (5.13) at 420 nm against the comparative solution (7.2.1.4).

7.2.3. Calibration curve

7.2.3.1. To construct the calibration curve, add 2 ml aliquots of the phosphate reagent (4.8) to 20 ml volumetric flasks (5.11) each containing 1 ml of 1 N sulphuric acid (4.6) and 0, 2, 4, 6, 8, and 10 ml of the potassium dihydrogen phosphate solution (4.7) respectively, and make up to the 20 ml mark with distilled water (4.1).

7.2.3.2. Stopper with a loosely inserted stopper, shake, and heat in a boiling water bath (5.7) for 10 minutes, then cool in a 20 °C water bath (5.4) for 20 minutes and analyse spectrophotometrically (5.12) in a 1 cm cuvette (5.13) at 420 nm against the comparative solution (7.2.1.4).

7.2.3.3. Construction of the calibration curve:

dihydrogen phosphate solution (ml)	0	2	4	6	8	10
P ₂ O ₅ (mg)	0	0,167	0,334	0,501	0,668	0,835

8. Expression of results

The egg yolk content in g/l is calculated from the following formula:

$$\text{g/l egg yolk} = \text{mg P}_2\text{O}_5 \times \frac{110 \times \text{density}}{E/40}$$

where:

110	conversion factor for total P ₂ O ₅ in g in 100 g of egg yolk
mg P ₂ O ₅	value established from the calibration curve
density	mass per unit volume (g/ml) of the egg-based liqueur at 20 °C
E	weight of the egg-based liqueur in g
40	dilution factor for a 5 ml aliquot of ash solution.

9. Method performance characteristics (precision)

Statistical results of the interlaboratory test:

the following table gives the values for egg yolk.

The following data were obtained from an international method performance study carried out to internationally agreed procedures.

Year of interlaboratory test:	1998
Number of laboratories:	24
Number of samples:	5
Analyte:	Egg yolk

Samples	A	B	C	D	E
Number of laboratories retained after eliminating outliers	19	20	22	20	22
Number of outliers (laboratories)	3	4	2	4	2
Number of accepted results	38	40	44	40	44
Mean value	147,3	241,1	227,4	51,9 (*) 72,8 (*)	191,1
Repeatability standard deviation (S_r) g/l	2,44	4,24	3,93	1,83	3,25
Repeatability relative standard deviation (RSD_r) (%)	1,7	1,8	1,8	2,9	1,7
Repeatability limit (r) g/l	6,8	11,9	11,0	5,1	9,1
Reproducibility standard deviation (S_R) g/l	5,01	6,06	6,66	3,42	6,87
Reproducibility relative standard deviation (RSD_R) (%)	3,4	2,5	2,9	5,5	3,6
Reproducibility limit (R) g/l	14,0	17,0	18,7	9,6	19,2

Sample types

- A Advocaat, blind duplicates
- B Advocaat, blind duplicates
- C Advocaat, blind duplicates
- D Advocaat (diluted), split levels (*)
- E Advocaat, blind duplicates

**COMMISSION REGULATION (EC) No 2092/2002
of 26 November 2002**

derogating from Regulation (EC) No 2535/2001 as regards the import licences for milk and milk products from Estonia for 2002

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Commission Regulation (EC) No 509/2002 ⁽²⁾, and in particular Article 29(1) thereof,

Whereas:

- (1) The Estonian authorities have informed the Commission of planned supplementary veterinary checks to ensure that the milk powder for export to the Community under quota No 09.4546 as provided for by Council Regulation (EC) No 1349/2000 of 19 June 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Estonia ⁽³⁾, as amended by Regulation (EC) No 2677/2000 ⁽⁴⁾, complies with Council Directive 92/46/EEC of 16 June 1992 laying down the health rules for the production and placing on the market of raw milk, heat-treated milk and milk-based products ⁽⁵⁾, as last amended by Directive 94/71/EC ⁽⁶⁾, and with Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC ⁽⁷⁾.
- (2) These supplementary veterinary checks have caused difficulties and delays for importers holding licences whose validity expired on or before 30 June 2002.
- (3) Notwithstanding Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas ⁽⁸⁾, as last amended by Regulation (EC) No 1667/2002 ⁽⁹⁾, provision should exceptionally be made to allow those operators who were unable to use the initial licences to apply for a new licence for the quantities unused under the expired licence. Holders of licences who have made amendments to them other than the corrections provided for in

Article 26(2) of Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽¹⁰⁾, as last amended by Regulation (EC) No 954/2002 ⁽¹¹⁾, should not be allowed this concession.

- (4) Provision should be made to allow securities that were confiscated upon expiry of the licences to be released proportionate to the quantities imported under the new licence.
- (5) In order to obtain information on the use of the quota concerned, provision should be made for notifications from the Member States regarding the licences in question.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

1. Notwithstanding Article 12 of Regulation (EC) No 2535/2001, at the request of the interested party, a new licence may be issued to the holder of a licence issued for the period January-June 2002, for imports of products covered by quota No 09.4546 listed in Annex I.B.7 to that Regulation, provided that the licence could not be fully used during its term of validity.

Should the competent authorities note that amendments other than the corrections allowed under Article 26(2) of Regulation (EC) No 1291/2000 have been made to a licence that expired on 30 June 2002, no new licence shall be issued.

2. Notwithstanding the first subparagraph of Article 13(2) of Regulation (EC) No 2535/2001, applications for a new licence and the new licence itself shall be for no more than the unused quantity of the expired licence referred to in paragraph 1.

3. Notwithstanding Article 14(1) of Regulation (EC) No 2535/2001, applications for a new licence shall be lodged no later than 10 working days after the entry into force of this Regulation.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 155, 28.6.2000, p. 1.

⁽⁴⁾ OJ L 308, 8.12.2000, p. 7.

⁽⁵⁾ OJ L 268, 14.9.1992, p. 1.

⁽⁶⁾ OJ L 368, 31.12.1994, p. 33.

⁽⁷⁾ OJ L 125, 23.5.1996, p. 10.

⁽⁸⁾ OJ L 341, 22.12.2001, p. 29.

⁽⁹⁾ OJ L 252, 20.9.2002, p. 8.

⁽¹⁰⁾ OJ L 152, 24.6.2000, p. 1.

⁽¹¹⁾ OJ L 147, 5.6.2002, p. 8.

4. Notwithstanding Article 14(2) of Regulation (EC) No 2535/2001 and Article 15(2) of Regulation (EC) No 1291/2000, the issue of a licence shall not require a security to be lodged.

The security forfeited on the unused quantity in the expired licence referred to in paragraph 1 above shall be released in proportion to the quantities imported under the new licence.

5. Notwithstanding Article 16(1) of Regulation (EC) No 2535/2001, the new licence shall be issued no later than five working days after the day on which the application was lodged.

6. Notwithstanding Article 16(3) of Regulation (EC) No 2535/2001, the validity of the new licences shall be 90 days from their actual date of issue under Article 23(2) of Regulation (EC) No 1291/2000.

7. Notwithstanding Article 18(1)(d) of Regulation (EC) No 2535/2001, the application for a new licence and the new licence itself shall contain in box 20 the quota number and one of the following:

- Certificado expedido de conformidad con lo dispuesto en el artículo 1 del Reglamento (CE) n° 2092/2002
- Licens udstedt efter artikel 1 i forordning (EF) nr. 2092/2002
- Lizenz erteilt gemäß Artikel 1 der Verordnung (EG) Nr. 2092/2002
- Πιστοποιητικό που εκδόθηκε σύμφωνα με τις διατάξεις του άρθρου 1 του κανονισμού (ΕΚ) αριθ. 2092/2002
- Licence issued under Article 1 of Regulation (EC) No 2092/2002

- Certificat émis conformément aux dispositions de l'article 1^{er} du règlement (CE) n° 2092/2002
- Titolo rilasciato conformemente alle disposizioni dell'articolo 1 del regolamento (CE) n. 2092/2002
- Certificaat afgegeven overeenkomstig artikel 1 van Verordening (EG) nr. 2092/2002
- Certificado emitido em conformidade com o disposto no artigo 1.º do Regulamento (CE) n.º 2092/2002
- Asetuksen (EY) N:o 2092/2002 1 artiklan säännösten mukaisesti myönnetty todistus
- Licens utfärdad i enlighet med artikel 1 i förordning (EG) nr 2092/2002.

Article 2

In the case of the licences issued pursuant to Article 1, the Member States shall send to the Commission:

- (a) before the end of the month following the month in which they were issued, the licences' serial numbers and dates of issue, the quantities of products for which they were issued, broken down by Combined Nomenclature code and specifying the importer's name and approval number;
- (b) no later than one month after the expiry of the licences, the quantities actually imported, broken down by Combined Nomenclature code and specifying the importer's name and approval number.

Article 3

This Regulation shall enter into force on the third 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, 26 November 2002.

For the Commission

Franz FISCHLER

Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 5 November 2002

on the existence of an excessive deficit in Portugal — Application of Article 104(6) of the Treaty establishing the European Community

(2002/923/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission under the said Article 104(6),

Having regard to the observations made by Portugal,

Whereas:

- (1) In stage three of Economic and Monetary Union (EMU), according to Article 104 of the Treaty Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The Amsterdam Resolution of the European Council of 17 June 1997 on the Stability and Growth Pact solemnly invites all parties, namely the Member States, the Council and the Commission to implement the Treaty and the Stability and Growth Pact in a strict and timely manner.
- (4) The excessive deficit procedure under Article 104 of the Treaty provides for a decision on the existence of an excessive deficit; the Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the excessive

deficit procedure; Regulation (EC) No 3605/93⁽¹⁾ lays down detailed rules and definitions for the application of the provision of the said Protocol.

- (5) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur; the Commission has addressed such an opinion on Portugal to the Council on 16 October 2002; according to this opinion:
 - (a) Portugal has reported information on its budgetary situation to the Commission by September 2002. Thereupon, the Commission has, in accordance with Article 4 of the Protocol on the excessive deficit procedure, provided the statistical data for the application of the said Protocol;
 - (b) in accordance with Article 104(3) of the Treaty, the Commission has prepared in September 2002 a report on Portugal which takes account of the relevant factors;
 - (c) in accordance with Article 104(4) of the Treaty, the Economic and Financial Committee has formulated an opinion on the report of the Commission;
 - (d) the Commission considers that there exists an excessive deficit in Portugal.
- (6) Article 104(6) of the Treaty lays down that the Council should consider any observations which the Member State concerned may wish to make before the Council decides after an overall assessment whether an excessive deficit exists.

⁽¹⁾ OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Commission Regulation (EC) No 351/2002 (OJ L 55, 26.2.2002, p. 23).

- (7) The overall assessment leads to the following conclusions: in the late 1990s, when Portugal enjoyed strong economic growth, progress in fiscal consolidation has been limited, with the general government deficit remaining well above 2 % of GDP. Thus, there had been little budgetary leeway to accommodate for the effects of a cyclical slowdown or for such changes in accounting as required to comply with the European System of Accounts 1995. From 1999 to 2001, the deficit increased from 2,4 % to 4,1 % of GDP, significantly exceeding the reference value of 3 % in 2001. Over the same period, government gross debt remained below 60 % of GDP, but rose from 54,4 % to 55,5 % of GDP. Part of the deficit increase in 2001 was due to the rectification of government accounts, the other part to deviations of budget execution from targets. While economic growth has slowed markedly, the fiscal slippage mainly reflects a weakening in the underlying budgetary position. A rectifying budget adopted in June 2001 proved insufficient as to prevent the deficit from breaching the threshold set by the Treaty. A new government that came into office in April 2002 adopted a rectifying budget providing for, *inter alia*, an increase in the standard VAT rate and, on the expenditure side, cuts in public investment. While the Portuguese government has declared its firm commitment to its new deficit target of 2,8 % of GDP set for 2002, it is yet uncertain

whether the excessive deficit situation will actually be corrected. Moreover, government debt is projected to rise to 59,3 % of GDP in 2002, a level just under the 60 % reference value. Thus, any slippage in budgetary execution and/or a deceleration in nominal GDP growth could imply a deficit above 3 % of GDP and a breach of the government debt reference value,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Portugal.

Article 2

This decision is addressed to the Portuguese Republic.

Done at Brussels, 5 November 2002.

For the Council

The President

T. PEDERSEN

COMMISSION

COMMISSION DECISION

of 23 July 1999

on the conclusion of two cooperation agreements between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine in the field of nuclear safety and in the field of controlled nuclear fusion

(notified under document number C(1999) 2405)

(2002/924/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community and in particular the second paragraph of Article 101 thereof,

Having regard to the approval of the Council,

Whereas the two agreements between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine in the field of nuclear safety and in the field of nuclear fusion must be concluded,

HAS DECIDED AS FOLLOWS:

Sole Article

The two agreements between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine in the field of nuclear safety and in the field of controlled nuclear fusion are hereby concluded on behalf of the European Atomic Energy Community.

The text of the two Agreements are attached to this Decision.

Done at Brussels, 23 July 1999.

For the Commission

Hans VAN DEN BROEK

Member of the Commission

AGREEMENT FOR COOPERATION**between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine in the field of nuclear safety**

The EUROPEAN ATOMIC ENERGY COMMUNITY,

hereinafter referred to as 'the Community',

of the one part, and

the CABINET OF MINISTERS OF UKRAINE,

of the other part,

both also generally referred to hereinafter as the 'Party' or 'Parties', as appropriate,

MINDFUL that the Agreement on Partnership and Cooperation signed on 14 June 1994 by the European Union and Ukraine establishes that the Parties shall cooperate in the nuclear sector, *inter alia*, through the implementation of an agreement on nuclear safety;

RECALLING that Ukraine and the Member States of the Community are Parties to the Treaty on the Non Proliferation of Nuclear Weapons and members of the International Atomic Energy Agency;

RECALLING that the Commission of the European Communities, hereinafter referred to as 'the Commission', has responsibilities, *inter alia*, for laying down basic standards for radiation protection, and for ensuring their implementation, and for collecting and monitoring radiation data at Community level;

RECALLING that protection of the environment and cooperating in this connection with third parties at Community level is of importance;

CONSIDERING that the Commission implements a Community research programme in nuclear safety, including reactor safety, radiation protection, waste management and nuclear plant decommissioning and dismantling, as well as in safeguards for nuclear materials, and intends to develop international scientific and technological cooperation on these subjects with a view to contributing towards internationally accepted nuclear safety principles and guidelines;

CONSIDERING that Ukraine concentrates its efforts on the implementation of research and development programmes aimed at improving the safety of existing nuclear power plants and the design of new such plants to answer accepted up-to-date nuclear safety requirements, as well as at solving problems of radioactive waste management and disposal and of nuclear plant decommissioning;

RECALLING that Ukraine's regulatory activity for the nuclear sector is intended to ensure the protection of the environment and population in general, as well as the protection of workers, against radiation on the basis of internationally accepted guidelines and principles;

RECOGNISING that the future contribution of nuclear energy to meet the energy needs of Europe as a whole, with due consideration for diversification, the economy and the environment and population in general, also depends on developing satisfactory answers to the safety related issues aforementioned, as well as assessing the safety of existing nuclear reactors and their necessary back-fitting as a consequence;

MINDFUL of the various forms of coordinated action on nuclear safety envisaged by the Community and Ukraine,

HAVE AGREED AS FOLLOWS:

Article 1**(a) Nuclear reactor safety research**

Cooperation under this Agreement shall be for peaceful purposes only and shall be conducted on the basis of mutual benefit. It shall encourage and contribute to the improvement of nuclear safety, including the definition and application of scientifically warranted and internationally accepted nuclear safety guidelines.

Review and analysis of safety issues and particularly the impact of nuclear reactor safety on nuclear power development; identification of appropriate techniques to improve nuclear reactor safety through research and development and evaluation studies on nuclear reactors in operation and planned.

(b) Radiation protection**Article 2**

Cooperation shall be as broad as possible and involve the following areas:

Research, regulatory aspects, development of safety standards, training and education, particular attention shall be paid to low-dose effects, industrial exposures, forecasting of doses for population and personnel and post-accident management.

(c) Nuclear waste management

Assessment and optimisation of geological disposal, and scientific aspects of the management of long-lived waste.

(d) Decommissioning, decontamination and dismantling of nuclear installations

Strategies for decommissioning and dismantling nuclear installations, including radiological aspects.

(e) Research and development on safeguards of nuclear material

Development and evaluation of nuclear material measurement techniques and characterisation of reference materials for safeguards activities and development of the systems of accounting for and control of nuclear materials.

(f) Prevention of illicit trafficking of nuclear material

Cooperation shall relate to the promotion of methods and techniques of control of nuclear material.

Other areas of cooperation may be added in accordance with procedures in force on each side.

Article 3

1. The cooperation shall be implemented in particular through:

- exchange of technical information by means of reports, visits, seminars, technical meetings, etc.,
- exchange of personnel between laboratories and/or bodies involved on both sides, including for training purposes,
- exchange of samples, materials, instruments and apparatus for experimental purposes,
- balanced participation in joint studies and activities.

2. To the extent necessary, implementing arrangements to set out the scope, terms and conditions to implement specific cooperation activities, may be entered into by the Parties and/or by bodies which either Party may eventually entrust with the aforementioned activities.

Such implementing arrangements may, *inter alia*, cover financing provisions, assignment of management responsibilities and detailed provisions on dissemination of information and intellectual property rights.

3. In order to minimise duplication of efforts, the Parties shall endeavour to coordinate their activities under this Agreement with other international activities related to nuclear safety in which they are participants.

Article 4

1. Each Party's obligations under this Agreement shall be subject to the availability of the required funds.

2. All costs resulting from cooperation shall be borne by the Party that incurs them.

3. The financing of industrial activities shall be excluded from the scope of this Agreement.

Article 5

1. In so far as the Community is concerned, this Agreement shall apply to the territories in which the Treaty establishing the European Atomic Energy Community applies.

2. Cooperation under this Agreement shall be in accordance with the laws and regulations in force as well as with the international agreements entered into by the Parties.

3. Each Party shall use its best endeavours, within the framework of the laws and regulations applicable, to facilitate the accomplishment of formalities involved in the movement of persons, the transfer of materials and equipment and the transfer of currency required to conduct the cooperation.

Article 6

The utilisation and diffusion of information and intellectual property rights including industrial property rights, patents and copyrights connected with the cooperation activities under this Agreement shall be in accordance with the Annexes, which form an integral part of this Agreement.

Article 7

The Parties shall endeavour to settle all questions connected with this Agreement through consultations between themselves.

Article 8

1. A Coordinating Committee consisting of members appointed in equal number by the two Parties shall be established to supervise the implementation of this Agreement.

2. The Coordinating Committee shall meet as needed, alternately in the Community and in Ukraine, for regular sessions in order to:

- review and assess the state of cooperation under this Agreement and prepare annual reports thereon,
- determine by mutual agreement the specific tasks to be undertaken under this Agreement, without prejudice to the taking of autonomous decisions by the Parties on their respective programmes.

3. If mutually agreeable, extraordinary sessions may be held for dealing with particular topics, or in particular circumstances.

Article 9

1. This Agreement shall enter into force on the date on which the Parties exchange diplomatic notes informing each other that their respective internal procedures necessary for its entry into force have been completed and shall remain in force for an initial period of 10 years ⁽¹⁾.

⁽¹⁾ This agreement shall enter into force on 13 November 2002.

2. Thereafter, this Agreement shall be automatically renewed for five-year periods, unless either Party, by written notice, requests its termination or renegotiation not later than six months prior to the expiry date.

3. This Agreement may be terminated at any time by either Party upon six month's written notice.

4. Termination of this Agreement shall not affect rights and obligations under Article 6.

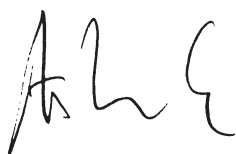
Article 10

1. This Agreement may be amended by mutual written agreement of the Parties, in accordance with their respective laws and regulations. Amendments shall form an integral part of this Agreement.

2. In the event of amendment, termination or renegotiation, this Agreement shall remain in force in its previous form with respect to cooperation activities effectively entered into prior to the entry into force of the amendment or prior to the request for termination or renegotiation until the end of such activities and relative implementing arrangements but not more than for one calendar year after the expiry of this Agreement in its previous form.

Done at Kiev on 23 July 1999 in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Ukrainian languages, each text being equally authentic.

Por la Comunidad Europea de la Energía Atómica
På Det Europæiske Atomenergifællesskabs vegne
Für die Europäische Atomgemeinschaft
Για την Ευρωπαϊκή Κοινότητα Ατομικής Ενέργειας
For the European Atomic Energy Community
Pour la Communauté européenne de l'énergie atomique
Per la Comunità europea dell'energia atomica
Voor de Europese Gemeenschap voor Atoomenergie
Pela Comunidade Europeia da Energia Atómica
Euroopan atomienergiayhteisön puolesta
På Europeiska atomenergigemenskapens vägnar
Від Європейської спільноти по атомній енергії



Por el Consejo de Ministros de Ucrania
På vegne af Ukraines ministerkabinet
Für das Ministerkabinett der Ukraine
Για το Υπουργικό Συμβούλιο της Ουκρανίας
For the Cabinet of Ministers of Ukraine
Pour le Cabinet des ministres de l'Ukraine
Per il Consiglio dei ministri dell'Ucraina
Voor de Ministerraad van Oekraïne
Pelo Gabinete de Ministros da Ucrânia
Ukrainan hallituksen puolesta
På Ukrainas regerings vägnar
Від кабінету міністрів України



ANNEX I

GUIDING PRINCIPLES ON THE ALLOCATION OF INTELLECTUAL PROPERTY RIGHTS (*) RESULTING FROM JOINT RESEARCH UNDER THE AGREEMENT FOR COOPERATION BETWEEN THE EUROPEAN ATOMIC ENERGY COMMUNITY AND THE CABINET OF MINISTERS OF UKRAINE IN THE FIELD OF NUCLEAR SAFETY**I. OWNERSHIP, ALLOCATION AND EXERCISE OF RIGHTS**

1. All research carried out pursuant to this Agreement shall be 'joint research'. The participants shall jointly develop joint technology management plans (TMPs) (**) in respect of the ownership and use, including publication, of information and Intellectual Property (IP) to be created in the course of joint research. Those plans shall be approved by the responsible funding agency or department of the Party involved in financing the research, before the conclusion of the specific research and development cooperation contracts to which they are attached. The TMPs shall be developed taking into account the aims of the joint research, the relative contributions of the participants, the advantages and disadvantages of licensing by territory or for fields of use, requirements imposed by laws applicable and other factors deemed appropriate by the participants. The rights and obligations concerning the research generated by visiting researchers in respect of IP shall also be addressed in the joint technology management plans.
2. Information or IP created in the course of joint research and not addressed in the TMP plan shall be allocated, with the approval of the Parties, according to the principles set out in the technology management plan. In case of disagreement, such information or IP shall be owned jointly by all the participants involved in the joint research from which the information or IP results. Each participant to whom this provision applies shall have the right to use such information or IP for his own commercial exploitation with no geographical limitation.
3. Each Party shall ensure that the other Party and its participants have the rights to IP allocated to them in accordance with these principles.
4. While maintaining the conditions of competition in areas affected by this Agreement each Party shall endeavour to ensure that rights acquired pursuant to this Agreement are exercised in such a way as to encourage in particular:
 - (i) the dissemination and use of information created, disclosed, or otherwise made available, under the Agreement;
 - (ii) the adoption and implementation of international standards.

II. COPYRIGHT WORKS

Copyright belonging to the Parties or to their participants shall be accorded treatment consistent with the Berne Convention (1971 Paris Act).

III. SCIENTIFIC LITERARY WORKS

Without prejudice to Section IV, unless otherwise agreed in the TMP, publication of results of research shall be made jointly by the Parties or participants to that joint research. Subject to the foregoing general rule, the following procedures shall apply:

1. In the case of publication by a Party or public bodies of that Party of scientific and technical journals, articles, reports, books, including video and software, arising from joint research pursuant to this Agreement, the other Party shall be entitled to a worldwide, non-exclusive, irrevocable, royalty-free licence to translate, reproduce, adapt, transmit and publicly distribute such works.
2. The Parties shall ensure that literary works of a scientific character arising from joint research pursuant to this Agreement and published by independent publishers shall be disseminated as widely as possible.
3. All copies of a copyright work to be publicly distributed and prepared under these provisions shall indicate the names of the author(s) of the work unless an author or authors expressly declines or decline to be named. They shall also bear a clearly visible acknowledgement of the cooperative support of the Parties.

(*) Definitions of the concepts referred to in these guiding principles are set out in Annex II.

(**) The indicative features of such TMPs are set out in Annex III.

IV. UNDISCLOSED INFORMATION

A. Documentary undisclosed information

1. Each Party or its participants, as appropriate, shall identify at the earliest possible moment and preferably in the TMP the information that it wishes to remain undisclosed in relation to this Agreement, taking account, *inter alia*, of the following criteria:

- secrecy of the information in the sense that the information is not, as a body or in the precise configuration or assembly of its components, generally known among or readily accessible by lawful means to experts in the field;
- the actual or potential commercial value of the information by virtue of its secrecy;
- previous protection of the information in the sense that it has been subject to steps that were reasonable under the circumstances by the person lawfully in control, to maintain its secrecy.

The Parties and the participants may in certain cases agree that, unless otherwise indicated, parts or all of the information provided, exchanged or created in the course of joint research pursuant to the Agreement may not be disclosed.

2. Each Party shall ensure that undisclosed information under this Agreement and its ensuing privileged nature is readily recognisable as such by the other Party, for example by means of an appropriate marking or restrictive legend. This also applies to any reproduction of the said information, in whole or in part.

A Party receiving undisclosed information pursuant to the Agreement shall respect the privileged nature thereof. These limitations shall automatically terminate when this information is disclosed by the owner without restriction to experts in the field.

3. Undisclosed information communicated under this Agreement may be disseminated by the receiving Party to persons within or employed by the receiving Party, and other concerned departments or agencies in the receiving Party authorised for the specific purposes of the joint research under way, provided that any undisclosed information so disseminated shall be pursuant to an agreement of confidentiality and shall be readily recognisable as such, as set out above.
4. With the prior written consent of the Party providing undisclosed information under this Agreement, the receiving Party may disseminate such undisclosed information more widely than otherwise permitted in paragraph 3 above. The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party will grant such approval to the extent permitted by its domestic policies, regulations and laws.

B. Non-documentary undisclosed information

Non-documentary undisclosed or other confidential or privileged information provided in seminars and other meetings arranged under this Agreement, or information arising from the attachment of staff, use of facilities, or joint projects, shall be treated by the Parties or their participants according to the principle specified for documentary information in the Agreement, provided, however, that the recipient of such undisclosed or other confidential or privileged information has been made aware of the confidential character of the information communicated at the time such communication is made.

C. Control

Each Party shall ensure that undisclosed information received by it under this Agreement shall be controlled as provided therein. If one of the Parties becomes aware that it will be, or may reasonably be expected to become, unable to meet the non-dissemination provisions of paragraphs A and B above, it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.

ANNEX II**DEFINITIONS**

1. INTELLECTUAL PROPERTY: shall have the meaning found in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm on 14 July 1967.
2. PARTICIPANT: any natural or legal person, including the Parties themselves, participating in a project under this Agreement.
3. JOINT RESEARCH: research implemented and/or funded by the joint contributions of the Parties and with collaboration from participants of both Parties, where appropriate.
4. INFORMATION: scientific or technical data, results or methods of research and development stemming from the JOINT RESEARCH and any other information deemed necessary by the Parties and/or participants engaged in the JOINT RESEARCH to be provided or exchanged under this Agreement or research pursuant thereto.

ANNEX III**INDICATIVE FEATURES OF A TECHNOLOGY MANAGEMENT PLAN (TMP)**

The TMP is a specific agreement to be concluded between the participants, about the implementation of joint research and the respective rights and obligations of the participants. With respect to IPR, the TMP will normally address, *inter alia*: ownership, protection, user rights for R&D purposes, exploitation and dissemination, including arrangements for joint publication, the rights and obligations of visiting researchers and dispute settlement procedures. The TMP may also address foreground and background information, licensing and deliverables.

AGREEMENT FOR COOPERATION**between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine in the field of controlled nuclear fusion**

the EUROPEAN ATOMIC ENERGY COMMUNITY,

hereinafter referred to as 'the Community',

of the one part, and

the CABINET OF MINISTERS OF UKRAINE,

of the other part,

both also generally referred to hereinafter as the 'Party' or 'Parties', as appropriate,

MINDFUL that the Agreement on Partnership and Cooperation signed on 14 June 1994 by the European Union and Ukraine establishes that the Parties shall cooperate in the nuclear sector, *inter alia*, through the implementation of an agreement on thermonuclear fusion;

DESIRING to facilitate the achievement of fusion energy as a potentially environmentally acceptable, economically competitive, and virtually limitless source of energy;

NOTING that the Community Fusion programme is a broad-based comprehensive programme based on the toroidal magnetic confinement;

NOTING that the Fusion researches of Ukraine are based on the specific strengths of fusion science and technology in Ukraine;

RECOGNISING the mutual benefits to be obtained by establishing closer links between the Parties' scientific communities working in the field of controlled nuclear fusion;

DETERMINED to strengthen the cooperation between the Parties in the field of controlled nuclear fusion through regular consultations,

HAVE AGREED AS FOLLOWS:

Article 1

Cooperation under this Agreement shall be for peaceful purposes only and shall be conducted on the basis of mutual benefit. The objective of this Agreement is to maintain and intensify cooperation between the Parties in the areas covered by their respective fusion programmes in order to develop the scientific understanding and technological capability underlying a fusion power system.

Article 2

Cooperation under this Agreement may be undertaken in the following areas:

- (a) experimental and theoretical studies of plasma confinement, transport, heating and current drive (including the development of related RF systems) and diagnostics, in toroidal magnetic devices;
- (b) studies in plasma theory, in particular on the physics of fast ions and alpha particles in toroidal magnetic devices, and studies of turbulent plasmas and of non-linear plasma-wave interactions;
- (c) fusion technology;
- (d) applied plasma physics;
- (e) policy concerning programme and plans.

Other areas of cooperation may be added in accordance with procedures in force on each side.

Article 3

The cooperation shall be implemented in particular through:

- exchange of technical information by means of reports, visits, seminars, technical meetings, etc.,
- exchange of personnel between laboratories and/or bodies involved on both sides, including for training purposes,
- exchange of samples, materials, instruments and apparatus for experimental purposes,
- balanced participation in joint studies and activities.

Article 4

1. Within the framework of this Agreement, implementing arrangements on specific cooperative actions shall be concluded between:

the Community or any organisation associated with it within the framework of the Community Fusion Programme or the Joint European Torus (JET) Joint Undertaking, designated by the Community for this purpose,

and the Government of Ukraine or any other institution designated by the Government of Ukraine for this purpose.

2. Specific terms and conditions necessary to implement activities listed in Article 3 shall be specified in the implementing arrangements and shall contain:

- (a) specific details, procedures and financing provisions for individual cooperative activities;
- (b) assignment of the responsibility for the operational management of the concerned activity to a single organisation or natural person;
- (c) detailed provisions on dissemination of information and treatment of intellectual property.

3. Each Party shall endeavour to coordinate its activities under this Agreement as appropriate, with other international activities related to research and development in the field of controlled nuclear fusion in which the other Party is a participant, in order to minimise duplication of effort.

Article 5

1. The Parties shall establish a Coordinating Committee to coordinate and to supervise the implementation of this Agreement. Each of the Parties shall appoint an equal number of members to the Coordinating Committee and nominate one of its appointed members as its Head of Delegation. The Coordinating Committee shall meet each year, alternately in the European Community and in Ukraine or at any other agreed time and place. The Head of Delegation of the receiving Party shall chair the meeting.

2. The functions of the Coordinating Committee shall include:

- (a) assessing the state of cooperation under this Agreement;
- (b) determining the specific tasks to be undertaken in the areas referred to in Article 2, without prejudice to the taking of autonomous decisions by the Parties on their respective programmes.

3. All decisions of the Coordinating Committee shall be by unanimity and shall be binding to the Parties. For making such decisions, each Party shall have one vote to be cast by its Head of Delegation.

4. For periods between meetings of the Coordinating Committee, each Party shall nominate an Executive Secretary to act on its behalf in all matters concerning cooperation under this Agreement. The Executive Secretaries shall be responsible for day-to-day management of such cooperation.

Article 6

All costs resulting from the cooperation shall be borne by the Party that incurs them, unless otherwise specifically agreed in writing by the implementing agencies.

Article 7

The utilisation and diffusion of information and intellectual property rights including industrial property rights, patents and copyrights connected with the cooperation activities under this Agreement shall be in accordance with the Annexes which form an integral part of this Agreement.

Article 8

Nothing in this Agreement shall be construed to prejudice existing or future arrangements for cooperation between the Parties.

Article 9

1. Performance of the Parties under this Agreement shall be subject to the availability of appropriated funds.

2. Cooperation under this Agreement shall be in accordance with the laws and regulations in force as well with the international agreements entered into by the Parties.

3. Each Party shall use its best endeavours, within the framework of the laws and regulations applicable, to facilitate the accomplishment of formalities involved in the movement of persons, the transfer of materials and equipment and the transfer of currency required to conduct the cooperation.

Article 10

The Parties shall endeavour to settle all questions connected with this Agreement through consultations between themselves.

Article 11

1. This Agreement shall enter into force on the date on which the Parties exchange diplomatic notes informing each other that their respective internal procedures necessary for its entry into force have been completed and shall remain in force for an initial period of 10 year ⁽¹⁾.

2. Thereafter, this Agreement shall be automatically renewed for five-year periods, unless either Party, by written notice, requests its termination or renegotiation not later than six months prior to the expiry date.

3. This Agreement may be terminated at any time by either Party upon six month's written notice.

4. Termination of this Agreement shall not affect rights and obligations under Article 7.

Article 12

1. This Agreement may be amended by mutual written agreement of the Parties, in accordance with their respective laws and regulations. Amendments shall form an integral part of this Agreement.

2. In the event of amendment, termination or renegotiation, this Agreement shall remain in force in its previous form with respect to cooperation activities effectively entered into prior to the entry into force of the amendment or prior to the request for termination or renegotiation until the end of such activities and relative implementing arrangements but not more than for one calendar year after the expiry of this Agreement in its previous form.

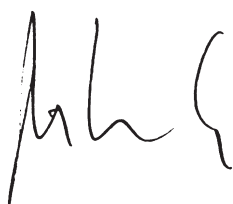
⁽¹⁾ This Agreement shall come into force on 13 November 2002.

Article 13

This Agreement shall apply, in so far as the Community is concerned, to the territories in which the Treaty establishing the European Atomic Energy Community applies and to the territories of the countries participating in the Community fusion programme as fully associated third States.

Done at Kiev on 23 July 1999 in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Ukrainian languages, each text being equally authentic.

Por la Comunidad Europea de la Energía Atómica
På Det Europæiske Atomenergifællesskabs vegne
Für die Europäische Atomgemeinschaft
Για την Ευρωπαϊκή Κοινότητα Ατομικής Ενέργειας
For the European Atomic Energy Community
Pour la Communauté européenne de l'énergie atomique
Per la Comunità europea dell'energia atomica
Voor de Europese Gemeenschap voor Atoomenergie
Pela Comunidade Europeia da Energia Atómica
Euroopan atomienergiayhteisön puolesta
På Europeiska atomenergigemenskapens vägnar
Від Європейської спільноти по атомній енергії



Por el Consejo de Ministros de Ucrania
På vegne af Ukraines ministerkabinet
Für das Ministerkabinett der Ukraine
Για το Υπουργικό Συμβούλιο της Ουκρανίας
For the Cabinet of Ministers of Ukraine
Pour le Cabinet des ministres de l'Ukraine
Per il Consiglio dei ministri dell'Ucraina
Voor de Ministerraad van Oekraïne
Pelo Gabinete de Ministros da Ucrânia
Ukrainan hallituksen puolesta
På Ukrainas regerings vägnar
Від кабінету міністрів України



ANNEX I

GUIDING PRINCIPLES ON THE ALLOCATION OF INTELLECTUAL PROPERTY RIGHTS (*) RESULTING FROM JOINT RESEARCH UNDER THE AGREEMENT FOR COOPERATION BETWEEN THE EUROPEAN ATOMIC ENERGY COMMUNITY AND THE CABINET OF MINISTERS OF UKRAINE IN THE FIELD OF CONTROLLED NUCLEAR FUSION**I. OWNERSHIP, ALLOCATION AND EXERCISE OF RIGHTS**

1. All research carried out pursuant to this Agreement shall be 'joint research'. The participants shall jointly develop joint technology management plans (TMPs) (**) in respect of the ownership and use, including publication, of information and Intellectual Property (IP) to be created in the course of joint research. Those plans shall be approved by the responsible funding agency or department of the Party involved in financing the research, before the conclusion of the specific research and development cooperation contracts to which they are attached. The TMPs shall be developed taking into account the aims of the joint research, the relative contributions of the participants, the advantages and disadvantages of licensing by territory or for fields of use, requirements imposed by laws applicable and other factors deemed appropriate by the participants. The rights and obligations concerning the research generated by visiting researchers in respect of IP shall also be addressed in the joint technology management plans.
2. Information or IP created in the course of joint research and not addressed in the TMP plan shall be allocated, with the approval of the Parties, according to the principles set out in the technology management plan. In case of disagreement, such information or IP shall be owned jointly by all the participants involved in the joint research from which the information or IP results. Each participant to whom this provision applies shall have the right to use such information or IP for his own commercial exploitation with no geographical limitation.
3. Each Party shall ensure that the other Party and its participants have the rights to IP allocated to them in accordance with these principles.
4. While maintaining the conditions of competition in areas affected by this Agreement each Party shall endeavour to ensure that rights acquired pursuant to this Agreement are exercised in such a way as to encourage in particular:
 - (i) the dissemination and use of information created, disclosed, or otherwise made available, under the Agreement;
 - (ii) the adoption and implementation of international standards.

II. COPYRIGHT WORKS

Copyright belonging to the Parties or to their participants shall be accorded treatment consistent with the Bern Convention (1971 Paris Act).

III. SCIENTIFIC LITERARY WORKS

Without prejudice to Section IV, unless otherwise agreed in the TMP, publication of results of research shall be made jointly by the Parties or participants to that joint research. Subject to the foregoing general rule, the following procedures shall apply:

1. In the case of publication by a Party or public bodies of that Party of scientific and technical journals, articles, reports, books, including video and software, arising from joint research pursuant to this Agreement, the other Party shall be entitled to a worldwide, non-exclusive, irrevocable, royalty-free licence to translate, reproduce, adapt, transmit and publicly distribute such works.
2. The Parties shall ensure that literary works of a scientific character arising from joint research pursuant to this Agreement and published by independent publishers shall be disseminated as widely as possible.
3. All copies of a copyright work to be publicly distributed and prepared under these provisions shall indicate the names of the author(s) of the work unless an author or authors expressly declines or decline to be named. They shall also bear a clearly visible acknowledgement of the cooperative support of the Parties.

(*) Definitions of the concepts referred to in these guiding principles are set out in Annex II.

(**) The indicative features of such TMPs are set out in Annex III.

IV. UNDISCLOSED INFORMATION

A. Documentary undisclosed information

1. Each Party or its participants, as appropriate, shall identify at the earliest possible moment and preferably in the TMP the information that it wishes to remain undisclosed in relation to this Agreement, taking account, *inter alia*, of the following criteria:

- secrecy of the information in the sense that the information is not, as a body or in the precise configuration or assembly of its components, generally known among or readily accessible by lawful means to experts in the field;
- the actual or potential commercial value of the information by virtue of its secrecy;
- previous protection of the information in the sense that it has been subject to steps that were reasonable under the circumstances by the person lawfully in control, to maintain its secrecy.

The Parties and the participants may in certain cases agree that, unless otherwise indicated, parts or all of the information provided, exchanged or created in the course of joint research pursuant to the Agreement may not be disclosed.

2. Each Party shall ensure that undisclosed information under this Agreement and its ensuing privileged nature is readily recognisable as such by the other Party, for example by means of an appropriate marking or restrictive legend. This also applies to any reproduction of the said information, in whole or in part.

A Party receiving undisclosed information pursuant to the Agreement shall respect the privileged nature thereof. These limitations shall automatically terminate when this information is disclosed by the owner without restriction to experts in the field.

3. Undisclosed information communicated under this Agreement may be disseminated by the receiving Party to persons within or employed by the receiving Party, and other concerned departments or agencies in the receiving Party authorised for the specific purposes of the joint research under way, provided that any undisclosed information so disseminated shall be pursuant to an agreement of confidentiality and shall be readily recognisable as such, as set out above.
4. With the prior written consent of the Party providing undisclosed information under this Agreement, the receiving Party may disseminate such undisclosed information more idly than otherwise permitted in paragraph 3 above. The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party will grant such approval to the extent permitted by its domestic policies, regulations and laws.

B. Non-documentary undisclosed information

Non-documentary undisclosed or other confidential or privileged information provided in seminars and other meetings arranged under this Agreement, or information arising from the attachment of staff, use of facilities, or joint projects, shall be treated by the Parties or their participants according to the principle specified for documentary information in the Agreement, provided, however, that the recipient of such undisclosed or other confidential or privileged information has been made aware of the confidential character of the information communicated at the time such communication is made.

C. Control

Each Party shall ensure that undisclosed information received by it under this Agreement shall be controlled as provided therein. If one of the Parties becomes aware that it will be, or may reasonably be expected to become, unable to meet the non-dissemination provisions of paragraphs A and B above, it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.

ANNEX II**DEFINITIONS**

1. INTELLECTUAL PROPERTY: shall have the meaning found in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm on 14 July 1967.
2. PARTICIPANT: any natural or legal person, including the Parties themselves, participating in a project under this Agreement.
3. JOINT RESEARCH: research implemented and/or funded by the joint contributions of the Parties and with collaboration from participants of both Parties, where appropriate.
4. INFORMATION: scientific or technical data, results or methods of research and development stemming from the JOINT RESEARCH and any other information deemed necessary by the Parties and/or participants engaged in the JOINT RESEARCH to be provided or exchanged under this Agreement or research pursuant thereto.

ANNEX III**INDICATIVE FEATURES OF A TECHNOLOGY MANAGEMENT PLAN (TMP)**

The TMP is a specific to be concluded between the participants, about the implementation of joint research and the respective rights and obligations of the participants. With respect to IPR, the TMP will normally address, *inter alia*: ownership, protection, user rights for R&D purposes, exploitation and dissemination, including arrangements for joint publication, the rights and obligations of visiting researchers and dispute settlement procedures. The TMP may also address foreground and background information, licensing and deliverables.

COMMISSION DECISION
of 25 November 2002
amending Decision 1999/120/EC drawing up provisional lists of third country establishments from
which the Member States authorise imports of animal casings, with respect to Oman

(notified under document number C(2002) 4538)

(Text with EEA relevance)

(2002/925/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 95/408/EC of 22 June 1995 on the conditions for drawing up, for an interim period, provisional lists of third country establishments from which Member States are authorised to import certain products of animal origin, fishery products or live bivalve molluscs ⁽¹⁾, as last amended by Decision 2001/4/EC ⁽²⁾, and in particular Article 2(4) thereof,

Whereas:

- (1) Provisional lists of establishments in third countries producing animal casings have been drawn up by Commission Decision 1999/120/EC ⁽³⁾, as last amended by Decision 2002/483/EC ⁽⁴⁾.
- (2) Oman has provided the name of an establishment producing animal casings for which the competent authorities certify that the establishment is in accordance with the Community rules.
- (3) A provisional list of this establishment can thus be drawn up for Oman. Decision 1999/120/EC should therefore be amended accordingly.
- (4) 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

In the Annex to Decision 1999/120/EC, the following row is added for Oman:

País: OMÁN — **Land:** OMAN — **Land:** OMAN — **Χώρα:** ΟΜΑΝ — **Country:** OMAN — **Pays:** OMAN —
Paese: OMAN — **Land:** OMAN — **País:** OMÃ — **Maa:** OMAN — **Land:** OMAN

1	2	3	4	5
OM-83-NCP	National Casing Processing Co. LLC	Buraimi	—	⁽¹⁾

⁽¹⁾ Excluding intestines, from the duodenum to the rectum, of bovine animals of all ages, or products derived therefrom, as provided for in Regulation (EC) No 999/2001 of 22 May 2001. This exclusion does not apply to such products derived from animals born, continuously reared and slaughtered in Argentina, Australia, Brazil, Chile, Costa Rica, New Zealand, Nicaragua, Panama, Paraguay and Uruguay.'

⁽¹⁾ OJ L 243, 11.10.1995, p. 17.

⁽²⁾ OJ L 2, 5.1.2001, p. 21.

⁽³⁾ OJ L 36, 10.2.1999, p. 21.

⁽⁴⁾ OJ L 166, 25.6.2002, p. 25.

Article 2

This Decision shall apply as from the third day following its publication in the *Official Journal of the European Communities*.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 25 November 2002.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION
of 25 November 2002
amending Decision 2001/556/EC, with respect to Canada for gelatine intended for human consumption

(notified under document number C(2002) 4540)

(Text with EEA relevance)

(2002/926/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 95/408/EC of 22 June 1995 on the conditions for drawing up, for an interim period, provisional lists of third country establishments from which Member States are authorised to import certain products of animal origin, fishery products or live bivalve molluscs ⁽¹⁾, as last amended by Decision 2001/4/EC ⁽²⁾, and in particular Article 2(4) thereof,

Whereas:

- (1) Provisional lists of establishments in third countries producing gelatine intended for human consumption have been drawn up by Commission Decision 2001/556/EC of 11 July 2001 drawing up provisional lists of third country establishments from which Member States authorise imports of gelatine intended for human consumption ⁽³⁾.
- (2) Canada has provided the name of an establishment producing gelatine intended for human consumption for which the competent authorities certify that the establishments are in accordance with the Community rules.
- (3) Provisional listing of this establishment can thus be drawn up for Canada. Decision 2001/556/EC should therefore be amended accordingly.
- (4) 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

In the Annex to Decision 2001/556/EC, the following row is added:

País: CANADÁ — **Land:** CANADA — **Land:** KANADA — **Χώρα:** ΚΑΝΑΔΑΣ — **Country:** CANADA —
Pays: CANADA — **Paese:** CANADA — **Land:** CANADA — **País:** CANADÁ — **Maa:** KANADA — **Land:** KANADA

1	2	3	4
3738	Kenney & Ross Limited	Port Saxon	Nova Scotia'

⁽¹⁾ OJ L 243, 11.10.1995, p. 17.

⁽²⁾ OJ L 2, 5.1.2001, p. 21.

⁽³⁾ OJ L 200, 25.7.2001, p. 23.

Article 2

This Decision shall apply as from the third day following its publication in the *Official Journal of the European Communities*.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 25 November 2002.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION

of 26 November 2002

conferring management of aid on implementing agencies for pre-accession measures in agriculture and rural development in Hungary in the pre-accession period

(2002/927/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1266/1999 of 21 June 1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy and amending Regulation (EEC) No 3906/89⁽¹⁾, and in particular Article 12(2) thereof,

Whereas:

- (1) In accordance with Article 4(5) of Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period⁽²⁾, as last amended by Regulation (EC) No 2500/2001⁽³⁾, a Programme for Agriculture and Rural Development for Hungary was approved by Commission Decision on 18 October 2000, and amended by Commission Decision of 26 November 2002.
- (2) The Hungarian Government and the Commission, acting on behalf of the Community, signed on 1 March 2001 the Multiannual Financing Agreement (hereinafter MAFA) laying down the technical, legal and administrative framework for the execution of the Special Accession Programme for Agriculture and Rural Development (hereinafter the 'Sapard Programme').
- (3) The competent authority of Hungary has appointed as the Sapard Agency a public institution with legal status, subordinate to the Ministry of Agriculture and Rural Development. It will be responsible for implementing some of the measures defined in the Programme for Agriculture and Rural Development. The Ministry of Finance, National Fund, has been established for the financial functions which it is due to perform in the framework of the implementation of the Sapard programme.
- (4) Pursuant to Regulation (EC) No 1266/1999 and in accordance with the rules provided for in Commission Regulation (EC) No 2222/2000 of 7 June 2000 laying down financial rules for the application of Council Regulation (EC) No 1268/1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern

Europe in the pre-accession period⁽⁴⁾, as amended by Regulation (CE) No 2252/2001⁽⁵⁾, the Commission analysed on a case-by-case basis the national and sectorial programme/project management capacity, financial control procedures and structures regarding public finance and considers that, for the implementation of the aforementioned measures, Hungary complies with the provisions of Articles 4 to 6 and of the Annex to Regulation (EC) No 2222/2000, and with the minimum conditions set out in the Annex to Regulation (EC) No 1266/1999.

- (5) In particular, the Sapard Agency has implemented the following key accreditation criteria satisfactorily: written procedures, segregation of duties, pre-project approval and pre-payment checks, payment procedures, accounting procedures, computer security, internal audit, and, where appropriate, public procurement provisions.
- (6) On 27 August 2002, the Hungarian authorities provided the revised list of eligible expenditure in conformity with Section B of Article 4(1) of the MAFA, which did not give rise to objections by the Commission.
- (7) The Ministry of Finance, National Fund, has implemented the following criteria satisfactorily for the financial functions which it is due to perform in the framework of the implementation of the Sapard programme for Hungary: audit trail, treasury management, receipt of funds, disbursements to the Sapard Agency, computer security and internal audit.
- (8) It is therefore appropriate to waive the *ex-ante* approval requirement provided for in Article 12(1) of Regulation (EC) No 1266/1999 and to confer on the Sapard Agency and on the Ministry of Finance, National Fund, in Hungary, the management of aid on a decentralised basis.
- (9) However, since the verifications carried out by the Commission are based on an operational, but not operating system, it is appropriate to confer the management of the Sapard Programme on the Sapard Agency and on the Ministry of Finance, National Fund, according to Article 3(2) of Regulation (EC) No 2222/2000, on a provisional basis.

⁽¹⁾ OJ L 161, 26.6.1999, p. 68.⁽²⁾ OJ L 161, 26.9.1999, p. 87.⁽³⁾ OJ L 342, 27.12.2001, p. 1.⁽⁴⁾ OJ L 253, 7.10.2000, p. 5.⁽⁵⁾ OJ L 304, 21.11.2001, p. 8.

- (10) Full conferral of management of the Sapard Programme is only envisaged after further verifications to ensure that the system operates satisfactorily have been carried out and after any recommendations which the Commission may issue, with regard to the conferral of management of aid on the Sapard Agency and on the Ministry of Finance, National Fund, have been implemented.
- (11) In order to take account of the requirements of Section A of Article 8(1)(b), of the MAFA, rules for the eligibility for Community cofinance of expenditure pursuant to this Decision should be set out,

HAS DECIDED AS FOLLOWS:

Article 1

The requirement of *ex-ante* approval by the Commission of project selection and contracting by Hungary provided for in Article 12(1) of Regulation (EC) No 1266/1999 is hereby waived.

Article 2

Management of the Sapard Programme is conferred on a provisional basis to:

- (a) the Sapard Agency under the Ministry of Agriculture and Rural Development of Hungary, for the implementation of the following measures, as defined in the Programme for

Agriculture and Rural Development for Hungary: 'Investments in agricultural holdings', 'Processing and marketing of agricultural and fishery products', 'Development and improvement of rural infrastructure' and 'Technical assistance';

- (b) the Ministry of Finance, National Fund, for the financial functions it is due to perform in the framework of the implementation of the Sapard programme for Hungary.

Article 3

Expenditure pursuant to this Decision shall be eligible for Community cofinance only if incurred by beneficiaries from the date of adoption of this Decision or, if later, from the date of conclusion of the instrument making them a beneficiary for the project in question, except for feasibility and related studies and for technical assistance, where this date shall be 18 October 2000, provided in all cases it has not been paid by the Sapard Agency prior to the date of adoption of this Decision.

Done at Brussels, 26 November 2002.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 26 November 2002

concerning the non-inclusion of benomyl in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing this active substance*(notified under document number C(2002) 4534)***(Text with EEA relevance)**

(2002/928/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, as last amended by Commission Directive 2002/81/EC ⁽²⁾, and in particular the fourth subparagraph of Article 8(2) thereof,

Having regard to Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the program of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market ⁽³⁾, as last amended by Regulation (EC) No 2266/2000 ⁽⁴⁾, and in particular Article 7(3A)(b) thereof,

Whereas:

- (1) Article 8(2) of Directive 91/414/EEC provided for the Commission to carry out a programme of work for the examination of the active substances used in plant protection products which were already on the market on 25 July 1993. Detailed rules for the carrying out of this programme were established in Regulation (EEC) No 3600/92.
- (2) Commission Regulation (EC) No 933/94 of 27 April 1994 laying down the active substances of plant protection products and designating the rapporteur Member States for the implementation of Commission Regulation (EEC) No 3600/92 ⁽⁵⁾, as last amended by Regulation (EC) No 2230/95 ⁽⁶⁾, designated the active substances which should be assessed in the framework of Regulation (EEC) No 3600/92, designated a Member State to act as rapporteur in respect of the assessment of each substance and identified the producers of each active substance who submitted a notification in due time.
- (3) Benomyl is one of the 89 active substances designated in Regulation (EC) No 933/94.
- (4) In accordance with Article 7(1)(c) of Regulation (EEC) No 3600/92, Germany, being the designated rapporteur Member State, submitted on 21 November 1997 to the

Commission the report of its assessment of the information submitted by the notifiers in accordance with Article 6(1) of that Regulation.

- (5) On receipt of the report of the rapporteur Member State, the Commission undertook consultations with experts of the Member States as well as with the main notifier as provided for in Article 7(3) of Regulation (EEC) No 3600/92.
- (6) The assessment report prepared by Germany has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health. This review was finalised on 28 June 2002 in the format of the Commission review report for benomyl, in accordance with Article 7(6) of Regulation (EEC) No 3600/92.
- (7) Assessments made on the basis of the information submitted have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing benomyl satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.
- (8) The main notifier informed the Commission and the rapporteur Member State that it no longer wished to participate in the programme of work for this active substance, and therefore further information will not be submitted.
- (9) Benomyl should therefore not be included in Annex I to Directive 91/414/EEC.
- (10) Measures should be taken to ensure that existing authorisations for plant protection products containing benomyl are withdrawn within a prescribed period and are not renewed and that no new authorisations for such products are granted.
- (11) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant protection products containing benomyl allowed by Member States, in accordance with Article 4(6) of Directive 91/414/EEC should be limited to a period no longer than 12 months to allow existing stocks to be used in no more than one further growing season.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.

⁽²⁾ OJ L 276, 12.10.2002, p. 28.

⁽³⁾ OJ L 366, 15.12.1992, p. 10.

⁽⁴⁾ OJ L 259, 13.10.2000, p. 27.

⁽⁵⁾ OJ L 107, 28.4.1994, p. 8.

⁽⁶⁾ OJ L 225, 22.9.1995, p. 1.

- (12) This Decision does not prejudice any action the Commission may undertake at a later stage for this active substance within the framework of Council Directive 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant protection products containing certain active substances ⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden.
- (13) 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

Benomyl is not included as an active substance in Annex I to Directive 91/414/EEC.

Article 2

Member States shall ensure that:

- (a) authorisations for plant protection products containing benomyl are withdrawn within a period of six months from the date of adoption of the present Decision;

- (b) from the date of adoption of the present Decision no authorisations for plant protection products containing benomyl are granted or renewed under the derogation provided for in Article 8(2) of Directive 91/414/EEC.

Article 3

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and not longer than 18 months from the date of adoption of the present Decision.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 26 November 2002.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 33, 8.2.1979, p. 36.