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Contents

I Acts whose publication is obligatory

Commission Regulation (EC) No 2203/2002 of 12 December 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables	1
★ Commission Regulation (EC) No 2204/2002 of 12 December 2002 on the application of Articles 87 and 88 of the EC Treaty to State aid for employment	3
★ Commission Regulation (EC) No 2205/2002 of 12 December 2002 amending and correcting Regulation (EC) No 21/2002 establishing the supply balances and Community aid for the outermost regions under Council Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001	15
★ Commission Regulation (EC) No 2206/2002 of 12 December 2002 prohibiting fishing for common sole by vessels flying the flag of Denmark	19
★ Commission Regulation (EC) No 2207/2002 of 12 December 2002 prohibiting fishing for cod by vessels flying the flag of Sweden	20
★ Commission Regulation (EC) No 2208/2002 of 12 December 2002 laying down detailed rules for applying Council Regulation (EC) No 814/2000 on information measures relating to the common agricultural policy	21
Commission Regulation (EC) No 2209/2002 of 12 December 2002 fixing the representative prices and the additional import duties for molasses in the sugar sector	24
Commission Regulation (EC) No 2210/2002 of 12 December 2002 amending the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty	26
Commission Regulation (EC) No 2211/2002 of 12 December 2002 fixing the export refunds on milk and milk products	28

Price: EUR 18

(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

Commission Regulation (EC) No 2212/2002 of 12 December 2002 providing for the rejection of applications for export licences for certain milk products	34
Commission Regulation (EC) No 2213/2002 of 12 December 2002 fixing the maximum export refund on barley in connection with the invitation to tender issued in Regulation (EC) No 901/2002	35
Commission Regulation (EC) No 2214/2002 of 12 December 2002 fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 899/2002	36
Commission Regulation (EC) No 2215/2002 of 12 December 2002 fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 2096/2002	37
Commission Regulation (EC) No 2216/2002 of 12 December 2002 fixing the export refunds on rice and broken rice and suspending the issue of export licences	38
* Commission Directive 2002/94/EC of 9 December 2002 laying down detailed rules for implementing certain provisions of Council Directive 76/308/EEC on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures	41
II Acts whose publication is not obligatory	
Council	
2002/971/EC:	
* Council Decision of 18 November 2002 authorising the Member States, in the interest of the Community, to ratify or accede to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (the HNS Convention)	55
2002/972/EC:	
* Council Decision of 28 November 2002 authorising the Greek Government to grant aid to cotton growers in Greece	82
2002/973/EC:	
* Council Decision of 10 December 2002 amending Decision 89/688/EEC concerning the dock dues in the French overseas departments	83
2002/974/EC:	
* Council Decision of 12 December 2002 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2002/848/EC	85
Commission	
2002/975/EC:	
* Commission Decision of 12 December 2002 on introducing vaccination to supplement the measures to control infections with low pathogenic avian influenza in Italy and on specific movement control measures ⁽¹⁾ (notified under document number C(2002) 5051)	87

★ Council Common Position of 12 December 2002 updating Common Position 2001/931/CFSP on the application of specific measures to combat terrorism and repealing Common Position 2002/847/CFSP	93
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I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 2203/2002
of 12 December 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 13 December 2002.

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

Done at Brussels, 12 December 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 12 December 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	85,1
	204	70,9
	999	78,0
0707 00 05	052	104,8
	220	155,5
	628	237,0
	999	165,8
0709 10 00	220	195,0
	999	195,0
0709 90 70	052	99,0
	204	121,8
	999	110,4
0805 10 10, 0805 10 30, 0805 10 50	052	65,0
	204	54,3
	220	46,6
	999	55,3
0805 20 10	052	81,1
	204	69,4
	999	75,3
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	64,5
	999	64,5
0805 50 10	052	65,3
	600	75,3
	999	70,3
0808 10 20, 0808 10 50, 0808 10 90	060	27,0
	400	96,8
	404	100,5
	720	97,1
	999	80,3
0808 20 50	052	144,8
	400	115,8
	720	46,1
	999	102,2

⁽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 2204/2002

of 12 December 2002

on the application of Articles 87 and 88 of the EC Treaty to State aid for employment

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having published a draft of this Regulation ⁽²⁾,

Having consulted the Advisory Committee on State Aid,

Whereas:

- (1) Regulation (EC) No 994/98 empowers the Commission to declare, in accordance with Article 87 of the Treaty, that under certain conditions aid for employment is compatible with the common market and not subject to the notification requirement of Article 88(3) of the Treaty.
- (2) Regulation (EC) No 994/98 also empowers the Commission to declare, in accordance with Article 87 of the Treaty, that aid that complies with the map approved by the Commission for each Member State for the grant of regional aid is compatible with the common market and is not subject to the notification requirement of Article 88(3) of the Treaty.
- (3) The Commission has applied Articles 87 and 88 of the Treaty to employment aid in and outside assisted areas in numerous decisions and has also stated its policy, in the guidelines on aid to employment ⁽³⁾, in the notice on monitoring of State aid and reduction of labour costs ⁽⁴⁾, in the guidelines on national regional aid ⁽⁵⁾ and in Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises ⁽⁶⁾. In the light of the Commission's experience in applying those provisions, it is appropriate, with a view to ensuring efficient supervision and simplifying administration without weakening Commission monitoring, that the Commission should make use of the powers conferred by Regulation (EC) No 994/98.
- (4) This Regulation is without prejudice to the possibility for Member States to notify aid for employment. Such notifications will be assessed by the Commission in particular in the light of the criteria set out in this Regulation, in Regulation (EC) No 70/2001 or in accordance with any relevant Community guidelines or frameworks. This is currently the case for the sector of maritime transport. The guidelines on State aid for employment ⁽⁷⁾ cease to apply from the date of entry into force of this Regulation, as do the notice on monitoring of State aid and reduction of labour costs and the notice on an accelerated procedure for processing notifications of employment aid ⁽⁸⁾. Notifications pending at the entry into force of this Regulation will be assessed in accordance with its provisions. It is appropriate to lay down transitional provisions concerning the application of this Regulation to employment aid granted before its entry into force and in breach of the obligation in Article 88(3) of the Treaty.
- (5) The promotion of employment is a central aim for the economic and social policies of the Community and of its Member States. The Community has developed a European employment strategy in order to promote this objective. Unemployment remains a significant problem in some parts of the Community, and certain categories of worker still find particular difficulty in entering the labour market. For this reason there is a justification for public authorities to apply measures providing incentives to enterprises to increase their levels of employment, in particular of workers from these disadvantaged categories.
- (6) This Regulation applies only to employment measures which fulfil all the conditions of Article 87(1) of the Treaty and thus constitute State aid. A number of employment policy measures do not constitute State aid within the meaning of Article 87(1) because they constitute aid to individuals that does not favour certain undertakings or the production of certain goods, or because they do not affect trade between Member States or because they are general measures to promote employment which do not distort or threaten to distort competition by favouring certain undertakings or the production of certain goods. Such general measures, which may include general reduction of the taxation of labour and social costs, boosting investment in general education and training, measures to provide guidance and counselling, general assistance and training for the

⁽¹⁾ OJ L 142, 14.5.1998, p. 1.

⁽²⁾ OJ C 88, 12.4.2002, p. 2.

⁽³⁾ OJ C 334, 12.12.1995, p. 4.

⁽⁴⁾ OJ C 1, 3.1.1997, p. 10.

⁽⁵⁾ OJ C 74, 10.3.1998, p. 9.

⁽⁶⁾ OJ L 10, 13.1.2001, p. 33.

⁽⁷⁾ OJ C 371, 23.12.2000, p. 12.

⁽⁸⁾ OJ C 218, 27.7.1996, p. 4.

unemployed and improvements in labour law are therefore unaffected by this Regulation. This is also the case of measures which are deemed not to meet all the criteria of Article 87(1) of the Treaty and therefore do not fall under the notification requirement of Article 88(3) of the Treaty by virtue of Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid ⁽¹⁾.

- (7) Having regard to those considerations, the purpose and effect of the aid exempted by this Regulation should be to promote employment in accordance with the European employment strategy, in particular of workers from disadvantaged categories, without adversely affect trading conditions to an extent contrary to the common interest. Employment aid granted to a firm on an individual basis may have a major impact on competition in the relevant market because it favours that firm over others which have not received such aid. By being granted only to a single firm, such aid is likely to have only a limited effect on employment. For this reason individual awards of employment aid should continue to be notified to the Commission, and this Regulation should exempt aid only if given in the form of schemes.
- (8) This Regulation should exempt any aid granted under a scheme that meets all the relevant requirements of this Regulation. With a view to ensuring efficient supervision and simplifying administration without weakening Commission monitoring, aid schemes should contain an express reference to this Regulation.
- (9) This Regulation should not exempt from notification State aid in the shipbuilding and coal-mining sectors, for which special rules are laid down in, respectively, Council Regulation (EC) No 1540/98 ⁽²⁾ and Council Regulation (EC) No 1407/2002 ⁽³⁾.
- (10) This Regulation should apply in the transport sector. However, having regard to the particular characteristics of competition in that sector, it is not appropriate to exempt aid for the creation of employment.
- (11) The Commission has a consistently less favourable view of aid targeted at particular sectors, including, but not limited to, sensitive sectors experiencing overcapacity or crisis. Aid schemes which are targeted at specific sectors should not therefore be covered by the exemption from notification provided by this Regulation.
- (12) In accordance with the established practice of the Commission, and with a view to better ensuring that aid is proportionate and limited to the amount necessary, thresholds should be expressed in terms of aid intensities in relation to a set of eligible costs, rather than in terms of maximum aid amounts.
- (13) In order to determine whether or not aid is compatible with the common market pursuant to this Regulation, it is necessary to take into consideration the aid intensity and thus the aid amount expressed as a grant equivalent. The calculation of the grant equivalent of aid payable in several instalments and aid in the form of a soft loan requires the use of market interest rates prevailing at the time of grant. With a view to a uniform, transparent, and simple application of the State aid rules, the market rates for the purposes of this Regulation should be deemed to be the reference rates, provided that, in the case of a soft loan, the loan is backed by normal security and does not involve abnormal risk. The reference rates should be those which are periodically fixed by the Commission on the basis of objective criteria and published in the *Official Journal of the European Communities* and on the Internet.
- (14) Having regard to the differences between enterprises of different sizes, different ceilings of aid intensity for the creation of employment should be set for small and medium sized enterprises and large enterprises. In order to eliminate differences that might give rise to distortions of competition, in order to facilitate coordination between different Community and national initiatives, and for reasons of administrative clarity and legal certainty, the definition of 'small and medium-sized enterprises' (SMEs) used in this Regulation should be that laid down in Commission Recommendation 96/280/EC of 3 April 1996 concerning the definition of small and medium-sized enterprises ⁽⁴⁾. That definition was also used in Regulation (EC) No 70/2001.
- (15) The ceilings of aid intensity should be fixed, in the light of the Commissions experience, at a level that strikes the appropriate balance between minimising distortions of competition and the objective of promoting employment. In the interests of coherence, the ceilings should be harmonised with those fixed in the guidelines on national regional aid and in Regulation (EC) No 70/2001, which allowed aid to be calculated by reference to the creation of employment linked to investment projects.

⁽¹⁾ OJ L 10, 13.1.2001, p. 30.

⁽²⁾ OJ L 202, 18.7.1998, p. 1.

⁽³⁾ OJ L 205, 2.8.2002, p. 1.

⁽⁴⁾ OJ L 107, 30.4.1996, p. 4.

- (16) Employment costs form part of the normal operating costs of any enterprise. It is therefore particularly important that aid should have a positive effect on employment and should not merely enable enterprises to reduce costs which they would otherwise bear.
- (17) Without rigorous controls and strict limits, employment aid can have harmful effects which cancel out its immediate effects on job creation. If the aid is used to protect firms exposed to intra-Community competition, it could have the effect of delaying adjustments needed to ensure the competitiveness of Community industry. In the absence of rigorous controls, such aid may be concentrated in the most prosperous regions, contrary to the objective of economic and social cohesion. Within the single market, aid granted to reduce costs of employment can lead to distortions of intra-Community competition and deflections in the allocation of resources and mobile investment, to the shifting of unemployment from one country to another, and to relocation.
- (18) Aid to create jobs should be subject to the condition that the created job should be maintained for a certain minimum period. The period set in this regulation should override the five-year rule set out in point 4.14 of the guidelines on national regional aid.
- (19) Aid to maintain jobs, meaning financial support given to a firm to persuade it not to lay off its workers, is similar to operating aid. Subject to any sectoral rules, therefore, such as those which exist in the sector of maritime transport, it should be authorised only in specific circumstances and for a limited period. It should continue to be notified to the Commission and should not be covered by the exemption from such notification provided by this Regulation. The limited circumstances in which it can be authorised include those where, in accordance with Article 87(2)(b) of the Treaty, it is intended to make good the damage caused by natural disasters or exceptional occurrences; another instance is under the conditions applying to operating aid in the guidelines on national regional aid, in regions eligible for the derogation under Article 87(3)(a) of the Treaty concerning the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, including ultra-peripheral regions; a third instance is where such aid is granted in the context of the rescue and restructuring of a company in difficulty, in accordance with the provisions of the relevant Community guidelines ⁽¹⁾.
- (20) A particular type of aid is aid granted to employers for the conversion of temporary or fixed-term employment contracts into contracts of indeterminate duration. Such measures should not be covered by the exemption from such notification provided by this Regulation and should be notified so that the Commission can determine whether they have positive employment effects. It should in particular be ensured that such measures do not allow the employment to be aided both at the creation of the post and at the conversion of the contract, in such a way that the ceiling for aid for initial investment or for creation of employment is exceeded.
- (21) Small and medium-sized enterprises play a decisive role in job creation. At the same time, their size may present a handicap to the creation of new employment because of the risks and administrative burden involved in the recruitment of new personnel. Similarly, job creation can contribute to the economic development of less favoured regions in the Community and thus improve economic and social cohesion. Enterprises in those regions suffer from the structural disadvantage of the location. It is therefore appropriate that small and medium-sized enterprises, and enterprises in assisted regions, should be able to benefit from aid to create employment.
- (22) Large firms in non-assisted areas do not suffer from particular difficulties and employment costs are part of their normal operating expenses. For this reason, and in order to maximise the incentive effect of aid to create jobs in SMEs and in regions eligible for the derogations under Article 87(3)(a) and (c) of the Treaty, large firms in regions not eligible for these derogations should not be eligible for aid to create employment.
- (23) Certain categories of worker experience particular difficulty in finding work, because employers consider them to be less productive. This perceived lower productivity may be due either to lack of recent experience of employment (for example, young workers, long-term unemployed) or to permanent handicap. Employment aid intended to encourage firms to recruit such individuals is justified by the fact that the lower productivity of these workers reduces the financial advantage

⁽¹⁾ OJ C 288, 9.10.1999, p. 2.

accruing to the firm and by the fact that the workers also benefit from the measure and are likely to be excluded from the labour market unless employers are offered such incentives. It is therefore appropriate to allow schemes providing such aid, whatever the size or location of the beneficiary.

- (24) The categories of worker considered to be disadvantaged should be defined, but it should be possible for Member States to notify aid to promote the recruitment of other categories they consider to be disadvantaged, with supporting arguments.
- (25) Workers with a disability may need permanent help to enable them to remain in the labour market, going beyond aid for initial recruitment and possibly including participation in sheltered employment. Schemes providing aid for such purposes should be exempted from notification provided that the aid can be shown to be no more than necessary to compensate for the lower productivity of the workers concerned, the ancillary costs of employing them or the costs of establishing or maintaining sheltered employment. This condition is designed to prevent enterprises benefiting from such aid from selling below competitive prices in markets also served by other enterprises.
- (26) This Regulation should not prevent the cumulation of aid for the recruitment of disadvantaged workers or for the recruitment or employment of disabled workers with other aid granted in respect of employment costs, since in such cases it is legitimate to provide an incentive for workers from these categories to be employed in preference to others.
- (27) In order to ensure that the aid is necessary and acts as an incentive to employment, this Regulation should not exempt aid for the creation of employment or for recruitment which the beneficiary would already undertake under market conditions alone.
- (28) This Regulation should not exempt aid for the creation of employment where this is cumulated with other State aid, including aid granted by national, regional or local authorities, or with Community assistance, in relation to the same eligible costs or to the costs of investments to which the employment concerned is linked, when such cumulation exceeds the thresholds fixed in this Regulation or in the Community rules on State aid for investment, in particular the Guidelines on national regional aid and Regulation (EC) No 70/2001. The only exceptions to this principle should be for aid for the recruitment of disadvantaged workers or for the recruitment or employment of disabled workers.
- (29) It is appropriate that large amounts of aid should remain subject to an individual assessment by the Commission before they are put into effect. Accordingly, aid amounts exceeding a fixed amount over a certain period to a single enterprise or establishment are excluded from the exemption provided for in this Regulation and remain subject to the requirements of Article 88(3) of the Treaty.
- (30) Aid measures to promote employment or other aid with objectives connected with employment and labour markets may be of a different nature from measures exempted by this Regulation. Such measures should be notified under Article 88(3).
- (31) In the light of the World Trade Organisation (WTO) Agreement on Subsidies and Countervailing Measures, this Regulation should not exempt export aid or aid favouring domestic over imported products. Such aid would be incompatible with the Community's international obligations under that Agreement and should not therefore be exempted from notification, nor authorised if so notified.
- (32) In order to ensure transparency and effective monitoring, in accordance with Article 3 of Regulation (EC) No 994/98, it is appropriate to establish a standard format in which Member States should provide the Commission with summary information whenever, in pursuance of this Regulation, an aid scheme is implemented, with a view to publication in the *Official Journal of the European Communities*. For the same reasons, it is appropriate to establish rules concerning the records that Member States should keep regarding the aid scheme exempted by this Regulation. For the purposes of the annual report to be submitted to the Commission by Member States, it is appropriate for the Commission to establish its specific requirements. In order to facilitate administrative treatment and in view of the wide availability of the necessary technology, the summary information and the annual report should be provided in computerised form.
- (33) Having regard to the Commissions experience in this area, and in particular the frequency with which it is generally necessary to revise State aid policy, it is appropriate to limit the period of application of this Regulation. Pursuant to Article 4(2) of Regulation (EC) No 994/98, it is necessary to include transitional arrangements whereby aid schemes already exempted by this Regulation will, on its expiry, continue to be exempted for another six months,

HAS ADOPTED THIS REGULATION

Article 1

Scope

1. This Regulation shall apply to schemes which constitute State aid within the meaning of Article 87(1) of the Treaty and which provide aid for the creation of employment, provide aid for the recruitment of disadvantaged and disabled workers or provide aid to cover the additional costs of employing disabled workers.

2. This Regulation shall apply to aid in all sectors, including the activities relating to the production, processing and marketing of products listed in Annex I to the Treaty.

It shall not apply to any aid granted in the coal or shipbuilding sectors, nor to any aid for the creation of employment, within the meaning of Article 4, granted in the transport sector. Such aid shall remain subject to prior notification to the Commission in accordance with Article 88(3) of the Treaty.

3. This Regulation shall not apply:

- (a) to aid to export-related activities, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;
- (b) to aid contingent upon the use of domestic in preference to imported goods.

Article 2

Definitions

For the purpose of this Regulation:

- (a) 'aid' means any measure fulfilling all the criteria laid down in Article 87(1) of the Treaty;
- (b) 'small and medium-sized enterprises' means enterprises as defined in Annex I to Regulation (EC) No 70/2001;
- (c) 'gross aid intensity' means the aid amount expressed as a percentage of the relevant costs. All figures used shall be taken before any deduction for direct taxation. Where aid is awarded in a form other than a grant, the aid amount shall be the grant equivalent of the aid. Aid payable in several instalments shall be discounted to its value at the moment of granting. The interest rate to be used for discounting purposes and for calculating the aid amount in a soft loan shall be the reference rate applicable at the time of grant;
- (d) 'net aid intensity' means the discounted aid amount net of tax expressed as a percentage of the relevant costs;
- (e) 'number of employees' means the number of annual working units (AWU), namely the number of persons employed full time in one year, part-time and seasonal work being AWU fractions;
- (f) 'disadvantaged worker' means any person who belongs to a category which has difficulty entering the labour market without assistance, namely a person meeting at least one of the following criteria:
 - (i) any person who is under 25 or is within two years after completing full-time education and who has not previously obtained his or her first regular paid employment;
 - (ii) any migrant worker who moves or has moved within the Community or becomes resident in the Community to take up work;
 - (iii) any person who is a member of an ethnic minority within a Member State and who requires development of his or her linguistic, vocational training or work experience profile to enhance prospects of gaining access to stable employment;
 - (iv) any person who wishes to enter or to re-enter working life and who has been absent both from work and from education for at least two years, and particularly any person who gave up work on account of the difficulty of reconciling his or her working life and family life;
 - (v) any person living as a single adult looking after a child or children;
 - (vi) any person who has not attained an upper secondary educational qualification or its equivalent, who does not have a job or who is losing his or her job;
 - (vii) any person older than 50, who does not have a job or who is losing his or her job;
 - (viii) any long-term unemployed person, i.e. any person who has been unemployed for 12 of the previous 16 months, or six of the previous eight months in the case of persons under 25;
 - (ix) any person recognised to be or to have been an addict in accordance with national law;
 - (x) any person who has not obtained his or her first regular paid employment since beginning a period of imprisonment or other penal measure;
 - (xi) any woman in a NUTS II geographical area where average unemployment has exceeded 100 % of the Community average for at least two calendar years and where female unemployment has exceeded 150 % of the male unemployment rate in the area concerned for at least two of the past three calendar years;
- (g) 'disabled worker' means any person either:
 - (i) recognised as disabled under national law; or
 - (ii) having a recognised, serious, physical, mental or psychological impairment;

- (h) 'sheltered employment' means employment in an establishment where at least 50 % of the employees are disabled workers who are unable to take up work in the open labour market;
- (i) 'wage cost' comprises the following components actually payable by the beneficiary of the State aid in respect of the employment concerned:
 - (i) the gross wage, i.e. before tax; and
 - (ii) the compulsory social security contributions.
- (j) a job is 'linked to the carrying-out of a project of investment' if it concerns the activity to which the investment relates and if it is created within three years of the investment's completion. During this period, the jobs created following an increase in the utilisation rate of the capacity created by the investment are also linked to the investment;
- (k) 'investment in tangible assets' means an investment in fixed physical assets relating to the creation of a new establishment, the extension of an existing establishment, or the engagement in an activity involving a fundamental change in the product or production process of an existing establishment (in particular through rationalisation, diversification or modernisation). An investment in fixed assets undertaken in the form of the takeover of an establishment which has closed or which would have closed had it not been purchased shall also be regarded as tangible investment;
- (l) 'investment in intangible assets' means investment in transfer of technology by the acquisition of patent rights, licences, know-how or unpatented technical knowledge.

Article 3

Conditions for exemption

1. Subject to Article 9, aid schemes fulfilling all the conditions of this Regulation shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that:
 - (a) any aid that could be awarded under such scheme fulfils all the conditions of this Regulation;
 - (b) the scheme contains an express reference to this Regulation, by citing its title and publication reference in the *Official Journal of the European Communities*.
2. Aid granted under the schemes referred to in paragraph 1 shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) provided that the aid granted fulfils all the conditions of this Regulation.

Article 4

Creation of employment

1. Aid schemes for the creation of employment and any aid that could be awarded under such scheme shall fulfil the conditions of paragraphs 2, 3 and 4.
 2. Where the employment is created in areas or in sectors which do not qualify for regional aid pursuant to Article 87(3)(a) and (c) at the moment the aid is granted, the gross aid intensity shall not exceed:
 - (a) 15 % in the case of small enterprises;
 - (b) 7,5 % in the case of medium-sized enterprises.
 3. Where the employment is created in areas and in sectors which qualify for regional aid pursuant to Article 87(3)(a) and (c) at the moment at which the aid is awarded, the net aid intensity shall not exceed the corresponding ceiling of regional investment aid determined in the map applying at the time the aid is granted, as approved by the Commission for each Member State: for this purpose, regard shall be had, *inter alia*, to the multisectoral framework for regional aid for large investment projects ⁽¹⁾.
- In the case of small and medium-sized enterprises, and unless the map provides otherwise for such enterprises, this ceiling shall be increased by:
- (a) 10 percentage points gross in areas covered by Article 87(3)(c), provided that the total net aid intensity does not exceed 30 %; or
 - (b) 15 percentage points gross in areas covered by Article 87(3)(a), provided that the total net aid intensity does not exceed 75 %.

The higher regional aid ceilings shall only apply if the beneficiary's contribution to financing is at least 25 % and if the employment is maintained within the qualifying region.

When employment is created in the production, processing and marketing of products listed in Annex I to the Treaty, in areas which qualify as less favoured areas under Council Regulation (EC) No 1257/1999 ⁽²⁾, these higher aid ceilings or, if applicable, the higher aid ceilings of that Regulation, shall apply.

4. The ceilings fixed in paragraphs 2 and 3 shall apply to the intensity of the aid calculated as a percentage of the wage costs over a period of two years relating to the employment created under the following conditions:
 - (a) the employment created must represent a net increase in the number of employees, both in the establishment and in the enterprise concerned, compared with the average over the past 12 months;

⁽¹⁾ OJ C 70, 19.3.2002, p. 8.

⁽²⁾ OJ L 160, 26.6.1999, p. 80.

- (b) the employment created shall be maintained for a minimum period of three years, or two years in the case of SMEs; and
- (c) the new workers employed as a result of the creation of employment must have never had a job or have lost or be losing their previous job.

5. Where aid is granted for the creation of employment under a scheme exempted under this Article, additional aid may be granted in case of recruitment of a disadvantaged or disabled worker in accordance with the terms of Articles 5 or 6.

Article 5

Recruitment of disadvantaged and disabled workers

1. Aid schemes for the recruitment by any enterprise of disadvantaged and disabled workers and any aid that could be awarded under such scheme shall fulfil the conditions of paragraphs 2 and 3.

2. The gross intensity of all aid relating to the employment of the disadvantaged or disabled worker or workers concerned, calculated as a percentage of the wage costs over a period of one year following recruitment, shall not exceed 50 % for disadvantaged workers or 60 % for disabled workers.

3. The following conditions shall apply:

- (a) where the recruitment does not represent a net increase in the number of employees in the establishment concerned, the post or posts must have fallen vacant following voluntary departure, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy, and
- (b) except in the case of lawful dismissal for misconduct the worker or workers must be entitled to continuous employment for a minimum of 12 months.

Article 6

Additional costs of employment of disabled workers

1. Aid schemes for the employment of disabled workers and any aid that could be awarded under such a scheme shall fulfil the conditions of paragraphs 2 and 3.

2. The aid, together with any aid provided under Article 5, shall not exceed the level needed to compensate for any reduced productivity resulting from the disabilities of the worker or workers, and for any of the following costs:

- (a) costs of adapting premises;

- (b) costs of employing staff for time spent solely on the assistance of the disabled worker or workers;
- (c) costs of adapting or acquiring equipment for their use,

which are additional to those which the beneficiary would have incurred if employing workers who are not disabled, over any period for which the disabled worker or workers are actually employed.

Where the beneficiary provides sheltered employment, aid may in addition cover, but shall not exceed, the costs of constructing, installing or expanding the establishment concerned, and any costs of administration and transport which result from the employment of disabled workers.

3. Schemes exempted by this Article shall provide that aid be subject to the condition that the beneficiary maintain records allowing verification that the aid granted to it meets the provisions of this Article and Article 8(4).

Article 7

Necessity for the aid

1. This Regulation shall only exempt aid under Article 4 if before the employment concerned is created:

- (a) either an application for aid has been submitted to the Member State by the beneficiary; or
- (b) the Member State has adopted legal provisions establishing a legal right to aid according to objective criteria and without further exercise of discretion by the Member State.

2. Aid shall enjoy exemption under Article 4 in cases where:

- (a) the employment created is linked to the carrying-out of a project of investment in tangible or intangible assets; and
- (b) the employment is created within three years of the investment's completion,

only if the application referred in paragraph 1(a), or the adoption referred to in paragraph 1(b), takes place before work on the project is started.

Article 8

Cumulation

1. The aid ceilings fixed in Articles 4, 5 and 6 shall apply regardless of whether the support for the aided employment or recruitment is financed entirely from State resources or is partly financed by the Community.

2. Aid under schemes exempted by Article 4 of this Regulation shall not be cumulated with any other State aid within the meaning of Article 87(1) of the Treaty, or with other Community funding, in relation to the same wage costs, if such cumulation would result in an aid intensity exceeding that fixed by this Regulation.

3. Aid under schemes exempted by Article 4 of this Regulation shall not be cumulated:

- (a) with any other State aid within the meaning of Article 87(1) of the Treaty, or with other Community funding, in relation to costs of any investment to which the created employment is linked and which has not yet been completed at the time the employment is created, or which was completed in the three years before the employment is created; or
- (b) with any such aid or funding in relation to the same wage costs or to other employment linked to the same investment,

if such cumulation would result in an aid intensity exceeding the relevant ceiling of regional investment aid determined in the guidelines on national regional aid and in the map approved by the Commission for each Member State or the ceiling in Regulation (EC) No 70/2001. Where the relevant ceiling has been adapted in a particular case, in particular by the application of State aid rules applying in a particular sector, or by an instrument applying to large investment projects, such as the applicable multisectoral framework for regional aid for large investment projects, the adapted ceiling shall apply for the purposes of this paragraph.

4. By way of derogation from paragraphs 2 and 3, aid under schemes exempted by Articles 5 and 6 of this Regulation may be cumulated with other State aid within the meaning of Article 87(1) of the Treaty, or with other Community funding, in relation to the same costs, including with aid under schemes exempted by Article 4 of this Regulation which complies with paragraphs 2 and 3, provided that such cumulation does not result in a gross aid intensity exceeding 100 % of the wage costs over any period for which the worker or workers are employed.

The first subparagraph shall be without prejudice to any lower limits on aid intensity that may have been set pursuant to the Community framework for State aid for research and development ⁽¹⁾.

Article 9

Aid subject to prior notification to the Commission

1. Aid schemes which are targeted at particular sectors shall not be exempted from notification under this Regulation and shall remain subject to the notification requirement of Article 88(3) of the Treaty.

2. This Regulation shall not exempt from notification the grant of aid to a single enterprise or establishment exceeding a gross aid amount of EUR 15 million over any three-year period. The Commission shall assess such aid, if granted under a scheme which is otherwise exempted by this Regulation, by reference solely to the criteria of this Regulation.

3. This Regulation is without prejudice to any obligation on a Member State to notify individual grants of aid under obligations entered into in the context of other State aid Instruments, and in particular the obligation to notify, or to inform the Commission of, aid to an enterprise receiving restructuring aid within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty and the obligation to notify regional aid for large investment projects under the applicable multisectoral Framework.

4. Aid schemes to promote the recruitment of categories of worker who are not disadvantaged within the meaning of Article 2(f) shall remain subject to the notification requirement of Article 88(3) of the Treaty unless exempted under Article 4. On notification, Member States shall submit, for appraisal by the Commission, arguments showing that the workers concerned are disadvantaged. In this respect, Article 5 shall apply.

5. Aid to maintain jobs, namely financial support given to an undertaking to retain workers who would otherwise be laid off, shall remain subject to the notification requirement of Article 88(3) of the Treaty. Subject to any sectoral rules, such aid may be authorised by the Commission only where, in accordance with Article 87(2)(b) of the Treaty, it is intended to make good the damage caused by natural disasters or exceptional occurrences or, under the conditions applying to operating aid in the guidelines on national regional aid, in regions eligible for the derogation under Article 87(3)(a) concerning the economic development of areas where the standard of living is abnormally low or where there is serious underemployment.

6. Aid for the conversion of temporary or fixed-term employment contracts into contracts of indeterminate duration shall remain subject to the notification requirement of Article 88(3) of the Treaty.

7. Aid schemes for job-sharing, for provision of support for working parents and similar employment measures which promote employment but which do not result in a net increase in employment, in the recruitment of disadvantaged workers, or in the recruitment or employment of disabled workers shall remain subject to the notification requirement of Article 88(3) of the Treaty and shall be assessed by the Commission in accordance with Article 87.

⁽¹⁾ OJ C 45, 17.2.1996, p. 5.

8. Other aid measures with objectives connected with employment and labour markets, such as measures to encourage early retirement, shall also remain subject to the notification requirement of Article 88(3) of the Treaty and shall be assessed by the Commission in accordance with Article 87.

9. Individual cases of employment aid granted independently of any scheme shall remain subject to the notification requirement of Article 88(3) of the Treaty. Such aid will be assessed in the light of this Regulation and may be authorised by the Commission only if it is compatible with any specific applicable rules which may have been laid down in respect of the sector in which the beneficiary operates and only if it can be shown that the effects of the aid on employment outweigh the impact on competition in the relevant market.

Article 10

Transparency and monitoring

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

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

request, with all the information which the Commission considers necessary to assess whether the conditions of this Regulation have been complied with.

3. Member States shall compile a report on the application of this Regulation in respect of each whole or part calendar year during which this Regulation applies, in the form laid down in Annex II, in computerised form. Member States shall provide the Commission with such report no later than three months after the expiry of the period to which the report relates.

Article 11

Entry into force, period of validity, and transitional arrangements

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

It shall remain in force until 31 December 2006.

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

Aid schemes implemented before the date of entry into force of this Regulation, and aid granted under these schemes, in the absence of a Commission authorisation and in breach of the obligation in Article 88(3) of the Treaty, shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempted under this Regulation if they fulfil the conditions laid down in Article 3(1)(a) and Article 3(2). Any aid which does not fulfil these conditions shall be assessed by the Commission in accordance with the relevant frameworks, guidelines, communications and notices.

3. At the end of the period of validity of this Regulation, aid schemes exempted under this Regulation shall remain exempted during an adjustment period of six months.

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

Done at Brussels, 12 December 2002.

For the Commission

Mario MONTI

Member of the Commission

ANNEX I

Information communicated by Member States regarding State aid granted under Regulation (EC) No 2204/2002 of 12 December 2002 on the application of Articles 87 and 88 of the EC Treaty to State aid for employment
(to be provided in computerised form, by electronic mail, to stateaidgreffe@cec.eu.int)

Aid No:

Explanatory remark: This number will be filled in by DG COMP.

Member State:**Region:**

Explanatory remark: Indicate the name of the region if the aid is granted by a sub-central authority.

Title of aid scheme:

Explanatory remark: Indicate the name of the aid scheme.

Legal basis:

Explanatory remark: Indicate the precise national legal reference for the aid and a publication reference.

Annual expenditure planned under the scheme:

Explanatory remarks: Amounts are to be given in euro or, if applicable, national currency. Indicate the annual overall amount of the budget appropriation(s) or the estimated tax loss per year for all aid instruments contained in the scheme.

For guarantees, indicate the (maximum) amount of loans guaranteed.

Maximum aid intensity under:

- Article 4: creation of employment:
- Article 5: recruitment of disadvantaged and disabled workers:
- Article 6: additional costs of employment of disabled workers:

Explanatory remark: Indicate the maximum aid intensity distinguishing between aid under Articles 4, 5 and 6 of the Regulation.

Date of implementation:

Explanatory remark: Indicate the date from which aid may be granted under the scheme.

Duration of scheme:

Explanatory remark: Indicate the date (year and month) until which aid may be granted under the scheme.

Objective of aid:

- Article 4: creation of employment:
- Article 5: recruitment of disadvantaged and disabled workers:
- Article 6: employment of disabled workers:

Explanatory remark: The primary objective(s) of the measure should be identified from among the three options. This field also gives the opportunity to indicate further (secondary) objectives pursued.

Economic sector(s) concerned:

- all Community sectors ⁽¹⁾
- all manufacturing ⁽¹⁾
- all services ⁽¹⁾
- other (please specify)

Explanatory remarks: Choose from the list, where relevant. Aid schemes which are targeted at specific sectors are not covered by the exemption from notification provided by this Regulation.

Name and address of the granting authority:

Explanatory remark: Please include the telephone No and where possible the address for electronic mail.

⁽¹⁾ With the exception of the shipbuilding sector, and other sectors which are the subjects of special rules in regulations and directives governing all State aid within the sector.

Other information:

Explanatory remarks: If the scheme is co-financed by Community funds, please add the following sentence:

'The aid scheme is co-financed under [reference].'

If the scheme's duration extends beyond the date of validity of this Regulation, please add the following sentence:

'The exemption regulation expires on 31 December 2006 followed by a transitional period of six months.'

ANNEX II

Form of the periodic report to be provided to the Commission**Annual reporting format on aid schemes exempted under a group exemption regulation adopted pursuant to Article 1 of Regulation (EC) No 994/98**

Member States are required to use the format below for their reporting obligations to the Commission under group exemption regulations adopted on the basis of Regulation (EC) No 994/98.

The reports should be provided in computerised form to:

stateaidgreffe@cec.eu.int

Information required for all aid schemes exempted under group exemption regulations adopted pursuant to Article 1 of Regulation (EC) No 994/98

1. Title and No of aid scheme
2. Commission exemption regulation applicable
3. Expenditure

Separate figures have to be provided for each aid instrument within a scheme (e.g. grant, soft loans, etc.). The figures have to be expressed in euro or, if applicable, national currency. In the case of tax expenditure, annual tax losses have to be reported. If precise figures are not available, such losses may be estimated.

These expenditure figures should be provided on the following basis:

For the year under review indicate separately for each aid instrument within the scheme (e.g. grant, soft loan, guarantee, etc.):

- 3.1. Amounts committed, (estimated) tax losses or other revenue forgone, data on guarantees, etc. for new decisions to grant aid. In the case of guarantee schemes, the total amount of new guarantees handed out should be provided.
- 3.2. Actual payments, (estimated) tax losses or other revenue forgone, data on guarantees, etc. for new and current grants of aid. In the case of guarantee schemes, the following should be provided: total amount of outstanding guarantees, premium income, recoveries, indemnities paid out, operating result of the scheme under the year under review.
- 3.3. Number of new decisions to grant aid.
- 3.4. Estimated overall number of jobs created or disadvantaged or disabled workers recruited or employed under new decisions to grant aid (as appropriate). Aid for the recruitment of disadvantaged workers should be broken down by the categories in Article 2(f).
- 3.5.
- 3.6. Regional breakdown of amounts under point 3.1 either by regions defined at NUTS ⁽¹⁾ level II or below or by Article 87(3)(a) regions, Article 87(3)(c) regions and non-assisted regions.
- 3.7. Sectoral breakdown of amounts under point 3.1 by beneficiaries' sectors of activity (If more than one sector is covered, indicate the amount for each):
 - coalmining
 - manufacturing of which:
 - steel
 - shipbuilding
 - synthetic fibres
 - motor vehicles
 - other manufacturing
 - services of which:
 - transport services
 - financial services
 - other services
 - other sectors (please specify)
4. Other information and remarks

⁽¹⁾ NUTS is the nomenclature of territorial units for statistical purposes in the European Community.

COMMISSION REGULATION (EC) No 2205/2002

of 12 December 2002

amending and correcting Regulation (EC) No 21/2002 establishing the supply balances and Community aid for the outermost regions under Council Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1452/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the French overseas departments, amending Directive 72/462/EEC and repealing Regulations (EEC) No 525/77 and (EEC) No 3763/91 (Poseidom) ⁽¹⁾, and in particular Article 3(6) thereof,

Having regard to Council Regulation (EC) No 1453/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Azores and Madeira and amending Regulation (EEC) No 1600/92 (Poseima) ⁽²⁾, and in particular Article 3(6) thereof,

Having regard to Council Regulation (EC) No 1454/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Canary Islands and repealing Regulation (EEC) No 1601/92 (Poseican) ⁽³⁾, as last amended by Regulation (EC) No 1922/2002 ⁽⁴⁾, and in particular Article 3(6) thereof,

Whereas:

- (1) Commission Regulation (EC) No 21/2002 ⁽⁵⁾, as last amended by Regulation (EC) No 2132/2002 ⁽⁶⁾, establishes the forecast supply balances and Community aid for the outermost regions under Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001.
- (2) The forecast supply balance for breeding cattle (CN code ex 0102 10) in the French overseas departments provides for an annual quantity of 400 animals. Information provided by the French authorities shows that this will be insufficient to cover the needs of the overseas departments in 2002. The quantity should therefore be increased by 50 animals for 2002.

- (3) Following detection of a material error, the tariff code for frozen carcasses and half-carcasses of meat of domestic swine referred to in Annex II, Part 10 to Regulation (EC) No 21/2002 should be corrected.
- (4) The forecast supply balance for fresh and chilled meat of bovine animals (CN code 0201) in the Canary Islands provides for an annual quantity of 20 000 tonnes. Information provided by the Spanish authorities shows that this will be insufficient to cover the needs of the Islands for direct consumption in 2002. The quantity should therefore be increased by 1 000 tonnes for 2002. However, the information shows an under-utilisation of the quantity of frozen beef, initially fixed at 16 500 tonnes for 2002. As a result, this quantity should be reduced by 1 650 tonnes.
- (5) The measures laid down in this Regulation are in accordance with the opinion of the Management Committees for Beef and Veal and Pigmeat,

HAS ADOPTED THIS REGULATION

Article 1

Regulation (EC) No 21/2002 is hereby amended as follows:

1. In Annex I, Part 6 is replaced by Annex I to this Regulation.
2. In Annex II, Part 10 is replaced by Annex II to this Regulation.
3. In Annex III, Part 8 is replaced by Annex III to this Regulation.

Article 2

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

Points 1 and 3 of Article 1 shall apply until 31 December 2002.

⁽¹⁾ OJ L 198, 21.7.2001, p. 11.

⁽²⁾ OJ L 198, 21.7.2001, p. 26.

⁽³⁾ OJ L 198, 21.7.2001, p. 45.

⁽⁴⁾ OJ L 293, 29.10.2002, p. 11.

⁽⁵⁾ OJ L 8, 11.1.2002, p. 15.

⁽⁶⁾ OJ L 325, 30.11.2002, p. 21.

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

Done at Brussels, 12 December 2002.

For the Commission
 Franz FISCHLER
 Member of the Commission

ANNEX I

'Part 6

The beef and veal sector

Forecast supply balance and Community aid for the supply of Community products for 2002

Description	CN code	Department	Quantity (number of animals)	Aid (EUR/animal)
Breeding horses	0101 11 00	Total	1	930
Live bovine animals:				
— cattle for breeding ⁽¹⁾	ex 0102 10	Total	450	930
— cattle for fattening ⁽²⁾ ⁽³⁾	ex 0102 90	Total	100	

⁽¹⁾ Entry under this subheading is subject to conditions laid down in the relevant Community provisions.

⁽²⁾ Only those originating in third countries.

⁽³⁾ Eligibility for exemption from import duties shall be subject to:

- a written declaration by the importer or applicant at the time the bovine animals arrive in the overseas departments that they are intended for fattening there for a period of 60 days from the actual date of their arrival and will be consumed there afterwards,
 - a written undertaking by the importer or applicant, made at the time the bovine animals arrive, to inform the competent authorities within one month of the date of their arrival of the holding or holdings where the animals are to be fattened,
 - proof to be furnished by the importer or applicant that, except in cases of *force majeure*, each animal has been fattened on the holding or holdings indicated in accordance with the second indent, that it has not been slaughtered before the end of the period provided for in the first indent, or that it has been slaughtered for health reasons or died as a result of illness or accident.'
-

ANNEX II

Part 10*Pigmeat sector*

Forecast supply balance and Community aid for the supply of Community products per calendar year

MADEIRA

Description	CN code	Quantity (number of animals or tonnes)	Aid (EUR/animal or tonne)
Pure-bred breeding swine ⁽¹⁾ :	0103 10 00		
— male animals		10	483
— female animals		60	423
Meat of domestic swine, fresh, chilled or frozen:	ex 0203	2 200	
— carcasses and half-carcasses	0203 11 10 9000		66
— hams and cuts thereof	0203 12 11 9100		99
— shoulders and cuts thereof	0203 12 19 9100		66
— fore-ends and cuts thereof	0203 19 11 9100		66
— loins and cuts thereof	0203 19 13 9100		99
— bellies (streaky) and cuts thereof	0203 19 15 9100		66
— other: boned	0203 19 55 9110		112
— other: boned	0203 19 55 9310		112
— carcasses and half-carcasses	0203 21 10 9000		66
— hams and cuts thereof	0203 22 11 9100		99
— shoulders and cuts thereof	0203 22 19 9100		66
— fore-ends and cuts thereof	0203 29 11 9100		66
— loins and cuts thereof	0203 29 13 9100		99
— bellies (streaky) and cuts thereof	0203 29 15 9100		66
— other: boned	0203 29 55 9110		112

⁽¹⁾ Entry under this sub-heading is subject to conditions laid down in the relevant Community provisions.

NB: The product codes and footnotes are defined in Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1).

AZORES

Description	CN code	Quantity (number of animals or tonnes)	Aid (EUR/animal or tonne)
Pure-bred breeding swine ⁽¹⁾ :	0103 10 00		
— male animals		35	483
— female animals		400	423

⁽¹⁾ Entry under this sub-heading is subject to conditions laid down in the relevant Community provisions.'

ANNEX III

Part 8*The beef and veal sector*

Forecast supply balance and Community aid for the supply of Community products for 2002

Description	CN code	Quantity (number of animals or tonnes)	Aid (EUR/animal or tonne)
Live bovine animals:			
— pure-bred breeding bovines	0102 10 10 to 0102 10 90	3 200	648
Meat:			
— meat of bovines, fresh or chilled	0201	21 000	
	0201 10 00 9110 (1)		430
	0201 10 00 9120		145
	0201 10 00 9130 (1)		565
	0201 10 00 9140		205
	0201 20 20 9110 (1)		565
	0201 20 20 9120		205
	0201 20 30 9110 (1)		430
	0201 20 30 9120		145
	0201 20 50 9110 (1)		715
	0201 20 50 9120		260
	0201 20 50 9130 (1)		430
	0201 20 50 9140		145
	0201 20 90 9700		145
	0201 30 00 9100 (2) (6)		1 020
	0201 30 00 9120 (2) (6)		625
	0201 30 00 9060 (6)		205
— meat of bovines, frozen	0202	14 850	
	0202 10 00 9100		145
	0202 10 00 9900		205
	0202 20 10 9000		205
	0202 20 30 9000		145
	0202 20 50 9100		260
	0202 20 50 9900		145
	0202 20 90 9100		145
	0202 30 90 9200 (6)		205

NB: The product codes and footnotes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), as amended.'

COMMISSION REGULATION (EC) No 2206/2002
of 12 December 2002
prohibiting fishing for common sole by vessels flying the flag of Denmark

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽¹⁾, as last amended by Regulation (EC) No 2846/98 ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 2555/2001 of 18 December 2001 fixing for 2002 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required ⁽³⁾, lays down quotas for common sole for 2002.
- (2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated.
- (3) According to the information received by the Commission, catches of common sole in the waters of the Skagerrak and Kattegat, ICES divisions IIIb, c and d (EC waters) by vessels flying the flag of Denmark or regis-

tered in Denmark have exhausted the quota allocated for 2002. Denmark has prohibited fishing for this stock from 20 November 2002. This date should be adopted in this Regulation also,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of common sole in the waters of the Skagerrak and Kattegat, ICES divisions IIIb, c and d (EC waters) by vessels flying the flag of Denmark or registered in Denmark are hereby deemed to have exhausted the quota allocated to Denmark for 2002.

Fishing for common sole in the waters of the Skagerrak and Kattegat, ICES divisions IIIb, c and d (EC waters) by vessels flying the flag of Denmark or registered in Denmark is hereby prohibited, as are the retention on board, transshipment and landing of this stock caught by the above vessels after the date of application of this Regulation.

Article 2

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

It shall apply from 20 November 2002.

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

Done at Brussels, 12 December 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 261, 20.10.1993, p. 1.

⁽²⁾ OJ L 358, 31.12.1998, p. 5.

⁽³⁾ OJ L 347, 31.12.2001, p. 1.

COMMISSION REGULATION (EC) No 2207/2002
of 12 December 2002
prohibiting fishing for cod by vessels flying the flag of Sweden

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽¹⁾, as last amended by Regulation (EC) No 2846/98 ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 2555/2001 of 18 December 2001 fixing for 2002 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required ⁽³⁾, lays down quotas for cod for 2002.
- (2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated.
- (3) According to the information received by the Commission, catches of cod in ICES Divisions IIIb, c, d (EC waters) by vessels flying the flag of Sweden or registered

in Sweden have exhausted the quota allocated for 2002. Sweden has prohibited fishing for this stock from 11 November 2002. This date should be adopted in this Regulation also,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of cod in ICES Divisions IIIb, c, d (EC waters) by vessels flying the flag of Sweden or registered in Sweden are hereby deemed to have exhausted the quota allocated to Sweden for 2002.

Fishing for cod in ICES Divisions IIIb, c, d (EC waters) by vessels flying the flag of Sweden or registered in Sweden is hereby prohibited, as are the retention on board, transshipment and landing of this stock caught by the above vessels after the date of application of this Regulation.

Article 2

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

It shall apply from 11 November 2002.

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

Done at Brussels, 12 December 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 261, 20.10.1993, p. 1.

⁽²⁾ OJ L 358, 31.12.1998, p. 5.

⁽³⁾ OJ L 347, 31.12.2001, p. 1.

COMMISSION REGULATION (EC) No 2208/2002**of 12 December 2002****laying down detailed rules for applying Council Regulation (EC) No 814/2000 on information measures relating to the common agricultural policy**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 814/2000 of 17 April 2000 on information measures relating to the common agricultural policy ⁽¹⁾, and in particular Article 9 thereof,

Whereas:

- (1) In the light of experience gained in 2000, 2001 and 2002, the detailed rules for applying Regulation (EC) No 814/2000 laid down in Commission Regulation (EC) No 1557/2001 ⁽²⁾, as amended by Regulation (EC) No 1366/2002 ⁽³⁾, should be amended to improve the scheme. In view of the extent of the amendments needed, and to achieve transparency for all the interested parties, Regulation (EC) No 1557/2001 should be replaced.
- (2) Regulation (EC) No 814/2000 defines the type and content of information measures relating to the common agricultural policy.
- (3) A call for proposals is the most efficient and transparent way of ensuring that the grants provided for in Regulation (EC) No 814/2000 receive the widest publicity and that the best measures are selected.
- (4) The eligibility requirements for applicants, the grounds for disqualification, the general criteria for selecting measures and the criteria for awarding grants, as referred to in Article 3(2) of Regulation (EC) No 814/2000, should be laid down in detail.
- (5) In order to protect the financial interests of the Community, when an advance on the grant is to be paid, a bank guarantee of an equivalent amount must be provided.
- (6) In order to make the available financial resources accessible to the largest possible number of potential recipients, a part-financing rate of more than 50 % must be an exception.
- (7) The Commission draws up a list of beneficiaries and information measures financed. In order to fix the rights and obligations arising from decisions to award a grant, the Commission concludes an agreement with the beneficiary. Each agreement must include explicit provisions relating to the Commission's right to carry out checks.
- (8) Notifying the Committee for the European Agricultural Guidance and Guarantee Fund (EAGGF), established by Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽⁴⁾,

of measures financed under this Regulation will facilitate the coordination of measures implemented by the Member States with those supported by the Community.

- (9) Taking into account the time limits for publishing the call for proposals, this Regulation should enter into force with immediate effect.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the EAGGF Committee,

HAS ADOPTED THIS REGULATION:

Article 1**Scope**

This Regulation lays down detailed rules for applying information measures relating to the common agricultural policy in the form of work programmes and specific measures eligible for a Community grant, as referred to in Article 2(1)(a) and (b) of Regulation (EC) No 814/2000.

Article 2**Definitions**

For the purposes of this Regulation:

- (a) 'specific information measures' as referred to in Article 2(1)(b) of Regulation (EC) No 814/2000 means information events limited in time and space and implemented on the basis of a single budget;
- (b) 'annual work programmes' as referred to in Article 2(1)(a) of Regulation (EC) No 814/2000 means sets of two to five specific information measures;
- (c) 'information measures' means specific information measures and annual work programmes.

Article 3**Call for proposals**

By 31 July each year, the Commission shall publish in the *Official Journal of the European Communities* a call for proposals for information measures specifying, *inter alia*, the priority topics, types of measure and target audiences, the means of implementing them, the deadlines for submitting proposals, the period allowed for implementing the operations involved in the measures, the eligibility requirements, the selection and award criteria, the eligible costs and the method for evaluating applications with a view to awarding grants.

⁽¹⁾ OJ L 100, 20.4.2000, p. 7.

⁽²⁾ OJ L 205, 31.7.2001, p. 25.

⁽³⁾ OJ L 198, 27.7.2002, p. 29.

⁽⁴⁾ OJ L 160, 26.6.1999, p. 103.

For 2002, the call for proposals shall be published no later than 31 December 2002.

Article 4

Eligibility criteria for applicants

1. The organisations and associations referred to in Article 2(1)(a) of Regulation (EC) No 814/2000 must meet the following conditions:

- (a) be private; in the case of organisations or associations bringing together other organisations or associations, these latter must also be private; where an annual work programme is implemented in partnership, the partners must also be private;
- (b) be non-profit-making;
- (c) have been established in a Member State for at least two years.

2. The parties referred to in Article 2(1)(b) of Regulation (EC) No 814/2000 must be legal persons legally constituted in a Member State for at least two years.

3. Where the agreement referred to in Article 8 provides for the payment of an advance on the grant, the applicant shall provide a bank guarantee of an equivalent amount, in accordance with the specimen provided by the Commission.

This guarantee shall not be required where the applicant is a public body.

Article 5

Grounds for disqualifying applicants

Grants may not be awarded to applicants who are, at the time of a grant award procedure, in one of the following situations:

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) they have been convicted of an offence concerning their professional conduct by a judgment which has the force of *res judicata*;
- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;

- (e) they have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (f) following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations;
- (g) they have knowingly submitted false declarations in providing the information required.

Article 6

Selection and award criteria for measures

1. In order to qualify for Community financing, applicants must demonstrate their technical and financial capacity.
2. Grants shall be awarded on the basis of the criteria relating to quality and value for money defined in the call for proposals.

Article 7

Financing rates

1. The maximum rate of Community financing for measures selected for financing shall be 50 % of the eligible costs.
2. For each specific information measure, the maximum rate of Community financing may, at the request of the applicant, be increased to 75 % of the eligible costs where it is of exceptional interest, as defined in the call for proposals.

Article 8

Agreement

1. On the basis of the criteria provided for in this Regulation and in the call for proposals, the Commission shall draw up a list of beneficiaries of Community financing and the amounts to be awarded.
2. The rights and obligations resulting from the Commission decision to award a grant shall be the subject of an agreement between the Commission and the beneficiaries.

Article 9

Annual nature of grants

Grants shall be awarded on a strictly annual basis and shall imply no right in subsequent years, even where the measure concerned forms part of a multiannual strategy.

Article 10

Notification to the EAGGF Committee

The EAGGF Committee shall be notified of:

- (a) the content of the call for proposals before its publication;

- (b) the specific information measures and annual work programmes which have been awarded a grant;
- (c) the activities implemented on the Commission's initiative as provided for in Article 2(1)(c) of Regulation (EC) No 814/2000.

Article 11

Publicity

A list of the beneficiaries and information measures financed under this Regulation and the amounts and rates of financial support shall be published each year in the *Official Journal of the European Communities*.

Article 12

Repeal

Regulation (EC) No 1557/2001 is hereby repealed. It shall continue to apply to information measures approved by the Commission before the entry into force of this Regulation.

Article 13

Entry into force

This Regulation shall enter into force on the day of 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, 12 December 2002.

For the Commission

Franz FISCHLER

Member of the Commission

**COMMISSION REGULATION (EC) No 2209/2002
of 12 December 2002**

fixing the representative prices and the additional import duties for molasses in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the market in sugar ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 ⁽³⁾, and in particular Article 1(2) and Article 3(1) thereof,

Whereas:

- (1) Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 ⁽⁴⁾. That price should be fixed for the standard quality defined in Article 1 of the above Regulation.
- (2) The representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality. The standard quality for molasses is defined in Regulation (EEC) No 785/68.
- (3) When the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States. Under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends.
- (4) The information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small

quantity that is not representative of the market. Offer prices which can be regarded as not representative of actual market trends must also be disregarded.

- (5) If information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68.
- (6) A representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price.
- (7) Where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95. Should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed.
- (8) Application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 13 December 2002.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 141, 24.6.1995, p. 12.

⁽⁴⁾ OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 12 December 2002.

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

ANNEX

to the Commission Regulation of 12 December 2002 fixing the representative prices and additional import duties to imports of molasses in the sugar sector

(in EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	8,24	—	0
1703 90 00 ⁽¹⁾	11,42	—	0

⁽¹⁾ For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 2210/2002
of 12 December 2002
amending the rates of the refunds applicable to certain milk products exported in the form of
goods not covered by Annex I to the Treaty

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 markets in the milk and milk products sector ⁽¹⁾, as last amended by Regulation (EC) No 509/2002 ⁽²⁾, and in particular Article 31(3) thereof,

Whereas:

- (1) The rates of the refunds applicable from 1 December 2002 to the products listed in the Annex, exported in the form of goods not covered by Annex I to the Treaty, were fixed by Commission Regulation (EC) No 2135/2002 ⁽³⁾, as amended by Regulation (EC) No 2171/2002 ⁽⁴⁾.

- (2) It follows from applying the rules and criteria contained in Regulation (EC) No 2135/2002 to the information at present available to the Commission that the export refunds at present applicable should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of refund fixed by Regulation (EC) No 2135/2002 are hereby altered as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 13 December 2002.

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

Done at Brussels, 12 December 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 325, 30.11.2002, p. 26.

⁽⁴⁾ OJ L 330, 6.12.2002, p. 21.

ANNEX

to the Commission Regulation of 12 December 2002 altering the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)

CN code	Description	Rate of refund
ex 0402 10 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2):	
	(a) On exportation of goods of CN code 3501	—
	(b) On exportation of other goods	44,00
ex 0402 21 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3):	
	(a) Where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EC) No 2571/97 are exported	64,27
	(b) On exportation of other goods	93,00
ex 0405 10	Butter, with a fat content by weight of 82 % (PG 6):	
	(a) Where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EC) No 2571/97 are exported	100,00
	(b) On exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	192,25
	(c) On exportation of other goods	185,00

COMMISSION REGULATION (EC) No 2211/2002
of 12 December 2002
fixing the export refunds on milk and milk products

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 31(3) thereof,

Whereas:

(1) Article 31 of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty.

(2) Regulation (EC) No 1255/1999 provides that when the refunds on the products listed in Article 1 of the above-mentioned Regulation, exported in the natural state, are being fixed, account must be taken of:

- the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,
- marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,
- the aims of the common organisation of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,
- the limits resulting from agreements concluded in accordance with Article 300 of the Treaty, and
- the need to avoid disturbances on the Community market, and
- the economic aspect of the proposed exports.

(3) Article 31(5) of Regulation (EC) No 1255/1999 provides that when prices within the Community are being determined account should be taken of the ruling prices

which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of:

- (a) prices ruling on third country markets;
- (b) the most favourable prices in third countries of destination for third country imports;
- (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and
- (d) free-at-Community-frontier offer prices.

(4) Article 31(3) of Regulation (EC) No 1255/1999 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of the abovementioned Regulation according to destination.

(5) Article 31(3) of Regulation (EC) No 1255/1999 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; the amount of the refund may, however, remain at the same level for more than four weeks.

(6) In accordance with Article 16 of Commission Regulation (EC) No 174/1999 of 26 January 1999 on specific detailed rules for the application of Council Regulation (EC) No 804/68 as regards export licences and export refunds on milk and milk products ⁽³⁾, as last amended by Regulation (EC) No 1472/2002 ⁽⁴⁾, the refund granted for milk products containing added sugar is equal to the sum of the two components; one is intended to take account of the quantity of milk products and is calculated by multiplying the basic amount by the milk products content in the product concerned; the other is intended to take account of the quantity of added sucrose and is calculated by multiplying the sucrose content of the entire product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1(1)(d) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽⁵⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽⁶⁾, however, this second component is applied only if the added sucrose has been produced using sugar beet or cane harvested in the Community.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 20, 27.1.1999, p. 8.

⁽⁴⁾ OJ L 219, 14.8.2002, p. 4.

⁽⁵⁾ OJ L 178, 30.6.2001, p. 1.

⁽⁶⁾ OJ L 104, 20.4.2002, p. 26.

- (7) Commission Regulation (EEC) No 896/84 ⁽¹⁾, as last amended by Regulation (EEC) No 222/88 ⁽²⁾, laid down additional provisions concerning the granting of refunds on the change from one milk year to another; those provisions provide for the possibility of varying refunds according to the date of manufacture of the products.
- (8) For the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account.
- (9) It follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation.

- (10) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds referred to in Article 31 of Regulation (EC) No 1255/1999 on products exported in the natural state shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 13 December 2002.

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

Done at Brussels, 12 December 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 91, 1.4.1984, p. 71.

⁽²⁾ OJ L 28, 1.2.1988, p. 1.

ANNEX

to the Commission Regulation of 12 December 2002 fixing the export refunds on milk and milk products

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0401 10 10 9000	970	EUR/100 kg	2,212	0402 91 39 9300	L06	EUR/100 kg	8,058
0401 10 90 9000	970	EUR/100 kg	2,212	0402 91 99 9000	L06	EUR/100 kg	43,93
0401 20 11 9100	970	EUR/100 kg	2,212	0402 99 11 9350	L06	EUR/kg	0,1734
0401 20 11 9500	970	EUR/100 kg	3,418	0402 99 19 9350	L06	EUR/kg	0,1734
0401 20 19 9100	970	EUR/100 kg	2,212	0402 99 31 9150	L06	EUR/kg	0,1816
0401 20 19 9500	970	EUR/100 kg	3,418	0402 99 31 9300	L06	EUR/kg	0,2629
0401 20 91 9000	970	EUR/100 kg	4,325	0402 99 31 9500	L06	EUR/kg	0,4530
0401 20 99 9000	970	EUR/100 kg	4,325	0402 99 39 9150	L06	EUR/kg	0,1816
0401 30 11 9400	970	EUR/100 kg	9,981	0403 90 11 9000	L06	EUR/100 kg	43,390
0401 30 11 9700	970	EUR/100 kg	14,99	0403 90 13 9200	L06	EUR/100 kg	43,39
0401 30 19 9700	970	EUR/100 kg	14,99	0403 90 13 9300	L06	EUR/100 kg	82,87
0401 30 31 9100	L06	EUR/100 kg	36,41	0403 90 13 9500	L06	EUR/100 kg	86,49
0401 30 31 9400	L06	EUR/100 kg	56,88	0403 90 13 9900	L06	EUR/100 kg	92,17
0401 30 31 9700	L06	EUR/100 kg	62,73	0403 90 19 9000	L06	EUR/100 kg	92,74
0401 30 39 9100	L06	EUR/100 kg	36,41	0403 90 33 9400	L06	EUR/kg	0,8287
0401 30 39 9400	L06	EUR/100 kg	56,88	0403 90 33 9900	L06	EUR/kg	0,9217
0401 30 39 9700	L06	EUR/100 kg	62,73	0403 90 51 9100	970	EUR/100 kg	2,212
0401 30 91 9100	L06	EUR/100 kg	71,49	0403 90 59 9170	970	EUR/100 kg	14,99
0401 30 91 9500	L06	EUR/100 kg	105,07	0403 90 59 9310	L06	EUR/100 kg	36,41
0401 30 99 9100	L06	EUR/100 kg	71,49	0403 90 59 9340	L06	EUR/100 kg	53,28
0401 30 99 9500	L06	EUR/100 kg	105,07	0403 90 59 9370	L06	EUR/100 kg	53,28
0402 10 11 9000	L06	EUR/100 kg	44,00	0403 90 59 9510	L06	EUR/100 kg	53,28
0402 10 19 9000	L06	EUR/100 kg	44,00	0404 90 21 9120	L06	EUR/100 kg	37,53
0402 10 91 9000	L06	EUR/kg	0,4400	0404 90 21 9160	L06	EUR/100 kg	44,00
0402 10 99 9000	L06	EUR/kg	0,4400	0404 90 23 9120	L06	EUR/100 kg	44,00
0402 21 11 9200	L06	EUR/100 kg	44,00	0404 90 23 9130	L06	EUR/100 kg	83,62
0402 21 11 9300	L06	EUR/100 kg	83,62	0404 90 23 9140	L06	EUR/100 kg	87,27
0402 21 11 9500	L06	EUR/100 kg	87,27	0404 90 23 9150	L06	EUR/100 kg	93,00
0402 21 11 9900	L06	EUR/100 kg	93,00	0404 90 29 9110	L06	EUR/100 kg	93,58
0402 21 17 9000	L06	EUR/100 kg	44,00	0404 90 29 9115	L06	EUR/100 kg	94,13
0402 21 19 9300	L06	EUR/100 kg	83,62	0404 90 29 9125	L06	EUR/100 kg	95,10
0402 21 19 9500	L06	EUR/100 kg	87,27	0404 90 29 9140	L06	EUR/100 kg	102,21
0402 21 19 9900	L06	EUR/100 kg	93,00	0404 90 81 9100	L06	EUR/kg	0,4400
0402 21 91 9100	L06	EUR/100 kg	93,58	0404 90 83 9110	L06	EUR/kg	0,4400
0402 21 91 9200	L06	EUR/100 kg	94,13	0404 90 83 9130	L06	EUR/kg	0,8362
0402 21 91 9350	L06	EUR/100 kg	95,10	0404 90 83 9150	L06	EUR/kg	0,8727
0402 21 91 9500	L06	EUR/100 kg	102,21	0404 90 83 9170	L06	EUR/kg	0,9300
0402 21 99 9100	L06	EUR/100 kg	93,58	0404 90 83 9936	L06	EUR/kg	0,1734
0402 21 99 9200	L06	EUR/100 kg	94,13	0405 10 11 9500	L05	EUR/100 kg	180,49
0402 21 99 9300	L06	EUR/100 kg	95,10	0405 10 11 9700	L05	EUR/100 kg	185,00
0402 21 99 9400	L06	EUR/100 kg	100,37	0405 10 19 9500	L05	EUR/100 kg	180,49
0402 21 99 9500	L06	EUR/100 kg	102,21	0405 10 19 9700	L05	EUR/100 kg	185,00
0402 21 99 9600	L06	EUR/100 kg	109,41	0405 10 30 9100	L05	EUR/100 kg	180,49
0402 21 99 9700	L06	EUR/100 kg	113,49	0405 10 30 9300	L05	EUR/100 kg	185,00
0402 21 99 9900	L06	EUR/100 kg	118,21	0405 10 30 9700	L05	EUR/100 kg	185,00
0402 29 15 9200	L06	EUR/kg	0,4400	0405 10 50 9300	L05	EUR/100 kg	185,00
0402 29 15 9300	L06	EUR/kg	0,8362	0405 10 50 9500	L05	EUR/100 kg	180,49
0402 29 15 9500	L06	EUR/kg	0,8727	0405 10 50 9700	L05	EUR/100 kg	185,00
0402 29 15 9900	L06	EUR/kg	0,9300	0405 10 90 9000	L05	EUR/100 kg	191,78
0402 29 19 9300	L06	EUR/kg	0,8362	0405 20 90 9500	L05	EUR/100 kg	169,22
0402 29 19 9500	L06	EUR/kg	0,8727	0405 20 90 9700	L05	EUR/100 kg	175,98
0402 29 19 9900	L06	EUR/kg	0,9300	0405 90 10 9000	L05	EUR/100 kg	235,07
0402 29 91 9000	L06	EUR/kg	0,9358	0405 90 90 9000	L05	EUR/100 kg	185,00
0402 29 99 9100	L06	EUR/kg	0,9358	0406 10 20 9100	A00	EUR/100 kg	—
0402 29 99 9500	L06	EUR/kg	1,0037	0406 10 20 9230	L03	EUR/100 kg	—
0402 91 11 9370	L06	EUR/100 kg	6,804		L04	EUR/100 kg	39,41
0402 91 19 9370	L06	EUR/100 kg	6,804		400	EUR/100 kg	—
0402 91 31 9300	L06	EUR/100 kg	8,058		A01	EUR/100 kg	39,41

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 10 20 9290	L03	EUR/100 kg	—	0406 30 31 9910	L03	EUR/100 kg	—
	L04	EUR/100 kg	36,66		L04	EUR/100 kg	8,10
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	36,66		A01	EUR/100 kg	15,17
0406 10 20 9300	L03	EUR/100 kg	—	0406 30 31 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	16,09		L04	EUR/100 kg	11,87
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	16,09		A01	EUR/100 kg	22,26
0406 10 20 9610	L03	EUR/100 kg	—	0406 30 31 9950	L03	EUR/100 kg	—
	L04	EUR/100 kg	53,46		L04	EUR/100 kg	17,26
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	53,46		A01	EUR/100 kg	32,38
0406 10 20 9620	L03	EUR/100 kg	—	0406 30 39 9500	L03	EUR/100 kg	—
	L04	EUR/100 kg	54,22		L04	EUR/100 kg	11,87
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	54,22		A01	EUR/100 kg	22,26
0406 10 20 9630	L03	EUR/100 kg	—	0406 30 39 9700	L03	EUR/100 kg	—
	L04	EUR/100 kg	60,52		L04	EUR/100 kg	17,26
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	60,52		A01	EUR/100 kg	32,38
0406 10 20 9640	L03	EUR/100 kg	—	0406 30 39 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	88,94		L04	EUR/100 kg	17,26
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	88,94		A01	EUR/100 kg	32,38
0406 10 20 9650	L03	EUR/100 kg	—	0406 30 39 9950	L03	EUR/100 kg	—
	L04	EUR/100 kg	74,11		L04	EUR/100 kg	19,53
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	74,11		A01	EUR/100 kg	36,60
0406 10 20 9660	A00	EUR/100 kg	—	0406 30 90 9000	L03	EUR/100 kg	—
0406 10 20 9830	L03	EUR/100 kg	—		L04	EUR/100 kg	20,48
	L04	EUR/100 kg	27,49		400	EUR/100 kg	—
	400	EUR/100 kg	—		A01	EUR/100 kg	38,40
0406 10 20 9850	A01	EUR/100 kg	27,49	0406 40 50 9000	L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	94,14
	L04	EUR/100 kg	33,33		400	EUR/100 kg	—
	400	EUR/100 kg	—		A01	EUR/100 kg	94,14
0406 10 20 9870	A01	EUR/100 kg	33,33	0406 40 90 9000	L03	EUR/100 kg	—
	A00	EUR/100 kg	—		L04	EUR/100 kg	96,66
	A00	EUR/100 kg	—		400	EUR/100 kg	—
	A00	EUR/100 kg	—		A01	EUR/100 kg	96,66
0406 20 90 9100	A00	EUR/100 kg	—	0406 90 13 9000	L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	106,29
	L04	EUR/100 kg	61,46		400	EUR/100 kg	34,20
	400	EUR/100 kg	17,96		A01	EUR/100 kg	121,71
0406 20 90 9913	A01	EUR/100 kg	61,46	0406 90 15 9100	L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	109,84
	L04	EUR/100 kg	81,13		400	EUR/100 kg	35,25
	400	EUR/100 kg	23,93		A01	EUR/100 kg	125,77
0406 20 90 9915	A01	EUR/100 kg	81,13	0406 90 17 9100	L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	109,84
	L04	EUR/100 kg	86,20		400	EUR/100 kg	35,25
	400	EUR/100 kg	25,44		A01	EUR/100 kg	125,77
0406 20 90 9917	A01	EUR/100 kg	86,20	0406 90 21 9900	L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	107,63
	L04	EUR/100 kg	96,33		400	EUR/100 kg	25,29
	400	EUR/100 kg	28,38		A01	EUR/100 kg	122,94
0406 20 90 9919	A01	EUR/100 kg	96,33	0406 90 23 9900	L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	94,51
	L04	EUR/100 kg	96,33		400	EUR/100 kg	—
	400	EUR/100 kg	—		A01	EUR/100 kg	108,69
0406 20 90 9990	A00	EUR/100 kg	—	0406 90 25 9900	L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	93,89
	L04	EUR/100 kg	8,10		400	EUR/100 kg	—
	400	EUR/100 kg	—		A01	EUR/100 kg	107,52
0406 30 31 9710	A01	EUR/100 kg	15,17				
	L03	EUR/100 kg	—				
	L04	EUR/100 kg	11,87				
	400	EUR/100 kg	—				
0406 30 31 9730	A01	EUR/100 kg	22,26				
	L03	EUR/100 kg	—				
	L04	EUR/100 kg	—				
	400	EUR/100 kg	—				

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 90 27 9900	L03	EUR/100 kg	—	0406 90 78 9100	L04	EUR/100 kg	94,38
	L04	EUR/100 kg	85,04		400	EUR/100 kg	13,13
	400	EUR/100 kg	—		A01	EUR/100 kg	107,15
	A01	EUR/100 kg	97,38		L03	EUR/100 kg	—
0406 90 31 9119	L03	EUR/100 kg	—	0406 90 78 9300	L04	EUR/100 kg	91,53
	L04	EUR/100 kg	78,15		400	EUR/100 kg	—
	400	EUR/100 kg	14,50		A01	EUR/100 kg	106,96
	A01	EUR/100 kg	89,64		L03	EUR/100 kg	—
0406 90 33 9119	L03	EUR/100 kg	—	0406 90 78 9500	L04	EUR/100 kg	97,04
	L04	EUR/100 kg	78,15		400	EUR/100 kg	—
	400	EUR/100 kg	14,50		A01	EUR/100 kg	110,84
	A01	EUR/100 kg	89,64		L03	EUR/100 kg	—
0406 90 33 9919	L03	EUR/100 kg	—	0406 90 79 9900	L04	EUR/100 kg	96,13
	L04	EUR/100 kg	71,43		400	EUR/100 kg	—
	400	EUR/100 kg	—		A01	EUR/100 kg	109,15
	A01	EUR/100 kg	82,21		L03	EUR/100 kg	—
0406 90 33 9951	L03	EUR/100 kg	—	0406 90 81 9900	L04	EUR/100 kg	78,47
	L04	EUR/100 kg	72,14		400	EUR/100 kg	—
	400	EUR/100 kg	—		A01	EUR/100 kg	90,23
	A01	EUR/100 kg	82,27		L03	EUR/100 kg	—
0406 90 35 9190	L03	EUR/100 kg	—	0406 90 85 9930	L04	EUR/100 kg	99,20
	L04	EUR/100 kg	110,56		400	EUR/100 kg	27,02
	400	EUR/100 kg	34,88		A01	EUR/100 kg	113,61
	A01	EUR/100 kg	127,15		L03	EUR/100 kg	—
0406 90 35 9990	L03	EUR/100 kg	—	0406 90 85 9970	L04	EUR/100 kg	107,14
	L04	EUR/100 kg	110,56		400	EUR/100 kg	33,67
	400	EUR/100 kg	22,80		A01	EUR/100 kg	123,32
	A01	EUR/100 kg	127,15		L03	EUR/100 kg	—
0406 90 37 9000	L03	EUR/100 kg	—	0406 90 85 9999	L04	EUR/100 kg	98,22
	L04	EUR/100 kg	106,29		400	EUR/100 kg	29,46
	400	EUR/100 kg	34,20		A01	EUR/100 kg	113,03
	A01	EUR/100 kg	121,71		A00	EUR/100 kg	—
0406 90 61 9000	L03	EUR/100 kg	—	0406 90 86 9100	A00	EUR/100 kg	—
	L04	EUR/100 kg	117,14		L03	EUR/100 kg	—
	400	EUR/100 kg	32,46		L04	EUR/100 kg	90,13
	A01	EUR/100 kg	135,59		400	EUR/100 kg	17,68
0406 90 63 9100	L03	EUR/100 kg	—	0406 90 86 9200	A01	EUR/100 kg	106,94
	L04	EUR/100 kg	116,53		L03	EUR/100 kg	—
	400	EUR/100 kg	36,31		L04	EUR/100 kg	91,43
	A01	EUR/100 kg	134,46		400	EUR/100 kg	19,38
0406 90 63 9900	L03	EUR/100 kg	—	0406 90 86 9400	A01	EUR/100 kg	108,06
	L04	EUR/100 kg	112,03		L03	EUR/100 kg	—
	400	EUR/100 kg	27,77		L04	EUR/100 kg	97,13
	A01	EUR/100 kg	129,88		400	EUR/100 kg	21,93
0406 90 69 9100	A00	EUR/100 kg	—	0406 90 86 9900	A01	EUR/100 kg	113,61
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	112,03		L04	EUR/100 kg	107,14
	400	EUR/100 kg	27,77		400	EUR/100 kg	25,67
0406 90 73 9900	A01	EUR/100 kg	129,88	0406 90 87 9100	A01	EUR/100 kg	123,32
	L03	EUR/100 kg	—		A00	EUR/100 kg	—
	L04	EUR/100 kg	97,56		L03	EUR/100 kg	—
	400	EUR/100 kg	29,89		L04	EUR/100 kg	75,11
0406 90 75 9900	A01	EUR/100 kg	111,82	0406 90 87 9200	400	EUR/100 kg	15,81
	L03	EUR/100 kg	—		A01	EUR/100 kg	89,10
	L04	EUR/100 kg	98,22		L03	EUR/100 kg	—
	400	EUR/100 kg	12,61		L04	EUR/100 kg	83,95
0406 90 76 9300	A01	EUR/100 kg	113,03	0406 90 87 9400	400	EUR/100 kg	17,85
	L03	EUR/100 kg	—		A01	EUR/100 kg	99,25
	L04	EUR/100 kg	88,57		L03	EUR/100 kg	—
	400	EUR/100 kg	—		L04	EUR/100 kg	86,15
0406 90 76 9400	A01	EUR/100 kg	101,43	0406 90 87 9951	400	EUR/100 kg	19,55
	L03	EUR/100 kg	—		A01	EUR/100 kg	100,75
	L04	EUR/100 kg	99,20		L03	EUR/100 kg	—
	400	EUR/100 kg	13,13		L04	EUR/100 kg	97,43
0406 90 76 9500	A01	EUR/100 kg	113,61		400	EUR/100 kg	27,03
	L03	EUR/100 kg	—		A01	EUR/100 kg	111,58

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 90 87 9971	L03	EUR/100 kg	—	0406 90 87 9975	400	EUR/100 kg	15,39
	L04	EUR/100 kg	97,43		A01	EUR/100 kg	118,38
	400	EUR/100 kg	21,93		L03	EUR/100 kg	—
	A01	EUR/100 kg	111,58		L04	EUR/100 kg	105,90
0406 90 87 9972	L03	EUR/100 kg	—	0406 90 87 9979	400	EUR/100 kg	20,40
	L04	EUR/100 kg	41,51		A01	EUR/100 kg	119,70
	400	EUR/100 kg	—		L03	EUR/100 kg	—
	A01	EUR/100 kg	47,73		L04	EUR/100 kg	94,51
0406 90 87 9973	L03	EUR/100 kg	—	0406 90 88 9100	400	EUR/100 kg	15,39
	L04	EUR/100 kg	95,66		A01	EUR/100 kg	108,69
	400	EUR/100 kg	15,39		A00	EUR/100 kg	—
	A01	EUR/100 kg	109,55		L03	EUR/100 kg	—
0406 90 87 9974	L03	EUR/100 kg	—	0406 90 88 9300	L04	EUR/100 kg	74,16
	L04	EUR/100 kg	103,82		400	EUR/100 kg	19,38
					A01	EUR/100 kg	87,34

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

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

The other destinations are defined as follows:

L03 Ceuta, Melilla, Iceland, Norway, Switzerland, Liechtenstein, Andorra, Gibraltar, Holy See (often referred to as Vatican City), Malta, Turkey, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Canada, Cyprus, Australia and New Zealand,

L04 Albania, Slovenia, Croatia, Bosnia and Herzegovina, Yugoslavia and the Former Yugoslav Republic of Macedonia,

L05 all destinations except Poland, Estonia, Latvia, Lithuania, Hungary and the United States of America.

L06 all destinations except Estonia, Latvia, Lithuania, Hungary and the United States of America.

970 includes the exports referred to in Articles 36(1)(a) and (c) and 44(1)(a) and (b) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11) and exports under contracts with armed forces stationed on the territory of a Member State which do not come under its flag.

**COMMISSION REGULATION (EC) No 2212/2002
of 12 December 2002
providing for the rejection of applications for export licences for certain milk products**

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⁾,

Having regard to Commission Regulation (EC) No 174/1999 of 26 January 1999 laying down special detailed rules for the application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case of milk and milk products ⁽³⁾, as last amended by Regulation (EC) No 1472/2002 ⁽⁴⁾, and in particular Article 10(3) thereof,

Whereas:

Uncertainty is a feature of the market in certain milk products. It is necessary to prevent speculative applications that may lead to a distortion in competition between traders. Applications for export licences for the products concerned should be rejected,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for export licences for milk products falling within CN codes 0402 10, 0402 21, 0402 29, 0403 90 13, 0403 90 19, 0404 90 23, and 0404 90 83 made between 6 and 11 December 2002 inclusive, shall be rejected.

Article 2

This Regulation shall enter into force on 13 December 2002.

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

Done at Brussels, 12 December 2002.

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

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 20, 27.1.1999, p. 8.

⁽⁴⁾ OJ L 219, 14.8.2002, p. 4.

COMMISSION REGULATION (EC) No 2213/2002**of 12 December 2002****fixing the maximum export refund on barley in connection with the invitation to tender issued in Regulation (EC) No 901/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 1163/2002 ⁽⁴⁾, as amended by Regulation (EC) No 1324/2002 ⁽⁵⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of barley to all third countries except for the United States of America, Canada, Estonia and Latvia was opened pursuant to Commission Regulation (EC) No 901/2002 ⁽⁶⁾, as amended by Regulation (EC) No 1230/2002 ⁽⁷⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in

Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.
- (4) 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

For tenders notified from 6 to 12 December 2002, pursuant to the invitation to tender issued in Regulation (EC) No 901/2002, the maximum refund on exportation of barley shall be EUR 4,99/t.

Article 2

This Regulation shall enter into force on 13 December 2002.

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

Done at Brussels, 12 December 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 46.

⁽⁵⁾ OJ L 194, 23.7.2002, p. 26.

⁽⁶⁾ OJ L 142, 31.5.2002, p. 17.

⁽⁷⁾ OJ L 180, 10.7.2002, p. 3.

**COMMISSION REGULATION (EC) No 2214/2002
of 12 December 2002**

**fixing the maximum export refund on common wheat in connection with the invitation to tender
issued in Regulation (EC) No 899/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 1163/2002 ⁽⁴⁾, as amended by Regulation (EC) No 1324/2002 ⁽⁵⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund on exportation of common wheat to all third countries with the exclusion of Poland, Estonia, Lithuania and Latvia was opened pursuant to Commission Regulation (EC) No 899/2002 ⁽⁶⁾, as amended by Regulation (EC) No 1520/2002 ⁽⁷⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in

Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.
- (4) 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

For tenders notified from 6 to 12 December 2002, pursuant to the invitation to tender issued in Regulation (EC) No 899/2002, the maximum refund on exportation of common wheat shall be EUR 4,00/t.

Article 2

This Regulation shall enter into force on 13 December 2002.

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

Done at Brussels, 12 December 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 46.

⁽⁵⁾ OJ L 194, 23.7.2002, p. 26.

⁽⁶⁾ OJ L 142, 31.5.2002, p. 11.

⁽⁷⁾ OJ L 228, 24.8.2002, p. 18.

**COMMISSION REGULATION (EC) No 2215/2002
of 12 December 2002**

**fixing the maximum reduction in the duty on maize imported in connection with the invitation to
tender issued in Regulation (EC) No 2096/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1666/2000⁽²⁾, and in particular Article 12(1) thereof,

Whereas:

(1) An invitation to tender for the maximum reduction in the duty on maize imported into Spain from third countries was opened pursuant to Commission Regulation (EC) No 2096/2002⁽³⁾.

(2) Pursuant to Article 5 of Commission Regulation (EC) No 1839/95⁽⁴⁾, as last amended by Regulation (EC) No 2235/2000⁽⁵⁾, the Commission, acting under the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1.

(4) 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

For tenders notified from 6 to 12 December 2002, pursuant to the invitation to tender issued in Regulation (EC) No 2096/2002, the maximum reduction in the duty on maize imported shall be 28,91 EUR/t and be valid for a total maximum quantity of 14 500 t.

Article 2

This Regulation shall enter into force on 13 December 2002.

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

Done at Brussels, 12 December 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 323, 28.11.2002, p. 40.

⁽⁴⁾ OJ L 177, 28.7.1995, p. 4.

⁽⁵⁾ OJ L 256, 10.10.2000, p. 13.

COMMISSION REGULATION (EC) No 2216/2002

of 12 December 2002

fixing the export refunds on rice and broken rice and suspending the issue of export licences

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 the second subparagraph of Article 13(3) and (15) thereof,

Whereas:

- (1) Article 13 of Regulation (EC) No 3072/95 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Article 13(4) of Regulation (EC) No 3072/95, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other. The same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market with limits resulting from agreements concluded in accordance with Article 300 of the Treaty.
- (3) Commission Regulation (EEC) No 1361/76 ⁽³⁾ lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum.
- (4) Export possibilities exist for a quantity of 7 595 tonnes of rice to certain destinations. The procedure laid down in Article 7(4) of Commission Regulation (EC) No 1162/95 ⁽⁴⁾, as last amended by Regulation (EC) No 1322/2002 ⁽⁵⁾, should be used. Account should be taken of this when the refunds are fixed.
- (5) Article 13(5) of Regulation (EC) No 3072/95 defines the specific criteria to be taken into account when the export refund on rice and broken rice is being calculated.

- (6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.
- (7) A separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets.
- (8) The refund must be fixed at least once a month; whereas it may be altered in the intervening period.
- (9) It follows from applying these rules and criteria to the present situation on the market in rice and in particular to quotations or prices for rice and broken rice within the Community and on the world market, that the refund should be fixed as set out in the Annex hereto.
- (10) For the purposes of administering the volume restrictions resulting from Community commitments in the context of the WTO, the issue of export licences with advance fixing of the refund should be restricted.
- (11) 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

The export refunds on the products listed in Article 1 of Regulation (EC) No 3072/95 with the exception of those listed in paragraph 1(c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

With the exception of the quantity of 7 595 tonnes provided for in the Annex, the issue of export licences with advance fixing of the refund is suspended.

Article 3

This Regulation shall enter into force on 13 December 2002.

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 154, 15.6.1976, p. 11.

⁽⁴⁾ OJ L 117, 24.5.1995, p. 2.

⁽⁵⁾ OJ L 194, 23.7.2002, p. 22.

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

Done at Brussels, 12 December 2002.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 12 December 2002 fixing the export refunds on rice and broken rice and suspending the issue of export licences

Product code	Destination	Unit of measurement	Amount of refunds (1)	Product code	Destination	Unit of measurement	Amount of refunds (1)
1006 20 11 9000	R01	EUR/t	112	1006 30 65 9100	R01	EUR/t	140
1006 20 13 9000	R01	EUR/t	112		R02	EUR/t	146
1006 20 15 9000	R01	EUR/t	112		R03	EUR/t	151
1006 20 17 9000	—	EUR/t	—		064 and 066	EUR/t	153
1006 20 92 9000	R01	EUR/t	112		A97	EUR/t	146
1006 20 94 9000	R01	EUR/t	112		021 and 023	EUR/t	146
1006 20 96 9000	R01	EUR/t	112	1006 30 65 9900	R01	EUR/t	140
1006 20 98 9000	—	EUR/t	—		064 and 066	EUR/t	153
1006 30 21 9000	R01	EUR/t	112		A97	EUR/t	146
1006 30 23 9000	R01	EUR/t	112	1006 30 67 9100	021 and 023	EUR/t	146
1006 30 25 9000	R01	EUR/t	112		064 and 066	EUR/t	153
1006 30 27 9000	—	EUR/t	—	1006 30 67 9900	064 and 066	EUR/t	153
1006 30 42 9000	R01	EUR/t	112	1006 30 92 9100	R01	EUR/t	140
1006 30 44 9000	R01	EUR/t	112		R02	EUR/t	146
1006 30 46 9000	R01	EUR/t	112		R03	EUR/t	151
1006 30 48 9000	—	EUR/t	—		064 and 066	EUR/t	153
1006 30 61 9100	R01	EUR/t	140		A97	EUR/t	146
	R02	EUR/t	146		021 and 023	EUR/t	146
	R03	EUR/t	151	1006 30 92 9900	R01	EUR/t	140
	064 and 066	EUR/t	153		A97	EUR/t	146
	A97	EUR/t	146		064 and 066	EUR/t	153
	021 and 023	EUR/t	146	1006 30 94 9100	R01	EUR/t	140
1006 30 61 9900	R01	EUR/t	140		R02	EUR/t	146
	A97	EUR/t	146		R03	EUR/t	151
	064 and 066	EUR/t	153		064 and 066	EUR/t	153
1006 30 63 9100	R01	EUR/t	140		A97	EUR/t	146
	R02	EUR/t	146		021 and 023	EUR/t	146
	R03	EUR/t	151	1006 30 94 9900	R01	EUR/t	140
	064 and 066	EUR/t	153		A97	EUR/t	146
	A97	EUR/t	146		064 and 066	EUR/t	153
	021 and 023	EUR/t	146	1006 30 96 9100	R01	EUR/t	140
1006 30 63 9900	R01	EUR/t	140		R02	EUR/t	146
	064 and 066	EUR/t	153		R03	EUR/t	151
	A97	EUR/t	146		064 and 066	EUR/t	153
	021 and 023	EUR/t	146		A97	EUR/t	146
	R01	EUR/t	140	1006 30 96 9900	021 and 023	EUR/t	146
	064 and 066	EUR/t	153		R01	EUR/t	140
	A97	EUR/t	146		A97	EUR/t	146
					064 and 066	EUR/t	153
				1006 30 98 9100	021 and 023	EUR/t	146
				1006 30 98 9900	—	EUR/t	—
				1006 40 00 9000	—	EUR/t	—

(1) The procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 applies to licences applied for under that Regulation for quantities according to the destination:
 destination R01: 1 000 t,
 all destinations R02 and R03: 199 t,
 destinations 021 and 023: 584 t,
 destinations 064 and 066: 5 527 t,
 destination A97: 285 t.

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

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

The other destinations are defined as follows:

R01 Switzerland, Liechtenstein, communes of Livigno and Campione d'Italia.

R02 Morocco, Algeria, Tunisia, Malta, Egypt, Israel, Lebanon, Libya, Syria, Ex-Spanish Sahara, Cyprus, Jordan, Iraq, Iran, Yemen, Kuwait, United Arab Emirates, Oman, Bahrain, Qatar, Saudi Arabia, Eritrea, West Bank/Gaza Strip, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovenia, Slovakia, Norway, Faroe Islands, Iceland, Russia, Belarus, Bosnia and Herzegovina, Croatia, Yugoslavia, Former Yugoslav Republic of Macedonia, Albania, Bulgaria, Georgia, Armenia, Azerbaijan, Moldova, Ukraine, Kazakstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan.

R03 Colombia, Ecuador, Peru, Bolivia, Chile, Argentina, Uruguay, Paraguay, Brazil, Venezuela, Canada, Mexico, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, Cuba, Bermuda, South Africa, Australia, New Zealand, Hong Kong SAR, Singapore, A40 except the Netherlands Antilles, Aruba, Turks and Caicos Islands, A11 except Suriname, Guyana, Madagascar.

COMMISSION DIRECTIVE 2002/94/EC
of 9 December 2002

laying down detailed rules for implementing certain provisions of Council Directive 76/308/EEC on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the Treaty establishing the European Community,

CHAPTER I

GENERAL PROVISIONS

Having regard to Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures ⁽¹⁾, as last amended by Directive 2001/44/EC ⁽²⁾, and in particular Article 22 thereof,

Article 1

This Directive lays down the detailed rules for implementing Article 4(2) and (4), Article 5(2) and (3), Article 7, Article 8, Article 9, Article 11, Article 12(1) and (2), Article 14, Article 18(3) and Article 25 of Directive 76/308/EEC.

Whereas:

It also lays down the detailed rules on conversion, transfer of sums recovered, the fixing of a minimum amount for claims which may give rise to a request for assistance, as well as the means by which communications between authorities may be transmitted.

(1) The system of mutual assistance between the competent authorities of Member States, as set out in Directive 76/308/EEC, has been amended as regards the information to be supplied to the applicant authority, the notification of the addressee concerning the applicable instruments and decisions, the adoption of precautionary measures, and the recovery by the requested authority of claims on behalf of the applicant authority.

Article 2

For the purposes of this Directive:

(2) As regards each of those aspects, therefore, Commission Directive 77/794/EEC of 4 November 1977 laying down detailed rules for implementing certain provisions of Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties, and in respect of value added tax ⁽³⁾, as last amended by Directive 86/489/EEC ⁽⁴⁾, should be amended accordingly.

1. transmission 'by electronic means' shall mean transmission using electronic equipment for processing (including digital compression) of data and employing wires, radio transmission, optical technologies or other electromagnetic means;

2. 'CCN/CSI' network shall mean the common platform based on the Common Communication Network (CCN) and Common System Interface (CSI), developed by the Community to ensure all transmissions by electronic means between competent authorities in the area of Customs and Taxation.

(3) Furthermore, detailed rules should be laid down concerning the means by which communications between authorities may be transmitted.

CHAPTER II

REQUESTS FOR INFORMATION

(4) In the interests of clarity, Directive 77/794/EEC should be replaced.

Article 3

The request for information referred to in Article 4 of Directive 76/308/EEC shall be made out in writing in accordance with the model in Annex I to this Directive. If the request cannot be transmitted by electronic means, it shall bear the official stamp of the applicant authority and shall be signed by an official thereof duly authorised to make such a request.

(5) The measures provided for in this Directive are in accordance with the opinion of the Committee on Recovery,

Where a similar request has been addressed to any other authority, the applicant authority shall indicate in its request for information the name of that authority.

⁽¹⁾ OJ L 73, 19.3.1976, p. 18.

⁽²⁾ OJ L 175, 28.6.2001, p. 17.

⁽³⁾ OJ L 333, 24.12.1977, p. 11.

⁽⁴⁾ OJ L 283, 4.10.1986, p. 23.

Article 4

The request for information may relate to:

1. the debtor;
2. any person liable for settlement of the claim under the law in force in the Member State in which the applicant authority is situated (hereinafter 'the Member State of the applicant authority');
3. any third party holding assets belonging to one of the persons mentioned under point 1 or 2.

Article 5

1. The requested authority shall acknowledge receipt of the request for information in writing as soon as possible and in any event within seven days of such receipt.

2. Immediately upon receipt of the request the requested authority shall, where appropriate, ask the applicant authority to provide any additional information necessary. The applicant authority shall provide all additional necessary information to which it normally has access.

Article 6

1. The requested authority shall transmit each item of requested information to the applicant authority as and when it is obtained.

2. Where all or some of the requested information cannot be obtained within a reasonable time, having regard to the particular case, the requested authority shall so inform the applicant authority, indicating the reasons therefor.

In any event, at the end of six months from the date of acknowledgement of receipt of the request, the requested authority shall inform the applicant authority of the outcome of the investigations which it has conducted in order to obtain the information requested.

In the light of the information received from the requested authority, the applicant authority may request the latter to continue its investigations. That request shall be made in writing within two months of the receipt of the notification of the outcome of the investigations carried out by the requested authority, and shall be treated by the requested authority in accordance with the provisions applying to the initial request.

Article 7

If the requested authority decides not to comply with the request for information, it shall notify the applicant authority in writing of the reasons for the refusal to comply with the request, specifying the provisions of Article 4 of Directive 76/308/EEC on which it relies. Such notification shall be given by the requested authority as soon as it has taken its decision and in any event within three months of the date of the acknowledgement of the receipt of the request.

Article 8

The applicant authority may at any time withdraw the request for information which it has sent to the requested authority. The decision to withdraw shall be transmitted to the requested authority in writing.

CHAPTER III

REQUESTS FOR NOTIFICATION

Article 9

The request for notification referred to in Article 5 of Directive 76/308/EEC shall be made out in writing in duplicate in accordance with the model in Annex II to this Directive. The said request shall bear the official stamp of the applicant authority and shall be signed by an official thereof duly authorised to make such a request.

Two copies of the instrument or decision, notification of which is requested, shall be attached to the request.

Article 10

The request for notification may relate to any natural or legal person who, in accordance with the law in force in the Member State of the applicant authority, is required to be informed of any instrument or decision which concerns that person.

In so far as such is not indicated in the instrument or decision of which notification is requested, the request for notification shall refer to the rules in force in the Member State of the applicant authority governing the procedure for contestation of the claim or for its recovery.

Article 11

1. The requested authority shall acknowledge receipt of the request for notification in writing as soon as possible and in any event within seven days of such receipt.

Immediately upon receipt of the request for notification, the requested authority shall take the necessary measures to effect notification in accordance with the law in force in the Member State in which it is situated.

If necessary, but without jeopardising the final date for notification indicated in the request for notification, the requested authority shall ask the applicant authority to provide additional information.

The applicant authority shall provide all additional information to which it normally has access.

The requested authority shall in any event not question the validity of the instrument or decision of which notification is requested.

2. The requested authority shall inform the applicant authority of the date of notification as soon as this has been effected, by returning to it one of the copies of the request with the certificate on the reverse side duly completed.

CHAPTER IV

REQUESTS FOR RECOVERY OR FOR PRECAUTIONARY MEASURES*Article 12*

1. Requests for recovery or for precautionary measures referred to in Articles 6 and 13 respectively of Directive 76/308/EEC shall be made out in writing in accordance with the model in Annex III to this Directive.

Such requests, which shall include a declaration that the conditions laid down in Directive 76/308/EEC for initiating the mutual assistance procedure have been fulfilled, shall bear the official stamp of the applicant authority and shall be signed by an official thereof duly authorised to make such a request.

2. The instrument permitting enforcement shall accompany the request for recovery or for precautionary measures. A single instrument may be issued in respect of several claims where they concern one and the same person.

For the purposes of Articles 13 to 20 of this Directive, all claims covered by the same instrument permitting enforcement shall be deemed to constitute a single claim.

Article 13

Requests for recovery or for precautionary measures may relate to any person referred to in Article 4.

Article 14

1. If the currency of the Member State of the requested authority is different from the currency of the Member State of the applicant authority, the applicant authority shall express the amount of the claim to be recovered in both currencies.

2. The rate of exchange to be used for the purposes of paragraph 1 shall be the latest selling rate recorded on the most representative exchange market or markets of the Member State of the applicant authority on the date when the request for recovery is signed.

Article 15

1. The requested authority shall, in writing, as soon as possible and in any event within seven days of receipt of the request for recovery or for precautionary measures:

- (a) acknowledge receipt of the request;
- (b) ask the applicant authority to complete the request if it does not contain the information or other particulars mentioned in Article 7 of Directive 76/308/EEC.

The applicant authority shall provide all information to which it has access.

2. If the requested authority does not take the requisite action within the three-month period laid down in Article 8 of Directive 76/308/EEC, it shall, as soon as possible and in any

event within seven days of the expiry of that period, inform the applicant authority in writing of the grounds for its failure to comply with the time limit.

Article 16

Where, within a reasonable time having regard to the particular case, all or part of the claim cannot be recovered or precautionary measures cannot be taken, the requested authority shall so inform the applicant authority, indicating the reasons therefor.

No later than at the end of each six-month period following the date of acknowledgement of the receipt of the request, the requested authority shall inform the applicant authority of the state of progress or the outcome of the procedure for recovery or for precautionary measures.

In the light of the information received from the requested authority, the applicant authority may request the latter to re-open the procedure for recovery or for precautionary measures. That request shall be made in writing within two months of the receipt of the notification of the outcome of that procedure, and shall be treated by the requested authority in accordance with the provisions applying to the initial request.

Article 17

1. Any action contesting the claim or the instrument permitting its enforcement which is taken in the Member State of the applicant authority shall be notified to the requested authority in writing by the applicant authority immediately after the latter has been informed of such action.

2. If the laws, regulations and administrative practices in force in the Member State of the requested authority do not permit precautionary measures or the recovery requested under the second subparagraph of Article 12(2) of Directive 76/308/EEC, the requested authority shall notify the applicant authority to that effect as soon as possible and in any event within one month of the receipt of the notification referred to in paragraph 1.

3. Any action which is taken in the Member State of the requested authority for reimbursement of sums recovered or for compensation in relation to recovery of contested claims under the second subparagraph of Article 12(2) of Directive 76/308/EEC shall be notified to the applicant authority in writing by the requested authority immediately after the latter has been informed of such action.

The requested authority shall as far as possible involve the applicant authority in the procedures for settling the amount to be reimbursed and the compensation due. Upon a reasoned request from the requested authority, the applicant authority shall transfer the sums reimbursed and the compensation paid within two months of the receipt of that request.

Article 18

1. If the request for recovery or for precautionary measures becomes devoid of purpose as a result of payment of the claim or of its cancellation or for any other reason, the applicant authority shall immediately inform the requested authority in writing so that the latter may stop any action which it has undertaken.

2. Where the amount of the claim which is the subject of the request for recovery or for precautionary measures is adjusted for any reason, the applicant authority shall immediately inform the requested authority in writing, and if necessary issue a new instrument permitting enforcement.

3. If the adjustment entails a reduction in the amount of the claim, the requested authority shall continue the action which it has undertaken with a view to recovery or to the taking of precautionary measures, but that action shall be limited to the amount still outstanding.

If, at the time when the requested authority is informed of the reduction in the amount of the claim, an amount exceeding the amount still outstanding has already been recovered by it but the transfer procedure referred to in Article 19 has not yet been initiated, the requested authority shall repay the amount overpaid to the person entitled thereto.

4. If the adjustment entails an increase in the amount of the claim, the applicant authority shall as soon as possible address to the requested authority an additional request for recovery or for precautionary measures.

That additional request shall, as far as possible, be dealt with by the requested authority at the same time as the original request from the applicant authority. Where, in view of the state of progress of the existing procedure, consolidation of the additional request with the original request is not possible, the requested authority shall be required to comply with the additional request only if it concerns an amount not less than that referred to in Article 25(2).

5. In order to convert the adjusted amount of the claim into the currency of the Member State of the requested authority, the applicant authority shall use the exchange rate used in its original request.

Article 19

Any sum recovered by the requested authority, including, where applicable, the interest referred to in Article 9(2) of Directive 76/308/EEC, shall be transferred to the applicant authority in the currency of the Member State of the requested authority. The transfer shall take place within one month of the date on which recovery was effected.

The competent authorities of the Member States may agree different arrangements for the transfer of amounts below the threshold referred to in Article 25(2) of this Directive.

Article 20

Irrespective of any amounts collected by the requested authority by way of the interest referred to in Article 9(2) of Directive 76/308/EEC, the claim shall be deemed to have been recovered in proportion to the recovery of the amount expressed in the national currency of the Member State of the requested authority, on the basis of the exchange rate referred to in Article 14(2) of this Directive.

CHAPTER V

TRANSMISSION OF COMMUNICATIONS

Article 21

1. All information communicated in writing pursuant to this Directive shall, as far as possible, be transmitted only by electronic means, except for:

- (a) the request for notification referred to in Article 5 of Directive 76/308/EEC and the instrument or decision of which notification is requested;
- (b) requests for recovery or for precautionary measures referred to in Articles 6 and 13 respectively of Directive 76/308/EEC, and the instrument permitting enforcement.

2. The competent authorities of the Member States may agree to waive the communication on paper of the requests and instruments specified in paragraph 1.

Article 22

Each Member State shall designate a central office with principal responsibility for communication by electronic means with other Member States. That office shall be connected to the CCN/CSI network.

Where several authorities are appointed in a Member State for the purpose of applying this Directive, the central office shall be responsible for the forwarding of all communication by electronic means between those authorities and the central offices of other Member States.

Article 23

1. Where the competent authorities of the Member States store information in electronic data bases and exchange such information by electronic means, they shall take all measures necessary to ensure that any information communicated in whatever form pursuant to this Directive is treated as confidential.

It shall be covered by the obligation of professional secrecy and shall enjoy the protection extended to similar information under the national law of the Member State which received it.

2. The information referred to in paragraph 1 may be made available only to the persons and authorities referred to in Article 16 of Directive 76/308/EEC.

Such information may be used in connection with judicial or administrative proceedings initiated for the recovery of levies, duties, taxes and other measures referred to in Article 2 of Directive 76/308/EEC.

Persons duly accredited by the Security Accreditation Authority of the European Commission may have access to this information only in so far as is necessary for the care, maintenance and development of the CCN/CSI network.

3. Where the competent authorities of the Member States communicate by electronic means, they shall take all measures necessary to ensure that all communications are duly authorised.

Article 24

Information and other particulars communicated by the requested authority to the applicant authority shall be conveyed in the official language or one of the official languages of the Member State of the requested authority or in another language agreed between the applicant and requested authorities.

CHAPTER VI

ELIGIBILITY AND REFUSAL OF REQUESTS FOR ASSISTANCE

Article 25

1. A request for assistance may be made by the applicant authority in respect of either a single claim or several claims where those are recoverable from one and the same person.

2. No request for assistance may be made if the total amount of the relevant claim or claims listed in Article 2 of Directive 76/308/EEC is less than EUR 1 500.

Article 26

If the requested authority decides, pursuant to the first paragraph of Article 14 of Directive 76/308/EEC, to refuse a request for assistance, it shall notify the applicant authority in writing of the reasons for the refusal. Such notification shall be given by the requested authority as soon as it has taken its decision and in any event within three months of the date of receipt of the request for assistance.

CHAPTER VII

REIMBURSEMENT ARRANGEMENTS

Article 27

Each Member State shall appoint at least one official duly authorised to agree reimbursement arrangements under Article 18(3) of Directive 76/308/EEC.

Article 28

1. If the requested authority decides to request reimbursement arrangements it shall notify the applicant authority in writing of the reasons for its view that recovery of the claim poses a specific problem, entails very high costs or relates to the fight against organised crime.

The requested authority shall append a detailed estimate of the costs for which it requests reimbursement by the applicant authority.

2. The applicant authority shall acknowledge receipt of the request for reimbursement arrangements in writing as soon as possible and in any event within seven days of receipt.

Within two months of the date of acknowledgement of receipt of the said request, the applicant authority shall inform the requested authority whether and to what extent it agrees with the proposed reimbursement arrangements.

3. If no agreement is reached between the applicant and requested authority with respect to reimbursement arrangements, the requested authority shall continue recovery procedures in the normal way.

CHAPTER VIII

FINAL PROVISIONS

Article 29

Each Member State shall inform the Commission before 15 March each year, as far as possible by electronic means, of the use made of the procedures laid down in Directive 76/308/EEC and of the results achieved in the previous calendar year, in accordance with the model in Annex IV to this Directive.

Article 30

The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 April 2003 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 31

The Commission shall communicate to the other Member States the measures which each Member State takes for implementing this Directive.

Each Member State shall notify the other Member States and the Commission of the name and address of the competent authorities for the purpose of applying this Directive, as well as of the officials authorised to agree arrangements under Article 18(3) of Directive 76/308/EEC.

Article 32

Directive 77/794/EEC is hereby repealed.

References to the repealed Directive shall be construed as references to this Directive.

Article 33

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

Article 34

This Directive is addressed to the Member States.

Done at Brussels, 9 December 2002.

For the Commission

Frederik BOLKESTEIN

Member of the Commission

ANNEX I

Model for the request for information referred to in Article 4 of Directive 76/308/EEC**DIRECTIVE 76/308/EEC****(Article 4)**

(Description of the applicant authority, address, telephone, fax and bank account number, etc.)

(Name, e-mail address, telephone, fax and language skills of the official dealing with the request)

.....
(Place and date of sending request)

.....
(File reference of applicant authority)

To:

.....

(Name of the authority to whom the request is sent, Post Box, place etc.)

.....

.....

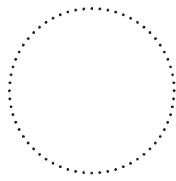
(Space reserved for the authority to whom the request is sent)

REQUEST FOR INFORMATION

I, the undersigned,
(Name and official capacity)

acting as the agent duly authorised by the applicant authority indicated above, hereby request the following information to be obtained in accordance with Article 4 of Directive 76/308/EEC:

Information relating to the person concerned ⁽¹⁾		
(a) For natural persons:	Name:	
	Date and place of birth:	
For legal entities:	Legal status:	Company name:
Address (known/assumed (*)):		
Principal debtor /Co-debtor /Third party holding assets (*):		
(b) Name of the principal debtor if different from person concerned:		
Address (known/assumed (*)):		
(c) Other relevant information concerning the above persons:		

Information relating to the claim(s)			
— Amount: Principal:	Interests:	Costs:	Penalties:
— Exact nature of the claim(s):			
— Final date permitting recovery:			
— Other information:			
Other requested authorities:			
Information requested			
..... (Signature)  (Official stamp)			
(*) Delete as appropriate. (¹) Natural or legal person.			

ANNEX II

Model for the request for notification referred to in Article 5 of Directive 76/308/EEC**DIRECTIVE 76/308/EEC****(Article 5)**

(Description of the applicant authority, address, telephone, fax and bank account number, etc.)

(Name, e-mail address, telephone, fax and language skills of the official dealing with the request)

.....
(Place and date of sending request)

.....
(File reference of applicant authority)

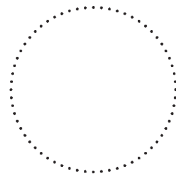
.....
To: (Name of the authority to whom the request is sent, Post Box, place etc.)

(Space reserved for the authority to whom the request is sent)

REQUEST FOR NOTIFICATION

I, the undersigned
(Name and official capacity)

acting as the agent duly authorised by the applicant authority indicated above, hereby request notification, pursuant to Article 5 of Directive 76/308/EEC, of the following instrument/decision (*):

Information relating to the person concerned ⁽¹⁾	
(a) For natural persons:	Name:
	Date and place of birth:
For legal entities:	Legal status:
Address (known/assumed (*)):	Company name:
Principal debtor/Co-debtor /Third party holding assets (*)	
(b) Name of the principal debtor if different from person concerned:	
Address (known/assumed (*)):	
(c) Other relevant information concerning the above persons:	
Information relating to the claim(s)	
— Nature and subject of the instrument (or decision) to be notified: — Amount (inclusive of interest, penalties and costs): — Exact nature of the claim(s): — Final date for notification: — Other information:	
..... (Signature)	 (Official stamp)
(*) Delete as appropriate. (1) Natural or legal person.	

CERTIFICATE

The undersigned hereby certifies:

- that the instrument/decision (*) attached to the request overleaf has been notified to the addressee referred to in the said request dated The notification was made in the following manner ⁽¹⁾:
- that the instrument/decision (*) attached to the request overleaf was not able to be notified to the addressee referred to in the said request for the following reasons (*):

.....
(Date)

.....
(Signature)

.....
(Official stamp)

(*) Delete as appropriate.

(¹) Indicate exactly whether the notification was made to the addressee in person or by another procedure.

ANNEX III

Model for the requests for recovery or for precautionary measures referred to in Articles 6 and 13 of Directive 76/308/EEC**DIRECTIVE 76/308/EEC****(Articles 6 to 13)**

(Description of the applicant authority, address, telephone, fax and bank account number, etc.)

(Name, e-mail address, telephone, fax and language skills of the official dealing with the request)

.....
(Place and date of sending request)

.....
(File reference of applicant authority)

To

(Space reserved for the authority to whom the request is sent)

.....
(Name of the authority to whom the request is sent, Post Box, place etc.)

REQUEST FOR RECOVERY/PRECAUTIONARY MEASURES TO BE TAKEN

I, the undersigned,
(Name and official capacity)

acting as the agent duly authorised by the applicant authority indicated above, hereby request:

- recovery of the following claim(s) covered by the attached unit of execution pursuant to Article 7 of Directive 76/308/EEC; the conditions of Article 7(2)(a) and (b) are satisfied (*)
- precautionary measures to be taken, pursuant to Article 13 of Directive 76/308/EEC, in respect of the person mentioned below concerning the claim(s) covered by the attached unit of execution; I attach hereto a statement of the reason for this request (*).

Please remit the entire amount of the claim recovered to:

.....
(Bank account number)

.....
(Name and address of the account holder)

.....
(Payment reference)

Payment by instalment is: acceptable without further consultation/only acceptable after consultation/not acceptable (*)

.....
(Signature)

.....
(Official stamp)

Information relating to the person concerned ⁽¹⁾		
(a) For natural persons:	Name:	
	Date and place of birth:	
For legal entities:	Legal status:	Company name:
Address (known/assumed (*)):		
Principal debtor/Co-debtor/Third party holding assets (*)		
(b) Name of the principal debtor if different from person concerned:		
Address (known/assumed (*)):		
(c) If relevant: assets of the debtor held by a third party:		
(d) Other relevant information:		
(Detailed description of all other relevant information known about the above persons)		
(*) Delete as appropriate.		
(1) Natural or legal person.		

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 18 November 2002

authorising the Member States, in the interest of the Community, to ratify or accede to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (the HNS Convention)

(2002/971/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c), Article 67(1) and Article 300(2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

(1) The International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (hereinafter referred to as the 'HNS Convention') is aimed at ensuring adequate, prompt, and effective compensation of persons who suffer damage caused by spills of hazardous and noxious substances, when carried by sea. The HNS Convention fills a significant gap in the international regulation of marine pollution liability.

(2) Articles 38, 39 and 40 of the HNS Convention affect Community secondary legislation on jurisdiction and the recognition and enforcement of judgments, as laid down in Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ⁽³⁾.

(3) The Community therefore has sole competence in relation to Articles 38, 39 and 40 of the HNS Convention inasmuch as that Convention affects the rules laid down in Regulation (EC) No 44/2001. The Member States retain their competence for matters covered by that Convention which do not affect Community law.

(4) Pursuant to the HNS Convention, only sovereign States may be party to it; there are no plans, in the short term, to reopen negotiations for the purpose of taking into account Community competence for the matter. It is not therefore possible for the Community to ratify or accede to the HNS Convention at present, nor is there any prospect that it will be able to do so in the near future.

(5) The HNS Convention is particularly important, given the interests of the Community and its Member States, because it makes for improved victim protection under international rules on marine pollution liability, in keeping with the 1982 United Nations Convention on the Law of the Sea.

(6) The substantive rules of the system established by the HNS Convention fall under the national competence of Member States and only the provisions of jurisdiction and the recognition and enforcement of the judgments are matters covered by exclusive Community competence. Given the subject matters and the aim of the HNS Convention, acceptance of the provisions of that Convention which come under Community competence cannot be dissociated from the provisions which come under the competence of the Member States.

⁽¹⁾ OJ C 51 E, 26.2.2002, p. 370.

⁽²⁾ Opinion delivered on 11 June 2002 (not yet published in the Official Journal).

⁽³⁾ OJ L 12, 16.1.2001, p. 1.

- (7) The Council should therefore authorise the Member States to ratify or accede to the HNS Convention in the interest of the Community, under the conditions set out in this Decision.
- (8) Member States should finalise, within a reasonable time, their procedures for ratification of, or accession to, the HNS Convention in the interest of the Community. Member States should exchange information on the state of their ratification or accession procedures in order to prepare the deposit of their instruments of ratification of, or accession to, the Convention.
- (9) The United Kingdom and Ireland are taking part in the adoption and application of this Decision.
- (10) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision, and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

1. Without prejudice to existing European Community competence in the matter, the Council hereby authorises the Member States to ratify or accede to the HNS Convention in the interest of the Community, subject to the conditions set out in the following Articles.
2. The text of the HNS Convention is attached to this Decision.
3. In this Decision, the term 'Member State' shall mean all Member States with the exception of Denmark.

Article 2

When ratifying or acceding to the HNS Convention, Member States shall make the following declaration:

'Judgments on matters covered by the Convention shall, when given by a court of ⁽¹⁾..., be recognised and enforced in ⁽²⁾...) according to the relevant internal Community rules on the subject. (*)'

Article 3

1. Member States shall take the necessary steps to deposit the instruments of ratification of, or accession to, the HNS Convention within a reasonable time with the Secretary-General of the International Maritime Organisation and, if possible, before 30 June 2006.
2. Member States shall inform the Council and the Commission, before 30 June 2004, of the prospective date of finalisation of their ratification or accession procedures.
3. Member States shall seek to exchange information on the state of their ratification or accession procedures.

Article 4

When ratifying or acceding to the HNS Convention, Member States shall inform the Secretary-General of the International Maritime Organisation in writing that such ratification or accession has taken place in accordance with this Decision.

Article 5

Member States shall, at the earliest opportunity, use their best endeavours to ensure that the HNS Convention is amended to allow the Community to become a contracting party to it.

Done at Brussels, 18 November 2002.

For the Council

The President

P. S. MØLLER

⁽¹⁾ All the Member States to which this Decision is applicable except the Member State making the declaration and Denmark.

⁽²⁾ Member State making the declaration.

(*) At present, these rules are laid down in Regulation (EC) No 44/2001.

ANNEX

INTERNATIONAL CONVENTION ON LIABILITY AND COMPENSATION FOR DAMAGE IN CONNECTION WITH THE CARRIAGE OF HAZARDOUS AND NOXIOUS SUBSTANCES BY SEA, 1996 (HNS CONVENTION)

THE STATES PARTIES TO THE PRESENT CONVENTION,

CONSCIOUS of the dangers posed by the world-wide carriage by sea of hazardous and noxious substances,

CONVINCED of the need to ensure that adequate, prompt and effective compensation is available to persons who suffer damage caused by incidents in connection with the carriage by sea of such substances,

DESIRING to adopt uniform international rules and procedures for determining questions of liability and compensation in respect of such damage,

CONSIDERING that the economic consequences of damage caused by the carriage by sea of hazardous and noxious substances should be shared by the shipping industry and the cargo interests involved,

HAVE AGREED as follows:

CHAPTER I

GENERAL PROVISIONS**Definitions***Article 1*

For the purposes of this Convention:

1. 'Ship' means any seagoing vessel and seaborne craft, of any type whatsoever.
2. 'Person' means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.
3. 'Owner' means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, 'owner' shall mean such company.
4. 'Receiver' means either:
 - (a) the person who physically receives contributing cargo discharged in the ports and terminals of a State Party; provided that if at the time of receipt the person who physically receives the cargo acts as an agent for another who is subject to the jurisdiction of any State Party, then the principal shall be deemed to be the receiver, if the agent discloses the principal to the HNS Fund; or
 - (b) the person in the State Party who in accordance with the national law of that State Party is deemed to be the receiver of contributing cargo discharged in the ports and terminals of a State Party, provided that the total contributing cargo received according to such national law is substantially the same as that which would have been received under (a).
5. 'Hazardous and noxious substances' (HNS) means:
 - (a) any substances, materials and articles carried on board a ship as cargo, referred to in (i) to (vii) below:
 - (i) oils carried in bulk listed in Appendix I to Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;

- (ii) noxious liquid substances carried in bulk referred to in Appendix II to Annex II to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended, and those substances and mixtures provisionally categorised as falling in pollution category A, B, C or D in accordance with Regulation 3(4) of the said Annex II;
 - (iii) dangerous liquid substances carried in bulk listed in Chapter 17 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, 1983, as amended, and the dangerous products for which the preliminary suitable conditions for the carriage have been prescribed by the Administration and port administrations involved in accordance with paragraph 1.1.3 of the Code;
 - (iv) dangerous, hazardous and harmful substances, materials and articles in packaged form covered by the International Maritime Dangerous Goods Code, as amended;
 - (v) liquefied gases as listed in Chapter 19 of the International Code for the Construction and Equipment of Ships carrying Liquefied Gases in Bulk, 1983, as amended, and the products for which preliminary suitable conditions for the carriage have been prescribed by the Administration and port administrations involved in accordance with paragraph 1.1.6 of the Code;
 - (vi) liquid substances carried in bulk with a flashpoint not exceeding 60 °C (measured by a closed cup test);
 - (vii) solid bulk materials possessing chemical hazards covered by Appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended, to the extent that these substances are also subject to the provisions of the International Maritime Dangerous Goods Code when carried in packaged form; and
- (b) residues from the previous carriage in bulk of substances referred to in (a)(i) to (iii) and (v) to (vii) above.

6. 'Damage' means:

- (a) loss of life or personal injury on board or outside the ship carrying the hazardous and noxious substances caused by those substances;
- (b) loss of or damage to property outside the ship carrying the hazardous and noxious substances caused by those substances;
- (c) loss or damage by contamination of the environment caused by the hazardous and noxious substances, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and
- (d) the costs of preventive measures and further loss or damage caused by preventive measures.

Where it is not reasonably possible to separate damage caused by the hazardous and noxious substances from that caused by other factors, all such damage shall be deemed to be caused by the hazardous and noxious substances except if, and to the extent that, the damage caused by other factors is damage of a type referred to in Article 4(3).

In this paragraph, 'caused by those substances' means caused by the hazardous or noxious nature of the substances.

- 7. 'Preventive measures' means any reasonable measures taken by any person after an incident has occurred to prevent or minimise damage.
- 8. 'Incident' means any occurrence or series of occurrences having the same origin, which causes damage or creates a grave and imminent threat of causing damage.
- 9. 'Carriage by sea' means the period from the time when the hazardous and noxious substances enter any part of the ship's equipment, on loading, to the time they cease to be present in any part of the ship's equipment, on discharge. If no ship's equipment is used, the period begins and ends respectively when the hazardous and noxious substances cross the ship's rail.
- 10. 'Contributing cargo' means any hazardous and noxious substances which are carried by sea as cargo to a port or terminal in the territory of a State Party and discharged in that State. Cargo in transit which is transferred directly, or through a port or terminal, from one ship to another, either wholly or in part, in the course of carriage from the port or terminal of original loading to the port or terminal of final destination shall be considered as contributing cargo only in respect of receipt at the final destination.
- 11. The 'HNS Fund' means the International Hazardous and Noxious Substances Fund established under Article 13.
- 12. 'Unit of account' means the Special Drawing Right as defined by the International Monetary Fund.

13. 'State of the ship's registry' means in relation to a registered ship the State of registration of the ship, and in relation to an unregistered ship the State whose flag the ship is entitled to fly.
14. 'Terminal' means any site for the storage of hazardous and noxious substances received from waterborne transportation, including any facility situated off-shore and linked by pipeline or otherwise to such site.
15. 'Director' means the Director of the HNS Fund.
16. 'Organisation' means the International Maritime Organisation.
17. 'Secretary-General' means the Secretary-General of the Organisation.

Annexes

Article 2

The Annexes to this Convention shall constitute an integral part of this Convention

Scope of application

Article 3

The Annexes to this shall apply exclusively:

- (a) to any damage caused in the territory, including the territorial sea, of a State Party;
- (b) to damage by contamination of the environment caused in the exclusive economic zone of a State Party, established in accordance with international law, or, if a State Party has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;
- (c) to damage, other than damage by contamination of the environment, caused outside the territory, including the territorial sea, of any State, if this damage has been caused by a substance carried on board a ship registered in a State Party or, in the case of an unregistered ship, on board a ship entitled to fly the flag of a State Party; and
- (d) to preventive measures, wherever taken.

Article 4

1. This Convention shall apply to claims, other than claims arising out of any contract for the carriage of goods and passengers, for damage arising from the carriage of hazardous and noxious substances by sea.
2. This Convention shall not apply to the extent that its provisions are incompatible with those of the applicable law relating to workers' compensation or social security schemes.
3. This Convention shall not apply:
 - (a) to pollution damage as defined in the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended, whether or not compensation is payable in respect of it under that Convention; and
 - (b) to damage caused by a radioactive material of class 7 either in the International Maritime Dangerous Goods Code, as amended, or in appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended.
4. Except as provided in paragraph 5, the provisions of this Convention shall not apply to warships, naval auxiliary or other ships owned or operated by a State and used, for the time being, only on Government non-commercial service.
5. A State Party may decide to apply this Convention to its warships or other vessels described in paragraph 4, in which case it shall notify the Secretary-General thereof specifying the terms and conditions of such application.
6. With respect to ships owned by a State Party and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in Article 38 and shall waive all defences based on its status as a sovereign State.

Article 5

1. A State may, at the time of ratification, acceptance, approval of, or accession to, this Convention, or any time thereafter, declare that this Convention does not apply to ships:
 - (a) which do not exceed 200 gross tonnage; and
 - (b) which carry hazardous and noxious substances only in packaged form; and
 - (c) while they are engaged on voyages between ports or facilities of that State.
2. Where two neighbouring States agree that this Convention does not apply also to ships which are covered by paragraph 1(a) and (b) while engaged on voyages between ports or facilities of those States, the States concerned may declare that the exclusion from the application of this Convention declared under paragraph 1 covers also ships referred to in this paragraph.
3. Any State which has made the declaration under paragraph 1 or 2 may withdraw such declaration at any time.
4. A declaration made under paragraph 1 or 2, and the withdrawal of the declaration made under paragraph 3, shall be deposited with the Secretary-General who shall, after the entry into force of this communicate it to the Director.
5. Where a State has made a declaration under paragraph 1 or 2 and has not withdrawn it, hazardous and noxious substances carried on board ships covered by that paragraph shall not be considered to be contributing cargo for the purpose of application of Articles 18, 20, Article 21(5) and Article 43.
6. The HNS Fund is not liable to pay compensation for damage caused by substances carried by a ship to which the Convention does not apply pursuant to a declaration made under paragraph 1 or 2, to the extent that:
 - (a) the damage as defined in Article 1, paragraph 6(a), (b) or (c) was caused in:
 - (i) the territory, including the territorial sea, of the State which has made the declaration, or in the case of neighbouring States which have made a declaration under paragraph 2, of either of them; or
 - (ii) the exclusive economic zone, or area mentioned in Article 3(b), of the State or States referred to in (i);
 - (b) the damage includes measures taken to prevent or minimise such damage.

Duties of State Parties*Article 6*

Each State Party shall ensure that any obligation arising under this is fulfilled and shall take appropriate measures under its law including the imposing of sanctions as it may deem necessary, with a view to the effective execution of any such obligation.

CHAPTER II

LIABILITY**Liability of the owner***Article 7*

1. Except as provided in paragraphs 2 and 3, the owner at the time of an incident shall be liable for damage caused by any hazardous and noxious substances in connection with their carriage by sea on board the ship, provided that if an incident consists of a series of occurrences having the same origin the liability shall attach to the owner at the time of the first of such occurrences.
2. No liability shall attach to the owner if the owner proves that:
 - (a) the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or
 - (b) the damage was wholly caused by an act or omission done with the intent to cause damage by a third party; or
 - (c) the damage was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function; or

- (d) the failure of the shipper or any other person to furnish information concerning the hazardous and noxious nature of the substances shipped either
- (i) has caused the damage, wholly or partly; or
 - (ii) has led the owner not to obtain insurance in accordance with Article 12;

provided that neither the owner nor its servants or agents knew or ought reasonably to have known of the hazardous and noxious nature of the substances shipped.

3. If the owner proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from liability to such person.

4. No claim for compensation for damage shall be made against the owner otherwise than in accordance with this.

5. Subject to paragraph 6, no claim for compensation for damage under this Convention or otherwise may be made against:

- (a) the servants or agents of the owner or the members of the crew;
- (b) the pilot or any other person who, without being a member of the crew, performs services for the ship;
- (c) any charterer (howsoever described, including a bareboat charterer), manager or operator of the ship;
- (d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;
- (e) any person taking preventive measures; and
- (f) the servants or agents of persons mentioned in (c), (d) and (e);

unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

6. Nothing in this Convention shall prejudice any existing right of recourse of the owner against any third party, including, but not limited to, the shipper or the receiver of the substance causing the damage, or the persons indicated in paragraph 5.

Incidents involving two or more ships

Article 8

1. Whenever damage has resulted from an incident involving two or more ships each of which is carrying hazardous and noxious substances, each owner, unless exonerated under Article 7, shall be liable for the damage. The owners shall be jointly and severally liable for all such damage which is not reasonably separable.
2. However, owners shall be entitled to the limits of liability applicable to each of them under Article 9.
3. Nothing in this Article shall prejudice any right of recourse of an owner against any other owner.

Limitation of liability

Article 9

1. The owner of a ship shall be entitled to limit liability under this Convention in respect of any one incident to an aggregate amount calculated as follows:

- (a) 10 million units of account for a ship not exceeding 2 000 units of tonnage; and
- (b) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (a):
 - for each unit of tonnage from 2 001 to 50 000 units of tonnage, 1 500 units of account;
 - for each unit of tonnage in excess of 50 000 units of tonnage, 360 units of account;

provided, however, that this aggregate amount shall not in any event exceed 100 million units of account.

2. The owner shall not be entitled to limit liability under this Convention if it is proved that the damage resulted from the personal act or omission of the owner, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.
3. The owner shall, for the purpose of benefitting from the limitation provided for in paragraph 1, constitute a fund for the total sum representing the limit of liability established in accordance with paragraph 1 with the court or other competent authority of any one of the States Parties in which action is brought under Article 38 or, if no action is brought, with any court or other competent authority in any one of the States Parties in which an action can be brought under Article 38. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the law of the State Party where the fund is constituted, and considered to be adequate by the court or other competent authority.
4. Subject to the provisions of Article 11, the fund shall be distributed among the claimants in proportion to the amounts of their established claims.
5. If before the fund is distributed the owner or any of the servants or agents of the owner or any person providing to the owner insurance or other financial security has as a result of the incident in question, paid compensation for damage, such person shall, up to the amount that person has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.
6. The right of subrogation provided for in paragraph 5 may also be exercised by a person other than those mentioned therein in respect of any amount of compensation for damage which such person may have paid but only to the extent that such subrogation is permitted under the applicable national law.
7. Where owners or other persons establish that they may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which the right of subrogation would have been enjoyed under paragraphs 5 or 6 had the compensation been paid before the fund was distributed, the court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce the claim against the fund.
8. Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise damage shall rank equally with other claims against the fund.
9. (a) The amounts mentioned in paragraph 1 shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the constitution of the fund referred to in paragraph 3. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State.
(b) Nevertheless, a State Party which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 9(a) may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 9(a) shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five-and-a-half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.
(c) The calculation mentioned in the last sentence of paragraph 9(a) and the conversion mentioned in paragraph 9(b) shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in paragraph 1 as would result from the application of the first two sentences of paragraph 9(a). States Parties shall communicate to the Secretary-General the manner of calculation pursuant to paragraph 9(a), or the result of the conversion in paragraph 9(b) as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.
10. For the purpose of this Article the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.
11. The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this Article on the same conditions and having the same effect as if it were constituted by the owner. Such a fund may be constituted even if, under the provisions of paragraph 2, the owner is not entitled to limitation of liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

Article 10

1. Where the owner, after an incident, has constituted a fund in accordance with Article 9 and is entitled to limit liability:
 - (a) no person having a claim for damage arising out of that incident shall be entitled to exercise any right against any other assets of the owner in respect of such claim; and

- (b) the court or other competent authority of any State Party shall order the release of any ship or other property belonging to the owner which has been arrested in respect of a claim for damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest.
2. The foregoing shall, however, only apply if the claimant has access to the court administering the fund and the fund is actually available in respect of the claim.

Death and injury

Article 11

Claims in respect of death or personal injury have priority over other claims save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with Article 9(1).

Compulsory insurance of the owner

Article 12

1. The owner of a ship registered in a State Party and actually carrying hazardous and noxious substances shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, in the sums fixed by applying the limits of liability prescribed in Article 9(1), to cover liability for damage under this Convention.
2. A compulsory insurance certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a State Party has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party such compulsory insurance certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form of the model set out in Annex I and shall contain the following particulars:
- (a) name of the ship, distinctive number or letters and port of registry;
 - (b) name and principal place of business of the owner;
 - (c) IMO ship identification number;
 - (d) type and duration of security;
 - (e) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
 - (f) period of validity of certificate, which shall not be longer than the period of validity of the insurance or other security.
3. The compulsory insurance certificate shall be in the official language or languages of the issuing State. If the language used is neither English, nor French nor Spanish, the text shall include a translation into one of these languages.
4. The compulsory insurance certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authority of the State issuing or certifying the certificate.
5. An insurance or other financial security shall not satisfy the requirements of this Article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 4, unless the compulsory insurance certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this Article.
6. The State of the ship's registry shall, subject to the provisions of this Article, determine the conditions of issue and validity of the compulsory insurance certificate.
7. Compulsory insurance certificates issued or certified under the authority of a State Party in accordance with paragraph 2 shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as compulsory insurance certificates issued or certified by them even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the compulsory insurance certificate is not financially capable of meeting the obligations imposed by this Convention.

8. Any claim for compensation for damage may be brought directly against the insurer or other person providing financial security for the owner's liability for damage. In such case the defendant may, even if the owner is not entitled to limitation of liability, benefit from the limit of liability prescribed in accordance with paragraph 1. The defendant may further invoke the defences (other than the bankruptcy or winding up of the owner) which the owner would have been entitled to invoke. Furthermore, the defendant may invoke the defence that the damage resulted from the wilful misconduct of the owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the owner against the defendant. The defendant shall in any event have the right to require the owner to be joined in the proceedings.

9. Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 shall be available exclusively for the satisfaction of claims under this Convention.

10. A State Party shall not permit a ship under its flag to which this Article applies to trade unless a certificate has been issued under paragraph 2 or 12.

11. Subject to the provisions of this Article, each State Party shall ensure, under its national law, that insurance or other security in the sums specified in paragraph 1 is in force in respect of any ship, wherever registered, entering or leaving a port in its territory, or arriving at or leaving an offshore facility in its territorial sea.

12. If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this Article relating thereto shall not be applicable to such ship, but the ship shall carry a compulsory insurance certificate issued by the appropriate authorities of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limit prescribed in accordance with paragraph 1. Such a compulsory insurance certificate shall follow as closely as possible the model prescribed by paragraph 2.

CHAPTER III

COMPENSATION BY THE INTERNATIONAL HAZARDOUS AND NOXIOUS SUBSTANCES FUND (HNS FUND)

Establishment of the HNS Fund

Article 13

1. The International Hazardous and Noxious Substances Fund (HNS Fund) is hereby established with the following aims:

- (a) to provide compensation for damage in connection with the carriage of hazardous and noxious substances by sea, to the extent that the protection afforded by Chapter II is inadequate or not available; and
- (b) to give effect to the related tasks set out in Article 15.

2. The HNS Fund shall in each State Party be recognised as a legal person capable under the laws of that State of assuming rights and obligations and of being a party in legal proceedings before the courts of that State. Each State Party shall recognise the Director as the legal representative of the HNS Fund.

Compensation

Article 14

1. For the purpose of fulfilling its function under Article 13(1)(a), the HNS Fund shall pay compensation to any person suffering damage if such person has been unable to obtain full and adequate compensation for the damage under the terms of Chapter II:

- (a) because no liability for the damage arises under Chapter II;
- (b) because the owner liable for the damage under Chapter II is financially incapable of meeting the obligations under this Convention in full and any financial security that may be provided under Chapter II does not cover or is insufficient to satisfy the claims for compensation for damage; an owner being treated as financially incapable of meeting these obligations and a financial security being treated as insufficient if the person suffering the damage has been unable to obtain full satisfaction of the amount of compensation due under Chapter II after having taken all reasonable steps to pursue the available legal remedies;
- (c) because the damage exceeds the owner's liability under the terms of Chapter II.

2. Expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise damage shall be treated as damage for the purposes of this Article.
3. The HNS Fund shall incur no obligation under the preceding paragraphs if:
 - (a) it proves that the damage resulted from an act of war, hostilities, civil war or insurrection or was caused by hazardous and noxious substances which had escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the incident, only on Government non-commercial service; or
 - (b) the claimant cannot prove that there is a reasonable probability that the damage resulted from an incident involving one or more ships.
4. If the HNS Fund proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the HNS Fund may be exonerated wholly or partially from its obligation to pay compensation to such person. The HNS Fund shall in any event be exonerated to the extent that the owner may have been exonerated under Article 7(3). However, there shall be no such exoneration of the HNS Fund with regard to preventive measures.
5.
 - (a) Except as otherwise provided in subparagraph (b), the aggregate amount of compensation payable by the HNS Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and any amount of compensation actually paid under Chapter II for damage within the scope of application of this Convention as defined in Article 3 shall not exceed 250 million units of account.
 - (b) The aggregate amount of compensation payable by the HNS Fund under this Article for damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 250 million units of account.
 - (c) Interest accrued on a fund constituted in accordance with Article 9(3), if any, shall not be taken into account for the computation of the maximum compensation payable by the HNS Fund under this Article.
 - (d) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency with reference to the Special Drawing Right on the date of the decision of the Assembly of the HNS Fund as to the first date of payment of compensation.
6. Where the amount of established claims against the HNS Fund exceeds the aggregate amount of compensation payable under paragraph 5, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants. Claims in respect of death or personal injury shall have priority over other claims, however, save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with paragraph 5.
7. The Assembly of the HNS Fund may decide that, in exceptional cases, compensation in accordance with this Convention can be paid even if the owner has not constituted a fund in accordance with Chapter II. In such cases paragraph 5(d) applies accordingly.

Related tasks of the HNS Fund

Article 15

For the purpose of fulfilling its function under Article 13(1)(a), the HNS Fund shall have the following tasks:

- (a) to consider claims made against the HNS Fund;
- (b) to prepare an estimate in the form of a budget for each calendar year of:

Expenditure:

 - (i) costs and expenses of the administration of the Fund in the relevant year and any deficit from operations in the preceding years; and
 - (ii) payments to be made by the HNS Fund in the relevant year;

Income:

 - (iii) surplus funds from operations in preceding years, including any interest;
 - (iv) initial contributions to be paid in the course of the year;
 - (v) annual contributions if required to balance the budget; and
 - (vi) any other income;
- (c) to use at the request of a State Party its good offices as necessary to assist that State to secure promptly such personnel, material and services as are necessary to enable the State to take measures to prevent or mitigate damage arising from an incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention; and

- (d) to provide, on conditions laid down in the internal regulations, credit facilities with a view to the taking of preventive measures against damage arising from a particular incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention.

General provisions on contributions

Article 16

1. The HNS Fund shall have a general account, which shall be divided into sectors.
2. The HNS Fund shall, subject to Article 19(3) and (4), also have separate accounts in respect of:
 - (a) oil as defined in Article 1(5)(a)(i) (oil account);
 - (b) liquefied natural gases of light hydrocarbons with methane as the main constituent (LNG) (LNG account); and
 - (c) liquefied petroleum gases of light hydrocarbons with propane and butane as the main constituents (LPG) (LPG account).
3. There shall be initial contributions and, as required, annual contributions to the HNS Fund.
4. Contributions to the HNS Fund shall be made into the general account in accordance with Article 18, to separate accounts in accordance with Article 19 and to either the general account or separate accounts in accordance with Article 20 or Article 21(5). Subject to Article 19(6), the general account shall be available to compensate damage caused by hazardous and noxious substances covered by that account, and a separate account shall be available to compensate damage caused by a hazardous and noxious substance covered by that account.
5. For the purposes of Article 18, Article 19(1)(a)(i) and (ii) and (1)(c), Article 20 and Article 21(5), where the quantity of a given type of contributing cargo received in the territory of a State Party by any person in a calendar year when aggregated with the quantities of the same type of cargo received in the same State Party in that year by any associated person or persons exceeds the limit specified in the respective subparagraphs, such a person shall pay contributions in respect of the actual quantity received by that person notwithstanding that that quantity did not exceed the respective limit.
6. 'Associated person' means any subsidiary or commonly controlled entity. The question whether a person comes within this definition shall be determined by the national law of the State concerned.

General provisions on annual contributions

Article 17

1. Annual contributions to the general account and to each separate account shall be levied only as required to make payments by the account in question.
2. Annual contributions payable pursuant to Articles 18, 19 and Article 21(5) shall be determined by the Assembly and shall be calculated in accordance with those Articles on the basis of the units of contributing cargo received or, in respect of cargoes referred to in Article 19(1)(b), discharged during the preceding calendar year or such other year as the Assembly may decide.
3. The Assembly shall decide the total amount of annual contributions to be levied to the general account and to each separate account. Following that decision the Director shall, in respect of each State Party, calculate for each person liable to pay contributions in accordance with Article 18, Article 19(1) and Article 21(5), the amount of that person's annual contribution to each account, on the basis of a fixed sum for each unit of contributing cargo reported in respect of the person during the preceding calendar year or such other year as the Assembly may decide. For the general account, the abovementioned fixed sum per unit of contributing cargo for each sector shall be calculated pursuant to the regulations contained in Annex II to this Convention. For each separate account, the fixed sum per unit of contributing cargo referred to above shall be calculated by dividing the total annual contribution to be levied to that account by the total quantity of cargo contributing to that account.
4. The Assembly may also levy annual contributions for administrative costs and decide on the distribution of such costs between the sectors of the general account and the separate accounts.
5. The Assembly shall also decide on the distribution between the relevant accounts and sectors of amounts paid in compensation for damage caused by two or more substances which fall within different accounts or sectors, on the basis of an estimate of the extent to which each of the substances involved contributed to the damage.

Annual contributions to the general account

Article 18

1. Subject to Article 16(5), annual contributions to the general account shall be made in respect of each State Party by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of aggregate quantities exceeding 20 000 tonnes of contributing cargo, other than substances referred to in Article 19(1), which fall within the following sectors:

- (a) solid bulk materials referred to in Article 1(5)(a)(vii);
- (b) substances referred to in paragraph 2; and
- (c) other substances.

2. Annual contributions shall also be payable to the general account by persons who would have been liable to pay contributions to a separate account in accordance with Article 19(1) had its operation not been postponed or suspended in accordance with Article 19. Each separate account the operation of which has been postponed or suspended under Article 19 shall form a separate sector within the general account.

Annual contributions to separate accounts

Article 19

1. Subject to Article 16(5), annual contributions to separate accounts shall be made in respect of each State Party:

- (a) in the case of the oil account,
 - (i) by any person who has received in that State in the preceding calendar year, or such other year as the Assembly may decide, total quantities exceeding 150 000 tonnes of contributing oil as defined in Article 1(3) of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as amended, and who is or would be liable to pay contributions to the International Oil Pollution Compensation Fund in accordance with Article 10 of that Convention; and
 - (ii) by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of total quantities exceeding 20 000 tonnes of other oils carried in bulk listed in Appendix I to Annex 1 to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
- (b) in the case of the LNG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, immediately prior to its discharge, held title to an LNG cargo discharged in a port or terminal of that State;
- (c) in the case of the LPG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, was the receiver in that State of total quantities exceeding 20 000 tonnes of LPG.

2. Subject to paragraph 3, the separate accounts referred to in paragraph 1 above shall become effective at the same time as the general account.

3. The initial operation of a separate account referred to in Article 16(2) shall be postponed until such time as the quantities of contributing cargo in respect of that account during the preceding calendar year, or such other year as the Assembly may decide, exceed the following levels:

- (a) 350 million tonnes of contributing cargo in respect of the oil account;
- (b) 20 million tonnes of contributing cargo in respect of the LNG account; and
- (c) 15 million tonnes of contributing cargo in respect of the LPG account.

4. The Assembly may suspend the operation of a separate account if:

- (a) the quantities of contributing cargo in respect of that account during the preceding calendar year fall below the respective level specified in paragraph 3; or
- (b) when six months have elapsed from the date when the contributions were due, the total unpaid contributions to that account exceed ten percent of the most recent levy to that account in accordance with paragraph 1.

5. The Assembly may reinstate the operation of a separate account which has been suspended in accordance with paragraph 4.

6. Any person who would be liable to pay contributions to a separate account the operation of which has been postponed in accordance with paragraph 3 or suspended in accordance with paragraph 4, shall pay into the general account the contributions due by that person in respect of that separate account. For the purpose of calculating future contributions, the postponed or suspended separate account shall form a new sector in the general account and shall be subject to the HNS points system defined in Annex II.

Initial contributions

Article 20

1. In respect of each State Party, initial contributions shall be made of an amount which shall for each person liable to pay contributions in accordance with Article 16(5), Articles 18, 19 and Article 21(5) be calculated on the basis of a fixed sum, equal for the general account and each separate account, for each unit of contributing cargo received or, in the case of LNG, discharged in that State, during the calendar year preceding that in which this Convention enters into force for that State.
2. The fixed sum and the units for the different sectors within the general account as well as for each separate account referred to in paragraph 1 shall be determined by the Assembly.
3. Initial contributions shall be paid within three months following the date on which the HNS Fund issues invoices in respect of each State Party to persons liable to pay contributions in accordance with paragraph 1.

Reports

Article 21

1. Each State Party shall ensure that any person liable to pay contributions in accordance with Articles 18, 19 or paragraph 5 of this Article appears on a list to be established and kept up to date by the Director in accordance with the provisions of this Article.
2. For the purposes set out in paragraph 1, each State Party shall communicate to the Director, at a time and in the manner to be prescribed in the internal regulations of the HNS Fund, the name and address of any person who in respect of the State is liable to pay contributions in accordance with Articles 18, 19 or paragraph 5 of this Article, as well as data on the relevant quantities of contributing cargo for which such a person is liable to contribute in respect of the preceding calendar year.
3. For the purposes of ascertaining who are, at any given time, the persons liable to pay contributions in accordance with Articles 18, 19 or paragraph 5 of this Article and of establishing, where applicable, the quantities of cargo to be taken into account for any such person when determining the amount of the contribution, the list shall be *prima facie* evidence of the facts stated therein.
4. Where a State Party does not fulfil its obligations to communicate to the Director the information referred to in paragraph 2 and this results in a financial loss for the HNS Fund, that State Party shall be liable to compensate the HNS Fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by a State Party.
5. In respect of contributing cargo carried from one port or terminal of a State Party to another port or terminal located in the same State and discharged there, States Parties shall have the option of submitting to the HNS Fund a report with an annual aggregate quantity for each account covering all receipts of contributing cargo, including any quantities in respect of which contributions are payable pursuant to Article 16(5). The State Party shall, at the time of reporting, either:
 - (a) notify the HNS Fund that that State will pay the aggregate amount for each account in respect of the relevant year in one lump sum to the HNS Fund; or
 - (b) instruct the HNS Fund to levy the aggregate amount for each account by invoicing individual receivers or, in the case of LNG, the title holder who discharges within the jurisdiction of that State Party, for the amount payable by each of them. These persons shall be identified in accordance with the national law of the State concerned.

Non-payment of contributions

Article 22

1. The amount of any contribution due under Articles 18, 19, 20 or Article 21(5) and which is in arrears shall bear interest at a rate which shall be determined in accordance with the internal regulations of the HNS Fund, provided that different rates may be fixed for different circumstances.
2. Where a person who is liable to pay contributions in accordance with Articles 18, 19, 20 or Article 21(5) does not fulfil the obligations in respect of any such contribution or any part thereof and is in arrears, the Director shall take all appropriate action, including court action, against such a person on behalf of the HNS Fund with a view to the recovery of the amount due. However, where the defaulting contributor is manifestly insolvent or the circumstances otherwise so warrant, the Assembly may, upon recommendation of the Director, decide that no action shall be taken or continued against the contributor.

Optional liability of States Parties for the payment of contributions

Article 23

1. Without prejudice to Article 21(5), a State Party may at the time when it deposits its instrument of ratification, acceptance, approval or accession or at any time thereafter declare that it assumes responsibility for obligations imposed by this Convention on any person liable to pay contributions in accordance with Articles 18, 19, 20 or Article 21(5) in respect of hazardous and noxious substances received or discharged in the territory of that State. Such a declaration shall be made in writing and shall specify which obligations are assumed.
2. Where a declaration under paragraph 1 is made prior to the entry into force of this Convention in accordance with Article 46, it shall be deposited with the Secretary-General who shall after the entry into force of this Convention communicate the declaration to the Director.
3. A declaration under paragraph 1 which is made after the entry into force of this Convention shall be deposited with the Director.
4. A declaration made in accordance with this Article may be withdrawn by the relevant State giving notice thereof in writing to the Director. Such a notification shall take effect three months after the Director's receipt thereof.
5. Any State which is bound by a declaration made under this Article shall, in any proceedings brought against it before a competent court in respect of any obligation specified in the declaration, waive any immunity that it would otherwise be entitled to invoke.

Organisation and administration

Article 24

The HNS Fund shall have an Assembly and a Secretariat headed by the Director.

Assembly

Article 25

The Assembly shall consist of all States Parties to this Convention.

Article 26

The functions of the Assembly shall be:

- (a) to elect at each regular session its President and two Vice-Presidents who shall hold office until the next regular session;
- (b) to determine its own rules of procedure, subject to the provisions of this Convention;
- (c) to develop, apply and keep under review internal and financial regulations relating to the aim of the HNS Fund as described in Article 13(1)(a), and the related tasks of the HNS Fund listed in Article 15;
- (d) to appoint the Director and make provisions for the appointment of such other personnel as may be necessary and determine the terms and conditions of service of the Director and other personnel;
- (e) to adopt the annual budget prepared in accordance with Article 15(b);
- (f) to consider and approve as necessary any recommendation of the Director regarding the scope of definition of contributing cargo;
- (g) to appoint auditors and approve the accounts of the HNS Fund;
- (h) to approve settlements of claims against the HNS Fund, to take decisions in respect of the distribution among claimants of the available amount of compensation in accordance with Article 14 and to determine the terms and conditions according to which provisional payments in respect of claims shall be made with a view to ensuring that victims of damage are compensated as promptly as possible;
- (i) to establish a Committee on Claims for Compensation with at least seven and not more than 15 members and any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it; when appointing the members of such body, the Assembly shall endeavour to secure an equitable geographical distribution of members and to ensure that the States Parties are appropriately represented; the Rules of Procedure of the Assembly may be applied, *mutatis mutandis*, for the work of such subsidiary body;
- (j) to determine which States not party to this Convention, which Associate Members of the Organisation and which intergovernmental and international non-governmental organisations shall be admitted to take part, without voting rights, in meetings of the Assembly and subsidiary bodies;

- (k) to give instructions concerning the administration of the HNS Fund to the Director and subsidiary bodies;
- (l) to supervise the proper execution of this Convention and of its own decisions;
- (m) to review every five years the implementation of this Convention with particular reference to the performance of the system for the calculation of levies and the contribution mechanism for domestic trade; and
- (n) to perform such other functions as are allocated to it under this Convention or are otherwise necessary for the proper operation of the HNS Fund.

Article 27

1. Regular sessions of the Assembly shall take place once every calendar year upon convocation by the Director.
2. Extraordinary sessions of the Assembly shall be convened by the Director at the request of at least one-third of the members of the Assembly and may be convened on the Director's own initiative after consultation with the President of the Assembly. The Director shall give members at least 30 days' notice of such sessions.

Article 28

A majority of the members of the Assembly shall constitute a quorum for its meetings.

Secretariat

Article 29

1. The Secretariat shall comprise the Director and such staff as the administration of the HNS Fund may require.
2. The Director shall be the legal representative of the HNS Fund.

Article 30

1. The Director shall be the chief administrative officer of the HNS Fund. Subject to the instructions given by the Assembly, the Director shall perform those functions which are assigned to the Director by this Convention, the internal regulations of the HNS Fund and the Assembly.
2. The Director shall in particular:
 - (a) appoint the personnel required for the administration of the HNS Fund;
 - (b) take all appropriate measures with a view to the proper administration of the assets of the HNS Fund;
 - (c) collect the contributions due under this Convention while observing in particular the provisions of Article 22(2);
 - (d) to the extent necessary to deal with claims against the HNS Fund and to carry out the other functions of the HNS Fund, employ the services of legal, financial and other experts;
 - (e) take all appropriate measures for dealing with claims against the HNS Fund, within the limits and on conditions to be laid down in the internal regulations of the HNS Fund, including the final settlement of claims without the prior approval of the Assembly where these regulations so provide;
 - (f) prepare and submit to the Assembly the financial statements and budget estimates for each calendar year;
 - (g) prepare, in consultation with the President of the Assembly, and publish a report on the activities of the HNS Fund during the previous calendar year; and
 - (h) prepare, collect and circulate the documents and information which may be required for the work of the Assembly and subsidiary bodies.

Article 31

In the performance of their duties the Director and the staff and experts appointed by the Director shall not seek or receive instructions from any Government or from any authority external to the HNS Fund. They shall refrain from any action which might adversely reflect on their position as international officials. Each State Party on its part undertakes to respect the exclusively international character of the responsibilities of the Director and the staff and experts appointed by the Director, and not to seek to influence them in the discharge of their duties.

Finances

Article 32

1. Each State Party shall bear the salary, travel and other expenses of its own delegation to the Assembly and of its representatives on subsidiary bodies.
2. Any other expenses incurred in the operation of the HNS Fund shall be borne by the HNS Fund.

Voting

Article 33

The following provisions shall apply to voting in the Assembly:

- (a) each member shall have one vote;
- (b) except as otherwise provided in Article 34, decisions of the Assembly shall be made by a majority vote of the members present and voting;
- (c) decisions where a two-thirds majority is required shall be a two-thirds majority vote of members present; and
- (d) for the purpose of this Article the phrase 'members present' means 'members present at the meeting at the time of the vote', and the phrase 'members present and voting' means 'members present and casting an affirmative or negative vote'. Members who abstain from voting shall be considered as not voting.

Article 34

The following decisions of the Assembly shall require a two-thirds majority:

- (a) a decision under Article 19(4) or (5) to suspend or reinstate the operation of a separate account;
- (b) a decision under Article 22(2), not to take or continue action against a contributor;
- (c) the appointment of the Director under Article 26(d);
- (d) the establishment of subsidiary bodies, under Article 26(i), and matters relating to such establishment; and
- (e) a decision under Article 51(1), that this Convention shall continue to be in force.

Tax exemptions and currency regulations

Article 35

1. The HNS Fund, its assets, income, including contributions, and other property necessary for the exercise of its functions as described in Article 13(1), shall enjoy in all States Parties exemption from all direct taxation.
2. When the HNS Fund makes substantial purchases of movable or immovable property, or of services which are necessary for the exercise of its official activities in order to achieve its aims as set out in Article 13(1), the cost of which include indirect taxes or sales taxes, the Governments of the States Parties shall take, whenever possible, appropriate measures for the remission or refund of the amount of such duties and taxes. Goods thus acquired shall not be sold against payment or given away free of charge unless it is done according to conditions approved by the Government of the State having granted or supported the remission or refund.
3. No exemption shall be accorded in the case of duties, taxes or dues which merely constitute payment for public utility services.
4. The HNS Fund shall enjoy exemption from all customs duties, taxes and other related taxes on articles imported or exported by it or on its behalf for its official use. Articles thus imported shall not be transferred either for consideration or gratis on the territory of the country into which they have been imported except on conditions agreed by the Government of that country.

5. Persons contributing to the HNS Fund as well as victims and owners receiving compensation from the HNS Fund shall be subject to the fiscal legislation of the State where they are taxable, no special exemption or other benefit being conferred on them in this respect.

6. Notwithstanding existing or future regulations concerning currency or transfers, States Parties shall authorize the transfer and payment of any contribution to the HNS Fund and of any compensation paid by HNS Fund without any restriction.

Confidentiality of information

Article 36

Information relating to individual contributors supplied for the purpose of this Convention shall not be divulged outside the HNS Fund except in so far as it may be strictly necessary to enable the HNS Fund to carry out its functions including the bringing and defending of legal proceedings.

CHAPTER IV

CLAIMS AND ACTIONS

Limitation of actions

Article 37

1. Rights to compensation under Chapter II shall be extinguished unless an action is brought thereunder within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage and of the identity of the owner.

2. Rights to compensation under Chapter III shall be extinguished unless an action is brought thereunder or a notification has been made pursuant to Article 39(7), within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage.

3. In no case, however, shall an action be brought later than 10 years from the date of the incident which caused the damage.

4. Where the incident consists of a series of occurrences, the 10-year period mentioned in paragraph 3 shall run from the date of the last of such occurrences.

Jurisdiction in respect of action against the owner

Article 38

1. Where an incident has caused damage in the territory, including the territorial sea or in an area referred to in Article 3(b), of one or more States Parties, or preventive measures have been taken to prevent or minimise damage in such territory including the territorial sea or in such area, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of any such States Parties.

2. Where an incident has caused damage exclusively outside the territory, including the territorial sea, of any State and either the conditions for application of this Convention set out in Article 3(c) have been fulfilled or preventive measures to prevent or minimise such damage have been taken, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of:

- (a) the State Party where the ship is registered or, in the case of an unregistered ship, the State Party whose flag the ship is entitled to fly; or
- (b) the State Party where the owner has habitual residence or where the principal place of business of the owner is established; or
- (c) the State Party where a fund has been constituted in accordance with Article 9(3).

3. Reasonable notice of any action taken under paragraph 1 or 2 shall be given to the defendant.
4. Each State Party shall ensure that its courts have jurisdiction to entertain actions for compensation under this Convention.
5. After a fund under Article 9 has been constituted by the owner or by the insurer or other person providing financial security in accordance with Article 12, the courts of the State in which such fund is constituted shall have exclusive jurisdiction to determine all matters relating to the apportionment and distribution of the fund.

Jurisdiction in respect of action against the HNS Fund or taken by the HNS Fund

Article 39

1. Subject to the subsequent provisions of this Article, any action against the HNS Fund for compensation under Article 14 shall be brought only before a court having jurisdiction under Article 38 in respect of actions against the owner who is liable for damage caused by the relevant incident or before a court in a State Party which would have been competent if an owner had been liable.
2. In the event that the ship carrying the hazardous or noxious substances which caused the damage has not been identified, the provisions of Article 38(1), shall apply *mutatis mutandis* to actions against the HNS Fund.
3. Each State Party shall ensure that its courts have jurisdiction to entertain such actions against the HNS Fund as are referred to in paragraph 1.
4. Where an action for compensation for damage has been brought before a court against the owner or the owner's guarantor, such court shall have exclusive jurisdiction over any action against the HNS Fund for compensation under the provisions of Article 14 in respect of the same damage.
5. Each State Party shall ensure that the HNS Fund shall have the right to intervene as a party to any legal proceedings instituted in accordance with this Convention before a competent court of that State against the owner or the owner's guarantor.
6. Except as otherwise provided in paragraph 7, the HNS Fund shall not be bound by any judgement or decision in proceedings to which it has not been a party or by any settlement to which it is not a party.
7. Without prejudice to the provisions of paragraph 5, where an action under this Convention for compensation for damage has been brought against an owner or the owner's guarantor before a competent court in a State Party, each party to the proceedings shall be entitled under the national law of that State to notify the HNS Fund of the proceedings. Where such notification has been made in accordance with the formalities required by the law of the court seised and in such time and in such a manner that the HNS Fund has in fact been in a position effectively to intervene as a party to the proceedings, any judgement rendered by the court in such proceedings shall, after it has become final and enforceable in the State where the judgement was given, become binding upon the HNS Fund in the sense that the facts and findings in that judgement may not be disputed by the HNS Fund even if the HNS Fund has not actually intervened in the proceedings.

Recognition and enforcement

Article 40

1. Any judgement given by a court with jurisdiction in accordance with Article 38, which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognised in any State Party, except:
 - (a) where the judgement was obtained by fraud; or
 - (b) where the defendant was not given reasonable notice and a fair opportunity to present the case.
2. A judgement recognised under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.
3. Subject to any decision concerning the distribution referred to in Article 14(6), any judgement given against the HNS Fund by a court having jurisdiction in accordance with Article 39(1) and (3) shall, when it has become enforceable in the State of origin and is in that State no longer subject to ordinary forms of review, be recognised and enforceable in each State Party.

Subrogation and recourse

Article 41

1. The HNS Fund shall, in respect of any amount of compensation for damage paid by the HNS Fund in accordance with Article 14(1), acquire by subrogation the rights that the person so compensated may enjoy against the owner or the owner's guarantor.
2. Nothing in this Convention shall prejudice any rights of recourse or subrogation of the HNS Fund against any person, including persons referred to in Article 7(2)(d), other than those referred to in the previous paragraph, in so far as they can limit their liability. In any event the right of the HNS Fund to subrogation against such persons shall not be less favourable than that of an insurer of the person to whom compensation has been paid.
3. Without prejudice to any other rights of subrogation or recourse against the HNS Fund which may exist, a State Party or agency thereof which has paid compensation for damage in accordance with provisions of national law shall acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

Supersession clause

Article 42

This Convention shall supersede any convention in force or open for signature, ratification or accession at the date on which this Convention is opened for signature, but only to the extent that such convention would be in conflict with it; however, nothing in this Article shall affect the obligations of States Parties to States not party to this Convention arising under such convention.

CHAPTER V

TRANSITIONAL PROVISIONS

Information on contributing cargo

Article 43

When depositing an instrument referred to in Article 45(3), and annually thereafter until this Convention enters into force for a State, that State shall submit to the Secretary-General data on the relevant quantities of contributing cargo received or, in the case of LNG, discharged in that State during the preceding calendar year in respect of the general account and each separate account

First session of the Assembly

Article 44

The Secretary-General shall convene the first session of the Assembly. This session shall take place as soon as possible after the entry into force of this Convention and, in any case, not more than 30 days after such entry into force.

CHAPTER VI

FINAL CLAUSES

Signature, ratification, acceptance, approval and accession

Article 45

1. This Convention shall be open for signature at the Headquarters of the Organisation from 1 October 1996 to 30 September 1997 and shall thereafter remain open for accession.

2. States may express their consent to be bound by this Convention by:
 - (a) signature without reservation as to ratification, acceptance or approval; or
 - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
 - (c) accession.
3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

Entry into force

Article 46

1. This Convention shall enter into force 18 months after the date on which the following conditions are fulfilled:
 - (a) at least 12 States, including four States each with not less than 2 million units of gross tonnage, have expressed their consent to be bound by it, and
 - (b) the Secretary-General has received information in accordance with Article 43 that those persons in such States who would be liable to contribute pursuant to Article 18(1)(a) and (c) have received during the preceding calendar year a total quantity of at least 40 million tonnes of cargo contributing to the general account.
2. For a State which expresses its consent to be bound by this Convention after the conditions for entry into force have been met, such consent shall take effect three months after the date of expression of such consent, or on the date on which this Convention enters into force in accordance with paragraph 1, whichever is the later.

Revision and amendment

Article 47

1. A conference for the purpose of revising or amending this Convention may be convened by the Organisation.
2. The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of six States Parties or one-third of the States Parties whichever is the higher figure.
3. Any consent to be bound by this Convention expressed after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

Amendment of limits

Article 48

1. Without prejudice to the provisions of Article 47, the special procedure in this Article shall apply solely for the purposes of amending the limits set out in Article 9(1) and Article 14(5).
2. Upon the request of at least one half, but in no case less than six, of the States Parties, any proposal to amend the limits specified in Article 9(1), and Article 14(5), shall be circulated by the Secretary-General to all Members of the Organisation and to all Contracting States.
3. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organisation (the Legal Committee) for consideration at a date at least six months after the date of its circulation.
4. All Contracting States, whether or not Members of the Organisation, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.
5. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided in paragraph 4, on condition that at least one half of the Contracting States shall be present at the time of voting.

6. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and, in particular, the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship between the limits established in Article 9(1), and those in Article 14(5).
7. (a) No amendment of the limits under this Article may be considered less than five years from the date this Convention was opened for signature nor less than five years from the date of entry into force of a previous amendment under this Article.
(b) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention increased by six percent per year calculated on a compound basis from the date on which this Convention was opened for signature.
(c) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention multiplied by three.
8. Any amendment adopted in accordance with paragraph 5 shall be notified by the Organisation to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of 18 months after the date of notification, unless within that period no less than one-fourth of the States which were Contracting States at the time of the adoption of the amendment have communicated to the Secretary-General that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.
9. An amendment deemed to have been accepted in accordance with paragraph 8 shall enter into force 18 months after its acceptance.
10. All Contracting States shall be bound by the amendment, unless they denounce this Convention in accordance with Article 49(1) and (2), at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.
11. When an amendment has been adopted but the 18-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 8. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Convention enters into force for that State, if later.

Denunciation

Article 49

1. This Convention may be denounced by any State Party at any time after the date on which it enters into force for that State Party.
2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.
3. Denunciation shall take effect 12 months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General.
4. Notwithstanding a denunciation by a State Party pursuant to this Article, any provisions of this Convention relating to obligations to make contributions under Articles 18, 19 or Article 21(5) in respect of such payments of compensation as the Assembly may decide relating to an incident which occurs before the denunciation takes effect shall continue to apply.

Extraordinary sessions of the Assembly

Article 50

1. Any State Party may, within 90 days after the deposit of an instrument of denunciation the result of which it considers will significantly increase the level of contributions from the remaining States Parties, request the Director to convene an extraordinary session of the Assembly. The Director shall convene the Assembly to meet not less than 60 days after receipt of the request.
2. The Director may take the initiative to convene an extraordinary session of the Assembly to meet within 60 days after the deposit of any instrument of denunciation, if the Director considers that such denunciation will result in a significant increase in the level of contributions from the remaining States Parties.
3. If the Assembly, at an extraordinary session, convened in accordance with paragraph 1 or 2 decides that the denunciation will result in a significant increase in the level of contributions from the remaining States Parties, any such State may, not later than 120 days before the date on which the denunciation takes effect, denounce this Convention with effect from the same date.

Cessation

Article 51

1. This Convention shall cease to be in force:
 - (a) on the date when the number of States Parties falls below six; or
 - (b) 12 months after the date on which data concerning a previous calendar year were to be communicated to the Director in accordance with Article 21, if the data shows that the total quantity of contributing cargo to the general account in accordance with Article 18(1)(a) and (c) received in the States Parties in that preceding calendar year was less than 30 million tonnes.

Notwithstanding (b), if the total quantity of contributing cargo to the general account in accordance with Article 18(1)(a) and (c) received in the States Parties in the preceding calendar year was less than 30 million tonnes but more than 25 million tonnes, the Assembly may, if it considers that this was due to exceptional circumstances and is not likely to be repeated, decide before the expiry of the abovementioned 12-month period that the Convention shall continue to be in force. The Assembly may not, however, take such a decision in more than two subsequent years.

2. States which are bound by this Convention on the day before the date it ceases to be in force shall enable the HNS Fund to exercise its functions as described under Article 52 and shall, for that purpose only, remain bound by this Convention.

Winding up of the HNS fund

Article 52

1. If this Convention ceases to be in force, the HNS Fund shall nevertheless:
 - (a) meet its obligations in respect of any incident occurring before this Convention ceased to be in force; and
 - (b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under (a), including expenses for the administration of the HNS Fund necessary for this purpose.
2. The Assembly shall take all appropriate measures to complete the winding up of the HNS Fund including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the HNS Fund.
3. For the purposes of this Article the HNS Fund shall remain a legal person.

Depositary

Article 53

1. This Convention and any amendment adopted under Article 48 shall be deposited with the Secretary-General.
2. The Secretary-General shall:
 - (a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organisation, of:
 - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
 - (ii) the date of entry into force of this Convention;
 - (iii) any proposal to amend the limits on the amounts of compensation which has been made in accordance with Article 48(2);
 - (iv) any amendment which has been adopted in accordance with Article 48(5);
 - (v) any amendment deemed to have been accepted under Article 48(8), together with the date on which that amendment shall enter into force in accordance with paragraphs 9 and 10 of that Article;
 - (vi) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect; and
 - (vii) any communication called for by any Article in this Convention; and
 - (b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.

3. As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Languages

Article 54

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE at London this third day of May one thousand nine hundred and ninety-six.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments for that purpose, have signed this Convention.

ANNEX I

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF LIABILITY FOR DAMAGE CAUSED BY HAZARDOUS AND NOXIOUS SUBSTANCES (HNS)

Issued in accordance with the provisions of Article 12 of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996

Name of ship	Distinctive number or letters	IMO ship identification number	Port of registry	Name and full address of the principal place of business of the owner

This is to certify that there is in force in respect of the abovenamed ship a policy of insurance or other financial security satisfying the requirements of Article 12 of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996.

Type of security:

Duration of security:

Name and address of the insurer(s) and/or guarantor(s):

Name:

Address:

This certificate is valid until:

Issued or certified by the Government of:
(Full designation of the State)

At on
(Place) (Date)

.....
(Signature and title of issuing or certifying official)

Explanatory notes:

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.
 2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
 3. If security is furnished in several forms, these should be enumerated.
 4. The entry 'Duration of the Security' must stipulate the date on which such security takes effect.
 5. The entry 'Address of the insurer(s) and/or guarantor(s)' must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.
-

ANNEX II

REGULATIONS FOR THE CALCULATION OF ANNUAL CONTRIBUTIONS TO THE GENERAL ACCOUNT

Regulation 1

1. The fixed sum referred to in Article 17(3) shall be determined for each sector in accordance with these regulations.
2. When it is necessary to calculate contributions for more than one sector of the general account, a separate fixed sum per unit of contributing cargo shall be calculated for each of the following sectors as may be required:
 - (a) solid bulk materials referred to in Article 1(5)(a)(vii);
 - (b) oil, if the operation of the oil account is postponed or suspended;
 - (c) LNG, if the operation of the LNG account is postponed or suspended;
 - (d) LPG, if the operation of the LPG account is postponed or suspended;
 - (e) other substances.

Regulation 2

1. For each sector, the fixed sum per unit of contributing cargo shall be the product of the levy per HNS point and the sector factor for that sector.
 2. The levy per HNS point shall be the total annual contributions to be levied to the general account divided by the total HNS points for all sectors.
 3. The total HNS points for each sector shall be the product of the total volume, measured in metric tonnes, of contributing cargo for that sector and the corresponding sector factor.
 4. A sector factor shall be calculated as the weighted arithmetic average of the claims/volume ratio for that sector for the relevant year and the previous nine years, according to this regulation.
 5. Except as provided in paragraph 6, the claims/volume ratio for each of these years shall be calculated as follows:
 - (a) established claims, measured in units of account converted from the claim currency using the rate applicable on the date of the incident in question, for damage caused by substances in respect of which contributions to the HNS Fund are due for the relevant year; divided by
 - (b) the volume of contributing cargo corresponding to the relevant year.
 6. In cases where the information required in paragraphs 5(a) and (b) is not available, the following values shall be used for the claims/volume ratio for each of the missing years:

(a) solid bulk materials referred to in Article 1(5)(a)(vii)	0
(b) oil, if the operation of the oil account is postponed	0
(c) LNG, if the operation of the LNG account is postponed	0
(d) LPG, if the operation of the LPG account is postponed	0
(e) other substances	0,0001
 7. The arithmetic average of the 10 years shall be weighted on a decreasing linear scale, so that the ratio of the relevant year shall have a weight of 10, the year prior to the relevant year shall have a weight of nine, the next preceding year shall have a weight of eight, and so on, until the 10th year has a weight of one.
 8. If the operation of a separate account has been suspended, the relevant sector factor shall be calculated in accordance with those provisions of this regulation which the Assembly shall consider appropriate.
-

COUNCIL DECISION
of 28 November 2002
authorising the Greek Government to grant aid to cotton growers in Greece

(2002/972/EC)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the request made by the Greek Government on 14 October 2002,

Whereas:

- (1) In 2001 the Community aid scheme for cotton was amended by the entry into force of Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton ⁽¹⁾, which henceforth allows Member States to take measures limiting the production of cotton for environmental reasons. This new scheme introduced a stricter co-responsibility mechanism than before. This gave rise to serious problems in applying the scheme, the detailed implementing rules of which are laid down in Commission Regulations (EC) No 1591/2001 ⁽²⁾ and (EC) No 1398/2002 ⁽³⁾.
- (2) The implementation of the new scheme for cotton harvested in 2001, for which yields per hectare were extremely high, has meant that the total cotton production levels for the 2001/2002 marketing year are very high, which has brought about a sharp cut in the compensation paid pursuant to Regulation (EC) No 1051/2001.
- (3) The Greek authorities excluded 206 365 tonnes of unginned cotton from the quantity eligible for aid for the period 2001/2002. However, Commission Regulation (EC) No 1398/2002 set the quantity of unginned cotton at 1 246 839 tonnes. Hence, application of the stabiliser mechanism resulted in a reduction of Community aid.
- (4) This reduction in aid consequently affected the incomes of 93 405 farmers. Many of these farmers had made considerable investments to meet the environmental requirements and observe good agricultural practice. The

loss of income jeopardises the viability of many cotton farms in Greece and could have a very negative social impact in the regions concerned.

- (5) In order to offset the reduction in income of the families affected by the application of the stabiliser mechanism, the Greek Government has envisaged granting aid to those cotton producers who have complied with good agricultural practice to meet the environmental requirements. The maximum amount of the aid concerned will not exceed EUR 90 000 000.
- (6) Exceptional circumstances exist, making it possible to consider, by way of derogation and to the extent strictly necessary in order to remedy the situation of imbalance recorded, such aid to be compatible with the common market, on the terms specified in this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Exceptional aid by the Greek Government in the form of payment for the 2001/2002 marketing year to cotton growers in Greece who have observed good agricultural practices of national compensation totalling not more than EUR 90 000 000 for the quantities produced recognised by the Commission as eligible for aid under Regulation (EC) No 1398/2002 shall be considered compatible with the common market.

Article 2

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 28 November 2002.

For the Council
The President
M. FISCHER BOEL

⁽¹⁾ OJ L 148, 1.6.2001, p. 3.

⁽²⁾ Commission Regulation (EC) No 1591/2001 of 2 August 2001 laying down detailed rules for applying the cotton aid scheme (OJ L 210, 3.8.2001, p. 10). Regulation as last amended by Regulation (EC) No 1486/2002 (OJ L 223, 20.8.2002, p. 3).

⁽³⁾ Commission Regulation (EC) No 1398/2002 of 31 July 2002 fixing, for the 2001/2002 marketing year, the actual production of unginned cotton in Greece and the resulting reduction of the guide price and derogating, for the 2001/2002 marketing year, from certain management rules and aid award procedures in Greece (OJ L 203, 1.8.2002, p. 24).

COUNCIL DECISION
of 10 December 2002
amending Decision 89/688/EEC concerning the dock dues in the French overseas departments

(2002/973/EC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the second subparagraph of Article 299(2),

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) Article 2(3) of Council Decision 89/688/EEC of 22 December 1989 concerning the dock dues in the French overseas departments ⁽²⁾ states that in the light of the special constraints on the French overseas departments partial or total exemptions from the charge may be authorised for local production activities for a period of not more than 10 years from the date of introduction of the system of charges. This period expires on 31 December 2002 having been introduced on 1 January 1993 under the French Law of 17 July 1992.
- (2) Article 3 of the Decision requires the Commission to submit a report on the implementation of the arrangements in order to ascertain the impact of the measures taken and whether exemptions should be maintained. In the report it presented to the Council on 24 November 1999, the Commission concludes that the four French overseas departments are in a much more fragile economic and social situation than the rest of the Community because of their outlying geographical position and underlines the importance of the dock dues and exemptions from this charge for local production for these regions' social and economic development.
- (3) According to the Commission report of 14 March 2000 on measures to implement Article 299(2) of the Treaty, that Article must be implemented in partnership with the Member States concerned on the basis of detailed requests from them.
- (4) On 12 March 2002 France sent a detailed request to the Commission to extend exemptions from dock dues for a period of 10 years.
- (5) The Commission has examined this request and considers that further details of the content of the exemptions which will apply when the current arrangements come to an end are required. Additional informa-

tion must be provided by the French authorities and evaluated by the Commission before long-term arrangements can be drawn up.

- (6) However these developments should not prejudice the necessary continuity in the special tax arrangements for the overseas departments.
- (7) It may be generally stated that there is still a serious structural deficit in the French overseas departments' development. The factors and phenomena exacerbating this situation and their combined effect have a serious impact on these departments' economic and social development. This is demonstrated by average Gross Domestic Product (GDP) levels which are still less than 50 % of the Community average and sustained rates of unemployment in a population that is largely very young which are among the highest in the Community. These indicators confirm that the continuing existence of these handicaps recognised by Article 299(2) of the Treaty is a serious obstacle to their development and justifies maintenance of measures to help offset these handicaps.
- (8) To offset the handicaps of these regions, it is required in particular that local production be maintained and developed. The remoteness and isolation of these regions from external suppliers and markets increases costs for local producers. The weakness of the economy is also exacerbated by the very small size of markets and businesses and the lack of diversification in production. Output is less than the average output in other French departments because of difficulties linked to industrial equipment and labour skills. These departments' regional environment is another factor in the lack of business competitiveness owing to their geographical position in developing regions. They are poor but highly competitive in terms of production costs and relatively closed to imports.
- (9) Exemptions from dock dues are part of support measures for local production and should therefore be continued.
- (10) For the reasons set out above Decision 89/688/EEC should be extended for a short period.
- (11) This Decision is without prejudice to the possible application of Articles 87 and 88 of the Treaty,

⁽¹⁾ Opinion of the European Parliament delivered on 20 November 2002 (not yet published in the Official Journal).

⁽²⁾ OJ L 399, 30.12.1989, p. 46.

HAS ADOPTED THIS DECISION:

Article 3

This Decision is addressed to the French Republic.

Article 1

The expression 'for a period of not more than 10 years' in Article 2(3) of Decision 89/688/EEC shall be replaced by 'for a period not exceeding 11 years'.

Done at Brussels, 10 December 2002.

Article 2

This Decision shall apply from 1 January 2003.

For the Council

The President

P. S. MØLLER

COUNCIL DECISION

of 12 December 2002

implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2002/848/EC

(2002/974/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism ⁽¹⁾, and in particular Article 2(3) thereof,

Whereas:

- (1) On 28 October 2002, the Council adopted Decision 2002/848/EC implementing Article 2(3) of Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2002/460/EC ⁽²⁾.
- (2) It is desirable to adopt an updated list of persons, groups and entities to which the aforesaid Regulation applies,

HAS DECIDED AS FOLLOWS:

Article 1

The list provided for in Article 2(3) of Regulation (EC) No 2580/2001 shall be as follows:

1. PERSONS

1. ABOU, Rabah Naami (a.k.a. Naami Hamza; a.k.a. Mihoubi Faycal; a.k.a. Fella Ahmed; a.k.a. Dafri Rème Lahdi) born 1.2.1966 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
2. ABOUD, Maisi (a.k.a. The Swiss Abderrahmane) born 17.10.1964 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
3. AL-MUGHASSIL, Ahmad Ibrahim (a.k.a. ABU OMRAN; a.k.a. AL-MUGHASSIL, Ahmed Ibrahim) born 26.6.1967 in Qatif-Bab al Shamal, Saudi Arabia; citizen Saudi Arabia
4. AL-NASSER, Abdelkarim Hussein Mohamed, born in Al Ihsa, Saudi Arabia; citizen Saudi Arabia
5. AL YACOUB, Ibrahim Salih Mohammed, born 16.10.1966 in Tarut, Saudi Arabia; citizen Saudi Arabia
6. ARIOUA, Azzedine born 20.11.1960 in Costantine (Algeria) (Member of al-Takfir and al-Hijra)
7. ARIOUA, Kamel (a.k.a. Lamine Kamel) born 18.8.1969 in Costantine (Algeria) (Member of al-Takfir and al-Hijra)

8. ASLI, Mohamed (a.k.a. Dahmane Mohamed) born 13.5.1975 in Ain Taya (Algeria) (Member of al-Takfir and al-Hijra)
9. ASLI, Rabah born 13.5.1975 in Ain Taya (Algeria) (Member of al-Takfir and al-Hijra)
10. ATWA, Ali (a.k.a. BOUSLIM, Ammar Mansour; a.k.a. SALIM, Hassan Rostom), Lebanon, born 1960 in Lebanon; citizen Lebanon
11. DARIB, Noureddine (a.k.a. Carreto; a.k.a. Zitoun Mourad) born 1.2.1972 in Algeria (Member of al-Takfir and al-Hijra)
12. DJABALI, Abderrahmane (a.k.a. Touil) born 1.6.1970 in Algeria (Member of al-Takfir and al-Hijra)
13. EL-HOORIE, Ali Saed Bin Ali (a.k.a. AL-HOURI, Ali Saed Bin Ali; a.k.a. EL-HOURI, Ali Saed Bin Ali) born 10.7.1965 alt. 11.7.1965 in El Dibabiya, Saudi Arabia; citizen Saudi Arabia
14. FAHAS, Sofiane Yacine born 10.9.1971 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
15. IZZ-AL-DIN, Hasan (a.k.a. GARBAYA, AHMED; a.k.a. SA-ID; a.k.a. SALWWAN, Samir), Lebanon, born 1963 in Lebanon, citizen Lebanon
16. LASSASSI, Saber (a.k.a. Mimiche) born 30.11.1970 in Constantine (Algeria) (Member of al-Takfir and al-Hijra)
17. MOHAMMED, Khalid Shaikh (a.k.a. ALI, Salem; a.k.a. BIN KHALID, Fahd Bin Adballah; a.k.a. HENIN, Ashraf Refaat Nabith; a.k.a. WADOOD, Khalid Adbul) born 14.4.1965 alt. 1.3.1964 in Pakistan, passport No 488555
18. MOKTARI, Fateh (a.k.a. Ferdi Omar) born 26.12.1974 in Hussein Dey (Algeria) (Member of al-Takfir and al-Hijra)
19. MUGHNIYAH, Imad Fa'iz (a.k.a. MUGHNIYAH, Imad Fayiz), Senior Intelligence Officer of HIZBALLAH, born 7.12.1962 in Tayr Dibba, Lebanon, passport No 432298 (Lebanon)
20. NOUARA, Farid born 25.11.1973 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)

⁽¹⁾ OJ L 344, 28.12.2001, p. 70.

⁽²⁾ OJ L 295, 30.10.2002, p. 12.

21. RESSOUS, Hoari (a.k.a. Hallasa Farid) born 11.9.1968 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
22. SEDKAOUI, Noureddine (a.k.a. Nounou) born 23.6.1963 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
23. SELMANI, Abdelghani (a.k.a. Gano) born 14.6.1974 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
24. SENOUCI, Sofiane born 15.4.1971 in Hussein Dey (Algeria) (Member of al-Takfir and al-Hijra)
25. SISON, Jose Maria (a.k.a. Armando Liwanag, a.k.a. Joma, in charge of NPA) born 8.2.1939 in Cabugao, Philippines
26. TINGUALI, Mohammed (a.k.a. Mouh di Kouba) born 21.4.1964 in Blida (Algeria) (Member of al-Takfir and al-Hijra);

2. GROUPS AND ENTITIES

1. Abu Nidal Organisation (ANO), (a.k.a. Fatah Revolutionary Council, Arab Revolutionary Brigades, Black September, and Revolutionary Organisation of Socialist Muslims)
2. Al-Aqsa Martyr's Brigade
3. Al-Takfir and Al-Hijra
4. Aum Shinrikyo (a.k.a. AUM, a.k.a. Aum Supreme Truth, a.k.a. Aleph)
5. Babbar Khalsa
6. Gama'a al-Islamiyya (Islamic Group), (a.k.a. Al-Gama'a al-Islamiyya, IG)
7. Hamas-Izz al-Din al-Qassem (terrorist wing of Hamas)
8. Holy Land Foundation for Relief and Development
9. International Sikh Youth Federation (ISYF)
10. Kahane Chai (Kach)
11. Kurdistan Workers' Party (PKK)
12. Lashkar e Tayyaba (LET)/Pashan-e-Ahle Hadis

13. Mujahedin-e Khalq Organisation (MEK or MKO) (minus the 'National Council of Resistance of Iran' (NCRI)) (a.k.a. The National Liberation Army of Iran (NLA, the militant wing of the MEK), the People's Mujahidin of Iran (PMOI), Muslim Iranian Student's Society)
14. New Peoples Army (NPA), Philippines, linked to Sison Jose Maria C. (a.k.a. Armando Liwanag, a.k.a. Joma, in charge of NPA)
15. Palestine Liberation Front (PLF)
16. Palestinian Islamic Jihad (PIJ)
17. Popular Front for the Liberation of Palestine (PFLP)
18. Popular Front for the Liberation of Palestine-General Command, (a.k.a. PFLP-General Command, a.k.a. PFLP-GC)
19. Revolutionary Armed Forces of Colombia (FARC)
20. Revolutionary People's Liberation Army/Front/Party (DHKP/C), (a.k.a. Devrimci Sol (Revolutionary Left), Dev Sol)
21. Shining Path (SL) (Sendero Luminoso)
22. United Self-Defense Forces/Group of Colombia (AUC) (Autodefensas Unidas de Colombia).

Article 2

Decision 2002/848/EC is hereby repealed.

Article 3

This Decision shall be published in the *Official Journal of the European Communities*.

It shall take effect on the day of its publication.

Done at Brussels, 12 December 2002.

For the Council

The President

P. S. MØLLER

COMMISSION

COMMISSION DECISION

of 12 December 2002

on introducing vaccination to supplement the measures to control infections with low pathogenic avian influenza in Italy and on specific movement control measures*(notified under document number C(2002) 5051)***(Text with EEA relevance)**

(2002/975/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 2002/33/EC of the European Parliament and of the Council ⁽²⁾, and in particular Article 10(4) thereof,Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽³⁾, as last amended by Directive 92/118/EEC ⁽⁴⁾, and in particular Article 9(4) thereof,Having regard to Council Directive 92/40/EEC introducing Community measures for the control of avian influenza ⁽⁵⁾, and in particular Article 16 thereof,

Whereas:

- (1) During 1999 and 2000 Italy has experienced outbreaks of highly pathogenic avian influenza of subtype H7N1 with devastating economic losses for the poultry industry. Prior to the epidemic a virus of low pathogenicity had been circulating in the area.
- (2) During monitoring for avian influenza the presence of low pathogenic avian influenza virus of subtype H7N3 was detected in the regions of Veneto and Lombardia in October 2002.
- (3) Currently the control of low pathogenic avian influenza infections is not covered by Community legislation.

- (4) The Italian competent veterinary authorities have taken control measures to avoid the spread of disease to other areas; however the infection cannot be contained sufficiently.
- (5) Low pathogenic virus may mutate to highly pathogenic virus and may cause severe disease outbreaks.
- (6) During the previous avian influenza epidemic in Italy a vaccination programme was approved by the Commission in connection with intensive monitoring and certain provisions for intra-Community trade in live poultry and poultry products.
- (7) As a follow-up of the vaccination campaign certain measures concerning movement restrictions for intra-Community trade of live poultry and poultry products were maintained by the adoption of Commission Decision 2002/552/EC ⁽⁶⁾.
- (8) The experience of the Italian vaccination campaign suggests that this has successfully stopped the spread of the low pathogenic avian influenza virus.
- (9) Avian influenza virus subtype H7N3 is responsible for the current infections, whereas the previous epidemic was caused by an H7N1 virus subtype.
- (10) The infection occurs at present in an area of Italy with dense poultry population.
- (11) In this context vaccination can be an effective tool to supplement disease control measures against avian influenza.
- (12) Where vaccination against avian influenza is practised movement restrictions for vaccinated poultry have to be implemented.

⁽¹⁾ OJ L 224, 18.8.1990, p. 29.⁽²⁾ OJ L 315, 19.11.2002, p. 14.⁽³⁾ OJ L 395, 30.12.1989, p. 13.⁽⁴⁾ OJ L 62, 15.3.1993, p. 49.⁽⁵⁾ OJ L 167, 22.6.1992, p. 1.⁽⁶⁾ OJ L 180, 10.7.2002, p. 24.

- (13) Italy has presented a vaccination programme to supplement the measures to control avian influenza in a limited area of Italy including specific movement restrictions.
- (14) Italy has authorised the use of two inactivated vaccines against avian influenza for the implementation of the programme. For the initial phase a homologous vaccine is obtained from the master seed strain CK/Pak/1995-H7N3 and for the following period starting from early 2003 a heterologous vaccine with the master seed strain A/CK/Italy/AG-473/1999-H7N1 shall be used.
- (15) Within a technical working group meeting the vaccination programme presented by Italy was reviewed.
- (16) Monitoring on vaccinated and unvaccinated poultry flocks shall be continued including the use of the serological test (iIFA-test) which had been approved by Commission Decision 2001/847/EC ⁽¹⁾.
- (17) Italy shall introduce specific movement restrictions related to vaccination of poultry and to intra-Community trade.
- (18) For reasons of clarity Decision 2002/552/EC should be repealed as its provisions are superseded by this Decision.
- (19) 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

The vaccination programme against avian influenza presented by Italy is hereby approved and shall be carried out in the area described in Annex I.

Article 2

The restrictions on movements of live birds, hatching eggs, table eggs and fresh poultry meat into, out of and within the area described in Annex I shall apply as laid down in the vaccination programme referred to in Article 1.

Article 3

- 1. No live birds and hatching eggs coming from and/or originating from the area described in Annex I shall be dispatched from Italy.
- 2. Live birds and hatching eggs coming from and/or originating from the territory of Italy outside the area described in Annex I can only be dispatched from Italy if:
 - no contacts or other epidemiological links in relation to avian influenza have been established between the holding of origin and with a holding or a hatchery situated in the area described in Annex I, and

- the holding of origin is not located in any of the restriction zones established by the competent authority in relation with avian influenza.

- 3. No table eggs derived from poultry vaccinated against avian influenza and originating from the area described in Annex I, shall be dispatched from Italy.

Article 4

Animal health certificates accompanying consignments of live birds and hatching eggs from Italy shall include the words: 'The animal health conditions of this consignment are in accordance with Decision 2002/975/EC'.

Article 5

- 1. Fresh meat of poultry must be marked in accordance with Article 5 of Council Directive 91/494/EEC ⁽²⁾ and shall not be dispatched from Italy if it is derived from:

- (a) poultry vaccinated against avian influenza;
- (b) avian influenza seropositive poultry flocks destined for slaughter under official control in accordance with the vaccination programme referred to in Article 1;
- (c) poultry originating from holdings located in a restriction zone, which shall be established based on a minimum radius of three kilometres around any poultry farm infected with low pathogenic avian influenza in accordance with the provisions laid down in the vaccination programme referred to in Article 1.

- 2. By derogation from paragraph 1(a) and (b), fresh meat from turkeys vaccinated against avian influenza with a heterologous vaccine of subtype (H7N1) shall not be marked in accordance with Article 5 of Council Directive 91/494/EEC and can be dispatched to other Member States, provided that the meat comes from slaughter turkey flocks which:

- (i) have been regularly inspected and tested with negative results for avian influenza as laid down in the approved vaccination programme, with particular attention to be paid to the sentinel birds.

For the testing of:

- vaccinated birds, the iIFA-test shall be used,
- sentinel birds, either the Haemagglutination-Inhibition Test (HI), the AGID-test or the ELISA-test shall be used. However, the iIFA-test shall also be used if necessary;

- (ii) have been clinically inspected by an official veterinarian within 48 hours before loading, with particular attention to be paid to the sentinel birds;
- (iii) have been tested serologically with negative results at the National Laboratory for avian influenza, by using the sampling and testing procedure laid down in Annex II to this Decision;
- (iv) must be sent directly to a slaughterhouse designated by the competent authority and be slaughtered immediately after arrival. The birds shall be kept separated from other flocks not complying with the present provisions.

⁽¹⁾ OJ L 315, 1.12.2001, p. 61.

⁽²⁾ OJ L 268, 24.9.1991, p. 35.

3. Fresh turkey meat fulfilling the requirements as set out in paragraph 2 shall be accompanied by the health certificate laid down in Annex VI of Directive 71/118/EEC ⁽¹⁾, which shall include under point IV(a) of the certificate the following attestation of the official veterinarian:

'The turkey meat described above is in accordance with Decision 2002/975/EC'.

Article 6

Italy shall ensure that in the area described in Annex I:

1. Only disposable packaging material, or packaging material which can be effectively washed and disinfected, is used for the collection, storage and transport of table eggs.
2. All means of transport used for transporting poultry, hatching eggs, table eggs and poultry feedstuff must be cleaned and disinfected immediately before and after each transport with disinfectants in accordance with the methods of use approved by the competent authority.

Article 7

Movements of live poultry and hatching eggs coming from areas of Italy outside the area described in Annex I to other Member States shall only be allowed following five days advance notification to the central and local veterinary authorities of destination. The notification shall be dispatched by the competent veterinary authority.

Article 8

1. Italy shall notify to the Commission and to other Member States the date of the commencement of the vaccination, at least one day in advance.

2. The provisions of the Articles 2 to 7 shall be enforced from the date of the commencement of the vaccination.

Article 9

1. Italy shall, at six-month intervals, present a report containing information on the effectiveness of the vaccination programme referred to in Article 1.

2. This Decision, and in particular the period of time during which the movement restrictions provided for in Articles 2 to 7 shall continue to apply after the completion of the vaccination programme, shall be reviewed accordingly.

Article 10

Decision 2002/552/EC is repealed.

Article 11

This Decision is addressed to the Member States.

Done at Brussels, 12 December 2002.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 55, 8.3.1971, p. 23.

ANNEX I

VACCINATION AREA

Veneto region*Verona province*

The vaccination area comprises the territory of the following municipalities:

Albaredo d'Adige

Angiari

Arcole

Belfiore

Bevilacqua

Bonavigo

Boschi Sant'Anna

Bovolone

Buttapietra

Calmiero area to the south of the A4 motorway

Casaleone

Castel d'Azzano

Castelnuovo del Garda area to the south of the A4 motorway

Cerea

Cologna Veneta

Colognola ai Colli area to the south of the A4 motorway

Concamarise

Erbè

Gazzo Veronese

Isola della Scala

Isola Rizza

Lavagno area to the south of the A4 motorway

Minerbe

Monteforte d'Alpone area to the south of the A4 motorway

Mozzecane

Nogara

Nogarole Rocca

Oppeano

Palù

Peschiera del Garda area to the south of the A4 motorway

Povegliano Veronese

Pressana

Ronco all'Adige

Roverchiara

Roveredo di Guà

S. Bonifacio area to the south of the A4 motorway

S. Giovanni Lupatoto area to the south of the A4 motorway

S. Martino Buon Albergo area to the south of the A4 motorway

S. Pietro di Morubio

Salizzole

Sanguinetto

Soave area to the south of the A4 motorway

Sommacampagna

Sona area to the south of the A4 motorway

Sorgà

Trevenzuolo

Valeggio sul Mincio

Verona area to the south of the A4 motorway

Veronella

Vigasio

Villafranca di Verona

Zevio

Zimella

Vicenza province

The vaccination area comprises the territory of the following municipalities:

Agugliaro

Albettone

Alonte

Asigliano Veneto

Barbarano Vicentino

Campiglia dei Berici

Castegnero

Lonigo

Montegalda

Montegaldella

Mossano

Nanto

Noventa Vicentina

Orgiano

Poiana Maggiore

S. Germano dei Berici

Sossano

Villaga

Padova province

The vaccination area comprises the territory of the following municipalities:

Carceri

Casale di Scodosia

Este

Lozzo Atestino

Megliadino S. Fidenzio

Megliadino S. Vitale

Montagnana

Ospedaletto Euganeo

Ponso

S. Margherita d'Adige

Saletto

Urbana

Lombardia region*Mantova province*

The vaccination area comprises the territory of the following municipalities:

Acquanegra Sul Chiese
Asola
Bigarello
Canneto Sull'oglio
Casalmoro
Casaloldo
Casalromano
Castel D'ario
Castel Goffredo
Castelbelforte
Castiglione Delle Stiviere
Cavriana
Ceresara
Gazoldo Degli Ippoliti
Goito
Guidizzolo
Mariana Mantovana
Marmiolo
Medole
Monzambano
Piubega
Ponti Sul Mincio
Porto Mantovano
Redondesco
Rodigo
Roncoferraro
Roverbella
San Giorgio Di Mantova
Solferino
Villimpenta
Volta Mantovana

Brescia province

The vaccination area comprises the territory of the following municipalities:

Acquafredda
Alfianello
Azzano Mella
Bagnolo Mella
Barbariga
Bassano Bresciano
Berlingo
Borgo San Giacomo
Borgosatollo
Brandico
Brescia area to the south of the A4 motorway
Calcinato area to the south of the A4 motorway
Calvisano
Capriano del Colle
Carpendolo

Castegnato area to the south of the A4 motorway

Castel Mella
Castelcovati
Castenedolo area to the south of the A4 motorway
Castrezzato
Cazzago San Martino
Chiari
Cigole
Boccaglio
Cologne
Comezzano-Cizzago
Corzano
Dello
Desenzano del Garda area to the south of the A4 motorway
Erbusco area to the south of the A4 motorway
Fiesse
Flero
Gambara
Ghedì
Gottolengo
Isorella
Leno
Lograto
Lonato area to the south of the A4 motorway
Longhena
Maclodio
Mairano
Manerbio
Milzano
Montichiari
Montirone
Offlaga
Orzinuovi
Orzivecchi
Ospitaletto area to the south of the A4 motorway
Palazzolo sull'Oglio area to the south of the A4 motorway
Pavone del Mella
Pompiano
Poncarale
Ponteviso
Pontoglio
Pozzolengo area to the south of the A4 motorway
Pralboino
Quinzano d'Oglio
Remedello
Rezzato area to the south of the A4 motorway
Roccafranca
Roncadelle area to the south of the A4 motorway
Rovato area to the south of the A4 motorway
Rudiano

San Gervasio Bresciano
San Paolo
San Zeno Naviglio
Seniga
Torbole Casaglia
Travagliato

Trenzano
Urago d'Oglio
Verolanuova
Verolavecchia
Villachiera
Visano

ANNEX II

SAMPLING AND TESTING PROCEDURE

1. Introduction and general use

The developed indirect Immunofluorescence Assay (iIFA-test) is aimed at the differentiation between vaccinated/field exposed and vaccinated/non field exposed turkeys in the framework of a 'DIVA' (Differentiating Infected from Vaccinated Animals) vaccination strategy using a heterologous subtype vaccine from the H7N3 field virus subtype.

2. Use of the test for the purpose of dispatching fresh turkey meat from the vaccination area in Italy to other Member States

Meat originating from turkey flocks vaccinated against avian influenza may be dispatched to other Member States provided that:

Blood samples shall be taken by the official veterinarian:

- from each group of turkeys destined for slaughter, which are kept in the same building of the holding in question,
 - within 48 hours before sending the animals to the slaughterhouse,
 - from at least 10 vaccinated animals chosen at random from each group.
-

(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL COMMON POSITION
of 12 December 2002
updating Common Position 2001/931/CFSP on the application of specific measures to combat
terrorism and repealing Common Position 2002/847/CFSP

(2002/976/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS COMMON POSITION:

Having regard to the Treaty on European Union, and in particular Articles 15 and 34 thereof,

Article 1

The list of persons, groups and entities to which Common Position 2001/931/CFSP applies is contained in the Annex.

Whereas:

Article 2

Common Position 2002/847/CFSP is hereby repealed.

(1) On 27 December 2001, the Council adopted Common Position 2001/931/CFSP on the application of specific measures to combat terrorism ⁽¹⁾.

Article 3

This Common Position shall take effect on the date of its adoption.

(2) On 28 October 2002, the Council adopted Common Position 2002/847/CFSP updating Common Position 2001/931/CFSP and repealing Common Position 2002/462/CFSP ⁽²⁾.

Article 4

This Common Position shall be published in the Official Journal.

(3) Common Position 2001/931/CFSP provides for a review at regular intervals.

(4) It is necessary to update the Annex to Common Position 2001/931/CFSP and repeal Common Position 2002/847/CFSP.

Done at Brussels, 12 December 2002.

(5) A list has been elaborated in compliance with the criteria laid down in Article 1(4) of Common Position 2001/931/CFSP,

For the Council

The President

P. S. MØLLER

⁽¹⁾ OJ L 344, 28.12.2001, p. 93.

⁽²⁾ OJ L 295, 30.10.2002, p. 1.

ANNEX

List of persons, groups and entities referred to in Article 1 ⁽¹⁾**1. PERSONS**

1. ABOU, Rabah Naami (a.k.a. Naami Hamza; a.k.a. Mihoubi Faycal; a.k.a. Fella Ahmed; a.k.a. Dafri Rème Lahdi) born 1.2.1966 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
2. ABOUD, Maisi (a.k.a. The Swiss Abderrahmane) born 17.10.1964 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
3. *ALBERDI URANGA, Itziar (E.T.A. Activist) born 7.10.1963 in Durango (Biscay), identity card No 78.865.693
4. *ALBISU IRIARTE, Miguel (E.T.A. Activist; Member of Gestoras Pro-amnistía) born 7.6.1961 in San Sebastián (Guipúzcoa), identity card No 15.954.596
5. AL-MUGHASSIL, Ahmad Ibrahim (a.k.a. ABU OMRAN; a.k.a. AL-MUGHASSIL, Ahmed Ibrahim) born 26.6.1967 in Qatif-Bab al Shamal, Saudi Arabia; citizen Saudi Arabia
6. AL-NASSER, Abdelkarim Hussein Mohamed, born in Al Ihsa, Saudi Arabia; citizen Saudi Arabia
7. AL YACIOUB, Ibrahim Salih Mohammed, born 16.10.1966 in Tarut, Saudi Arabia; citizen Saudi Arabia
8. *APAOLAZA SANCHO, Iván (E.T.A. Activist; Member of K.Madrid) born 10.11.1971 in Beasain (Guipúzcoa), identity card No 44.129.178
9. ARIOUA, Azzedine born 20.11.1960 in Costantine (Algeria) (Member of al-Takfir and al-Hijra)
10. ARIOUA, Kamel (a.k.a. Lamine Kamel) born 18.8.1969 in Costantine (Algeria) (Member of al-Takfir and al-Hijra)
11. ASLI, Mohamed (a.k.a. Dahmane Mohamed) born 13.5.1975 in Ain Taya (Algeria) (Member of al-Takfir and al-Hijra)
12. ASLI, Rabah born 13.5.1975 in Ain Taya (Algeria) (Member of al-Takfir and al-Hijra)
13. *ARZALLUS TAPIA, Eusebio (E.T.A. Activist) born 8.11.1957 in Regil (Guipúzcoa), identity card No 15.927.207
14. ATWA, Ali (a.k.a. BOUSLIM, Ammar Mansour; a.k.a. SALIM, Hassan Rostom), Lebanon, born 1960 in Lebanon; citizen Lebanon
15. *BERASATEGUI ESCUDERO, Ismael (E.T.A. Activist; Member of K. Behorburu) born 15.6.1969 in Eibar (Guipúzcoa), identity card No 15.379.555
16. DARIB, Nouredine (a.k.a. Carreto; a.k.a. Zitoun Mourad) born 1.2.1972 in Algeria (Member of al-Takfir and al-Hijra)
17. DJABALI, Abderrahmane (a.k.a. Touil) born 1.6.1970 in Algeria (Member of al-Takfir and al-Hijra)
18. *ECHEBERRIA SIMARRO, Leire (E.T.A. Activist) born 20.12.1977 in Basauri (Bizcay), identity card No 45.625.646
19. *ECHEGARAY ACHIRICA, Alfonso (E.T.A. Activist) born 10.1.1958 in Plencia (Bizcay), identity card No 16.027.051
20. *ELCORO AYASTUY, Paulo (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 22.10.1973 in Vergara (Guipúzcoa), identity card No 15.394.062
21. EL-HOORIE, Ali Saed Bin Ali (a.k.a. AL-HOURI, Ali Saed Bin Ali; a.k.a. EL-HOURI, Ali Saed Bin Ali) born 10.7.1965 alt. 11.7.1965 in El Dibabiya, Saudi Arabia; citizen Saudi Arabia
22. FAHAS, Sofiane Yacine born 10.9.1971 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
23. *FIGAL ARRANZ, Antonio Agustín (E.T.A. Activist; Member of Kas/Ekin) born 2.12.1972 in Baracaldo (Biscay), identity card No 20.172.692
24. *GOGESASCOECHA ARRONATEGUI, Eneko (E.T.A. Activist), born 29.4.1967 in Guernica (Biscay), identity card No 44.556.097
25. *GOIRICELAYA GONZALEZ, Cristina (E.T.A. Activist; Member of Herri Batasuna/E.H/Batasuna), born 23.12.1967 in Vergara (Guipúzcoa), identity card No 16.282.556

⁽¹⁾ Persons marked with an * shall be the subject of Article 4 only.

26. *IPARRAGUIRRE GUENECHEA, Ma Soledad (E.T.A. Activist) born 25.4.1961 in Escoriaza (Navarra), identity card No 16.255.819
27. *IZTUETA BARANDICA, Enrique (E.T.A. Activist) born 30.7.1955 in Santurce (Biscay), identity card No 14.929.950
28. IZZ-AL-DIN, Hasan (a.k.a. GARBAYA, AHMED; a.k.a. SA-ID; a.k.a. SALWWAN, Samir), Lebanon, born 1963 in Lebanon, citizen Lebanon
29. LASSASSI, Saber (a.k.a. Mimiche) born 30.11.1970 in Constantine (Algeria) (Member of al-Takfir and al-Hijra)
30. MOHAMMED, Khalid Shaikh (a.k.a. ALI, Salem; a.k.a. BIN KHALID, Fahd Bin Adballah; a.k.a. HENIN, Ashraf Refaat Nabith; a.k.a. WADOOD, Khalid Adbul) born 14.4.1965 alt. 1.3.1964 in Pakistan, passport No 488555
31. MOKTARI, Fateh (a.k.a. Ferdi Omar) born 26.12.1974 in Hussein Dey (Algeria) (Member of al-Takfir and al-Hijra)
32. *MORCILLO TORRES, Gracia (E.T.A. Activist; Member of Kas/Ekin) born 15.3.1967 in San Sebastián (Guipúzcoa), identity card No 72.439.052
33. MUGHNIYAH, Imad Fa'iz (a.k.a. MUGHNIYAH, Imad Fayiz), Senior Intelligence Officer of HIZBALLAH, born 7.12.1962 in Tayr Dibba, Lebanon, passport No 432298 (Lebanon)
34. *MUÑO A ORDOZGOITI, Aloña (E.T.A. Activist; Member of Kas/Ekin) born 6.7.1976 in Segura (Guipúzcoa), identity card No 35.771.259
35. *NARVÁEZ GOÑI, Juan Jesús (E.T.A. Activist) born 23.2.1961 in Pamplona (Navarra), identity card No 15.841.101
36. NOUARA, Farid born 25.11.1973 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
37. *ORBE SEVILLANO, Zigor (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 22.9.1975 in Basauri (Biscay), identity card No 45.622.851
38. *OTEGUI UNANUE, Mikel (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 8.10.1972 in Itsasondo (Guipúzcoa), identity card No 44.132.976
39. *PALACIOS ALDAY, Gorka (E.T.A. Activist; Member of K.Madrid), born 17.10.1974 in Baracaldo (Biscay), identity card No 30.654.356
40. *PEREZ ARAMBURU, Jon Iñaki (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 18.9.1964 in San Sebastián (Guipúzcoa), identity card No 15.976.521
41. *QUINTANA ZORROZUA, Asier (E.T.A. Activist; Member of K.Madrid), born 27.2.1968 in Bilbao (Biscay), identity card No 30.609.430
42. RESSOUS, Hoari (a.k.a. Hallasa Farid) born 11.9.1968 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
43. *RUBENACH ROIG, Juan Luis (E.T.A. Activist; Member of K.Madrid), born 18.9.1964 in Bilbao (Biscay), identity card No 18.197.545
44. *SAEZ DE EGUILAZ MURGUIONDO, Carlos (E.T.A. Activist; Member of Kas/Ekin) born 9.12.1963 in San Sebastián (Guipúzcoa), identity card No 15.962.687
45. SEDKAOUI, Noureddine (a.k.a. Nounou) born 23.6.1963 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
46. SELMANI, Abdelghani (a.k.a. Gano) born 14.6.1974 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
47. SENOUCI, Sofiane born 15.4.1971 in Hussein Dey (Algeria) (Member of al-Takfir and al-Hijra)
48. SISON, Jose Maria (a.k.a. Armando Liwanag, a.k.a. Joma, in charge of NPA) born 8.2.1939 in Cabugao, Philippines
49. TINGUALI, Mohammed (a.k.a. Mouh di Kouba) born 21.4.1964 in Blida (Algeria) (Member of al-Takfir and al-Hijra)
50. *URANGA ARTOLA, Kemen (E.T.A. Activist; Member of Herri Batasuna/E.H/Batasuna) born 25.5.1969 in Ondarroa (Biscay), identity card No 30.627.290
51. *VALLEJO FRANCO, Iñigo (E.T.A. Activist) born 21.5.1976 in Bilbao (Biscay), identity card No 29.036.694
52. *VILA MICHELENA, Fermín (E.T.A. Activist; Member of Kas/Ekin) born 12.3.1970 in Irún (Guipúzcoa), identity card No 15.254.214

2. GROUPS AND ENTITIES

1. Abu Nidal Organisation (ANO), (a.k.a. Fatah Revolutionary Council, Arab Revolutionary Brigades, Black September, and Revolutionary Organisation of Socialist Muslims)
 2. Al-Aqsa Martyr's Brigade
 3. Al-Takfir and Al-Hijra
 4. Aum Shinrikyo (a.k.a. AUM, a.k.a. Aum Supreme Truth, a.k.a. Aleph)
 5. Babbar Khalsa
 6. *Continuity Irish Republican Army (CIRA)
 7. *Euskadi Ta Askatasuna/Tierra Vasca y Libertad/Basque Fatherland and Liberty (E.T.A.) (The following organisations are part of the terrorist group E.T.A.: K.a.s., Xaki; Ekin, Jarrai-Haika-Segi, Gestoras pro-amnistía, Askatasuna)
 8. Gama'a al-Islamiyya (Islamic Group), (a.k.a. Al-Gama'a al-Islamiyya, IG)
 9. *Grupos de Resistencia Antifascista Primero de Octubre/Antifascist Resistance Groups First of October (G.R.A.P.O.)
 10. Hamas-Izz al-Din al-Qassem (terrorist wing of Hamas)
 11. Holy Land Foundation for Relief and Development
 12. International Sikh Youth Federation (ISYF)
 13. Kahane Chai (Kach)
 14. Kurdistan Workers' Party (PKK)
 15. Lashkar e Tayyaba (LET)/Pashan-e-Ahle Hadis
 16. *Loyalist Volunteer Force (LVF)
 17. Mujahedin-e Khalq Organisation (MEK or MKO) (minus the 'National Council of Resistance of Iran' (NCRI)) (a.k.a. The National Liberation Army of Iran (NLA, the militant wing of the MEK), the People's Mujahidin of Iran (PMOI), Muslim Iranian Student's Society)
 18. New Peoples Army (NPA), Philippines, linked to Sison Jose Maria C. (a.k.a. Armando Liwanag, a.k.a. Joma, in charge of NPA)
 19. *Orange Volunteers (OV)
 20. Palestine Liberation Front (PLF)
 21. Palestinian Islamic Jihad (PIJ)
 22. Popular Front for the Liberation of Palestine (PFLP)
 23. Popular Front for the Liberation of Palestine-General Command, (a.k.a. PFLP-General Command, a.k.a. PFLP-GC)
 24. *Real IRA
 25. *Red Hand Defenders (RHD)
 26. Revolutionary Armed Forces of Colombia (FARC)
 27. *Revolutionary Nuclei/Epanastatiki Pirines
 28. *Revolutionary Organisation 17 November/Dekati Evdomi Noemvri
 29. Revolutionary People's Liberation Army/Front/Party (DHKP/C), (a.k.a. Devrimci Sol (Revolutionary Left), Dev Sol)
 30. *Revolutionary Popular Struggle/Epanastatikos Laikos Agonas (ELA)
 31. Shining Path (SL) (Sendero Luminoso)
 32. *Ulster Defence Association/Ulster Freedom Fighters (UDA/UFF)
 33. United Self-Defense Forces/Group of Colombia (AUC) (Autodefensas Unidas de Colombia)
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