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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 1030/2003
of 16 June 2003
concerning certain restrictive measures in respect of Liberia**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 301 thereof,

Having regard to Council Common Position 2001/357/CFSP of 7 May 2001 concerning restrictive measures against Liberia ⁽¹⁾,

Having regard to the proposal from the Commission,

Whereas:

- (1) United Nations Security Council Resolutions 1343 (2001) of 7 March 2001 and 1408 (2002) of 6 May 2002 imposed restrictive measures on the government of Liberia for its support to armed rebel groups in the region. By Resolution 1478 (2003) of 6 May 2003, the Security Council decided to extend the application of those restrictive measures for a period of 12 months from 7 May 2003. It also decided to prohibit all imports of round logs and timber products originating in Liberia for a period of 10 months from 7 July 2003.
- (2) Certain of these measures fall under the scope of the Treaty and, therefore, notably with a view to avoiding distortion of competition, Community legislation is necessary to implement the relevant decisions of the Security Council.
- (3) Council Regulation (EC) No 1318/2002 of 22 July 2002 concerning certain restrictive measures in respect of Liberia ⁽²⁾, implemented Resolutions 1343 (2001) and 1408 (2002) of the Security Council as far as the territory of the Community is concerned. That Regulation expired on 8 May 2003. It is now necessary to implement Resolution 1478 (2003). For the purpose of this Regulation, the territory of the Community is deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.
- (4) Member States should determine the sanctions applicable to infringements of the provisions of this Regulation. Sanctions provided for should be proportionate, effective and dissuasive.

- (5) Since Council Regulation (EC) No 1318/2002 expired on 8 May 2003, this Regulation should enter into force on the day of its publication and be applicable in line with the dates provided for in Common Position 2003/365/CFSP of 19 May 2003,

HAS ADOPTED THIS REGULATION:

Article 1

1. Without prejudice to the powers of the Member States in the exercise of their public authority, providing Liberia with technical training or assistance related to the provision, manufacture, maintenance or use of arms and related material of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned shall be prohibited.
2. The prohibition referred to in paragraph 1 shall not apply in cases where the Committee established by paragraph 14 of United Nations Security Council Resolution 1343 (2001) has granted an exemption in advance. Such exemptions shall be obtained through the competent authorities of the Member States listed in Annex I to this Regulation.

Article 2

1. The direct or indirect import into the Community of all rough diamonds from Liberia, as defined in Annex II, whether originating there or not, shall be prohibited.
2. The direct or indirect import into the Community of all round logs and timber products originating in Liberia, as defined in Annex III, shall be prohibited.

Article 3

The Commission shall be empowered to:

- (a) amend Annex I on the basis of information supplied by Member States;
- (b) amend Annexes II and III in order to bring them into line with changes that may be made to the Combined Nomenclature.

⁽¹⁾ OJ L 126, 8.5.2001, p. 1. Common position as last amended by Common Position 2003/365/CFSP of 19 May 2003 (OJ L 124, 20.5.2003, p. 49).

⁽²⁾ OJ L 194, 23.7.2002, p. 1.

Article 4

Without prejudice to the rights and obligations of the Member States under the Charter of the United Nations, the Commission shall maintain all necessary contacts with the Committee established by paragraph 14 of United Nations Security Council Resolution 1343 (2001) for the purpose of the effective implementation of this Regulation.

Article 5

The Commission and the Member States shall immediately inform each other of the measures taken under this Regulation and shall supply each other with all relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgements handed down by national courts.

Article 6

This Regulation shall apply notwithstanding any rights conferred, or obligations imposed, by any international agreement signed or any contract entered into or any licence or permit granted before the entry into force of this Regulation.

Article 7

1. Each Member State shall determine the sanctions to be imposed where the provisions of this Regulation are infringed. Such sanctions shall be effective, proportionate and dissuasive.

Pending the adoption, where necessary, of any legislation to this end, the sanctions to be imposed where the provisions of this Regulation are infringed shall, where relevant, be those determined by the Member States in order to give effect to Article 7 of Regulation (EC) No 1318/2002.

2. Each Member State shall be responsible for bringing proceedings against any natural or legal person, entity or body under its jurisdiction, in cases of violation of any of the prohibitions laid down in this Regulation by such person, entity or body.

Article 8

This Regulation shall apply:

- (a) within the territory of the Community, including its airspace;
- (b) on board any aircraft or any vessel under the jurisdiction of a Member State;
- (c) to any person elsewhere who is a national of a Member State; and
- (d) to any legal person, entity or body which is incorporated or constituted under the law of a Member State.

Article 9

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

2. Article 1, Article 2(1) and Articles 3, 4, 5, 6, 7 and 8 shall apply from 8 May 2003.

Article 2(2) shall apply from 7 July 2003.

3. This Regulation shall expire on 8 May 2004.

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

Done at Luxembourg, 16 June 2003.

For the Council
The President
G. PAPANDREOU

ANNEX I

List of competent authorities referred to in Article 1(2)

BELGIUM

Service public fédéral des affaires étrangères, commerce extérieur et coopération au développement
Egmont 1,
Rue des Petits Carmes 19
B-1000 Bruxelles

Υπουργείο Οικονομίας και Οικονομικών
Γενική Γραμματεία Διεθνών Οικονομικών Σχέσεων
Γενική Διεύθυνση Σχεδιασμού και Διαχείρισης Πολιτικής
Κορνάρου 1
GR-105 63 Αθήνα
Τηλ.: (30-210) 328 64 01-3
Φαξ: (30-210) 328 64 04

Direction des relations économiques et bilatérales extérieures

SPAIN

(a) Service Afrique du Sud du Sahara (B.22),
Tel. (32-2) 501 85 77

Ministerio de Economía
Dirección General de Comercio e Inversiones
Paseo de la Castellana, 162
E-28046 Madrid
Tel. (34) 913 49 38 60
Fax (34) 914 57 28 63

(b) Coordination de la politique commerciale (B.40)
Tel. (32-2) 501 83 20

(c) Service transports (B.42)
Tel. (32-2) 501 37 62
Fax (32-2) 501 88 27

FRANCE

Service public fédéral économie, PME, classes moyennes et énergie
ARE 4 o division, service des licences
Avenue du Général Leman 60
B-1040 Bruxelles
Tel. (32-2) 206 58 16/27
Fax (32-2) 230 83 22

Ministère de l'économie, des finances et de l'industrie
Direction générale des douanes et des droits indirects
Cellule embargo — bureau E 2
Tel. (33) 1 44 74 48 93
Fax (33) 1 44 74 48 97

Ministère des affaires étrangères
Direction des Nations unies et des organisations internationales
Tel. (33) 1 43 17 59 68
Fax (33) 1 43 17 46 91

DENMARK

Erhvervs- og Boligstyrelsen
Dahlerups Pakhus
Langelinie Allé 17
DK-2100 København Ø
Tel. (45) 35 46 60 00
Fax (45) 35 46 60 01

IRELAND

Udenrigsministeriet
Asiatisk Plads 2
DK-1448 København K
Tel. (45) 33 92 00 00
Fax (45) 32 54 05 33

Department of Enterprise
Trade and Employment Licensing Unit
Earlsfort Centre
Lower Hatch St.
Dublin 2
Ireland
Tel. (353) 1 631 2121
Fax (353) 1 631 2562

Justitsministeriet
Slotsholmsgade 10
DK-1216 København K
Tel. (45) 33 92 33 40
Fax (45) 33 93 35 10

ITALY

Ministero degli Affari esteri
D.G.A.E.-Uff. X
Roma
Tel. (39) 06 36 91 37 50
Fax (39) 06 36 91 37 52

GERMANY

Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA)
Frankfurter Straße 29-35
D-65760 Eschborn
Tel. (49) 61 96 908-0
Fax (49) 61 96 908-800

Ministero del Commercio estero
Gabinetto
Roma
Tel. (39) 06 59 93 23 10
Fax (39) 06 59 64 74 94

Ministero dei Trasporti
Gabinetto
Roma
Tel. (39) 06 44 26 71 16/84 90 40 94
Fax (39) 06 44 26 71 14

GREECE

Ministry of Economy and Finance
General Secretariat for International Economic Relations
General Directorate for Policy Planning and Management
1 Kornarou str.
GR-105 63 Athènes
Tel. (30-210) 328 64 01-3
Fax (30-210) 328 64 04

LUXEMBOURG

Ministère des affaires étrangères
Office des licences
21, rue Philippe II
L-2340 Luxembourg
Tel. (352) 478 23 70
Fax (352) 46 61 38

NETHERLANDS

Belastingdienst/Douane centrale dienst voor in- en uitvoer
Team II
Postbus 3003
9700 RD Groningen
Nederland
Tel. (31) 50 5238111
Fax (31) 50 5232210
e-mail: cdiusgs@bart.nl

AUSTRIA

Bundesministerium für Wirtschaft und Arbeit
Stubenring 1
A-1030 Wien
Tel. (43-1) 711 00
Fax (43-1) 711 00-8386

PORTUGAL

Ministério dos Negócios Estrangeiros
Direcção-Geral dos Assuntos Multilaterais
Largo Rilvas
P-1350-179 Lisboa
Tel. (351) 21 394 60 72
Fax (351) 21 394 60 73

FINLAND

Ulkoasiainministeriö/Utrikesministeriet
PL/PB 176
FIN-00161 Helsinki/Helsingfors
Tel. (358) 9 16 05 59 00
Fax (358) 9 16 05 57 07

SWEDEN

Regeringskansliet
Utrikesdepartementet
Rättssekretariatet för EU-frågor
Fredsgatan 6
S-103 39 Stockholm
Tel. (46) 8 405 10 00
Fax (46) 8 723 11 76

UNITED KINGDOM

Export Control Organisation
Department of Trade and Industry
4 Abbey Orchard Street
London SW1P 2HT
United Kingdom
Tel. (44) 20 7215 0594
Fax (44) 20 7215 0593

Export Control Organisation
Department of Trade and Industry
Kingsgate House
66-74 Victoria Street
London SW1E 6SW
United Kingdom
Tel. (44) 171 215 6740
Fax (44) 171 222 0612

ANNEX II

Rough diamonds referred to in Article 2(1)

CN code	Product description
ex 7102 10 00	Unsorted diamonds, unworked and not mounted or set
7102 21 00	Industrial diamonds, unworked or simply sawn, cleaved or bruted
7102 31 00	Non-industrial diamonds, unworked or simply sawn, cleaved or bruted
7105 10 00	Dust and powder of diamonds

ANNEX III

Round logs and timber products referred to in Article 2(2)

CN code	Product description
4401	Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
4402	Wood charcoal (including shell or nut charcoal), whether or not agglomerated
4403	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared
4404	Hoopwood; split poles; piles, pickets and stakes of wood, pointed but not sawn lengthwise; wooden sticks, roughly trimmed but not turned, bent or otherwise worked, suitable for the manufacture of walking-sticks, umbrellas, tool handles or the like; chipwood and the like
4405	Wood wool; wood flour
4406	Railway or tramway sleepers (cross-ties) of wood
4407	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
4408	Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for other similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm
4409	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed
4410	Particle board and similar board (for example, oriented strand board and waferboard) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances
4411	Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances
4412	Plywood, veneered panels and similar laminated wood
4413	Densified wood, in blocks, plates, strips or profile shapes
4414	Wooden frames for paintings, photographs, mirrors or similar objects
4415	Packing cases, boxes, crates, drums and similar packings, of wood; cable-drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood
4416	Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood, including staves
4417	Tools, tool bodies, tool handles, broom or brush bodies and handles, of wood; boot or shoe lasts and trees, of wood
4418	Builders' joinery and carpentry of wood, including cellular wood panels, assembled parquet panels, shingles and shakes
4419	Tableware and kitchenware, of wood
4420	Wood marquetry and inlaid wood; caskets and cases for jewellery or cutlery, and similar articles, of wood; statuettes and other ornaments, of wood; wooden articles of furniture not falling in chapter 94 CN
4421	Other articles of wood
4701	Mechanical wood pulp
4702	Chemical wood pulp, dissolving grades
4703	Chemical wood pulp, soda or sulphate, other than dissolving grades
4704	Chemical wood pulp, sulphite, other than dissolving grades
4705	Wood pulp obtained by a combination of mechanical and chemical pulping processes

CN code	Product description
9401 61	Other seats, with wooden frames
9401 69	Other seats, with wooden frames which are not upholstered
9401 90 30	Parts of seats of a kind used for aircraft of wood
9403 30	Wooden furniture of a kind used in offices
9403 40	Wooden furniture of a kind used in the kitchen
9403 50	Wooden furniture of a kind used in the bedroom
9403 60	Other wooden furniture
9406 00 10	Prefabricated buildings of wood
ex 9705	Wooden collectors' pieces
ex 9706	Wooden antiques

COMMISSION REGULATION (EC) No 1031/2003
of 17 June 2003
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 18 June 2003.

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

Done at Brussels, 17 June 2003.

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 17 June 2003 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	74,9
	096	52,4
	999	63,7
0707 00 05	052	83,4
	628	143,3
	999	113,4
0709 90 70	052	75,0
	999	75,0
0805 50 10	382	44,5
	388	58,4
	528	66,2
	999	56,4
0808 10 20, 0808 10 50, 0808 10 90	388	78,0
	400	122,7
	508	85,8
	512	76,1
	524	63,7
	528	58,8
	720	101,6
	804	92,1
	999	84,8
0809 10 00	052	255,9
	624	236,6
	999	246,3
0809 20 95	052	268,9
	064	216,2
	068	156,6
	094	238,7
	400	257,1
	999	227,5
0809 30 10, 0809 30 90	052	115,0
	999	115,0
0809 40 05	052	134,1
	624	223,2
	999	178,6

⁽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 1032/2003**of 17 June 2003****on periodical sales by tender of beef held by certain intervention agencies and intended for processing within the Community**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Commission Regulation (EC) No 806/2003 ⁽²⁾, and in particular Article 27(4), Article 28(2) and Article 41 thereof,

Whereas:

- (1) The application of intervention measures in respect of beef has created stocks in several Member States. In order to prevent an excessive prolongation of storage, part of these stocks should be sold by tender for processing in the Community.
- (2) The sale should be made subject to the rules laid down by Commission Regulation (EEC) No 2173/79 of 4 October 1979 on detailed rules of application for the disposal of beef bought in by intervention agencies and repealing Regulation (EEC) No 216/69 ⁽³⁾, as last amended by Regulation (EC) No 2417/95 ⁽⁴⁾, Commission Regulation (EEC) No 3002/92 of 16 October 1992 laying down common detailed rules for verifying the use and/or destination of products from intervention ⁽⁵⁾, as last amended by Regulation (EC) No 770/96 ⁽⁶⁾, and Commission Regulation (EEC) No 2182/77 of 30 September 1977 laying down detailed rules for the sale of frozen beef from intervention stocks for processing in the Community and amending Regulation (EEC) No 1687/76 ⁽⁷⁾, as last amended by Regulation (EC) No 2417/95, subject to certain special exceptions on account of the particular use to which the products in question are to be put.
- (3) With a view to ensuring a regular and uniform tendering procedure, measures should be taken in addition to those laid down in Article 8(1) of Regulation (EEC) No 2173/79.
- (4) Provision should be made for derogations from Article 8(2)(b) of Regulation (EEC) No 2173/79, in view of the administrative difficulties which application of this point creates in the Member States concerned.

- (5) In order to ensure a proper functioning of the tender arrangements it is necessary to provide for a higher amount of security than the one fixed in Article 15(1) of Regulation (EEC) No 2173/79.
- (6) On the basis of experience gained with regard to the disposal of bone-in intervention beef, it is necessary to reinforce the quality controls of the products before their delivery to the purchasers, in particular to ensure that the products comply with the provisions in Annex III of Regulation (EC) No 562/2000 of 15 March 2000 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 as regards the buying-in of beef ⁽⁸⁾, as last amended by Regulation (EC) No 1564/2001 ⁽⁹⁾.
- (7) In order to ensure optimum monitoring of the destination of beef from intervention stocks, control measures should be taken, in addition to the measures provided for in Regulation (EEC) No 3002/92, which are based on physical inspection of quantities and qualities.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

1. The sale shall take place of the following quantities of meat, for processing within the Community:

- approximately 3 000 tonnes of bone-in forequarters held by the German intervention agency,
- approximately 3 000 tonnes of bone-in forequarters held by the Spanish intervention agency.

Detailed information concerning quantities is given in Annex I.

2. Subject to the provisions of this Regulation the products referred to in paragraph 1 shall be sold in accordance with Regulations (EEC) No 2173/79, in particular Titles II and III thereof, (EEC) No 2182/77 and (EEC) No 3002/92.

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.⁽²⁾ OJ L 122, 16.5.2003, p. 1.⁽³⁾ OJ L 251, 5.10.1979, p. 12.⁽⁴⁾ OJ L 248, 14.10.1995, p. 39.⁽⁵⁾ OJ L 301, 17.10.1992, p. 17.⁽⁶⁾ OJ L 104, 27.4.1996, p. 13.⁽⁷⁾ OJ L 251, 1.10.1977, p. 60.⁽⁸⁾ OJ L 68, 16.3.2000, p. 22.⁽⁹⁾ OJ L 208, 1.8.2001, p. 14.

Article 2

1. Notwithstanding Articles 6 and 7 of Regulation (EEC) No 2173/79, the provisions of and Annexes to this Regulation shall serve as a general notice of invitation to tender.

The intervention agencies concerned shall draw up notices of invitation to tender for each sale which shall include the following:

- (a) the quantities of beef offered for sale; and
- (b) the deadline and place for submitting tenders.

2. Interested parties may obtain the details of the quantities available and the places where the products are stored from the addresses listed in Annex II to this Regulation. The intervention agencies shall, in addition, display the notices referred to in paragraph 1 at their head offices and may publish it in other ways.

3. For each product mentioned in Annex I the intervention agencies concerned shall sell first the meat which has been stored the longest. However, Member States may in exceptional cases and after having obtained authorisation from the Commission derogate from that obligation.

4. Tenders shall be submitted for the following closing dates:

- (a) 24 June 2003;
- (b) 8 July 2003;
- (c) 22 July 2003;
- (d) 26 August 2003;
- (e) 9 September 2003;
- (f) 23 September 2003,

until the quantities put up for sale are used up.

5. Notwithstanding Article 8(1) of Regulation (EEC) No 2173/79, a tender must be submitted to the intervention agency concerned in a closed envelope, bearing the reference to the Regulation concerned. The closed envelope must not be opened by the intervention agency before the expiry of the tender deadline referred to in paragraph 4.

6. Notwithstanding Article 8(2)(b) of Regulation (EEC) No 2173/79, tenders shall not indicate in which cold store or stores the products are held.

Article 3

1. Member States shall provide the Commission with information concerning the tenders received not later than on the working day following the deadline set for the submission of tenders.

2. After the tenders received have been examined a minimum selling price shall be set for each product or the sale will not proceed.

Article 4

1. A tender shall be valid only if presented by or on behalf of a natural or legal person who, for the 12 months prior to the entry into force of this Regulation, has been engaged in the processing of products containing beef and who is entered in a national VAT register. In addition, tenders must be presented by or on behalf of a processing establishment approved in accordance with Article 8 of Council Directive 77/99/EEC ⁽¹⁾.

For the purposes of the preceding subparagraph, a retail or catering establishment or an establishment attached to a retail sales outlet where meat is processed and put up for sale to the final consumer shall not be taken into consideration.

2. Notwithstanding Article 3(1) and (2) of Regulation (EEC) No 2182/77, a tender must be accompanied by:

- a written undertaking by the tenderer to process the meat into the products specified in Article 6 within the period referred to in Article 5(1) of Regulation (EEC) No 2182/77,
- precise details of the establishment or establishments where the meat which has been purchased is to be processed.

3. The tenderers referred to in paragraph 1 may instruct an agent in writing to take delivery, on their behalf, of the products which they purchase. In this case the agent shall submit the bids of the tenderers represented together with the written instruction referred to above.

4. Notwithstanding Article 18(1) of Regulation (EEC) No 2173/79 the time limit for taking over meat sold pursuant to this Regulation shall be two months from the day of the notification referred to in Article 11 of the same Regulation.

5. The purchasers and agents referred to in the preceding paragraphs shall maintain and keep up to date an accounting system which permits the destination and use of the products to be ascertained with a view in particular to ensuring that the quantities of products purchased and manufactured tally.

Article 5

1. The Member States shall take all necessary measures to ensure that bone-in intervention products delivered to the purchasers are presented in a state which fully complies with Annex III of Regulation (EC) No 562/2000 and in particular the sixth indent of point 2(a) of that Annex.

2. The costs related to the measures referred to in paragraph 1 shall be borne by the Member States and shall, in particular, not be imposed on the purchaser or any other third party.

⁽¹⁾ OJ L 26, 31.1.1977, p. 85.

3. Member States shall notify the Commission ⁽¹⁾, of all cases where a bone-in intervention quarter has been identified as not complying with Annex III as referred to in paragraph 1, specifying the quality and quantity of the quarter as well as the slaughterhouse where it was produced.

Article 6

1. Meat purchased in accordance with this Regulation shall be processed into products which comply with the definitions for 'A' products and 'B' products set out in paragraphs 2 and 3 below.

2. An 'A product' means a processed product falling within CN code 1602 10, 1602 50 31, 1602 50 39 or 1602 50 80, not containing meat other than that of animals of the bovine species, with a collagen/protein ratio of no more than 0,45 ⁽²⁾, and containing by weight at least 20 % ⁽³⁾, of lean meat excluding offal ⁽⁴⁾, and fat with meat and jelly accounting for at least 85 % of the total net weight.

The product must be subjected to a heat treatment sufficient to ensure the coagulation of meat proteins in the whole of the product, which may not therefore show any traces of a pinkish liquid on the cut surface when the product is cut along a line passing through its thickest part.

3. A 'B product' means a processed product containing beef, other than:

- one specified in Article 1(1)(a) of Regulation (EEC) No 1254/1999, or
- one referred to in paragraph 2.

However, a processed product falling within CN code 0210 20 90 which has been dried or smoked so that the colour and consistency of the fresh meat has totally disappeared and with a water/protein ratio not exceeding 3,2 shall be considered to be a B product.

Article 7

1. Member States shall set up a system of physical and documentary supervision to ensure that all meat is processed in accordance with Article 6.

The system must include physical checks of quantity and quality at the start of the processing, during the processing and after the processing operation is completed. To this end, processors shall at any time be able to demonstrate the identity and use of the meat through appropriate production records.

Technical verification of the production method by the competent authority may, to the extent necessary, make allowance for drip losses and trimmings.

⁽¹⁾ DG Agriculture, D2: fax (32-2) 295 36 13.

⁽²⁾ Determination of collagen content: the collagen content shall be taken to mean the hydroxyproline content multiplied by the factor 8. The hydroxyproline content must be determined according to ISO method 3496-1978.

⁽³⁾ The lean bovine meat content excluding fat is determined in accordance with the procedure described in the Annex to Commission Regulation (EEC) No 2429/86 (OJ L 210, 1.8.1986, p. 39).

⁽⁴⁾ Offal includes the following: heads and cuts thereof (including ears), feet, tails, hearts, udders, livers, kidneys, sweetbreads (thymus gland with pancreas), brains, lungs, throats, thick skirts, spleens, tongues, caul, spinal cords, edible skin, reproductive organs (i.e. uteri, ovaries and testes), thyroid glands, pituitary glands.

In order to verify the quality of the finished product and establish its conformity with the processor's recipe Member States shall undertake representative sampling and analysis of the product. The costs of such operations shall be borne by the processor concerned.

2. Member States may, at the request of the processor, authorise the boning of bone-in forequarters in an establishment other than that provided for in respect of processing provided the relevant operations take place in the same Member State under appropriate supervision.

3. Article 1 of Regulation (EEC) No 2182/77 shall not apply.

Article 8

1. Notwithstanding Article 15(1) of Regulation (EEC) No 2173/79, the security shall be EUR 12 per 100 kilograms.

2. The security provided for in Article 4(1) of Regulation (EEC) No 2182/77 shall be the difference in EUR between the tender price per tonne and EUR 1 600.

3. Notwithstanding Article 5(3) of Regulation (EEC) No 2182/77, the processing of all beef purchased into finished products as referred to in Article 6 shall constitute a principal requirement.

Article 9

Notwithstanding Article 9 of Regulation (EEC) No 2182/77, in addition to the entries provided for in Regulation (EEC) No 3002/92:

- Section 104 of T 5 control copies must be completed with one or more of the following:
 - Para transformación [Reglamentos (CEE) n° 2182/77 y (CE) n° 1032/2003]
 - Til forarbejdning (forordning (EØF) nr. 2182/77 og (EF) nr. 1032/2003)
 - Zur Verarbeitung bestimmt (Verordnungen (EWG) Nr. 2182/77 und (EG) Nr. 1032/2003)
 - Για μεταποίηση [κανονισμοί (ΕΟΚ) αριθ. 2182/77 και (ΕΚ) αριθ. 1032/2003]
 - For processing (Regulations (EEC) No 2182/77 and (EC) No 1032/2003)
 - Destinés à la transformation [règlements (CEE) n° 2182/77 et (CE) n° 1032/2003]
 - Destinate alla trasformazione [regolamenti (CEE) n. 2182/77 e (CE) n. 1032/2003]

- Bestemd om te worden verwerkt (Verordeningen (EEG) nr. 2182/77 en (EG) nr. 1032/2003)
- Para transformação [Regulamentos (CEE) n.º 2182/77 e (CE) n.º 1032/2003]
- Jalostettavaksi (Asetukset (ETY) N:o 2182/77 ja (EY) N:o 1032/2003)

- För bearbetning (förordningarna (EEG) nr 2182/77 och (EG) nr 1032/2003).

Article 10

This Regulation shall enter into force on 18 June 2003.

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

Done at Brussels, 17 June 2003.

For the Commission

Franz FISCHLER

Member of the Commission

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

Estado miembro	Productos ⁽¹⁾	Cantidad aproximada (toneladas)
Medlemsstat	Produkter ⁽¹⁾	Tilnærmet mængde (tons)
Mitgliedstaat	Erzeugnisse ⁽¹⁾	Ungefähre Mengen (Tonnen)
Κράτος μέλος	Προϊόντα ⁽¹⁾	Κατά προσέγγιση ποσότητα (τόνοι)
Member State	Products ⁽¹⁾	Approximate quantity (tonnes)
État membre	Produits ⁽¹⁾	Quantité approximative (tonnes)
Stato membro	Prodotti ⁽¹⁾	Quantità approssimativa (tonnellate)
Lidstaat	Producten ⁽¹⁾	Hoeveelheid bij benadering (ton)
Estado-Membro	Produtos ⁽¹⁾	Quantidade aproximada (toneladas)
Jäsenvaltio	Tuotteet ⁽¹⁾	Arvioitu määrä tonneina)
Medlemsstat	Produkter ⁽¹⁾	Ungefärlig kvantitet (ton)

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

DEUTSCHLAND	— Vorderviertel	3 000
ESPAÑA	— Cuartos delanteros	3 000

⁽¹⁾ Véanse los anexos III y V del Reglamento (CE) n° 562/2000 de la Comisión (DO L 68 de 16.3.2000, p. 22), cuya última modificación la constituye el Reglamento (CE) n° 1564/2001 (DO L 208 de 1.8.2001, p. 14).

⁽¹⁾ Se bilag III og V til Kommissionens forordning (EF) nr. 562/2000 (EFT L 68 af 16.3.2000, s. 22), senest ændret ved forordning (EF) nr. 1564/2001 (EFT L 208 af 1.8.2001, s. 14).

⁽¹⁾ Vgl. Anhänge III und V der Verordnung (EG) Nr. 562/2000 der Kommission (ABl. L 68 vom 16.3.2000, S. 22), zuletzt geändert durch die Verordnung (EG) Nr. 1564/2001 (ABl. L 208 vom 1.8.2001, S. 14).

⁽¹⁾ Βλέπε παραρτήματα III και V του κανονισμού (ΕΚ) αριθ. 562/2000 της Επιτροπής (ΕΕ L 68 της 16.3.2000, σ. 22), όπως τροποποιήθηκε τελευταία από τον κανονισμό (ΕΚ) αριθ. 1564/2001 (ΕΕ L 208 της 1.8.2001, σ. 14).

⁽¹⁾ See Annexes III and V to Commission Regulation (EC) No 562/2000 (OJ L 68, 16.3.2000, p. 22), as last amended by Regulation (EC) No 1564/2001 (OJ L 208, 1.8.2001, p. 14).

⁽¹⁾ Voir annexes III et V du règlement (CE) n° 562/2000 de la Commission (JO L 68 du 16.3.2000, p. 22), modifié en dernier lieu par le règlement (CE) n° 1564/2001 (JO L 208 du 1.8.2001, p. 14).

⁽¹⁾ Cfr. allegati III e V del regolamento (CE) n. 562/2000 della Commissione (GU L 68 del 16.3.2000, pag. 22), modificato da ultimo dal regolamento (CE) n. 1564/2001 (GU L 208 dell'1.8.2001, pag. 14).

⁽¹⁾ Zie de bijlagen III en V van Verordening (EG) nr. 562/2000 van de Commissie (PB L 68 van 16.3.2000, blz. 22), laatstelijk gewijzigd bij Verordening (EG) nr. 1564/2001 (PB L 208 van 1.8.2001, blz. 14).

⁽¹⁾ Ver anexos III e V do Regulamento (CE) n.º 562/2000 da Comissão (JO L 68 de 16.3.2000, p. 22), com a última redacção que lhe foi dada pelo Regulamento (CE) n.º 1564/2001 (JO L 208 de 1.8.2001, p. 14).

⁽¹⁾ Katso komission asetuksen (EY) N:o 562/2000 (EYVL L 68, 16.3.2000, s. 22), sellaisena kuin se on viimeksi muutettuna asetuksella (EY) N:o 1564/2001 (EYVL L 208, 1.8.2001, p. 14) liitteet III ja V.

⁽¹⁾ Se bilagorna III och V i kommissionens förordning (EG) nr 562/2000 (EGT L 68, 16.3.2000, s. 22), senast ändrad genom förordning (EG) nr 1564/2001 (EGT L 208, 1.8.2001, s. 14).

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

Direcciones de los organismos de intervención — Interventionsorganernes adresser — Anschriften der Interventionsstellen — Διευθύνσεις των οργανισμών παρεμβάσεως — Addresses of the intervention agencies — Adresses des organismes d'intervention — Indirizzi degli organismi d'intervento — Adressen van de interventiebureaus — Endereços dos organismos de intervenção — Interventioelinten osoitteet — Interventionsorgans adresser

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COMMISSION REGULATION (EC) No 1033/2003
of 17 June 2003
on periodical sales by tender of beef held by certain intervention agencies

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Commission Regulation (EC) No 806/2003 ⁽²⁾, and in particular Article 28(2) thereof,

Whereas:

- (1) The application of intervention measures in respect of beef has resulted in a build-up of stocks in several Member States. In order to prevent storage being prolonged excessively, part of those stocks should be put up for sale by periodical tender.
- (2) The sale should be conducted in accordance with Commission Regulation (EEC) No 2173/79 of 4 October 1979 on detailed rules of application for the disposal of beef bought in by intervention agencies and repealing Regulation (EEC) No 216/69 ⁽³⁾, as last amended by Regulation (EC) No 2417/95 ⁽⁴⁾, and in particular Titles II and III thereof.
- (3) In the light of the frequency and nature of tenders under this Regulation it is necessary to derogate from Article 6 and 7 of Regulation (EEC) No 2173/79 with regard to the information and deadlines to be provided by the notice of invitation to tender.
- (4) In order to ensure that the sales by tender are conducted properly and uniformly, measures in addition to those provided for in Article 8(1) of Regulation (EEC) No 2173/79 should be adopted.
- (5) Provisions should be made for derogations from Article 8(2)(b) of Regulation (EEC) No 2173/79 in view of the administrative difficulties which the application of that point is creating in the Member States concerned.
- (6) In order to ensure a proper functioning of the tender arrangements it is necessary to provide for a higher amount of security than the one fixed in Article 15(1) of Regulation (EEC) No 2173/79.

- (7) On the basis of experience gained with regard to the disposal of bone-in intervention beef, it is necessary to reinforce the quality controls of the products before their delivery to the purchasers, in particular to ensure that the products comply with the provisions in Annex III of Commission Regulation (EC) No 562/2000 of 15 March 2000 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 as regards the buying-in of beef ⁽⁵⁾, as last amended by Regulation (EC) No 1564/2001 ⁽⁶⁾.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

1. The following approximate quantities of intervention beef shall be put up for sale:

- 6 421 tonnes of bone-in hindquarters held by the German intervention agency,
- 104 tonnes of bone-in hindquarters held by the French intervention agency,
- 10 541 tonnes of bone-in hindquarters held by the Spanish intervention agency,
- 8 558 tonnes of bone-in forequarters held by the German intervention agency,
- 393 tonnes of bone-in forequarters held by the Danish intervention agency,
- 356 tonnes of bone-in forequarters held by the French intervention agency,
- 10 978 tonnes of bone-in forequarters held by the Spanish intervention agency,
- 778 tonnes of boneless beef held by the German intervention agency,
- 45 tonnes of boneless beef held by the Spanish intervention agency,

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

⁽³⁾ OJ L 251, 5.10.1979, p. 12.

⁽⁴⁾ OJ L 248, 14.10.1995, p. 39.

⁽⁵⁾ OJ L 68, 16.3.2000, p. 22.

⁽⁶⁾ OJ L 208, 1.8.2001, p. 14.

- 5 467 tonnes of boneless beef held by the French intervention agency,
- 422 tonnes of boneless beef held by the Italian intervention agency.

Detailed information concerning quantities is given in Annex I.

2. Subject to the provisions of this Regulation, the sale shall be conducted in accordance with Regulation (EEC) No 2173/79, and in particular Titles II and III thereof.

Article 2

1. Tenders shall be submitted for the following closing dates:

- (a) 23 June 2003;
- (b) 7 July 2003;
- (c) 21 July 2003;
- (d) 25 August 2003;
- (e) 8 September 2003;
- (f) 22 September 2003,

until the quantities put up for sale are used up.

2. Notwithstanding Articles 6 and 7 of Regulation (EEC) No 2173/79, this Regulation shall serve as a general notice of invitation to tender.

The intervention agencies concerned shall draw up notices of invitation to tender for each sale, setting out in particular:

- the quantities of beef put up for sale, and
- the deadline and place for the submission of tenders.

3. Particulars of the quantities and the places where the products are stored may be obtained by the parties concerned at the addresses set out in the Annex II. The intervention agencies shall, in addition, display the notices referred to in paragraph 2 at their head offices and may also publish them in other ways.

4. The intervention agencies concerned shall sell first meat which has been in storage for the longest time. However, Member States may in exceptional cases and after having obtained authorisation from the Commission derogate from that obligation.

5. Only tenders reaching the intervention agencies concerned by 12.00 on the relevant closing date for each sale by tender shall be considered.

6. Notwithstanding Article 8(1) of Regulation (EEC) No 2173/79, tenders must be submitted to the intervention agency concerned in sealed envelopes bearing a reference to this Regu-

lation and the relevant date. The sealed envelopes must not be opened by the intervention agency before the deadline for submission, as referred to in paragraph 5, has expired.

7. Notwithstanding Article 8(2)(b) of Regulation (EEC) No 2173/79, tenders shall not specify the store or stores where the products are held.

8. Notwithstanding Article 15(1) of Regulation (EEC) No 2173/79, the security shall be EUR 12 per 100 kilograms.

Article 3

1. Not later than the day following the closing date for the submission of tenders, the Member States shall send the Commission details of tenders received.

2. Following scrutiny of the tenders, a minimum selling price shall be set or no award shall be made.

Article 4

1. The intervention agency shall send each tenderer the information referred to in Article 11 of Regulation (EEC) No 2173/79 by fax.

2. Notwithstanding Article 18(1) of Regulation (EEC) No 2173/79 the time limit for taking over meat sold pursuant to this Regulation shall be two months from the day of the notification referred to in Article 11 of the same Regulation.

Article 5

1. The Member States shall take all necessary measures to ensure that bone-in intervention products delivered to the purchasers are presented in a state which fully complies with Annex III of Regulation (EC) No 562/2000 and in particular the sixth indent of point 2(a) of that Annex.

2. The costs related to the measures referred to in paragraph 1 shall be borne by the Member States and shall, in particular, not be imposed on the purchaser or any other third party.

3. Member States shall notify the Commission ⁽¹⁾, of all cases where a bone-in intervention quarter has been identified as not complying with Annex III as referred to in paragraph 1, specifying the quality and quantity of the quarter as well as the slaughterhouse where it was produced.

Article 6

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

⁽¹⁾ DG Agriculture, D2: fax (32-2) 295 36 13.

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

Done at Brussels, 17 June 2003.

For the Commission

Franz FISCHLER

Member of the Commission

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

Estado miembro	Productos ⁽¹⁾	Cantidad aproximada (toneladas)
Medlemsstat	Produkter ⁽¹⁾	Tilnærmet mængde (tons)
Mitgliedstaat	Erzeugnisse ⁽¹⁾	Ungefähre Mengen (Tonnen)
Κράτος μέλος	Προϊόντα ⁽¹⁾	Κατά προσέγγιση ποσότητα (τόνοι)
Member State	Products ⁽¹⁾	Approximate quantity (tonnes)
État membre	Produits ⁽¹⁾	Quantité approximative (tonnes)
Stato membro	Prodotti ⁽¹⁾	Quantità approssimativa (tonnellate)
Lidstaat	Producten ⁽¹⁾	Hoeveelheid bij benadering (ton)
Estado-Membro	Produtos ⁽¹⁾	Quantidade aproximada (toneladas)
Jäsenvaltio	Tuotteet ⁽¹⁾	Arvioitu määrä (tonneina)
Medlemsstat	Produkter ⁽¹⁾	Ungefärlig kvantitet (ton)

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

DANMARK	— Forfjerdinger	393
DEUTSCHLAND	— Hinterviertel	6 421
	— Vorderviertel	8 558
ESPAÑA	— Cuartos traseros	10 541
	— Cuartos delanteros	10 978
FRANCE	— Quartiers arrière	104
	— Quartiers avant	356

b) **Carne deshuesada — Udbenet kød — Fleisch ohne Knochen — Κρέατα χωρίς κόκαλα — Boneless beef — Viande désossée — Carni senza osso — Vlees zonder been — Carne desossada — Luuton naudanliha — Benfritt kött**

DEUTSCHLAND	— Hinterhese (INT 11)	3,4
	— Oberschale (INT 13)	1,4
	— Unterschale (INT 14)	196,6
	— Hüfte (INT 16)	362,3
	— Roastbeef (INT 17)	208,7
	— Hochrippe (INT 19)	0,5
	— Schulter (INT 22)	0,3
	— Brust (INT 23)	0,8
	— Vorderviertel (INT 24)	4,0
ESPAÑA	— Lomo de intervención (INT 17)	41,8
	— Morcillo de intervención (INT 21)	3,4

Estado miembro	Productos ⁽¹⁾	Cantidad aproximada (toneladas)
Medlemsstat	Produkter ⁽¹⁾	Tilnærmet mængde (tons)
Mitgliedstaat	Erzeugnisse ⁽¹⁾	Ungefähre Mengen (Tonnen)
Κράτος μέλος	Προϊόντα ⁽¹⁾	Κατά προσέγγιση ποσότητα (τόνοι)
Member State	Products ⁽¹⁾	Approximate quantity (tonnes)
État membre	Produits ⁽¹⁾	Quantité approximative (tonnes)
Stato membro	Prodotti ⁽¹⁾	Quantità approssimativa (tonnellate)
Lidstaat	Producten ⁽¹⁾	Hoeveelheid bij benadering (ton)
Estado-Membro	Produtos ⁽¹⁾	Quantidade aproximada (toneladas)
Jäsenvaltio	Tuotteet ⁽¹⁾	Arvioitu määrä (tonneina)
Medlemsstat	Produkter ⁽¹⁾	Ungefärlig kvantitet (ton)
FRANCE	— Jarret arrière d'intervention (INT 11)	1,1
	— Tranche grasse d'intervention (INT 12)	63,0
	— Tranche d'intervention (INT 13)	69,5
	— Semelle d'intervention (INT 14)	1 474,0
	— Filet d'intervention (INT 15)	22,7
	— Rumsteck d'intervention (INT 16)	2 092,0
	— Faux-filet d'intervention (INT 17)	1 497,0
	— Flanchet d'intervention (INT 18)	123,5
	— Entrecôte d'intervention (INT 19)	0,7
	— Épaule d'intervention (INT 22)	2,7
	— Poitrine d'intervention (INT 23)	76,5
	— Avant d'intervention (INT 24)	44,5
	— Girello d'intervento (INT 14)	211,7
	— Scamone (INT 16)	80,0
	— Roastbeef d'intervento (INT 17)	130,2

⁽¹⁾ Véanse los anexos III y V del Reglamento (CE) No 562/2000.

⁽¹⁾ Se bilag III og V til forordning (EF) nr. 562/2000.

⁽¹⁾ Vgl. Anhänge III und V der Verordnung (EG) Nr. 562/2000.

⁽¹⁾ Βλέπε παραρτήματα III και V του κανονισμού (ΕΚ) αριθ. 562/2000.

⁽¹⁾ See Annexes III and V to Regulation (EC) No 562/2000.

⁽¹⁾ Voir annexes III et V du règlement (CE) n° 562/2000.

⁽¹⁾ Cfr. allegati III e V del regolamento (CE) n. 562/2000.

⁽¹⁾ Zie de bijlagen III en V van Verordening (EG) nr. 562/2000.

⁽¹⁾ Ver anexos III e V do Regulamento (CE) n.º 562/2000.

⁽¹⁾ Katso asetuksen (EY) N:o 562/2000 liitteet III ja V.

⁽¹⁾ Se bilagorna III och V i förordning (EG) nr 562/2000.

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

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COMMISSION REGULATION (EC) No 1034/2003**of 17 June 2003****on periodical sales by tender of beef held by certain intervention agencies**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Commission Regulation (EC) No 806/2003 ⁽²⁾, and in particular Article 28(2) and 38(2) thereof,

Whereas:

(1) The application of certain exceptional intervention measures in respect of beef has resulted in a build-up of stocks in several Member States. In order to prevent storage being prolonged excessively, stocks originating from these measures should be put up for sale by periodical tender.

(2) The sale should be conducted in accordance with Commission Regulation (EEC) No 2173/79 of 4 October 1979 on detailed rules of application for the disposal of beef bought in by intervention agencies and repealing Regulation (EEC) No 216/69 ⁽³⁾, as last amended by Regulation (EC) No 2417/95 ⁽⁴⁾, and in particular Titles II and III thereof.

(3) In the light of the frequency and nature of tenders under this Regulation it is necessary to derogate from Article 6 and 7 of Regulation (EEC) No 2173/79 with regard to the information and deadlines to be provided by the notice of invitation to tender.

(4) In order to ensure that the sales by tender are conducted properly and uniformly, measures in addition to those provided for in Article 8(1) of Regulation (EEC) No 2173/79 should be adopted.

(5) Provisions should be made for derogations from Article 8(2)(b) of Regulation (EEC) No 2173/79 in view of the administrative difficulties which the application of that point is creating in the Member States concerned.

(6) In order to ensure a proper functioning of the tender arrangements it is necessary to provide for a higher amount of security than the one fixed in Article 15(1) of Regulation (EEC) No 2173/79.

(7) On the basis of experience gained with regard to the disposal of bone-in intervention beef, it is necessary to reinforce the quality controls of the products before their delivery to the purchasers, in particular to ensure that the products comply with the provisions in Annex III of Commission Regulation (EC) No 562/2000 of 15 March 2000 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 as regards the buying-in of beef ⁽⁵⁾, as last amended by Regulation (EC) No 1564/2001 ⁽⁶⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The following approximate quantities of intervention beef, bought in under Article 7 of Regulation (EC) No 2734/2000 ⁽⁷⁾, Article 7 of Regulation (EC) No 590/2001 ⁽⁸⁾, and Article 1(7) of Regulation (EC) No 1209/2001 ⁽⁹⁾, shall be put up for sale:

— 183 tonnes of bone-in forequarters held by the Spanish intervention agency.

2. Subject to the provisions of this Regulation, the sale shall be conducted in accordance with Regulation (EEC) No 2173/79, and in particular Titles II and III thereof.

Article 2

1. Tenders shall be submitted for the following closing dates:

(a) 23 June 2003;

(b) 7 July 2003;

(c) 21 July 2003;

(d) 25 August 2003,

until the quantities put up for sale are used up.

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

⁽³⁾ OJ L 251, 5.10.1979, p. 12.

⁽⁴⁾ OJ L 248, 14.10.1995, p. 39.

⁽⁵⁾ OJ L 68, 16.3.2000, p. 22.

⁽⁶⁾ OJ L 208, 1.8.2001, p. 14.

⁽⁷⁾ OJ L 316, 15.12.2000, p. 45.

⁽⁸⁾ OJ L 86, 27.3.2001, p. 30.

⁽⁹⁾ OJ L 165, 21.6.2001, p. 15.

2. Notwithstanding Articles 6 and 7 of Regulation (EEC) No 2173/79, this Regulation shall serve as a general notice of invitation to tender.

The intervention agencies concerned shall draw up notices of invitation to tender for each sale, setting out in particular:

- the quantities of beef put up for sale, and
- the deadline and place for the submission of tenders.

3. Particulars of the quantities and the places where the products are stored may be obtained by the parties concerned at the addresses set out in the Annex. The intervention agencies shall, in addition, display the notices referred to in paragraph 2 at their head offices and may also publish them in other ways.

4. The intervention agencies concerned shall sell first meat which has been in storage for the longest time. However, Member States may in exceptional cases and after having obtained authorisation from the Commission derogate from that obligation.

5. Only tenders reaching the intervention agencies concerned by 12.00 on the relevant closing date for each sale by tender shall be considered.

6. Notwithstanding Article 8(1) of Regulation (EEC) No 2173/79, tenders must be submitted to the intervention agency concerned in sealed envelopes bearing a reference to this Regulation and the relevant date. The sealed envelopes must not be opened by the intervention agency before the deadline for submission, as referred to in paragraph 5, has expired.

7. Notwithstanding Article 8(2)(b) of Regulation (EEC) No 2173/79, tenders shall not specify the store or stores where the products are held.

8. Notwithstanding Article 15(1) of Regulation (EEC) No 2173/79, the security shall be EUR 12 per 100 kilograms.

Article 3

1. Not later than the day following the closing date for the submission of tenders, the Member States shall send the Commission details of tenders received.

2. Following scrutiny of the tenders, a minimum selling price shall be set or no award shall be made.

Article 4

1. The intervention agency shall send each tenderer the information referred to in Article 11 of Regulation (EEC) No 2173/79 by fax.

2. Notwithstanding Article 18(1) of Regulation (EEC) No 2173/79 the time limit for taking over meat sold pursuant to this Regulation shall be two months from the day of the notification referred to in Article 11 of the same Regulation.

Article 5

1. The Member States shall take all necessary measures to ensure that bone-in intervention products delivered to the purchasers are presented in a state which fully complies with Annex III of Regulation (EC) No 562/2000 and in particular the sixth indent of point 2(a) of that Annex.

2. The costs related to the measures referred to in paragraph 1 shall be borne by the Member States and shall, in particular, not be imposed on the purchaser or any other third party.

3. Member States shall notify the Commission ⁽¹⁾, of all cases where a bone-in intervention quarter has been identified as not complying with Annex III as referred to in paragraph 1, specifying the quality and quantity of the quarter as well as the slaughterhouse where it was produced.

Article 6

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

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

Done at Brussels, 17 June 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ DG Agriculture, D2: fax (32-2) 295 36 13.

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

Direcciones de los organismos de intervención — Interventionsorganernes adresser — Anschriften der Interventionsstellen — Διευθύνσεις των οργανισμών παρεμβάσεως — Addresses of the intervention agencies — Adresses des organismes d'intervention — Indirizzi degli organismi d'intervento — Adressen van de interventiebureaus — Endereços dos organismos de intervenção — Interventioelinten osoitteet — Interventionsorganens adresser

ESPAÑA

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COMMISSION REGULATION (EC) No 1035/2003**of 17 June 2003****amending Regulation (EC) No 2316/1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 establishing a support system for producers of certain arable crops**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops ⁽¹⁾, as last amended by Regulation (EC) No 1038/2001 ⁽²⁾, and in particular Article 9 thereof,

HAS ADOPTED THIS REGULATION:

Article 1

Whereas:

Regulation (EC) No 2316/1999 is hereby amended as follows:

- (1) Commission Regulation (EC) No 2316/1999 ⁽³⁾, as last amended by Regulation (EC) No 335/2003 ⁽⁴⁾, lays down detailed rules for applying Regulation (EC) No 1251/1999 with respect to the conditions for granting area payments for certain arable crops and lays down the conditions for set-aside.
- (2) Under Community policy to improve quality, the eligibility of claimants of area payments for rape and colza seed is limited to those who have used quality seed of the specified varieties. To determine the eligible varieties, reference is made to the common catalogue of varieties of agricultural plant species established by Council Directive 2002/53/EC ⁽⁵⁾. The time limit for continued eligibility of varieties removed from the common catalogue should be specified.
- (3) New varieties of flax grown for fibre may be considered eligible. These should be included in the list of varieties eligible for the support system in Annex XII to Regulation (EC) No 2316/1999.

1. Article 4(1) is replaced by the following:

‘1. The Member States shall apply a quality policy in respect of colza and rape seed by limiting areas eligible for area payments to those sown with certified seed of double-zero (00) varieties of colza and rape seed notified and entered as such in the common catalogue of varieties of agricultural plant species established by Council Directive 2002/53/EC ^(*) prior to any payment. Where a variety is removed from the common catalogue, it shall continue to be eligible until 30 June of the third year following that in which it was included at the latest. Double-zero varieties shall be those producing seed with a maximum glucosinolate content of 25 µmol/g at a moisture content of 9 %, as determined by method EN ISO 9167-1: 1995, and an erucic acid content of not more than 2 % of the total fatty acid content, as determined by method EN ISO 5508: 1995.

^(*) OJ L 193, 20.7.2002, p. 1.’

2. The flax varieties ‘Alizée’ and ‘Drakkar’ grown for fibre are inserted in point 1 of Annex XII.

Article 2

- (4) Regulation (EC) No 2316/1999 should therefore be amended accordingly.

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

Article 1(2) shall apply from the 2003/04 marketing year.

⁽¹⁾ OJ L 160, 26.6.1999, p. 1.

⁽²⁾ OJ L 145, 31.5.2001, p. 16.

⁽³⁾ OJ L 280, 30.10.1999, p. 43.

⁽⁴⁾ OJ L 49, 22.2.2003, p. 3.

⁽⁵⁾ OJ L 193, 20.7.2002, p. 1.

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

Done at Brussels, 17 June 2003.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1036/2003**of 17 June 2003****on import licences in respect of beef and veal products originating in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

ovine and caprine animals and swine, fresh meat or meat products from third countries ⁽³⁾, as last amended by Regulation (EC) No 1452/2001 ⁽⁴⁾,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2286/2002 of 10 December 2002 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EEC) No 1706/98 ⁽¹⁾, and in particular Article 5 thereof,

Having regard to Commission Regulation (EC) No 1918/98 of 9 September 1998 laying down detailed rules for the application in the beef and veal sector of Council Regulation (EC) No 1706/98 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States and repealing Regulation (EC) No 589/96 ⁽²⁾, and in particular Article 4 thereof,

Whereas:

- (1) Article 1 of Regulation (EC) No 1918/98 provides for the possibility of issuing import licences for beef and veal products. However, imports must take place within the limits of the quantities specified for each of these exporting non-member countries.
- (2) The applications for import licences submitted between 1 and 10 June 2003, expressed in terms of boned meat, in accordance with Regulation (EC) No 1918/98, do not exceed, in respect of products originating from Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia, the quantities available from those States. It is therefore possible to issue import licences in respect of the quantities applied for.
- (3) The quantities in respect of which licences may be applied for from 1 July 2003 should be fixed within the scope of the total quantity of 52 100 tonnes.
- (4) This Regulation is without prejudice to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine,

HAS ADOPTED THIS REGULATION:

Article 1

The following Member States shall issue on 21 June 2003 import licences for beef and veal products, expressed as boned meat, originating in certain African, Caribbean and Pacific States, in respect of the following quantities and countries of origin:

Germany:

- 100 tonnes originating in Namibia,
- 600 tonnes originating in Botswana.

United Kingdom:

- 730 tonnes originating in Botswana,
- 950 tonnes originating in Namibia,
- 60 tonnes originating in Swaziland.

Article 2

Licence applications may be submitted, pursuant to Article 3(2) of Regulation (EC) No 1918/98, during the first 10 days of July 2003 for the following quantities of boned beef and veal:

Botswana:	14 315,5 tonnes,
Kenya:	142 tonnes,
Madagascar:	7 579 tonnes,
Swaziland:	2 958 tonnes,
Zimbabwe:	9 100 tonnes,
Namibia:	7 960 tonnes.

Article 3

This Regulation shall enter into force on 21 June 2003.

⁽¹⁾ OJ L 348, 21.12.2002, p. 5.

⁽²⁾ OJ L 250, 10.9.1998, p. 16.

⁽³⁾ OJ L 302, 31.12.1972, p. 28.

⁽⁴⁾ OJ L 198, 21.7.2001, p. 11.

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

Done at Brussels, 17 June 2003.

For the Commission

J. M. SILVA RODRÍGUEZ
Agriculture Director-General

**COMMISSION REGULATION (EC) No 1037/2003
of 17 June 2003**

**fixing the definitive rate of refund and the percentage of system B export licences to be issued in
the fruit and vegetables sector (tomatoes, oranges, lemons and apples)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾, as last amended by Commission Regulation (EC) No 47/2003 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1961/2001 of 8 October 2001 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables ⁽³⁾, as amended by Regulation (EC) No 1176/2002 ⁽⁴⁾, and in particular Article 6(7) thereof,

Whereas:

- (1) Commission Regulation (EC) No 773/2003 ⁽⁵⁾ fixed the indicative quantities for the issue of B system export licences.

- (2) The definitive rate of refund for tomatoes, oranges, lemons and apples covered by licences applied for under system B between 14 May and 2 June 2003 should be fixed at the indicative rate, and the percentage of licences to be issued for the quantities applied for should be laid down,

HAS ADOPTED THIS REGULATION:

Article 1

For applications for B system export licences submitted under Article 1 of Regulation (EC) No 773/2003 between 14 May and 2 June 2003, the percentages of licences to be issued and the rates of refund applicable are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 20 June 2003.

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

Done at Brussels, 17 June 2003.

For the Commission

J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.

⁽²⁾ OJ L 7, 11.1.2003, p. 64.

⁽³⁾ OJ L 268, 9.10.2001, p. 8.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 69.

⁽⁵⁾ OJ L 45, 19.2.2003, p. 4.

ANNEX

Percentages for the issuing of licences and rates of refund applicable to system B licences applied for between 14 May and 2 June 2003 (tomatoes, oranges, lemons and apples)

Product	Rate of refund (EUR/t net)	Percentages of licences to be issued for the quantities applied for
Tomatoes	20,0	100 %
Oranges	19,0	100 %
Lemons	14,0	100 %
Apples	9,0	100 %

COMMISSION REGULATION (EC) No 1038/2003**of 17 June 2003****fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, as last amended by Commission Regulation (EC) No 493/2002 ⁽²⁾, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽³⁾, as last amended by Regulation (EC) No 493/2002, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin ⁽⁴⁾, as last amended by Commission Regulation (EC) No 2916/95 ⁽⁵⁾, and in particular Article 3(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 ⁽⁶⁾, as last amended by Regulation (EC) No 926/2003 ⁽⁷⁾, fixes detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.

(2) It results from regular monitoring of the information providing the basis for the verification of the import prices in the poultrymeat and egg sectors and for egg albumin that the representative prices for imports of certain products should be amended taking into account variations of prices according to origin. Therefore, representative prices should be published.

(3) It is necessary to apply this amendment as soon as possible, given the situation on the market.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 18 June 2003.

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

Done at Brussels, 17 June 2003.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 282, 1.11.1975, p. 49.

⁽²⁾ OJ L 77, 20.3.2002, p. 7.

⁽³⁾ OJ L 282, 1.11.1975, p. 77.

⁽⁴⁾ OJ L 282, 1.11.1975, p. 104.

⁽⁵⁾ OJ L 305, 19.12.1995, p. 49.

⁽⁶⁾ OJ L 145, 29.6.1995, p. 47.

⁽⁷⁾ OJ L 131, 28.5.2003, p. 9.

ANNEX

to the Commission Regulation of 17 June 2003 fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

'ANNEX I

CN code	Description	Representative price (EUR/100 kg)	Security referred to in Article 3(3) (EUR/100 kg)	Origin ⁽¹⁾
0207 12 90	Chickens, plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as "65 % chickens", or otherwise presented, frozen	73,9	14	01
0207 14 10	Boneless cuts of fowl of the species <i>Gallus domesticus</i> , frozen	197,6	31	01
		208,5	27	02
		187,2	36	03
		195,7	32	04
0207 14 60	Legs and cuts thereof, frozen	104,7	11	03
0207 27 10	Boneless cuts of turkey, frozen	216,7	24	01
		247,0	15	04
0207 36 15	Boneless cuts of duck or guinea fowl, frozen	254,6	19	02
		304,4	4	05
1602 32 11	Preparations of uncooked fowl of the species <i>Gallus domesticus</i>	240,0	14	01
		253,7	10	02
		158,2	45	03

⁽¹⁾ Origin of imports:

- 01 Brazil
- 02 Thailand
- 03 Argentina
- 04 Chile
- 05 China'

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 8 May 2003

on the signing, on behalf of the Community, and provisional application of an Agreement in the form of an Exchange of Letters between the European Community and the Republic of Croatia concerning the system of ecopoints to be applied to Croatian transit traffic through Austria as from 1 January 2003

(2003/440/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1), in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Commission has negotiated an Agreement in the form of an Exchange of Letters between the European Community and the Republic of Croatia concerning the system of ecopoints to be applied to Croatian transit traffic through Austria.
- (2) Subject to its possible conclusion at a later date, the Agreement initialled on 15 November 2002 should be signed.
- (3) Provision should be made for the provisional application of the Agreement from 1 January 2003,

HAS DECIDED AS FOLLOWS:

Article 1

The signing of the Agreement in the form of an Exchange of Letters between the European Community and the Republic of Croatia concerning the system of ecopoints to be applied to Croatian transit traffic through Austria as from 1 January 2003

is hereby approved on behalf of the Community, subject to the Council Decision concerning the conclusion of the said Agreement.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Community, subject to its conclusion.

Article 3

Subject to reciprocity, the Agreement referred to in Article 1 shall be applied on a provisional basis from 1 January 2003, pending the completion of the procedures for its formal conclusion.

Article 4

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

Done at Brussels, 8 May 2003.

For the Council

The President

M. CHRISOCHOÏDIS

AGREEMENT**in the form of an Exchange of Letters between the European Community and the Republic of Croatia concerning the system of ecopoints to be applied to Croatian transit traffic through Austria as from 1 January 2003***A. Letter from the European Community*

Sir,

I have the honour to inform you that, following negotiations between the delegation of the Republic of Croatia and the delegation of the European Community, in accordance with the provisions of Article 2(2)(b) of the Protocol 6 to the Interim Agreement between the European Community and the Republic of Croatia, the following has been agreed:

1. Ecopoints (rights of transit) for Croatian heavy goods vehicles transiting through Austria allocated for 2003: 171 904 ecopoints.

Additional ecopoints allocated for Croatian users of the Rollenden Landstrasse (RoLa) (up to a maximum of 40 % of the total number of ecopoints for 2003): 68 762 ecopoints.

Ecopoints for RoLa users shall be allocated to the Croatian authorities, on the basis of ecopoints for two road journeys for every two round trips made on RoLa.

The Austrian companies for combined transport, will regularly provide, each month, information to the Ministry of Maritime Affairs, Transport and Communications of the Republic of Croatia concerning Croatian users of combined transport in transit through Austria.

Transit journeys made in the circumstances listed in Annex A or under ECMT authorisations shall be exempt from the ecopoints system.

2. The driver of a Croatian heavy goods vehicle on the territory of Austria shall carry, and shall make available for inspection at the request of the supervisory authorities, either:
 - (a) a duly completed standard form or an Austrian certificate confirming payment of the ecopoints for the journey in question, modelled on Annex B, hereinafter referred to as 'the ecocard'; or
 - (b) an electronic device, fitted to the motor vehicle which enables the automatic debiting of ecopoints, hereinafter referred to as 'the ecotag'; or
 - (c) appropriate documentation to demonstrate that an ecopoint-free transit journey, as defined in Annex A or under ECMT authorisation is being made; or
 - (d) appropriate documentation to demonstrate that a non-transit journey is being made, and when the vehicle is fitted with an ecotag, the ecotag is set for this purpose.

The competent Austrian authorities shall issue the ecocard against payment of the cost of production and distribution of ecopoints and ecocards.

3. Ecotags shall be manufactured, programmed and installed in accordance with the general technical specifications laid down in Annex C. The Ministry of Maritime Affairs, Transport and Communications of the Republic of Croatia is authorised to approve, programme and install the ecotags.

The ecotag shall be programmed to contain information on the country of registration and the NO_x value of the motor vehicle, as stated in the conformity of production (COP) document, as defined in point 4.

The ecotag shall be affixed to the windscreen of the motor vehicle. It shall be positioned in accordance with Annex D. It shall be non-transferable.

4. The driver of a Croatian heavy goods vehicle registered on or after 1 October 1990 shall also carry, and produce upon request, a COP document, modelled on Annex E, as evidence of the NO_x emissions of that vehicle. Heavy goods vehicles first registered before 1 October 1990 or in respect of which no document is produced shall be assumed to have a COP value of 15,8 g/kWh.

5. The Ministry of Maritime Affairs, Transport and Communications of the Republic of Croatia is authorised to issue the documents and ecotags referred to in points 2 to 4.
6. Unless a vehicle is using an ecotag, the requisite number of ecopoints shall be affixed to the ecocard and cancelled. The ecocard shall be cancelled by any one of the following methods:
 - (a) stamping the ecocard in an ecocard stamping machine;
 - (b) having the ecocard stamped by the Austrian border control authorities upon entering Austria;
 - (c) having the ecocard stamped and dated by the national authorities of the haulier before entering Austrian territory;
 - (d) having the ecocard stamped at an office where the initialisation of ecotags is performed.

Austrian frontier stations that are equipped with an ecocard stamping machine are listed in Annex F.

For statistical purposes page 1 of the completed ecocard shall either be collected by the Austrian authorities or subsequently returned by the competent authorities within three months of the completion of the journey to the Austrian authorities. The statistics thus collected shall assist the Commission in making any proposal for the distribution of the reserve ecopoints.

If the vehicle is fitted with an ecotag, upon confirmation of its undertaking a transit journey requiring ecopoints, a number of ecopoints, equivalent to the NO_x emission information stored in the ecotag of the vehicle, shall be deducted from the total of ecopoints allocated to the Republic of Croatia. This shall be done by infrastructure provided and operated by the Austrian authorities.

For vehicles fitted with ecotags that are making bilateral journeys they must set the ecotag to demonstrate that a non-transit journey is being made prior to entering Austrian territory.

In the case where an ecocard is used and where a tractor unit is switched during a transit journey, the proof of payment on entry shall remain valid and be retained. Where the COP value of the new tractor unit exceeds that indicated on the form, additional ecopoints, affixed to a new card, shall be cancelled on leaving the country.

7. Continuous journeys which involve crossing the Austrian frontier once by train, whether by conventional rail transport or in a combined transport operation, and crossing the frontier by road before or after crossing by rail, shall be regarded not as transit of goods by road through Austria but as bilateral journeys.

Continuous transit journeys through Austria using the following rail terminals shall be deemed as bilateral journeys:

Fürnitz, Villach Süd, Sillian, Innsbruck/Hall, Brennersee, Graz.

8. Ecopoints shall be valid between 1 January of the year for which they are attributed and 31 January of the following year.
9. Infringements of this Agreement by a driver of a Croatian heavy goods vehicle or an undertaking shall be prosecuted in accordance with the national legislation in force.

The Commission and the competent authorities of Austria and Croatia shall, each within the limits of their jurisdiction, provide each other with administrative assistance in investigating and prosecuting these infringements, in particular by ensuring that ecocards and ecotags are correctly used and handled.

Controls may be carried out at a point other than the internal border, at the discretion of the European Community Member State, with due regard to the principle of non-discrimination.

10. The Austrian supervisory authorities may, having due regard to the principles of proportionality, take appropriate measures if a vehicle is fitted with an ecotag and at least one of the following situations occur:
 - (a) the vehicle or the operator of the vehicle has repeatedly committed infringements;
 - (b) there are insufficient ecopoints remaining in the allocation of Croatia;

- (c) the ecotag has been tampered with or has been changed by a party other than those authorised in point 3;
- (d) Croatia has not allocated sufficient ecopoints for the vehicle to make a transit journey;
- (e) the vehicle does not have appropriate documentation in accordance with point 2(c) or (d) to justify why the ecotag has been set to demonstrate that a non-transit journey is being made on Austrian territory;
- (f) when the ecotag specified in Annex C is not loaded with sufficient ecopoints to make a transit journey.

The Austrian supervisory authorities may, having due regard to the principle of proportionality, take appropriate measures if a vehicle is not fitted with an ecotag and at least one of the following situations occurs:

- (a) an ecocard is not presented to the supervisory authorities in accordance with the provisions of this Agreement;
 - (b) an ecocard is presented which is incomplete or incorrect, or where the ecopoints are not correctly affixed;
 - (c) the vehicle does not possess the appropriate documentation to justify that it does not need ecopoints;
 - (d) the ecocard has not been cancelled in accordance with the procedure laid down in point 6.
11. The printed ecopoints which are intended for affixing to ecocards shall be made available each year before 1 November of the preceding year.
12. In the case of vehicles registered before 1 October 1990 which have had a change of engine since this date, the COP value of the new engine shall apply. In such a case the certificate issued by the appropriate authority shall mention the change of engine and give details of the new COP value for NO_x emissions.
13. A transit journey shall be exempt from the payment of ecopoints if the following three conditions are met:
- (a) the sole purpose of the journey is to deliver a brand new vehicle, or vehicle combination, from the manufacturers to a destination in another State;
 - (b) no goods are transported on the journey;
 - (c) the vehicle or vehicle combination has appropriate international registration papers and export licence plates.
14. A transit journey shall be exempt from the payment of ecopoints if it is the unladen leg of a journey exempt from ecopoints as listed in Annex A and the vehicle carries suitable documentation to demonstrate this. Such suitable documentation shall be either:
- (a) a bill of lading; or
 - (b) a completed ecocard to which no ecopoints have been attached; or
 - (c) a completed ecocard with ecopoints, which are subsequently reinstated.
15. Any problems arising from the management of this regime of ecopoints shall be submitted to the Community/the Republic of Croatia Interim Subcommittee on Transport provided for in Article 41 of the Interim Agreement which shall assess the situation and recommend appropriate actions. Any measure to be taken shall be implemented immediately, shall be proportional and of non-discriminatory nature.

I should be obliged if you would confirm the agreement of your Government to the contents of this letter.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the Council of the European Union

ANNEX A

Journeys for which no ecopoints are required

1. The occasional transport of goods to and from airports when flights are diverted.
 2. The carriage of baggage in trailers attached to passenger vehicles, and the carriage of baggage to and from airports by vehicles of all kinds.
 3. The carriage of postal consignments.
 4. The carriage of damaged vehicles or vehicles in need of repair.
 5. The carriage of waste and sewage.
 6. The carriage of animal carcasses for disposal.
 7. The carriage of bees and fish spawn.
 8. The transport of corpses.
 9. The carriage of works of art for exhibition or commercial purposes.
 10. The occasional carriage of goods for advertising or educational purposes.
 11. The carriage of goods by removal firms possessing the appropriate personnel and equipment.
 12. The carriage of equipment, accessories and animals to and from theatrical, musical, cinema, sporting or circus events, exhibitions or fairs, or to and from radio, cinema or television recordings.
 13. The carriage of spare parts for ships and aircraft.
 14. The empty journey of a goods vehicle sent to replace a vehicle that has broken down in transit and the continuation of the journey by the replacement vehicle using the authorisation issued for the first vehicle.
 15. The carriage of emergency medical aid (particularly in the case of natural disasters).
 16. The carriage of valuable goods (e.g. precious metals) in special vehicles escorted by the police or another security service.
-

ANNEX B



Blatt 1	Raum zum Aufkleben der Ökopunkte-Marken						
	Space for affixing Ecopoint stamps						
	Spazio per l'apposizione degli Ecopunti						

0 1 2 3 4 5 6 7 8 9

A B C D E F G H I J K L M

N Ø P Q R S T U V W X Y Z



Für nationale Kennzeichnung/National identification mark/
Segno di riconoscimento nazionale

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Erläuterungen siehe Rückseite der Bestätigung

For explanation see back of confirmation (Bestätigung)

Spiegazioni sul verso della conferma (Bestätigung)

③ Datum der Einreise (Tag, Monat, Jahr) 				⑦ Name und Firma sowie vollständige Anschrift des Verkehrsunternehmers 			
④ Angaben zum LKW/Zugfahrzeug ⑤ Nationalität ⑥ Amtliches Kennzeichen _____		⑦ Monat und Jahr der 1. Zulassung 		⑧ COP-Wert (mit 1 Dezimale) 		⑨ Anzahl der Ökopunkte 	
⑩ Angaben zum Anhänger/Sattelaufzieger ⑤ Nationalität ⑥ Amtliches Kennzeichen _____		⑪ Fuhr-gewerbe ⑫ Werk-verkehr ☐ ☐					
⑬ Angaben zum Transport (nur bei beladenem Fahrzeug) ⑭ Gewicht der Ladung in Tonnen (mit 1 Dezimale) ⑮ beladen ⑯ leer ☐ ☐		☐ ☐					
⑰ (Abgangs-) Ladeland 	⑱ (Abgangs-) Ladeort (Postleitzahl) 	⑲ (Ziel-) Entladeland 	⑳ (Ziel-) Entladeort (Postleitzahl) 	㉑ Grenzübergangsstellen ㉒ beim Eintritt ㉓ beim Austritt			

Beleg wird maschinell eingelesen

Machine-read information

Ricevuto alla lettura tramite computer





Für nationale Kennzeichnung/National identification mark/
Segno di riconoscimento nazionale

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Erfolgt die Entwertung der Ökokarte nicht durch eine Kontrollstelle in der Republik Österreich (EU-Binnengrenze), so ist die Genehmigung im Feld 24 vor Antritt der Fahrt durch Eintragung von Grenzübergangsstelle und Eintrittsdatum von den zuständigen Organen des Mitgliedstaats, in dem das Fahrzeug zugelassen ist, auszufüllen.

If, when entering the country via an internal EU frontier, the cancellation of the ecocard is not performed at a control point in the Republic of Austria, then box 24 shall be completed in advance by the relevant national authority in the country where the vehicle is registered and shall also indicate the frontier post used and date of entry.

Se la cancellazione dell'ecocarta non viene effettuata presso un punto di controllo nella Repubblica austriaca (frontiera intera UE), l'autorizzazione nella casella 24 deve essere compilata prima del viaggio dalle autorità competenti dello Stato membro nel quale è immatricolato il veicolo.

Erläuterungen siehe Rückseite

For explanation see over

Spiegazioni sul verso

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⑩ Angaben zum Anhänger/Sattelaufleger ⑤ Nationalität ⑥ Amtliches Kennzeichen 		⑧ COP-Wert (mit 1 Dezimale) ⑨ Anzahl der Ökopunkte 	
⑪ Fuhr-gewerbe ⑫ Werk-verkehr 		⑬ Angaben zum Transport (nur bei beladenem Fahrzeug) ⑭ Gewicht der Ladung in Tonnen (mit 1 Dezimale) ⑮ beladen ⑯ leer 	
⑰ (Abgangs-) Ladeland 	⑱ (Abgangs-) Ladeort (Postleitzahl) 	⑲ (Ziel-) Entladeland 	⑳ (Ziel-) Entladeort (Postleitzahl)
⑳ (Ziel-) Entladeort (Postleitzahl) 		㉑ Grenzübergangsstellen ㉒ beim Eintritt ㉓ beim Austritt	
㉔ Kontrollvermerk der zuständigen Organe ㉕ Datum/Stempel/Unterschrift			

Österreichische Zollämter
(Grenzübergangsstellen)

Austrian Border Customs Offices
(Frontier posts)

Uffici doganali austriaci
(Uffici doganali in frontiera)

840	Achenkirch	547	Felsenhütt	837	Leutasch	660	Saalbrücke
545	Achleiten	947	Gaißau	445	Loibltunnel	346	Schachendorf
552	Angerhäuser	230	Gmünd	942	Lustenau	538	Schärding
455	Arnoldstein	233	Gmünd-Neunagelberg	940	Lustenau-Schmitterbrücke	838	Scharnitz
735	Bad Radkersburg	235	Grametten	941	Lustenau-Wiesenrain	830	Schattwald
965	Balderschwang	700	Graz-Hauptbahnhof	938	Mäder	848	Schleching
841	Bayrischzell	777	Graz-Ostbahnhof	460	Naßfeld	655	Schwarzbach
270	Berg	645	Großgmain	862	Nauders	554	Schwarzenberg
435	Bleiburg-Grablach	946	Höchst	870	Nauders-Martinsbruck	440	Seeburgsattel
355	Bonisdorf	956	Hörbranz	539	Neuhaus	734	Sicheldorf
533	Braunau	958	Hörbranz-Oberhochsteg	548	Neustift	856	Sillian
860	Brenner-Straße	955	Hörbranz-Unterhochsteg	333	Nickelsdorf	534	Simbach
859	Brennerpaß	544	Haibach	844	Niederndorf	745	Spießfeld
531	Burghausen	640	Hangenstein	549	Oberkappel	872	Spieß
532	Burghausen-Alte Brücke	350	Heiligenkreuz	536	Obernberg	964	Springen
341	Deutschkreutz	939	Hohenems	665	Obernndorf	630	Steinpaß
260	Drasenhofen	960	Hohenweiler	963	Oberreute	537	Suben
635	Dürrnberg	962	Hub	542	Passau-Mariahilf	832	Vils
835	Ehrwald	470	Karawankentunnel/Einfuhr	543	Passau-Saming	839	Vorderriß
845	Erl	471	Karawankentunnel/Ausfuhr	540	Passau-Voglau	650	Walsberg-Autobahn
530	Ettenau	843	Kiefersfelden	871	Pfunds	550	Wegscheid
831	Fallmühle	250	Kleinhaugsdorf	833	Pinswang	961	Wiennried
935	Feldkirch-Bangs	340	Klingenbach	465	Plöckenpaß	558	Weigetschlag
936	Feldkirch-Meinigen	937	Koblach	770	Radpaß	847	Wildbichl
934	Feldkirch-Nofels	255	Laa an der Thaya	345	Rattersdorf-Liebing	560	Wulowitz
932	Feldkirch-Tisis	760	Langegg	849	Reit im Winkl	450	Wurzenpaß
933	Feldkirch-Tosters	431	Lavamünd	834	Reutte/Plansee		

Internationale (Europäische) Kennzeichen / International (European) distinguishing signs / Targhe Internazionali (Europeo)

AL	Albanien	F	Frankreich	LV	Lettland	PL	Polen	YU	Serbien
B	Belgien	GBZ	Gibraltar	FL	Liechtenstein	P	Portugal	SLØ	Slowenien
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BG	Bulgarien	GB	Großbritannien	LU	Luxemburg	SU	Russland	CS	Tschechien
D	Deutschland	IRL	Irland	M	Malta	A	Österreich	TR	Türkei
DK	Dänemark	IS	Island	NL	Niederlande	S	Schweden	H	Ungarn
EW	Estland	I	Italien	N	Norwegen	CH	Schweiz	CY	Zypern
FIN	Finnland	HR	Kroatien						

1	Ecocard			1	Ecocarta		
2	Federal Ministry for public economy and transport			2	Ministero federale dell'economia pubblica e del traffico		
3	Date of entry (Day, Month, Year)			3	Data d'ingresso (Giorno, Mese, Anno)		
4	Details of HGV/articulated vehicle tractor unit			4	Dati sull'autocarro o sulla motrice di autoarticolato		
5	Nationality			5	Nazionalità		
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7	Month and year of first registration			7	Mese e anno di prima immatricolazione		
8	COP value (to one decimal place)			8	Valore COP (con una cifra decimale)		
9	Number of Ecopoints			9	Numero di Ecopunti		
10	Details about trailer/semi-trailer			10	Dettagli di rimorchio/rimorchio de trattore		
11	Transport for hire or reward			11	Trasporto merci in conto terzi		
12	Transport on own account			12	Trasporto in conto proprio		
13	Details of transport (for laden vehicles only)			13	Dati relativi al trasporto (solo per veicoli carichi)		
14	Weight of load in tonnes (to one decimal place)			14	Peso lordo in tonnellate (con una cifra decimale)		
15	laden	16	unladen	15	carico	16	vuoto
17	Country of loading			17	Paese di carico		
18	Place of loading (post code)			18	Località di carico (codice postale)		
19	Country of unloading			19	Paese di scarico		
20	Place of unloading (post code)			20	Località di scarico (codice postale)		
21	Border Customs Office			21	Ufficio doganale in frontiera		
22	of entry	23	of exit	22	d'ingresso	23	d'uscita
24	Mark indicating that check has been carried out by the appropriate authority			24	Segno indicante che il controllo è stato fatto dalle autorità competenti		
25	Date/Stamp/Signature			25	Data/Timbro/Firma		
26	Signature and name of person filling in this form			26	Firma e nome del compilatore		
27	Name, firm and complete address of the haulier			27	Cognome, nome della ditta e indirizzo completo dell'imprenditore di trasporti		

Die Ökokarte ist ausschließlich unter folgender Adresse zu beziehen:

The Ecocard is available only at the following address:

L'Ecocarta è da ricevere solamente al seguente indirizzo:

Österreichische Staatsdruckerei
Rennweg 16 Telefon (0222) 797 89 279
Postfach 129 Telefax (0222) 797 89 536
A-1037 Wien



Für nationale Kennzeichnung/National identification mark/
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5	Nationality	5	Nazionalità
6	Vehicle registration number	6	Targa del veicolo
7	Month and year of first registration	7	Mese e anno di prima immatricolazione
8	COP value (to one decimal place)	8	Valore COP (con una cifra decimale)
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15	laden	15	carico
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18	Place of loading (post code)	18	Località di carico (codice postale)
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24	Mark indicating that check has been carried out by the appropriate authority	24	Segno indicante che il controllo è stato fatto dalle autorità competenti
25	Date/Stamp/Signature	25	Data/Timbro/Firma
26	Signature and name of person filling in this form	26	Firma e nome del compilatore
27	Name, firm and complete address of the haulier	27	Cognome, nome della ditta e indirizzo completo dell'imprenditore di trasporti

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 Postfach 129 Telefax (0222) 797 89 536
 A-1037 Wien

ANNEX C

General technical specifications of the ecotag*Short-range communication beacon — vehicle*

(Pre)standards and technical reports relevant to DSRC

The following requirements provided by CEN/TC 278 with regard to short-range communication between the vehicles and the roadside infrastructure are to be met:

- (a) prENV278/No 62 'DSRC physical layer using microwave at 5,8 GHz';
- (b) prENV278/No 64 'DSRC data link layer';
- (c) prENV278/No 65 'DSRC application layer'.

Type test

The supplier of the ecotag must provide type-test certificates for the appliances from an accredited test institute conforming compliance with all the limit values specified in the current I-ETS 300674.

Operating conditions

The ecotag for the automatic ecopoint system must guarantee the required functionality under the following operating conditions:

- ambient conditions: temperature from -25°C to $+70^{\circ}\text{C}$,
- weather conditions: all eventualities,
- traffic: several lanes, moving,
- speed range: from 'stop-and-go' to 120 km/h.

The above operating conditions are minimum requirements pending the adoption of (pre)standards relevant to DSRC.

The ecotag may react only to microwave signals specific to its own applications.

Ecotag

Identification

Each ecotag must have a unique identification number. In addition to the number of digits necessary to make it distinguishable, this number must also contain a check sum for integrity verification.

Installation

The ecotag should be designed for installation behind the windscreen of the lorry or traction unit. It shall be installed so as to be completely non-detachable from the vehicle.

Transit declaration

The ecotag must have an input facility for declaring a journey exempt from the payment of ecopoints.

The facility must be clearly visible on the ecotag for control purposes; alternatively, it must be possible to set the ecotag at a defined initial position. At all events, it must be ensured that only the status at the time of entry is taken into account for evaluation in the system.

External marking

Every ecotag must also be clearly identifiable on visual inspection. To this end, the abovementioned unique identification number must be indelibly applied to the surface of the appliance.

A non-detachable, indelible marking to the ecotag in the form of prepared stickers shall be affixed to the ecotag. This marking must show the number of ecopoints for the individual vehicle (5, 6, ... 16).

These special stickers must be tamper-proof; they must have mechanical strength and be light- and temperature-resistant. They must have a high adhesive strength and any attempt to remove them must result in their destruction.

Integrity

The casing must be constructed in such way that any manipulation of the internal components is excluded and any interference can subsequently be detected.

Memory

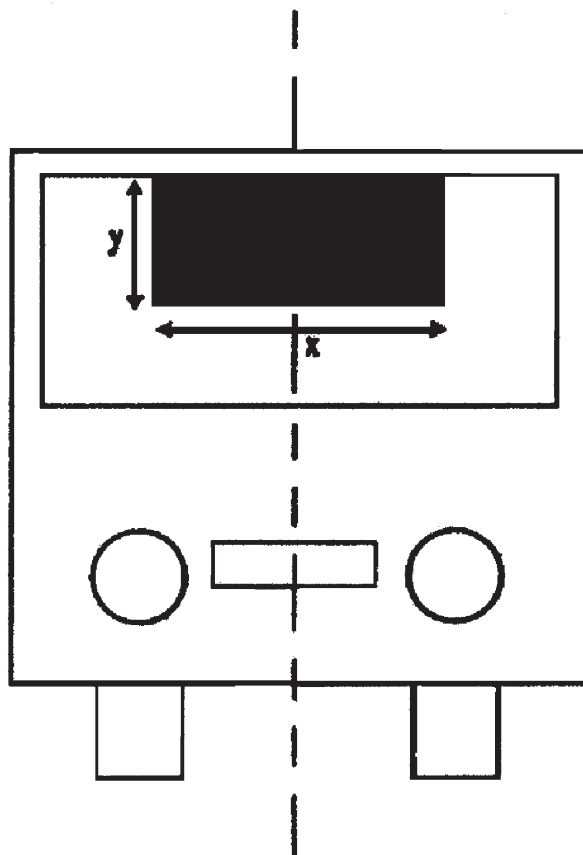
The ecotag must have sufficient memory capacity for the following data:

- identification number,
- vehicle data,
 - COP value,
- transaction data,
 - identification of the border post,
 - date/time,
 - status of journey declaration,
 - blocking (blacklisting) information,
- status data,
 - manipulation,
 - battery status,
 - status of latest communication.

There must be a reserve of memory of at least 30 %.

ANNEX D

Installation requirements for ecotag



the ecotag shall be located on the interior side of the windscreen within the marked area (illustrated above) where the dimensions are as follows:

$x = 100 \text{ cm}$

$y = 80 \text{ cm}$.

ANNEX E

COP DOCUMENT		1) Fortlaufende Dokumentnummer: Document serial number: Numero di serie del documento:	
2) Nationalität: Nationality: Nazionalità:		3) Amtliches Kennzeichen: Vehicle registration number: Targa del veicolo:	
4) Datum der Erstzulassung: Date of first registration: Data della prima immatricolazione		4a) Motor wurde getauscht am: Motor was changed at: Motore cambiato il :	
5) EWG-Betriebserlaubnisnummer: Type approval number: Numero CEE della licenza per l'esercizio: oder/orto Motorcodierungsnummer: Engine serial number: Numero di serie del motore:	(nach 88/77/EWG 91/542/EWG oder/orto ECE R 49)		
6) Fahrzeugidentifizierungsnummer: Chassis number: Chassis numero:			
7) NO _x Emission: NO _x Emission: Emissione di NO _x :		8) COP-Wert (Typgenehmigung + 10 %): COP Value (Type approval + 10 %): Valore COP (Omologazione + 10 %):	
9) Anzahl Ökopunkte: Number of Ecopoints: Numero di Ecopunti:			
10) Behördenstempel: Official stamp: Timbro ufficiale:			
11) Herstellerbestätigung (nach Bedarf): Manufacturer confirmation (if necessary): Attestazione del produttore (a seconda del fabbisogno):			

Der Lenker eines Lkw im Gütertransitverkehr durch Österreich hat dieses Dokument mitzuführen und den Kontrollorganen zur Kontrolle vorzuweisen. Wird das Dokument nicht vorgewiesen, sind für die Fahrt 16 Ökopunkte auf die Ökokarte aufzukleben und zu entwerfen.

The driver of an HGV in transit through Austria must carry this document with him/her and present it to control authorities for inspection. If the document is not presented for inspection then 16 Ecopoints are to be affixed to the Ecocard and cancelled.

Il conducente di un camion in transito attraverso l'Austria deve avere con sé questo documento e deve presentarlo alle Autorità competenti per il controllo. In caso di mancata presentazione del documento, 16 Ecopunti verranno applicati sull'Ecocard e annullati.

ANNEX F

Austrian border stations equipped with an ecocard stamping machine

Achenkirch
Arnoldstein
Braunau
Brennerpass
Ehrwald
Hangendenstein
Hörbranz
Kiefersfelden
Musau
Nauders
Neuhaus
Pinswang
Reit im Winkl
Saalbrücke
Scharnitz
Schleching
Sillian
Springen
Suben
Steinpass
Walserberg
Wegscheid

B. Letter from the Republic of Croatia

Sir,

I have the honour to refer to your letter of, in which you inform me of the following:

I have the honour to inform you that, following negotiations between the delegation of the Republic of Croatia and the delegation of the European Community, in accordance with the provisions of Article 2(2)(b) of the Protocol 6 to the Interim Agreement between the European Community and the Republic of Croatia, the following has been agreed:

1. Ecopoints (rights of transit) for Croatian heavy goods vehicles transiting through Austria allocated for 2003: 171 904 ecopoints.

Additional ecopoints allocated for Croatian users of the Rollenden Landstrasse (RoLa) (up to a maximum of 40 % of the total number of ecopoints for 2003): 68 762 ecopoints.

Ecopoints for RoLa users shall be allocated to the Croatian authorities, on the basis of ecopoints for two road journeys for every two round trips made on RoLa.

The Austrian companies for combined transport, will regularly provide, each month, information to the Ministry of Maritime Affairs, Transport and Communications of the Republic of Croatia concerning Croatian users of combined transport in transit through Austria.

Transit journeys made in the circumstances listed in Annex A or under ECMT authorisations shall be exempt from the ecopoints system.

2. The driver of a Croatian heavy goods vehicle on the territory of Austria shall carry, and shall make available for inspection at the request of the supervisory authorities, either:
 - (a) a duly completed standard form or an Austrian certificate confirming payment of the ecopoints for the journey in question, modelled on Annex B, hereinafter referred to as "the ecocard"; or
 - (b) an electronic device, fitted to the motor vehicle which enables the automatic debiting of ecopoints, hereinafter referred to as "the ecotag"; or
 - (c) appropriate documentation to demonstrate that an ecopoint-free transit journey, as defined in Annex A or under ECMT authorisation is being made; or
 - (d) appropriate documentation to demonstrate that a non-transit journey is being made, and when the vehicle is fitted with an ecotag, the ecotag is set for this purpose.

The competent Austrian authorities shall issue the ecocard against payment of the cost of production and distribution of ecopoints and ecocards.

3. Ecotags shall be manufactured, programmed and installed in accordance with the general technical specifications laid down in Annex C. The Ministry of Maritime Affairs, Transport and Communications of the Republic of Croatia is authorised to approve, programme and install the ecotags.

The ecotag shall be programmed to contain information on the country of registration and the NO_x value of the motor vehicle, as stated in the conformity of production (COP) document, as defined in point 4.

The ecotag shall be affixed to the windscreen of the motor vehicle. It shall be positioned in accordance with Annex D. It shall be non-transferable.

4. The driver of a Croatian heavy goods vehicle registered on or after 1 October 1990 shall also carry, and produce upon request, a COP document, modelled on Annex E, as evidence of the NO_x emissions of that vehicle. Heavy goods vehicles first registered before 1 October 1990 or in respect of which no document is produced shall be assumed to have a COP value of 15,8 g/kWh.
5. The Ministry of Maritime Affairs, Transport and Communications of the Republic of Croatia is authorised to issue the documents and ecotags referred to in points 2 to 4.

6. Unless a vehicle is using an ecotag, the requisite number of ecopoints shall be affixed to the ecocard and cancelled. The ecocard shall be cancelled by any one of the following methods:
- (a) stamping the ecocard in an ecocard stamping machine;
 - (b) having the ecocard stamped by the Austrian border control authorities upon entering Austria;
 - (c) having the ecocard stamped and dated by the national authorities of the haulier before entering Austrian territory;
 - (d) having the ecocard stamped at an office where the initialisation of ecotags is performed.

Austrian frontier stations that are equipped with an ecocard stamping machine are listed in Annex F.

For statistical purposes page 1 of the completed ecocard shall either be collected by the Austrian authorities or subsequently returned by the competent authorities within three months of the completion of the journey to the Austrian authorities. The statistics thus collected shall assist the Commission in making any proposal for the distribution of the reserve ecopoints.

If the vehicle is fitted with an ecotag, upon confirmation of its undertaking a transit journey requiring ecopoints, a number of ecopoints, equivalent to the NO_x emission information stored in the ecotag of the vehicle, shall be deducted from the total of ecopoints allocated to the Republic of Croatia. This shall be done by infrastructure provided and operated by the Austrian authorities.

For vehicles fitted with ecotags that are making bilateral journeys they must set the ecotag to demonstrate that a non-transit journey is being made prior to entering Austrian territory.

In the case where an ecocard is used and where a tractor unit is switched during a transit journey, the proof of payment on entry shall remain valid and be retained. Where the COP value of the new tractor unit exceeds that indicated on the form, additional ecopoints, affixed to a new card, shall be cancelled on leaving the country.

7. Continuous journeys which involve crossing the Austrian frontier once by train, whether by conventional rail transport or in a combined transport operation, and crossing the frontier by road before or after crossing by rail, shall be regarded not as transit of goods by road through Austria but as bilateral journeys.

Continuous transit journeys through Austria using the following rail terminals shall be deemed as bilateral journeys:

Fürnitz, Villach Süd, Sillian, Innsbruck/Hall, Brennersee, Graz.

8. Ecopoints shall be valid between 1 January of the year for which they are attributed and 31 January of the following year.
9. Infringements of this agreement by a driver of a Croatian heavy goods vehicle or an undertaking shall be prosecuted in accordance with the national legislation in force.

The Commission and the competent authorities of Austria and Croatia shall, each within the limits of their jurisdiction, provide each other with administrative assistance in investigating and prosecuting these infringements, in particular by ensuring that ecocards and ecotags are correctly used and handled.

Controls may be carried out at a point other than the internal border, at the discretion of the European Community Member State, with due regard to the principle of non-discrimination.

10. The Austrian supervisory authorities may, having due regard to the principles of proportionality, take appropriate measures if a vehicle is fitted with an ecotag and at least one of the following situations occur:
- (a) the vehicle or the operator of the vehicle has repeatedly committed infringements;
 - (b) there are insufficient ecopoints remaining in the allocation of Croatia;
 - (c) the ecotag has been tampered with or has been changed by a party other than those authorised in point 3;

- (d) Croatia has not allocated sufficient ecopoints for the vehicle to make a transit journey;
- (e) the vehicle does not have appropriate documentation in accordance with point 2(c) or (d) to justify why the ecotag has been set to demonstrate that a non-transit journey is being made on Austrian territory;
- (f) when the ecotag specified in Annex C is not loaded with sufficient ecopoints to make a transit journey.

The Austrian supervisory authorities may, having due regard to the principle of proportionality, take appropriate measures if a vehicle is not fitted with an ecotag and at least one of the following situations occurs:

- (a) an ecocard is not presented to the supervisory authorities in accordance with the provisions of this Agreement;
 - (b) an ecocard is presented which is incomplete or incorrect, or where the ecopoints are not correctly affixed;
 - (c) the vehicle does not possess the appropriate documentation to justify that it does not need ecopoints;
 - (d) the ecocard has not been cancelled in accordance with the procedure laid down in point 6.
11. The printed ecopoints which are intended for affixing to ecocards shall be made available each year before 1 November of the preceding year.
12. In the case of vehicles registered before 1 October 1990 which have had a change of engine since this date, the COP value of the new engine shall apply. In such a case the certificate issued by the appropriate authority shall mention the change of engine and give details of the new COP value for NO_x emissions.
13. A transit journey shall be exempt from the payment of ecopoints if the following three conditions are met:
- (a) the sole purpose of the journey is to deliver a brand new vehicle, or vehicle combination, from the manufacturers to a destination in another State;
 - (b) no goods are transported on the journey;
 - (c) the vehicle or vehicle combination has appropriate international registration papers and export licence plates.
14. A transit journey shall be exempt from the payment of ecopoints if it is the unladen leg of a journey exempt from ecopoints as listed in Annex A and the vehicle carries suitable documentation to demonstrate this. Such suitable documentation shall be either:
- (a) a bill of lading; or
 - (b) a completed ecocard to which no ecopoints have been attached; or
 - (c) a completed ecocard with ecopoints, which are subsequently reinstated.
15. Any problems arising from the management of this regime of ecopoints shall be submitted to the Community/the Republic of Croatia Interim Subcommittee on Transport provided for in Article 41 of the Interim Agreement which shall assess the situation and recommend appropriate actions. Any measure to be taken shall be implemented immediately, shall be proportional and of non-discriminatory nature.

I should be obliged if you would confirm the agreement of your Government to the contents of this letter.'

I have the honour to confirm that my Government is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the Government of the Republic of Croatia

COUNCIL DECISION
of 2 June 2003
appointing a member of the Committee of the Regions

(2003/441/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal from the Portuguese Government,

Whereas:

- (1) On 22 January 2002 the Council adopted Decision 2002/60/EC appointing the members and alternate members of the Committee of the Regions ⁽¹⁾,
- (2) The seat of a member of the Committee of the Regions has become vacant following the death of Mr José VIEIRA de CARVALHO, of which the Council was notified on 6 February 2003,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Rui Fernando da SILVA RIO, Presidente da Câmara Municipal do Porto is hereby appointed a member of the Committee of the Regions in place of Mr José VIEIRA de CARVALHO, for the remainder of his term of office, which runs until 25 January 2006.

Done at Luxembourg, 2 June 2003.

For the Council
The President
K. STEFANIS

⁽¹⁾ OJ L 24, 26.1.2002, p. 38.

COMMISSION

COMMISSION DECISION

of 11 December 2002

on the part of the scheme adapting the national tax system to the specific characteristics of the Autonomous Region of the Azores which concerns reductions in the rates of income and corporation tax

(notified under document number C(2002) 4487)

(Only the Portuguese text is authentic)

(Text with EEA relevance)

(2003/442/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having called on interested parties to submit their comments pursuant to those Articles ⁽¹⁾, and having regard to those comments,

Whereas:

I. PROCEDURE

- (1) By letter No 18 of 5 January 2000 from the Portuguese Permanent Representation, registered as received by the Commission on 10 January 2000, the Portuguese authorities notified the Commission of a scheme adapting the national tax system to the specific characteristics of the Autonomous Region of the Azores. Since this notification arrived late, in response to a request for information from the Commission in letter D/65111 of 7 December 1999 sent to the Portuguese Permanent Representation following articles in the press, and since the scheme in question was thought to have entered into force before being authorised by the Commission, the scheme was entered in the register of non-notified aid.
- (2) By letters D/51013 of 6 March 2000, D/53849 of 17 July 2000 and D/50739 of 19 February 2001, and by reminders D/52933 of 19 July 2001 and D/54133 of 9 October 2001 sent to the Portuguese Permanent Representation, the Commission departments requested additional information. The Portuguese authorities replied by letters 488 of 2 May 2000, 548 of 16 May 2000, 871 of 22 August 2000, 1864 of 13 June 2001, 2827 of 25 September 2001 and 44 of 9 January 2002 from their Permanent Representation, registered as received by the Commission on 3 May 2000, 18 May 2000, 23 August 2000, 19 June 2001, 1 October 2001 and 11 January 2002 respectively.

⁽¹⁾ OJ C 127, 29.5.2002, p. 16.

- (3) By letter SG (2002) D/229609 of 26 April 2002, the Commission informed the Portuguese Government that, after examining the information supplied by the Portuguese authorities on the scheme in question, it had decided under Articles 87 and 88 of the EC Treaty and Articles 61 and 62 of the EEA Agreement not to raise any objections to the part of the scheme which concerns reductions in the tax base and income tax credits and to initiate the procedure laid down in Article 88(2) of the Treaty in respect of the part of the scheme which concerns reductions in the rates of income and corporation tax. The Commission also invited the Portuguese authorities to submit their comments and to provide all such information as could help to assess the part of the scheme in question within one month of the date of receipt of that letter.
- (4) The Commission's decision not to raise objections to part of the scheme adapting the national tax system to the specific characteristics of the Autonomous Region of the Azores, considering it to be compatible with the Treaty, and to initiate the formal investigation procedure in relation to another part of the scheme in question was published in the *Official Journal of the European Communities* ⁽²⁾. Interested parties were invited to submit their comments to the Commission on the scheme in question within one month of the date of publication.
- (5) By letter 1548 of 30 May 2002 from the Portuguese Permanent Representation, registered as received by the Commission on 31 May 2002, the Portuguese authorities sent the Commission their comments.
- (6) The Commission also received comments from the Regional Government of the Åland Islands (Finland). It forwarded them to Portugal by letter D/53729 of 16 July 2002, sent to its Permanent Representation, giving it the opportunity to react. Its response was received by letter 2355 of 23 August 2002 from the Portuguese Permanent Representation, registered as received by the Commission on 27 August 2002.

II. DESCRIPTION OF THE MEASURE IN RESPECT OF WHICH THE COMMISSION INITIATED THE PROCEDURE

- (7) Under the Constitution of the Portuguese Republic, the Azores and Madeira are autonomous regions which have administrative and financial autonomy. By Law No 13/98 of 24 February 1998 on the finances of the autonomous regions, the Portuguese State precisely defined the conditions of that financial autonomy. The Law sets out the principles and objectives of regional financial autonomy, provides for the finances of the autonomous regions to be coordinated with central government finances, and establishes the principle of national solidarity and the obligation for the central government and the autonomous regions to cooperate. The Law lays down in particular that personal income tax (IRS) and corporation tax (IRC) constitute revenue of the autonomous regions, under the conditions it determines itself. Under Article 37 of the Law, the regional legislative assemblies are authorised to reduce the rates of income and corporation tax applicable there up to a maximum of 30 % of those laid down by national legislation.
- (8) By Regional Legislative Decree No 2/99/A of 20 January 1999 the regional authorities adopted the arrangements for adapting the national tax system to the region's specific characteristics under the powers devolved to them in the matter. The decree took effect on 1 January 1999 and includes in particular a part concerning reductions in the rates of income and corporation tax.
- (9) The abovementioned tax reductions apply automatically to all economic operators (natural and legal persons), and according to the Portuguese authorities are intended among other things to allow firms in the Azores to overcome the structural handicaps resulting from their location in an insular and outermost region. They include in particular a reduction in the rate of personal income tax (IRS) of 20 % (15 % for 1999) and a reduction in the rate of corporation tax (IRC) of 30 % for taxpayers in the region. The budgetary cost of the reductions, as measured by the resulting tax shortfalls, is put at some EUR 26,25 million a year by the Portuguese authorities.

⁽²⁾ See footnote 1.

- (10) In view of the characteristics of this part of the scheme adapting the national tax system to the specific characteristics of the Autonomous Region of the Azores, the Commission first observed that the guidelines on national regional aid ⁽³⁾ lay down the general principle that regional aid aimed at reducing a firm's current expenses (operating aid) is prohibited, although, exceptionally, such aid may be granted in regions eligible under the derogation in Article 87(3)(a) of the Treaty 'provided that it is justified in terms of its contribution to regional development, and its nature and its level is proportional to the handicaps it seeks to alleviate' (point 4.15). The same principles and conditions were reiterated by the Commission in points 32 and 33 of its notice on the application of the State aid rules to measures relating to direct business taxation ⁽⁴⁾.
- (11) The Commission also noted that the guidelines on national regional aid nevertheless stipulate that in the outermost regions qualifying for exemption under Article 87(3)(a) and (c) 'aid which is not both progressively reduced and limited in time may be authorised in so far as it is intended to offset the additional costs arising in the pursuit of economic activity from the factors identified in Article 299(2) of the Treaty, the permanence and combination of which severely restrain the development of such regions (remoteness, insularity, small size, difficult topography and climate and economic dependence on a few products)' (point 4.16.2). Under the guidelines, 'it is the task of the Member State to determine the amount of the additional costs and to prove that they are linked to the factors identified in Article 299(2)'. Lastly, 'the proposed aid will have to be justified in terms of its contribution to regional development, and its nature; its level will have to be proportional to the additional costs it is intended to offset'.
- (12) In order to demonstrate that the tax reductions complied with the conditions laid down in the guidelines regarding operating aid, the Portuguese authorities first examined a number of financial indicators relating to a sample of 1 083 firms subject to corporation tax (IRC), 100 of which were located in the Azores. For all the indicators taken (sales profitability, financial independence, overall solvency and return on equity), the firms located in the Azores had substantially lower values than those located on the mainland of Portugal (depending on the weighting method applied, the difference ranged from 29,2 % to 76,15 %).
- (13) The Portuguese authorities also presented to the Commission an econometric study based on the data relating to 1997 for the same sample of firms. In terms of the regression carried out, the firms' profits were allegedly explained by the value added per capita (considered as an indicator of the level of technological development and the skills of human resources), the number of workers (as an indicator of the size of each undertaking), the sector of activity and the location of the firms concerned. In particular, and after correcting the results by sample selection procedures designed to account for the presence in the sample of firms that recorded losses, it was found that, other things being equal, the profits of the firms located in the Azores were, on average, 33,6 % lower than those of the other firms. In so far as such a difference might not seem to be entirely attributable to the additional transport costs facing firms in the Azores when they have to obtain raw materials or distribute their products, the Portuguese authorities took the view that it stemmed from all the factors specific to the region's nature as an outermost region. Under the circumstances, the Portuguese authorities considered in particular that the abovementioned tax reductions were justified in view of the additional costs arising in the pursuit of economic activity from the factors identified in Article 299(2) of the Treaty and that their level was proportional to those costs.
- (14) The Commission pointed out that the aforementioned study still did not allow it to verify at that stage whether the abovementioned tax reductions were justified in terms of their contribution to regional development and their nature, or whether their level was proportional to the additional costs they were intended to offset. In this connection, the Commission provisionally highlighted in particular three possible limitations of the model used by the Portuguese authorities:
- first, it was likely that the effect of the location of firms on profits varied in terms of the sector of activity concerned. In this case, the relevance of which was highlighted in particular by the 'new economic geography', bearing the importance of intercompany relations in mind as regards access to economies of scale, it would probably be preferable to carry out an estimation of several independent models,

⁽³⁾ OJ C 74, 10.3.1998, p. 9 and OJ C 258, 9.9.2000, p. 5.

⁽⁴⁾ OJ C 384, 10.12.1998, p. 3.

- second, it did not seem possible to rule out a priori the possibility that the regression applied was over-adjusted. Value added per worker might itself be a function of the number of workers, the sector of activity and the location of the firms concerned, and it was not clear from the data transmitted by the Portuguese authorities on this aspect whether all the tests required to take into account any multicollinearity of the exogenous variables (or a hypothetical heteroscedasticity of the model) had been carried out,
 - lastly, the basic sample taken did not include any firm active in the financial sector. The fact that banking institutions and insurance firms (the bulk of the financial sector in the Azores) were not taken into account could, in principle, limit significantly the scope of the results obtained.
- (15) Under the circumstances, the Commission provisionally took the view that the Portuguese authorities had not provided it with sufficient information to demonstrate that the tax reductions were, by their nature and level, such as to alleviate the specific problems of the Azores, particularly as regards mobile activities (notably financial services and firms of the 'intra-group services' or 'coordination centre' type), for which the existence of real regional handicaps counts for very little when it comes to deciding where to set up in business. Consequently, the Commission could not, at that stage, consider the abovementioned tax reductions to be in this respect compatible with the relevant provisions of the guidelines on national regional aid and, for this reason, it had doubts as to their compatibility with the Treaty.
- (16) Accordingly, the Commission in particular questioned whether the tax reductions were consistent with the targeting and proportionality criteria laid down in its notice on the application of the State aid rules to measures relating to direct business taxation, and in particular point 33, which stipulates that 'it is open to question whether there are any real regional handicaps for activities for which the additional costs have little incidence, such as for example the additional transport costs for financing activities, which lend themselves to tax avoidance'. In so far as it was still not in possession of quantified data enabling it to measure objectively the level of the additional costs supposedly facing financial firms liable for tax in the Azores, the Commission was also unable at that stage to consider such tax reductions to be compatible in this respect with the relevant provisions of the guidelines on national regional aid.

III. COMMENTS SUBMITTED BY THE PORTUGUESE AUTHORITIES

- (17) The comments submitted by the Portuguese authorities under the formal investigation procedure were generally limited to justifying the methodology applied in the econometric study presented to the Commission, by means of examples taken from recent economic literature. They pointed out on the one hand that the general insufficiency of reliable statistical data on the relevant variables significantly limited the choice of samples available to carry out this type of regression, and that the estimation of independent sectoral models would therefore only lead to results of no great significance. They specified on the other hand that any multicollinearity could be ruled out in view of the results themselves and the levels of statistical importance of the regression parameters adopted, and they took the view that the omission of any exogenous variable, particularly value added per worker, would mean that the results would be subject to omitted variable bias and their degree of reliability would be significantly reduced.
- (18) The Portuguese authorities meanwhile attributed the absence of firms from the financial sector among those in the basic sample merely to a lack of statistical data on the sector, accordingly acknowledging that it was not possible for them to demonstrate rigorously in relation to such activities that the tax reductions in question were, by their nature and level, such as to resolve the specific problems of the Azores.

- (19) Although they believed that financial-sector operators could also be affected by the handicaps associated with their location in the Azores, bearing in mind notably the essentially regional scope of their activities, the Portuguese authorities stated that they were prepared to make the legislative adjustments necessary to ensure that the abovementioned tax reductions complied with the rules applicable to State aid, namely excluding financial activities from their scope. They also indicated that, since 'intra-group services' activities (coordination, financial and distribution centres) did not exist in the Portuguese legal system, they were de facto excluded from the benefit of this measure.

IV. COMMENTS FROM INTERESTED PARTIES AND RESPONSE OF THE PORTUGUESE AUTHORITIES

- (20) The Regional Government of the Åland Islands claimed interested-party status under the constitutional autonomy devolved to this Finnish region, particularly in certain tax matters. In this respect the Government of the Åland Islands took the view that the geographic specificity of a tax measure was not sufficient for it to be considered as State aid if such a measure was implemented by an autonomous region (considered as a tax jurisdiction in its own right), under its own powers in the matter, was applied without distinction to all firms in the region and did not include any material specificity. In this way the income and corporation tax reductions implemented by the Azores region with the aim of adapting the national tax system to the specific characteristics of the region should, according to the Government of the Åland Islands, be considered as a general measure.
- (21) The comments submitted by the Regional Government of the Åland Islands were endorsed by the Portuguese authorities in the response they sent to the Commission. They pointed out in particular that according to the Portuguese Constitution the Azores region was an autonomous region which enjoyed administrative and financial autonomy, and they took the view that, in so far as the measures for adapting the national tax system were approved by the region under its own powers in the matter, the tax reductions in question should be seen as a general measure dependent on national tax policy.

V. ASSESSMENT

- (22) The Commission examined the comments submitted both by the Portuguese authorities and by interested parties during the formal investigation procedure.
- (23) As regards the nature of the tax reductions under analysis, which according to the comments of the Regional Government of the Åland Islands and the subsequent comments of the Portuguese authorities should be considered as a general measure, the Commission would point out in particular the four criteria for defining State aid within the meaning of Article 87(1) of the Treaty. First, the measure in question should give its beneficiaries an advantage which relieves them of charges that are normally borne from their budgets. Second, such an advantage should be granted by the State or through State resources, irrespective of its form. Third, the measure concerned should affect competition and trade between Member States. Lastly, the measure must be specific or selective in that it favours certain firms or products.

- (24) In view of the abovementioned criteria for defining State aid, the Commission would point out in particular that:

- as stressed in point 9 of its notice on the application of the State aid rules to measures relating to direct business taxation, 'the advantage may be provided through a reduction in the firm's tax burden in various ways, including (...) a total or partial reduction in the amount of tax'. In so far as the tax reductions in question apply to firms, therefore, they provide an advantage which relieves them of charges that are normally borne from their budgets,
- granting a tax reduction involves a loss of tax revenue, which under point 10 of the notice on the application of the State aid rules to measures relating to direct business taxation 'is equivalent to consumption of State resources in the form of fiscal expenditure'. In so far as this principle also applies to aid granted by regional or local bodies in the Member States⁽³⁾, the tax reductions in question are granted through State resources, i.e. resources which in the Portuguese public finance system are allotted to the Autonomous Region of the Azores,
- the criterion of competition and trade between Member States being affected presupposes that the beneficiary of the measure pursues an economic activity, regardless of the beneficiary's legal status or means of financing. Under settled case-law the criterion of trade being affected is met since the recipient firms carry on an economic activity involving trade between Member States, this conclusion not being altered by the relatively small amount of the aid⁽⁴⁾, the moderate size of the recipient or its very small share of the Community market, or even the fact that the recipient does not carry out exports or exports virtually all its production outside the Community⁽⁵⁾. In view of the extent of its sectoral scope and in so far as at least some of the firms concerned will carry on an activity involving trade between Member States, this is the case of the tax reductions under analysis,
- as pointed out in point 17 of the notice on the application of the State aid rules to measures relating to direct business taxation, 'the Commission's decision-making practice so far shows that only measures whose scope extends to the entire territory of the State escape the specificity criterion laid down in Article 87(1)' and 'the Treaty itself qualifies as aid measures which are intended to promote the economic development of a region'⁽⁶⁾. Although these measures apply automatically to all economic operators liable for tax in the Azores, without introducing any difference in treatment in favour of one or more sectors of activity, the abovementioned tax reductions 'are intended exclusively for companies situated in a particular region of the Member State in question and constitute for them an advantage which companies intending to carry out similar economic operations in other areas in the same State cannot enjoy'⁽⁷⁾. In this case the abovementioned tax reductions do in fact favour firms taxed in the Azores, in comparison with all other Portuguese firms.

⁽³⁾ See in particular the judgment of the Court of Justice in Case C-248/84 *Germany v Commission* (1987) ECR 4013.

⁽⁴⁾ With the exception, however, of aid awarded under the conditions laid down in Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid (OJ L 10, 13.1.2001, p. 30).

⁽⁵⁾ See in particular the judgments of the Court of Justice in Case C-102/87 *France v Commission* (1988) ECR 4067, Case C-142/87 *Belgium v Commission* (1990) ECR I-959 and Joined Cases C-278/92, C-279/92 and C-280/92 *Spain v Commission* (1994) ECR I-4103.

⁽⁶⁾ See in particular Commission decisions on State aid Cases C-55/01 (insurance companies specific to the Åland Islands, OJ C 309, 6.11.2001, p. 4) and C-52/01 (Gibraltar eligible firms scheme, OJ C 26, 30.1.2002, p. 9), and Commission Decision 93/337/EEC of 10 May 1993 on tax concessions for investment in the Basque Country (OJ L 134, 3.6.1993, p. 25).

⁽⁷⁾ Conclusions of Mr Advocate General Saggio in Joined Cases C-400/97, C-401/97 and C-402/97 (2000) ECR I-1073.

- (25) The Portuguese authorities and the intervener disagree with the view that the measure is selective, i.e. that it favours 'certain firms or certain products'. They accept that, rather than all Portuguese firms, the tax benefits concerned only apply to firms that carry on activity in part of Portuguese territory, which makes them territorially selective. They nevertheless argue that a distinction should be drawn between cases in which the State grants tax benefits of limited scope to part of national territory and cases in which such benefits are granted by an infra-State regional authority for the part of the territory that falls within its jurisdiction: the former are selective because their scope is limited to some of the firms under State jurisdiction, while the latter are general measures since they apply to all firms under the jurisdiction of the regional authority.
- (26) The Commission considers first that the element of selectivity in the concept of aid is based on a comparison between the advantageous treatment granted to certain firms and the treatment that applies to other firms in the same reference framework. The definition of this framework takes on added importance in the case of tax measures since the very existence of an advantage can only be established in relation to taxation defined as normal. In theory it follows both from the general scheme of the Treaty, which concerns aid granted by the State or through State resources, and from the fundamental role the central authorities of the Member States play in defining the political and economic environment in which firms operate, thanks to the measures they adopt, the services they provide and possibly the financial transfers they make, that the framework in which such a comparison should be made is the economy of the Member State. In this respect the text of the Treaty itself, which classifies measures intended 'to promote the economic development' of a particular region (Article 87(3)(a) and (c)) as State aid that may be considered to be compatible, indicates that benefits whose scope is limited to part of the territory of the State subject to the rules on aid may constitute selective benefits. It is clear that if the reference context for assessing the territorial selectivity of a measure is the territory in which it applies, measures that benefit all the firms in the territory would by definition become general measures. The settled practice of the Commission, confirmed by the Court of Justice, on the contrary consists of classifying as aid tax schemes applicable in particular regions or territories which are favourable in comparison to the general scheme of a Member State⁽¹⁰⁾.
- (27) Second, the Portuguese authorities' argument according to which benefits of limited territorial scope become general measures in the region concerned simply because they are established by the regional rather than by the central authority, and that they apply throughout the territory under the region's jurisdiction, cannot be reconciled with the concept of aid. This concept is objective, covering all aid that reduces the charges that are normally borne from the budget of one or more firms in various forms, regardless of its purpose, justification or objective or the status of the public authority that establishes it or whose budget bears the charge. A distinction based solely on the body that decides the measure would remove all effectiveness from Article 87 of the Treaty, which seeks to cover the measures concerned exclusively according to their effects on competition and Community trade⁽¹¹⁾. Such aid therefore cannot be treated differently from measures which have the same objectives, use the same resources and have the same effects on trade and competition, according only to the formal criterion of the degree of autonomy of the infra-State authority that establishes it. According to the abovementioned conclusions of Mr Advocate General Saggio in Joined Cases C-400/97, C-401/97 and C-402/97, 'the fact that the measures at issue were adopted by regional

⁽¹⁰⁾ See in particular, in the case of measures adopted by central authorities, the Commission Decision of 21 May 1997, aid N 847/96, on the creation of priority outermost regions and measures on improved economic access in the French Overseas Territories (OJ C 245, 12.8.1997), the Commission Decision of 16 December 1997, aid N 144/A/96, on the scheme of regional aid to investment and operating aid which amends the economic and tax system of the Canary Islands (OJ C 65, 28.2.1998) and Commission Decision 2002/780/EC of 28 February 2001 on the aid scheme 'Investment allowance 1999', which Germany is planning to implement for certain undertakings in the new *Länder*, including Berlin (OJ L 282, 19.10.2002, p. 15). See also Commission Decision 98/476/EC of 21 January 1998 on tax concessions granted under Article 52(8) of the German Income Tax Act (*Einkommensteuergesetz*) (OJ L 212, 30.7.1998, p. 50), on which the Court of Justice delivered judgment on 19 September 2000 in Case C-156/98 *Germany v Commission* (2000) ECR I-6857.

⁽¹¹⁾ Case 173/73 *Italy v Commission* (1974) ECR 713, Case 323/82 *Intermill v Commission* (1984) ECR 3809 and Case C-248/84 *Germany v Commission*, op. cit.

authorities with exclusive competence under national law is (...) merely a matter of form, which is not sufficient to justify the preferential treatment reserved to companies which fall under the provincial laws. If this were not the case, the State could easily avoid the application, in part of its own territory, of provisions of Community law on State aid simply by making changes to the internal allocation of competence on certain matters, thus raising the general nature, for that territory, of the measure in question'.

- (28) It should be noted that in the case in point the national legislator began by authorising the regional legislator to grant the tax reductions concerned; on the basis of this authorisation, the regional legislator then actually introduced the reductions. This mechanism produces the same effects as if the benefits were granted directly by the national authorities, as was already the case in the past with other aid schemes in favour of firms in the Azores ⁽¹²⁾.
- (29) The Commission points out that the use of a purely institutional criterion to differentiate 'aid' from 'general measures' would inevitably lead to differences in treatment in the application of the rules on aid to Member States, according to whether they had adopted a centralised or decentralised model of allocating tax competence (or other competence, such as in the area of social security). If the Portuguese authorities' argument were accepted, Member States whose internal administrative organisation allowed certain regional authorities below State level to make changes to the general tax system in the form of tax benefits applicable to firms that operated in the respective regions would escape the rules on aid in relation to those regions and measures.
- (30) The Commission considers that if measures completely identical in their objectives, technique and effects were not subject to the same rules it would be contrary to equal treatment and would create serious distortions in the functioning of the common market. The application of the rules on aid to regional tax benefits should be based on objective criteria and cannot depend on a purely institutional factor such as the application at a particular time of more or less extensive tax autonomy in favour of an infra-State authority of more or less broad territorial scope. If this technique were generalised it would undermine equality in applying the rules on State aid and therefore render them ineffective.
- (31) In the Commission's approach the tax autonomy of the regional authority that grants the benefits has never been considered as a factor that would make it possible not to regard measures as aid. In Decision 93/337/EEC, recognition that 'the competent institutions in each of the three Basque provinces may, under certain conditions, maintain, establish and regulate the tax system within their territory' did not prevent the Commission from finding that the tax benefits in question created by the three provinces were covered by Article 87(1) and from declaring them incompatible because they did not comply with the rules on regional and sectoral aid in particular ⁽¹³⁾. In subsequent decisions on tax concession schemes implemented by autonomous tax authorities the Commission, while taking the view that the measures examined constituted aid because of their material selectivity, expressly left open the possibility of examining their territorial selectivity ⁽¹⁴⁾. This being the case, it should also be noted that the present Decision does not concern a mechanism that would allow all local authorities of a particular level (regions, districts or others) to introduce and levy local taxes with no reference at all to national taxation. On the contrary, the case in point involves a reduction applicable solely in the Azores in the rate of tax established by national legislation and applicable on the mainland of Portugal. Under the circumstances, the measure adopted by the regional authorities clearly constitutes a derogation from the national tax system.

⁽¹²⁾ See in particular aid N 143/93, tax measures in favour of the free zones of Madeira and Santa Maria.

⁽¹³⁾ See in this respect the judgment of the Court in Joined Cases T-127/99, T-129/99 and T-148/99 *Territorio Histórico de Álava and Others v Commission* (2002) ECR II-1275, at paragraph 237.

⁽¹⁴⁾ See in particular the Decisions of 20 December 2001, Cases C-58/2000, C-59/2000 and C-60/2000, tax concessions in the form of exemption from corporation tax for certain firms recently set up in the province of Álava.

- (32) Lastly, the Commission would stress that classing these measures as aid does not call into question the tax autonomy of the regions, as laid down in the Portuguese Constitution and applied by the Portuguese legislator in 1998 and by the regional legislator in 1999. It seeks merely to ensure that, in cases where such regions exercise their autonomy by reducing the amount of tax levied at national level, the tax benefits granted thereby comply with the Community rules on regional aid and the other applicable frameworks on the basis of equality throughout Community territory, and does not presume because of this that such benefits are compatible with the common market.
- (33) Nor can the Commission take the view that the abovementioned tax reductions are justified by the nature or the general scheme of the Portuguese tax system, or that because of their economic rationality they are necessary or functional in relation to the effectiveness of that system. In particular, in so far as these reductions do not derive from applying principles such as proportionality or progressive taxation, since on the contrary they favour firms in a specific region regardless of their financial situation, the objectives of regional development attributed to them cannot be considered to be inherent in the Portuguese tax system.
- (34) In view of the above and the characteristics of the part of the scheme that adapts the national tax system to the specific characteristics of the Autonomous Region of the Azores which is subject to the formal investigation procedure, the Commission therefore considers that the reductions in the rates of income and corporation tax in question constitute State aid within the meaning of Article 87(1) of the EC Treaty and Article 61(1) of the EEA Agreement. The tax reductions constitute aid awarded through State resources and, since they apply to firms, they are such as to affect trade between Member States and threaten to distort competition by favouring certain undertakings.
- (35) Under the circumstances, and bearing in mind that the aid is continuous in nature and, according to the Portuguese authorities, has the objective of overcoming permanent structural handicaps resulting from the insularity of the Azores and the region's remoteness from mainland economic centres by reducing firms' current expenses, the Commission considers in particular that the aid concerned constitutes operating aid which, although granted in an outermost region which until the end of 2006 is fully eligible under Article 87(3)(a) of the Treaty and Article 61(3)(a) of the EEA Agreement, is not limited in time and is not guaranteed to be progressively reduced. Such aid can therefore only be authorised if it is intended to offset the additional costs arising in the pursuit of economic activity from the handicaps identified in Article 299(2) of the Treaty, in compliance with the conditions laid down in the guidelines on national regional aid as regards operating aid and point 4.16.2 in particular.
- (36) In this respect the Commission would first point out that the Azores region is made up of nine islands which are approximately 1 500 km from the nearest mainland territory and which have a total area slightly exceeding 2 300 km²; according to the Portuguese authorities and because of the small size of regional markets, this substantially limits the possibilities of achieving economies of scale allowing regional firms to attain the necessary levels of competitiveness and at the same time generates significant additional costs as regards production and access to markets. In view also of the reduced level of development achieved by the region (GDP per inhabitant was 52,6 % of the Community average in 1998 to 2000), it is effectively amongst the least developed in the European Union.
- (37) In the light of the results of the study transmitted to it and the comments submitted by the Portuguese authorities in that connection under the formal investigation procedure on firms that operate outside the financial sector, the Commission would also point out that:
- having regard to the difficulty in objectively calculating the incidence of each factor referred to in Article 299(2) of the Treaty on the increase in costs of economic activity and in so far as the abovementioned tax reductions do not apply only to one or more specific sectors but cover the regional economy as a whole, it would seem to be acceptable in principle to assess them in abstract terms. The Portuguese authorities may thus have demonstrated the existence of the aforesaid additional costs as a whole, indirectly quantifying their importance,

- a 30 % reduction in IRC would simultaneously enable the disadvantage affecting firms in the Azores, as quantified by their profit levels, to be reduced by 9,3 percentage points (from 33,6 % to 24,3 %). Since the compensation for the additional costs associated with the fact that it is an outermost region would thereby be limited to around 27,7 % of their absolute value and bearing in mind that such a reduction should allow recipients to improve their financial situation, releasing the resources necessary for them to carry on their activities in less difficult conditions, the aid envisaged would thus be justified according to its contribution to regional development,
 - in average terms, in view of the average value of the amount of IRC paid by firms taxed in the region over the last five years (EUR 23 500 according to the Portuguese authorities), the advantage each company would gain from this reduction in IRC would not exceed EUR 7 050 per year. This amount would be even lower in the case of small firms subject to personal income tax (IRS), which would allow the level of such advantages to be considered to be proportional to the additional costs they are intended to offset.
- (38) In so far as the reductions in income and corporation tax are applicable to firms that operate outside the financial sector and bearing in mind the Portuguese authorities' undertaking to notify the Commission in good time of any application of the scheme adapting the national tax system to the specific characteristics of the Autonomous Region of the Azores beyond 31 December 2006 (the date corresponding to the expiry of the regional aid map), in order to allow the Portuguese authorities to prove and the Commission to determine the real impact of these tax reductions on regional development, with a view to re-assessing their relevance to the situation of the region, the Commission is therefore able to consider such aid to be granted in compliance with the conditions laid down in point 4.16.2 of the guidelines on national regional aid. As a result, in so far as the aforesaid tax reductions will apply to firms that operate outside the financial sector, the Commission is also able to consider the abovementioned aid to be compatible with the common market under the derogation in Article 87(3)(a) of the Treaty.
- (39) On the other hand, as regards the application of income and corporation tax reductions for firms that operate in the financial sector, the Commission finds that they are not justified by their contribution to regional development and that their level is not proportional to the handicaps they are intended to alleviate. Therefore, in so far as it is still not in possession of quantified data enabling it to measure objectively the level of the additional costs facing financial firms liable for tax in the Azores, the Commission is not able to consider such tax reductions to be compatible with the relevant provisions of the guidelines on national regional aid. As a result, in so far as the aforesaid tax reductions apply to firms which operate in the financial sector, the Commission is not able to consider the abovementioned aid to be compatible with the common market under the derogation set down in Article 87(3)(a) of the Treaty.
- (40) Similarly, in so far as the income tax reductions apply to firms which operate in the financial sector, the Commission is not able to consider such aid to be compatible with any other derogation laid down in the Treaty. On the one hand, bearing in mind its characteristics as operating aid, it cannot be considered to be intended to contribute to the development of certain economic activities or certain economic areas without affecting trading conditions to an extent contrary to the common interest (Article 87(3)(c)). On the other, it is not aid of a social character granted to individual consumers (Article 87(2)(a)), it is not intended to make good the damage caused by natural disasters or other exceptional occurrences (Article 87(2)(b)), it is not granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany (Article 87(2)(c)), it is not intended to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State (Article 87(3)(b)), it is not intended to promote culture or heritage conservation (Article 87(3)(d)), and it does not relate to other categories of aid specified by the Council (Article 87(3)(e)).

- (41) Under the circumstances, the Commission finds that only the exclusion of firms that operate in the financial sector from the scope of the part of the scheme adapting the national tax system to the specific characteristics of the Autonomous Region of the Azores in so far as income and corporation tax reductions are concerned, in accordance with the willingness expressed in this regard by the Portuguese authorities during the formal investigation procedure, will allow it to consider the above-mentioned aid to be compatible with the common market under the derogation laid down in Article 87(3)(a) of the Treaty. For this purpose all firms that carry on economic activities covered by section J of the statistical classification of economic activities in the European Community (NACE Rev. 1.1) ⁽¹⁵⁾ should be considered to be firms that operate in the financial sector, i.e. financial intermediation (code 65), insurance (code 66) and activities auxiliary to financial intermediation and insurance (code 67).
- (42) Although the Portuguese authorities have declared that activities of the 'intra-group services' type (activities the economic basis of which is to provide services to firms belonging to the same group, as coordination, financial or distribution centres) currently do not exist in the Portuguese legal system, for reasons of transparency and legal certainty the Commission finds that where such activities can in practice be carried on as services provided principally to firms (section K, code 74 of NACE Rev. 1.1), they should also be excluded by law from benefiting from such aid. In fact, since their effects on the decision to locate firms belonging to a group and their external effects on the local economy are small, the Commission considers that such activities do not contribute sufficiently to regional development and therefore cannot be declared compatible under Article 87(3)(a), or by virtue of other derogations laid down by the Treaty, for the same reasons indicated in relation to the financial sector.
- (43) Lastly, the Commission would refer to Article 14 of Council Regulation (EC) No 659/1999 of 22 March 1999, which lays down detailed rules for implementing Article 88 of the EC Treaty ⁽¹⁶⁾ and provides that all unlawful aid may be recovered from the recipient. The aid scheme which is the subject of the present Decision is not covered by any existing category of aid referred to in Article 1(b) of Regulation (EC) No 659/1999, without prejudice to the possibility that some aid paid under this scheme may constitute existing aid by virtue of the specific situation of the recipient. Bearing in mind that the aforesaid aid was put into effect unlawfully and that no principle of Community law exists which is opposed to recovery, the tax benefits which firms that operate in the financial sector have already enjoyed and those that derive from activities of the 'intra-group services' type (and for the years 1999, 2000 and 2001) should be recovered by the Portuguese authorities.
- (44) This Decision relates to the scheme as it stands and should be implemented immediately, recovering unlawful aid declared incompatible. The Commission would remind Portugal that a negative decision on an aid scheme does not prejudice the possibility that certain advantages granted under the scheme might be considered, either totally or in part, as not being aid or as aid compatible with the common market, on its own merits (for example, on the grounds that the individual benefit is covered by the *de minimis* rules or that it is granted within the framework of a future decision or by dint of exemption regulations).

VI. CONCLUSION

- (45) The Commission finds that Portugal has unlawfully implemented the part of the scheme adapting the national tax system to the specific characteristics of the Autonomous Region of the Azores which concerns reductions in the rates of income and corporation tax, contrary to Article 88(3) of the Treaty. However, based on the above assessment and after examining the scheme in the light of the guidelines on national regional aid, the Commission considers that it meets the conditions for being considered compatible with the common market, under the derogations of Article 87(3)(a) of the Treaty and Article 61(3)(a) of the EEA Agreement, with the exception of aid awarded to firms that carry on financial activities or activities of the 'intra-group services' type (coordination, financial or distribution centres),

⁽¹⁵⁾ Commission Regulation (EC) No 29/2002 of 19 December 2001 amending Council Regulation (EEC) No 3037/90 on the statistical classification of economic activities in the European Community (OJ L 6, 10.1.2002, p. 3).

⁽¹⁶⁾ OJ L 83, 27.3.1999, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

The part of the scheme adapting the national tax system to the specific characteristics of the Autonomous Region of the Azores which concerns reductions in the rates of income and corporation tax, implemented on the basis of Articles 4 and 5 of Regional Legislative Decree No 2/99/A of 20 January 1999, is compatible with the common market, subject to the provisions of Article 2.

Article 2

The part of the aid scheme referred to in Article 1 is incompatible with the common market in so far as it applies to firms that carry on financial activities covered by section J (codes 65, 66 and 67) of the statistical classification of economic activities in the European Community (NACE Rev. 1.1), and to firms that carry on activities covered by section K, code 74, of that classification, the economic basis of which is to provide services to other firms belonging to the same group, as coordination, financial or distribution centres.

Article 3

1. Portugal shall take all necessary measures to recover from the firms that carry on the activities referred to in Article 2 the aid made available under the part of the aid scheme referred to in Article 1.
2. Recovery shall be effected without delay and in accordance with the procedures of national law, provided that they allow the immediate and effective implementation of the Decision. The aid to be recovered shall include interest from the date on which it was placed at the disposal of the beneficiaries until the date of its recovery. Interest shall be calculated on the basis of the reference rate used for calculating the grant equivalent of regional aid.

Article 4

Portugal shall inform the Commission, within two months following notification of this Decision, of the measures taken to comply with it.

Article 5

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 11 December 2002.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION
of 17 June 2003
amending for the fourth time Decision 2003/290/EC concerning protective measures in relation to
avian influenza in the Netherlands

(notified under document number C(2003) 1935)

(Only the Dutch text is authentic)

(Text with EEA relevance)

(2003/443/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 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⁾, in particular Article 9 thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ⁽⁵⁾, and in particular Article 4(1) and (3) thereof,

Whereas:

- (1) Since 28 February 2003 the Netherlands have declared several outbreaks of highly pathogenic avian influenza.
- (2) The Netherlands took immediate action as provided for by Council Directive 92/40/EEC ⁽⁶⁾ of 19 May 1992 introducing Community measures for the control of avian influenza, as amended by the Act of Accession of Austria, Finland and Sweden, before the disease was officially confirmed.
- (3) For the sake of clarity and transparency the Commission after consultation with the Dutch authorities, has taken Decision 2003/153/EC ⁽⁷⁾ of 3 March 2003 concerning protection measures in relation to strong suspicion of avian influenza in the Netherlands, thereby reinforcing the measures taken by the Netherlands.

(4) Subsequently Decisions 2003/156/EC ⁽⁸⁾, 2003/172/EC ⁽⁹⁾, 2003/186/EC ⁽¹⁰⁾, 2003/191/EC ⁽¹¹⁾, 2003/214/EC ⁽¹²⁾, 2003/258/EC ⁽¹³⁾, 2003/290/EC ⁽¹⁴⁾, 2003/318/EC ⁽¹⁵⁾, 2003/357/EC ⁽¹⁶⁾ and 2003/387/EC ⁽¹⁷⁾ were adopted after consultation with the Dutch authorities and evaluation of the situation with all Member States.

(5) The last infected commercial flock has been emptied on 29 April and since 7 May no further cases of avian influenza have been recorded nor suspicions have been raised in the Netherlands, so that can be concluded that the disease is being successfully controlled. It would be appropriate, provided that it is established that no new outbreaks occur, as of 18 June 2003 to limit the geographical scope for the trade and movements restrictions currently in force to the provinces previously affected by the disease and thus to allow trade in live poultry and poultry products from the other provinces of the Dutch territory, which should then be considered as free of avian influenza.

(6) Furthermore, if no new outbreaks occur, and in light of a positive disease evolution, restriction measures should be relaxed as of the 18 of June 2003 to allow the movement of certain categories of live poultry and hatching eggs, from areas within the affected provinces that fall outside established surveillance and buffer zones to non-restricted provinces in the Netherlands. However such movements should only occur under the condition that poultry and hatching eggs originating from such provinces should not be traded within the Community, but should be confined to Dutch territory.

(7) In the light of the positive disease evolution while bearing in mind the need for continued precaution, the measures laid down in Decision 2003/290/EC should be further prolonged until 11 July 2003 in the provinces where disease has occurred.

⁽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 18, 23.1.2003, p. 11.

⁽⁶⁾ OJ L 167, 22.6.1992, p. 1.

⁽⁷⁾ OJ L 59, 4.3.2003, p. 32.

⁽⁸⁾ OJ L 64, 7.3.2003, p. 36.

⁽⁹⁾ OJ L 69, 13.3.2003, p. 27.

⁽¹⁰⁾ OJ L 71, 15.3.2003, p. 30.

⁽¹¹⁾ OJ L 74, 20.3.2003, p. 30.

⁽¹²⁾ OJ L 81, 28.3.2003, p. 48.

⁽¹³⁾ OJ L 95, 11.4.2003, p. 65.

⁽¹⁴⁾ OJ L 105, 26.4.2003, p. 28.

⁽¹⁵⁾ OJ L 115, 9.5.2003, p. 86.

⁽¹⁶⁾ OJ L 123, 17.5.2003, p. 53.

⁽¹⁷⁾ OJ L 133, 29.5.2003, p. 91.

- (8) 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

Decision 2003/290/EC shall be amended as follows:

1. a new Article 7a is added as follows:

'Article 7a

1. However as of 00.00 on 18 June 2003, if the Netherlands have informed the Commission and the Member States on 17 June 2003 that:

- (a) no further outbreaks of avian influenza are reported in the Netherlands before 17.00 on 17 June 2003; and
- (b) all laboratory tests carried out in the Netherlands in relation to infected holdings and establishments are concluded, and all the clinical examinations and laboratory tests on suspected holdings and establishments or holdings and establishments, suspected to be contaminated with avian influenza, have given negative results.

Article 1 shall be replaced by the following:

"Article 1

1. Without prejudice to the measures taken by the Netherlands within the framework of Council Directive 92/40/EEC applied within surveillance zones and within the buffer zones described in Annex III, the Dutch veterinary authorities shall ensure that:

- (a) no live poultry, hatching eggs and fresh, unprocessed and non-heat-treated poultry manure or litter are dispatched from the provinces listed in Annex I, to other parts of the Netherlands, other Member States, and third countries;
- (b) no live poultry and hatching eggs are transported within the provinces listed in Annex I.

2. By way of derogation from paragraph 1, the competent authority may authorise the transport within the provinces listed in Annex I, but outside the surveillance and buffer zones, and the dispatch to other provinces of the Netherlands, of:

- (a) poultry for immediate slaughter, including spent laying hens, to a slaughterhouse that has been designated in advance by the competent authority;

- (b) day-old chicks, ready-to-lay pullets and rearing poultry, to a holding or shed where no other poultry is kept, and where they shall remain under official control;

- (c) hatching eggs, to a hatchery under official control.

If live poultry transported in accordance with (a) or (b) originate in another Member State or third country, the transport shall be approved both by the Dutch competent authority and by the competent authority of the Member State or third country of dispatch.

3. By way of derogation from paragraph 1 the competent veterinary authority, taking all appropriate bio-security measures to avoid the spread of avian influenza, may authorise transport of live poultry and hatching eggs not prohibited by Council Directive 92/40/EEC and in particular in respect to movements of day-old chicks in accordance with the provisions of Article 9(4)(a), (b) and (c), which shall be transported to holdings within the area described in Annex I under official control."

2. Provided the conditions laid down in paragraph 1 are fulfilled, animal health certificates accompanying consignments of live poultry and hatching eggs originating and coming from the provinces of the Netherlands listed in Annex II, to be signed as of 18 June 2003, shall include the words: "The animal health conditions of this consignment are in accordance with Decision 2003/443/EC".

3. In Article 3(1) the words "in the Annex" shall be replaced by the words "in Annex III".

4. The Annex to Decision 2003/290/EC shall become Annex III and the text in the Annex to this Decision shall become Annex I and Annex II.'

2. in Article 8 the time and date 'until 24.00 on 17 June 2003' are replaced by 'until 24.00 on 11 July 2003'.

Article 2

This Decision is addressed to the Netherlands.

Done at Brussels, 17 June 2003.

For the Commission

David BYRNE

Member of the Commission

*ANNEX**'ANNEX I*

On the territory of the Netherlands the provinces of:
Flevoland, Gelderland, Limburg, Noord-Brabant, Utrecht.

ANNEX II

On the territory of the Netherlands the provinces of:
Drenthe, Friesland, Groningen, Noord-Holland, Overijssel, Zeeland, Zuid-Holland.'

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

**COUNCIL COMMON POSITION 2003/444/CFSP
of 16 June 2003
on the International Criminal Court**

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) The consolidation of the rule of law and respect for human rights, as well as the preservation of peace and the strengthening of international security, in conformity with the Charter of the United Nations and as provided for in Article 11 of the Treaty on European Union, are of fundamental importance to, and a priority for the Union.
- (2) The Rome Statute of the International Criminal Court entered into force on 1 July 2002 and the Court is now fully functional.
- (3) All Member States of the European Union have ratified the Rome Statute.
- (4) The principles of the Rome Statute of the International Criminal Court, as well as those governing its functioning, are fully in line with the principles and objectives of the Union.
- (5) The serious crimes within the jurisdiction of the Court are of concern to all Member States, which are determined to cooperate for the prevention of those crimes and for putting an end to the impunity of the perpetrators thereof.
- (6) The principles and rules of international criminal law embodied in the Rome Statute should be taken into account in other international legal instruments.
- (7) The Union is convinced that universal accession to the Rome Statute is essential for the full effectiveness of the International Criminal Court and, to that end, considers that initiatives to enhance the acceptance of the Statute are to be encouraged, provided they are consistent with the letter and spirit of the Statute.
- (8) The implementation of the Rome Statute requires practical measures that the European Union and its Member States should fully support.
- (9) The Action Plan which was, *inter alia*, called for by a Resolution on the Court approved by the European Parliament on 28 February 2002 to follow up Council Common Position 2001/443/CFSP of 11 June 2001 on the International Criminal Court⁽¹⁾ was adopted on 15 May 2002 and may be adapted as appropriate.
- (10) It is eminently important that the integrity of the Rome Statute be preserved.
- (11) By its Conclusions of 30 September 2002 on the International Criminal Court the General Affairs and External Relations Council has developed a set of principles attached to those Conclusions to serve as guidelines for Member States when considering the necessity and scope of possible agreements or arrangements in responding to proposals regarding the conditions to surrender persons to the International Criminal Court.
- (12) In the light of the above, Common Position 2001/443/CFSP should be updated and recast.
- (13) This Common Position should be kept under review.
- (14) The European Union considers the application of this Common Position by the acceding countries and the alignment with it by the associated countries Romania, Bulgaria and Turkey and by the EFTA countries important in order to maximise its impact,

HAS ADOPTED THIS COMMON POSITION:

Article 1

1. The International Criminal Court, for the purpose of preventing and curbing the commission of the serious crimes falling within its jurisdiction, is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law as well as contributing to the preservation of peace and the strengthening of international security, in accordance with the purposes and principles of the Charter of the United Nations.

⁽¹⁾ OJ L 155, 12.6.2001, p. 19. Common Position as amended by Common Position 2002/474/CFSP (OJ L 164, 22.6.2002, p. 1).

2. The objective of this Common Position is to support the effective functioning of the Court and to advance universal support for it by promoting the widest possible participation in the Rome Statute.

Article 2

1. In order to contribute to the objective of the widest possible participation in the Rome Statute, the European Union and its Member States shall make every effort to further this process by raising the issue of the widest possible ratification, acceptance, approval or accession to the Statute and the implementation of the Statute in negotiations or political dialogues with third States, groups of States or relevant regional organisations, whenever appropriate.

2. The Union and its Member States shall contribute to the worldwide participation in and implementation of the Statute also by other means, such as by adopting initiatives to promote the dissemination of the values, principles and provisions of the Statute and related instruments. In furtherance of the objectives of this Common Position, the Union shall cooperate as necessary with other interested States, international institutions, non-governmental organisations and other representatives of civil society.

3. The Member States shall share with all interested States their own experiences on the issues related to the implementation of the Statute and, when appropriate, provide other forms of support to that objective. They shall contribute, when requested, with technical and, where appropriate, financial assistance to the legislative work needed for the participation in and implementation of the Statute by third countries. States considering to become party to the Statute or to cooperate with the Court shall be encouraged to inform the Union of difficulties encountered on that path.

4. In implementing this Article, the Union and its Member States shall coordinate political and technical support for the Court with regard to various States or groups of States. To that end, country-specific or region-specific strategies shall be developed and used where appropriate.

Article 3

In order to support the independence of the Court, the Union and its Member States shall, in particular:

- encourage States Parties to transfer promptly and in full their assessed contributions in accordance with the decisions taken by the Assembly of States Parties;
- make every effort towards the signature and ratification by Member States of the Agreement on the Privileges and Immunities of the Court as soon as possible and promote such signature and ratification by other States; and
- endeavour to support as appropriate the development of training and assistance for judges, prosecutors, officials and counsel in work related to the Court.

Article 4

The Council shall, where appropriate, coordinate measures by the European Union and Member States for the implementation of Articles 2 and 3.

Article 5

1. The Union and its Member States shall follow closely developments concerning effective cooperation with the Court in accordance with the Rome Statute.

2. In this context, they shall continue, as appropriate, to draw the attention of third States to the Council Conclusions of 30 September 2002 on the International Criminal Court and to the EU Guiding Principles annexed thereto, with regard to proposals for agreements or arrangements concerning conditions for the surrender of persons to the Court.

Article 6

The Council notes that the Commission intends to direct its action towards achieving the objectives and priorities of this Common Position, where appropriate by pertinent Community measures.

Article 7

1. Member States shall cooperate to ensure the smooth functioning of the Assembly of States Parties in all respects.

2. During negotiations in the Special Working Group established by the Assembly of States Parties to deal with the crime of aggression, Member States shall contribute to the finalisation of the work under way and shall support solutions which are consistent with the letter and the spirit of the Rome Statute and of the United Nations Charter.

Article 8

The Council shall review this Common Position as appropriate.

Article 9

1. The Council notes that Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia intend to apply this Common Position as from the date of its adoption.

2. The Presidency will request the associated countries Romania, Bulgaria and Turkey as well as the EFTA countries to align with this Common Position.

Article 10

Common Position 2001/443/CFSP is hereby repealed and replaced by this Common Position. References to the repealed Common Position 2001/443/CFSP shall be construed as being made to this Common Position.

Article 11

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

Article 12

This Common Position shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 16 June 2003.

For the Council
The President
G. PAPANDREOU

**COUNCIL JOINT ACTION 2003/445/CFSP
of 16 June 2003**

amending and extending the mandate of the European Union Special Representative for the Middle East peace process

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14, Article 18(5) and Article 23(2) thereof,

Whereas:

- (1) Council Joint Action 2002/965/CFSP of 10 December 2002 amending and extending the mandate of the European Union Special Representative for the Middle East peace process ⁽¹⁾ applies until 30 June 2003.
- (2) On the basis of a review of that Joint Action, the mandate of the Special Representative should be amended and extended.
- (3) The Council should appoint a new EU Representative for the Middle East Peace Process.
- (4) The EU's efforts in the security field should be consolidated.
- (5) On 30 March 2000 the Council adopted guidelines on the appointing procedure and administrative arrangements for European Union Special Representatives (EUSRs),

HAS ADOPTED THIS JOINT ACTION:

Article 1

The mandate of the European Union Special Representative for the Middle East peace process as set out in Joint Action 2002/965/CFSP is hereby extended.

Article 2

The Council shall appoint an EU Special Representative for the Middle East peace process by means of a Council implementing decision.

Article 3

Joint Action 2002/965/CFSP is amended as follows:

1. the following subparagraph shall be inserted in Article 3:

‘(l) Implement a EU programme relating to security issues. To this end, the EU Special Representative may be assisted by an expert charged with the practical implementation of operational projects related to security issues.’;

2. Article 8 shall be replaced by the following:

‘Article 8

To ensure the consistency of the external action of the European Union, the activities of the Special Representative shall be coordinated with those of the High Representative, the Presidency and the Commission. In the field, close liaison shall be maintained with the Presidency, the Commission and Heads of Mission who shall make best efforts to assist the Special Representative in the implementation of the mandate. The Special Representative shall also liaise with other international actors in the field.’

Article 4

This Joint Action shall enter into force on 1 July 2003.

It shall apply until 31 December 2003.

Article 5

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

Done at Luxembourg, 16 June 2003.

For the Council

The President

G. PAPANDREOU

⁽¹⁾ OJ L 334, 11.12.2002, p. 11.

COUNCIL JOINT ACTION 2003/446/CFSP**of 16 June 2003****amending and extending the mandate of the Special Representative of the European Union in the Former Yugoslav Republic of Macedonia**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14, Article 18(5) and Article 23(2) thereof,

Whereas:

- (1) Council Joint Action 2002/963/CFSP of 10 December 2002 amending and extending the mandate of the Special Representative of the European Union in the Former Yugoslav Republic of Macedonia ⁽¹⁾ applies until 30 June 2003.
- (2) On the basis of a review of that Joint Action, the mandate of the Special Representative should be amended and extended.
- (3) On 30 March 2000 the Council adopted guidelines on the appointing procedure and administrative arrangements for European Union Special Representatives (EUSRs),

HAS ADOPTED THIS JOINT ACTION:

Article 1

The mandate of Mr Alexis BROUHNS as the European Union Special Representative in the Former Yugoslav Republic of Macedonia (FYROM) as set out in Joint Action 2002/963/CFSP is hereby extended.

Article 2

The following subparagraph shall be inserted in Article 3 of Joint Action 2002/963/CFSP:

- '(e) conduct, together with the EU force commander and in coordination with the Presidency, a regular dialogue with the FYROM authorities on the progress of the EU-led military mission;'

Article 3

This Joint Action shall enter into force on 1 July 2003.

It shall apply until 31 December 2003.

Article 4

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

Done at Luxembourg, 16 June 2003.

For the Council

The President

G. PAPANDREOU

⁽¹⁾ OJ L 334, 11.12.2002, p. 7.

COUNCIL JOINT ACTION 2003/447/CFSP
of 16 June 2003
extending the mandate of the European Union Special Representative for the African Great Lakes Region

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS JOINT ACTION:

Having regard to the Treaty on European Union, and in particular Article 14, Article 18(5) and Article 23(2) thereof,

Whereas:

- (1) Council Joint Action 2002/962/CFSP of 10 December 2002 amending and extending the mandate of the Special Representative of the European Union for the African Great Lakes Region ⁽¹⁾ applies until 30 June 2003.
- (2) On the basis of a review of that Joint Action, the mandate of the Special Representative should be extended.
- (3) On 30 March 2000 the Council adopted guidelines on the appointing procedure and administrative arrangements for European Union Special Representatives (EUSRs),

Article 1

The mandate of Mr Aldo AJELLO as the European Union Special Representative for the African Great Lakes Region as set out in Joint Action 2002/962/CFSP is hereby extended until 31 December 2003.

Article 2

This Joint Action shall enter into force on 1 July 2003.

Article 3

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

Done at Luxembourg, 16 June 2003.

For the Council

The President

G. PAPANDREOU

⁽¹⁾ OJ L 334, 11.12.2002, p. 5.

**COUNCIL JOINT ACTION 2003/448/CFSP
of 16 June 2003**

extending the mandate of the Special Representative of the European Union in Afghanistan

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS JOINT ACTION:

Having regard to the Treaty on European Union, and in particular Article 14, Article 18(5) and Article 23(2) thereof,

Whereas:

- (1) Council Joint Action 2002/961/CFSP of 10 December 2002 amending and extending the mandate of the Special Representative of the European Union in Afghanistan ⁽¹⁾ applies until 30 June 2003.
- (2) On the basis of a review of that Joint Action, the mandate of the Special Representative should be extended.
- (3) On 30 March 2000 the Council adopted guidelines on the appointing procedure and administrative arrangements for European Union Special Representatives (EUSRs),

Article 1

The mandate of Mr Francesc VENDRELL as the European Union Special Representative in Afghanistan as set out in Joint Action 2002/961/CFSP is hereby extended until 31 December 2003.

Article 2

This Joint Action shall enter into force on 1 July 2003.

Article 3

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

Done at Luxembourg, 16 June 2003.

For the Council

The President

G. PAPANDREOU

⁽¹⁾ OJ L 334, 11.12.2002, p. 3.

COUNCIL JOINT ACTION 2003/449/CFSP**of 16 June 2003****extending the mandate of the Special Representative of the European Union to act as a Special Coordinator of the Stability Pact for South-Eastern Europe**

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS JOINT ACTION:

Having regard to the Treaty on European Union, and in particular Article 14, Article 18(5) and Article 23(2) thereof,

Whereas:

- (1) Council Joint Action 2002/964/CFSP of 10 December 2002 amending and extending the mandate of the Special Representative of the European Union to act as Coordinator of the Stability Pact for South-Eastern Europe ⁽¹⁾ applies until 30 June 2003.
- (2) On the basis of a review of that Joint Action, the mandate of the Special Representative should be extended.
- (3) On 30 March 2000 the Council adopted guidelines on the appointing procedure and administrative arrangements for European Union Special Representatives (EUSRs),

Article 1

The mandate of Mr Erhard BUSEK as the European Union Special Representative to act as Special Coordinator of the Stability Pact for South-Eastern Europe as set out in Joint Action 2002/964/CFSP is hereby extended until 31 December 2003.

Article 2

This Joint Action shall enter into force on 1 July 2003.

Article 3

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

Done at Luxembourg, 16 June 2003.

For the Council

The President

G. PAPANDREOU

⁽¹⁾ OJ L 334, 11.12.2002, p. 9.