

Official Journal

of the European Union

ISSN 1725-2555

L 252

Volume 46

4 October 2003

English edition

Legislation

Contents

I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 1754/2003 of 22 September 2003 amending for the third time Regulation (EC) No 2341/2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required** 1
- Commission Regulation (EC) No 1755/2003 of 3 October 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables 5
- ★ **Commission Regulation (EC) No 1756/2003 of 3 October 2003 amending Regulation (EC) No 98/2003 as regards the forecast supply balance for the French overseas departments and Madeira in the processed fruit and vegetables sector** 7
- ★ **Commission Regulation (EC) No 1757/2003 of 3 October 2003 laying down the marketing standard for courgettes and amending Regulation (EEC) No 1292/81** 11
- Commission Regulation (EC) No 1758/2003 of 3 October 2003 laying down the reduction coefficient to be applied under tariff subquota II for common wheat of a quality other than high quality opened by Regulation (EC) No 2375/2002 17

II Acts whose publication is not obligatory

Commission

2003/691/EC:

- ★ **Commission Decision of 9 July 2003 on State aid which Spain is planning to implement in the form of contract-related operating aid for three LNG ships built by IZAR ⁽¹⁾ (notified under document number C(2003) 2009)** 18

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1754/2003

of 22 September 2003

amending for the third time Regulation (EC) No 2341/2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾, and in particular Article 20(1) and (4) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Regulation (EC) No 2341/2002 ⁽²⁾ fixes the fishing opportunities and associated conditions for certain fish stocks and groups of stocks applicable in Community waters and for Community vessels, in waters where limitations in catch are required for 2003. Amendments to the Regulation are required following recommendations recently made by the International Baltic Sea Fishery Commission (IBSFC).

(2) In June 2003 the IBSFC made the following recommendations:

- the total allowable catch (TAC) for sprat in zone III b,c,d (EC waters) should be increased from 310 000 tonnes to 341 000 tonnes,
- the minimum mesh size for towed nets without an exit window when fishing for cod should be reduced from 140 to 130 mm from 1 October 2003,
- the minimum mesh opening of the window in a 'top window codend Bacoma' should be reduced from 120 mm to 110 mm.

(3) The Contracting Parties of IBSFC agreed to allow for the implementation of the recommendations before the end of the objection period referred to in the Convention establishing IBSFC.

(4) It is necessary that the Community apply these measures immediately after the summer ban in order to avoid extra costs for the fishermen.

(5) However, scientific information indicates that towed nets without an exit window are less selective than the Bacoma type gear. It is therefore appropriate not to allow, within Community waters and for Community vessels, the use of towed gear without an exit window.

(6) Regulation (EC) No 2341/2002 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes IA, IC and V to Regulation (EC) No 2341/2002 shall be amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 September 2003.

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 356, 31.12.2002, p. 12. Regulation as last amended by Regulation (EC) No 1407/2003 (OJ L 201, 8.8.2003, p. 3).

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

Done at Brussels, 22 September 2003.

For the Council

The President

F. FRATTINI

ANNEX

Regulation (EC) No 2341/2002 shall be amended as follows:

1. In Annex IA, the entries concerning the species Sprat in zones:

III b,c,d (EC waters),

III d (Estonian waters),

III d (Latvian waters) and

III d (Lithuanian waters) shall be replaced by the following:

Species: Sprat <i>Sprattus sprattus</i>		Zone: IIIbcd (EC waters)
Denmark	30 247	(1) To be counted against the Latvian share of the IBSFC TAC. (2) A maximum of 5 % in weight of herring is allowed as by-catch. (3) To be counted against the Lithuanian share of the IBSFC TAC.
Germany	19 162	
Finland	15 833	
Sweden	68 473	
EC	133 715	
Estonia	0	
Latvia	6 000 (1) (2)	
Lithuania	3 000 (3)	
TAC	341 000	

Special conditions:

Within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the zones specified:

	Estonian waters	Latvian waters	Lithuanian waters
EC	0	6 000	3 000

Species: Sprat <i>Sprattus sprattus</i>		Zone: IIId (Estonian waters)
EC	0	
TAC	341 000	

Species: Sprat <i>Sprattus sprattus</i>		Zone: IIId (Latvian waters)
EC	6 000 (1) (2)	(1) Available to Denmark, Germany, Finland and Sweden within the respective quotas for IIIbcd (EC waters). (2) A maximum of 5 % in weight of herring is allowed as by-catch.
TAC	341 000	

Species: Sprat <i>Sprattus sprattus</i>		Zone: IIId (Lithuanian waters)
Denmark	5 817	(1) Available to Denmark, Germany, Finland and Sweden within the respective quotas for sprat in zone IIIbcd (EC waters). (2) Of which 3 000 tonnes are to be counted against the Community share of the TAC for sprat in zone IIIbcd (EC waters).'
Germany	1 546	
Sweden	2 637	
	3 000 (1)	
EC	13 000 (2)	
TAC	341 000	

2. In Annex IC, footnote 2 concerning the species Redfish in zones V, XII and XIV shall be replaced by the following:

'Species: Redfish <i>Sebastes</i> spp.		Zone: V, XII, XIV ⁽¹⁾ ⁽²⁾
Germany	11 100 ⁽²⁾	⁽¹⁾ Community waters and areas beyond fisheries jurisdiction of other coastal States. ⁽²⁾ May be taken in subarea 2 and Divisions 1F and 3K of the NAFO Regulatory Area, but shall be counted against the quota for V, XII, XIV within a total quota of 25 000 tonnes.'
Spain	1 949 ⁽²⁾	
France	1 037 ⁽²⁾	
Ireland	4 ⁽²⁾	
The Netherlands	5 ⁽²⁾	
Portugal	2 330 ⁽²⁾	
United Kingdom	27 ⁽²⁾	
EC	16 452 ⁽²⁾	
TAC	119 000 ⁽²⁾	

3. In Annex V:

- (a) Point 1.1.1 shall be replaced by the following:

'1.1.1. Without exit windows

Towed nets without an exit window shall be prohibited.'

- (b) In Appendix 1:

- (i) the section entitled 'Specifications of Top Window Codend "BACOMA"' shall be replaced by the following:

'Specifications of top window codend "BACOMA"'

Specification of 110 mm, measured as inner diameter opening, square mesh window in a codend with a 105 mm or larger mesh size in trawls, Danish seines or similar towed nets.

The window shall be a rectangular section of netting in the codend. There shall be only one window. The window shall not be obstructed in any way by either internal or external attachments.'

- (ii) the section entitled 'The netting of the window' shall be replaced by the following:

'The netting of the window'

The meshes shall have a minimum mesh opening of 110 mm. The meshes shall be square meshes i.e. all four sides of the window netting will be cut by all bars. The netting shall be mounted such that the bars run parallel and perpendicular to the length of the codend. The netting shall be knotless braided single twine or a netting with similar proven selective properties. The diameter of the single yarn shall be at least 4,9 mm.'

COMMISSION REGULATION (EC) No 1755/2003
of 3 October 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 4 October 2003.

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

Done at Brussels, 3 October 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 3 October 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	96,0
	060	87,0
	068	88,6
	096	72,9
	999	86,1
0707 00 05	052	94,9
	999	94,9
0709 90 70	052	98,3
	999	98,3
0805 50 10	052	82,2
	382	58,3
	388	81,0
	524	57,8
	528	55,0
	999	66,9
0806 10 10	052	105,5
	064	114,9
	999	110,2
0808 10 20, 0808 10 50, 0808 10 90	388	73,3
	400	71,4
	508	103,4
	512	104,3
	720	49,4
	800	193,6
	804	104,7
	999	100,0
0808 20 50	052	109,8
	064	47,6
	720	65,2
	999	74,2

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

**COMMISSION REGULATION (EC) No 1756/2003
of 3 October 2003**

amending Regulation (EC) No 98/2003 as regards the forecast supply balance for the French overseas departments and Madeira in the processed fruit and vegetables sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

(1) Part 3 of Annex I to Commission Regulation (EC) No 98/2003 of 20 January 2003 establishing the supply balances and Community aid for the supply of certain essential products for human consumption, for processing and as agricultural inputs and for the supply of live animals and eggs to the outermost regions under Council Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001 ⁽³⁾, as last amended by Regulation (EC) No 1493/2003 ⁽⁴⁾, lays down a forecast supply balance and fixes Community aid for the supply of products processed from fruit and vegetables for the French overseas departments.

(2) The forecast supply balance provides for an annual quantity of 300 tonnes of fruit pulp falling within CN code 2008 and 170 tonnes of concentrated fruit juice falling within CN code 2009 for all the French overseas departments. The current state of implementation of the balance in those regions and the anticipated supply requirements for the second half of 2003 show that the quantities fixed for the supply of these two product categories fall short of requirements.

(3) By letter dated 8 July 2003, therefore, the French authorities submitted a request for adjustment of the balance in order to meet the supply needs of the overseas departments.

(4) Part 4 of Annex III to Regulation (EC) No 98/2003 lays down the forecast supply balance and fixes the Community aid for the supply of products processed from fruit and vegetables for Madeira and the Azores.

(5) The forecast supply balance provides for an annual quantity of 400 tonnes of fruit falling within CN code 2008 for Madeira. The current state of implementation of the balance in Madeira shows that the quantity fixed for the supply of this product category falls short of requirements.

(6) By letter dated 6 August 2003, therefore, the Portuguese authorities submitted a request for adjustment of the balance for Madeira in order to meet Madeira's supply needs.

(7) Regulation (EC) No 98/2003 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 98/2003 is hereby amended as follows:

1. In Annex I, part 3 is replaced by the text in Annex I hereto.
2. In Annex III, part 4, the table covering Madeira is replaced by the table in Annex II hereto.

Article 2

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

⁽¹⁾ OJ L 198, 21.7.2001, p. 11.

⁽²⁾ OJ L 198, 21.7.2001, p. 26.

⁽³⁾ OJ L 14, 21.1.2003, p. 32.

⁽⁴⁾ OJ L 214, 26.8.2003, p. 10.

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

Done at Brussels, 3 October 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

Part 3

Products processed from fruit and vegetables

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

Description	CN codes	Department	Quantity (in tonnes)	Aid (EUR/tonne)		
				I	II	III
Fruit purée obtained by cooking, whether or not containing added sugar or other sweetening matter, for processing:		All	0	—	395	—
— citrus fruit	ex 2007 91					
— other not including tropical fruit	ex 2007 99					
Fruit pulp otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included, for processing:		Guyana Guadeloupe Martinique Réunion	450	— — — —	586 408 408 456	— — — —
— citrus fruit	ex 2008 30					
— pears	ex 2008 40					
— apricots	ex 2008 50					
— cherries	ex 2008 60					
— peaches	ex 2008 70					
— strawberries	ex 2008 80					
— mixtures, not including tropical fruit	ex 2008 92					
— other not including tropical fruit	ex 2008 99					
Concentrated fruit juice (including grape must), unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, for processing:		Guyana Martinique Réunion Guadeloupe	300	— — — —	727 311 311 311	— — — —
— orange juice	ex 2009 11 11, ex 2009 11 19, ex 2009 19 11, ex 2009 19 19					(¹)
— grapefruit juice	ex 2009 20 11, ex 2009 20 19					
— grape juice	ex 2009 60 11, ex 2009 60 19, ex 2009 60 51, ex 2009 60 71					
— apple juice	ex 2009 70 11, ex 2009 70 19					
— pear juice	ex 2009 80 11, ex 2009 80 19					
— other fruit juice not including tropical fruit juice	ex 2009 80 35, ex 2009 80 38					
— mixtures of apple and pear juice	ex 2009 90 11, ex 2009 90 19					
— other mixtures not including tropical fruit juice	ex 2009 90 21, ex 2009 90 29	Total	—	—	—	—

(¹) The amount shall be equal to the amount of the refund for products falling within the same CN code granted under Article 16 of Regulation (EC) No 2201/96.

ANNEX II

‘MADEIRA

Description	CN code	Quantity (in tonnes)	Aid (EUR/tonne)		
			I	II	III
Jams, fruit jellies, marmalades, fruit purée and fruit pastes, obtained by cooking, whether or not containing added sugar or other sweetening matter:					
— preparations other than homogenised, containing fruit other than citrus fruit	2007 99	100	227	245	—
Fruit and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:		580	193	211	—
— pineapples	2008 20				
— pears	2008 40				
— cherries	2008 60				
— peaches	2008 70				
— other, including mixtures, other than those of subheading 2008 19					
— mixtures	2008 92				
— other than palm hearts and mixtures	2008 99				
— Concentrated fruit juice (including grape must), unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter:					
— juice for processing	ex 2009	100		294	—

**COMMISSION REGULATION (EC) No 1757/2003
of 3 October 2003**

laying down the marketing standard for courgettes and amending Regulation (EEC) No 1292/81

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⁾, and in particular Article 2(2),

Whereas:

- (1) Courgettes are among the products listed in Annex I to Regulation (EC) No 2200/96 for which standards must be adopted. Commission Regulation (EEC) No 1292/81 laying down quality standards for leeks, aubergines and courgettes ⁽³⁾, as last amended by Regulation (EC) No 46/2003 ⁽⁴⁾, has been amended and can no longer ensure legal clarity.
- (2) In the interest of clarity, the rules on courgettes should be separated from those on other products under Regulation (EC) No 1292/81 and this Regulation should be amended accordingly. To that end, and in the interest of preserving transparency on the world market, account should be taken of the UN/ECE standard FFV-41 concerning marketing and quality control of courgettes recommended by the Working Party on Standardisation of Perishable Produce and Quality Development of the United Nations Economic Commission for Europe (UN/ECE).
- (3) Application of these new standards should remove products of unsatisfactory quality from the market, bring production into line with consumer requirements and facilitate trade based on fair competition, thereby helping to improve profitability.
- (4) The standards are applicable at all marketing stages. Long-distance transport, storage over a certain period and the various processes the products undergo may cause some degree of deterioration owing to the biological development of the products or their perishable nature. Account should be taken of such deterioration when applying the standard at the marketing stages following dispatch.

(5) As products in the 'Extra' class have to be particularly carefully sorted and packaged, only lack of freshness and turgidity is to be taken into account in their case.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fresh Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

The marketing standard for courgettes falling within CN code 0709 90 70 shall be as set out in the Annex.

The standard shall apply at all marketing stages under the conditions laid down in Regulation (EC) No 2200/96.

However, at stages following dispatch, products may show, in relation to the requirements of the standard, a slight lack of freshness and turgidity; products graded in classes other than the 'Extra' class may show in addition slight deteriorations due to their development and their tendency to perish.

Article 2

Regulation (EC) No 1292/81 is amended as follows:

1. The title is replaced by: 'Commission Regulation (EEC) No 1292/81 of 12 May 1981 laying down the marketing standard for aubergines'.
2. In Article 1, the first subparagraph is replaced by:
'The marketing standard for aubergines, falling within CN code 0709 30 00, shall be as set out in the Annex.'
3. In Annex II, the title is replaced by:
'ANNEX
STANDARD FOR AUBERGINES'.
4. Annex III is deleted.

Article 3

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

It shall apply from 1 December 2003.

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.

⁽²⁾ OJ L 7, 11.1.2003, p. 64.

⁽³⁾ OJ L 129, 15.5.1981, p. 38.

⁽⁴⁾ OJ L 7, 11.1.2003, p. 61.

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

Done at Brussels, 3 October 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

STANDARD FOR COURGETTES

I. DEFINITION OF PRODUCE

This standard applies to courgettes, harvested young and tender, before their seeds have become firm, from varieties (cultivars) grown from *Cucurbita pepo* L. to be supplied fresh to the consumer, courgettes for industrial processing being excluded.

This standard also covers courgettes presented with the flower.

II. PROVISIONS CONCERNING QUALITY

The purpose of the standard is to define the quality requirements of courgettes after preparation and packaging.

A. Minimum requirements

In all classes, subject to the special provisions for each class and the tolerances allowed, the courgettes and the courgettes with flower must be:

- intact with stalk, which may be slightly damaged,
- sound; produce affected by rotting or deterioration such as to make it unfit for consumption is excluded,
- clean, practically free of any visible foreign matter,
- fresh in appearance,
- practically free from pests,
- practically free from damage caused by pests,
- free of abnormal external moisture,
- free of any foreign smell and/or taste.

In addition, fruits must be:

- firm,
- free of cavities,
- free of splits,
- sufficiently developed, without lignification of the seeds.

The development and the condition of the courgettes must be such as to enable them:

- to withstand transport and handling, and
- to arrive in satisfactory condition at the place of destination.

B. Classification

The courgettes are classified in three classes defined below:

(i) *Extra Class*

Courgettes in this class must be of superior quality. They must be characteristic of the variety and/or commercial type.

They must be:

- well developed,
- well shaped,
- with their stalk neatly cut and of a maximum length of 3 cm.

They must be free from defects with the exception of very slight superficial defects provided these do not affect the general appearance of the produce, the quality, the keeping quality and presentation in the package.

(ii) *Class I*

Courgettes in this class must be of good quality. They must be characteristic of the variety and/or the commercial type.

The following slight defects, however, may be allowed provided these do not affect the general appearance of the produce, the quality, the keeping quality and presentation in the package:

- slight defects in shape,
- slight defects in colouring,
- very slight defects of the skin,
- very slight defects due to diseases provided that they are not progressive and do not affect the flesh.

The courgettes must include a stalk of a maximum length of 3 cm.

(iii) *Class II*

This class includes courgettes which do not qualify for inclusion in the higher classes, but satisfy the minimum requirements specified above.

The following defects may be allowed provided the courgettes retain their essential characteristics as regards the quality, the keeping quality and presentation:

- defects in shape,
- defects in colouring,
- slight sun-scorching,
- slight defects of the skin,
- slight defects due to diseases provided that they are not progressive and do not affect the flesh.

III. PROVISIONS CONCERNING SIZING

Size is determined either:

- by length, or
- by weight.

(a) For sizing by length, this is measured between the junction of the stalk and the end of the fruit tip.

The minimum length is 7 cm and the maximum length 35 cm.

For Classes Extra and I, courgettes shall be sized according to the following scale:

- 7 cm to 14 cm included,
- 14 cm excluded to 21 cm included,
- 21 cm excluded to 35 cm.

(b) For sizing by weight, the minimum weight is 50 g and the maximum weight 450 g.

For Classes Extra and I, courgettes shall be sized according to the following scale:

- 50 g to 100 g included,
- 100 g excluded to 225 g included,
- 225 g excluded to 450 g.

The size requirements shall neither apply to miniature produce ⁽¹⁾, nor to courgettes presented with the flower.

⁽¹⁾ Miniature produce means a variety or cultivar of courgette, obtained by plant breeding and/or special cultivation techniques. All other requirements of the standard must be met.

IV. PROVISIONS CONCERNING TOLERANCES

Tolerances in respect of quality and size shall be allowed in each package for produce not satisfying the requirements of the class indicated.

A. **Quality tolerances**(i) *Extra Class*

5 per cent by number or weight of courgettes not satisfying the requirements of the class but meeting those of Class I or, exceptionally, coming within the tolerances of that class.

(ii) *Class I*

10 per cent by number or weight of courgettes not satisfying the requirements of the class but meeting those of Class II or, exceptionally, coming within the tolerances of that class.

(iii) *Class II*

10 per cent by number or weight of courgettes satisfying neither the requirements of the class nor the minimum requirements, with the exception of produce affected by rotting or any other deterioration rendering it unfit for consumption.

B. **Size tolerances**

For all classes: 10 per cent by number or weight of courgettes not satisfying the requirements of the size but satisfying those of the size immediately below or above that specified on the package.

However, this tolerance is applicable only to produce which differs by not more than 10 per cent from the size or weight limits specified.

V. PROVISIONS CONCERNING PRESENTATION

A. **Uniformity**

The contents of each package must be uniform and contain only courgettes of the same origin, variety or commercial type, quality and size (if sized), and appreciably the same degree of development and colouring.

The visible part of the contents of the package must be representative of the entire contents.

Notwithstanding the preceding provisions in this point, products covered by this Regulation may be mixed, in sales packages of a net weight of three kilograms or less, with different types of fresh fruit and vegetables on the conditions laid down by Commission Regulation (EC) No 48/2003 ⁽¹⁾.

Miniature courgettes and courgettes presented with the flower must be reasonably uniform in size. Miniature courgettes may be mixed with other miniature products of a different type and origin.

B. **Packaging**

The courgettes must be packed in such a way as to protect the produce properly.

The materials used inside the package must be new, clean and of a quality such as to avoid causing any external or internal damage to the produce. The use of materials, particularly of paper or stamps bearing trade specifications is allowed provided the printing or labelling has been done with non-toxic ink or glue.

Packages must be free of all foreign matter.

⁽¹⁾ OJ L 7, 11.1.2003, p. 65.

VI. PROVISIONS CONCERNING MARKING

Each package must bear the following particulars, in letters grouped on the same side, legibly and indelibly marked, and visible from the outside:

A. Identification

Packer and/or dispatcher: name and address or officially issued or accepted code mark. However, in the case where a code mark is used, the reference 'Packer and/or dispatcher (or equivalent abbreviations)' must be indicated in close proximity to the code mark.

B. Nature of produce

If the contents of the package are not visible from the outside:

- 'Courgettes',
- 'Courgettes with flower' or equivalent designation, where appropriate.

C. Origin of produce

- Country of origin and, optionally, district where grown or national, regional or local place name.

D. Commercial specifications

- Class.
- Size (if sized) expressed:
 - by the minimum and maximum measurements where sizing is by length
 - by the minimum and maximum weights where sizing is by weight.
- 'mini courgettes', 'Baby courgettes' or other appropriate term for miniature produce, where appropriate. Where several types of miniature produce are mixed in the same package, all products and their respective origins must be mentioned.

E. Official control mark (optional)

**COMMISSION REGULATION (EC) No 1758/2003
of 3 October 2003**

**laying down the reduction coefficient to be applied under tariff subquota II for common wheat of
a quality other than high quality opened by Regulation (EC) No 2375/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1104/2003⁽²⁾,

Having regard to Commission Regulation (EC) No 2375/2002 of 27 December 2002 opening and providing for the administration of Community tariff quotas for common wheat of a quality other than high quality from third countries and derogating from Council Regulation (EEC) No 1766/92⁽³⁾, as amended by Regulation (EC) No 1111/2003⁽⁴⁾, and in particular Article 5(3) thereof,

Whereas:

- (1) Regulation (EC) No 2375/2002 opens an annual tariff quota of 2 981 600 tonnes of common wheat of a quality other than high quality. That quota is divided into three subquotas.
- (2) Article 3(1) of Regulation (EC) No 2375/2002 fixes a quantity of 38 000 tonnes for subquota II for the period 1 January to 31 December 2003.

- (3) The quantities applied for on 29 September 2003, in accordance with Article 5(1) of Regulation (EC) No 2375/2002, exceed the quantities available. The extent to which licences may be issued should therefore be determined and a reduction coefficient laid down to be applied to the quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

Each application for an import licence for subquota II for common wheat of a quality other than high quality lodged and forwarded to the Commission on 29 September 2003 in accordance with Article 5(1) and (2) of Regulation (EC) No 2375/2002 shall be accepted at a rate of 50,0115 % of the quantity applied for.

Article 2

This Regulation shall enter into force on 4 October 2003.

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

Done at Brussels, 3 October 2003.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 158, 27.6.2003, p. 1.

⁽³⁾ OJ L 358, 31.12.2002, p. 88.

⁽⁴⁾ OJ L 158, 27.6.2003, p. 21.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 9 July 2003

on State aid which Spain is planning to implement in the form of contract-related operating aid for three LNG ships built by IZAR

(notified under document number C(2003) 2009)

(Only the Spanish text is authentic)

(Text with EEA relevance)

(2003/691/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Communities, and in particular the first paragraph of Article 88(2) of the EC Treaty,

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

Having regard to Council Regulation (EC) No 1540/98 establishing new rules on aid to shipbuilding ⁽¹⁾, and in particular to Article 3(2) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽²⁾,

Whereas:

I. PROCEDURE

- (1) On 6 November 2001 Spain notified the Commission of its request to be granted an extension of the delivery limit for four liquefied natural gas (LNG) tankers contracted by the Spanish shipbuilding group IZAR. By letter dated 24 April 2002 the Commission informed Spain that it had decided to initiate a proceeding under Article 88(2) of the EC Treaty in respect of the measure. Spain replied by letter dated 4 June 2002, registered on 6 June 2002.
- (2) The Commission decision to initiate a proceeding was published in the *Official Journal of the European Communities* ⁽³⁾. The Commission called on interested parties to submit their comments.
- (3) The Commission received comments from interested parties. It forwarded them to Spain, which was given the opportunity to react; its comments were received by letter dated 3 December 2002.

⁽¹⁾ OJ L 202, 18.7.1998, p. 1.

⁽²⁾ OJ L 33, 5.2.2000, p. 6.

⁽³⁾ OJ C 238, 3.10.2002, p. 2.

II. DETAILED DESCRIPTION OF THE AID

- (4) Article 3(2) of Council Regulation (EC) No 1540/98 (the shipbuilding Regulation) states that the operating aid rate applicable to a contract shall be that in force at the date of signature of the final contract. However, for any ship delivered more than three years from the date of signing of the final contract the ceiling applicable to that contract shall be that in force three years before the date of the vessel's delivery.
- (5) According to the same Article, operating aid of 9 % is allowed for ships contracted before 31 December 2000. For ships contracted after that date, no operating aid is allowed. Therefore, without an extension of the three-year delivery limit, no operating aid can be provided for ships delivered after 31 December 2003, even if the contracts were signed before the end of 2000. According to Article 3(2) of the shipbuilding Regulation, the Commission may extend the three-year delivery limit in case of exceptional circumstances or technical complexity of the ships.
- (6) Spain has requested an extension of this three-year delivery limit, due to technical complexity, for three LNG tankers built by IZAR. The original request concerned four ships, but in a letter dated 6 March 2002 Spain informed the Commission that one order had been cancelled, and that the request now concerns three ships. IZAR is owned by the Spanish state holding company SEPI, and is a shipbuilding group consisting of six civil and three military yards.
- (7) The Spanish notification concerns ships numbers 3 to 5 in the table, with planned dates as follows. Ships 1 and 2, in the same series, are included for comparison.

TABLE

(in months)

Ship number/ Yard	Date of contract	Production start	Planned delivery	Planned production time	Planned time from contract to delivery
S	July 2000	August 2000	November 2003	39,5	40
PR	July 2000	October 2000	December 2003	39	41
321/S	July 2000	January 2001	15 February 2004	37	42,5
103/PR	December 2000	June 2001	30 June 2004	36,5	42
105/PR	December 2000	December 2001	31 December 2004	36	48

Note: S = Sestao shipyard, PR = Puerto Real shipyard.

- (8) Spain has referred to a Commission statement ⁽¹⁾ from 1990 to the effect that, when the Commission first proposed the possibility of extending the three-year delivery limit for technical reasons, it was taking account in particular of the construction of liquid gas carriers and very large cruise liners. Spain further argues that these ships are at least as complicated as the product tankers for which the Commission granted an extension ⁽²⁾ in 1993. Spain also claims that the production time is no longer than that of other major shipyards building, or having built LNG tankers.

⁽¹⁾ Statement inserted in the minutes of the Research Council of 21 December 1990 (ref. 10377/90).

⁽²⁾ Case N 727/93 (OJ C 175, 28.6.1994, p. 6).

III. COMMENTS FROM THIRD PARTIES

- (9) The Commission has received comments from France. France contests a statement in the initiation of the proceeding that the normal period from contract to delivery for LNG tankers is 36 months, and provides figures from Japanese and Korean yards showing that this time is often between 35 and 60 months. France therefore finds it normal that the Spanish yards cannot deliver the five ships before the end of 2003. However, France underlines that Spain should have requested the extension of the three-year delivery limit before the contracts were signed, and not almost one year after. A retrospective extension would to some extent distort competition with other yards interested in the same orders.

IV. COMMENTS FROM SPAIN

- (10) Spain agreed with the French comments on the time needed between contract and delivery. Concerning notification of the extension one year after the contracts were signed, Spain stated that it had notified the request in any event and would wait for a Commission decision before any contract-related aid was provided.

V. ASSESSMENT OF THE MEASURE

- (11) According to Article 87(1) of the Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market. In accordance with the established case-law of the Community law courts, the criterion of trade being affected is met, if the recipient firm carries out an economic activity involving trade between Member States. Shipbuilding is an economic activity involving trade between Member States.
- (12) According to Article 87(3)(e) of the EC Treaty, categories of aid specified by a decision of the Council acting by a qualified majority on a proposal from the Commission may be considered compatible with the common market. The Commission notes that the Council adopted the shipbuilding Regulation on this basis on 29 June 1998.
- (13) The Commission notes that, according to that Regulation, 'shipbuilding' means building of self-propelled seagoing commercial vessels. The Commission also notes that the IZAR-owned shipyards Puerto Real and Cadiz build such ships and consequently are undertakings covered by the Regulation.
- (14) Under Article 3(1) of the shipbuilding Regulation, a maximum ceiling of 9 % for contract-related operating aid for ships was allowed until 31 December 2000. The

aid ceiling applicable to the contract would be the one in force at the date when the final contract is signed. However, this does not apply to ships delivered more than three years after the signing of the contract. In these cases, the ceiling applicable is the one in force three years before the date of the delivery of the ship. Consequently, the last delivery date for a vessel still qualifying for operating aid is 31 December 2003.

- (15) Article 3(2) of the shipbuilding Regulation stipulates that 'the Commission may, however, grant an extension of the three-year delivery limit when this is found justified by the technical complexity of the individual shipbuilding project concerned or by delays resulting from unexpected disruptions of a substantial and defensible nature in the working programme of a yard due to exceptional circumstances, unforeseeable and external to the company'. It will be noted that Spain bases its request for extension of the delivery limit on the technical complexity of the individual shipbuilding project concerned.
- (16) The Commission notes that extension of the delivery limit is crucial to deciding whether the ships in question will qualify for contract-related operating aid. The operating aid in question concerns financing from State resources part of the costs that the yard in question would normally have to bear when building a vessel. Therefore, the aid which can be provided if the three-year delivery limit is extended for the ships falls within the scope of Article 87(1) of the EC Treaty.
- (17) When it initiated the proceeding, the Commission expressed doubts about two aspects of the case. These were the production time and the period between contract and delivery of the vessels in question. These doubts will be analysed below in light of the information received during the proceeding.
- (18) As regards the first doubt, the construction period for the LNG tankers, the Commission stated that it currently took only about 30 months to build a vessel of this type. The fact that it is possible to deliver LNG tankers within 36 months of signing the contract led to doubts that such ships could benefit from an extension of the three-year limit due to technical complexity.
- (19) On this issue Spain has highlighted the complexity of the ships, and requested that production times should be compared with other EU shipyards and not with the most experienced Korean shipyards. It has also underlined the need to make a certain number of installations at the shipyards concerned, since it is the first time LNG tankers have been built there. Spain also points out that double hull LNG tankers, built in Spain, are more complex than some other LNG tankers, and therefore need a longer construction period.

- (20) The information provided during the proceeding has not contradicted the statement made when the proceeding was initiated that, currently, the construction period could be about 30 months. Nevertheless, the Commission acknowledges that LNG tankers are particularly complex ships technically, with a long construction period. It also notes that the fact that the two Spanish yards, and IZAR, are building vessels of this type for the first time, is a valid reason for accepting a somewhat longer production time than in the case of the most experienced Korean shipyards.
- (21) Furthermore, the Commission would cite its statement from 1990 to the effect that when it proposed the possibility of extending the three-year limit for technical reasons, it was taking account in particular of the construction of liquid gas tankers and very large cruise liners.
- (22) As regards the second doubt, the period from contract to delivery of the vessels concerned, the Commission wondered whether this was not much longer than could be considered necessary. Both France and Spain submitted comments in this respect. Spain states that the average period from contract to delivery for LNG tankers built in the EU is around 49 months, and for LNG tankers built in Asia around 42 months. France agrees that periods from contract to delivery in the major Asian yards are between 35 and 60 months.
- (23) The Commission notes that the period from contract to delivery is a combination of the construction period and the time from signing the contract to starting production. The Commission would not be able to extend the delivery period, if the time from contract to the start of production was excessively long. In the present case, the time from contract to start of production of the vessels is 6, 5 and 12 months respectively, which the Commission considers to be acceptable.
- (24) For the reasons set out above, the Commission considers that the delivery time may be extended for the vessels concerned in accordance with the abovementioned planned delivery dates.
- (25) It will be noted that, when it initiated the proceeding, the Commission stated that, following its negative decision on State aid in the form of tax credits for publicly owned Spanish shipyards (2000/131/EC) ⁽¹⁾, the yards in question have not repaid the aid. If, in its final decision on this case, the Commission should find that there is reason to authorise the three-year extension for any of the three LNG tankers, it would also have to examine the relevance of the judgment of the Court of Justice of 15 May 1997 in Case C-355/95 *Textilwerke Deggen-dorf* ⁽²⁾, if the abovementioned aid has still not been recovered.
- (26) The Commission considers in this respect that it can adopt a decision to suspend payment of aid which is compatible with the common market, the principle in *Deggendorf*, only if the aid granted in the new decision gives rise to a combination of aid that renders the new aid incompatible. The Commission considers that the present case does not concern the effect of combination on the amount of aid to be authorised, but only whether specific conditions for an extension exist.
- (27) The Commission finds, therefore, that the fact that it does not consider that the illegal state aid referred to above has been recovered does not prevent Spain from granting the operating aid linked to the three vessels in question.
- (28) Lastly, regarding the French comment that a retrospective extension would to some extent distort competition with other yards interested in the same orders, the Commission notes that Article 3(2) of the Shipbuilding Regulation does not state that requests for an extension of the delivery limit have to be notified before the contracts are signed. The Commission also notes that Spain has informed it that no operating aid will be granted for the vessels in question, unless the Commission decides to extend the delivery period.
- (29) In view of the reasons set out above, the Commission considers that an extension of the three-year delivery period can be approved for the three vessels in question. The delivery period should be extended to the planned delivery dates mentioned above (15 February 2004, 30 June 2004 and 31 December 2004),

VI. CONCLUSION

HAS ADOPTED THIS DECISION:

Article 1

The three-year delivery limit laid down in Article 3(2) of Regulation (EC) No 1540/98 is extended for three LNG tankers built by IZAR as follows:

- (a) until 15 February 2004, for ship 321 built at Sestao shipyard;
- (b) until 30 June 2004, for ship 103 built at Puerto Real shipyard, and
- (c) until 31 December 2004, for ship 105 built at Puerto Real shipyard.

⁽¹⁾ OJ L 37, 12.2.2000, p. 22.
⁽²⁾ [1997] ECR I-2549.

Article 2

This decision is addressed to the Kingdom of Spain.

Done at Brussels, 9 July 2003.

For the Commission

Mario MONTI

Member of the Commission
