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I

(Acts whose publication is obligatory)

REGULATION (EC) No 261/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 February 2004
establishing common rules on compensation and assistance to passengers in the event of denied
boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

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

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾, in the light of the joint text approved by the Conciliation Committee on 1 December 2003,

Whereas:

(1) Action by the Community in the field of air transport should aim, among other things, at ensuring a high level of protection for passengers. Moreover, full account should be taken of the requirements of consumer protection in general.

(2) Denied boarding and cancellation or long delay of flights cause serious trouble and inconvenience to passengers.

(3) While Council Regulation (EEC) No 295/91 of 4 February 1991 establishing common rules for a denied boarding compensation system in scheduled air transport ⁽⁴⁾ created basic protection for passengers, the number of passengers denied boarding against their will remains too high, as does that affected by cancellations without prior warning and that affected by long delays.

(4) The Community should therefore raise the standards of protection set by that Regulation both to strengthen the rights of passengers and to ensure that air carriers operate under harmonised conditions in a liberalised market.

(5) Since the distinction between scheduled and non-scheduled air services is weakening, such protection should apply to passengers not only on scheduled but also on non-scheduled flights, including those forming part of package tours.

(6) The protection accorded to passengers departing from an airport located in a Member State should be extended to those leaving an airport located in a third country for one situated in a Member State, when a Community carrier operates the flight.

(7) In order to ensure the effective application of this Regulation, the obligations that it creates should rest with the operating air carrier who performs or intends to perform a flight, whether with owned aircraft, under dry or wet lease, or on any other basis.

(8) This Regulation should not restrict the rights of the operating air carrier to seek compensation from any person, including third parties, in accordance with the law applicable.

(9) The number of passengers denied boarding against their will should be reduced by requiring air carriers to call for volunteers to surrender their reservations, in exchange for benefits, instead of denying passengers boarding, and by fully compensating those finally denied boarding.

⁽¹⁾ OJ C 103 E, 30.4.2002, p. 225 and OJ C 71 E, 25.3.2003, p. 188.

⁽²⁾ OJ C 241, 7.10.2002, p. 29.

⁽³⁾ Opinion of the European Parliament of 24 October 2002 (OJ C 300 E, 11.12.2003, p. 443), Council Common Position of 18 March 2003 (OJ C 125 E, 27.5.2003, p. 63) and Position of the European Parliament of 3 July 2003. Legislative Resolution of the European Parliament of 18 December 2003 and Council Decision of 26 January 2004.

⁽⁴⁾ OJ L 36, 8.2.1991, p. 5.

- (10) Passengers denied boarding against their will should be able either to cancel their flights, with reimbursement of their tickets, or to continue them under satisfactory conditions, and should be adequately cared for while awaiting a later flight.
- (11) Volunteers should also be able to cancel their flights, with reimbursement of their tickets, or continue them under satisfactory conditions, since they face difficulties of travel similar to those experienced by passengers denied boarding against their will.
- (12) The trouble and inconvenience to passengers caused by cancellation of flights should also be reduced. This should be achieved by inducing carriers to inform passengers of cancellations before the scheduled time of departure and in addition to offer them reasonable re-routing, so that the passengers can make other arrangements. Air carriers should compensate passengers if they fail to do this, except when the cancellation occurs in extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.
- (13) Passengers whose flights are cancelled should be able either to obtain reimbursement of their tickets or to obtain re-routing under satisfactory conditions, and should be adequately cared for while awaiting a later flight.
- (14) As under the Montreal Convention, obligations on operating air carriers should be limited or excluded in cases where an event has been caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken. Such circumstances may, in particular, occur in cases of political instability, meteorological conditions incompatible with the operation of the flight concerned, security risks, unexpected flight safety shortcomings and strikes that affect the operation of an operating air carrier.
- (15) Extraordinary circumstances should be deemed to exist where the impact of an air traffic management decision in relation to a particular aircraft on a particular day gives rise to a long delay, an overnight delay, or the cancellation of one or more flights by that aircraft, even though all reasonable measures had been taken by the air carrier concerned to avoid the delays or cancellations.
- (16) In cases where a package tour is cancelled for reasons other than the flight being cancelled, this Regulation should not apply.
- (17) Passengers whose flights are delayed for a specified time should be adequately cared for and should be able to cancel their flights with reimbursement of their tickets or to continue them under satisfactory conditions.
- (18) Care for passengers awaiting an alternative or a delayed flight may be limited or declined if the provision of the care would itself cause further delay.
- (19) Operating air carriers should meet the special needs of persons with reduced mobility and any persons accompanying them.
- (20) Passengers should be fully informed of their rights in the event of denied boarding and of cancellation or long delay of flights, so that they can effectively exercise their rights.
- (21) Member States should lay down rules on sanctions applicable to infringements of the provisions of this Regulation and ensure that these sanctions are applied. The sanctions should be effective, proportionate and dissuasive.
- (22) Member States should ensure and supervise general compliance by their air carriers with this Regulation and designate an appropriate body to carry out such enforcement tasks. The supervision should not affect the rights of passengers and air carriers to seek legal redress from courts under procedures of national law.
- (23) The Commission should analyse the application of this Regulation and should assess in particular the opportunity of extending its scope to all passengers having a contract with a tour operator or with a Community carrier, when departing from a third country airport to an airport in a Member State.
- (24) Arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries. Such arrangements have yet to enter into operation.
- (25) Regulation (EEC) No 295/91 should accordingly be repealed,
- HAVE ADOPTED THIS REGULATION:
- Article 1*
- Subject**
1. This Regulation establishes, under the conditions specified herein, minimum rights for passengers when:
- (a) they are denied boarding against their will;
- (b) their flight is cancelled;
- (c) their flight is delayed.

2. Application of this Regulation to Gibraltar airport is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

3. Application of this Regulation to Gibraltar airport shall be suspended until the arrangements in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 enter into operation. The Governments of Spain and the United Kingdom will inform the Council of such date of entry into operation.

Article 2

Definitions

For the purposes of this Regulation:

- (a) 'air carrier' means an air transport undertaking with a valid operating licence;
- (b) 'operating air carrier' means an air carrier that performs or intends to perform a flight under a contract with a passenger or on behalf of another person, legal or natural, having a contract with that passenger;
- (c) 'Community carrier' means an air carrier with a valid operating licence granted by a Member State in accordance with the provisions of Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers ⁽¹⁾;
- (d) 'tour operator' means, with the exception of an air carrier, an organiser within the meaning of Article 2, point 2, of Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours ⁽²⁾;
- (e) 'package' means those services defined in Article 2, point 1, of Directive 90/314/EEC;
- (f) 'ticket' means a valid document giving entitlement to transport, or something equivalent in paperless form, including electronic form, issued or authorised by the air carrier or its authorised agent;
- (g) 'reservation' means the fact that the passenger has a ticket, or other proof, which indicates that the reservation has been accepted and registered by the air carrier or tour operator;
- (h) 'final destination' means the destination on the ticket presented at the check-in counter or, in the case of directly connecting flights, the destination of the last flight; alternative connecting flights available shall not be taken into account if the original planned arrival time is respected;
- (i) 'person with reduced mobility' means any person whose mobility is reduced when using transport because of any physical disability (sensory or locomotory, permanent or temporary), intellectual impairment, age or any other cause

of disability, and whose situation needs special attention and adaptation to the person's needs of the services made available to all passengers;

- (j) 'denied boarding' means a refusal to carry passengers on a flight, although they have presented themselves for boarding under the conditions laid down in Article 3(2), except where there are reasonable grounds to deny them boarding, such as reasons of health, safety or security, or inadequate travel documentation;
- (k) 'volunteer' means a person who has presented himself for boarding under the conditions laid down in Article 3(2) and responds positively to the air carrier's call for passengers prepared to surrender their reservation in exchange for benefits.
- (l) 'cancellation' means the non-operation of a flight which was previously planned and on which at least one place was reserved.

Article 3

Scope

1. This Regulation shall apply:
 - (a) to passengers departing from an airport located in the territory of a Member State to which the Treaty applies;
 - (b) to passengers departing from an airport located in a third country to an airport situated in the territory of a Member State to which the Treaty applies, unless they received benefits or compensation and were given assistance in that third country, if the operating air carrier of the flight concerned is a Community carrier.
2. Paragraph 1 shall apply on the condition that passengers:
 - (a) have a confirmed reservation on the flight concerned and, except in the case of cancellation referred to in Article 5, present themselves for check-in,
 - as stipulated and at the time indicated in advance and in writing (including by electronic means) by the air carrier, the tour operator or an authorised travel agent,
 or, if no time is indicated,
 - not later than 45 minutes before the published departure time; or
 - (b) have been transferred by an air carrier or tour operator from the flight for which they held a reservation to another flight, irrespective of the reason.
3. This Regulation shall not apply to passengers travelling free of charge or at a reduced fare not available directly or indirectly to the public. However, it shall apply to passengers having tickets issued under a frequent flyer programme or other commercial programme by an air carrier or tour operator.

⁽¹⁾ OJ L 240, 24.8.1992, p. 1.

⁽²⁾ OJ L 158, 23.6.1990, p. 59.

4. This Regulation shall only apply to passengers transported by motorised fixed wing aircraft.

5. This Regulation shall apply to any operating air carrier providing transport to passengers covered by paragraphs 1 and 2. Where an operating air carrier which has no contract with the passenger performs obligations under this Regulation, it shall be regarded as doing so on behalf of the person having a contract with that passenger.

6. This Regulation shall not affect the rights of passengers under Directive 90/314/EEC. This Regulation shall not apply in cases where a package tour is cancelled for reasons other than cancellation of the flight.

Article 4

Denied boarding

1. When an operating air carrier reasonably expects to deny boarding on a flight, it shall first call for volunteers to surrender their reservations in exchange for benefits under conditions to be agreed between the passenger concerned and the operating air carrier. Volunteers shall be assisted in accordance with Article 8, such assistance being additional to the benefits mentioned in this paragraph.

2. If an insufficient number of volunteers comes forward to allow the remaining passengers with reservations to board the flight, the operating air carrier may then deny boarding to passengers against their will.

3. If boarding is denied to passengers against their will, the operating air carrier shall immediately compensate them in accordance with Article 7 and assist them in accordance with Articles 8 and 9.

Article 5

Cancellation

1. In case of cancellation of a flight, the passengers concerned shall:

- (a) be offered assistance by the operating air carrier in accordance with Article 8; and
- (b) be offered assistance by the operating air carrier in accordance with Article 9(1)(a) and 9(2), as well as, in event of re-routing when the reasonably expected time of departure of the new flight is at least the day after the departure as it was planned for the cancelled flight, the assistance specified in Article 9(1)(b) and 9(1)(c); and
- (c) have the right to compensation by the operating air carrier in accordance with Article 7, unless:
 - (i) they are informed of the cancellation at least two weeks before the scheduled time of departure; or

- (ii) they are informed of the cancellation between two weeks and seven days before the scheduled time of departure and are offered re-routing, allowing them to depart no more than two hours before the scheduled time of departure and to reach their final destination less than four hours after the scheduled time of arrival; or

- (iii) they are informed of the cancellation less than seven days before the scheduled time of departure and are offered re-routing, allowing them to depart no more than one hour before the scheduled time of departure and to reach their final destination less than two hours after the scheduled time of arrival.

2. When passengers are informed of the cancellation, an explanation shall be given concerning possible alternative transport.

3. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the cancellation is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.

4. The burden of proof concerning the questions as to whether and when the passenger has been informed of the cancellation of the flight shall rest with the operating air carrier.

Article 6

Delay

1. When an operating air carrier reasonably expects a flight to be delayed beyond its scheduled time of departure:

- (a) for two hours or more in the case of flights of 1 500 kilometres or less; or
- (b) for three hours or more in the case of all intra-Community flights of more than 1 500 kilometres and of all other flights between 1 500 and 3 500 kilometres; or

- (c) for four hours or more in the case of all flights not falling under (a) or (b),

passengers shall be offered by the operating air carrier:

- (i) the assistance specified in Article 9(1)(a) and 9(2); and
- (ii) when the reasonably expected time of departure is at least the day after the time of departure previously announced, the assistance specified in Article 9(1)(b) and 9(1)(c); and
- (iii) when the delay is at least five hours, the assistance specified in Article 8(1)(a).

2. In any event, the assistance shall be offered within the time limits set out above with respect to each distance bracket.

*Article 7***Right to compensation**

1. Where reference is made to this Article, passengers shall receive compensation amounting to:

- (a) EUR 250 for all flights of 1 500 kilometres or less;
- (b) EUR 400 for all intra-Community flights of more than 1 500 kilometres, and for all other flights between 1 500 and 3 500 kilometres;
- (c) EUR 600 for all flights not falling under (a) or (b).

In determining the distance, the basis shall be the last destination at which the denial of boarding or cancellation will delay the passenger's arrival after the scheduled time.

2. When passengers are offered re-routing to their final destination on an alternative flight pursuant to Article 8, the arrival time of which does not exceed the scheduled arrival time of the flight originally booked

- (a) by two hours, in respect of all flights of 1 500 kilometres or less; or
- (b) by three hours, in respect of all intra-Community flights of more than 1 500 kilometres and for all other flights between 1 500 and 3 500 kilometres; or
- (c) by four hours, in respect of all flights not falling under (a) or (b),

the operating air carrier may reduce the compensation provided for in paragraph 1 by 50 %.

3. The compensation referred to in paragraph 1 shall be paid in cash, by electronic bank transfer, bank orders or bank cheques or, with the signed agreement of the passenger, in travel vouchers and/or other services.

4. The distances given in paragraphs 1 and 2 shall be measured by the great circle route method.

*Article 8***Right to reimbursement or re-routing**

1. Where reference is made to this Article, passengers shall be offered the choice between:

- (a) — reimbursement within seven days, by the means provided for in Article 7(3), of the full cost of the ticket at the price at which it was bought, for the part or parts of the journey not made, and for the part or parts already made if the flight is no longer serving any purpose in relation to the passenger's original travel plan, together with, when relevant,
 - a return flight to the first point of departure, at the earliest opportunity;
- (b) re-routing, under comparable transport conditions, to their final destination at the earliest opportunity; or

- (c) re-routing, under comparable transport conditions, to their final destination at a later date at the passenger's convenience, subject to availability of seats.

2. Paragraph 1(a) shall also apply to passengers whose flights form part of a package, except for the right to reimbursement where such right arises under Directive 90/314/EEC.

3. When, in the case where a town, city or region is served by several airports, an operating air carrier offers a passenger a flight to an airport alternative to that for which the booking was made, the operating air carrier shall bear the cost of transferring the passenger from that alternative airport either to that for which the booking was made, or to another close-by destination agreed with the passenger.

*Article 9***Right to care**

1. Where reference is made to this Article, passengers shall be offered free of charge:

- (a) meals and refreshments in a reasonable relation to the waiting time;
- (b) hotel accommodation in cases
 - where a stay of one or more nights becomes necessary, or
 - where a stay additional to that intended by the passenger becomes necessary;
- (c) transport between the airport and place of accommodation (hotel or other).

2. In addition, passengers shall be offered free of charge two telephone calls, telex or fax messages, or e-mails.

3. In applying this Article, the operating air carrier shall pay particular attention to the needs of persons with reduced mobility and any persons accompanying them, as well as to the needs of unaccompanied children.

*Article 10***Upgrading and downgrading**

1. If an operating air carrier places a passenger in a class higher than that for which the ticket was purchased, it may not request any supplementary payment.

2. If an operating air carrier places a passenger in a class lower than that for which the ticket was purchased, it shall within seven days, by the means provided for in Article 7(3), reimburse

- (a) 30 % of the price of the ticket for all flights of 1 500 kilometres or less, or

- (b) 50 % of the price of the ticket for all intra-Community flights of more than 1 500 kilometres, except flights between the European territory of the Member States and the French overseas departments, and for all other flights between 1 500 and 3 500 kilometres, or
- (c) 75 % of the price of the ticket for all flights not falling under (a) or (b), including flights between the European territory of the Member States and the French overseas departments.

Article 11

Persons with reduced mobility or special needs

1. Operating air carriers shall give priority to carrying persons with reduced mobility and any persons or certified service dogs accompanying them, as well as unaccompanied children.
2. In cases of denied boarding, cancellation and delays of any length, persons with reduced mobility and any persons accompanying them, as well as unaccompanied children, shall have the right to care in accordance with Article 9 as soon as possible.

Article 12

Further compensation

1. This Regulation shall apply without prejudice to a passenger's rights to further compensation. The compensation granted under this Regulation may be deducted from such compensation.
2. Without prejudice to relevant principles and rules of national law, including case-law, paragraph 1 shall not apply to passengers who have voluntarily surrendered a reservation under Article 4(1).

Article 13

Right of redress

In cases where an operating air carrier pays compensation or meets the other obligations incumbent on it under this Regulation, no provision of this Regulation may be interpreted as restricting its right to seek compensation from any person, including third parties, in accordance with the law applicable. In particular, this Regulation shall in no way restrict the operating air carrier's right to seek reimbursement from a tour operator or another person with whom the operating air carrier has a contract. Similarly, no provision of this Regulation may be interpreted as restricting the right of a tour operator or a third party, other than a passenger, with whom an operating air carrier has a contract, to seek reimbursement or compensation from the operating air carrier in accordance with applicable relevant laws.

Article 14

Obligation to inform passengers of their rights

1. The operating air carrier shall ensure that at check-in a clearly legible notice containing the following text is displayed in a manner clearly visible to passengers: 'If you are denied boarding or if your flight is cancelled or delayed for at least two hours, ask at the check-in counter or boarding gate for the text stating your rights, particularly with regard to compensation and assistance'.
2. An operating air carrier denying boarding or cancelling a flight shall provide each passenger affected with a written notice setting out the rules for compensation and assistance in line with this Regulation. It shall also provide each passenger affected by a delay of at least two hours with an equivalent notice. The contact details of the national designated body referred to in Article 16 shall also be given to the passenger in written form.
3. In respect of blind and visually impaired persons, the provisions of this Article shall be applied using appropriate alternative means.

Article 15

Exclusion of waiver

1. Obligations vis-à-vis passengers pursuant to this Regulation may not be limited or waived, notably by a derogation or restrictive clause in the contract of carriage.
2. If, nevertheless, such a derogation or restrictive clause is applied in respect of a passenger, or if the passenger is not correctly informed of his rights and for that reason has accepted compensation which is inferior to that provided for in this Regulation, the passenger shall still be entitled to take the necessary proceedings before the competent courts or bodies in order to obtain additional compensation.

Article 16

Infringements

1. Each Member State shall designate a body responsible for the enforcement of this Regulation as regards flights from airports situated on its territory and flights from a third country to such airports. Where appropriate, this body shall take the measures necessary to ensure that the rights of passengers are respected. The Member States shall inform the Commission of the body that has been designated in accordance with this paragraph.

2. Without prejudice to Article 12, each passenger may complain to any body designated under paragraph 1, or to any other competent body designated by a Member State, about an alleged infringement of this Regulation at any airport situated on the territory of a Member State or concerning any flight from a third country to an airport situated on that territory.

3. The sanctions laid down by Member States for infringements of this Regulation shall be effective, proportionate and dissuasive.

Article 17

Report

The Commission shall report to the European Parliament and the Council by 1 January 2007 on the operation and the results of this Regulation, in particular regarding:

- the incidence of denied boarding and of cancellation of flights,
- the possible extension of the scope of this Regulation to passengers having a contract with a Community carrier or holding a flight reservation which forms part of a 'package

tour' to which Directive 90/314/EEC applies and who depart from a third-country airport to an airport in a Member State, on flights not operated by Community air carriers,

- the possible revision of the amounts of compensation referred to in Article 7(1).

The report shall be accompanied where necessary by legislative proposals.

Article 18

Repeal

Regulation (EEC) No 295/91 shall be repealed.

Article 19

Entry into force

This Regulation shall enter into force on 17 February 2005.

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

Done at Strasbourg, 11 February 2004.

For the European Parliament

The President

P. COX

For the Council

The President

M. McDOWELL

COMMISSION STATEMENT

The Commission recalls its intention to promote voluntary agreements or to make proposals to extend Community measures of passenger protection to other modes of transport than air, notably rail and maritime navigation.

COMMISSION REGULATION (EC) No 262/2004
of 16 February 2004
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⁾, and in particular Article 4(1) thereof,

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 17 February 2004.

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

Done at Brussels, 16 February 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 1947/2002 (OJ L 299, 1.11.2002, p. 17).

ANNEX

to the Commission Regulation of 16 February 2004 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	88,1
	204	46,1
	212	122,4
	624	109,5
	999	91,5
0707 00 05	052	139,1
	204	29,7
	999	84,4
0709 10 00	220	80,1
	999	80,1
0709 90 70	052	84,3
	204	66,1
	999	75,2
0805 10 10, 0805 10 30, 0805 10 50	052	45,3
	204	50,3
	212	52,2
	220	41,5
	624	57,6
	999	49,4
0805 20 10	204	101,4
	999	101,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	80,7
	204	81,7
	220	73,6
	400	58,9
	464	75,6
	600	72,8
	624	76,2
	999	74,2
0805 50 10	052	66,2
	600	51,6
	999	58,9
0808 10 20, 0808 10 50, 0808 10 90	052	65,0
	060	42,4
	400	111,9
	404	88,5
	512	89,9
	528	119,5
	720	76,7
	999	84,8
0808 20 50	060	64,7
	388	85,2
	400	90,4
	528	75,8
	720	92,0
	800	77,5
	999	80,9

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 263/2004**of 16 February 2004****extending for six months the application of Regulation (EC) No 1475/2003 on the protection of deep-water coral reefs from the effects of trawling in an area north-west of Scotland**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) 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 7(1) thereof,

Whereas:

- (1) Immediate threats to the conservation of the aggregations of deep-water corals known as the Darwin Mounds gave rise to the adoption of Commission Regulation (EC) No 1475/2003 of 20 August 2003 on the protection of deep-water coral reefs from the effects of trawling in an area north-west of Scotland ⁽²⁾, on the basis of the emergency procedures provided for in Article 7 of Regulation (EC) No 2371/2002.
- (2) Regulation (EC) No 2371/2002 states that the emergency measures are to last no more than six months and that the Commission may take a new decision to extend them for an additional period of no more than six months.

- (3) In order to provide for permanent protection of the habitat concerned, the Commission has submitted a proposal for a Council Regulation amending Regulation (EC) No 850/98 ⁽³⁾ as regards the protection of deep-water coral reefs from the effects of trawling in an area north-west of Scotland ⁽⁴⁾.
- (4) That Regulation might not be adopted before the expiry date of application of Regulation (EC) No 1475/2003. Meanwhile, the risks for the conservation of the Darwin Mounds persist.
- (5) It is therefore appropriate to extend for six months the emergency measures provided for in Regulation (EC) No 1475/2003,

HAS ADOPTED THIS REGULATION:

Article 1

The application of Regulation (EC) No 1475/2003 shall be extended until 22 August 2004.

Article 2

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, 16 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 211, 21.8.2003, p. 14.

⁽³⁾ OJ L 125, 27.4.1998, p. 1. Regulation as last amended by Regulation (EC) No 973/2001 (OJ L 137, 19.5.2001, p. 1).

⁽⁴⁾ COM(2003) 519.

COMMISSION REGULATION (EC) No 264/2004**of 16 February 2004****derogating from Regulation (EC) No 1503/96 on the detailed rules for the application of Council Regulation (EC) No 3072/95 with regard to import duties on rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, and in particular Article 11(4) thereof,

Whereas:

- (1) Article 4a(1) of Commission Regulation (EC) No 1503/96 ⁽²⁾ provides for an import duty reduction of EUR 250 per tonne in the case of Basmati rice as defined in Annex IV to that Regulation as amended by Regulation (EC) No 2294/2003 and falling within CN codes ex 1006 20 17 and 1006 20 98.
- (2) India and Pakistan have informed the Commission that the time available between publication of Regulation (EC) No 2294/2003 and its application was too short for certificates of authenticity to be granted to all the rice for which sales contracts had been concluded with Community traders before the date on which the new provisions entered into force.
- (3) The Indian and Pakistani authorities have respectively given the Commission formal assurances that the authenticity and quality requirements governing Basmati rice imported into the Community and originating in India and Basmati rice of the varieties 'Kernel Basmati' and 'Super Basmati' originating in Pakistan, certified by the competent authorities of the producer country, can be checked by DNA analyses to be carried out in the producer countries as part of targeted or random controls of operations at risk of fraud.
- (4) In order to allow the competent authorities of the Member States to accept the certificates of authenticity already issued by the Indian and Pakistani authorities or those currently being considered by those authorities for the quantities of Basmati rice for which sales contracts were concluded by 31 December 2003, Regulation (EC) No 1503/1996 must be derogated from for a limited period and under certain conditions.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. By way of derogation from the first subparagraph of Article 4a(1) of Regulation (EC) No 1503/96, for the period from 1 January 2004 to 31 March 2004 Basmati rice originating in India and the rice varieties 'Kernel Basmati' and 'Super Basmati' originating in Pakistan and falling within CN codes ex 1006 20 17 and 1006 20 98 may benefit from an import duty reduction of EUR 250 per tonne, provided that:

- (a) sales contracts were concluded between the suppliers from those countries and Community traders by 31 December 2003;
- (b) certificates of authenticity were already issued for the contracts referred to in (a) above before 31 December 2003 or are so issued not later than 31 March 2004.

2. Annex IV to Regulation (EC) No 1503/96 shall not apply to imports of the Basmati rice covered by the certificates referred to in paragraph 1(b) in the period 1 January 2004 to 31 March 2004.

3. By way of derogation from the first subparagraph of Article 4a(4) of Regulation (EC) No 1503/96, the certificate of authenticity issued by the competent bodies in the countries exporting Basmati rice as referred to in paragraph 1 shall be drawn up in the period 1 January 2004 to 31 March 2004 on the model form annexed 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 January 2004.

⁽¹⁾ OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27); it is repealed by Regulation (EC) No 1785/2003 (OJ L 270, 21.10.2003, p. 96) with effect from the day of applicability of that Regulation.

⁽²⁾ OJ L 189, 30.7.1996, p. 71. Regulation as last amended by Regulation (EC) No 2294/2003 (OJ L 340, 24.12.2003, p. 12).

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

Done at Brussels, 16 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

MODEL B

1. Exporter (Name and full address)	CERTIFICATE OF AUTHENTICITY B BASMATI RICE for export to the European Community No ORIGINAL Issued by (Name and full address of issuing body)	
2. Consignee (Name and full address)		
	3. Region or place of cultivation	
	4. FOB value in US dollars	
	5. Number and date of invoice	
6. Marks and numbers — Number and kind of packages — Description of goods		7. Gross weight (kg)
		8. Net weight (kg)
9. DECLARATION BY EXPORTER The undersigned declares that the information shown above is correct. Place and date: _____ Signature: _____		
10. CERTIFICATION BY THE ISSUING BODY It is hereby certified that the rice described above is BASMATI RICE and that the information shown in this certificate is correct. Place and date: _____ Signature: _____ Stamp: _____		
11. CERTIFICATION BY COMPETENT CUSTOMS OFFICE OF COUNTRY OF EXPORT Customs formalities for export to the European Economic Community of the rice described above have been completed. Type, number and date of export document: _____ Name and country of customs office: _____ Signature: _____ Stamp: _____		
12. FOR COMPETENT AUTHORITIES IN THE COMMUNITY		

Complementary mandatory information:

Box 6: The operator shall specify the information on the rice, the CN Code as well as the variety.

Box 10: A copy of the contract is attached to the certificate.

COMMISSION REGULATION (EC) No 265/2004**of 16 February 2004****fixing the A1 and B export refunds for fruit and vegetables (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⁾, and in particular the third subparagraph of Article 35(3),

Whereas:

(1) Commission Regulation (EC) No 1961/2001 ⁽²⁾ lays down the detailed rules of application for export refunds on fruit and vegetables.

(2) Article 35(1) of Regulation (EC) No 2200/96 provides that, to the extent necessary for economically significant exports, the products exported by the Community may be covered by export refunds, within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty.

(3) Under Article 35(2) of Regulation (EC) No 2200/96, care must be taken to ensure that the trade flows previously brought about by the refund scheme are not disrupted. For this reason and because exports of fruit and vegetables are seasonal in nature, the quantities scheduled for each product should be fixed, based on the agricultural product nomenclature for export refunds established by Commission Regulation (EEC) No 3846/87 ⁽³⁾. These quantities must be allocated taking account of the perishability of the products concerned.

(4) Article 35(4) of Regulation (EC) No 2200/96 provides that refunds must be fixed in the light of the existing situation or outlook for fruit and vegetable prices on the Community market and supplies available on the one hand, and prices on the international market on the other hand. Account must also be taken of the transport and marketing costs and of the economic aspect of the exports planned.

(5) In accordance with Article 35(5) of Regulation (EC) No 2200/96, prices on the Community market are to be established in the light of the most favourable prices from the export standpoint.

(6) The international trade situation or the special requirements of certain markets may call for the refund on a given product to vary according to its destination.

(7) Tomatoes, oranges, lemons and apples of classes Extra, I and II of the common quality standards can currently be exported in economically significant quantities.

(8) In order to ensure the best use of available resources and in view of the structure of Community exports, it is appropriate to fix the A1 and B export refunds.

(9) The Management Committee for fresh Fruit and Vegetables has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. For system A1, the refund rates, the refund application period and the scheduled quantities for the products concerned are fixed in the Annex hereto.

For system B, the indicative refund rates, the licence application period and the scheduled quantities for the products concerned are fixed in the Annex hereto.

2. The licences issued in respect of food aid as referred to in Article 16 of Commission Regulation (EC) No 1291/2000 ⁽⁴⁾ shall not count against the eligible quantities in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 March 2004.

⁽¹⁾ OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Commission Regulation (EC) No 47/2003 (OJ L 7, 11.1.2003, p. 64).

⁽²⁾ OJ L 268, 9.10.2001, p. 8. Regulation as last amended by Regulation (EC) No 1176/2002 (OJ L 170, 29.6.2002, p. 69).

⁽³⁾ OJ L 366, 24.12.1987, p. 1. Regulation as last amended by Regulation (EC) No 118/2003 (OJ L 20, 24.1.2003, p. 3).

⁽⁴⁾ OJ L 152, 24.6.2000, p. 1.

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

Done at Brussels, 16 February 2004.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 16 February 2004 fixing the export refunds on fruit and vegetables (tomatoes, oranges, lemons and apples)

Product code ⁽¹⁾	Destination ⁽²⁾	System A1 Refund application period 9.3.2004 to 23.4.2004		System B Licence application period 16.3.2004 to 30.4.2004	
		Refund amount (EUR/t net weight)	Scheduled quantity (t)	Indicative refund amount (EUR/t net weight)	Scheduled quantity (t)
0702 00 00 9100	F08	25		25	9 263
0805 10 10 9100 0805 10 30 9100 0805 10 50 9100	F00	20		20	50 343
0805 50 10 9100	F00	31		31	26 675
0808 10 20 9100 0808 10 50 9100 0808 10 90 9100	F09	23		23	11 208

⁽¹⁾ The product codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1).

⁽²⁾ The 'A' series destination codes are set out in Annex II to Regulation (EEC) No 3846/87.

The numeric destination codes are set out in Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are defined as follows:

F00: All destinations except Estonia.

F03: All destinations except Switzerland and Estonia.

F04: Sri Lanka, Hong Kong SAR, Singapore, Malaysia, Indonesia, Thailand, Taiwan, Papua-New Guinea, Laos, Cambodia, Vietnam, Uruguay, Paraguay, Argentina, Mexico, Costa Rica and Japan.

F08: All destinations except Slovakia, Latvia, Lithuania, Bulgaria and Estonia.

F09: The following destinations:

- Norway, Iceland, Greenland, Faeroe Islands, Poland, Hungary, Romania, Albania, Bosnia and Herzegovina, Croatia, Slovenia, Former Yugoslav Republic of Macedonia, Serbia and Montenegro, Malta, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, Saudi Arabia, Bahrain, Qatar, Oman, United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm al Qalwain, Ras al Khaimah, Fujairah), Kuwait, Yemen, Syria, Iran, Jordan, Bolivia, Brazil, Venezuela, Peru, Panama, Ecuador and Colombia;
- African countries and territories except for South Africa;
- destinations referred to in Article 36 of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).

COMMISSION REGULATION (EC) No 266/2004
of 16 February 2004

setting export refunds in the processed fruit and vegetable sector other than those granted on added sugar (provisionally preserved cherries, peeled tomatoes, sugar-preserved cherries, prepared hazelnuts, certain orange juices)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products ⁽¹⁾, and in particular the third subparagraph of Article 16(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 1429/95 ⁽²⁾ set implementing rules for export refunds on products processed from fruit and vegetables other than those granted for added sugar.

(2) Article 16(1) of Regulation (EC) No 2201/96 states that to the extent necessary to permit exportation of economically significant quantities export refunds can be granted on the products listed at Article 1(2)(a) of that Regulation within the limits ensuing from agreements concluded in line with Article 300 of the Treaty. Article 18(4) of that Regulation provides that if the refund on the sugar incorporated in the products listed in Article 1(2)(b) is insufficient to allow exportation of these products the refund set in line with Article 17 thereof shall apply to them.

(3) Article 16(2) of Regulation (EC) No 2201/96 requires that it be ensured that trade flows that have already arisen as a result of granting of export refunds are not disturbed. For that reason the quantities should be set product by product using the agricultural product nomenclature for export refunds established by Commission Regulation (EEC) No 3846/87 ⁽³⁾.

(4) Article 17(2) of Regulation (EC) No 2201/96 requires that when refunds are set account is taken of the existing situation and outlook for prices and availability on the Community market of products processed from fruit and

vegetables and for international trade prices, of marketing and transport costs and of the economic aspects of the exportation envisaged.

(5) Article 17(3) of Regulation (EC) No 2201/96 requires that when prices on the Community market are determined account is taken of the prices that are most favourable from the point of view of exportation.

(6) The international trade situation or specific requirements of certain markets may make it necessary to differentiate the refund on a given product by destination.

(7) Economically significant exports can at present be made of provisionally preserved cherries, peeled tomatoes, sugar-preserved cherries, prepared hazelnuts and certain orange juices.

(8) Export refund rates and quantities should therefore be set for these products.

(9) 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

1. Export refund rates in the processed fruit and vegetable sector, periods for lodging and for issuing licence applications and the quantities permitted are stipulated in the Annex hereto.

2. Licences for food aid purposes issued as indicated in Article 16 of Commission Regulation (EC) No 1291/2000 ⁽⁴⁾ shall not be counted against the quantities indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 23 February 2004.

⁽¹⁾ OJ L 297, 21.11.1996, p. 29. Regulation as last amended by Commission Regulation (EC) No 453/2002 (OJ L 72, 14.3.2002, p. 9).

⁽²⁾ OJ L 141, 24.6.1995, p. 28. Regulation as last amended by Regulation (EC) No 1176/2002 (OJ L 170, 29.6.2002, p. 69).

⁽³⁾ OJ L 366, 24.12.1987, p. 1. Regulation as last amended by Regulation (EC) No 118/2003 (OJ L 20, 24.1.2003, p. 3).

⁽⁴⁾ OJ L 152, 24.6.2000, p. 1.

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

Done at Brussels, 16 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 16 February 2004 setting export refunds for the processed fruit and vegetable sector other than those granted on added sugar (provisionally preserved cherries, peeled tomatoes, sugar-preserved cherries, prepared hazelnuts, certain orange juices)

Period for lodging licence applications: 23 February 2004 to 23 April 2004.

Licence assignment period: March 2004 to April 2004.

Product code ⁽¹⁾	Destination code ⁽²⁾	Refund rate (EUR/t net)	Permitted quantities (t)
0812 10 00 9100	F06	50	1 590
2002 10 10 9100	F10	45	23 676
2006 00 31 9000 2006 00 99 9100	F06	153	160
2008 19 19 9100 2008 19 99 9100	F00	59	192
2009 11 99 9110 2009 12 00 9111 2009 19 98 9112	F00	5	167
2009 11 99 9150 2009 19 98 9150	F00	29	168

⁽¹⁾ The descriptions corresponding to the product codes are contained in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1).

⁽²⁾ The meanings of the series A destination codes are given in Annex II to Regulation (EEC) No 3846/87, as amended. The meanings of the numerical destination codes are given in Commission Regulation (EEC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are:

F00: All destinations except Estonia.

F06: All destinations except the countries of North America and Estonia.

F10: All destinations except the United States of America, Slovakia, Latvia, Bulgaria, Lithuania and Estonia.

COMMISSION REGULATION (EC) No 267/2004**of 16 February 2004****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 Regulation (EC) No 806/2003 ⁽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 806/2003, 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 124/2004 ⁽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 17 February 2004.

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

Done at Brussels, 16 February 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 282, 1.11.1975, p. 49.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

⁽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 17, 24.1.2004, p. 16.

ANNEX

to the Commission Regulation of 16 February 2004 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	84,3	10	01
0207 14 10	Boneless cuts of fowl of the species <i>Gallus domesticus</i> , frozen	183,0	39	01
		145,9	57	02
		185,3	37	03
		248,6	15	04
0207 14 50	Breasts of chicken, frozen	120,0	32	01
		161,5	15	02
		189,9	7	03
0207 25 10	Turkey carcasses, known as "80 % turkeys", frozen	112,4	14	01
0207 27 10	Boneless cuts of turkey, frozen	182,1	38	01
		261,0	11	04
0207 36 15	Boneless cuts of duck and guinea fowl, frozen	188,0	44	02
		273,4	14	05
1602 32 11	Preparations of uncooked fowl of the species <i>Gallus domesticus</i>	235,0	16	01
		254,4	10	02
		159,5	45	03

⁽¹⁾ Origin of imports:

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

COMMISSION REGULATION (EC) No 268/2004
of 16 February 2004
fixing the export refunds on poultrymeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat ⁽¹⁾, as last amended by Regulation (EC) No 806/2003 ⁽²⁾, and in particular Article 8(3) thereof,

Whereas:

- (1) Article 8 of Regulation (EEC) No 2777/75 provides that the difference between prices on the world market for the products listed in Article 1(1) of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) It follows from applying these rules and criteria to the present situation on the market in poultrymeat that the refund should be fixed at an amount which would

permit Community participation in world trade and would also take account of the nature of these exports and their importance at the present time.

- (3) 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

The list of product codes for which, when they are exported, the export refund referred to in Article 8 of Regulation (EEC) No 2777/75 is granted, and the amount of that refund shall be as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 February 2004.

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

Done at Brussels, 16 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 77.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

ANNEX

to the Commission Regulation of 16 February 2004 fixing the export refunds on poultrymeat

Product code	Destination	Unit of measurement	Amount of refund
0105 11 11 9000	V04	EUR/100 pcs	0,80
0105 11 19 9000	V04	EUR/100 pcs	0,80
0105 11 91 9000	V04	EUR/100 pcs	0,80
0105 11 99 9000	V04	EUR/100 pcs	0,80
0207 12 10 9900	V01	EUR/100 kg	43,50
0207 12 10 9900	A24	EUR/100 kg	43,50
0207 12 90 9190	V01	EUR/100 kg	43,50
0207 12 90 9190	A24	EUR/100 kg	43,50
0207 12 90 9990	V01	EUR/100 kg	43,50
0207 12 90 9990	A24	EUR/100 kg	43,50

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

The numeric destination codes are set out in Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are defined as follows:

V01 Angola, Saudi Arabia, Kuwait, Bahrain, Qatar, Oman, United Arab Emirates, Jordan, Yemen, Lebanon, Iraq and Iran.

V04 All destinations except the United States of America and Estonia.

COMMISSION REGULATION (EC) No 269/2004

of 16 February 2004

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 807/2003 ⁽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 (EC) No 1706/98 ⁽¹⁾, and in particular Article 5 thereof,

Having regard to Commission Regulation (EC) No 2247/2003 of 19 December 2003 laying down detailed rules for the application in the beef and veal sector of Council Regulation (EC) No 2286/2002 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 (ACP States) ⁽²⁾, and in particular Article 4 thereof,

Whereas:

- (1) Article 1 of Regulation (EC) No 2247/2003 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 February 2004, expressed in terms of boned meat, in accordance with Regulation (EC) No 2247/2003, 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 March 2004 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 February 2004 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:

United Kingdom:

- 40 tonnes originating in Swaziland,
- 350 tonnes originating in Botswana,
- 100 tonnes originating in Namibia;

Germany:

- 200 tonnes originating in Botswana,
- 135 tonnes originating in Namibia.

Article 2

Licence applications may be submitted, pursuant to Article 3(2) of Regulation (EC) No 2247/2003, during the first 10 days of March 2004 for the following quantities of boned beef and veal:

Botswana:	17 906 tonnes,
Kenya:	142 tonnes,
Madagascar:	7 579 tonnes,
Swaziland:	3 319 tonnes,
Zimbabwe:	9 100 tonnes,
Namibia:	12 755 tonnes.

Article 3

This Regulation shall enter into force on 21 February 2004.

⁽¹⁾ OJ L 348, 21.12.2002, p. 5.

⁽²⁾ OJ L 333, 20.12.2003, p. 37.

⁽³⁾ OJ L 302, 31.12.1972, p. 28.

⁽⁴⁾ OJ L 122, 16.5.2003, p. 36.

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

Done at Brussels, 16 February 2004.

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

**COMMISSION REGULATION (EC) No 270/2004
of 16 February 2004**

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

Gaza Strip ⁽²⁾, those prices are determined for fortnightly periods on the basis of weighted prices provided by the Member States. Those prices should be fixed immediately so the customs duties applicable can be determined. To that end, provision should be made for this Regulation to enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 17 February 2004.

It shall apply from 18 February to 2 March 2004.

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

Done at Brussels, 16 February 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 382, 31.12.1987, p. 22. Regulation as last amended by Regulation (EC) No 1300/97 (OJ L 177, 5.7.1997, p. 1).

⁽²⁾ OJ L 72, 18.3.1988, p. 16. Regulation as last amended by Regulation (EC) No 2062/97 (OJ L 289, 22.10.1997, p. 1).

ANNEX

to the Commission Regulation of 16 February 2004 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

(EUR/100 pieces)

Period: from 18 February to 2 March 2004

Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	13,06	12,62	90,45	33,52
Community import prices	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
Israel	—	—	—	—
Morocco	—	—	—	—
Cyprus	—	—	—	—
Jordan	—	—	—	—
West Bank and Gaza Strip	9,96	—	—	—

COMMISSION REGULATION (EC) No 271/2004
of 16 February 2004
authorising transfers between the quantitative limits of textiles and clothing products originating
in Macao

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries ⁽¹⁾, and in particular Article 7 thereof,

Whereas:

- (1) Article 7 of the Agreement between the European Economic Community and Macao on trade in textile products ⁽²⁾, initialled on 19 July 1986 and approved by Council Decision 87/497/EEC, as last amended by an Agreement in the form of an Exchange of Letters, initialled on 22 December 1994 and approved by Council Decision 95/131/EC ⁽³⁾, provides that transfers may be agreed between categories and quota years.
- (2) Macao submitted two requests for transfers between quota years on 26 June 2003 and 14 January 2004.
- (3) The transfers requested by Macao fall within the limits of the flexibility provisions referred to in Article 7 of Regulation (EEC) No 3030/93 and set out in Annex VIII, column 9 thereto.

(4) It is, therefore, appropriate to grant the requests.

(5) It is desirable for this Regulation to enter into force on the day after its publication in order to allow operators to benefit from it as soon as possible.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Textile Committee set up by Article 17 of Regulation (EEC) No 3030/93,

HAS ADOPTED THIS REGULATION:

Article 1

Transfers between the quantitative limits for textile goods originating in Macao fixed by the Agreement between the European Community and Macao on trade in textile products are authorised for the quota year 2003 in accordance with the Annex to this Regulation.

Article 2

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, 16 February 2004.

For the Commission

Pascal LAMY

Member of the Commission

⁽¹⁾ OJ L 275, 8.11.1993, p. 1; Regulation as last amended by Regulation (EC) No 138/2003 (OJ L 23, 28.1.2003, p. 1).

⁽²⁾ OJ L 287, 9.10.1987, p. 47.

⁽³⁾ OJ L 94, 26.4.1995, p. 1.

ANNEX

743 MACAO					Adjustment for 2003: carry-over from 2002 and advanced use from 2004			
Group	Category	Unit	Limit 2003	Working level after previous adjustments	Quantity	%	Flexibility	Working level
IB	4	pieces	14 734 000	15 765 380	736 700	5,0	Transfer from year 2002	16 502 080
					589 360	4,0	Transfer from year 2004	17 091 440
IB	7	pieces	5 783 000	6 187 810	289 150	5,0	Transfer from year 2002	6 476 960
IB	8	pieces	8 100 000	5 289 176	405 000	5,0	Transfer from year 2002	5 694 176
IIB	13	pieces	9 092 000	9 728 440	454 600	5,0	Transfer from year 2002	10 183 040
IIB	15	pieces	614 000	663 120	30 700	5,0	Transfer from year 2002	693 820
					24 560	4,0	Transfer from year 2004	718 380
IIB	16	pieces	493 000	502 860	24 650	5,0	Transfer from year 2002	527 510
IIB	26	pieces	1 281 000	1 370 670	64 050	5,0	Transfer from year 2002	1 434 720
IIB	31	pieces	10 210 000	10 924 700	510 500	5,0	Transfer from year 2002	11 435 200
IIB	78	pieces	2 037 000	2 077 740	101 850	5,0	Transfer from year 2002	2 179 590
IIB	83	pieces	489 000	523 230	24 450	5,0	Transfer from year 2002	547 680

COMMISSION REGULATION (EC) No 272/2004**of 16 February 2004****authorising transfers between the quantitative limits of textiles and clothing products originating in the People's Republic of China**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries ⁽¹⁾, and in particular Article 7 thereof,

Whereas:

- (1) Article 5 of the Agreement between the European Economic Community and the People's Republic of China on trade in textile products, initialled on 9 December 1988 and approved by Council Decision 90/647/EEC ⁽²⁾, and Article 8 of the Agreement between the European Community and the People's Republic of China on trade in textile products not covered by the MFA bilateral agreement, initialled on 19 January 1995 and approved by Council Decision 95/155/EC ⁽³⁾, both Agreements being as last amended by an Agreement in the form of an Exchange of Letters initialled on 19 May 2000 and approved by Council Decision 2000/787/EC ⁽⁴⁾, provide that transfers may be made between quota years. Those flexibility provisions were notified to the Textiles Monitoring Body of the World Trade Organisation following China's accession to it.
- (2) On 17 December 2003 the People's Republic of China submitted a request for transfers of quantities from the quota year 2004 to the quota year 2003.
- (3) The transfers requested by the People's Republic of China fall within the limits of the flexibility provisions referred to in Article 5 of the Agreement between the

European Economic Community and the People's Republic of China on trade in textile products and Article 8 of the Agreement between the European Community and the People's Republic of China on trade in textile products not covered by the MFA bilateral agreement and as set out in Annex VIII to Council Regulation (EEC) No 3030/93.

- (4) It is appropriate to grant the request.
- (5) It is desirable for this Regulation to enter into force on the day after its publication in order to allow operators to benefit from it as soon as possible.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Textile Committee set up by Article 17 of Regulation (EEC) No 3030/93,

HAS ADOPTED THIS REGULATION:

Article 1

Transfers between the quantitative limits for textile goods originating in the People's Republic of China fixed by the Agreement between the European Community and the People's Republic of China on trade in textile products are authorised for the quota year 2003 in accordance with the Annex to this Regulation.

Article 2

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, 16 February 2004.

For the Commission

Pascal LAMY

Member of the Commission

⁽¹⁾ OJ L 275, 8.11.1993, p. 1; Regulation as last amended by Regulation (EC) No 138/2003 (OJ L 23, 28.1.2003, p. 1).

⁽²⁾ OJ L 352, 15.12.1990, p. 1.

⁽³⁾ OJ L 104, 6.5.1995, p. 1.

⁽⁴⁾ OJ L 314, 14.12.2000, p. 13.

ANNEX

720 CHINA						Adjustment Transfer from quota year 2004		
Group	Category	Unit	Limit 2003	Working level after previous adjustments	Working level after implementing normal flexibilities (transfer from quota year 2004 of 1 %)	Quantity	%	New adjusted working level
IA	2	kgs	29 132 000	29 897 241	30 188 561	582 640	2,0	30 771 201
IA	3	kgs	5 938 000	5 876 325	5 935 705	118 760	2,0	6 054 465
IB	4	pcs	82 818 000	84 208 042	85 036 222	1 656 360	2,0	86 692 582
IB	5	pcs	26 341 000	26 750 140	27 013 550	526 820	2,0	27 540 370
IB	6	pcs	28 199 000	28 738 019	29 020 009	563 980	2,0	29 583 989
IB	6S	pcs	1 228 000	1 228 877	1 241 157	24 560	2,0	1 265 717
IIA	9	kgs	6 079 000	6 667 258	6 728 048	121 580	2,0	6 849 628
IIA	20/39	kgs	9 633 000	10 282 817	10 379 147	385 320	4,0	10 764 467
IIB	12	prs	32 721 000	35 196 379	35 523 589	1 308 840	4,0	36 832 429
IIB	13	pcs	516 216 000	541 218 721	546 380 881	20 648 640	4,0	567 029 521
IIB	15	pcs	17 404 000	18 610 777	18 784 817	696 160	4,0	19 480 977
IIB	16	pcs	16 196 000	18 301 480	18 463 440	323 920	2,0	18 787 360
IIB	26	pcs	5 523 000	6 095 872	6 151 102	110 460	2,0	6 261 562
IIB	29	pcs	13 757 000	14 526 416	14 663 986	550 280	4,0	15 214 266
IIB	31	pcs	83 851 000	89 714 607	90 553 117	3 354 040	4,0	93 907 157
IIB	78	kgs	32 932 000	35 558 964	35 888 284	658 640	2,0	36 546 924
IIB	83	kgs	9 673 000	10 375 777	10 472 507	386 920	4,0	10 859 427
other	163	kgs	6 449 000	6 749 213	6 813 703	257 960	4,0	7 071 663
other	X115	kgs	1 239 000	1 329 130	1 342 180	10 390	0,8	1 352 570

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 11 February 2004

concerning the non-inclusion of fenthion in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing this active substance

(notified under document number C(2004) 313)

(Text with EEA relevance)

(2004/140/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, as last amended by Commission Directive 2003/119/EC ⁽²⁾, and in particular the third and the fourth subparagraph of Article 8(2) thereof,

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

Whereas:

- (1) Article 8(2) of Directive 91/414/EEC provided for the Commission to carry out a programme of work for the examination of the active substances used in plant protection products which were already on the market on 25 July 1993. Detailed rules for the carrying out of this programme were established in Regulation (EEC) No 3600/92.
- (2) Commission Regulation (EC) No 933/94 of 27 April 1994 laying down the active substances of plant protection products and designating the rapporteur Member States for the implementation of Commission Regulation (EEC) No 3600/92 ⁽⁵⁾, as last amended by Regulation (EC) No 2230/95 ⁽⁶⁾, designated the active substances

which should be assessed in the framework of Regulation (EEC) No 3600/92, designated a Member State to act as rapporteur in respect of the assessment of each substance and identified the producers of each active substance who submitted a notification in due time.

- (3) Fenthion is one of the 89 active substances designated in Regulation (EC) No 933/94.
- (4) In accordance with Article 7(1)(c) of Regulation (EEC) No 3600/92, Greece, being the designated rapporteur Member State, submitted on 4 April 1996 to the Commission the report of its assessment of the information submitted by the notifiers in accordance with Article 6(1) of that Regulation.
- (5) On receipt of the report of the rapporteur Member State, the Commission undertook consultations with experts of the Member States as well as with the main notifier Bayer CropScience as provided for in Article 7(3) of Regulation (EEC) No 3600/92.
- (6) The Commission organised two tripartite meetings with the main data submitter and the rapporteur Member State for this active substance on 18 April 1997 and 11 February 2003.
- (7) The assessment report prepared by Greece has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health. This review was finalised on 4 July 2003 in the format of the Commission review report for fenthion.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.

⁽²⁾ OJ L 325, 12.12.2003, p. 41.

⁽³⁾ OJ L 366, 15.12.1992, p. 10.

⁽⁴⁾ OJ L 259, 13.10.2000, p. 27.

⁽⁵⁾ OJ L 107, 28.4.1994, p. 8.

⁽⁶⁾ OJ L 225, 22.9.1995, p. 1.

- (8) The dossier and the information from the review were also submitted to the Scientific Committee for Plants (SCP). The SCP was asked to comment on the establishment of an Acceptable Daily Intake and an Acceptable Operator Exposure Level. In its first opinion of 2 October 1998, and based on the conclusions of the human and environmental risk assessment, the SCP considered that it was not possible to complete a full assessment in the absence of data to prove that even the limited intended use as bait application on citrus and olive was safe for human health and the environment. The SCP particularly noted the very high acute risk for birds. In that opinion, the SCP acknowledged that the development of an innovative technique of application, namely bait formulation including fenthion plus attractant on only a part of the crop, might be promising to achieve limited exposure of humans and the environment; however it noted that specific studies would have to be made available on such a type of application before a conclusive evaluation could be made.

Additional information, in particular in relation to the bait application use, has subsequently been submitted by Bayer CropScience and has been evaluated. The additional information and its evaluation has been submitted to the SCP. In its opinion of 17 December 2002 the SCP concluded that the risk to birds from the proposed uses of fenthion remained uncertain. As a result, the concerns in relation to possible risks to birds raised in its previous opinion remained unresolved.

- (9) Assessments made on the basis of the information submitted have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing fenthion satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC, in particular with regard to its possible impact on birds.
- (10) Fenthion should therefore not be included in Annex I to Directive 91/414/EEC.
- (11) Measures should be taken to ensure that existing authorisations for plant protection products containing fenthion are withdrawn within a prescribed period and are not renewed and that no new authorisations for such products are granted.
- (12) In the light of the information submitted to the Commission it appears that, in the absence of efficient alternatives for certain limited uses in certain Member States, there is a need for further use of the active substance so as to enable the development of alternatives. It is therefore justified in the present circumstances to prescribe under strict conditions aimed at minimising risk a longer period for the withdrawal of existing authorisations for

the limited uses considered as essential for which no efficient alternatives appear currently to be available for the control of harmful organisms.

- (13) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant protection products containing fenthion allowed by Member States, should be limited to a period no longer than 12 months to allow existing stocks to be used in no more than one further growing season.
- (14) This Decision does not prejudice any action the Commission may undertake at a later stage for this active substance within the framework of Council Directive 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant protection products containing certain active substances ⁽¹⁾, as last amended by Regulation (EC) No 807/2003 ⁽²⁾.
- (15) 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

Fenthion shall not be included as active substance in Annex I to Directive 91/414/EEC.

Article 2

Member States shall ensure that:

1. Authorisations for plant protection products containing fenthion are withdrawn by 11 August 2004;
2. from 17 February 2004 no authorisations for plant protection products containing fenthion are granted or renewed under the derogation provided for in Article 8(2) of Directive 91/414/EEC;
3. In relation to the uses listed in column B of the Annex, a Member State specified in column A may maintain in force authorisations for plant protection products containing fenthion until 30 June 2007 provided that it:
 - (a) ensures that such plant protection products remaining on the market are relabelled in order to match the restricted use conditions;
 - (b) imposes all appropriate risk mitigation measures to reduce any possible risks in order to ensure the protection of human and animal health and the environment; and
 - (c) ensures that alternative products or methods for such uses are being seriously sought, in particular, by means of action plans.

⁽¹⁾ OJ L 33, 8.2.1979, p. 36.

⁽²⁾ OJ L 122, 16.5.2003, p. 36.

The Member State concerned shall inform the Commission on 31 December 2004 at the latest on the application of this paragraph and in particular on the actions taken pursuant to points (a) to (c) and provide on a yearly basis estimates of the amounts of fenthion used for essential uses pursuant to this Article.

Article 3

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and:

- (a) for the uses for which the authorisation is to be withdrawn on 11 August 2004, shall expire not later than 11 August 2005;

- (b) for the uses for which the authorisation is to be withdrawn by 30 June 2007, shall expire not later than 31 December 2007.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 11 February 2004.

For the Commission

David BYRNE

Member of the Commission

ANNEX

List of authorisations referred to in Article 2(3)

Column A	Column B
Member State	Use
Spain	Bait application in citrus and peaches
Greece	Bait application in olives
Italy	Bait application in olives
Portugal	Bait application in citrus and olives

COMMISSION DECISION

of 12 February 2004

concerning the non-inclusion of amitraz in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing this active substance*(notified under document number C(2004) 332)***(Text with EEA relevance)**

(2004/141/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, as last amended by Commission Directive 2003/119/EC ⁽²⁾, and in particular the third and the fourth subparagraph of Article 8(2) thereof,Having regard to Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market ⁽³⁾, as last amended by Regulation (EC) No 2266/2000 ⁽⁴⁾, and in particular Article 7(3A)(b) thereof,

Whereas:

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

- (4) In accordance with Article 7(1)(c) of Regulation (EEC) No 3600/92, Austria, being the designated rapporteur Member State, submitted on 6 January 1998 to the Commission the report of its assessment of the information submitted by the notifiers in accordance with Article 6(1) of that Regulation.
- (5) On receipt of the report of the rapporteur Member State, the Commission undertook consultations with experts of the Member States as well as with the main notifier Bayer CropScience, as provided for in Article 7(3) of Regulation (EEC) No 3600/92.
- (6) The Commission organised two tripartite meeting with the main data submitter and the rapporteur Member State for this active substance on 9 June 2000 and on 21 March 2003.
- (7) The assessment report prepared by Austria has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health. This review was finalised on 4 July 2003 in the format of the Commission review report for amitraz.
- (8) Assessments made on the basis of the information submitted have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing amitraz satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC. In particular, Article 5(2)(b) provides that an acceptable daily intake (ADI) for man must be taken into account in deciding on the inclusion of an active substance in Annex I. In setting the ADI the possible neurological effects of amitraz had to be considered. These effects were also considered for setting the Acute Reference Dose, i.e. the estimate of the amount of the substance that can be ingested over a short period of time without appreciable health risk to the consumer. It has not been demonstrated for the proposed uses that consumers might not be exposed to amitraz exceeding the Acute Reference Dose. A probabilistic risk assessment was prepared by the notifier. It must however be taken into consideration that agreed criteria for the interpretation of such a probabilistic risk assessment are not yet established and it would not be appropriate, in view of the possible risks, to delay decision-making further until such criteria are agreed.
- (9) Amitraz should therefore not be included in Annex I to Directive 91/414/EEC.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.⁽²⁾ OJ L 325, 12.12.2003, p. 41.⁽³⁾ OJ L 366, 15.12.1992, p. 10.⁽⁴⁾ OJ L 259, 13.10.2000, p. 27.⁽⁵⁾ OJ L 107, 28.4.1994, p. 8.⁽⁶⁾ OJ L 225, 22.9.1995, p. 1.

- (10) Measures should be taken to ensure that existing authorisations for plant protection products containing amitraz are withdrawn within a prescribed period and are not renewed and that no new authorisations for such products are granted.
- (11) In the light of the information submitted to the Commission it appears that, in the absence of efficient alternatives for certain limited uses in certain Member States, there is a need for further use of the active substance so as to enable the development of alternatives. It is therefore justified in the present circumstances to prescribe under strict conditions aimed at minimising risk a longer period for the withdrawal of existing authorisations for the limited uses considered as essential for which no efficient alternatives appear currently to be available for the control of harmful organisms.
- (12) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant protection products containing amitraz allowed by Member States, should be limited to a period no longer than 12 months to allow existing stocks to be used in no more than one further growing season.
- (13) This Decision does not prejudice any action the Commission may undertake at a later stage for this active substance within the framework of Council Directive 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant protection products containing certain active substances⁽¹⁾, as last amended by Regulation (EC) No 807/2003⁽²⁾.
- (14) 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

Amitraz shall not be included as an active substance in Annex I to Directive 91/414/EEC.

Article 2

Member States shall ensure that:

1. authorisations for plant protection products containing amitraz are withdrawn by 12 August 2004;

2. from 17 February 2004 no authorisations for plant protection products containing amitraz are granted or renewed under the derogation provided for in Article 8(2) of Directive 91/414/EEC;
3. in relation to the uses listed in column B of the Annex, a Member State specified in column A may maintain in force authorisations for plant protection products containing amitraz until 30 June 2007 provided that it:
 - (a) ensures that such plant protection products remaining on the market are relabelled in order to match the restricted use conditions;
 - (b) imposes all appropriate risk mitigation measures to reduce any possible risks in order to ensure the protection of human and animal health and the environment; and
 - (c) ensures that alternative products or methods for such uses are being seriously sought, in particular, by means of action plans.

The Member State concerned shall inform the Commission on 31 December 2004 at the latest on the application of this paragraph and in particular on the actions taken pursuant to points (a) to (c) and provide on a yearly basis estimates of the amounts of amitraz used for essential uses pursuant to this Article.

Article 3

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and:

- (a) for the uses for which the authorisation is to be withdrawn on 12 August 2004, shall expire not later than 12 August 2005;
- (b) for the uses for which the authorisation is to be withdrawn by 30 June 2007, shall expire not later than 31 December 2007.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 12 February 2004.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 33, 8.2.1979, p. 36.

⁽²⁾ OJ L 122, 16.5.2003, p. 36.

ANNEX

List of authorisations referred to in Article 2(3)

Column A	Column B
Member State	Use
Greece	Cotton
The Netherlands	Tree nursery, strawberry (only propagating material), pear trees after harvest
United Kingdom	Pear trees after harvest
Portugal	Pear trees after harvest

COMMISSION DECISION
of 12 February 2004
on financial assistance from the Community for the operation of certain Community reference
laboratories in the veterinary public health field (residues) for the year 2004

(notified under document number C(2004) 334)

(Only the Dutch, French, German and Italian texts are authentic)

(2004/142/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, as last amended by Regulation (EC) No 806/2003 ⁽²⁾, and in particular Article 28(2) thereof,

Whereas:

- (1) Community financial assistance should be granted to the Community reference laboratories designated by the Community to assist them in carrying out the functions and duties laid down in Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products ⁽³⁾.
- (2) The financial contribution from the Community should be granted provided that the actions planned are efficiently carried out and that the authorities supply all the necessary information within the time limits laid down.
- (3) Considering the situation of the Community reference laboratory in Rome and the fact that it is not accredited as required by Council Directive 93/99/EC ⁽⁴⁾ and Commission Decision 98/179/EC ⁽⁵⁾, the Community financial assistance for this laboratory should only be granted after the accreditation. The financial assistance will be proportionate to the work programme which can be accomplished in the remainder of 2004.
- (4) Additional financial assistance should be also provided for the organisation of workshops in the area of responsibility of the Community reference laboratories.
- (5) Pursuant to Article 3(2) of Council Regulation (EC) No 1258/1999 ⁽⁶⁾, veterinary and plant health measures undertaken in accordance with Community rules shall be financed under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund; for financial control purposes, Articles 8 and 9 of Council Regulation (EC) No 1258/1999 apply.

(6) Commission Regulation (EC) No 156/2004 ⁽⁷⁾ establishes the eligible expenditures of the Community reference laboratories receiving financial assistance pursuant to Article 28 of Decision 90/424/EEC and establishes the procedures for the submission of expenditures and audits.

(7) 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

1. The Community grants financial assistance to the Netherlands for the functions and duties referred to in Annex V, Chapter 2, to Directive 96/23/EC to be carried out by the Rijksinstituut voor de Volksgezondheid en Milieuhygiëne, Bilthoven, the Netherlands, for the detection of residues of certain substances.
2. The Community's financial assistance referred to in paragraph 1 shall amount to a maximum of EUR 415 000 for the period from 1 January 2004 to 31 December 2004.
3. The Community's additional financial assistance for the organisation of a technical workshop shall amount to a maximum of EUR 30 000.

Article 2

1. The Community grants financial assistance to France for the functions and duties referred to in Annex V, Chapter 2, to Directive 96/23/EC to be carried out by the Laboratoire d'études et de recherches sur les médicaments vétérinaires et les désinfectants de L'Agence Française de Sécurité Sanitaire des Aliments, (formerly the Laboratoire des médicaments vétérinaires), Fougères, France, for the detection of residues of certain substances.
2. The Community's financial assistance referred to in paragraph 1 shall amount to a maximum of EUR 415 000 for the period from 1 January 2004 to 31 December 2004.
3. The Community's additional financial assistance for the organisation of a technical workshop shall amount to a maximum of EUR 36 000.

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

⁽³⁾ OJ L 125, 23.5.1996, p. 10.

⁽⁴⁾ OJ L 290, 24.11.1993, p. 14.

⁽⁵⁾ OJ L 65, 5.3.1998, p. 31.

⁽⁶⁾ OJ L 160, 26.6.1999, p. 103.

⁽⁷⁾ OJ L 27, 30.1.2004, p. 5.

Article 3

1. The Community grants financial assistance to Germany for the functions and duties referred to in Annex V, Chapter 2, to Directive 96/23/EC to be carried out by the Bundesamt für Verbraucherschutz und Lebensmittelsicherheit (formerly the Bundesinstitut für gesundheitlichen Verbraucherschutz und Veterinärmedizin), Berlin, Germany, for the detection of residues of certain substances.
2. The Community's financial assistance referred to in paragraph 1 shall amount to a maximum of EUR 415 000 for the period from 1 January 2004 to 31 December 2004.
3. The Community's additional financial assistance for the organisation of a technical workshop shall amount to a maximum of EUR 30 000.

Article 4

1. Subject to sub-paragraph 4, the Community grants financial assistance to Italy for the functions and duties referred to in Annex V, Chapter 2, to Directive 96/23/EC to be carried out by the Istituto Superiore di Sanità, Rome, Italy, for the detection of residues of certain substances.
2. Subject to sub-paragraph 4, the Community's financial assistance referred to in paragraph 1 shall amount to a maximum of EUR 415 000 for the period from 1 January 2004 to 31 December 2004.

3. The Community's additional financial assistance for organisation of two technical workshops shall amount to a maximum of EUR 34 000.

4. The Community's financial assistance will start on the date of accreditation of the Community reference laboratory according to the requirements of Directive 93/99/EC and Decision 98/179/EC. The amount granted shall be proportionate to the work programme established for the remainder of 2004 in agreement with the Commission.

Article 5

This Decision is addressed to the Federal Republic of Germany, the French Republic, the Italian Republic and the Kingdom of Netherlands.

Done at Brussels, 12 February 2004.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION

of 13 February 2004

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

(2004/143/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period ⁽²⁾, and in particular Article 4(5) and (6) thereof,

Whereas:

- (1) The special accession programme for agriculture and rural development for the Republic of Estonia (hereinafter Sapard) was approved by Commission Decision of 17 November 2000 ⁽³⁾, and as last amended by Commission Decision of 19 December 2002 in accordance with Article 4(5) of Regulation (EC) No 1268/1999.
- (2) The government of the Republic of Estonia and the Commission, acting on behalf of the European Community, signed on 25 January 2001 the Multiannual Financing Agreement laying down the technical, legal and administrative framework for the execution of the Sapard programme, as last amended by the Annual Financing Agreement for 2003, signed on 9 December 2003 which finally entered into force on 11 December 2003.
- (3) A Sapard agency, within the Agricultural Registers and Information Board, has been appointed by the competent authority of the Republic of Estonia for the implementation of some of the measures defined in the Sapard. The Ministry of Finance, National Fund, has been appointed for the financial functions it is due to perform in the framework of the implementation of the Sapard.

- (4) On the basis of a case-by-case analysis of the national and sectorial programme/project management capacity, financial control procedures and structures regarding public finance, as provided for in Article 12(2) of Regulation (EC) No 1266/1999, the Commission adopted Decision 2001/461/EC of 15 June 2001 conferring management of aid on implementing agencies for pre-accession measures in agriculture and rural development in the Republic of Estonia in the pre-accession period ⁽⁴⁾ with regard to certain measures provided for in the Sapard.

- (5) The Commission has since undertaken a further analysis under Article 12(2) of Regulation (EC) No 1266/1999 in respect of measure 6 'renovation and development of villages' (hereinafter measure 6) as provided for in the Sapard. The Commission considers that, also with regard to that measure, the Republic of Estonia complies with the provisions of Articles 4 to 6 and of the Annex to Commission Regulation (EC) No 2222/2000 of 7 June 2000 laying down financial rules for the application of Council Regulation (EC) No 1268/1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period ⁽⁵⁾ and with the minimum conditions set out in the Annex to Regulation (EC) No 1266/1999.

- (6) It is therefore appropriate to waive the *ex ante* approval requirement provided for in Article 12(1) of Regulation (EC) No 1266/1999 and to confer, with regard to measure 6, on the Agricultural Registers and Information Board, and on the National Fund in the Republic of Estonia, the management of aid on a decentralised basis.

- (7) However, since the verifications carried out by the Commission for measure 6 are based on a system that is not yet fully operational with regard to all relevant elements, it is appropriate to confer the management of the Sapard on the Agricultural Registers and Information Board, and on the National Fund, on a provisional basis, according to Article 3(2) of Regulation (EC) No 2222/2000.

⁽¹⁾ OJ L 161, 26.6.1999, p. 68.

⁽²⁾ OJ L 161, 26.6.1999, p. 87. Regulation as last amended by Regulation (EC) No 696/2003 (OJ L 99, 17.4.2003, p. 24).

⁽³⁾ C(2000) 3321 final.

⁽⁴⁾ OJ L 162, 19.6.2001, p. 19.

⁽⁵⁾ OJ L 253, 7.10.2000, p. 5. Regulation as last amended by Regulation (EC) No 188/2003 (OJ L 27, 1.2.2003, p. 14).

- (8) Full conferral of management of the Sapard is only envisaged after further verifications have been carried out to ensure that the system operates satisfactorily and after any recommendations which the Commission may issue, with regard to the conferral of management of aid on the Agricultural Registers and Information Board and on the National Fund, have been implemented.
- (9) On 16 October 2003 the Estonian Authorities proposed the rules for eligibility of expenditure in accordance with Article 4(1) of section B of the Multiannual Financing Agreement. The Commission is called upon to take a decision in this respect,

HAS DECIDED AS FOLLOWS:

Article 1

The requirement of *ex ante* approval by the Commission of project selection and contracting for measure 6 by the Republic of Estonia provided for in Article 12(1) of Regulation (EC) No 1266/1999 is hereby waived.

Article 2

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

1. the Agricultural Registers and Information Board in its role as Sapard Agency of the Republic of Estonia, located at Narva mnt. 3, EE-51009 Tartu, for the implementation of

measure 6 of the Sapard as defined in the Programme for Agricultural and Rural Development that was approved by the abovementioned Commission Decision; and

2. the National Fund within the Ministry of Finance of the Republic of Estonia, located at 1, Suur-Ameerika, EE-15006 Tallinn, for the financial functions it is due to perform in the framework of the implementation of the Sapard for measure 6 for the Republic of Estonia.

Article 3

Without prejudice to any decision granting aid under the Sapard to individual beneficiaries, the rules for eligibility of expenditure concerning measure 6 as proposed by the Republic of Estonia in the operational manual sent to the Commission on 16 October 2003 and registered in the Commission under number AGR A/34972 shall apply.

Done at Brussels, 13 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission