

Official Journal

of the European Union

ISSN 1725-2555

L 127

Volume 47

29 April 2004

English edition

Legislation

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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 821/2004**of 26 April 2004****amending Regulation (EC) No 2229/2003 imposing a definitive anti-dumping duty and collecting definitively the provisional anti-dumping duty imposed on imports of silicon originating in Russia**

THE COUNCIL OF THE EUROPEAN UNION

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (the basic Regulation), and in particular Articles 8 and 9 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

- (1) The Council, by Regulation (EC) No 2229/2003 ⁽²⁾, imposed definitive anti-dumping duties on imports of silicon originating in Russia (the definitive Regulation).
- (2) SKU LLC, Sual-Kremny-Ural and ZAO KREMNY, cooperating exporting producers in Russia, belonging to the SUAL Holding Group, together with their related trader, ASMP GmbH, in Switzerland (SKU LLC, Sual-Kremny-Ural; ZAO KREMNY and ASMP GmbH are hereinafter jointly referred to as the company), offered an acceptable undertaking prior to the publication of the definitive findings but at a stage when it was administratively impossible to include its acceptance in the definitive Regulation.
- (3) The Commission, by Decision 2004/445/EC ⁽³⁾, accepted the undertaking offered by the company. The reasons for accepting this undertaking are set out in that Decision. The Council recognises that the revised undertaking offer eliminates the injurious effect of dumping and minimises the risk of circumvention in the form of cross-compensation with other products.
- (4) In view of the acceptance of the undertaking, it is necessary to amend Regulation (EC) No 2229/2003 accordingly,

Regulation (EC) No 2229/2003 is hereby amended as follows:

1. Article 2 shall be re-numbered as Article 3, and Article 3 shall be re-numbered as Article 4;
2. the following Article shall be inserted:

'Article 2

1. Imports declared for release into free circulation by companies which offered undertakings accepted by and named in Commission Decision 2004/445/EC (*) shall be exempt from the anti-dumping duties imposed by Article 1; provided that they are produced, shipped and invoiced directly by the said companies to the first independent customer in the Community; and provided that such imports are accompanied by a commercial invoice containing at least the elements listed in the Annex and by a certificate declaring the chemical analysis of each grade of the product concerned specified on the commercial invoice.

2. Exemption from the duty shall further be conditional on the goods declared and presented to customs corresponding precisely to the description on the commercial invoice and to the chemical analysis certificate.

(*) OJ L 127, 29.4.2004, p. 114.'

3. the following Annex shall be added:

'ANNEX

The following elements shall be indicated in the commercial invoice accompanying sales of silicon to the Community, which are subject to the Undertaking:

1. the heading "COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING";
2. the name of the company mentioned in Article 2(1) issuing the commercial invoice;

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 339, 24.12.2003, p. 3.

⁽³⁾ See page 114 of this Official Journal.

3. the commercial invoice number;
4. the date of issue of the commercial invoice;
5. the TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier;
6. the exact description of the goods, including:
 - the product code number (PCN),
 - the description of the goods corresponding to the PCN,
 - the company product code number (CPC),
 - the CN code,
 - the quantity (in tonnes);
7. the description of the terms of sale, including:
 - the price per tonne,
 - the applicable payment terms,
 - the applicable delivery terms,
 - total discounts and rebates;

8. the name of the company acting as an importer to which the invoice is issued directly by the company;
9. the name of the official of the company that has issued the commercial invoice and the following signed declaration:

"I, the undersigned, certify that the sale for direct export by [company name] to the European Union of the goods covered by this invoice is being made within the scope and under the terms of the Undertaking offered by [company name], and accepted by the European Commission through [Decision...]. I declare that the information provided in this invoice is complete and correct."

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 Luxembourg, 26 April 2004.

For the Council
The President
B. COWEN

**COUNCIL REGULATION (EC) No 822/2004
of 26 April 2004**

**amending Regulation (EC) No 2603/2000 imposing a definitive countervailing duty on imports of
certain polyethylene terephthalate originating, *inter alia*, in Thailand**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Article 20 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. MEASURES IN FORCE

- (1) The measures currently in force are definitive countervailing duty imposed by Regulation (EC) No 2603/2000⁽²⁾, under which imports into the Community of certain polyethylene terephthalate (the product concerned) originating in Thailand are subject to a duty, in the form of a specific amount per tonne, i.e. EUR 49,1 per tonne.
- (2) It should be noted that the same imports are also subject to a definitive anti-dumping duty of EUR 83,2 per tonne, imposed by Regulation (EC) No 2604/2000⁽³⁾.

B. CURRENT INVESTIGATION

1. Request for a review

- (3) The Commission subsequently received a request to initiate an accelerated review of Regulation (EC) No 2603/2000, pursuant to Article 20 of the basic Regulation, from the Thai producer Indo Pet (Thailand) Ltd (Indo Pet). This company claimed that it was not individually investigated during the original period of investigation (i.e. from 1 October 1998 to 30 September 1999) for reasons other than the refusal to cooperate with the Commission.

⁽¹⁾ OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 461/2004

⁽²⁾ OJ L 301, 30.11.2000, p. 1.

⁽³⁾ OJ L 301, 30.11.2000, p. 21. Regulation as last amended by Regulation (EC) No 823/2004 (see page 7 of this Official Journal).

- (4) It should be noted that the Commission simultaneously received, from the same Thai producer, a request to initiate a 'new exporter' review of Regulation (EC) No 2604/2000. This parallel proceeding is subject to a separate Council Regulation.

2. Initiation of an accelerated review

- (5) The Commission examined the evidence submitted by the Thai exporting producer concerned and considered it sufficient to justify the initiation of an accelerated review in accordance with Article 20 of the basic Regulation. After consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by a notice published in the *Official Journal of the European Union*⁽⁴⁾, a review of Regulation (EC) No 2603/2000 with regard to the company concerned and commenced its investigation.

3. Product concerned

- (6) The product covered by the current review is the same as in the original investigation, i.e. polyethylene terephthalate (PET) with a coefficient of viscosity of 78 ml/g or higher, according to DIN (Deutsche Industrienorm) 53728. It is currently classifiable within CN code 3907 60 20.

4. Parties concerned

- (7) The Commission officially advised the company concerned and the representatives of the exporting country of the initiation of the review. Furthermore, it gave other parties directly concerned the opportunity to make their views known in writing and to request a hearing. No such request was however received.
- (8) The Commission also sent out a questionnaire to the Government of Thailand and to the company concerned and received a reply within the deadline. The Commission sought and verified all the information deemed necessary for the determination of subsidisation, and a verification visit was carried out at the premises of the company concerned.

⁽⁴⁾ OJ C 170, 19.7.2003, p. 2.

5. Investigation period

- (9) The investigation of subsidisation covered the period from 1 January 2002 to 31 March 2003 (investigation period or IP).

— additional incentives under the form of a double deduction of certain expenses for enterprises located in special investment promotion zones,

— exemption of import duties on raw and essential materials.

6. Methodology

- (10) The same methodology as that used in the original investigation was applied in the current investigation.

- (17) The current investigation revealed that, since the end of the original period of investigation, no change occurred that would alter the conclusions that the above schemes are still countervailable. Additionally, the investigation did not reveal that the company benefited from any other than the above subsidy schemes.

C. SCOPE OF THE REVIEW

- (11) As no request for a review of the findings on injury was made in the request for the investigation, the review was limited to subsidies granted to Indo Pet.

Exemption or reduction on duties on imports of machinery

- (12) The Commission examined the same subsidy schemes that were analysed in the original investigation. It also examined whether the new exporter had used any subsidy schemes that were alleged to be granted in the original complaint but not found to have been used during the original investigation period.

- (18) Section 28 of the IPA is the legal basis to grant the exemption of import duties on machinery, provided that such machinery is not being produced or assembled in Thailand, and provided that it will be used in the promoted activity, as defined by the IPA. Section 29 of the IPA provides the legal basis for the 50 % reduction on import duties on imported machinery.

- (13) It was finally examined whether the new exporters had made use of any subsidy schemes that were established after the end of the original investigation period, or had received ad hoc subsidies after this date.

- (19) The benefit to the exporter should be calculated on the basis of the amount of unpaid customs duty due on imported capital goods, by spreading this amount across a period which reflects the normal depreciation of such capital goods in the industry of the product concerned, pursuant to Article 7(3) of the basic Regulation.

D. RESULTS OF THE INVESTIGATION

1. New exporter qualification

- (14) The investigation confirmed that the company concerned was not individually investigated during the original investigation for reasons other than a refusal to cooperate with the Commission.
- (15) Accordingly, it is confirmed that the company concerned should be considered a new exporter in accordance with Article 20 of the basic Regulation, and thus an individual amount of subsidy could be determined for it.

- (20) On this basis, the benefit received by Indo Pet is of less than 0,1 % which is considered immaterial.

Exemption from corporate income tax and additional incentives for enterprises located in special investment promotion zones

2. Subsidisation

- (16) The original investigation showed that the following schemes — under the Investment Promotion Act (IPA) — from which the applicant may potentially benefit, were specific within the meaning of Article 3(2)(a) and (2)(b) of the basic Regulation and thus countervailable⁽¹⁾:

- exemption or reduction on duties on imports of machinery,
- exemption from corporate income tax,

- (21) These two countervailable schemes are defined by Sections 31 and 35(3) of the IPA.

- (22) By virtue of Section 31 of the IPA, exemptions from the corporate income tax are authorised for a period ranging between three to eight years, depending on the location of the investments. Different eligibility criteria are applied to different geographical zones (zones 1 to 3, as defined by the IPA). Indo Pet, being located in the so-called zone 3, has been granted an eight-year corporate income tax exemption pursuant to Section 31 of the IPA. Indo Pet was further granted additional incentives under the form of a double deduction of transportation, electricity and water supply costs, as provided by Section 35(3) of the IPA.

⁽¹⁾ Commission Regulation (EC) No 1741/2000 of 3 August 2000 imposing a provisional countervailing duty on imports of polyethylene terephthalate (PET) originating in India, Malaysia, Taiwan and Thailand (OJ L 199, 5.8.2000, p. 6), recitals 181 to 201.

(23) The benefit obtained by a company in the case of tax exemptions and tax reductions is calculated by reference to the amount of tax that would have been payable by the recipient company during the investigation period, had it not been able to benefit from a subsidy scheme. In the current case, the amount of tax normally payable during the IP is the tax payable during the tax year 2002 (no data regarding any tax payable amount concerning the first three months of the tax year 2003 being available during the on-spot investigation), and these taxes due are incurred in respect of revenue earned in 2001. On this basis, it was established that further to the provisions of Sections 35(3) of the IPA, the company concerned offset a significant part of its relevant taxable profit, the remaining part of which was totally exempted from corporate income tax pursuant to Section 31 of the IPA. The benefit granted to the company therefore consists of the amount of corporate income tax that the company did not have to pay during the IP by making use of the two countervailable schemes concerned.

(24) The subsidy obtained through the two above schemes was not granted by reference to quantities manufactured, produced, exported or transported. Therefore, pursuant to Article 7(2) of the basic Regulation, the amount of countervailable subsidy was determined by allocating the value of the total benefit, as described under recital 23, over the level of total sales of the company during the IP (annualised in this case).

(25) On this basis, it was found that Indo Pet received a benefit of 2,6 %.

Exemption of import duties on raw and essential materials

(26) Section 36(1) of the IPA provides the legal basis for exemption of import duties on the raw and essential materials imported for use specifically in producing, mixing, or assembling products or commodities for export.

(27) In the present case, it was established that the import duty exemption did not result in an excess remission of import duties for the exporter concerned. Therefore, there is no subsidy according to Article 2 of the basic Regulation and it is not necessary to further evaluate this scheme since no benefit was conferred on the exporting producer.

E. AMOUNTS OF COUNTERVAILABLE SUBSIDIES

(28) Taking account of the definitive findings relating to the various schemes as set out above, the amount of countervailable subsidy for the investigating exporting producer is as follows:

Company	Income tax exemption and additional incentives	Total
Indo Pet	2,6 %	2,6 %

F. AMENDMENT OF THE MEASURES BEING REVIEWED

(29) In the light of the foregoing, it is considered that a definitive countervailing duty should be imposed at the level of the subsidy margin found. In accordance with Article 15(1) of the basic Regulation, the countervailing duty should however not be higher than the countrywide injury margin established for Thailand by Regulation (EC) No 2603/2000 during the original anti-dumping investigation.

(30) It was considered appropriate during the original investigation to impose duties in the form of a specific amount per tonne, since PET prices can fluctuate in line with fluctuations in crude oil prices, thus significantly affecting the level of the duty. The same methodology should be applied in the current investigation. This specific amount should result from the application of the countervailing duty rate to the cif export prices.

(31) This leads to a countervailing duty rate for the exporting producer concerned of EUR 23,9 per tonne.

G. DISCLOSURE AND DURATION OF THE MEASURES

(32) The company concerned and all other interested parties were informed of the facts and considerations on the basis of which it was intended to impose the amended definitive countervailing duty on the imports of the company concerned.

(33) This review does not affect the date on which Regulation (EC) No 2603/2000 shall expire pursuant to Article 18(1) of the basic Regulation.

(34) Regulation (EC) No 2603/2000 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The table in Article 1(3) of Regulation (EC) No 2603/2000 shall be amended by adding the following:

Country	Company	Definitive duty (EUR per tonne)	TARIC additional code
Thailand	Indo Pet (Thailand) Ltd	23,9	A468'

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 Luxembourg, 26 April 2004.

For the Council

The President

B. COWEN

**COUNCIL REGULATION (EC) No 823/2004
of 26 April 2004**

amending Regulation (EC) No 2604/2000 imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating, *inter alia*, in Thailand

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Article 11(4) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. MEASURES IN FORCE

- (1) The measures currently in force are definitive anti-dumping duties imposed by Regulation (EC) No 2604/2000⁽²⁾, according to which imports into the Community of certain polyethylene terephthalate (the product concerned) originating in Thailand are subject to a duty, in the form of the specific amount of EUR 83,2 per tonne. Pursuant to the same Regulation, anti-dumping duties were also imposed against imports of the product concerned from India, Indonesia, Malaysia, the Republic of Korea and Taiwan.
- (2) It should be noted that the imports originating in Thailand are also subject to a definitive countervailing duty of EUR 49,1 per tonne, imposed by Regulation (EC) No 2603/2000⁽³⁾. Countervailing duties were also imposed concerning imports from India and Malaysia.

B. CURRENT INVESTIGATION

1. Request for a review

- (3) The Commission subsequently received a request to initiate a 'new exporter' review of Regulation (EC) No 2604/2000, pursuant to Article 11(4) of the basic Regulation, from the Thai producer Indo Pet (Thailand) Ltd (Indo Pet). This company claimed that it was not related to any of the exporting producers in Thailand subject to the anti-dumping measures in force with regard to the product concerned. Furthermore, it claimed that it had not exported the product concerned during the original period of investigation (i.e. from 1 October 1998 to 30 September 1999), but had exported the product concerned to the Community since then.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 301, 30.11.2000, p. 21. Regulation as last amended by Commission Regulation (EC) No 1292/2003 (OJ L 181, 19.7.2003, p. 20).

⁽³⁾ OJ L 301, 30.11.2000, p. 1. Regulation as amended by Regulation (EC) No 822/2004 (see page 3 of this Official Journal).

- (4) It should be noted that the Commission simultaneously received, from the same Thai producer, a request to initiate an accelerated review of Regulation (EC) No 2603/2000. This parallel proceeding is subject to a separate Council Regulation.

2. Initiation of a 'new exporter' review

- (5) The Commission examined the evidence submitted by the Thai exporting producer concerned and considered it sufficient to justify the initiation of a review in accordance with Article 11(4) of the basic Regulation. After consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EC) No 1292/2003, a review of Regulation (EC) No 2604/2000 with regard to Indo Pet and commenced its investigation.
- (6) Pursuant to the regulation initiating the review, the anti-dumping duty imposed by Regulation (EC) No 2604/2000 with regard to imports of the product concerned produced by the company concerned were repealed. Simultaneously, pursuant to Article 14(5) of the basic Regulation, customs authorities were directed to take appropriate steps to register such imports.

3. Product concerned

- (7) The product covered by the current review is the same as in the original investigation, i. e. polyethylene terephthalate (PET) with a coefficient of viscosity of 78 ml/g or higher, according to DIN (Deutsche Industrienorm) 53728. It is currently classifiable within CN code 3907 60 20.

4. Parties concerned

- (8) The Commission officially advised the company concerned and the representatives of the exporting country of the initiation of the review. Furthermore, it gave other parties concerned the opportunity to make their views known in writing and to request a hearing. No such request was however received.

- (9) The Commission also sent out a questionnaire to the company concerned and received a reply within the deadline. The Commission sought and verified all the information deemed necessary for the determination of dumping, and a verification visit was carried out at the premises of the company concerned.

5. Investigation period

- (10) The investigation of dumping covered the period from 1 January 2002 to 31 March 2003 (the investigation period, or IP).

6. Methodology

- (11) The same methodology as that used in the original investigation was applied in the current investigation.

C. SCOPE OF THE REVIEW

- (12) As no request for a review of the findings on injury was made in the request for the investigation, the review was limited to dumping.

D. RESULTS OF THE INVESTIGATION

- (13) The investigation confirmed that the company concerned had not exported the product concerned during the original period of investigation and that it had begun exporting to the Community only after this period.
- (14) Furthermore, according to documentary evidence submitted, Indo Pet was able to satisfactorily demonstrate that it did not have any direct or indirect links with any of the Thai exporting producers subject to the anti-dumping measures in force with regard to the product concerned.
- (15) By way of background, it should be noted that the exporter concerned is, however, related to another exporting producer located in Indonesia and which is, as mentioned above, also subject to anti-dumping duties on imports of the same product in the Community. The investigation revealed that after the current IP, this Indonesian exporting producer set up a factory in Thailand that became Indo Pet's exclusive source of supply for the essential raw material used to produce the product concerned. This raw material represents around 90 % of the total cost of manufacturing of the product concerned.
- (16) The Commission examined whether the quantities exported by the exporting producer concerned in Thailand and their corresponding prices were significant enough to constitute a representative basis for the assessment whether or not there is dumping.

- (17) In the course of the investigation, it was found that during the investigation period, only two sales transactions to the Community were recorded, for a respective volume of 40 and 20 tonnes. These two transactions represented, during the same period, 0,1 % of the total company sales volume and 0,4 % of its total export volume.

- (18) These sales transactions took place in February and March 2002, i.e. shortly before Indo Pet first contacted the Commission with a view to requesting this newcomer review. By way of background, it should be noted that Indo Pet did not record any further export sales to the Community between then and the on-the-spot investigation.

- (19) As to prices, the investigation revealed that, for the grade of PET most commonly sold both on domestic and export markets, the Community export price for the two abovementioned transactions was around 45 % higher than Indo Pet's average export price to non-EU countries.

- (20) If only the export sales to the EU neighbouring countries that will shortly join the Community and which are partly supplied by traders located in the Community are considered, it was even found that the price of the two Community transactions concerned was around 60 % higher than these exports. The sales transactions concerned in the case of the above countries were much more substantial in volume during the IP than the export transactions to the Community, and therefore likely better to reflect the level of the export price normally practised by Indo Pet.

- (21) Finally, the investigation showed that Indo Pet's overall export price was on average not only below its domestic price, but also below its cost of production.

- (22) For the above reasons, it is considered that the two export sales transactions to the Community during the IP were not significant enough to constitute a representative basis for the assessment of existence of dumping. Hence, it is considered that the level of the duty should therefore be maintained at the level established in the original investigation.

E. AMENDMENT OF THE MEASURES BEING REVIEWED

- (23) In the light of the foregoing, it is considered that the individual definitive anti-dumping duty for the exporter concerned should be kept at the level of the definitive countrywide anti-dumping duty rate established in the original investigation, i.e. 14,2 %.

- (24) The original investigation, however, concluded that it was appropriate to impose duties in the form of a specific amount per tonne, since PET prices can fluctuate in line with fluctuations in crude oil prices, thus significantly affecting the level of the duty. The same methodology should be applied in the current investigation. Therefore, the rate of the definitive individual anti-dumping duty applicable to the net, free-at Community-frontier price, before duty, for the products manufactured by the exporting producer concerned should be EUR 83,2 per tonne.
- (25) In accordance with Article 14(1) of the basic Regulation, no product shall be subject to both anti-dumping and countervailing duties for the purposes of dealing with one and the same situation arising from dumping or from export subsidisation. As the anti-dumping duties should be imposed on imports of the product concerned, it is necessary to determine whether, and to what extent, the subsidy and the dumping margin arise from the same situation.
- (26) In the parallel investigation referred to in recital 4, the subsidies found for the exporting producer concerned are not export subsidies and are therefore considered not to have affected the export price and the corresponding dumping margin. Consequently, the countervailing duties can be imposed together with the anti-dumping duties, to the extent that, pursuant to Article 9(4) of the basic Regulation, both duties taken together do not exceed the injury elimination margin of 22,6 % established for Thailand in the framework of the original investigation. This situation does not arise in the present case and therefore both countervailing and anti-dumping duties should be imposed.

F. RETROACTIVE LEVYING OF THE ANTI-DUMPING DUTY

- (27) As the review has resulted in a determination of dumping in respect of the company concerned, the anti-dumping duty applicable to this company shall also be levied retroactively from the date of initiation of this

review on imports which have been made subject to registration pursuant to Article 3 of Regulation (EC) No 1292/2003.

G. DISCLOSURE AND DURATION OF THE MEASURES

- (28) The company concerned and all other interested parties were informed of the facts and considerations on the basis of which it was intended to impose the definitive anti-dumping duty on its imports of the product concerned into the Community.
- (29) This review does not affect the date on which Regulation (EC) No 2604/2000 will expire pursuant to Article 11(2) of the basic Regulation.
- (30) Regulation (EC) No 2604/2000 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

1. In the table of Article 1(3) of Regulation (EC) No 2604/2000 the following is added:

'Country	Company	Definitive duty (EUR per tonne)	TARIC additional code
Thailand	Indo Pet (Thailand) Ltd	83,2	A468'

2. The duty hereby imposed shall also be levied retroactively on imports of the product concerned which have been registered pursuant to Article 3 of Regulation (EC) No 1292/2003.
3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

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 Luxembourg, 26 April 2004.

For the Council
The President
B. COWEN

**COUNCIL REGULATION (EC) No 824/2004
of 26 April 2004**

amending Regulation (EC) No 1784/2000 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain malleable cast iron tube or pipe fittings originating in Brazil, the Czech Republic, Japan, the People's Republic of China, the Republic of Korea and Thailand

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, and in particular Articles 8 and 9 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

- (1) On 29 May 1999, by means of a notice published in the *Official Journal of the European Communities*, the Commission announced the initiation of an anti-dumping proceeding ⁽²⁾ in respect of imports of certain malleable cast iron tube or pipe fittings originating in Brazil, Croatia, the Czech Republic, the Federal Republic of Yugoslavia, Japan, the People's Republic of China, the Republic of Korea and Thailand (the product concerned).
- (2) This proceeding resulted in provisional anti-dumping duties being imposed in February 2000 against Brazil, the Czech Republic, Japan, the People's Republic of China, the Republic of Korea and Thailand by Regulation (EC) No 449/2000 ⁽³⁾ in order to eliminate the injurious effects of dumping.
- (3) In the same Regulation, the Commission accepted an undertaking offered by an exporting producer in the Czech Republic, Moravske Zelezárny a.s. (Moravske). Subject to the conditions set out in Regulation (EC) No 449/2000, imports of the product concerned into the Community manufactured by this company were exempted from the said provisional anti-dumping duties, pursuant to Article 2(1) of the same Regulation.

- (4) Definitive duties were later imposed against Brazil, the Czech Republic, Japan, the People's Republic of China, the Republic of Korea and Thailand by Regulation (EC) No 1784/2000 ⁽⁴⁾. Subject to the conditions set out therein, that Regulation also granted Moravske an exemption to the definitive anti-dumping duties as an undertaking had already been accepted definitively from this company at the provisional stage of the proceeding.

B. FAILURE TO COMPLY WITH THE UNDERTAKING

- (5) The undertaking offered in the present case obliges the company concerned, *inter alia*, to export the product concerned to the Community at or above certain minimum import price levels (MIPs) specified therein. The company also undertakes not to circumvent the undertaking by making compensatory arrangements with any other party which causes the net price paid by the first independent customer in the Community to be below the MIPs. Furthermore, In addition, Moravske is obliged to send to the Commission a quarterly report of all its export sales of the product concerned to the Community.
- (6) During a recent on-spot verification visit to the premises of Moravske to verify the accuracy and veracity of data submitted in the said quarterly reports, it was found that the company had breached its undertaking by establishing a compensation scheme which enabled some of its products subject to the undertaking to be sold in the Community at prices below the MIPs. In addition, the company had omitted to report to the Commission seventeen sales invoices for exports of the product subject to the undertaking.
- (7) Commission Regulation (EC) No 833/2004 ⁽⁵⁾ sets out in more detail the nature of the breaches found.
- (8) In view of these breaches, acceptance of the undertaking offered by Moravske (UT10, Taric additional code A097) has been withdrawn by Commission Regulation (EC) No 833/2004 and a definitive anti-dumping duty should be imposed forthwith on imports of the products concerned manufactured by Moravske.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ C 151, 29.5.1999, p. 21.

⁽³⁾ OJ L 55, 29.2.2000, p. 3.

⁽⁴⁾ OJ L 208, 18.8.2000, p. 8. Regulation as amended by Regulation (EC) No 436/2004 (OJ L 72, 11.3.2004, p. 15).

⁽⁵⁾ See page 37 of this Official Journal.

- (9) In accordance with Article 8(9) of Regulation (EC) No 384/96, the rate of the anti-dumping duty must be established on the basis of the facts established within the context of the investigation which led to the undertaking. As the investigation in question was concluded by a final determination as to dumping and injury, by Regulation (EC) No 1784/2000, it is considered appropriate that the definitive anti-dumping rate is set at the level and in the form imposed by that Regulation, namely 26,1 % of the net, free-at-Community-frontier price, before duty.

C. AMENDMENT OF REGULATION (EC) No 1784/2000

- (10) In view of the above, Regulation (EC) No 1784/2000 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1784/2000 is hereby amended as follows:

1. In the table in Article 1(2) the TARIC additional code 'A999' for the Czech Republic shall be replaced by '-'.
2. The table in Article 2(3) shall be replaced by the following table:

'Country	Company	Taric additional code
Republic of Korea	Yeong Hwa Metal Co., Ltd 363-6, Namyang-dong, Chinhae Kyongman Korea	A093
Thailand	BIS Pipe Fitting Industry Co., Ltd 107 Moo 4, Petchkasem Road, Omnoi, Kratumban Samutsakorn 74130 Thailand	A094'

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 Luxembourg, 26 April 2004.

For the Council
The President
B. COWEN

COUNCIL REGULATION (EC) No 825/2004
of 26 April 2004
amending Regulation (EC) No 2042/2000 imposing a definitive anti-dumping duty on imports of
television camera systems originating in Japan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ ('the basic Regulation'),

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURES

- (1) The Council, by Regulation (EC) No 1015/94⁽²⁾, imposed a definitive anti-dumping duty on imports of television camera systems (TCS) originating in Japan.
- (2) In Article 1(3)(e) of Regulation No 1015/94, the Council specifically excluded from the scope of the anti-dumping duty camera systems listed in the Annex to that Regulation (the Annex), representing high-end professional cameras systems technically falling within the product definition under Article 1(2) of Regulation (EC) No 1015/94, but which cannot be regarded as television camera systems.
- (3) In October 1995, the Council, by Regulation (EC) No 2474/95⁽³⁾, amended Regulation (EC) No 1015/94, in particular as regards the like product definition and as regards certain models of professional camera systems which were explicitly exempted from the definitive anti-dumping duty.
- (4) In October 1997, the Council, by Regulation (EC) No 1952/97⁽⁴⁾, amended the rates of the definitive anti-dumping duty for two companies concerned, namely for Sony Corporation and Ikegami Tsushinki Co., Ltd, in accordance with Article 12 of Regulation (EC) No 384/96. Furthermore, the Council specifically excluded from the scope of the anti-dumping duty certain new models of professional camera systems by adding them to the Annex.

(5) In January 1999 and 2000, the Council, by Regulations (EC) No 193/1999⁽⁵⁾ and (EC) No 176/2000, amended Regulation (EC) No 1015/94 adding certain successor models of professional camera systems to the Annex and thus excluding those from the application of the definitive anti-dumping duty.

(6) In September 2000, the Council, by Regulation (EC) No 2042/2000⁽⁶⁾, confirmed the definitive anti-dumping duties imposed by Regulation (EC) No 1015/94 in accordance with Article 11(2) of the Basic Regulation.

(7) In January 2001 and in May 2001, the Council, by Regulations (EC) No 198/2001⁽⁷⁾ and (EC) No 951/2001⁽⁸⁾, amended Regulation (EC) No 2042/2000 by adding certain successor models of professional camera systems to the Annex and thus excluding them from the application of the definitive anti-dumping duty.

(8) In September 2001, the Council, by Regulation (EC) No 1900/2001⁽⁹⁾ further to an interim review in accordance with Article 11(3) of the Basic Regulation, confirmed the level of the definitive anti-dumping duty imposed to the exporting producer Hitachi Denshi Ltd.

(9) Finally, in September 2002, the Council, by Regulation (EC) No 1696/2002, further amended Regulation (EC) No 2042/2000 by adding certain successor models of professional camera systems to the Annex and thus excluding them from the application of the definitive anti-dumping duty.

B. INVESTIGATION CONCERNING NEW MODELS OF PROFESSIONAL CAMERA SYSTEMS

1. Procedure

- (10) Three Japanese exporting producers, namely Sony Corporation (Sony), Ikegami Tsushinki Co Ltd (Ikegami) and Matsushita, informed the Commission that they intended to introduce new models of professional camera systems into the Community market and requested the Commission to add these new models of professional camera systems, including their accessories, to the Annex and thus exempt them from the scope of the anti-dumping duties.

⁽¹⁾ OJ L 56, 6.3.1996, p.1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 111, 30.4.1994, p. 106. Regulation as last amended by Regulation (EC) No 176/2000 (OJ L 22, 27.1.2000, p. 29).

⁽³⁾ OJ L 255, 25.10.1995, p. 11.

⁽⁴⁾ OJ L 276, 9.10.1997, p. 20.

⁽⁵⁾ OJ L 22, 29.1.1999, p. 10.

⁽⁶⁾ OJ L 244, 29.9.2000, p. 38. Regulation as last amended by Regulation (EC) No 1696/2002 (OJ L 259, 27.9.2002, p. 1).

⁽⁷⁾ OJ L 30, 1.2.2001, p. 1.

⁽⁸⁾ OJ L 134, 17.5.2001, p. 18.

⁽⁹⁾ OJ L 261, 29.9.2001, p. 3.

- (11) The Commission informed the Community industry accordingly and commenced an investigation limited to the determination of whether the products under consideration fall within the scope of the anti-dumping duties and whether the operational part of Regulation (EC) No 2042/2000 should be amended accordingly.

2. Models under investigation

- (12) The requests for exemption were received for the following models of camera systems, supplied with the relevant technical information:

(i) Sony:

- remote control unit RM-M7E;

(ii) Ikegami:

- camera head HDL-20,
- camera head MKC-501,
- camera head MKC-501B;

(iii) Matsushita:

- camera head AW-E650,
- camera head AW-E655,
- camera head AW-E750.

All of the above models were presented either as being part of professional camera systems dedicated to the professional video market or as successors of professional camera models already excluded from the anti-dumping measure in force.

3. Findings

- (13) The Commission carried out a technical examination. It resulted from this analysis that none of above models could be classified as broadcast or television camera systems.

i) *Remote control unit RM-M7E (Sony), camera head AW-E650, AW-E655 and AW-E750 (Matsushita)*

- (14) The remote control unit RM-M7E, camera head AW-E650, AW-E655 and AW-E750 have been found to be professional cameras systems falling within Article 1(3)(e) of Regulation (EC) No 2042/2000. They should therefore be added to the Annex in order to be exempted from the definitive duty.

- (15) In accordance with the established Community Institutions' practice all above models should be exempted from the duty from the date of receipt by the Commission services of the relevant request for exemption. Therefore, all imports of the following camera models imported on or after the below indicated date should be exempted from the duty from

Sony:

- remote control unit RM-M7E 6 August 2002;

Matsushita:

- camera head AW-E650 30 October 2003,
- camera head AW-E655 30 October 2003,
- camera head AW-E750 30 October 2003.

ii) *Camera heads MKC-501 and MKC-501B (Ikegami)*

- (16) With regard to the camera model MKC-501 and its successor MKC-501B it was found that these models were exclusively dedicated for industrial and medical applications. They are part of Ikegami's medical camera series and particularly designed for the use in the medical sector. Thus, the camera head is 'ultra-compact' and has no function without the corresponding camera control unit. It cannot be connected to a viewfinder. The C-mount lens connection is only apt for industrial lenses, microscopes and endoscopes, i.e. broadcast lenses cannot be connected. Furthermore, the above models are coated with antibacterial paint specifically for the use in medical environments. It was therefore concluded that the MKC-501 and its successor MKC-501B were exempted under Article 1(3)(d) of Regulation 2042/2000.

- (17) Since both above camera models fall within Article 1(3)(d) of Regulation (EC) No 2042/2000 they are by definition exempted from the definitive anti-dumping duty, irrespective of their date of importation.

iii) *Camera head HDL-20 (Ikegami)*

- (18) As far as camera head HDL-20 is concerned, it was found that it does not fall under the product description of Article 1(3) of Regulation (EC) No 2042/2000. In particular the camera head is only equipped with two sensors (2/3 inch), while Article 1(3) of Regulation (EC) No 2042/2000 describes a camera head as having 'three or more sensors'. Therefore, it was concluded that this camera type does not fall within the product description and therefore not within the scope of the anti-dumping duty without the need to be exempted expressly thereof by adding this model to the Annex.

4. Information of the interested parties and conclusions

- (19) The Commission informed the Community industry and the exporters of the TCS of its findings and provided them with an opportunity to present their views. None of the parties objected to the Commission's findings.

- (20) On the basis of the above, Regulation (EC) No 2042/2000 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex of Regulation (EC) No 2042/2000 shall be replaced by the text set out in the Annex to this Regulation.

Article 2

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

2. This Regulation shall apply to imports of the following models produced and exported to the Community by the following exporting producers:

- (a) Sony Corporation from 6 August 2002:
 - remote control unit RM-M7E;
- (b) Matsushita from 30 October 2003:
 - camera head AW-E650,
 - camera head AW-E655,
 - camera head AW-E750.

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

Done at Luxembourg, 26 April 2004.

For the Council
The President
B. COWEN

ANNEX

‘ANNEX

**List of professional camera systems not qualified as television camera systems (broadcast camera systems)
which are exempted from the measures**

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adapters
Sony	DXC-M7PK	DXF-3000CE	CCU-M3P	RM-M7G	—	CA-325P
	DXC-M7P	DXF-325CE	CCU-M5P	RM-M7E ⁽¹⁾		CA-325AP
	DXC-M7PH	DXF-501CE	CCU-M7P			CA-325B
	DXC-M7PK/1	DXF-M3CE	CUU-M5AP ⁽¹⁾			CA-327P
	DXC-M7P/1	DXF-M7CE				CA-537P
	DXC-M7PH/1	DXF-40CE				CA-511
	DXC-327PK	DXF-40ACE				CA-512P
	DXC-327PL	DXF-50CE				CA-513
	DXC-327PH	DXF-601CE				VCT-U14 ⁽¹⁾
	DXC-327APK	DXF-40BCE				
	DXC-327APL	DXF-50BCE				
	DXC-327AH	DXF-701CE				
	DXC-537PK	DXF-WSCE ⁽¹⁾				
	DXC-537PL	DXF-801CE ⁽¹⁾				
	DXC-537PH					
	DXC-537APK					
	DXC-537APL					
	DXC-537APH					
	EVW-537PK					
	EVW-327PK					
	DXC-637P					
	DXC-637PK					
	DXC-637PL					
	DXC-637PH					
	PVW-637PK					
	PVW-637PL					
	DXC-D30PF					
	DXC-D30PK					
	DXC-D30PL					
	DXC-D30PH					
	DSR-130PF					
	DSR-130PK					
	DSR-130PL					
	PVW-D30PF					
	PVW-D30PK					
	PVW-D30PL					
	DXC-327BPF					
	DXC-327BPK					
	DXC-327BPL					
	DXC-327BPH					
	DXC-D30WSP ⁽¹⁾					
	DXC-D35PH ⁽¹⁾					
	DXC-D35PL ⁽¹⁾					
	DXC-D35PK ⁽¹⁾					
	DXC-D35WSPL ⁽¹⁾					
	DSR-135PL ⁽¹⁾					

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adapters
Ikegami	HC-340 HC-300 HC-230 HC-240 HC-210 HC-390 LK-33 HDL-30MA HDL-37 HC-400 (1) HC-400W (1) HDL-37E HDL-10 HDL-40	VF15-21/22 VF-4523 VF15-39 VF15-46 (1) VF5040 (1) VF5040W (1)	MA-200/230 MA-200A (1) MA-400 (1) CCU-37 CCU-10	RCU-240 RCU-390 (1) RCU-400 (1) RCU-240A	—	CA-340 CA-300 CA-230 CA-390 CA-400 (1) CA-450 (1)
Hitachi	HV-C10F Z-ONE (L) Z-ONE (H) Z-ONE Z-ONE A (L) Z-ONE A (H) Z-ONE A (F) Z-ONE A Z-ONE B (L) Z-ONE B (H) Z-ONE B (F) Z-ONE B Z-ONE B (M) Z-ONE B (R) FP-C10 (B) FP-C10 (C) FP-C10 (D) FP-C10 (G) FP-C10 (L) FP-C10 (R) FP-C10 (S) FP-C10 (V) FP-C10 (F) FP-C10 FP-C10 A FP-C10 A (A) FP-C10 A (B) FP-C10 A (C) FP-C10 A (D) FP-C10 A (F) FP-C10 A (G) FP-C10 A (H) FP-C10 A (L) FP-C10 A (R) FP-C10 A (S) FP-C10 A (T) FP-C10 A (V)	GM-51 (1)	RC-C1 RC-C10 RU-C10 RU-Z1 (B) RU-Z1 (C) RU-Z1 RC-C11 RU-Z2 RC-Z1 RC-Z11 RC-Z2 RC-Z21 RC-Z2A (1) RC-Z21A (1) RU-Z3 (1) RC-Z3 (1)	—	—	CA-Z1HB CA-C10 CA-C10SP CA-C10SJA CA-C10M CA-C10B CA-Z1A (1) CA-Z31 (1) CA-Z32 (1) CA-ZD1 (1)

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adapters
	FP-C10 A (W) Z-ONE C (M) Z-ONE C (R) Z-ONE C (F) Z-ONE C HV-C20 HV-C20M Z-ONE-D Z-ONE-D (A) Z-ONE-D (B) Z-ONE-D (C) Z-ONE.DA (1) V-21 (1) V-21W (1)					
Matsushita	WV-F700 WV-F700A WV-F700SHE WV-F700ASHE WV-F700BHE WV-F700ABHE WV-F700MHE WV-F350 WV-F350HE WV-F350E WV-F350AE WV-F350DE WV-F350ADE WV-F500HE (*) WV-F-565HE AW-F575HE AW-E600 AW-E800 AW-E800A AW-E650 AW-E655 AW-E750	WV-VF65BE WV-VF40E WV-VF39E WV-VF65BE (*) WV-VF40E (*) WV-VF42E WV-VF65B AW-VF80	WV-RC700/B WV-RC700/G WV-RC700A/B WV-RC700A/G WV-RC36/B WV-RC36/G WV-RC37/B WV-RC37/G WV-CB700E WV-CB700AE WV-CB700E (*) WV-CB700AE (*) WV-RC700/B (*) WV-RC700/G (*) WV-RC700A/B (*) WV-RC700A/G (*) WV-RC550/G WV-RC550/B WV-RC700A WV-CB700A WV-RC550 WV-CB550 AW-RP501 AW-RP505	—	—	WV-AD700SE WV-AD700ASE WV-AD700ME WV-AD250E WV-AD500E (*) AW-AD500AE AW-AD700BSE
JVC	KY-35E KY-27ECH KY-19ECH KY-17FITECH KY-17BECH KY-F30FITE KY-F30BE KY-27CECH KH-100U KY-D29ECH	VF-P315E VF-P550E VF-P10E VP-P115E VF-P400E VP-P550BE VF-P116 VF-P116WE (1) VF-P550WE (1)	RM-P350EG RM-P200EG RM-P300EG RM-LP80E RM-LP821E RM-LP35U RM-LP37U RM-P270EG RM-P210E	—	—	KA-35E KA-B35U KA-M35U KA-P35U KA-27E KA-20E KA-P27U KA-P20U KA-B27E KA-B20E KA-M20E KA-M27E

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adapters
Olympus	KY-D29WECH (†) MAJ-387N MAJ-387I		OTV-SX 2 OTV-S5 OTV-S6			
	Camera OTV-SX					

(*) Also called master set up unit (MSU) or master control panel (MCP).

(†) Models exempted under the condition that the corresponding triax system or triax-adaptor is not sold on the EC market.'

**COUNCIL REGULATION (EC) No 826/2004
of 26 April 2004**

**prohibiting imports of Atlantic blue-fin tuna (*Thunnus thynnus*) originating in Equatorial Guinea
and Sierra Leone and repealing Regulation (EC) No 2092/2000**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Fishery resources, which are an exhaustible natural resource, should be protected in the interests of biological balances and global food security.
- (2) In 1994 the International Commission for the Conservation of Atlantic Tunas (ICCAT), to which the European Community is a contracting party, adopted an action plan to ensure the effectiveness of its conservation programme for Atlantic blue-fin tuna.
- (3) The stocks concerned cannot be managed effectively by the ICCAT contracting parties, whose fishermen are obliged to reduce their catches of Atlantic blue-fin tuna, unless all non-contracting parties fishing Atlantic blue-fin tuna cooperate with ICCAT and comply with its conservation and management measures.
- (4) ICCAT has identified Equatorial Guinea and Sierra Leone as countries whose vessels fish Atlantic blue-fin tuna in a manner which diminishes the effectiveness of the organisation's tuna conservation measures, substantiating its findings with data concerning catches, trade and the observation of vessels.
- (5) Imports of Atlantic blue-fin tuna originating in Belize, Equatorial Guinea and Honduras are currently prohibited by Council Regulation (EC) No 2092/2000 of 28 September 2000 prohibiting imports of Atlantic blue-fin tuna (*Thunnus thynnus*) originating in Belize, Honduras and Equatorial Guinea ⁽¹⁾.
- (6) ICCAT has taken note of the strengthening of cooperation with Honduras for the conservation of Atlantic blue-fin tuna. At its 2001 annual meeting it recom-

mended the lifting of the prohibition of imports of Atlantic blue-fin tuna in any form imposed by the contracting parties on Honduras.

- (7) ICCAT has taken note of the progress of cooperation with Belize for the conservation of Atlantic blue-fin tuna. At its 2003 annual meeting it recommended the lifting, as of 1 January 2004, of the prohibition of imports of Atlantic blue-fin tuna in any form imposed by the contracting parties on Belize.
- (8) ICCAT's attempts to encourage Equatorial Guinea and Sierra Leone to comply with measures for the conservation and management of Atlantic blue-fin tuna have been to no avail.
- (9) ICCAT has recommended its contracting parties to take appropriate steps to prohibit imports of Atlantic blue-fin tuna products in any form from Sierra Leone and to continue prohibiting such imports from Equatorial Guinea. These measures will be lifted as soon as it is established that the countries in question have brought their fishing practices into line with ICCAT's measures. These measures should therefore be implemented by the Community, which has sole competence in this matter.
- (10) These measures are compatible with the Community's obligations under other international agreements.
- (11) For the sake of transparency, Regulation (EC) No 2092/2000 should be therefore repealed and replaced by this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, 'importation' means the customs procedures referred to in Article 4(15)(a), (15)(b) and (16)(a) to (16)(f) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽²⁾.

⁽¹⁾ OJ L 249, 4.10.2000, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Commission Regulation (EC) No 60/2004. (OJ L 9, 15.1.2004, p. 8).

Article 2

1. The importation into the Community of Atlantic blue-fin tuna (*Thunnus thynnus*) originating in Equatorial Guinea and Sierra Leone and falling within CN codes ex 0301 99 90, 0302 35 00, ex 0302 70 00, 0303 45 00, ex 0303 80 00, ex 0304 10 38, ex 0304 10 98, ex 0304 20 45, ex 0304 90 97, ex 0305 10 00, ex 0305 20 00, ex 0305 30 90, ex 0305 49 80, ex 0305 59 80 and ex 0305 69 80 is prohibited.

2. The importation of any processed product derived from the Atlantic blue-fin tuna referred to in paragraph 1 and falling within codes ex 1604 14 11, ex 1604 14 16 and ex 1604 14 18 and ex 1604 20 70 is prohibited.

Article 3

This Regulation shall not apply to quantities of the products referred to in Article 2 and originating in Sierra Leone which can be shown to the satisfaction of the competent national

authorities to have been under way to Community territory on the date of its entry into force and which are released for free circulation no later than 14 days after that date.

Article 4

1. Regulation (EC) No 2092/2000 is hereby repealed.
2. References to the repealed Regulation shall be construed as being made to this Regulation.

Article 5

This Regulation shall enter into force on the seventh 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 Luxembourg, 26 April 2004.

For the Council
The President
B. COWEN

**COUNCIL REGULATION (EC) No 827/2004
of 26 April 2004**

prohibiting imports of Atlantic bigeye tuna (*Thunnus obesus*) originating in Bolivia, Cambodia, Equatorial Guinea, Georgia and Sierra Leone and repealing Regulation (EC) No 1036/2001

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Fishery resources, which are an exhaustible natural resource, should be protected in the interests of biological balances and global food security.
- (2) In 1998 the International Commission for the Conservation of Atlantic Tunas (ICCAT), to which the European Community is a contracting party, adopted resolution 98-18 concerning unreported and unregulated catches of tuna by large-scale longline vessels in the Convention area.
- (3) The stocks concerned cannot be managed effectively by the ICCAT contracting parties, whose fishermen are obliged to reduce their catches of tuna, unless all non-contracting parties fishing Atlantic bigeye tuna cooperate with ICCAT and comply with its conservation and management measures.
- (4) ICCAT has identified Belize, Bolivia, Cambodia, Equatorial Guinea, Georgia, Honduras, Saint Vincent and the Grenadines and Sierra Leone as countries whose vessels fish Atlantic bigeye tuna in a manner which diminishes the effectiveness of the organisation's tuna conservation measures, substantiating its findings with data concerning catches, trade and the activities of vessels.
- (5) Imports of Atlantic bigeye tuna originating in Belize, Cambodia, Equatorial Guinea, Honduras and Saint Vincent and the Grenadines are currently prohibited by Regulation (EC) No 1036/2001 of 22 May 2001 prohibiting imports of Atlantic bigeye tuna (*Thunnus obesus*) originating in Belize, Cambodia, Equatorial Guinea, Saint Vincent and the Grenadines and Honduras ⁽¹⁾.
- (6) ICCAT has taken note of the strengthening of cooperation with Honduras for the conservation of Atlantic bigeye tuna. At its 2002 annual meeting it recommended the lifting of the prohibition of imports of Atlantic bigeye tuna in any form imposed by the contracting parties on Honduras.

- (7) ICCAT has taken note of the progress of cooperation with Belize and Saint Vincent and the Grenadines for the conservation of Atlantic bigeye tuna. At its 2003 annual meeting it lifted, as of 1 January 2004, the prohibition of imports of Atlantic bigeye tuna in any form imposed by the contracting parties on Belize and Saint Vincent and the Grenadines.
- (8) ICCAT's attempts to encourage Bolivia, Cambodia, Equatorial Guinea, Georgia and Sierra Leone to comply with measures for the conservation and management of Atlantic bigeye tuna have been to no avail.
- (9) ICCAT has recommended its contracting parties to take appropriate steps to prohibit imports of Atlantic bigeye tuna products in any form from Bolivia, Georgia and Sierra Leone and to continue prohibiting such imports from Cambodia and Equatorial Guinea. These measures will be lifted as soon as it is established that the countries in question have brought their fishing practices into line with ICCAT's measures. These measures should therefore be implemented by the Community, which has sole competence in this matter. However, in view of the notification periods required by ICCAT, the ban on imports from Georgia should not enter into force until 1 July 2004.
- (10) These measures are compatible with the Community's obligations under other international agreements.
- (11) For the sake of transparency, Regulation (EC) No 1036/2001 should therefore be repealed and replaced by this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, 'importation' means the customs procedures referred to in Article 4(15)(a), (15)(b) and (16)(a) to (16)(f) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽²⁾.

⁽¹⁾ OJ L 145, 31.5.2001, p. 10.

⁽²⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Commission Regulation (EC) No 60/2004 (OJ L 9, 15.1.2004, p. 8).

Article 2

1. The importation into the Community of Atlantic bigeye tuna (*Thunnus obesus*) originating in Bolivia, Cambodia, Equatorial Guinea and Sierra Leone and falling within CN codes ex 0301 99 90, 0302 34 00, ex 0302 70 00, 0303 44 00, ex 0303 80 00, ex 0304 10 38, ex 0304 10 98, ex 0304 20 45, ex 0304 90 97, ex 0305 10 00, ex 0305 20 00, ex 0305 30 90, ex 0305 49 80, ex 0305 59 80 and ex 0305 69 80 is prohibited.

2. The importation of any processed product derived from the Atlantic bigeye tuna referred to in paragraph 1 and falling within codes ex 1604 14 11, ex 1604 14 16 and ex 1604 14 18 and ex 1604 20 70 is prohibited.

3. The importation into the Community of Atlantic bigeye tuna (*Thunnus obesus*) originating in Georgia and falling within CN codes ex 0301 99 90, 0302 34 00, 0303 44 00, ex 0304 10 38, ex 0304 10 98, ex 0304 20 45, ex 0304 90 97, ex 0305 20 00, ex 0305 30 90, ex 0305 49 80, ex 0305 59 80 and ex 0305 69 80 is prohibited.

4. The importation of any processed product derived from the Atlantic bigeye tuna referred to in paragraph 3 and falling within codes ex 1604 14 11, ex 1604 14 16 and ex 1604 14 18 and ex 1604 20 70 is prohibited.

Article 3

This Regulation shall not apply to quantities of the products referred to in Article 2 and originating in Bolivia, Georgia and Sierra Leone which can be shown to the satisfaction of the competent national authorities to have been under way to Community territory on the date of its entry into force and which are released for free circulation no later than 14 days after that date.

Article 4

1. Regulation (EC) No 1036/2001 is hereby repealed.
2. References to the repealed Regulation shall be construed as being made to this Regulation.

Article 5

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

Article 2(3) and (4) shall apply from 1 July 2004.

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

Done at Luxembourg, 26 April 2004.

For the Council
The President
B. COWEN

COUNCIL REGULATION (EC) No 828/2004**of 26 April 2004****prohibiting imports of Atlantic swordfish (*Xiphias gladius*) originating in Sierra Leone and
repealing Regulation (EC) No 2093/2000**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Fishery resources, which are an exhaustible natural resource, should be protected in the interests of biological balances and global food security.

(2) In 1995 the International Commission for the Conservation of Atlantic Tunas (ICCAT), to which the European Community is a contracting party, adopted, to ensure the effective conservation of the species, an action plan to ensure the effectiveness of the conservation programme for Atlantic swordfish.

(3) The stocks concerned cannot be managed effectively by the ICCAT contracting parties, whose fishermen are obliged to reduce their catches of Atlantic swordfish, unless all non-contracting parties fishing Atlantic swordfish cooperate with ICCAT and comply with its conservation and management measures.

(4) In 1998 ICCAT identified Belize and Honduras, and in 2002 Sierra Leone, as countries whose vessels fish Atlantic swordfish in a manner which diminishes the effectiveness of the organisation's swordfish conservation measures, substantiating its findings with data concerning catches, trade and the activities of vessels.

(5) Imports of Atlantic swordfish originating in Belize and Honduras are currently prohibited by Council Regulation (EC) No 2093/2000 of 28 September 2000 prohibiting imports of Atlantic swordfish (*Xiphias gladius*) originating in Belize and Honduras. ⁽¹⁾

(6) ICCAT has taken note of the strengthening of cooperation with Honduras for the conservation of Atlantic swordfish. At its 2001 annual meeting it recommended

the lifting of the prohibition of imports of Atlantic swordfish in any form, imposed by the contracting parties on Honduras.

(7) ICCAT has taken note of the strengthening of cooperation with Belize for the conservation of Atlantic swordfish. At its 2003 annual meeting it lifted, as of 1 January 2004, the prohibition of imports of Atlantic swordfish in any form, imposed by the contracting parties on Belize.

(8) ICCAT's attempts to encourage Sierra Leone to comply with measures for the conservation and management of Atlantic swordfish have been to no avail.

(9) ICCAT has recommended its contracting parties to take appropriate steps to ban imports of these products in any form from Sierra Leone. These measures will be lifted as soon as it is established that the country in question has brought its fishing practices into line with ICCAT's measures. These measures should therefore be implemented by the Community, which has sole competence in the matter.

(10) These measures are compatible with the Community's obligations under other international agreements.

(11) For the sake of transparency, Regulation (EC) No 2093/2000 should therefore be repealed and replaced by this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, 'importation' means the customs procedures referred to in Articles 4(15)(a), (15)(b) and (16)(a) to (16)(f) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code. ⁽²⁾

⁽¹⁾ OJ L 249, 4.10.2000, p. 3.

⁽²⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Commission Regulation (EC) No 60/2004 (OJ L 9, 15.1.2004, p. 8).

Article 2

1. The importation into the Community of Atlantic swordfish (*Xiphias gladius*) originating in Sierra Leone and falling within CN codes ex 0301 99 90, 0302 69 87, ex 0302 70 00, 0303 79 87, ex 0303 80 00, ex 0304 10 38, ex 0304 10 98, 0304 20 87, 0304 90 65, ex 0305 10 00, ex 0305 20 00, ex 0305 30 90, ex 0305 49 80, ex 0305 59 80 and ex 0305 69 80 is prohibited.

2. The importation of any processed product derived from the Atlantic swordfish referred to in paragraph 1 and falling within codes ex 1604 19 91, ex 1604 19 98 and ex 1604 20 90 is prohibited.

Article 3

This Regulation shall not apply to quantities of the products referred to in Article 2 and originating in Sierra Leone which can be shown to the satisfaction of the competent national

authorities to have been under way to Community territory on the date of its entry into force and which are released for free circulation no later than 14 days after that date.

Article 4

1. Regulation (EC) No 2093/2000 is hereby repealed.
2. References to the repealed Regulation shall be construed as being made to this Regulation.

Article 5

This Regulation shall enter into force on the seventh 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 Luxembourg, 26 April 2004.

For the Council
The President
B. COWEN

**COUNCIL REGULATION (EC) No 829/2004
of 26 April 2004**

on the conclusion of the Agreement in the form of an Exchange of Letters concerning the provisional application of amendments to the Protocol establishing the fishing opportunities and the compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau for the period 16 June 2001 to 15 June 2006, and in Decision 2001/179/EC setting the terms for financial support to Guinea-Bissau in the fisheries sector

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 in conjunction with Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

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

Whereas:

- (1) In accordance with the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau ⁽²⁾, (Fisheries Agreement) the two Parties met within the Joint Committee provided for in Article 11 of that Agreement. The aim of this meeting was to analyse all aspects of the implementation of the Protocol establishing the fishing opportunities and the financial compensation provided for in the Fisheries Agreement for the period from 16 June 2001 to 15 June 2006 ⁽³⁾ and of the Decision 2001/179/EC ⁽⁴⁾ so as to determine any amendments or additions to be made.
- (2) Following this meeting, an Agreement in the form of an Exchange of Letters setting out technical changes and changes to the fishing opportunities and compensation provided for in the Fisheries Agreement and in Decision 2001/179/EC was signed on 20 May 2003.
- (3) The method of allocating the fishing opportunities among the Member States should be defined on the basis of the traditional allocation of fishing opportunities under the Fisheries Agreement.
- (4) It is in the Community's interest to approve the Agreement in the form of an Exchange of Letters,

HAS ADOPTED THIS REGULATION:

Article 1

The Agreement in the form of an Exchange of Letters concerning the provisional application of amendments to the Protocol establishing the fishing opportunities and the compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau for the

period 16 June 2001 to 15 June 2006, and in Decision 2001/179/EC setting the terms for financial support to Guinea-Bissau in the fisheries sector is hereby approved on behalf of the Community.

The text of the Agreement in the form of an Exchange of Letters is attached to this Regulation.

Article 2

1. The fishing opportunities provided for in the Fisheries Agreement shall be allocated among the Member States as follows:

(a) shrimp:

— Italy	1 776 GRT,
— Spain	1 421 GRT,
— Portugal	1 066 GRT,
— Greece	137 GRT;

(b) fin-fish/cephalopods:

— Spain	3 143 GRT,
— Italy	786 GRT,
— Greece	471 GRT;

(c) tuna seiners:

— Spain	20 vessels,
— France	19 vessels,
— Italy	1 vessel;

(d) surface longliners and pole-and-line vessels:

— Spain	21 vessels,
— France	5 vessels,
— Portugal	4 vessels.

2. If licence applications from the Member States referred to in paragraph 1 do not cover all the fishing opportunities fixed by the Protocol, the Commission may consider licence applications from any other Member State.

⁽¹⁾ Opinion delivered on 1 April 2004 (not yet published in the Official Journal).

⁽²⁾ OJ L 226, 29.8.1980, p. 33.

⁽³⁾ OJ L 19, 22.1.2002, p. 35.

⁽⁴⁾ OJ L 66, 8.3.2001, p. 33.

Article 3

The Member States whose vessels are fishing under the Fisheries Agreement are obliged to notify the Commission of the quantities of each stock taken in Guinea-Bissau's fishing zone in accordance with the arrangements laid down in Commission Regulation (EC) No 500/2001 of 14 March 2001 laying down detailed rules for the application of Council Regulation (EC) No 2847/93 on the monitoring of catches taken by Community fishing vessels in third country waters and on the high seas ⁽¹⁾.

Article 4

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in the form of an Exchange of Letters in order to bind the Community.

Article 5

This Regulation shall enter into force on the day following 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 Luxembourg, 26 April 2004.

For the Council

The President

J. WALSH

⁽¹⁾ OJ L 73, 15.3.2001, p. 8.

AGREEMENT

in the form of an Exchange of Letters concerning the provisional application of amendments to the Protocol establishing the fishing opportunities and the compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau for the period 16 June 2001 to 15 June 2006, and in Decision 2001/179/EEC setting the terms for financial support to Guinea-Bissau in the fisheries sector

A. Letter from the Government of the Republic of Guinea-Bissau

Sir,

With reference to the Protocol initialled on 30 May 2001 establishing the fishing opportunities and the compensation for the period 16 June 2001 to 15 June 2006, the detailed rules for implementing the Council Decision of 26 February 2001 (OJ L 66, 8.3.2001) and the result of the meeting of the Joint Committee on 19 and 20 May 2003, I hereby inform you that the Government of the Republic of Guinea-Bissau is ready to apply the following amendments to the Protocol on a provisional basis, with effect from 16 June 2003, pending its entry into force in accordance with Article 9 thereof, provided that the Community is prepared to do the same.

1. From 16 June 2004, until the expiry of the Protocol, the fishing opportunities granted pursuant to Article 4 of the Agreement shall be as follows:
 - (a) freezer shrimp trawlers: 4 400 gross registered tonnes (GRT);
 - (b) freezer fin-fish and cephalopod trawlers: 4 400 gross registered tonnes (GRT);
 - (c) freezer tuna seiners: 40 vessels;
 - (d) pole-and-line tuna vessels and surface longliners: 30 vessels.
2. The two Parties have agreed to allow exchanges of fishing rights between the first two categories (freezer shrimp trawlers and freezer fin-fish and cephalopod trawlers) in the period 16 June 2003 to 15 June 2004, this flexibility being needed to ensure that the Protocol on fisheries is more efficiently used.
3. From 16 June 2004, the compensation provided for in Article 9 of the Agreement shall be EUR 7 260 000 per year.
4. The support measures in the fisheries sector shall be financed from financial resources available under the Council Decision of 26 February 2001 (EUR 3 250 000). Once the Commission has accepted the implementation report for the first instalment (ad hoc measure of 26 February 2001), it shall pay these financial resources up to a total EUR 3 250 000 by way of advance for the implementation of measures programmed jointly. Any transfers shall be decided on by agreement between the two Parties in accordance with the arrangements provided for below.
5. The support measures in the fisheries sector provided for in the Protocol on fisheries (Article 4) and in the Decision of 26 February 2001 and the related financial resources shall be reprogrammed on the basis of the following principles:
 - (a) financing of a Guinea-Bissau scientific or technical programme to improve information on fisheries resources, the monitoring of the evolution of resources in Guinea-Bissau's fishing zone and the functioning of the fisheries research laboratory, in particular as regards improving health and hygiene conditions in the fisheries sector;

- (b) institutional support for the Ministry of Fisheries including technical assistance to set up and monitor the above measures and funding of awards for study and practical training in the various scientific, technical and economic disciplines relating to fisheries. The awards may also be used in any State linked with the Community by a cooperation agreement. At the request of the Guinea-Bissau authorities, part of that sum may be used to cover the costs of participation in international meetings or training courses concerning fisheries or the organisation of seminars on fishing in Guinea-Bissau;
- (c) support for investments in the small-scale fishing sector;
- (d) fisheries surveillance (purchasing equipment, administrative costs of monitoring, technical assistance, hiring equipment, and monitoring measures in conjunction with other countries and organisations in the region and/or the European Union), including the possibility of meeting the cost of setting up a satellite monitoring system (VMS) for fishing vessels.

The technical and financial programming of these measures shall be agreed between the Government of the Republic of Guinea-Bissau and the European Commission, in annual instalments by the following dates: 16 June 2004 and 16 June 2005. The related payments shall be conditional on the presentation by the Government of the Republic of Guinea-Bissau of a detailed implementation report and its acceptance by the European Commission.

6. The Republic of Guinea-Bissau also agrees to review all agreements (bilateral and/or private agreements) other than those with UEMOA member states, with a view to:
- reducing fishing effort in segments which are over-exploited, particularly shrimp fishing,
 - guaranteeing compliance with the provisions of Article 3 of the Protocol which stipulates that the two Parties undertake to promote responsible fishing in Guinea-Bissau waters based on the principle of non-discrimination between the different fleets fishing in these waters,
 - placing a freeze on new bilateral and private agreements as regards the fishing arrangements provided for in the Agreement between the EC and the Republic of Guinea-Bissau until the Parties reach agreement.

The review of the fisheries agreements and the renegotiation thereof with a view to bringing the financial compensation into line with the Agreement with the European Community or to terminating them must be finalised by 16 June 2004.

Failure to comply with these undertakings shall automatically give the other party the right to terminate the agreement and cancel any financial transfers from the date of termination.

7. In addition, and in order to finalise the support measures provided for in the first instalment of the Decision of 26 February 2001, the Government of the Republic of Guinea-Bissau shall transfer irrevocably to a joint-signature account administered by the secretariat of state for fisheries and the European Commission delegation in Bissau, by 15 October 2003, the amounts yet to be implemented under the first instalment of the Council Decision of 26 February 2001 (EUR 1 782 655).

Future transfers relating to the support measures in the fisheries sector shall be made by the European Commission directly to this account.

8. The second paragraph of point 5.3 of the Annex to the Protocol on fisheries is hereby amended by adding the following sentence:

'If the fishing season does not exceed one month, the shipowners' contribution shall be limited to the payment of one month's salary (EUR 400).'

I should be obliged if you would confirm the Community's agreement to such provisional application.

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

For the Government of the Republic of Guinea-Bissau

B. Letter from the Community

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

'With reference to the Protocol initialled on 30 May 2001 establishing the fishing opportunities and the compensation for the period 16 June 2001 to 15 June 2006, the detailed rules for implementing the Council Decision of 26 February 2001 (OJ L 66, 8.3.2001) and the result of the meeting of the Joint Committee on 19 and 20 May 2003, I hereby inform you that the Government of the Republic of Guinea-Bissau is ready to apply the following amendments to the Protocol on a provisional basis, with effect from 16 June 2003, pending its entry into force in accordance with Article 9 thereof, provided that the Community is prepared to do the same.

1. From 16 June 2004, until the expiry of the Protocol, the fishing opportunities granted pursuant to Article 4 of the Agreement shall be as follows:
 - (a) freezer shrimp trawlers: 4 400 gross registered tonnes (GRT);
 - (b) freezer fin-fish and cephalopod trawlers: 4 400 gross registered tonnes (GRT);
 - (c) freezer tuna seiners: 40 vessels;
 - (d) pole-and-line tuna vessels and surface longliners: 30 vessels.
2. The two Parties have agreed to allow exchanges of fishing rights between the first two categories (freezer shrimp trawlers and freezer fin-fish and cephalopod trawlers) in the period 16 June 2003 to 15 June 2004, this flexibility being needed to ensure that the Protocol on fisheries is more efficiently used.
3. From 16 June 2004, the compensation provided for in Article 9 of the Agreement shall be EUR 7 260 000 per year.
4. The support measures in the fisheries sector shall be financed from financial resources available under the Council Decision of 26 February 2001 (EUR 3 250 000). Once the Commission has accepted the implementation report for the first instalment (ad hoc measure of 26 February 2001), it shall pay these financial resources up to a total EUR 3 250 000 by way of advance for the implementation of measures programmed jointly. Any transfers shall be decided on by agreement between the two Parties in accordance with the arrangements provided for below.
5. The support measures in the fisheries sector provided for in the Protocol on fisheries (Article 4) and in the Decision of 26 February 2001 and the related financial resources shall be reprogrammed on the basis of the following principles:
 - (a) financing of a Guinea-Bissau scientific or technical programme to improve information on fisheries resources, the monitoring of the evolution of resources in Guinea-Bissau's fishing zone and the functioning of the fisheries research laboratory, in particular as regards improving health and hygiene conditions in the fisheries sector;
 - (b) institutional support for the Ministry of Fisheries including technical assistance to set up and monitor the above measures and funding of awards for study and practical training in the various scientific, technical and economic disciplines relating to fisheries. The awards may also be used in any State linked with the Community by a cooperation agreement. At the request of the Guinea-Bissau authorities, part of that sum may be used to cover the costs of participation in international meetings or training courses concerning fisheries or the organisation of seminars on fishing in Guinea-Bissau;

- (c) support for investments in the small-scale fishing sector;
- (d) fisheries surveillance (purchasing equipment, administrative costs of monitoring, technical assistance, hiring equipment, and monitoring measures in conjunction with other countries and organisations in the region and/or the European Union), including the possibility of meeting the cost of setting up a satellite monitoring system (VMS) for fishing vessels.

The technical and financial programming of these measures shall be agreed between the Government of the Republic of Guinea-Bissau and the European Commission, in annual instalments by the following dates: 16 June 2004 and 16 June 2005. The related payments shall be conditional on the presentation by the Government of the Republic of Guinea-Bissau of a detailed implementation report and its acceptance by the European Commission.

6. The Republic of Guinea-Bissau also agrees to review all agreements (bilateral and/or private agreements) other than those with UEMOA member states, with a view to:
- reducing fishing effort in segments which are over-exploited, particularly shrimp fishing,
 - guaranteeing compliance with the provisions of Article 3 of the Protocol which stipulates that the two Parties undertake to promote responsible fishing in Guinea-Bissau waters based on the principle of non-discrimination between the different fleets fishing in these waters,
 - placing a freeze on new bilateral and private agreements as regards the fishing arrangements provided for in the Agreement between the EC and the Republic of Guinea-Bissau until the Parties reach agreement.

The review of the fisheries agreements and the renegotiation thereof with a view to bringing the financial compensation into line with the Agreement with the European Community or to terminating them must be finalised by 16 June 2004.

Failure to comply with these undertakings shall automatically give the other party the right to terminate the agreement and cancel any financial transfers from the date of termination.

7. In addition, and in order to finalise the support measures provided for in the first instalment of the Decision of 26 February 2001, the Government of the Republic of Guinea-Bissau shall transfer irrevocably to a joint-signature account administered by the secretariat of state for fisheries and the European Commission delegation in Bissau, by 15 October 2003, the amounts yet to be implemented under the first instalment of the Council Decision of 26 February 2001 (EUR 1 782 655).

Future transfers relating to the support measures in the fisheries sector shall be made by the European Commission directly to this account.

8. The second paragraph of point 5.3 of the Annex to the Protocol on fisheries is hereby amended by adding the following sentence:

“If the fishing season does not exceed one month, the shipowners' contribution shall be limited to the payment of one month's salary (EUR 400).”

I should be obliged if you would confirm the Community's agreement to such provisional application.’

I have the honour to confirm the Community's agreement to such provisional application.

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

For the European Community

**COUNCIL REGULATION (EC) No 830/2004
of 26 April 2004**

on the conclusion of the Protocol defining for the period 1 January 2004 to 31 December 2008 the fishing opportunities and the financial contribution provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast

THE COUNCIL OF THE EUROPEAN UNION,

The text of the Protocol is attached to this Regulation.

Having regard to the Treaty establishing the European Community, and in particular Article 37 in conjunction with Article 300(2) and the first subparagraph of Article 300(3) thereof,

Article 2

Having regard to the proposal from the Commission,

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

Whereas:

- (1) Pursuant to the second paragraph of Article 15 of the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast (Agreement) ⁽²⁾, the two Parties conducted negotiations to determine any amendments or additions to be made to the Agreement at the end of the period of application of the Protocol annexed thereto.
- (2) As a result of those negotiations, a new Protocol defining for the period 1 January 2004 to 31 December 2008 the fishing opportunities and the financial contribution provided for in the Agreement was initialled on 27 June 2003.
- (3) The method of allocating the fishing opportunities among the Member States should be defined on the basis of the traditional allocation of fishing opportunities under the Agreement.
- (4) It is in the Community's interest to approve that Protocol,

HAS ADOPTED THIS REGULATION:

Article 1

The Protocol defining for the period 1 January 2004 to 31 December 2008 the fishing opportunities and the financial contribution provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast is hereby approved on behalf of the Community.

⁽¹⁾ Opinion delivered on 1 April 2004 (not yet published in the Official Journal).

⁽²⁾ OJ L 111, 27.4.1983, p. 1.

1. The fishing opportunities provided for in the Protocol shall be allocated among the Member States as follows:

(a) shrimp fishing:

- Spain: 1 050 GRT,
- Portugal: 300 GRT,
- Greece: 150 GRT;

(b) tuna seiners:

- France: 17 vessels,
- Spain: 17 vessels;

(c) pole-and-line tuna vessels:

- France: 7 vessels,
- Spain: 7 vessels;

(d) Surface longliners:

- Spain: 8,
- Portugal: 1.

2. The fishing opportunities provided for in the Protocol for fin-fish and cephalod fishing for 2004 shall be allocated among the Member States as follows:

- Spain: 844 GRT
- Italy: 750 GRT
- Greece: 906 GRT

3. If fishing opportunities are increased from 2005 as compared with 2004 in accordance with Article 1 of the Protocol, these increases shall be allocated in proportion to the fishing opportunities indicated above for 2004.

4. If licence applications from these Member States do not cover all the fishing opportunities laid down by the Protocol, the Commission may take into consideration licence applications from any other Member State.

Article 3

This Regulation shall enter into force on the third 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 Luxembourg, 26 April 2004.

For the Council

The President

J. WALSH

COUNCIL REGULATION (EC) No 831/2004
of 26 April 2004
amending Regulation (EC) No 973/2001 laying down certain technical measures for the conserva-
tion of certain stocks of highly migratory species

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

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

Whereas:

- (1) The International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Indian Ocean Tuna Commission (IOTC) adopted a number of recommendations on technical measures, which were transposed into Community law by Council Regulation (EC) No 973/2001 of 14 May 2001 laying down certain technical measures for the conservation of certain stocks of highly migratory species ⁽²⁾.
- (2) ICCAT, in 2001, at its 17th ordinary meeting, and in 2002 at its 13th special meeting recommended certain new technical measures for certain highly migratory Atlantic and Mediterranean stocks. Since these recommendations are binding on the Community, they should be implemented.
- (3) Regulation (EC) No 973/2001 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 973/2001 is hereby amended as follows:

1. in Article 3(4) 'until 31 December 2002' shall be deleted.
2. Article 5(1) shall be replaced by the following:
'1. Fishing for bluefin tuna with encircling nets in the Mediterranean Sea is prohibited from 16 July to 15 August each year.'
3. the following Articles shall be added:
'Article 5a

1. Member States shall each year draw up a sampling programme for the estimation of the numbers-at-size of the bluefin tuna caught, *inter alia*, through scientific observers on board the vessels or at the farming sites.

2. Member States shall transmit their programme to the Standing Committee on Research and Statistics for validation, and a copy to the Commission.

3. Before 1 July each year, Member States shall send to the Commission a report on the findings of the programmes, as indicated in paragraph 1, executed in the previous year.

Article 5b

1. Member States shall execute in 2003 and 2004 a plan to reduce the catches of juvenile bluefin tuna in the Mediterranean and ensure respect for the minimum bluefin tuna size indicated in Article 6.

2. Member States shall execute in 2003 and 2004 a scientific programme to identify the various fisheries taking bluefin tuna and the size composition of their respective catches. Their estimates shall embrace the past data available.

3. Before 15 September each year Member States shall notify to the Commission the action they have taken under paragraphs 1 and 2 and the outcome of execution of the plan.'

4. in Article 7(1) the second subparagraph shall be replaced by the following:

'The previous subparagraph shall not apply to accidentally taken fish of the species listed in Annex IV up to a limit of 15 % of the number of individuals in the quantities landed. For bluefin tuna this tolerance limit is set at 10 % of the number of fish per landing of the total bluefin tuna catches or their equivalent in percentage in weight.'

5. paragraphs 5 and 6 of Article 9 shall be deleted;

6. Article 10(5) shall be replaced by the following:

'5. Before 15 May each year, each Member States shall transmit to the Commission a list of the vessels flying their flag and fishing for albacore in the North Atlantic. The Commission shall forward this information to the Secretariat of ICCAT before 31 May each year.'

⁽¹⁾ Opinion delivered on 13 January 2004 (not yet published in the Official Journal).

⁽²⁾ OJ L 137, 19.5.2001, p. 1.

7. the following Article shall be inserted:

Article 2

'Article 12a

1. Member States shall do their utmost to encourage the release of live sharks caught accidentally, in particular juveniles.

2. Member States shall encourage the reduction of discards of sharks.'

This Regulation shall enter into force on the seventh day following 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 Luxembourg, 26 April 2004.

For the Council

The President

J. WALSH

COMMISSION REGULATION (EC) No 832/2004
of 28 April 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 29 April 2004.

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

Done at Brussels, 28 April 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 28 April 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	120,2
	204	75,8
	212	120,5
	999	105,5
0707 00 05	052	124,9
	096	84,2
	999	104,6
0709 90 70	052	108,4
	204	66,7
	999	87,6
0805 10 10, 0805 10 30, 0805 10 50	052	32,8
	204	38,7
	212	102,8
	220	40,2
	400	44,8
	600	30,7
	624	59,9
	999	50,0
0805 50 10	528	68,5
	999	68,5
0808 10 20, 0808 10 50, 0808 10 90	388	86,1
	400	139,9
	404	107,5
	508	68,0
	512	71,1
	524	68,3
	528	77,2
	720	97,4
	804	102,4
	999	90,9
0808 20 50	388	82,7
	512	73,2
	524	83,4
	528	75,3
	720	39,9
	804	119,3
	999	79,0

⁽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 833/2004
of 26 March 2004**

amending Commission Regulation (EC) No 449/2000 imposing a provisional anti-dumping duty on imports of malleable cast iron tube or pipe fittings originating in Brazil, the Czech Republic, Japan, the People's Republic of China, the Republic of Korea and Thailand and accepting an undertaking offered by an exporting producer in the Czech Republic

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, and in particular Articles 8 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

- (1) On 29 May 1999, by means of a notice published in the *Official Journal of the European Communities*, the Commission announced the initiation of an anti-dumping proceeding ⁽²⁾ in respect of imports of malleable cast iron tube or pipe fittings (the product concerned) originating in Brazil, Croatia, the Czech Republic, the Federal Republic of Yugoslavia, Japan, the People's Republic of China, the Republic of Korea and Thailand.
- (2) This proceeding resulted in provisional anti-dumping duties being imposed in February 2000 against Brazil, the Czech Republic, Japan, the People's Republic of China, the Republic of Korea and Thailand by Commission Regulation (EC) No 449/2000 ⁽³⁾ in order to eliminate the injurious effects of dumping.
- (3) In the same Regulation, the Commission accepted an undertaking offered by an exporting producer in the Czech Republic, Moravske Zelezárny a.s. (Moravske). Subject to the conditions set out in Regulation (EC) No 449/2000, imports of the product concerned into the Community from this company were exempted from the said provisional anti-dumping duties, pursuant to Article 2 (1) of the same Regulation.
- (4) Definitive duties were later imposed against Brazil, the Czech Republic, Japan, the People's Republic of China, the Republic of Korea and Thailand by Council Regulation (EC) No 1784/2000 ⁽⁴⁾. Subject to the conditions set out therein, this Regulation also granted goods manufactured and exported to the Community by Moravske an exemption to the definitive anti-dumping

duties as an undertaking had already been accepted definitively from this company at the provisional stage of the proceeding.

B. BREACHES OF THE UNDERTAKING

1. Obligations of company with an undertaking

- (5) The undertaking offered in the present case obliges the company concerned, *inter alia*, to export the product concerned to the Community at or above certain minimum import price levels (MIPs) specified therein. The company also undertakes not to circumvent the undertaking by making compensatory arrangements with any other party which causes the net price paid by the first independent customer for in the Community to be below the MIP.
- (6) Furthermore, in order to allow effective monitoring of the undertaking, Moravske is obliged to send to the European Commission a quarterly report of all its export sales of the product concerned to the European Community. These reports should include details of all invoices issued during the period for sales made under the terms of the undertaking for which exemption to the anti-dumping duties is sought. The data submitted in these sales reports should be complete and correct in all particulars.
- (7) For the purposes of ensuring compliance with the undertaking, Moravske also agreed to provide allow on-spot verification visits at its premises in order to verify the accuracy and veracity of data submitted in the said quarterly reports. In this regard, a verification visit was carried out at the premises of Moravske in the Czech Republic in September 2003.

2. Results of the verification visit

- (8) The visit to Moravske established that sales to a particular customer in the Community of certain types of the product concerned had, according to the export invoices and undertaking sales reports, purportedly been made at prices in conformity with the MIPs, whilst sales to the same customer of products not subject to anti-dumping

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12)

⁽²⁾ OJ C 151, 29.5.1999, p. 21.

⁽³⁾ OJ L 55, 29.2.2000, p. 3.

⁽⁴⁾ OJ L 208, 18.8.2000, p. 8.

measures were at price levels significantly below Moravske's average sales prices for these other products when sold to other customers in the Community. The goods subject to the undertaking were then re-sold by the purchaser in the Community to a second company in another Member State.

- (9) It was stated during the visit that, due to the level of the MIPs, Moravske was allegedly uncompetitive for certain fittings models in the second Member State. Moravske admitted that a system of cross-compensation between products subject to the undertaking and products outside the scope of the anti-dumping measures had been set up which allowed Moravske to sell those models at net (i.e. compensated) prices which were below the MIPs. Such sales by Moravske were, therefore, not in accordance with the terms of its undertaking.
- (10) Upon being notified of the verification visit, the company had checked the quarterly undertaking sales reports previously submitted to the Commission. Just prior to the visit, the company informed the Commission that it had found sixteen invoices accompanying sales to the Community made under the terms of the undertaking which had been omitted from the quarterly sales reports. It was claimed that the errors were due to the company's accounting software programme. In addition, acting on information received from one of the Community's customs authorities, the Commission found during the visit that another invoice for sales to the Community had been not been included on the appropriate quarterly undertaking sales report. It was established that the invoice in question had been omitted due to incorrect destination country coding of the invoice in the company's accounting system.
- (11) Although all the sales transactions on the seventeen omitted invoices had not been made to companies with which Moravske had compensation arrangements and were apparently in accordance with the MIPs, the fact remains that the company's accounting system failed to pick up the invoices for the purposes of the undertaking reports. The obligation of the company to submit complete reports of all its sales was not, therefore, met.

3. Breaches of the undertaking

- (12) The compensation scheme found was considered to breach the undertaking. The failure to report all sales transactions to the Community was also a breach of the undertaking. The company was therefore informed in writing of the essential facts and considerations on the basis of which the Commission intended to withdraw acceptance of the its undertaking and to recommend the imposition of the definitive anti-dumping duty.
- (13) Written submissions were made by the company within the due time limits and a hearing was also requested and granted.

- (14) Within the framework of the current administrative procedure, the company also requested a copy of the Commission Services' internal report of the on-spot verification visit as, it was contended, without this document it could not adequately defend its interests. However, the company has, as provided for by Articles 8 (9) and 20 of Regulation 384/96, received in writing full disclosure of all the facts and considerations on the basis of which it was intended that the present decision be taken, and has been given adequate opportunity to comment on these facts and considerations prior to the present decision being taken. Hence, the company has received all information necessary to enable it to fully exercise its rights of defence. Therefore, this request could not be granted. A request for access to the report of the visit under Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽¹⁾ is being dealt with in accordance with the provisions of that Regulation.
- (15) As concerns the issue of the compensation scheme, it was submitted that the amount of the compensation granted to the customer in question during 2002 was insignificant when viewed as part of the company's total exports to the Community of all products and that there was therefore no material breach. It was further argued that withdrawal of acceptance of the undertaking due to this compensation scheme was out of proportion to the actions of the company.
- (16) This argument concerning materiality cannot be accepted as the declared aim of the compensation scheme was to enable Moravske to sell its products in a certain Member State at prices below the MIPs and, therefore, at injurious price levels. In addition, even if a breach concerns only one customer in one Member State (or even only one transaction), a violation such as this clearly breaks the relationship of trust which formed the basis for the European Commission accepting the undertaking in the first place.
- (17) Moreover, as also concerns the issue of materiality and proportionality, it should be recalled that the jurisprudence of the Court of First Instance of the European Communities has confirmed that any breach of an undertaking is sufficient grounds for withdrawing acceptance thereof ⁽²⁾.
- (18) With regard to the question of the invoices which had been omitted from its sales reports to the Commission, Moravske made reference to another anti-dumping case ⁽³⁾ in which a Norwegian company had acceptance of its undertaking withdrawn by the Commission following a breach of its terms. The Norwegian company concerned later requested a partial interim review of the anti-dumping/subsidy measures applicable to it, which was granted. Following a new investigation by the Commission Services, a fresh undertaking was accepted from the company concerned, some three years after acceptance of the original undertaking was withdrawn.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

⁽²⁾ Court of First Instance, Judgment of 30 March 2000, Case T-51/96, *Miwon Co Ltd Vs Council*

⁽³⁾ *Farmed Atlantic salmon originating in Norway*. Council Regulation (EC) No 322/2002, OJ L 51, 22.2.2002, p. 1

- (19) In this regard, Moravske drew attention to the fact that one of the reasons for accepting the new undertaking from the Norwegian company related to improvements to its accounting system. Moravske indicated that it too would be prepared to improve its accounting system so as to ensure that omissions of invoices did not occur again and that the 'benefit' accorded to the Norwegian exporter in this regard should also be granted to it.
- (20) In response to this submission, it should first be made clear that the two cases are not the same. The Norwegian company had acceptance of its undertaking withdrawn following a breach, and it was only several years later, after an investigation determined that the circumstances had changed in the meantime, that another undertaking was accepted from the company. Moreover, several elements were taken into account which satisfied the Commission that the same breach would not re-occur (with improvements made to the Norwegian company's accounting system being only one aspect of the overall assessment).
- (21) This situation is therefore different to that of Moravske, which concerns the non-observance of a current undertaking. What the company would do in the future if the Commission refrained from withdrawing acceptance of its undertaking is hypothetical and cannot be considered as sufficient grounds for halting the current administrative procedure.
- (22) Moravske also submitted that production of the product concerned had been shifted outside the Community by two of the companies that had lodged the complaint which led to the current definitive anti-dumping measures. It was argued that there was therefore no further need for measures, as there was no Community industry to protect and that it was not in the Community interest to reimpose an anti-dumping duty on imports from Moravske.
- (23) In this regard, the Commission subsequently contacted the companies constituting the Community industry in the proceeding who confirmed that no significant reloca-

tion of production outside the Community of the product concerned had taken place. Even if the allegation concerning relocation of production had proved to be correct, this does not alter the fact that Moravske has breached its undertaking and that accordingly, acceptance of the undertaking may be withdrawn immediately.

**C. AMENDMENT OF COMMISSION REGULATION (EC)
No 449/2000**

- (24) In the light of the above, Article 2 of Commission Regulation (EC) No 449/2000 accepting an undertaking from Moravske Zelezářny a.s. should be deleted and Articles 3 and 4 of that Regulation should be renumbered accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Acceptance of the undertaking offered by Moravske Zelezářny a.s. is hereby withdrawn.

Article 2

1. Article 2 of Commission Regulation (EC) No 449/2000 is hereby deleted.
2. Article 3 of Commission Regulation (EC) No 449/2000 is hereby renumbered 'Article 2'.
3. Article 4 of Commission Regulation (EC) No 449/2000 is hereby renumbered 'Article 3'.

Article 3

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, 26 March 2004.

For the Commission

Pascal LAMY

Member of the Commission

COMMISSION REGULATION (EC) No 834/2004
of 28 April 2004
amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora
by regulating trade therein

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein⁽¹⁾, and in particular Article 19(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 338/97 lists animal and plant species in respect of which trade is restricted or controlled. Those lists incorporate the lists set out in the annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter 'the CITES Convention'.
- (2) Annex A of Council Regulation (EC) No 338/97 includes the species listed in Appendix I to the Convention for which the Member States have not entered a reservation and consequently *Varanus nebulosus* should be included on that Annex.
- (3) Amendments to Appendix III to the Convention made in accordance with the provisions of Article XVI of the Convention should be reflected in Annex C of Council Regulation (EC) No. 338/97 and in the 'Notes on interpretation of Annexes A, B, C and D'. In particular, it is necessary to list Argentina, Australia, Indonesia, Mexico, New Zealand and Peru as range States of species included in Appendix III to the Convention.
- (4) The annotation relating to some coral species needs to be adapted in order to incorporate some of the terms of CITES Resolution Conf. 11.10 concerning definitions of coral sand and coral fragments, in accordance with the

definition of 'specimens' given by Article 2(t) of Regulation (EC) No 338/97; the annotation regarding *Aloe* spp. needs to make an explicit reference to the species listed in Annex A; and the annotation to *Guaiaacum* spp. needs to be changed in order to designate the parts and derivatives decided upon at the 12th Conference.

- (5) The Scientific Review Group has established, on the basis of the criteria set out in Article 3(4)(a) of Regulation (EC) No 338/97, that certain species must be withdrawn from the list of animals whose importation into the Community should, on account of the volume involved, be monitored, whilst certain other species must be added to that list.
- (6) Regulation (EC) No 338/97 should therefore be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Trade in Wild Fauna and Flora established pursuant to Article 18 of Regulation (EC) No 338/97,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) 338/97 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twenty-first 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, 28 April 2004.

For the Commission
Margot WALLSTRÖM
Member of the Commission

⁽¹⁾ OJ L61, 3.3.1997, p. 1. Regulation as last amended by Commission Regulation (EC) No 1497/2003 (OJ L 215, 27.8.2003, p. 3).

ANNEX

The Annex to Regulation (EC) No 338/97 is amended as follows:

1. In Note No 9 of the 'Notes on interpretation of Annexes A, B, C and D', the following entries are inserted:

- (a) 'AR (Argentina)' and 'AU (Australia)' before the entry 'BO (Bolivia)';
- (b) 'ID (Indonesia)' after the entry 'IN (India)';
- (c) 'MX (Mexico)' after the entry 'MU (Mauritius)';
- (d) 'NZ (New Zealand)' and 'PE (Peru)' after the entry 'NP (Nepal)'

2. the column entitled 'Annex A' is amended as follows:

the Kingdom: FAUNA Phylum: CHORDATA, Class: REPTILIA, Order: SAURIA is amended as follows:

with reference to the family 'Varanidae', the entry '*Varanus nebulosus*' is added following the entry '*Varanus komodoensis*'

3. the column entitled 'Annex B' is amended as follows:

(a) in the Kingdom: FAUNA

Phylum: CNIDARIA (Corals, Fire Corals, Sea Anemones) the words '(fossils are not subject to the provisions of this Regulation)' are replaced throughout by the following:

'The following are not subject to the provisions of this Regulation:

Fossils

Coral sand, that is to say material consisting entirely or in part of finely crushed fragments of dead coral no larger than 2 mm in diameter and which may also contain, amongst other things, the remains of Foraminifera, mollusc and crustacean shell, and coralline algae.

Coral fragments (including gravel and rubble), that is to say unconsolidated fragments of broken finger-like dead coral and other material between 2 and 30 mm in diameter.'

(b) the Kingdom: FLORA is amended as follows:

(i) with reference to the family 'LILIACEAE', the text in brackets after the entry 'Aloe spp.' is replaced by the following:

'(Except for the species included in Annex A and except *Aloe vera*; also referenced as *Aloe barbadensis*, which is not included in the Annexes to this Regulation) #1'

(ii) with reference to the family 'ZYGOPHYLLACEAE', the entry '*Guaiaacum* spp. #1' is replaced by '*Guaiaacum* spp. #2'.

4. In the column entitled 'Annex C', in the Kingdom: FAUNA the following is added preceding the Phylum CNIDARIA:

Phylum: ECHINODERMATA (Starfish, Brittle Stars, Sea Urchins and Sea Cucumbers)

Class: HOLOTHUROIDEA (Sea Cucumbers)

Order: ASPIDOCHIROTIDA (Beche de mer, Trepang etc.)

Family: Stichopodidae (Sea Cucumbers)

Isostichopus fuscus (synonym: *Stichopus fuscus*) (III EC) Sea cucumber'

5. The column entitled 'Annex D' is amended as follows:

(a) the Kingdom: FAUNA Phylum: CHORDATA, Class: REPTILIA, Order: SAURIA is amended as follows:

- (i) with reference to the family 'Gekkonidae', the entry '*Gekko maculata*' is deleted;
- (ii) with reference to the family 'Agamidae', the entry '*Acanthosaura armata*' is deleted;

- (iii) with reference to the family 'Cordylidae', the entries '*Zonosaurus laticaudatus*' and '*Zonosaurus madagascariensis*' are deleted;
- (iv) with reference to the family 'Scincidae', the entries '*Tiliqua gerrardii*', '*Tiliqua gigas*' and '*Tiliqua scincoides*' are deleted;
- (b) the Order: SERPENTES is amended as follows:
 - (i) with reference to the family 'Xenopeltidae', the entry '*Xenopeltis unicolor* §1' is deleted;
 - (ii) with reference to the family 'Acrochordidae', the entry '*Acrochordus granulatus* §1' is deleted;
 - (iii) with reference to the family 'Colubridae', the following entries are deleted:
 - Ahaetulla prasina* §1
 - Boiga dendrophila* §1
 - Enhydris chinensis* §1
 - Enhydris enhydris* §1
 - Enhydris plumbea* §1
 - Rhabdophis chrysargus* §1
 - Zaocys dhumnades* §1
 - (iv) with reference to the family 'Elapidae', the following entries are deleted:
 - Bungarus candidus* §1
 - Laticauda colubrine* §1
 - Laticauda crockery* §1
 - Laticauda laticaudata* §1
 - Laticauda schisorhynchus* §1
 - Laticauda semifasciata* §1
 - (v) with reference to the family 'Hydrophiidae', the following entries are deleted:
 - Hydrophis atriceps* §1
 - Hydrophis belcheri* §1
 - Hydrophis bituberculatus* §1
 - Hydrophis brookii* §1
 - Hydrophis caeruleus* §1
 - Hydrophis cantoris* §1
 - Hydrophis coggeri* §1
 - Hydrophis cyanocinctus* §1
 - Hydrophis czeblukovi* §1
 - Hydrophis elegans* §1
 - Hydrophis fasciatus* §1
 - Hydrophis geometricus* §1
 - Hydrophis gracilis* §1
 - Hydrophis inornatus* §1
 - Hydrophis klossi* §1
 - Hydrophis lamberti* §1
 - Hydrophis lapemoides* §1
 - Hydrophis maddowelli* §1
 - Hydrophis mamillaris* §1
 - Hydrophis melanocephalus* §1
 - Hydrophis melanosoma* §1
 - Hydrophis obscurus* §1
 - Hydrophis ornatus* §1
 - Hydrophis pacificus* §1
 - Hydrophis parviceps* §1
 - Hydrophis semperi* §1
 - Hydrophis spiralis* §1
 - Hydrophis stricticollis* §1
 - Hydrophis torquatus* §1
 - Hydrophis vorisi* §1.
- (c) in the Kingdom: FLORA, the following entry is added preceding the family PORTULACACEAE:
 - 'Family: PEDALIACEAE (Sesame, Devil's claw) *Harpagophytum* spp. (Devil's claw)'

COMMISSION REGULATION (EC) No 835/2004**of 28 April 2004****adapting Regulation (EC) No 2076/2002 and Decisions 2002/928/EC, 2004/129/EC, 2004/247/EC and 2004/248 as regards the continued use of certain active substances not included in Annex I to Directive 91/414/EEC, by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular Article 2(3) thereof,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular Article 57 thereof,

Whereas:

- (1) Commission Regulation (EC) No 2076/2002 ⁽¹⁾ and Commission Decisions 2002/928/EC ⁽²⁾, 2004/129/EC ⁽³⁾, 2004/247/EC ⁽⁴⁾ and 2004/248/EC ⁽⁵⁾ contain provisions for the non-inclusion of certain active substances in Annex I to Directive 91/414/EEC and for the withdrawal by Member States of all authorizations for plant protection products containing those active substances. Those acts provide for derogations permitting the continued use of some of those substances for a limited period of time while alternatives are being developed.
- (2) It is necessary to adapt that Regulation and those Decisions by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (hereinafter referred to as new Member States), since such derogations are required for the new Member States.
- (3) Regulation (EC) No 2076/2002 and Decisions 2002/928/EC, 2004/129/EC, 2004/247 and 2004/248/EC should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 2076/2002 is amended in accordance with the Annex to this Regulation.

Article 2

Decision 2002/928/EC is amended as follows:

1. In Article 2 the following point c) is added:

‘(c) in relation to the uses listed in column C of the Annex, a Member State specified in column B may maintain in force authorisations for plant protection products containing benomyl until 30 June 2007 provided that it:

- (i) ensures that such plant protection products remaining on the market are relabelled in order to match the restricted use conditions;

⁽¹⁾ OJ L 319, 23.11.2002, p. 3. Regulation as amended by Regulation (EC) Nr. 1336/2003, 26.7.2003, p. 21.

⁽²⁾ OJ L 322, 27.11.2002, p. 53.

⁽³⁾ OJ L 37, 10.2.2004, p. 27.

⁽⁴⁾ OJ L 78, 16.3.2004, p. 50.

⁽⁵⁾ OJ L 78, 16.3.2004, p. 53.

- (ii) 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
- (iii) 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 (i), (ii) and (iii) and provide on a yearly basis estimates of the amounts of benomyl used in accordance with this point.'

2. Article 3 is replaced by the following:

'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 within a period of six months from the adoption of the present Decision expire not later than 18 months from the adoption of the present Decision;
- (b) for the uses for which the authorisation is to be withdrawn by 30 June 2007, shall expire not later than 31 December 2007.'

3. The following Annex is added:

'Annex

Column A	Column B	Column C
Active substance	Member State	Use
Benomyl	Slovakia	Lentil, tobacco, sugar beet, rye'

Article 3

In Annex II to Decision 2004/129/EC at the end of the entry for methidathion the following lines are added:

Cyprus	citrus and olive, winter application in deciduous fruit trees
Slovakia	Apple, apricot, grape, pear, peach, plum, ornamentals

Article 4

In the Annex to Decision 2004/247/EC the following line is added:

Poland	Asparagus, rhubarb, fruit (apple, pear, apricot, peach, plum, cherry, walnut, currant, gooseberry, raspberry, grape, strawberry)
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Article 5

In the Annex to Decision 2004/248/EC the following lines are added:

Hungary	Maize
Poland	Maize

Article 6

This Regulation shall enter into force subject to and on the date of entry into force of the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

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

Done at Brussels, 28 April 2004.

For the Commission

David BYRNE

Member of the Commission

ANNEX

In Annex II to Regulation (EC) No 2076/2002 the following lines are added:

'Azaconazole	Poland	tomato, wound treatment of trees
Bensultap	Hungary	Potato, sugar beet, cereals, strawberry, poppy, bean, berries
	Poland	Potatoes
Bromopropylate	Cyprus	Citrus
Chlorfenvinphos	Poland	Mushroom
Cyanazine	Latvia	oil seed rape
	Czech Republic	Vining peas
	Estonia	oil seed rape
	Lithuania	oilseed rape
Cycloate	Poland	Red beet, spinach
Dichlorprop	Hungary	Cereals, grasses
Fenuron	Hungary	Sunflower
Furathiocarb	Czech Republic	Seed treatment of bean, purple clover, Dutch clover, flax, poppy, cucumber, lucerne, Brassica vegetables
Hexazinone	Hungary	Forestry
	Czech Republic	Forestry
	Slovakia	Forestry
Imazapyr	Estonia	non-crop land
	Latvia	non-crop land forestry production for treatment of sites prior to re-stocking
	Lithuania	non-crop land
	Poland	non-crop land
	Slovakia	non-crop land
Iminoctadine	Poland	Tree nurseries
Naptalam	Slovakia	Cucumber
	Poland	Cucumber, pumpkin, zucchini
	Czech Republic	Cucumber
	Hungary	Cucumber
Oxine-copper	Hungary	Cereals (seed dressing)
Oxycarboxin	Cyprus	Ornamentals, flowers and turf grass, beans

Prometryne	Hungary	Sunflower, potato, carrot, lentil, herbs, sunflower
	Slovakia	Buckwheat, strawberry, dill, lentil
	Latvia	carrots, celery, parsley, leek, garlic, onion, caraway
	Cyprus	Carrots, celery, peas, onions, garlic, parsley, coriander, leek, lentils and umbellifer herbs
	Estonia	peas, beans, carrots, celery, parsley, caraway, leek, onion, garlic
	Poland	Carrot, parsley, parsnip, celeriac, dill, leek, garlic, onion, pea, broad bean, lentils, coriander, caraway, common madder, peppermint and other herbaceous plants, gladiolus, tulip, rosa
	Lithuania	Peas, beans, vetch, caraway, lupine, carrots
Terbacil	Poland	Peppermint
Terbufos	Hungary	Maize, sugarbeet, cereals, sunflower, soybean
Terbutryn	Slovakia	horse bean, green pea
Thiocyclam	Cyprus	Potatoes, beans, celery, cucumbers, melons, watermelons, pumpkins, ornamentals
Triforine	Czech Republic	Chives (seed production) and chrysanthemum'

COMMISSION REGULATION (EC) No 836/2004**of 28 April 2004****laying down the transitional measures to be applied by Cyprus with regard to scrapie****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies ⁽¹⁾, and in particular Articles 12 (4) and 13 (6) thereof,

Having regard to the 2003 Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union, and to the adjustments to the treaties on which the European Union is founded, and in particular Article 42 thereof,

Whereas:

- (1) Regulation (EC) No 999/2001 includes provisions regarding the eradication of scrapie in ovine and caprine animals and diagnostic techniques to be used for the confirmation of the disease.
- (2) On 29 January 2004, Cyprus has applied for the granting of transitional measures in relation to eradication measures in scrapie infected holdings. These measures are necessary in view of the high level of scrapie in the ovine and caprine population, the low level of genetically determined resistance in the ovine population, and the nature of farming in Cyprus. The application also requests transitional measures regarding diagnostic techniques for scrapie, in view of limited laboratory capacity.
- (3) Cyprus has undertaken to furnish an action plan to address the shortage of breeding ovine animals of a suitable genotype, to increase the level of resistance in the ovine population and to provide replacement animals in infected holdings. This plan will be submitted by 1 June 2004 as part of its application for Community financing for specific veterinary measures under the provisions of Council Decision 90/424/EEC on expenditure in the veterinary field ⁽²⁾.
- (4) The transitional measures granted to Cyprus should allow that subject to veterinary examination, certain ovine and caprine animals from infected holdings to be slaughtered for human consumption, which may not be slaughtered for human consumption in the other

Member States. It is desirable to afford to Member States and third countries alike, the same health guarantees. Therefore during the period of application of these transitional measures, and taking control requirements into account, the export of products derived from ovine and caprine animals to other Member States and to third countries should be prohibited.

- (5) The measures granted to Cyprus for adapting the implementation of Regulation (EC) No 999/2001 for a transitional period should be reviewed as soon as possible and should in any case and in accordance with the Act of Accession be limited to a maximum period of three years.
- (6) 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 REGULATION:

Article 1

The competent authority in Cyprus shall implement the provisions of Regulation (EC) No 999/2001 in accordance with the provision of this Decision, until the 30 April 2007 at the latest.

Article 2

By way of derogation from article 12.2 of Regulation (EC) No 999/2001, after a twelve months period has elapsed following the confirmation of a first scrapie case in a holding, the forwarding of brain and other tissues for laboratory examination of cases suspected after that period may be limited to a random annual sample of 10 % of ovine and caprine animals suspected of being infected with a TSE.

Article 3

1. By way of derogation from the provisions of Annex VII to Regulation (EC) No 999/2001:

- (a) the exception provided for in paragraph 2, point (b) (ii) shall be extended to caprine animals and to ovine animals under the age of six months which are intended solely for slaughter;

⁽¹⁾ OJ L 147, 31.5.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 2245/2003 (OJ L 333, 20.12.2003, p. 28).

⁽²⁾ OJ L 224, 18.8.1990, p. 19. Decision as last amended by Council Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

- (b) the conditions for introducing caprine animals provided for in paragraph 3.1, point (c) in a holding where destruction has taken place in accordance with point 2 (b) (i) or (ii) shall not apply;
- (c) In point 5 of Annex VII to Regulation (EC) No 999/2001, in addition to points (a) to (c), the following point (d) shall apply:
- ‘(d) however, in the case of animals under the age of six months, both ovine animals of unknown genotype and caprine animals may go directly for slaughter for human consumption in a slaughterhouse in the territory of Cyprus, under the following conditions:
- (i) the animals are examined by an official veterinarian on the holding of origin who shall confirm the absence of any clinical symptoms of scrapie, prior to dispatch to the slaughterhouse;
- (ii) the entire head and organs of the thoracic and abdominal cavities of such animals shall be disposed of in accordance with Article 4(2) (a) (b) and (c) of Regulation (EC) No 1774/2002.’
- (d) In point 6 of Annex VII to Regulation (EC) No 999/2001, point (c) shall not apply.
2. By way of derogation from point 3.2 of Chapter C of Annex X to Regulation (EC) No 999/2001, the following shall apply:

‘3.2 Laboratory testing for the presence of scrapie in ovine and caprine animals

(a) Suspect cases

Tissues from ovine and caprine animals sent for laboratory testing pursuant to the provisions of Article 12(2) shall be subject to a histopathological examination as laid down in the latest version of the Manual, except where the material is autolysed. Where the result of the histopathological test is inconclusive or negative or where the material is autolysed, the tissues shall be subjected to examination by immunocytochemistry or immunoblotting, as laid down in the Manual, or

to a rapid test. If the result of one of those examinations is positive, the animal shall be regarded as a positive scrapie case.

(b) Scrapie monitoring

Tissues from ovine and caprine animals sent for laboratory testing pursuant to the provisions of Annex III, Chapter A, Section II (Monitoring in ovine and caprine animals) shall be examined by a rapid test.

When the result of the rapid test is inconclusive, the brainstem shall be immediately sent to an official laboratory for confirmatory examination by immunocytochemistry or immunoblotting, as referred to under (a).

If the result of one of those examinations is positive, the animal shall be regarded as a positive scrapie case.’

Article 4

The dispatch from Cyprus to other Member States or to third countries of the following products intended for human consumption derived from ovine and caprine animals is prohibited:

- (i) fresh meat as defined by Directive 64/433/EEC ⁽¹⁾
- (ii) minced meat and meat preparations as defined by Directive 94/65/EC ⁽²⁾
- (iii) meat products as defined by Directive 77/99/EEC ⁽³⁾

Article 5

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

It shall apply subject to and as from the date of entry into force of the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

It shall apply until 30 April 2007.

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

Done at Brussels, 28 April 2004.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 21, 29.7.1964, p. 2012/64.

⁽²⁾ OJ L 368, 31.12.1994, p. 10.

⁽³⁾ OJ L 26, 31.1.1977, p. 85.

COMMISSION REGULATION (EC) No 837/2004

of 28 April 2004

opening tendering procedures for the sale of wine alcohol stored in Germany for new industrial uses

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽¹⁾, and in particular Article 33 thereof,

Whereas:

- (1) Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms ⁽²⁾ lays down, *inter alia*, the detailed rules for disposing of stocks of alcohol arising from distillation under Articles 27, 28 and 30 of Regulation (EC) No 1493/1999 held by intervention agencies.
- (2) In accordance with Article 80 of Regulation (EC) No 1623/2000, tendering procedures should be organised for the sale of wine alcohol for new industrial uses with a view to reducing the stocks of wine alcohol in the Community and enabling small-scale industrial projects to be carried out and such alcohol to be processed into goods intended for export for industrial uses. The wine alcohol of Community origin in storage in Germany consists of quantities produced from distillation under Article 30 of Regulation (EC) No 1493/1999.
- (3) Since 1 January 1999 and in accordance with Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro ⁽³⁾, the prices offered in tenders and securities must be expressed in euro and payments must be made in euro.
- (4) Minimum prices should be set for the submission of tenders, broken down according to the type of end use.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

Three tendering procedures with the numbers 48/2004 EC, 49/2004 EC and 50/2004 EC are hereby opened for the sale of wine alcohol for new industrial uses. The alcohol concerned

has been produced from distillation under Article 30 of Regulation (EC) No 1493/1999 and is held by the German intervention agency.

The volume put up for sale is 20 358,788 hectolitres of alcohol at 100 % vol, broken down as follows:

- (a) tendering procedure 48/2004 EC covers a quantity of 8 136 hectolitres of alcohol at 100 % vol;
- (b) tendering procedure 49/2004 EC covers a quantity of 8 605 hectolitres of alcohol at 100 % vol;
- (c) tendering procedure 50/2004 EC covers a quantity of 3 617 hectolitres of alcohol at 100 % vol.

The vat numbers, places of storage and the volume of alcohol at 100 % vol contained in each vat are detailed in the Annex hereto.

Article 2

The sale shall be conducted in accordance with Articles 79, 81, 82, 83, 84, 85, 95, 96, 97, 100 and 101 of Regulation (EC) No 1623/2000 and Article 2 of Regulation (EC) No 2799/98.

Article 3

1. Tenders must be lodged with or sent by registered mail to the following intervention agency holding the alcohol concerned:

Bundesanstalt für Landwirtschaft und Ernährung (BLE), Referat 321

Address: Adickesallee 40, D-60322 Frankfurt am Main
Postal address: D-60631 Frankfurt am Main

Telephone: +49-(0)69-1564- 0 (switchboard) or +49-(0)69-1564-479 (direct line)
Fax: +49-(0)69-1564-794

2. Tenders shall be submitted in a sealed double envelope, the inside envelope marked: 'Tender under procedures Nos 48/2004 EC, 49/2004 EC and 50/2004 EC for new industrial uses', the outer envelope bearing the address of the intervention agency concerned.

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Commission Regulation (EC) No 1795/2003 (OJ L 262, 14.10.2003, p. 13).

⁽²⁾ OJ L 194, 31.7.2000, p. 45. Regulation as last amended by Regulation (EC) No 1710/2003 (OJ L 243, 27.9.2003, p. 98).

⁽³⁾ OJ L 349, 24.12.1998, p. 1.

3. Tenders must reach the intervention agency referred to in paragraph 1 not later than 12.00 Brussels time on 21 May 2004.

4. All tenders must be accompanied by proof that a tendering security of EUR 4 per hectolitre of alcohol at 100 % vol has been lodged with the intervention agency referred to in paragraph 1.

Article 4

The minimum prices which may be offered are:

- (a) in the case of new industrial uses:
 - (i) for lot 48/2004 EC, EUR 9 per hectolitre of alcohol at 100 % vol;
 - (ii) for lots 49/2004 EC and 50/2004 EC, EUR 7 per hectolitre of alcohol at 100 % vol;
- (b) in the case of alcohol intended for use as fuel, EUR 6 per hectolitre of alcohol at 100 % vol.

Article 5

The formalities for sampling shall be as set out in Article 98 of Regulation (EC) No 1623/2000. The price of samples shall be EUR 10 per litre.

The intervention agency shall provide all the necessary information on the characteristics of the alcohol put up for sale.

Article 6

The performance guarantee shall be EUR 30 per hectolitre of alcohol at 100 % vol.

Article 7

This Regulation shall enter into force on the day 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, 28 April 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

TENDERING PROCEDURES 48/2004 EC, 49/2004 EC AND 50/2004 EC FOR THE SALE OF ALCOHOL FOR NEW INDUSTRIAL USES

Place of storage, volume and characteristics of the alcohol put up for sale

Member State	Location	Lot	Vat No	Volume in hectolitres of alcohol at 100% vol	Regulation (EC) No 1493/1999 Article	Type of alcohol
Germany	D-63263 Neu-Isenburg Schleusenerstr. 6	48/2004	62	8 136,286	30	raw+ 92 %
	D-37603 Holzminden	49/2004	107	8 605,384	30	raw+92%
	Papiermühle 16	50/2004	111	3 617,118	30	raw+92%
	Total			20 358,788		

COMMISSION REGULATION (EC) No 838/2004**of 28 April 2004****on transitional measures for imports of bananas into the Community by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular Article 2(3) thereof,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular the first paragraph of Article 41 and Article 57 thereof,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas ⁽¹⁾,

Whereas:

- (1) Commission Regulation (EC) No 896/2001 ⁽²⁾ lays down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the arrangements for importing bananas into the Community.
- (2) Commission Regulation (EC) No 414/2004 adopting specific measures with a view to adapting the arrangements for administering tariff quotas on banana imports as a result of the accession of new Member States on 1 May 2004 ⁽³⁾ adopted the first measures with a view to the accession of the ten new Member States to the Community. The purpose of those measures is to identify the operators established in the Community as constituted on 30 April 2004 who have supplied the markets of the new Member States and who meet the conditions laid down in Articles 3 and 4 of Regulation (EC) No 896/2001, in the case of traditional operators, and Articles 6 to 12 of that Regulation, in the case of non-traditional operators. At the same time, the new Member States have adopted similar provisions in accordance with their national procedures.
- (3) The necessary transitional measures should be adopted in order to facilitate the transition from the arrangements in force in the new Member States prior to accession to the import arrangements in force under the common organisation of the markets in the banana sector.
- (4) In order to ensure market supply, in particular in the new Member States, an additional quantity should be fixed over and above the quotas opened for imports of

products originating in all third countries by Article 18(1) of Regulation (EEC) No 404/93 on the same terms as regards tariffs. Such fixing must be transitional and may not prejudice the outcome of the negotiations under way in the context of the World Trade Organisation (WTO) as a result of the accession of new members. In addition, it should not preclude the possibility of an increase if need be to meet requirements justified by demand.

- (5) This additional quantity must be managed using the mechanisms and instruments put in place by Regulation (EC) No 896/2001 to manage the existing tariff quotas. However, because these arrangements are transitional, this additional quantity must be managed separately from the tariff quotas.
- (6) Under the mechanisms introduced by Regulation (EC) No 896/2001, the additional quantity must be distributed between the two categories of operators defined in Article 2 of that Regulation and rules must be adopted for determining a specific reference quantity for each traditional operator and a specific allocation for each non-traditional operator. It should be specified that the distribution referred to above and the determination of the reference quantities and allocations concern operators who have supplied the markets of the new Member States during the years prior to accession.
- (7) In view of the difficulties encountered in applying Article 6(2) of Regulation (EC) No 414/2004, in particular certifying that bananas which were the subject of primary imports during the 2000-02 reference period were actually released for free circulation in the new Member States, and the amendment of that provision by Regulation (EC) No 689/2004 ⁽⁴⁾, a provisional reference quantity or allocation, as the case may be, should be fixed for each operator so that they may be issued with import licences for a first instalment at the beginning of May 2004. The purpose of this provisional fixing is to allow the competent national authorities to make checks and verify the supporting documents submitted by operators, to correct declarations made under Articles 4 and 5 of Regulation (EC) No 414/2004 and to rectify, where necessary, the notifications referred to in Article 7(3) of that Regulation in good time before the next instalment of the additional quantity is opened.

⁽¹⁾ OJ L 47, 25.2.1993, p. 1. Regulation last amended by Regulation (EC) No 2587/2001 (OJ L 345, 29.12.2001, p. 13).

⁽²⁾ OJ L 126, 8.5.2001, p. 6. Regulation last amended by Regulation (EC) No 1439/2003 (OJ L 204, 13.8.2003, p. 30).

⁽³⁾ OJ L 68, 6.3.2004, p. 6. Regulation amended by Regulation (EC) No 689/2004 (OJ L 106, 15.4.2004, p. 17).

⁽⁴⁾ OJ L 106, 15.4.2004, p. 17.

- (8) With a view to managing this available quantity, adjustment coefficients to be applied to the quantities notified by the Member States should be fixed.
- (9) In order to ensure satisfactory market supply, and in particular to ensure a continual flow of imports into the new Member States, the transitional measures should include the issue of licences with a view to release for free circulation in a new Member State. Accordingly, securities lodged should be released in proportion to the quantities released for free circulation in a new Member State.
- (10) To the same end, an initial period should be opened for the submission of import licence applications at the beginning of May 2004 in advance of the submission period for the third quarter.
- (11) In order to ensure that the additional quantity is managed separately and the use of import licences monitored as required by the rules, the specific entries to be made on licences should be stipulated. In addition, the provisions applicable to reallocation licences and to the transfer of licences between operators should be adapted.
- (12) The Annex to Regulation (EC) No 896/2001 should be adapted to include the competent authorities of the new Member States responsible for managing the scheme.
- (13) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Bananas,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation:

- (a) 'Community of fifteen' means the Community as constituted on 30 April 2004;
- (b) 'New Member States' means the Czech Republic, Estonia, Cyprus, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia;
- (c) 'The enlarged Community' means the Community as constituted on 1 May 2004;
- (d) 'primary import' means the economic operation defined in the first subparagraph of Article 3(1) of Regulation (EC) No 896/2001 with a view to sale in one or more new Member States;
- (e) 'minimum quantity' means the minimum quantity defined in the third subparagraph of Article 3(1) of Regulation (EC) No 896/2001 established on the basis of all primary imports carried out with a view to supplying the markets of the new Member States;

- (f) 'Competent authorities' means the competent authorities listed in the Annex to Regulation (EC) No 896/2001, as amended by this Regulation.

Article 2

Purpose

This Regulation introduces the transitional measures needed to facilitate the transition from the arrangements in force in the new Member States prior to their accession to the Community of fifteen to the tariff quota import arrangements introduced by Regulations (EEC) No 404/93 and (EC) No 896/2001.

Regulation (EC) No 896/2001 shall apply subject to this Regulation.

Article 3

Additional quantity

1. A quantity of 300 000 tonnes, net weight, shall be available for imports of bananas into the new Member States for the period from 1 May 2004 to 31 December 2004.

This quantity shall be available for imports of products from the origins referred to in Article 18(1) of Regulation (EEC) No 404/93.

Imports covered by that quantity shall be subject to the duties fixed in Article 18(2) of the above Regulation.

2. The quantity fixed in paragraph 1 may be increased if a growth in demand is observed in the new Member States.

Article 4

Access to the additional quantity

1. Access to the additional quantity fixed in Article 3 shall be open to traditional operators and non-traditional operators established in the enlarged Community who meet the requirements of Article 3 or Article 4 of Regulation (EC) No 414/2004, as the case may be.

2. 249 000 tonnes of the quantity shall be available to traditional operators and 51 000 tonnes to non-traditional operators.

Article 5

Quantity available for the issue of licences in May 2004

A quantity of 87 000 tonnes shall be available for the issue of licences in May 2004 with a view to the importation of bananas into the new Member States. 72 210 tonnes of that quantity shall be available to traditional operators and 14 790 tonnes to non-traditional operators.

*Article 6***Provisional specific reference quantity for traditional operators**

1. The competent authority of the Member State of registration shall give each traditional operator who carried out the minimum quantity of primary imports of bananas with a view to their sale in one or more of the new Member States during either 2000, 2001 or 2002 a provisional specific reference quantity based on the average of primary imports which that operator carried out during the above period, with a view to issuing licences in May 2004.

This provisional specific reference quantity shall be obtained by multiplying the average of primary imports referred to in the previous subparagraph by a coefficient of 0,1875.

2. In the light of the Member States' notifications and the available quantity fixed in Article 5, the Commission shall, if necessary, set an adjustment coefficient to be applied to the provisional specific reference quantity of each traditional operator.

3. The competent authorities shall inform each operator of its provisional specific reference quantity, as adjusted where necessary by the adjustment coefficient referred to in paragraph 2, no later than 4 May 2004.

*Article 7***Provisional specific allocation to non-traditional operators**

1. The competent authorities shall establish a provisional specific allocation for each non-traditional operator registered with them by multiplying the quantity in each operator's application by a coefficient of 0,29 with a view to issuing licences in May 2004.

2. In the light of the Member States' notifications and the available quantity fixed in Article 5, the Commission shall, if necessary, set an adjustment coefficient to be applied to the application for a provisional specific allocation made by each non-traditional operator.

3. The competent authorities shall inform each non-traditional operator of its provisional allocation no later than 4 May 2004.

*Article 8***Submission of licence applications and issue of licences in May 2004**

1. Operators shall submit their import licence applications to the competent authorities of the Member State in which they are registered.

2. Import licences, hereinafter referred to as 'accession licences', shall be issued only for the release for free circulation in a new Member State.

3. Licence applications shall bear the words: 'accession licence', 'traditional operator' or 'non-traditional operator', as the case may be, and 'Regulation (EC) No 838/2004. Licence only valid in a new Member State'.

These entries shall be entered in Box 20 of the licence.

4. Licence applications shall be submitted for the first time on 4, 5 and 6 May.

To be accepted, the licence applications submitted by a single operator may not total a quantity greater than:

- (a) the provisional reference quantity notified in accordance with Article 6(3), in the case of traditional operators;
- (b) the provisional allocation notified in accordance with Article 7(3), in the case of non-traditional operators.

The competent national authorities shall issue import licences by 7 May 2004 at the latest.

5. Import licences issued under this Article shall be valid from the day of issue and shall expire on 7 August 2004.

*Article 9***Release of securities**

1. Securities against the import licences of traditional operators as provided for in Article 24 of Regulation (EC) No 896/2001 shall be released in proportion to the quantities released for free circulation in a new Member State.

2. Securities against the allocations of non-traditional operators as provided for in Article 8(2) of Regulation (EC) No 896/2001 shall be released in proportion to the quantities actually released for free circulation in a new Member State on the terms laid down in that Article.

*Article 10***Reallocation licences**

As an exception to Article 19 of Regulation (EC) No 896/2001:

- 1. Unused quantities covered by an accession licence may be reallocated to the same operator — whether holder or transferee — upon application, for use in a subsequent period. Such reallocation shall apply to bananas imported under the additional quantity.
- 2. Reallocation licence applications shall bear the following words in Box 20: 'Reallocation licence', 'traditional operator' or 'non-traditional operator', as the case may be, and 'Article 10 of Regulation (EC) No 838/2004. The licence is only valid in a new Member State'.

*Article 11***Transfer of accession licences**

Rights arising under accession licences covered by the additional quantity shall be transferable to a single transferee operator.

Rights may be transferred only:

- between traditional operators as referred to in Article 5,
- from a traditional operator as referred to in Article 5 to a non-traditional operator as referred to in Article 6, or
- between non-traditional operators as referred to in Article 6.

*Article 12***Adjustment of the Annex to Council Regulation (EC) No 896/2001**

The Annex to this Regulation supplements the Annex to Regulation (EC) No 896/2001.

*Article 13***Entry into force**

This Regulation shall enter into force subject to and on the date of the entry into force of the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

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

Done at Brussels, 28 April 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Competent authorities of the new Member States

— CZECH REPUBLIC

State Agriculture Intervention Fund
Ve Smečkách 33
CZ-11000 Praha 1

— ESTONIA

Estonian Agricultural Registers and Information Board
Trade measures Unit
Narva road, 3
EE-51009 Tartu

— CYPRUS

Ministry of Commerce, Industry and Tourism
Import & Export Licensing Unit
CY-1421 Cyprus

— LATVIA

Ministry of Agriculture
Rural Support Service
Trade Mechanisms
Department/Licence Division
Republikas laukums, 2
LV-1981 Riga

— LITHUANIA

National Paying Agency
Foreign Trade Department
Gedimino av. 19
LT-01103 Vilnius-25

— HUNGARY

Ministry of Economy and Transport
Licensing and Administration Office
Margit krt. 85
HU-1024 Budapest

— MALTA

Ministry of Rural Affairs and the Environment
Agricultural Services & Rural Development Division
Ngiered road
MT-CMR02 Marsa

— POLAND

Agricultural Market Agency
Foreign Trade Regulation Department
6/12 Nowy Swiat Str.
PL-00-400 Warsaw

— SLOVENIA

Agency for Agricultural markets and rural development
External Trade Department
Dunajska Cesta 160
SI-1000 Ljubljana

— SLOVAKIA

Agricultural Paying Agency
Dobrovicova 12
SK-81526 Bratislava

**COMMISSION REGULATION (EC) No 839/2004
of 28 April 2004**

fixing the adjustment coefficients to be applied to the provisional reference quantities of traditional operators and the provisional allocations of non-traditional operators for the purposes of the additional quantity provided for with a view to issuing import licences for bananas in May 2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 838/2004 of 28 April 2004 on transitional measures for imports of bananas into the Community by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia ⁽¹⁾, and in particular Articles 6(2) and 7(2) thereof,

Whereas:

- (1) Regulation (EC) No 838/2004 fixed the quantity available for the issue of licences in May 2004 with a view to importing bananas into the new Member States at 87 000 tonnes, broken down into 72 210 tonnes for traditional operators and 14 790 tonnes for non-traditional operators. To ensure that this quantity is complied with, and in the light of the notifications from the national authorities, Articles 6(2) and 7(2) of the above Regulation provide that adjustment coefficients are to be fixed for applying to the provisional specific reference quantities of traditional operators and the applications for provisional specific allocations made by non-traditional operators, as the case may be.
- (2) According to the notifications from the national authorities, the total provisional specific reference quantities of traditional operators amount to 574 641,501 tonnes. The total applications for provisional specific allocations made by non-traditional operators amount to 203 401,506 tonnes.

(3) The adjustment coefficients to be applied for the purposes of determining the quantities for which import licence applications lodged at the beginning of May may be issued should therefore be fixed accordingly for traditional and non-traditional operators.

(4) In order that importers can lodge licence applications at the beginning of May 2004, this Regulation must enter into force immediately,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of the available quantity for which licences may be issued in May 2004 for importing bananas into the new Member States, fixed in Article 5 of Regulation (EC) No 838/2004:

- (a) the adjustment coefficient to be applied to the provisional specific reference quantity of each traditional operator as referred to in Article 6(2) of the above Regulation shall be 0,67019;
- (b) the adjustment coefficient to be applied to the application for a provisional specific allocation made by each non-traditional operator as referred to in Article 7(2) of the above Regulation shall be 0,25073.

Article 2

This Regulation shall enter into force on 1 May 2004.

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

Done at Brussels, 28 April 2004.

For the Commission

J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 127, 29.4.2004, p. 52.

COMMISSION REGULATION (EC) No 840/2004
of 28 April 2004
fixing the import duties in the rice sector

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⁾,

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector ⁽²⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Article 11 of Regulation (EC) No 3072/95 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by a certain percentage according to whether it is husked or milled rice, minus the cif import price provided that duty does not exceed the rate of the Common Customs Tariff duties.
- (2) Pursuant to Article 12(3) of Regulation (EC) No 3072/95, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market or on the Community import market for the product.
- (3) Regulation (EC) No 1503/96 lays down detailed rules for the application of Regulation (EC) No 3072/95 as regards import duties in the rice sector.

- (4) The import duties are applicable until new duties are fixed and enter into force. They also remain in force in cases where no quotation is available from the source referred to in Article 5 of Regulation (EC) No 1503/96 during the two weeks preceding the next periodical fixing.
- (5) In order to allow the import duty system to function normally, the market rates recorded during a reference period should be used for calculating the duties.
- (6) Application of Regulation (EC) No 1503/96 results in an adjustment of the import duties as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the rice sector referred to in Article 11(1) and (2) of Regulation (EC) No 3072/95 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 29 April 2004.

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

Done at Brussels, 28 April 2004.

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

⁽¹⁾ OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).

⁽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).

ANNEX I

Import duties on rice and broken rice

(EUR/t)

CN code	Duties ⁽⁵⁾				
	Third countries (except ACP and Bangla- desh) ⁽⁷⁾	ACP ⁽¹⁾ ⁽²⁾ ⁽³⁾	Bangladesh ⁽⁴⁾	Basmati India and Pakistan ⁽⁶⁾	Egypt ⁽⁸⁾
1006 10 21	(7)	69,51	101,16		158,25
1006 10 23	(7)	69,51	101,16		158,25
1006 10 25	(7)	69,51	101,16		158,25
1006 10 27	(7)	69,51	101,16		158,25
1006 10 92	(7)	69,51	101,16		158,25
1006 10 94	(7)	69,51	101,16		158,25
1006 10 96	(7)	69,51	101,16		158,25
1006 10 98	(7)	69,51	101,16		158,25
1006 20 11	232,36	76,99	111,84		174,27
1006 20 13	232,36	76,99	111,84		174,27
1006 20 15	232,36	76,99	111,84		174,27
1006 20 17	212,70	70,10	102,01	0,00	159,52
1006 20 92	232,36	76,99	111,84		174,27
1006 20 94	232,36	76,99	111,84		174,27
1006 20 96	232,36	76,99	111,84		174,27
1006 20 98	212,70	70,10	102,01	0,00	159,52
1006 30 21	385,51	122,54	177,85		289,13
1006 30 23	385,51	122,54	177,85		289,13
1006 30 25	385,51	122,54	177,85		289,13
1006 30 27	(7)	133,21	193,09		312,00
1006 30 42	385,51	122,54	177,85		289,13
1006 30 44	385,51	122,54	177,85		289,13
1006 30 46	385,51	122,54	177,85		289,13
1006 30 48	(7)	133,21	193,09		312,00
1006 30 61	385,51	122,54	177,85		289,13
1006 30 63	385,51	122,54	177,85		289,13
1006 30 65	385,51	122,54	177,85		289,13
1006 30 67	(7)	133,21	193,09		312,00
1006 30 92	385,51	122,54	177,85		289,13
1006 30 94	385,51	122,54	177,85		289,13
1006 30 96	385,51	122,54	177,85		289,13
1006 30 98	(7)	133,21	193,09		312,00
1006 40 00	(7)	41,18	(7)		96,00

⁽¹⁾ The duty on imports of rice originating in the ACP States is applicable, under the arrangements laid down in Council Regulation (EC) No 2286/2002 (OJ L 348, 21.12.2002, p. 5) and amended Commission Regulation (EC) No 638/2003 (OJ L 93, 10.4.2003, p. 3).

⁽²⁾ In accordance with Regulation (EC) No 1706/98, the duties are not applied to products originating in the African, Caribbean and Pacific States and imported directly into the overseas department of Réunion.

⁽³⁾ The import levy on rice entering the overseas department of Réunion is specified in Article 11(3) of Regulation (EC) No 3072/95.

⁽⁴⁾ The duty on imports of rice not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Council Regulation (EEC) No 3491/90 (OJ L 337, 4.12.1990, p. 1) and amended Commission Regulation (EEC) No 862/91 (OJ L 88, 9.4.1991, p. 7).

⁽⁵⁾ No import duty applies to products originating in the OCT pursuant to Article 101(1) of amended Council Decision 91/482/EEC (OJ L 263, 19.9.1991, p. 1).

⁽⁶⁾ For husked rice of the Basmati variety originating in India and Pakistan, a reduction of EUR/t 250 applies (Article 4a of amended Regulation (EC) No 1503/96).

⁽⁷⁾ Duties fixed in the Common Customs Tariff.

⁽⁸⁾ The duty on imports of rice originating in and coming from Egypt is applicable under the arrangements laid down in Council Regulation (EC) No 2184/96 (OJ L 292, 15.11.1996, p. 1) and Commission Regulation (EC) No 196/97 (OJ L 31, 1.2.1997, p. 53).

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (EUR/tonne)	(¹)	212,70	416,00	232,36	385,51	(¹)
2. Elements of calculation:						
(a) Arag cif price (EUR/tonne)	—	327,93	239,02	332,30	416,42	—
(b) fob price (EUR/tonne)	—	—	—	307,06	391,18	—
(c) Sea freight (EUR/tonne)	—	—	—	25,24	25,24	—
(d) Source	—	USDA and operators	USDA and operators	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 841/2004
of 28 April 2004
altering the export refunds on white sugar and raw sugar exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, and in particular the third subparagraph of Article 27(5) thereof,

Whereas:

- (1) The refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 696/2004 ⁽²⁾.
- (2) It follows from applying the detailed rules contained in Regulation (EC) No 696/2004 to the information known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto,

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 696/2004 are hereby altered, to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 29 April 2004.

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

Done at Brussels, 28 April 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 108, 16.4.2004, p. 15.

ANNEX

**REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING
APPLICABLE FROM 29 APRIL 2004**

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	41,79 ⁽¹⁾
1701 11 90 9910	S00	EUR/100 kg	41,79 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	41,79 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	41,79 ⁽¹⁾
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,4543
1701 99 10 9100	S00	EUR/100 kg	45,43
1701 99 10 9910	S00	EUR/100 kg	45,43
1701 99 10 9950	S00	EUR/100 kg	45,43
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,4543

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).

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:

S00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including Kosovo, as defined in UN Security Council Resolution 1244 of 10 June 1999), the former Yugoslav Republic of Macedonia, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, save for sugar incorporated in the products referred to in Article 1(2)(b) of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).

⁽¹⁾ This amount is applicable to raw sugar with a yield of 92 %. Where the yield for exported raw sugar differs from 92 %, the refund amount applicable shall be calculated in accordance with Article 28(4) of Regulation (EC) No 1260/2001.

COMMISSION REGULATION (EC) No 842/2004
of 28 April 2004
amending the export refunds on syrups and certain other sugar sector products exported in the
natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾

Whereas:

- (1) The refunds on syrups and certain other sugar products were fixed by Commission Regulation (EC) No 511/2004 ⁽²⁾.
- (2) It follows from applying the rules, criteria and other provisions contained in Regulation (EC) No 511/2004 to the information at present available to the Commission that the export refunds at present in force should be altered as shown in the Annex hereto,

Article 1

The refunds to be granted on the products listed in Article 1(1)(d), (f) and (g) of Regulation (EC) No 1260/2001, exported in the natural state, as fixed in the Annex to Regulation (EC) No 511/2004 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 29 April 2004.

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

Done at Brussels, 28 April 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 81, 19.3.2004, p. 26.

ANNEX

EXPORT REFUNDS ON SYRUPS AND CERTAIN OTHER SUGAR PRODUCTS EXPORTED WITHOUT FURTHER PROCESSING APPLICABLE FROM 29 APRIL 2004

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	S00	EUR/100 kg dry matter	45,43 ⁽¹⁾
1702 60 10 9000	S00	EUR/100 kg dry matter	45,43 ⁽¹⁾
1702 60 80 9100	S00	EUR/100 kg dry matter	86,31 ⁽²⁾
1702 60 95 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4543 ⁽³⁾
1702 90 30 9000	S00	EUR/100 kg dry matter	45,43 ⁽¹⁾
1702 90 60 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4543 ⁽³⁾
1702 90 71 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4543 ⁽³⁾
1702 90 99 9900	S00	EUR/1 % sucrose × net 100 kg of product	0,4543 ⁽³⁾ ⁽⁴⁾
2106 90 30 9000	S00	EUR/100 kg dry matter	45,43 ⁽¹⁾
2106 90 59 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4543 ⁽³⁾

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).

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:

S00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999), the former Yugoslav Republic of Macedonia, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, except for sugar incorporated into the products referred to in Article 1(2)(b) of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).

⁽¹⁾ Applicable only to products referred to in Article 5 of Regulation (EC) No 2135/95.

⁽²⁾ Applicable only to products referred to in Article 6 of Regulation (EC) No 2135/95.

⁽³⁾ The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EC) No 2135/95). Sucrose content is determined in accordance with Article 3 of Regulation (EC) No 2135/95.

⁽⁴⁾ The basic amount is not applicable to the product defined under point 2 of the Annex to Commission Regulation (EEC) No 3513/92 (OJ L 355, 5.12.1992, p. 12).

COMMISSION REGULATION (EC) No 843/2004**of 28 April 2004****amending the rates of refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, and in particular Article 27(5)(a) and (15) thereof,

Whereas:

- (1) The rates of the refunds applicable from 7 April 2004 to the products listed in the Annex, exported in the form of goods not covered by Annex I to the Treaty, were fixed by Commission Regulation (EC) No 644/2004 ⁽²⁾.

- (2) It follows from applying the rules and criteria contained in Regulation (EC) No 644/2004 to the information at present available to the Commission that the export refunds at present applicable should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of refund fixed by Regulation (EC) No 644/2004 are hereby altered as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 29 April 2004.

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

Done at Brussels, 28 April 2004.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 102, 7.4.2004, p. 35.

ANNEX

Rates of refunds applicable from 29 April 2004 to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty

CN code	Description	Rate of refund in EUR/100 kg	
		In case of advance fixing of refunds	Other
1701 99 10	White sugar	45,43	45,43

**COMMISSION REGULATION (EC) No 844/2004
of 28 April 2004**

initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Regulation (EC) No 119/97 on imports of certain ring binder mechanisms originating in the People's Republic of China by imports of certain ring binder mechanisms consigned from Thailand, whether declared as originating in Thailand or not and making such imports subject to registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Council Regulation (EC) No 461/2004 ⁽²⁾ ('the basic Regulation'), and in particular Articles 13(3) and 14(5) thereof,

After having consulted the Advisory Committee,

Whereas:

The Commission has decided, pursuant to Article 13(3) of the basic Regulation to investigate on its own initiative the possible circumvention of the anti-dumping measures imposed on imports of certain ring binder mechanisms originating in the People's Republic of China ('China').

A. PRODUCT

The product concerned by the possible circumvention is certain ring binder mechanisms, normally declared under CN code ex 8305 10 00 ('the product concerned') originating in China. This CN code is given for information only.

The product under investigation is certain ring binder mechanisms consigned from Thailand (the product under investigation) normally declared under the same codes as the product concerned originating in China.

B. EXISTING MEASURES

The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Council Regulation (EC) No 119/97 ⁽³⁾ as last amended by Regulation (EC) No 2100/2000 ⁽⁴⁾.

C. GROUNDS

The Commission has at its disposal sufficient prima facie evidence that the anti-dumping measures on imports of certain ring binder mechanisms originating in China are being circumvented by means of transshipment via Thailand of certain ring binder mechanisms.

The evidence available is as follows:

A significant change in the pattern of trade involving exports from China and Thailand to the Community has taken place following the imposition of measures on imports of certain ring binder mechanisms originating in China. Imports of the product under investigation have increased substantially, whereas imports of certain ring binder mechanisms originating in China have decreased following the imposition of measures, and there appears to be insufficient due cause or justification other than the imposition of the duty for such a change. This change in the pattern of trade appears to stem from a transshipment via Thailand of certain ring binder mechanisms originating in China.

Furthermore, the evidence points to the fact that the remedial effects of the existing anti-dumping measures on imports of certain ring binder mechanisms originating in China are being undermined in terms of quantity. Significant volumes of imports of the product concerned from Thailand appear to have replaced imports of certain ring binder mechanisms originating in China.

Finally, the Commission has sufficient prima facie evidence at its disposal that the prices of the product under investigation are dumped in relation to the normal value previously established for certain ring binder mechanisms originating in China.

Should circumvention practices via Thailand covered by Article 13 of the basic Regulation other than transshipment be identified in the course of the investigation, the investigation may cover these practices also.

D. PROCEDURE

In the light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13 of the basic Regulation and to make imports of certain ring binder mechanisms consigned from Thailand, whether declared as originating in Thailand or not, subject to registration, in accordance with Article 14(5) of the basic Regulation.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 77, 13.3.2004, p. 12.

⁽³⁾ OJ L 22, 24.1.1997, p. 1.

⁽⁴⁾ OJ L 250, 5.10.2000, p. 1.

a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the exporters/producers and to the associations of exporters/producers in Thailand, the exporters/producers and to the associations of exporters/producers in China, to the importers and to the associations of importers in the Community which cooperated in the investigation that lead to the existing measures and to the authorities of China and Thailand. Information, as appropriate, may also be sought from the Community industry.

In any event all interested parties should contact the Commission forthwith, but not later than the time limit set in Article 3 of this Regulation and, if necessary, request a questionnaire within the time limit set in Article 3(1) of this Regulation, given that the time limit set in Article 3(2) of this Regulation applies to all interested parties.

The authorities of China and Thailand will be notified of the initiation of the investigation.

b) Collection of information and holding of hearings

All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

c) Exemption from registration of imports or measures

In accordance with Article 13(4) of the basic Regulation, since the possible circumvention takes place outside the Community, exemptions may be granted to producers of the product concerned in Thailand that can show that they are not related to any producer subject to the measures and that are found not to be engaged in circumvention practices as defined in Article 13(1) and 13(2) of the basic Regulation. Producers wishing to obtain an exemption should submit a request duly supported by evidence within the time limit indicated in Article 3(3) of this Regulation.

E. REGISTRATION

Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation should be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied retroactively from the date of the registration of such imports consigned from Thailand.

F. TIME LIMITS

In the interest of sound administration, time limits should be stated within which:

- interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation;

- producers in Thailand may request exemption from registration of imports or measures;
- interested parties may make a written request to be heard by the Commission.

Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the time limits mentioned in Article 3 of this Regulation.

G. NON-COOPERATION

In cases in which any interested party refuses access to or otherwise does not provide necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available. Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with Article 18 of the basic Regulation, of facts available. If an interested party does not cooperate or cooperates only partially, and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to the party than if it had cooperated,

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is hereby initiated pursuant to Article 13(3) of Regulation (EC) No 384/96, in order to determine if imports into the Community of certain ring binder mechanisms, falling within CN code ex 8305 10 00 (TARIC codes 8305 10 00 12 and 8305 10 00 22), consigned from Thailand, whether originating in Thailand or not, are circumventing the measures imposed by Council Regulation (EC) No 119/97 as last amended by Regulation (EC) No 2100/2000.

For the purpose of this Regulation, ring binder mechanisms shall consist of two rectangular steel sheets or wires with at least four half rings made of steel wire fixed on it and which are kept together by a steel cover. They can be opened either by pulling the half rings or with a small steel-made trigger mechanism fixed to the ring binder mechanism.

Article 2

The Customs authorities are hereby directed, pursuant to Articles 13(3) and 14(5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports into the Community identified in Article 1 of this Regulation.

Registration shall expire nine months from the date of entry into force of this Regulation.

The Commission, by Regulation, may direct Customs authorities to cease registration in respect of imports into the Community of products manufactured by producers having applied for an exemption of registration and having been found not to be circumventing the anti-dumping duties.

Article 3

1. Questionnaires should be requested from the Commission within 15 days from publication of this Regulation in the *Official Journal of the European Union*.
2. If their representations are to be taken into account during the investigation, interested parties must make themselves known by contacting the Commission, present their views in writing and submit questionnaire replies or any other information within 40 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.
3. Producers in Thailand requesting exemption from registration of imports or measures should submit a request duly supported by evidence within the same 40 day time limit.
4. Interested parties may also apply to be heard by the Commission within the same 40 day time limit.

5. Any information relating to the matter, any request for a hearing or for a questionnaire as well as any request for authorisation of certificates of non-circumvention must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone, fax and/or telex numbers of the interested party. All written submissions, including the information requested in this Regulation, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as 'Limited' ⁽¹⁾ and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'For inspection by interested parties'.

Commission address for correspondence:

European Commission
Directorate General for Trade
Directorate B
J-79 5/16
B-1049 Brussels
Fax (32 2) 295 65 05
Telex COMEU B 21877

Article 4

This Regulation shall enter into force on the day following 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, 28 April 2004.

For the Commission

Pascal LAMY

Member of the Commission

⁽¹⁾ This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 384/96 (OJ L 56, 6.3.1996, p.1) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).

COUNCIL DIRECTIVE 2004/56/EC
of 21 April 2004

amending Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation, certain excise duties and taxation of insurance premiums

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 93 and 94 thereof,

Having regard to the proposal from the Commission,

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

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

Whereas:

- (1) Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation, certain excise duties and taxation of insurance premiums ⁽³⁾ established the ground rules for administrative cooperation and the exchange of information between Member States in order to detect and prevent tax evasion and tax fraud and to enable Member States to carry out a correct tax assessment. It is essential to improve, expand and modernise those rules.
- (2) When a Member State conducts enquiries in order to obtain the information necessary to respond to a request for assistance, that State should be regarded as acting on its own account; in that way, there will only be one set of rules applying to the information-gathering process and the investigation will not be undermined by delays.
- (3) It is inappropriate, if the fight against tax fraud is to be effective, that a Member State which has received information from another Member State should subsequently have to request permission to disclose the information in public hearings or judgements.
- (4) It should be made clear that a Member State is not under any obligation to carry out enquiries in order to obtain the information necessary to respond to a request for assistance where either its legislation or administrative practices do not permit its competent authority to conduct enquiries or to collect such information.
- (5) It should be possible for the competent authority of a Member State to refuse information or assistance when the requesting Member State is not in a position to supply the same type of information, whether for reasons of fact or of law.

- (6) In view of the legal requirement in certain Member States that a taxpayer be notified of decisions and instruments concerning his tax liability and of the ensuing difficulties for the tax authorities, including cases where the taxpayer has relocated to another Member State, it is desirable that, in such circumstances, the tax authorities should be able to call upon the assistance of the competent authorities of the Member State to which the taxpayer has relocated.
- (7) Since the tax situation of one or more persons liable to tax established in several Member States often is of common or complementary interest, it should be made possible for simultaneous controls to be carried out to such persons by two or more Member States, by mutual agreement and on a voluntary basis, whenever such controls appear to be more effective than controls carried out by only one Member State.
- (8) The Commission submitted its proposal for a Directive on the basis of Article 95 of the Treaty. The Council, taking the view that the proposal for a Directive related to the harmonisation of legislation in the field of both direct and indirect taxation and that the act should therefore be adopted on the basis of Articles 93 and 94 of the Treaty, consulted the European Parliament by letter dated 12 November 2003 informing it of the Council's intention of changing the legal basis.
- (9) Directive 77/799/EEC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/799/EEC is hereby amended as follows:

1. Article 1(5) shall be amended as follows:

- (a) the wording under 'in Italy' shall be replaced by the following:
'il Capo del Dipartimento per le Politiche Fiscali or his authorised representatives'
- (b) the wording under 'in Sweden' shall be replaced by the following:
'Chefen för Finansdepartementet or his authorised representative'

⁽¹⁾ Opinion delivered on 15 January 2004 (not yet published in the Official Journal).

⁽²⁾ OJ C 32, 5.2.2004, p. 94.

⁽³⁾ OJ L 336, 27.12.1977, p. 15. Directive as last amended by Directive 2003/93/EC (OJ L 264, 15.10.2003, p. 23).

2. in Article 2(2), the following subparagraph shall be added:

'In order to obtain the information sought, the requested authority or the administrative authority to which it has recourse shall proceed as though acting on its own account or at the request of another authority in its own Member State.'

3. Article 7(1) shall be replaced by the following:

'1. All information made known to a Member State under this Directive shall be kept secret in that State in the same manner as information received under its national legislation. In any case, such information:

- may be made available only to the persons directly involved in the assessment of the tax or in the administrative control of this assessment,
- may be made known only in connection with judicial proceedings or administrative proceedings involving sanctions undertaken with a view to, or relating to, the making or reviewing the tax assessment and only to persons who are directly involved in such proceedings; such information may, however, be disclosed during public hearings or in judgements if the competent authority of the Member State supplying the information raises no objection at the time when it first supplies the information,
- shall in no circumstances be used other than for taxation purposes or in connection with judicial proceedings or administrative proceedings involving sanctions undertaken with a view to, or in relation to, the making or reviewing of the tax assessment.

In addition, Member States may provide for the information referred to in the first subparagraph to be used for assessment of other levies, duties and taxes covered by Article 2 of Directive 76/308/EEC (*).

(*) OJ L 73, 19.3.1976, p. 18.'

4. Article 8 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. This Directive does not impose any obligation upon a Member State from which information is requested to carry out inquiries or to communicate information, if it would be contrary to its legislation or administrative practices for the competent authority of that State to conduct such inquiries or to collect the information sought.'

(b) paragraph 3 shall be replaced by the following:

'3. The competent authority of a Member State may decline transmission of information when the Member State requesting it is unable, for reasons of fact or law, to provide the same type of information.'

5. the following Articles shall be inserted:

'Article 8a

Notification

1. At the request of the competent authority of a Member State, the competent authority of another Member State shall, in accordance with the rules governing the notification of similar instruments in the requested Member State, notify the addressee of all instruments and decisions which emanate from the administrative authorities of the requesting Member State and concern the application in its territory of legislation on taxes covered by this Directive.

2. Requests for notification shall indicate the subject of the instrument or decision to be notified and shall specify the name and address of the addressee, together with any other information which may facilitate identification of the addressee.

3. The requested authority shall inform the requesting authority immediately of its response to the request for notification and shall notify it, in particular, of the date of notification of the decision or instrument to the addressee.

Article 8b

Simultaneous controls

1. Where the tax situation of one or more persons liable to tax is of common or complementary interest to two or more Member States, those States may agree to conduct simultaneous controls, in their own territory, with a view to exchanging the information thus obtained, whenever they would appear to be more effective than controls conducted by one Member State alone.

2. The competent authority in each Member State shall identify independently the persons liable to tax whom it intends to propose for simultaneous control. It shall notify the respective competent authorities in the other Member States concerned of the cases which, in its view, should be subject to simultaneous control. It shall give reasons for its choice, as far as possible, by providing the information which led to its decision. It shall specify the period of time during which such controls should be conducted.

3. The competent authority of each Member State concerned shall decide whether it wishes to take part in the simultaneous control. On receipt of a proposal for a simultaneous control, the competent authority shall confirm its agreement or communicate its reasoned refusal to its counterpart authority.

4. Each competent authority of the Member States concerned shall appoint a representative with responsibility for supervising and coordinating the control operation.'

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 2005. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 21 April 2004.

For the Council

The President

J. WALSH

**COMMISSION DIRECTIVE 2004/57/EC
of 23 April 2004**

on the identification of pyrotechnic articles and certain ammunition for the purposes of Council Directive 93/15/EEC on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 93/15/EEC of 5 April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses ⁽¹⁾ and in particular Article 13(3) thereof,

Whereas:

- (1) Directive 93/15/EEC applies to explosive materials and articles which are considered to be such in the United Nations Recommendations on the transport of dangerous goods and which fall within Class 1 of those recommendations. Pyrotechnic articles, however, are expressly excluded from the scope of that Directive.
- (2) Consequently, in order to ensure the uniform application of Directive 93/15/EEC throughout the Community, it is necessary to identify, by reference to the relevant United Nations recommendations, articles which are to be considered to be pyrotechnic.
- (3) Certain articles falling within Class 1 of the United Nations recommendations have a dual function, since it is possible to use them either as explosives or as pyrotechnic articles. Provision should therefore be made, in the interests of the consistent application of Directive 93/15/EEC, for the identification of those articles in terms of their predominant character, that is to say, as explosives or as pyrotechnic articles.
- (4) The measures provided for in this Directive are in accordance with the opinion of the Committee established under Article 13 of Directive 93/15/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to this Directive lists, for the purposes of implementing the second and in part the third indent of Article 1(3) of Directive 93/15/EEC, the articles considered in the relevant United Nations recommendations to be pyrotechnic articles or ammunition.

Article 2

Annex II to this Directive lists articles in respect of which a determination is required, for the purposes of implementing the second indent of Article 1(3) of Directive 93/15/EEC, as to whether those articles are pyrotechnic articles or explosives.

Article 3

1. Member States shall adopt and publish, by 31 December 2004 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply these provisions from 31 January 2005.

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

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 23 April 2004.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 121, 15.5.1993, p. 20.

ANNEX I

Articles considered in the relevant United Nations recommendations to be pyrotechnic or ammunition

UN NO	NAME and DESCRIPTION	CLASS/DIVISION	GLOSSARY (to be used as a guide for information only)
Group G			
0009	Ammunition, Incendiary with or without burster, expelling charge or propelling charge	1.2 G	Ammunition Generic term related mainly to articles of military application consisting of all kind of bombs, grenades, rockets, mines, projectiles and other similar devices. Ammunition, Incendiary Ammunition containing incendiary substance. Except when the composition is an explosive per se, it also contains one or more of the following: a propelling charge with primer and igniter charge; a fuze with burster or expelling charge.
0010	Ammunition, Incendiary with or without burster, expelling charge or propelling charge	1.3 G	See Entry for UN No 0009
0015	Ammunition, Smoke with or without burster, expelling charge or propelling charge	1.2 G	Ammunition, Smoke Ammunition containing smoke-producing substance. Except when the substance is an explosive per se, the ammunition also contains one or more of the following: a propelling charge with primer and igniter charge; a fuze with burster or expelling charge.
0016	Ammunition, Smoke with or without burster, expelling charge or propelling charge	1.3 G	See Entry for UN No 0015
0018	Ammunition, Tear-producing with burster, expelling charge or propelling charge	1.2 G	Ammunition, Tear-producing with burster, expelling charge or propelling charge Ammunition containing tear-producing substance. It also contains one or more of the following: a pyrotechnic substance; a propelling charge with primer and igniter charge; a fuze with burster or expelling charge.
0019	Ammunition, Tear-producing with burster, expelling charge or propelling charge	1.3 G	See Entry for UN No 0018
0039	Bombs, photo-flash	1.2 G	Bombs Explosive articles which are dropped from aircraft. They may contain a flammable liquid with bursting charge, a photo-flash composition or a bursting charge. The term includes: bombs, photo-flash.
0049	Cartridges, Flash	1.1 G	Cartridges, Flash Articles consisting of a casing, a primer and flash powder, all assembled in one piece ready for firing.
0050	Cartridges, Flash	1.3 G	See Entry for UN No 0049

UN NO	NAME and DESCRIPTION	CLASS/DIVISION	GLOSSARY (to be used as a guide for information only)
0054	Cartridges, Signal	1.3 G	Cartridges, Signal Articles designed to fire coloured flares or other signals from signal pistols, etc.
0066	Cord, Igniter	1.4 G	Cord, Igniter Article consisting of textile yarns covered with black powder or another fast burning pyrotechnic composition and of a flexible protective covering; or it consists of a core of black powder surrounded by a flexible woven fabric: It burns progressively along its length with an external flame and is used to transmit ignition from a device to a charge.
0092	Flares, Surface	1.3 G	Flares Articles containing pyrotechnic substances which are designed for use to illuminate, identify, signal or warn.
0093	Flares, Aerial	1.3 G	See Entry for UN No 0092
0101	Fuse, non-detonating	1.3 G	Fuse/Fuze Although these two words have a common origin (French fusée, fusil) and are sometimes considered to be different spellings, it is useful to maintain the convention that fuse refers to a cord-like igniting device whereas fuze refers to a device used in ammunition which incorporates mechanical, electrical, chemical or hydrostatic components to initiate a train by deflagration or detonation. Fuse, instantaneous, non-detonating (quick-match) Article consisting of cotton yarns impregnated with fine black powder (quickmatch). It burns with an external flame and is used in ignition trains for fireworks, etc.
0103	Fuse, Igniter, tubular, metal clad	1.4 G	Fuse, igniter, tubular, metal clad Article consisting of a metal tube with a core of deflagrating explosive.
0171	Ammunition, illuminating with or without burster, expelling charge or propelling charge	1.2 G	Ammunition, illuminating with or without burster, expelling charge or propelling charge Ammunition designed to produce a single source of intense light for lighting up an area. The term includes illuminating cartridges, grenades and projectiles; and illuminating and target identification bombs.
0191	Signal devices, hand	1.4 G	Articles designed to produce signals.
0192	Signals, railway track, explosive	1.1 G	See Entry for UN No 0191
0194	Signals, distress, ship	1.1 G	See Entry for UN No 0191

UN NO	NAME and DESCRIPTION	CLASS/DIVISION	GLOSSARY (to be used as a guide for information only)
0195	Signals, distress, ship	1.3 G	See Entry for UN No 0191
0196	Signals, smoke	1.1 G	See Entry for UN No 0191
0197	Signals, smoke	1.4 G	See Entry for UN No 0191
0212	Tracers for ammunition	1.3 G	Tracers for ammunition Sealed articles containing pyrotechnic substances, designed to reveal the trajectory of a projectile.
0254	Ammunition, illuminating with or without burster, expelling charge or propelling charge	1.3 G	See Entry for UN No 0171
0297	Ammunition, illuminating with or without burster, expelling charge or propelling charge	1.4 G	See Entry for UN No 0254
0299	Bombs, photo-flash	1.3 G	See Entry for UN No 0039
0300	Ammunition, incendiary with or without burster, expelling charge or propelling charge	1.4 G	See Entry for UN No 0009
0301	Ammunition, tear-producing with burster, expelling charge	1.4 G	See Entry for UN No 0018
0303	Ammunition, smoke with or without burster, expelling charge	1.4 G	See Entry for UN No 0015
0306	Tracers for ammunition	1.4 G	See Entry for UN No 0212.
0312	Cartridges, signal	1.4 G	Cartridges, signal Articles designed to fire coloured flares or other signals from signal pistols.
0313	Signals, smoke	1.2 G	See Entry for UN No 0195
0318	Grenades, practice, hand or rifle	1.3 G	Grenades hand or rifle Articles which are designed to be thrown by hand or to be projected by a rifle. The term includes: Grenades practice, hand or rifle.
0319	Primers, tubular	1.3 G	Primers, tubular Articles consisting of a primer for ignition and an auxiliary charge of deflagrating explosive such as black powder used to ignite the propelling charge in a cartridge case for eg cannon.
0320	Primers, tubular	1.4 G	See Entry for UN No 0319
0333	Fireworks	1.1 G	Fireworks Pyrotechnic articles designed for entertainment.
0334	Fireworks	1.2 G	See Entry for UN No 0333
0335	Fireworks	1.3 G	See Entry for UN No 0333

UN NO	NAME and DESCRIPTION	CLASS/DIVISION	GLOSSARY (to be used as a guide for information only)
0336	Fireworks	1.4 G	See Entry for UN No 0333
0362	Ammunition, practice	1.4 G	Ammunition, practice Ammunition without a main bursting charge, containing a burster or expelling charge. Normally it also contains a fuze and a propelling charge.
0363	Ammunition, proof	1.4 G	Ammunition, proof Ammunition containing pyrotechnic substances, used to test the performance or strength of new ammunition, weapon component or assemblies.
0372	Grenades, practice, hand or rifle	1.2 G	See Entry for UN No 0318
0373	Signal devices, hand	1.4 S	See Entry for UN No 0191
0403	Flares, aerial	1.4 G	See Entry for UN No 0092
0418	Flares, surface	1.2 G	See Entry for UN No 0092
0419	Flares, surface	1.1 G	See Entry for UN No 0092
0420	Flares, aerial	1.1 G	See Entry for UN No 0092
0421	Flares, aerial	1.2 G	See Entry for UN No 0092
0424	Projectiles, inert with tracer	1.3 G	Projectiles Articles such as a shell or bullet which are projected from a cannon or other artillery gun, rifle or other small arm. They may be inert, with or without tracer, or may contain a burster or expelling charge or a bursting charge. The term includes: Projectiles, inert, with tracer; projectiles with burster or expelling charge; projectiles with bursting charge.
0425	Projectiles, inert with tracer	1.4 G	See Entry for UN No 0424
0428	Articles, pyrotechnic for technical purposes	1.1 G	Articles, pyrotechnic for technical purposes Articles which contain pyrotechnic substances and are used for technical purposes such as heat generation, gas generation, theatrical effects, etc. The term excludes the following articles which are listed separately: all ammunition; cartridges, signal; cutters, cable, explosive; fireworks; flares, aerial; flares, surface; release devices, explosive; rivets, explosive; signal devices, hand; signals, distress; signals, railway track, explosive; signals, smoke.
0429	Articles, pyrotechnic for technical purposes	1.2 G	See Entry for UN No 0428
0430	Articles, pyrotechnic for technical purposes	1.3 G	See Entry for UN No 0428
0431	Articles, pyrotechnic for technical purposes	1.4 G	See Entry for UN No 0428

UN NO	NAME and DESCRIPTION	CLASS/DIVISION	GLOSSARY (to be used as a guide for information only)
0434	Projectiles with burster or expelling charge	1.2 G	Projectiles Articles such as a shell or bullet which are projected from a cannon or other artillery gun, rifle or other small arm. They may be inert, with or without tracer, or may contain a burster or expelling charge or a bursting charge. The term includes: projectiles, inert, with tracer; projectiles with burster or expelling charge; projectiles with bursting charge.
0435	Projectiles with burster or expelling charge	1.4 G	See Entry for UN No 0434
0452	Grenades, practice, hand or rifle	1.4 G	See Entry for UN No 0372
0487	Signal, smoke	1.3 G	See Entry for UN No 0194
0488	Ammunition, practice	1.3 G	Ammunition, practice Ammunition without a main bursting charge, containing a burster or expelling charge. Normally it also contains a fuze and a propelling charge. The term excludes the following articles which are listed separately: Grenades, practice.
0492	Signals, railway track, explosive	1.3 G	See Entry for UN No 0194
0493	Signals, railway track, explosive	1.4 G	See Entry for UN No 0194
0503	Air bag inflators, or Airbag modules, or seat belt pretensioners,	1.4 G	

UN NO	NAME and DESCRIPTION	CLASS/DIVISION	GLOSSARY to be used as a guide for information only
Group S			
0110	Grenades, practice, hand or rifle	1.4 S	See Entry for UN No 0318
0193	Signals, railway track, explosive	1.4 S	See Entry for UN No 0194
0337	Fireworks	1.4 S	See Entry for UN No 0334
0345	Projectiles, inert with tracer	1.4 S	Projectiles Articles such as a shell or bullet which are projected from a cannon or other artillery gun, rifle or other small arm. They may be inert, with or without tracer, or may contain a burster or expelling charge or a bursting charge.
0376	Primers, tubular	1.4 S	See Entry for UN No 0319
0404	Flares, aerial	1.4 S	See Entry for UN No 0092

UN NO	NAME and DESCRIPTION	CLASS/DIVISION	GLOSSARY to be used as a guide for information only
0405	Cartridges, signal	1.4 S	Cartridges, Signal Articles designed to fire coloured flares or other signals from signal pistols, etc.
0432	Articles, pyrotechnic or technical purpose	1.4 S	

ANNEX II

Articles in respect of which a determination is required as to whether those articles are pyrotechnic articles or explosives

UN NO	NAME and DESCRIPTION	CLASS/DIVISION	GLOSSARY (to be used as a guide for information only)
Group G			
0121	Igniters	1.1 G	Igniters Articles containing one or more explosive substances used to start deflagration in an explosive train. They may be actuated chemically, electrically or mechanically.
0314	Igniters	1.2 G	See Entry for UN No 0121
0315	Igniters	1.3 G	See Entry for UN No 0121
0316	Fuzes, igniting	1.3 G	
0317	Fuzes, igniting	1.4 G	
0325	Igniters	1.4 G	See Entry for UN No 0121
0353	Articles, explosive, NOS	1.4 G	
0454	Igniters	1.4 S	See Entry for UN No 0121

UN NO	NAME and DESCRIPTION	CLASS/DIVISION	GLOSSARY (to be used as a guide for information only)
Group S			
0131	Lighters, fuse	1.4 S	Lighters, fuse Articles of various design actuated by friction, percussion or electricity and used to ignite safety fuse.
0349	Articles, explosive, NOS	1.4 S	
0368	Fuzes, igniting	1.4 S	

**COMMISSION DIRECTIVE 2004/61/EC
of 26 April 2004**

**amending the Annexes to Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC as regards
maximum residue levels for certain pesticides prohibited for use in the European Community**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 86/362/EEC of 24 July 1986 on the fixing of maximum levels for pesticide residues in and on cereals ⁽¹⁾, and in particular Article 10 thereof,

Having regard to Council Directive 86/363/EEC of 24 July 1986 on the fixing of maximum levels for pesticide residues in and on foodstuffs of animal origin ⁽²⁾, and in particular Article 10 thereof,

Having regard to Council Directive 90/642/EEC of 27 November 1990 on the fixing of maximum levels for pesticide residues in and on products of plant origin, including fruit and vegetables ⁽³⁾, and in particular Article 7 thereof,

Whereas:

- (1) Under Council Directive 79/117/EEC ⁽⁴⁾, as last amended by Council Regulation (EC) No 2003/807 ⁽⁵⁾, mercuric oxide, mercurous chloride (calomel), other inorganic mercury compounds, alkyl mercury compounds, alkoxyalkyl and aryl mercury compounds, aldrin, chlordane, dieldrin, HCH, hexachlorobenzene, camphechlor (toxaphene), ethylene oxide, nitrofen, 1,2-dibromoethane, 1,2-dichloroethane, dinoseb and binapacryl are pesticides, prohibited for use and placing on the market in the EC. In view of the availability of some of these pesticides on the world market it is prudent to set Maximum Residue Levels for all products at the Lower Limit of Analytical Determination. Some mercuric compounds cannot be distinguished from mercuric compounds originating from environmental contamination.
- (2) Where no legal use of a pesticide is allowed and where no residues can be tolerated it is appropriate that the MRL established at the appropriate lower limit of analytical determination on fresh produce, apply also on the composite and processed products.
- (3) The opinions of the Scientific Committee for Plants have been taken into account, in particular its advice and recommendations concerning the methodology to be followed for the protection of consumers of agricultural products treated with pesticides.
- (4) Annexes to Directives 86/362/EEC, 86/363/EEC and 90/642/EEC should therefore be amended.
- (5) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

⁽¹⁾ OJ L 221, 7.8.1986, p. 37. Directive as last amended by Commission Directive 2004/2/EC (OJ L 14, 21.1.2004, p. 10).

⁽²⁾ OJ L 221, 7.8.1986, p. 43. Directive as last amended by Directive 2004/2/EC.

⁽³⁾ OJ L 350, 14.12.1990, p. 71. Directive as last amended by Commission Directive 2004/2/EC.

⁽⁴⁾ OJ L 33, 8.2.1979, p. 36.

⁽⁵⁾ OJ L 122, 16.5.2003, p. 36.

HAS ADOPTED THIS DIRECTIVE:

Article 1

In part A of Annex II to Directive 86/362/EEC the following rows are added:

Pesticide residue	Maximum level in
— Mercury compounds	0,01 (*) Cereals
— Camphechlor (chlorinated camphen with 67-69 % chlorine)	0,1 (*) Cereals
— 1,2-Dibromoethane	0,01 (*) Cereals
— 1,2-Dichloroethane	0,01 (*) Cereals
— Dinoseb	0,01 (*) Cereals
— Binapacryl	0,01 (*) Cereals
— Nitrofen	0,01 (*) Cereals
— Ethylene oxyde (sum of ethylene oxyde and 2-chloro-ethanol expressed as ethylene oxyde)	0,02 (*) Cereals

(*) Indicates lower limit of analytical determination.'

Article 2

In part A of Annex II to Directive 86/363/EEC the following rows are added:

Pesticide residue	Maximum level (mg/kg)		
	Of fat contained in meat, preparations of meat, offals and animal fats listed in Annex I within CN code Nos 0201, 0202, 0203, 0204, 0205 00 00, 0206, 0207, ex 0208, 0209 00, 0210, 1601 00 and 1602 (i) (iv)	For cow's milk and whole cream cow's milk listed in Annex 1 within CN code No 0401; for the other foodstuffs within CN code Nos. 0401, 0402, 0405 00, 0406 in accordance with (ii) (iv)	Of shelled fresh eggs, in birds' eggs and egg yolks listed in Annex 1 within CN code Nos 0407 00 and 0408 (iii) (iv)
— Nitrofen	0,01 (*)	0,01 (*)	0,01 (*)
— Sum of mercury compounds	0,01 (*)	0,01 (*)	0,01 (*)
— Camphechlor (sum of the three indicator compounds ParlarNo. 26, 50 and 62 (**))	0,05 (**) except poultry	0,01 (*)	
— 1,2-dichloroethane	0,1 (*)	0,1 (*)	0,1 (*)
— Binapacryl	0,01 (*)	0,01 (*)	0,01 (*)
— Ethylene oxyde (sum of ethylene oxyde and 2-chloro-ethanol expressed as ethylene oxyde)	0,02 (*)	0,02 (*)	0,02 (*)
— Captafol	0,01 (*)	0,01 (*)	0,01 (*)

(*) Indicates lower limit of analytical determination.

(**) Parlar No 26 2-endo,3-exo,5-endo,6-exo,8,8,10,10-octachlorobornane
 Parlar No 50 2-endo,3-exo,5-endo,6-exo,8,8,9,10,10-nonachlorobornane
 Parlar No 62 2,2,5,5,8,9,9,10,10,-nonachlorobornane.'

Article 3

In part B of Annex II to Directive 86/363/EEC the following rows are added:

Pesticide residue	Maximum level (mg/kg)		
	Of meat, including fat, preparations of meat, offals and animal fats as listed in Annex I within CN code Nos 0201, 0202, 0203, 0204, 0205 00 00, 0206, 0207, ex 0208, 0209 00, 0210, 1601 00 and 1602	For milk and milk products listed in Annex 1 within CN code Nos 0401, 0402, 0405 00 and 0406	Of shelled fresh eggs, for bird's eggs and egg yolks listed in Annex 1 within CN code Nos. 0407 00 and 0408
'Dinoseb	0,01 (*)	0,01 (*)	0,01 (*)

(*) Indicates lower limit of analytical determination.'

Article 4

The maximum residue levels listed in the Annex to this Directive are added to those listed in Annex II to Directive 90/642/EEC for the pesticides in question.

Article 5

1. Member States shall adopt and publish, eight months after the adoption of this Directive at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from nine months after the adoption of this Directive.

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

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 6

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

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 26 April 2004.

For the Commission

David BYRNE

Member of the Commission

ANNEX

Pesticide residue and maximum residue level (mg/kg)								
Groups and examples of individual products to which the MRLs would apply	Sum of mercury compounds expressed as mercury	Aldrin and dieldrin combined expressed as dieldrin	Chlordane (sum of cis- and trans-chlordane)	HCH, Sum of isomers except the gamma isomer	Hexa-chloro-benzene	Ethylene oxyde (sum of ethylene oxyde and 2-chloro-ethanol expressed as ethylene oxyde)	Nitrofen	1,2-dichloro-ethane
1. Fruit, fresh, dried or uncooked, preserved by freezing, not containing added sugar; nuts	0,01 (*)	0,01 (*)	0,01 (*)	0,01 (*)	0,01 (*)	0,1 (*)	0,01 (*)	0,01 (*)
i) CITRUS FRUIT								
Grapefruit								
Lemons								
Limes								
Mandarins (including clementines and other hybrids)								
Oranges								
Pomelos								
Others								
ii) TREE NUTS (shelled or unshelled)								
Almonds								
Brazil nuts								
Cashew nuts								
Chestnuts								
Coconuts								
Hazelnuts								
Macadamia								
Pecans								
Pine nuts								
Pistachios								
Walnuts								
Others								

Pesticide residue and maximum residue level (mg/kg)

Groups and examples of individual products to which the MRLs would apply	Sum of mercury compounds expressed as mercury	Aldrin and dieldrin combined expressed as dieldrin	Chlordane (sum of cis- and trans-chlordane)	HCH, Sum of isomers except the gamma isomer	Hexa-chloro-benzene	Ethylene oxyde (sum of ethylene oxyde and 2-chloro-ethanol expressed as ethylene oxyde)	Nitrofen	1,2-dichloro-ethane
iii) POME FRUIT								
Apples								
Pears								
Quinces								
Others								
iv) STONE FRUIT								
Apricots								
Cherries								
Peaches (including nectarines and similar hybrids)								
Plums								
Others								
v) BERRIES AND SMALL FRUIT								
a) Table and wine grapes								
Table grapes								
Wine grapes								
b) Strawberries (other than wild)								
c) Cane fruit (other than wild)								
Blackberries								
Dewberries								
Loganberries								
Raspberries								
Others								

Pesticide residue and maximum residue level (mg/kg)

Groups and examples of individual products to which the MRLs would apply	Sum of mercury compounds expressed as mercury	Aldrin and dieldrin combined expressed as dieldrin	Chlordane (sum of cis- and trans-chlordane)	HCH, Sum of isomers except the gamma isomer	Hexa-chloro-benzene	Ethylene oxyde (sum of ethylene oxyde and 2-chloro-ethanol expressed as ethylene oxyde)	Nitrofen	1,2-dichloro-ethane
d) Other small fruit & berries (other than wild)								
Bilberries								
Cranberries								
Currants (red, black and white)								
Gooseberries								
Others								
e) Wild berries and wild fruit								
vi) MISCELLANEOUS								
Avocados								
Bananas								
Dates								
Figs								
Kiwi								
Kumquats								
Litchis								
Mangoes								
Olives								
Passion fruit								
Pineapples								
Pomegranate								
Others								

Pesticide residue and maximum residue level (mg/kg)

Groups and examples of individual products to which the MRLs would apply	Sum of mercury compounds expressed as mercury	Aldrin and dieldrin combined expressed as dieldrin	Chlordane (sum of cis- and trans-chlordane)	HCH, Sum of isomers except the gamma isomer	Hexa-chloro-benzene	Ethylene oxyde (sum of ethylene oxyde and 2-chloro-ethanol expressed as ethylene oxyde)	Nitrofen	1,2-dichloro-ethane
2. Vegetables, fresh or uncooked, frozen or dry	0,01 (*)		0,01 (*)	0,01 (*)	0,01 (*)	0,1 (*)	0,01 (*)	0,01 (*)
i) ROOT AND TUBER VEGETABLES								
Beetroot								
Carrots								
Celeriac								
Horseradish								
Jerusalem artichokes								
Parsnips		0,02 (1)						
Parsley root								
Radishes								
Salsify								
Sweet potatoes								
Swedes								
Turnips								
Yam								
Others		0,01 (*)						
ii) BULB VEGETABLES		0,01 (*)						
Garlic								
Onions								
Shallots								
Spring onions								
Others								

Pesticide residue and maximum residue level (mg/kg)

Groups and examples of individual products to which the MRLs would apply	Sum of mercury compounds expressed as mercury	Aldrin and dieldrin combined expressed as dieldrin	Chlordane (sum of cis- and trans-chlordane)	HCH, Sum of isomers except the gamma isomer	Hexa-chloro-benzene	Ethylene oxyde (sum of ethylene oxyde and 2-chloro-ethanol expressed as ethylene oxyde)	Nitrofen	1,2-dichloro-ethane
iii) FRUITING VEGETABLES								
a) Solanacea		0,01 (*)						
Tomatoes								
Peppers								
Aubergines								
Others								
b) Cucurbits — edible peel		0,02 (²)						
Cucumbers								
Gherkins								
Courgettes								
Others								
c) Cucurbits-inedible peel		0,03 (³)						
Melons								
Squashes								
Watermelons								
Others								
d) Sweet corn		0,01 (*)						
iv) BRASSICA VEGETABLES		0,01 (*)						
a) Flowering brassica								
Broccoli (including Calabrese)								
Cauliflower								
Others								
b) Head brassica								
Brussels sprouts								
Head cabbage								
Others								

Pesticide residue and maximum residue level (mg/kg)

Groups and examples of individual products to which the MRLs would apply	Sum of mercury compounds expressed as mercury	Aldrin and dieldrin combined expressed as dieldrin	Chlordane (sum of cis- and trans-chlordane)	HCH, Sum of isomers except the gamma isomer	Hexa-chloro-benzene	Ethylene oxyde (sum of ethylene oxyde and 2-chloro-ethanol expressed as ethylene oxyde)	Nitrofen	1,2-dichloro-ethane
c) Leafy brassica								
Chinese cabbage								
Kale								
Others								
d) Kohlrabi								
v) LEAF VEGETABLES AND FRESH HERBS		0,01 (*)						
a) Lettuce & similar								
Cress								
Lamb's lettuce								
Lettuce								
Scarole (broad-leaf endive)								
Others								
b) Spinach & similar								
Spinach								
Beet leaves (chard)								
Others								
c) Water cress								
d) Witloof								
e) Herbs								
Chervil								
Chives								
Parsley								
Celery leaves								
Others								

Pesticide residue and maximum residue level (mg/kg)

Groups and examples of individual products to which the MRLs would apply	Sum of mercury compounds expressed as mercury	Aldrin and dieldrin combined expressed as dieldrin	Chlordane (sum of cis- and trans-chlordane)	HCH, Sum of isomers except the gamma isomer	Hexa-chloro-benzene	Ethylene oxyde (sum of ethylene oxyde and 2-chloro-ethanol expressed as ethylene oxyde)	Nitrofen	1,2-dichloro-ethane
vi) LEGUME VEGETABLES (fresh)		0,01 (*)						
Beans (with pods)								
Beans (without pods)								
Peas (with pods)								
Peas (without pods)								
Others								
vii) STEM VEGETABLES (fresh)		0,01 (*)						
Asparagus								
Cardoons								
Celery								
Fennel								
Globe artichokes								
Leek								
Rhubarb								
Others								
viii) FUNGI		0,01 (*)						
a) Cultivated mushrooms								
b) Wild mushrooms								
3. PULSES	0,01 (*)	0,01 (*)	0,01 (*)	0,01 (*)	0,01 (*)	0,1 (*)	0,01 (*)	0,01 (*)
Beans								
Lentils								
Peas								
Others								

Pesticide residue and maximum residue level (mg/kg)

Groups and examples of individual products to which the MRLs would apply	Sum of mercury compounds expressed as mercury	Aldrin and dieldrin combined expressed as dieldrin	Chlordane (sum of cis- and trans-chlordane)	HCH, Sum of isomers except the gamma isomer	Hexa-chloro-benzene	Ethylene oxyde (sum of ethylene oxyde and 2-chloro-ethanol expressed as ethylene oxyde)	Nitrofen	1,2-dichloro-ethane
4. OILSEEDS	0,02 (*)	0,02 ⁽⁴⁾	0,02 (*)	0,02 (*)	0,02 (*)	0,2 (*)	0,02 (*)	0,02 (*)
Linseed								
Peanuts								
Poppy seed								
Sesame seed								
Sunflower seed								
Rape seed								
Soya bean								
Mustard seed								
Cotton seed								
Others								
5. POTATOES	0,01 (*)	0,01 (*)	0,01 (*)	0,01 (*)	0,01 (*)	0,1 (*)	0,01 (*)	0,01 (*)
Early potatoes								
Ware potatoes								
6. TEA (dried leaves and stalks, fermented or otherwise, <i>Camellia sinensis</i>)	0,02 (*)	0,02 (*)	0,02 (*)	0,02 (*)	0,02 (*)	0,2 (*)	0,02 (*)	0,02 (*)
7. HOPS (dried), including hop pellets and unconcentrated powder	0,02 (*)	0,02 (*)	0,02 (*)	0,02 (*)	0,02 (*)	0,2 (*)	0,02 (*)	0,02 (*)

(*) Indicates lower limit of analytical determination.

⁽¹⁾ Based on background levels due to use of dieldrin and aldrin in the past.⁽²⁾ Based on background levels due to use of dieldrin and aldrin in the past.⁽³⁾ Based on background levels due to use of dieldrin and aldrin in the past.⁽⁴⁾ Monitoring data show that levels of up to 0,02 mg/kg of dieldrin can be found of pumpkin seeds used for oil extraction.'

COUNCIL DIRECTIVE 2004/67/EC
of 26 April 2004
concerning measures to safeguard security of natural gas supply
(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100 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,

Having regard to the opinion of the European Parliament ⁽³⁾,

Whereas:

(1) Natural gas (gas) is becoming an increasingly important component in Community energy supply, and, as indicated in the Green Paper 'Towards a European strategy for the security of energy supply', the European Union is expected in the longer term to become increasingly dependent on gas imported from non-EU sources of supply.

(2) Following Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas ⁽⁴⁾ and Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC ⁽⁵⁾, the Community gas market is being liberalised. Consequently, regarding security of supply, any difficulty having the effect of reducing gas supply could cause serious disturbances in the economic activity of the Community; for this reason, there is a growing need to ensure security of gas supply.

(3) The completion of the internal gas market necessitates a minimum common approach to security of supply, in particular through transparent and non-discriminatory security of supply policies compatible with the requirements of such a market, in order to avoid market distortions. Definition of clear roles and responsibilities of all market players is therefore crucial in safeguarding security of gas supply and the well-functioning of the internal market.

(4) Security of supply obligations imposed on companies should not impede the well functioning of the internal market and should not impose unreasonable and disproportionate burden on gas market players, including new market entrants and small market players.

(5) In view of the growing gas market in the Community, it is important that the security of gas supply is maintained, in particular as regards household customers.

(6) A large choice of instruments are available for the industry and, if appropriate, for Member States, to comply with the security of supply obligations. Bilateral agreements between Member States could be one of the means to contribute to the achievement of the minimum security of supply standards, having due regard to the Treaty and secondary legislation, in particular Article 3(2) of Directive 2003/55/EC.

(7) Indicative minimum targets for gas storage could be set either at national level or by the industry. It is understood that this should not create any additional investment obligations.

(8) Considering the importance of securing gas supply, i.e. on the basis of long-term contracts, the Commission should monitor the developments on the gas market on the basis of reports from Member States.

(9) In order to meet growing demand for gas and diversify gas supplies as a condition for a competitive internal gas market, the Community will need to mobilise significant additional volumes of gas over the coming decades much of which will have to come from distant sources and transported over long distances.

(10) The Community has a strong common interest with gas supplying and transit countries in ensuring continued investments in gas supply infrastructure.

(11) Long-term contracts have played a very important role in securing gas supplies for Europe and will continue to do so. The current level of long term contracts is adequate on the Community level, and it is believed that such contracts will continue to make a significant contribution to overall gas supplies as companies continue to include such contracts in their overall supply portfolio.

⁽¹⁾ OJ C 331 E, 31.12.2002, p. 262.

⁽²⁾ OJ C 133, 6.6.2003, p. 16.

⁽³⁾ Opinion not yet published in the Official Journal.

⁽⁴⁾ OJ L 204, 21.7.1998, p. 1.

⁽⁵⁾ OJ L 176, 15.7.2003, p. 57.

(12) Considerable progress has been made in developing liquid trading platforms and through gas release programmes at national level. This trend is expected to continue.

(13) The establishment of genuine solidarity between Member States in major emergency supply situations is essential, even more so as Member States become increasingly interdependent regarding security of supply.

(14) The sovereign rights of Member States over their own natural resources are not affected by this Directive.

(15) A Gas Coordination Group should be established, which should facilitate coordination of security of supply measures at Community level in the event of a major supply disruption, and may also assist member States in coordinating measures taken at a national level. In addition, it should exchange information on security of gas supply on a regular basis, and should consider aspects relevant in the context of a major supply disruption.

(16) Member States should adopt and publish national emergency provisions.

(17) This Directive should provide rules applicable in the event of a major supply disruption; the foreseeable length of such a supply disruption should cover a significant period of time of at least eight weeks.

(18) Regarding the handling of a major supply disruption, this Directive should provide for a mechanism based on a three step approach. The first step would involve the reactions of the industry to the supply disruption; if this were not sufficient, Member States should take measures to solve the supply disruption. Only if the measures taken at stage one and two have failed should appropriate measures be taken at Community level.

(19) Since the objective of this Directive, namely ensuring an adequate level for the security of gas supply, in particular in the event of a major supply disruption, whilst contributing to the proper functioning of the internal gas market, cannot, in all circumstances, be sufficiently achieved by the Member States, particularly in light of the increasing interdependency of the Member States regarding security of gas supply, and can therefore, by reason of the scale and effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Objective

This Directive establishes measures to safeguard an adequate level for the security of gas supply. These measures also contribute to the proper functioning of the internal gas market. It establishes a common framework within which Member States shall define general, transparent and non-discriminatory security of supply policies compatible with the requirements of a competitive internal gas market; clarify the general roles and responsibilities of the different market players and implement specific non-discriminatory procedures to safeguard security of gas supply.

Article 2

Definitions

For the purpose of this Directive:

1. 'long-term gas supply contract' means a gas supply contract with a duration of more than 10 years;
2. 'major supply disruption' shall mean a situation where the Community would risk to lose more than 20 % of its gas supply from third countries and the situation at Community level is not likely to be adequately managed with national measures.

Article 3

Policies for securing gas supply

1. In establishing their general policies with respect to ensuring adequate levels of security of gas supply, Member States shall define the roles and responsibilities of the different gas market players in achieving these policies, and specify adequate minimum security of supply standards that must be complied with by the players on the gas market of the Member State in question. The standards shall be implemented in a non-discriminatory and transparent way and shall be published.

2. Member States shall take the appropriate steps to ensure that the measures referred to in this Directive do not place an unreasonable and disproportionate burden on gas market players and are compatible with the requirements of a competitive internal gas market.

3. A non-exhaustive list of instruments for the security of gas supply is given in the Annex.

*Article 4***Security of supply for specific customers**

1. Member States shall ensure that supplies for household customers inside their territory are protected to an appropriate extent at least in the event of:

- (a) a partial disruption of national gas supplies during a period to be determined by Member States taking into account national circumstances;
- (b) extremely cold temperatures during a nationally determined peak period;
- (c) periods of exceptionally high gas demand during the coldest weather periods statistically occurring every 20 years,

These criteria are referred to in this Directive as 'security of supply standards'.

2. Member States may extend the scope of paragraph 1 in particular to small and medium-sized enterprises and other customers that cannot switch their gas consumption to other energy sources, including measures for the security of their national electricity system if it depends on gas supplies.

3. A non-exhaustive list in the Annex sets out examples of instruments which may be used in order to achieve the security of supply standards.

4. Member States, having due regard to the geological conditions of their territory and the economic and technical feasibility, may also take the necessary measures to ensure that gas storage facilities located within their territory contribute to an appropriate degree to achieving the security of supply standards.

5. If an adequate level of interconnection is available, Member States may take the appropriate measures in cooperation with another Member State, including bilateral agreements, to achieve the security of supply standards using gas storage facilities located within that other Member State. These measures, in particular bilateral agreements, shall not impede the proper functioning of the internal gas market.

6. Member States may set or require the industry to set indicative minimum targets for a possible future contribution of storage, either located within or outside the Member State, to security of supply. These targets shall be published.

*Article 5***Reporting**

1. In the report published by Member States pursuant to Article 5 of Directive 2003/55/EC, Member States shall also cover the following:

- (a) the competitive impact of the measures taken pursuant to Articles 3 and 4 on all gas market players;

- (b) the levels of storage capacity;

- (c) the extent of long-term gas supply contracts concluded by companies established and registered on their territory, and in particular their remaining duration, based on information provided by the companies concerned, but excluding commercially sensitive information, and the degree of liquidity of the gas market;

- (d) the regulatory frameworks to provide adequate incentives for new investment in exploration and production, storage, LNG and transport of gas, taking into account Article 22 of Directive 2003/55/EC as far as implemented by the Member State.

2. This information shall be considered by the Commission in the reports that it issues pursuant to Article 31 of Directive 2003/55/EC in the light of the consequences of that Directive for the Community as a whole and the overall efficient and secure operation of the internal gas market.

*Article 6***Monitoring**

1. The Commission shall monitor, on the basis of the reports referred to in Article 5(1):

- (a) the degree of new long-term gas supply import contracts from third countries;
- (b) the existence of adequate liquidity of gas supplies;
- (c) the level of working gas and of the withdrawal capacity of gas storage;
- (d) the level of interconnection of the national gas systems of Member States;
- (e) the foreseeable gas supply situation in function of demand, supply autonomy and available supply sources at Community level concerning specific geographic areas in the Community.

2. Where the Commission concludes that gas supplies in the Community will be insufficient to meet foreseeable gas demand in the long term, it may submit proposals in accordance with the Treaty.

3. By 19 May 2008 the Commission shall submit a review report to the European Parliament and the Council on the experience gained from the application of this Article.

*Article 7***Gas Coordination Group**

1. A Gas Coordination Group is hereby established in order to facilitate the coordination of security of supply measure (the Group).
2. The Group shall be composed of the representatives of Member States and representative bodies of the industry concerned and of relevant consumers, under the chairmanship of the Commission.
3. The Group shall adopt its Rules of Procedure.

*Article 8***National emergency measures**

1. Member States shall prepare in advance and, if appropriate, update national emergency measures and shall communicate these to the Commission. Member States shall publish their national emergency measures.
2. Member States' emergency measures shall ensure, where appropriate, that market players are given sufficient opportunity to provide an initial response to the emergency situation.
3. Subject to Article 4(1), Member States may indicate to the Chair of the Group events which they consider, because of their magnitude and exceptional character, cannot be adequately managed with national measures.

*Article 9***Community mechanism**

1. If an event occurs that is likely to develop into a major supply disruption for a significant period of time, or in the case of an event indicated by a Member State according to Article 8(3), the Commission shall convene the Group as soon as possible, at the request of a Member State or on its own initiative.
2. The Group shall examine, and, where appropriate, assist the Member States in coordinating the measures taken at national level to deal with the major supply disruption.
3. In carrying out its work, the Group shall take full account of:
 - (a) the measures taken by the gas industry as a first response to the major supply disruption;
 - (b) the measures taken by Member States, such as those taken pursuant to Article 4, including relevant bilateral agreements.
4. Where the measures taken at national level referred to in paragraph 3 are inadequate to deal with the effects of an event referred to in paragraph 1, the Commission may, in consultation with the Group, provide guidance to Member States regarding further measures to assist those Member States particularly affected by the major supply disruption.

5. Where the measures taken at national level pursuant to paragraph 4 are inadequate to deal with the effects of an event referred to in paragraph 1, the Commission may submit a proposal to the Council regarding further necessary measures.

6. Any measures at Community level referred to in this Article shall contain provisions aimed at ensuring fair and equitable compensation of the undertakings concerned by the measures to be taken.

*Article 10***Monitoring of implementation**

1. By 19 May 2008, the Commission shall, in the light of the manner in which Member States have implemented this Directive, report on the effectiveness of the instruments used with regard to Article 3 and 4 and their effect on the internal gas market and on the evolution of competition on the internal gas market.
2. In the light of the results of this monitoring, where appropriate, the Commission may issue recommendations or present proposals regarding further measures to enhance security of supply.

*Article 11***Transposition**

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 19 May 2006. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

*Article 12***Entry into force**

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

Article 13

This Directive is addressed to the Member States.

Done at Luxembourg, 26 April 2004.

For the Council
The President
J. WALSH

ANNEX

Non-exhaustive list of instruments to enhance the security of gas supply referred to in Article 3(3) and Article 4(3)

- working gas in storage capacity,
 - withdrawal capacity in gas storage,
 - provision of pipeline capacity enabling diversion of gas supplies to affected areas,
 - liquid tradable gas markets,
 - system flexibility,
 - development of interruptible demand,
 - use of alternative back-up fuels in industrial and power generation plants,
 - cross-border capacities,
 - cooperation between transmission system operators of neighbouring Member States for coordinated dispatching,
 - coordinated dispatching activities between distribution and transmission system operators,
 - domestic production of gas,
 - production flexibility,
 - import flexibility,
 - diversification of sources of gas supply,
 - long term contracts,
 - investments in infrastructure for gas import via regasification terminals and pipelines.
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**COMMISSION DIRECTIVE 2004/70/EC
of 28 April 2004**

amending Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, and in particular points (c) and (d) of the second paragraph of Article 14 thereof,

Whereas:

- (1) Article 20 of the Act of Accession of 2003, refers to Annex II to that Act, which contains adaptations to the *acquis* required by accession. However, Annex II in principle only takes into account adaptations to acts adopted before the cut-off date for the accession negotiations, i.e. 1 November 2002.
- (2) It is however necessary to make additional adaptations to the *acquis*, in particular to acts adopted after that date as well as to acts which could not be included in Annex II or which, because of changed circumstances, require new adaptations.
- (3) Directive 2000/29/EC was amended at several occasions after 1 November 2002 in respect of certain provisions that were adapted by the Act of Accession of 2003.
- (4) By the Act of Accession of 2003, Lithuania was granted the status of a protected zone as regards Beet necrotic yellow vein virus for a limited period of time expiring on 31 March 2006. It is appropriate to amend the text of Annex IV to reflect the changes made by the Act of Accession.
- (5) By the Act of Accession of 2003, Latvia, Slovenia and Slovakia were granted the status of a protected zone as regards *Globodera pallida* (Stone) Behrens for a limited period of time expiring on 31 March 2006. It is appropriate to amend the text of Annex IV to reflect the changes made by the Act of Accession.

- (6) By the Act of Accession of 2003, Malta was granted the status of a protected zone as regards Citrus tristeza virus (European strains) for a limited period of time expiring on 31 March 2006. It is appropriate to amend the text of Annex IV to reflect the changes made by the Act of Accession.
- (7) In the interest of clarity it is appropriate to combine in one text some of the amendments made since 1 November 2002. An appropriate period should be given for the Member States to implement those provisions of this Directive which do not reflect existing legislation.
- (8) Directive 2000/29/EC should, therefore, be amended accordingly.
- (9) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2000/29/EC is amended as follows:

1. Annexes I, II, III and IV are amended in accordance with Annex I to this Directive.
2. Part B of Annex IV is amended in accordance with Annex II to this Directive.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Annex II to this Directive at the latest by 1 June 2004. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

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

⁽¹⁾ OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2004/31/EC (OJ L 85, 23.3.2004, p. 18).

Article 3

This Directive shall enter into force subject to, and as from the date of, the entry into force of the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 28 April 2004.

For the Commission

David BYRNE

Member of the Commission

ANNEX I

Annexes I, II, III and IV to Directive 2000/29/EC are amended as follows:

1. In Part B of Annex I, under heading (b), point 1 is replaced by the following:

'1. Beet necrotic yellow vein virus	DK, F (Britanny), FI, IRL, LT, P (Azores), UK (Northern Ireland)'
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2. In Part B of Annex II, under heading (b), point 2 is replaced by the following:

'2. <i>Erwinia amylovora</i> (Burr.) Winsl. et al.	Parts of plants, other than fruit, seeds and plants intended for planting, but including live pollen for pollination of <i>Amelanchier</i> Med., <i>Chaenomeles</i> Lindl., <i>Cotoneaster</i> Ehrh., <i>Crataegus</i> L., <i>Cydonia</i> Mill., <i>Eriobotrya</i> Lindl., <i>Malus</i> Mill., <i>Mespilus</i> L., <i>Photinia davidiana</i> (Dcne.) Cardot, <i>Pyracantha</i> Roem., <i>Pyrus</i> L. and <i>Sorbus</i> L.	E, F (Corsica), IRL, I (Abruzzi; Apulia; Basilicata; Calabria; Campania; Emilia-Romagna: provinces of Forlì-Cesena, Parma, Piacenza and Rimini; Friuli-Venezia Giulia; Lazio; Liguria; Lombardy; Marche; Molise; Piedmont; Sardinia; Sicily; Trentino-Alto Adige: autonomous province of Trento; Tuscany; Umbria; Valle d'Aosta; Veneto: except in the province of Rovigo the communes Rovigo, Polesella, Villamarzana, Fratta Polesine, San Bellino, Badia Polesine, Trecenta, Ceneselli, Pontecchio Polesine, Arquà Polesine, Costa di Rovigo, Occhiobello, Lendinara, Canda, Ficarolo, Guarda Veneta, Frassinelle Polesine, Villanova del Ghebbo, Fiesso Umbertiano, Castelvuglielmo, Bagnolo di Po, Giacciano con Baruchella, Bosaro, Canaro, Lusina, Pincara, Stienta, Gaiba, Salara, and in the province of Padova the communes Castelbaldo, Barbona, Piacenza d'Adige, Vescovana, S. Urbano, Boara Pisani, Masi, and in the province of Verona the communes Palù, Roverchiara, Legnago, Castagnaro, Ronco all'Adige, Villa Bartolomea, Oppeano, Terrazzo, Isola Rizza, Angiari), LV, LT, A (Burgenland, Carinthia, Lower Austria, Tirol (administrative district Lienz), Styria, Vienna), P, SI, SK, FI, UK (Northern Ireland, Isle of Man and Channel Islands)'
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3. Part B of Annex III is amended as follows:

(a) point 1 is replaced by the following:

'1. Without prejudice to the prohibitions applicable to the plants listed in Annex IIIA(9), (9.1), (18), where appropriate, plants and live pollen for pollination of: <i>Amelanchier</i> Med., <i>Chaenomeles</i> Lindl., <i>Crataegus</i> L., <i>Cydonia</i> Mill., <i>Eriobotrya</i> Lindl., <i>Malus</i> Mill., <i>Mespilus</i> L., <i>Pyracantha</i> Roem., <i>Pyrus</i> L. and <i>Sorbus</i> L., other than fruit and seeds, originating in third countries other than Switzerland and other than those recognised as being free from <i>Erwinia amylovora</i> (Burr.) Winsl. et al. in accordance with the procedure laid down in Article 18(2), or in which pest free areas have been established in relation to <i>Erwinia amylovora</i> (Burr.) Winsl. et al. in accordance with the relevant International Standard for Phytosanitary Measures and recognised as such in accordance with the procedure laid down in Article 18(2)	E, F (Corsica), IRL, I (Abruzzi; Apulia; Basilicata; Calabria; Campania; Emilia-Romagna: provinces of Forlì-Cesena, Parma, Piacenza and Rimini; Friuli-Venezia Giulia; Lazio; Liguria; Lombardy; Marche; Molise; Piedmont; Sardinia; Sicily; Trentino-Alto Adige: autonomous province of Trento; Tuscany; Umbria; Valle d'Aosta; Veneto: except in the province of Rovigo the communes Rovigo, Polesella, Villamarzana, Fratta Polesine, San Bellino, Badia Polesine, Trecenta, Ceneselli, Pontecchio Polesine, Arquà Polesine, Costa di Rovigo, Occhiobello, Lendinara, Canda, Ficarolo, Guarda Veneta, Frassinelle Polesine, Villanova del Ghebbo, Fiesso Umbertiano, Castelvuglielmo, Bagnolo di Po, Giacciano con Baruchella, Bosaro, Canaro, Lusina, Pincara, Stienta, Gaiba, Salara, and in the province of Padova the communes Castelbaldo, Barbona, Piacenza d'Adige, Vescovana, S. Urbano, Boara Pisani, Masi, and in the province of Verona the communes Palù, Roverchiara, Legnago, Castagnaro, Ronco all'Adige, Villa Bartolomea, Oppeano, Terrazzo, Isola Rizza, Angiari), LV, LT, A (Burgenland, Carinthia, Lower Austria, Tirol (administrative district Lienz), Styria, Vienna), P, SI, SK, FI, UK (Northern Ireland, Isle of Man and Channel Islands)'
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(b) point 2 is replaced by the following:

‘2. Without prejudice to the prohibitions applicable to the plants listed in Annex IIIA(9), (9.1), (18), where appropriate, plants and live pollen for pollination of: <i>Cotoneaster</i> Ehrh. and <i>Photinia davidiana</i> (Dcne.) Cardot, other than fruit and seeds, originating in third countries other than those recognised as being free from <i>Erwinia amylovora</i> (Burr.) Winsl. et al. in accordance with the procedure laid down in Article 18(2), or in which pest free areas have been established in relation to <i>Erwinia amylovora</i> (Burr.) Winsl. et al. in accordance with the relevant International Standard for Phytosanitary Measures and recognised as such in accordance with the procedure laid down in Article 18(2)	E, F (Corsica), IRL, I (Abruzzi; Apulia; Basilicata; Calabria; Campania; Emilia-Romagna: provinces of Forlì-Cesena, Parma, Piacenza and Rimini; Friuli-Venezia Giulia; Lazio; Liguria; Lombardy; Marche; Molise; Piedmont; Sardinia; Sicily; Trentino-Alto Adige: autonomous province of Trento; Tuscany; Umbria; Valle d'Aosta; Veneto: except in the province of Rovigo the communes Rovigo, Polesella, Villamarzana, Fratta Polesine, San Bellino, Badia Polesine, Trecenta, Ceneselli, Pontecchio Polesine, Arquà Polesine, Costa di Rovigo, Occhiobello, Lendinara, Canda, Ficarolo, Guarda Veneta, Frassinelle Polesine, Villanova del Ghebbo, Fiesso Umbertiano, Castelguglielmo, Bagnolo di Po, Giacciano con Baruchella, Bosaro, Canaro, Lusìa, Pincara, Stienta, Gaiba, Salara, and in the province of Padova the communes Castelbaldo, Barbona, Piacenza d'Adige, Vescovana, S. Urbano, Boara Pisani, Masi, and in the province of Verona the communes Palù, Roverchiara, Legnago, Castagnaro, Ronco all'Adige, Villa Bartolomea, Oppeano, Terrazzo, Isola Rizza, Angiari), LV, LT, A (Burgenland, Carinthia, Lower Austria, Tirol (administrative district Lienz), Styria, Vienna), P, SI, SK, FI, UK (Northern Ireland, Isle of Man and Channel Islands)’
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4. Part B of Annex IV is amended as follows:

(a) in the right hand column of point 20.1, the text is replaced by the following:

‘DK, F (Britanny), FI, IRL, P (Azores), UK (Northern Ireland)’

(b) in the right hand column of point 20.2, the text is replaced by the following:

‘DK, F (Britanny), FI, IRL, P (Azores), UK (Northern Ireland)’

(c) point 21 is replaced by the following:

‘21. Plants and live pollen for pollination of: <i>Amelanchier</i> Med., <i>Chaenomeles</i> Lindl., <i>Cotoneaster</i> Ehrh., <i>Crataegus</i> L., <i>Cydonia</i> Mill., <i>Eriobotrya</i> Lindl., <i>Malus</i> Mill., <i>Mespilus</i> L., <i>Photinia davidiana</i> (Dcne.) Cardot, <i>Pyracantha</i> Roem., <i>Pyrus</i> L. and <i>Sorbus</i> L., other than fruit and seeds	Without prejudice to the prohibitions applicable to the plants listed in Annex IIIA(9), (9.1), (18) and IIIB(1), where appropriate, official statement that: a) the plants originate in third countries recognised as being free from <i>Erwinia amylovora</i> (Burr.) Winsl. et al. in accordance with the procedure laid down in Article 18(2), or b) the plants originate in pest free areas in third countries which have been established in relation to <i>Erwinia amylovora</i> (Burr.) Winsl. et al. in accordance with the relevant International Standard for Phytosanitary Measures and recognised as such in accordance with the procedure laid down in Article 18(2), or c) the plants originate in one of the following Cantons of Switzerland: Berne (with the exceptions of the districts of Signau and Trachselwald), Fribourg, Grisons, Ticino, Vaud, Valais, or d) the plants originate in the protected zones listed in the right-hand column, or	E, F (Corsica), IRL, I (Abruzzi; Apulia; Basilicata; Calabria; Campania; Emilia-Romagna: provinces of Forlì-Cesena, Parma, Piacenza and Rimini; Friuli-Venezia Giulia; Lazio; Liguria; Lombardy; Marche; Molise; Piedmont; Sardinia; Sicily; Trentino-Alto Adige: autonomous province of Trento; Tuscany; Umbria; Valle d'Aosta; Veneto: except in the province of Rovigo the communes Rovigo, Polesella, Villamarzana, Fratta Polesine, San Bellino, Badia Polesine, Trecenta, Ceneselli, Pontecchio Polesine, Arquà Polesine, Costa di Rovigo, Occhiobello, Lendinara, Canda, Ficarolo, Guarda Veneta, Frassinelle Polesine, Villanova del Ghebbo, Fiesso Umbertiano, Castelguglielmo, Bagnolo di Po, Giacciano con Baruchella, Bosaro, Canaro, Lusìa, Pincara, Stienta, Gaiba, Salara, and in the province of Padova the communes Castelbaldo, Barbona, Piacenza d'Adige, Vescovana, S. Urbano, Boara Pisani, Masi, and in the province of Verona the communes Palù, Roverchiara, Legnago, Castagnaro, Ronco all'Adige, Villa Bartolomea, Oppeano, Terrazzo, Isola Rizza, Angiari), LV, LT, A (Burgenland, Carinthia, Lower Austria, Tirol (administrative district Lienz), Styria, Vienna), P, SI, SK, FI, UK (Northern Ireland, Isle of Man and Channel Islands)’
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e) the plants have been produced, or, if moved into a "buffer zone", kept and maintained for a period of at least 7 months including the period 1 April to 31 October of the last complete cycle of vegetation, on a field:

aa) located at least 1 km inside the border of an officially designated "buffer zone" of at least 50 km² where host plants are subject to an officially approved and supervised control regime established at the latest before the beginning of the complete cycle of vegetation preceding the last complete cycle of vegetation, with the object of minimising the risk of *Erwinia amylovora* (Burr.) Winkl. et al. being spread from the plants grown there. Details of the description of this "buffer zone" shall be kept available to the Commission and to other Member States. Once the "buffer zone" is established, official inspections shall be carried out in the zone not comprising the field and its surrounding zone of 500 m width, at least once since the beginning of the last complete cycle of vegetation at the most appropriate time, and all host plants showing symptoms of *Erwinia amylovora* (Burr.) Winkl. et al. should be removed immediately. The results of these inspections shall be supplied by 1 May each year to the Commission and to other Member States, and

bb) which has been officially approved, as well as the "buffer zone", before the beginning of the complete cycle of vegetation preceding the last complete cycle of vegetation, for the cultivation of plants under the requirements laid down in this point, and

cc) which, as well as the surrounding zone of a width of at least 500 m, has been found free from *Erwinia amylovora* (Burr.) Winkl. et al. since the beginning of the last complete cycle of vegetation, at official inspection carried out at least:

— twice in the field at the most appropriate time, i.e. once during June to August and once during August to November;
and

— once in the said surrounding zone at the most appropriate time, i.e. during August to November, and

	dd) from which plants were officially tested for latent infections in accordance with an appropriate laboratory method on samples officially drawn at the most appropriate period. Between 1 April 2004 and 1 April 2005, these provisions shall not apply to plants moved into and within the protected zones listed in the right-hand column which have been produced and maintained on fields located in officially designated "buffer zones", according to the relevant requirements applicable before 1 April 2004.	
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(d) point 21.3 is replaced by the following:

'21.3 From 15 March to 30 June, beehives	There shall be documented evidence that the beehives: a) originate in third countries recognised as being free from <i>Erwinia amylovora</i> (Burr.) Winsl. et al. in accordance with the procedure laid down in Article 18(2), or b) originate in one of the following Cantons of Switzerland: Berne (with the exceptions of the districts of Signau and Trachselwald), Fribourg, Grisons, Ticino, Vaud, Valais, or c) originate in the protected zones listed in the right-hand column, or d) have undergone an appropriate quarantine measure before being moved.	E, F (Corsica), IRL, I (Abruzzi; Apulia; Basilicata; Calabria; Campania; Emilia-Romagna: provinces of Forlì-Cesena, Parma, Piacenza and Rimini; Friuli-Venezia Giulia; Lazio; Liguria; Lombardy; Marche; Molise; Piedmont; Sardinia; Sicily; Tuscany; Umbria; Valle d'Aosta; Veneto: except in the province of Rovigo the communes Rovigo, Polesella, Villamarzana, Fratta Polesine, San Bellino, Badia Polesine, Trecenta, Ceneselli, Pontecchio Polesine, Arquà Polesine, Costa di Rovigo, Occhiobello, Lendinara, Canda, Ficarolo, Guarda Veneta, Frassinelle Polesine, Villanova del Ghebbo, Fiesse Umbertino, Castelgu-glielmo, Bagnolo di Po, Giacciano con Baruchella, Bosaro, Canaro, Lusia, Pincara, Stienta, Gaiba, Salara, and in the province of Padova the communes Castelbaldo, Barbona, Piacenza d'Adige, Vescovana, S. Urbano, Boara Pisani, Masi, and in the province of Verona the communes Palù, Roverchiara, Legnago, Castagnaro, Ronco all'Adige, Villa Bartolomea, Oppeano, Terrazzo, Isola Rizza, Angiari), LV, LT, A (Burgenland, Carinthia, Lower Austria, Tirol (administrative district Lienz), Styria, Vienna), P, SI, SK, FI, UK (Northern Ireland, Isle of Man and Channel Islands)
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(e) in the right hand column of point 22, the text is replaced by the following:

'DK, F (Britanny), FI, IRL, P (Azores), UK (Northern Ireland)'

(f) in the right hand column of point 23, the text is replaced by the following:

'DK, F (Britanny), FI, IRL, P (Azores), UK (Northern Ireland)'

(g) in the right hand column of point 25, the text is replaced by the following:

'DK, F (Britanny), FI, IRL, P (Azores), UK (Northern Ireland)'

(h) in the right hand column of point 26, the text is replaced by the following:

'DK, F (Britanny), FI, IRL, P (Azores), UK (Northern Ireland)'

(i) in the right hand column of point 27.1, the text is replaced by the following:

'DK, F (Britanny), FI, IRL, P (Azores), UK (Northern Ireland)'

(j) in the right hand column of point 27.2, the text is replaced by the following:

'DK, F (Britanny), FI, IRL, P (Azores), UK (Northern Ireland)'

(k) in the right hand column of point 30, the text is replaced by the following:

'DK, F (Britanny), FI, IRL, P (Azores), UK (Northern Ireland)'

ANNEX II

Part B of Annex IV to Directive 2000/29/EC is amended as follows:

- (a) in the right hand column of point 20.1, the text is replaced by the following:
'DK, F (Britanny), FI, IRL, P (Azores), LT, UK (Northern Ireland)'
- (b) in the right hand column of point 20.2, the text is replaced by the following:
'DK, F (Britanny), FI, IRL, P (Azores), LT, UK (Northern Ireland)'
- (c) in the right hand column of point 20.3, the text is replaced by the following:
'LV, SI, SK, FI'
- (d) in the right hand column of point 22, the text is replaced by the following:
'DK, F (Britanny), FI, IRL, P (Azores), LT, UK (Northern Ireland)'
- (e) in the right hand column of point 23, the text is replaced by the following:
'DK, F (Britanny), FI, IRL, P (Azores), LT, UK (Northern Ireland)'
- (f) in the right hand column of point 25, the text is replaced by the following:
'DK, F (Britanny), FI, IRL, P (Azores), LT, UK (Northern Ireland)'
- (g) in the right hand column of point 26, the text is replaced by the following:
'DK, F (Britanny), FI, IRL, P (Azores), LT, UK (Northern Ireland)'
- (h) in the right hand column of point 27.1, the text is replaced by the following:
'DK, F (Britanny), FI, IRL, P (Azores), LT, UK (Northern Ireland)'
- (i) in the right hand column of point 27.2, the text is replaced by the following:
'DK, F (Britanny), FI, IRL, P (Azores), LT, UK (Northern Ireland)'
- (j) in the right hand column of point 30, the text is replaced by the following:
'DK, F (Britanny), FI, IRL, P (Azores), LT, UK (Northern Ireland)'
- (k) point 31 is replaced by the following:

'31. Fruits of Citrus L., Fortunella Swingle, Poncirus Raf., and their hybrids originating in E, F (except Corsica) and CY	Without prejudice to the requirements applicable to the fruit in Annex IV(A)(II)(30.1): (a) the fruits shall be free from leaves and peduncles; or (b) in the case of fruits with leaves or peduncles, official statement that the fruits are packed in closed containers which have been officially sealed and shall remain sealed during their transport through a protected zone, recognised for these fruits, and shall bear a distinguishing mark to be reported on the passport.	EL, F (Corsica), I, M, P'
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COMMISSION DIRECTIVE 2004/71/EC
of 28 April 2004
amending Council Directive 91/414/EEC to include *Pseudomonas chlororaphis* as active substance
(Text with EEA relevance)

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⁾, and in particular Article 6(1) thereof,

Whereas:

- (1) In accordance with Article 6(2) of Directive 91/414/EEC the Swedish authorities received on 15 December 1994 an application from Bio Agri AB, hereafter referred to as the applicant, for the inclusion of the active substance *Pseudomonas chlororaphis* in Annex I to the Directive. Decision 97/248/EC ⁽²⁾ of 25 March 1997 confirmed that the dossier was 'complete' in the sense that it could be considered as satisfying, in principle, the data and information requirements of Annexes II and III to Directive 91/414/EEC.
- (2) For this active substance, the effects on human health and the environment have been assessed, in accordance with the provisions of Article 6(2) and (4) of Directive 91/414/EEC, for the uses proposed by the applicants. The nominated rapporteur Member State submitted a draft assessment report concerning the substance to the Commission on 7 April 1998.
- (3) The draft assessment report was reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health. The review was finalised on 30 March 2004 in the format of the Commission review report for *Pseudomonas chlororaphis*.
- (4) The dossier and the information from the review were also submitted to the Scientific Committee for Plants. The Committee was asked to comment (a) on residue levels in food and feed; (b) on operator exposure; (c) whether with regard to possible hazard to humans a tiered approach should include repeated dosing as part of the primary data set; (d) on the toxicological safety of the antibiotic metabolites of the active substance; (e) on

the necessity to monitor the health of workers; and (f) on a potential of *Pseudomonas chlororaphis* to cause wound infection or other pathogenic effects.

In its opinion ⁽³⁾ the Committee concluded that (a) the issue of residues has been adequately addressed that there is no cause for concern; (b) operator exposure to *Pseudomonas chlororaphis* formulations has been adequately addressed; (c) in the specific case of *Pseudomonas chlororaphis*, and in the light of the results of the available studies, repeated dosing is not necessary to assess hazard to humans; (d) more studies would be needed for a more complete assessment of the mutagenicity potential of the metabolite 2,3-deepoxy-2,3-didehydro-rhizoxin (DDR). However, the Committee considered the potential for human exposure to DDR as well as to other possible antibiotic metabolites so low that, even in the absence of further information, no major concern exists for consumer and operator safety; (e) a study based on the medical surveillance of workers should be conveniently carried out when introducing this agent in the field as a microbial pesticide; (f) there is no cause for concern for human safety with regard to wound infection.

The recommendations of the Scientific Committee as well as further information by the notifier were taken into account during the further review and in this Directive and in the Review Report, where the need for monitoring of operators and worker based on medical surveillance to detect negative effects without delay as well as monitoring studies to quantify DDR contamination under practical conditions is stressed. The evaluation within the Standing Committee concluded that there would be no unacceptable risk for operators if appropriate risk mitigation measures are applied.

- (5) It has appeared from the various examinations made that plant protection products containing *Pseudomonas chlororaphis* may be expected to satisfy, in general, the requirements laid down in Article 5(1) (a) and (b) of Directive 91/414/EEC in the light of Article 5(3) thereof, in particular with regard to the uses which were examined and detailed in the Commission review report. It is therefore appropriate to include this active substances in Annex I, in order to ensure that in all Member States the authorisations of plant protection products containing this active substance can be granted in accordance with the provisions of that Directive.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2004/20/EC (OJ L 70, 9.3.2004, p. 32).

⁽²⁾ OJ L 98, 15.4.1997, p. 15.

⁽³⁾ Opinion of the Scientific Committee on Plants on specific questions from the Commission regarding the evaluation of *pseudomonas chlororaphis* in the context of Council Directive 91/414/EEC scp/pseudom/002-final adopted on 20 December 2001.

- (6) After inclusion, Member States should be allowed a reasonable period to implement the provisions of Directive 91/414/EEC as regards plant protection products containing *Pseudomonas chlororaphis* and in particular to review existing provisional authorisations and, by the end of this period at the latest, to transform those authorisations into full authorisations, to amend them or to withdraw them in accordance with the provisions of Directive 91/414/EEC.
- (7) It is therefore appropriate to amend Directive 91/414/EEC accordingly.
- (8) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 91/414/EEC is amended as set out in the Annex to this Directive.

Article 2

1. Member States shall adopt and publish by 31 March 2005 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 April 2005.

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

Article 3

1. Member States shall review the authorisation for each plant protection product containing *Pseudomonas chlororaphis* to ensure that the conditions relating to this active substance set

out in Annex I to Directive 91/414/EEC are complied with. Where necessary, they shall amend or withdraw authorisations in accordance with Directive 91/414/EEC by 31 March 2005 at the latest.

2. For each authorised plant protection product containing *Pseudomonas chlororaphis* as either the only active substance or as one of several active substances all of which were listed in Annex I to Directive 91/414/EEC by 30 September 2004 at the latest, Member States shall re-evaluate the product on the basis of a dossier satisfying the requirements of Annex III thereto. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 4(1)(b), (c), (d) and (e) of Directive 91/414/EEC.

Following that determination Member States shall:

- (a) in the case of a product containing *Pseudomonas chlororaphis* as the only active substance, where necessary, amend or withdraw the authorisation by 31 March 2006 at the latest; or
- (b) in the case of a product containing *Pseudomonas chlororaphis* as one of several active substances, where necessary, amend or withdraw the authorisation by 31 March 2006 or by the date fixed for such an amendment or withdrawal in the respective Directive or Directives which added the relevant substance or substances to Annex I to Directive 91/414/EEC, whichever is the latest.

Article 4

This Directive shall enter into force on 1 October 2004.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 28 April 2004.

For the Commission

David BYRNE

Member of the Commission

ANNEX

In Annex I the following row is added at the end of the table.

No	Common name, identification numbers	IUPAC name	Purity ⁽¹⁾	Entry into force	Expiration of inclusion	Specific provisions
'90	<i>Pseudomonas chlororaphis</i> Strain: MA 342 CIPAC No 574	Not applicable	The amount of the secondary metabolite 2,3-deepoxy-2,3-didehydro-rhizoxin (DDR) in the fermentate at the point of formulation of the product must not exceed the LOQ (2 mg/l).	1 October 2004	30 September 2014	Only uses as fungicide for seed dressing in closed seed dressing machinery may be authorised. When granting authorisations, the conclusions of the review report on <i>Pseudomonas chlororaphis</i> , and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 30 March 2004 shall be taken into account. In this overall assessment, Member States should pay particular attention to the safety of operators and workers. Risk mitigation measures should be applied where appropriate.

⁽¹⁾ Further details on identity and specification of active substances are provided in the review report.'

THE COURT OF JUSTICE

AMENDMENT TO THE RULES OF PROCEDURE OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

THE COURT,

Having regard to the Treaty establishing the European Community, in particular the last paragraph of Article 223 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, in particular the last paragraph of Article 139 thereof,

Whereas:

- (1) Because of the accession of the new Member States, the Council has, by decision of 19 April 2004, amended *inter alia* the provision of the Protocol on the Statute of the Court of Justice concerning the number of Judges forming the Grand Chamber and the provisions of the Rules of Procedure concerning the composition of that formation of the Court must consequently be adjusted.
- (2) With the approval of the Council given on 19 April 2004,

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

Article 1

The Rules of Procedure of the Court of Justice of the European Communities of 19 June 1991 (OJ L 176, 4.7.1991, p. 7; corrigendum: OJ L 383, 29.12.1992, p. 117), as amended on 21 February 1995 (OJ L 44, 28.2.1995, p. 61), 11 March 1997 (OJ L 103, 19.4.1997, p. 1, with corrigendum: OJ L 351, 23.12.1997, p. 72), 16 May 2000 (OJ L 122, 24.5.2000, p. 43), 28 November 2000 (OJ L 322, 19.12.2000, p. 1), 3 April 2001 (OJ L 119, 27.4.2001, p. 1), 17 September 2002 (OJ L 272, 10.10.2002, p. 24, with corrigendum: OJ L 272, 19.10.2002, p. 24), and 8 April 2003 (OJ L 147, 14.6.2003, p. 17), are amended as follows:

1. in the second indent of Article 11a, '11' shall be replaced by '13';
2. in Article 11b(1), '11' shall be replaced by '13'.

Article 2

These amendments to the Rules of Procedure shall enter into force on the same day as the Council's Decision of 19 April 2004 amending the Protocol on the Statute of the Court of Justice.

Done at Luxembourg, 20 April 2004.

COURT OF FIRST INSTANCE

AMENDMENT TO THE RULES OF PROCEDURE OF THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES

THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, in particular the fifth paragraph of Article 224 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, in particular Article 140(5) thereof,

Having regard to the agreement of the Court of Justice;

Having regard to the approval of the Council given on 19 April 2004;

Whereas:

With the entry into force of the Treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union ⁽¹⁾, the number of Judges comprising the Court of First Instance will rise from 15 to 25, in accordance with Article 48 of the Protocol on the Statute of the Court of Justice, and it is necessary in consequence to fix the number of Judges forming the Grand Chamber;

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE

Article 1

The Rules of Procedure of the Court of First Instance of the European Communities of 2 May 1991 (OJ L 136, 30.5.1991, p. 1), amended on 15 September 1994 (OJ L 249, 24.9.1994, p. 17), 17 February 1995 (OJ L 44, 28.2.1995, p. 64), 6 July 1995 (OJ L 172, 22.7.1995, p. 3), 12 March 1997 (OJ L 103, 19.4.1997, p. 6; Corrigendum: OJ L 351, 23.12.1997, p. 72), 17 May 1999 (OJ L 135, 29.5.1999, p. 92); 6 December 2000 (OJ L 322, 19.12.2000, p. 4) and 21 May 2003 (OJ L 147, 14.6.2003) are amended as follows:

in Article 10(1), '11' shall be replaced by '13'.

Article 2

This amendment to the Rules of Procedure of the Court of First Instance, which is authentic in the languages referred to in Article 35(1) of these Rules, shall be published in the *Official Journal of the European Union*. It shall enter into force at the same time as the Treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union.

The texts of the Rules of Procedure in Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovak and Slovene shall be adopted after the entry into force of the Treaty referred to in the previous paragraph.

Done at Luxembourg, 21 April 2004.

The Registrar
H. JUNG

The President
B. VESTERDORF

⁽¹⁾ OJ L 236, 23.9.2003, p. 17.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 26 April 2004

concerning the conclusion of the Trade, Development and Cooperation Agreement between the European Community and its Member States, on the one part, and the Republic of South Africa, on the other part

(2004/441/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular its Article 310 in connection with the second phrase of Article 300(2) and the second subparagraph of paragraph 3,

Having regard to the proposal from the Commission,

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

Whereas:

- (1) The Trade, Development and Cooperation Agreement between the European Community and its Member States, on the one part, and the Republic of South Africa, on the other part, signed in Pretoria on 11 October 1999, has been provisionally applied according to Decision 1999/753/EC of the Council of 29 July 1999 ⁽²⁾.
- (2) The procedures for ratification and acceptance or endorsement by the Member States have been finalised.
- (3) The Trade, Development and Cooperation Agreement between the European Community and its Member States, on the one part, and the Republic of South Africa, on the other part, signed in Pretoria on 11 October 1999 should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Trade, Development and Cooperation Agreement between the European Community and its Member States, on the one part, and the Republic of South Africa, on the other part,

together with the Annexes and Protocols attached thereto and the declarations made by the Community unilaterally or jointly with other parties that are attached to the Final Act are hereby approved on behalf of the Community.

The texts of the Agreement, Annexes, Protocols and the Final Act are attached to Decision 1999/753/EC.

Article 2

The President of the Council shall give the notification provided for in Article 109 of the Agreement on behalf of the Community.

Article 3

The position to be taken by the Community within the Cooperation Council established by the Agreement, shall be laid down by the Council, on a proposal from the Commission, in accordance with the corresponding provisions of the Treaty establishing the European Community.

Article 4

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

Done at Luxembourg, 26 April 2004.

For the Council

The President

B. COWEN

⁽¹⁾ OJ C 107, 13.4.2000, p. 69.

⁽²⁾ OJ L 311, 4.12.1999, p. 1.

COUNCIL DECISION
of 26 April 2004
appointing a new member of the Commission of the European Communities

(2004/442/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the second paragraph of Article 215 thereof,

Whereas:

On 17 April 2004 Mr Pedro SOLBES resigned from his post as a member of the Commission. He should be replaced for the remainder of his term of office,

HAS DECIDED AS FOLLOWS:

Article 1

Mr Joaquín ALMUNIA AMANN is hereby appointed a member of the Commission for the period from 26 April 2004 to 31 October 2004.

Article 2

This Decision shall take effect on 26 April 2004.

Article 3

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

Done at Luxembourg, 26 April 2004.

For the Council
The President
B. COWEN

COUNCIL DECISION
of 26 April 2004
appointing a new Member of the Commission of the European Communities

(2004/443/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the second paragraph of Article 215 thereof,

Whereas:

On 1 April 2004 Mr Michel BARNIER resigned from his post as a Member of the Commission. He should be replaced for the remainder of his term of office,

HAS DECIDED AS FOLLOWS:

Article 1

Mr Jacques BARROT is hereby appointed a Member of the Commission for the period from 26 April 2004 to 31 October 2004.

Article 2

This Decision shall take effect on 26 April 2004.

Article 3

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

Done at Luxembourg, 26 April 2004.

For the Council
The President
B. COWEN

COUNCIL DECISION
of 26 April 2004
amending Decision 2002/668/Euratom to adapt the financial reference amount in order to take
account of the enlargement of the European Union

(2004/444/Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 7 thereof,

Sole Article

Having regard to the proposal from the Commission,

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

Decision 2002/668/Euratom is hereby amended as follows:

Whereas:

1. Article 2(1) shall be replaced by the following:

(1) In order to take account of the enlargement of the European Union, the financial reference amount set out in Council Decision 2002/668/Euratom of 3 June 2002 concerning the sixth framework programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities, also contributing to the creation of the European Research Area (2002 to 2006) ⁽²⁾ should be adapted.

'1. The financial reference amount for the implementation of the sixth framework programme for the period 2002 to 2006 shall be EUR 1 352 million. The proportion assigned to each of the activities is fixed in Annex II.'

(2) The financial reference amount of the framework programme should be increased and the additional appropriations should be distributed in a linear fashion between the activities of the framework programme; the principle of linearity should also be applied to the implementation of all the activities of the framework programme in compliance with Article 4 of Decision 2002/668/Euratom,

2. Annex II shall be replaced by the text set out in the Annex to this Decision.

Done at Luxembourg, 26 April 2004.

For the Council
The President
J. WALSH

⁽¹⁾ Opinion delivered on 9 March 2004 (not yet published in the Official Journal).

⁽²⁾ OJ L 232, 29.8.2002, p. 34.

ANNEX

'ANNEX II

MAXIMUM OVERALL AMOUNT, RESPECTIVE SHARES AND INDICATIVE BREAKDOWN

(EUR million)

1. Priority thematic areas of research		978
1.1. Controlled thermonuclear fusion	824	
1.2. Management of radioactive waste	99	
1.3. Radiation protection	55	
2. Other activities in the field of nuclear technologies and safety		55
3. Nuclear activities of the Joint Research Centre (JRC)		319
	Total	1 352'

COMMISSION

COMMISSION DECISION

of 13 April 2004

accepting an undertaking offered in connection with the anti-dumping proceeding concerning imports of silicon originating in Russia

(notified under document number C(2004) 1312)

(2004/445/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (the basic Regulation), and in particular Articles 8 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) The Commission, by Regulation (EC) No 1235/2003 ⁽²⁾, imposed provisional anti-dumping duties on imports into the Community of silicon (the product concerned) originating in Russia.
- (2) Following the adoption of the provisional anti-dumping measures, the Commission continued the investigation of dumping, injury and Community interest. The definitive findings and conclusions of the investigation are set out in Council Regulation (EC) No 2229/2003 of 22 December 2003 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of silicon originating in Russia ⁽³⁾ (the definitive Regulation).
- (3) The investigation confirmed the provisional findings of injurious dumping relating to imports of silicon originating in Russia.

B. UNDERTAKING

- (4) Subsequent to the adoption of provisional anti-dumping measures, SKU LLC, Sual-Kremny-Ural and ZAO KREMNY, cooperating exporting producers in Russia, belonging to the SUAL Holding Group, together with

their related trader, ASMP GmbH, in Switzerland (SKU LLC, Sual-Kremny-Ural; ZAO KREMNY and ASMP GmbH are hereinafter jointly referred to as the company), offered an undertaking in accordance with Article 8(1) of the basic Regulation. The offer was made within the deadline stipulated in Article 8(2) of the basic Regulation but could not be accepted for the reasons set out in detail in recital 94 of the definitive Regulation.

- (5) Subsequently, the company submitted a substantially revised undertaking offer. In that undertaking offer, the company has offered to sell the product concerned at or above price levels which eliminate the injurious effects of dumping. In addition, this undertaking provides that sales to the Community of the product concerned falling within the scope of the undertaking will be subject to an annual quantitative ceiling. When the relevant ceiling in a given year is reached, the anti-dumping duty in force would be levied. The non-confidential version of the revised undertaking offer was disclosed to interested parties, in accordance with Article 8(4) of the basic Regulation. No comments indicating opposition to the price undertaking were received following this disclosure.
- (6) The company will also provide the Commission with regular and detailed information concerning its exports to the Community, including information on products other than silicon, meaning that the undertaking can be monitored effectively by the Commission. Information was also provided by the company regarding its customer listings, together with the volumes and prices of products the company sold to its customers. This showed that, unlike what appeared to be a problem in the first undertaking offer, the vast majority of sales of the product concerned were made to customers that were not sourcing any other product produced by the

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).

⁽²⁾ OJ L 173, 11.7.2003, p. 14.

⁽³⁾ OJ L 339, 24.12.2003, p. 3. Regulation as amended by Regulation (EC) No 821/2004 (See page 1 of this Official Journal).

company and thus the risk of any price cross-compensation between the product concerned and other products was considered limited. Any change in this pattern of sales will be closely monitored by the Commission. In this regard, it is to be noted that the revised undertaking contains a clause to the effect that any change in the pattern of trade to the Community for which there is insufficient due cause or economic justification, other than the imposition of anti-dumping measures, would constitute a breach of the undertaking. Under these circumstances, it is considered that the risk of circumvention of the agreed undertaking is limited.

(7) This final acceptable offer of a price undertaking was made by the company prior to the publication of the definitive findings, but at such a late stage in the proceeding that it was administratively impossible to include its acceptance in the definitive Regulation. Exceptionally, and particularly taking account of the efforts of the company to overcome the Commission's concerns regarding the risk of circumvention and the elimination of injury, it is considered appropriate to accept the undertaking notwithstanding the fact that it was made after the period during which representations must be made pursuant to Article 20(5) of the basic Regulation.

(8) In order to enable the Commission to monitor effectively the company's compliance with the undertaking, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty will be conditional upon the presentation of an invoice containing at least the items of information listed in the Annex to Council Regulation (EC) 2229/2003, as amended by Council Regulation (EC) No 821/2004 and a certificate issued by the company which declares the chemical analysis of each grade of the product concerned specified on the commercial invoice in question. This information is also necessary to enable customs authorities to ascertain with sufficient precision that the shipment corresponds to the

commercial documents. Where no such invoice and certificate are presented, or when they do not correspond to the product presented to customs, the appropriate rate of anti-dumping duty will instead be payable.

(9) In the event of a breach, suspected breach or withdrawal of the undertaking, an anti-dumping duty may be imposed pursuant to Article 8(9) and (10) of the basic Regulation,

HAS ADOPTED THIS DECISION:

Article 1

The undertaking offered by the producers mentioned below, in connection with the anti-dumping proceeding concerning imports of silicon originating in Russia is hereby accepted.

Country	Company	Taric Additional Code
Russia	SKU LLC, Sual-Kremny-Ural, Kamensk, Ural Region, Russia, ZAO KREMNY, Irkutsk, Irkutsk Region, Russia and their related trader ASMP GmbH, Baarerstrasse 16, CH 6300 Zug, Switzerland, all belonging to the SUAL Holding Group.	A517

Article 2

This Decision shall enter into force on 30 April 2004.

Done at Brussels, 13 April 2004.

For the Commission

Pascal LAMY

Member of the Commission

EUROPEAN ECONOMIC AREA

THE EEA JOINT COMMITTEE

DECISION OF THE EEA JOINT COMMITTEE

No 16/2004

of 19 March 2004

amending Annex I (Veterinary and phytosanitary matters) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex I to the Agreement was amended by Decision of the EEA Joint Committee No 169/2003 of 5 December 2003 ⁽¹⁾.
- (2) Commission Directive 2003/45/EC of 28 May 2003 amending Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 13 (Council Directive 2002/57/EC) in Part 1 of Chapter III of Annex I to the Agreement:

— **32003 L 0045**: Commission Directive 2003/45/EC of 28 May 2003 (OJ L 138, 5.6.2003, p. 40).'

Article 2

The texts of Directive 2003/45/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

⁽¹⁾ OJ L 88, 25.3.2003, p. 39.

⁽²⁾ OJ L 138, 5.6.2003, p. 40.

(*) No constitutional requirements indicated.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee

The President

P. WESTERLUND

DECISION OF THE EEA JOINT COMMITTEE

No 17/2004

of 19 March 2004

amending Annex I (Veterinary and phytosanitary matters) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex I to the Agreement was amended by Decision of the EEA Joint Committee No 169/2003 of 5 December 2003 ⁽¹⁾.
- (2) Council Directive 2003/61/EC of 18 June 2003 amending Directives 66/401/EEC on the marketing of fodder plant seed, 66/402/EEC on the marketing of cereal seed, 68/193/EEC on the marketing of material for the vegetative propagation of the vine, 92/33/EEC on the marketing of vegetable propagating and planting material, other than seed, 92/34/EEC on the marketing of propagating and planting material of fruit plants, 98/56/EC on the marketing of propagating material of ornamental plants, 2002/54/EC on the marketing of beet seed, 2002/55/EC on the marketing of vegetable seed, 2002/56/EC on the marketing of seed potatoes and 2002/57/EC on the marketing of seed of oil and fibre plants as regards Community comparative tests and trials ⁽²⁾ is to be incorporated into the Agreement.
- (3) Commission Decision 2003/765/EC of 23 October 2003 providing for the temporary marketing of certain seed of the species *Secale cereale* and *Triticum durum*, not satisfying the requirements of Council Directive 66/402/EEC ⁽³⁾ is to be incorporated into the Agreement.
- (4) Commission Decision 2003/795/EC of 10 November 2003 providing for the temporary marketing of certain seed of the species *Vicia faba* L. not satisfying the requirements of Council Directive 66/401/EEC ⁽⁴⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

1. The following indent shall be added in points 2 (Council Directive 66/401/EEC), 3 (Council Directive 66/402/EEC) and 13 (Council Directive 2002/57/EC) in Part 1 of Chapter III of Annex I to the Agreement:

‘— **32003 L 0061**: Council Directive 2003/61/EC of 18 June 2003 (OJ L 165, 3.7.2003, p. 23).’

⁽¹⁾ OJ L 88, 25.3.2004, p. 39.

⁽²⁾ OJ L 165, 3.7.2003, p. 23.

⁽³⁾ OJ L 275, 25.10.2003, p. 47.

⁽⁴⁾ OJ L 296, 14.11.2003, p. 32.

2. The following shall be added in points 11 (Council Directive 2002/54/EC) and 12 (Council Directive 2002/55/EC) in Part 1 of Chapter III of Annex I to the Agreement:

‘, as amended by:

— **32003 L 0061**: Council Directive 2003/61/EC of 18 June 2003 (OJ L 165, 3.7.2003, p. 23).’

3. The following points shall be inserted after point 25 (Commission Decision 2003/307/EC) in Part 2 of Chapter III of Annex I to the Agreement:

‘26. **32003 D 0765**: Commission Decision 2003/765/EC of 23 October 2003 providing for the temporary marketing of certain seed of the species *Secale cereale* and *Triticum durum* not satisfying the requirements of Council Directive 66/402/EEC (OJ L 275, 25.10.2003, p. 47).

27. **32003 D 0795**: Commission Decision 2003/795/EC of 10 November 2003 providing for the temporary marketing of certain seed of the species *Vicia faba* L. not satisfying the requirements of Council Directive 66/401/EEC (OJ L 296, 14.11.2003, p. 32).’

Article 2

The texts of Directive 2003/61/EC and Decisions 2003/765/EC and 2003/795/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee

The President

P. WESTERLUND

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 18/2004

of 19 March 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 170/2003 of 5 December 2003 ⁽¹⁾.
- (2) Commission Directive 2003/76/EC of 11 August 2003 amending Council Directive 70/220/EEC relating to measures to be taken against air pollution by emissions from motor vehicles ⁽²⁾ is to be incorporated into the Agreement.
- (3) Commission Directive 2003/77/EC of 11 August 2003 amending Directives 97/24/EC and 2002/24/EC of the European Parliament and of the Council relating to the type-approval of two or three-wheel motor vehicles ⁽³⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Chapter I of Annex II to the Agreement shall be amended as follows:

1. The following indent shall be added in point 3 (Council Directive 70/220/EEC):
'— **32003 L 0076**: Commission Directive 2003/76/EC of 11 August 2003 (OJ L 206, 15.8.2003, p. 29).'
2. The following indent shall be added in point 45x (Directive 97/24/EC of the European Parliament and of the Council):
'— **32003 L 0077**: Commission Directive 2003/77/EC of 11 August 2003 (OJ L 211, 21.8.2003, p. 24).'
3. The following shall be added before the adaptation text in point 45za (Directive 2002/24/EC of the European Parliament and of the Council):
'as amended by:
— **32003 L 0077**: Commission Directive 2003/77/EC of 11 August 2003 (OJ L 211, 21.8.2003, p. 24).'

Article 2

The texts of Directives 2003/76/EC and 2003/77/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

⁽¹⁾ OJ L 88, 25.3.2004, p. 41.

⁽²⁾ OJ L 206, 15.8.2003, p. 29.

⁽³⁾ OJ L 211, 21.8.2003, p. 24.

(*) No constitutional requirements indicated.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee

The President

P. WESTERLUND

DECISION OF THE EEA JOINT COMMITTEE

No 19/2004

of 19 March 2004

amending Annex II (Technical regulations, standards, testing and certification) and Annex IV (Energy) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 141/2003 of 7 November 2003 ⁽¹⁾.
- (2) Annex IV to the Agreement was amended by Decision of the EEA Joint Committee No 141/2003 of 7 November 2003 ⁽¹⁾.
- (3) Commission Directive 2003/66/EC of 3 July 2003 amending Directive 94/2/EC implementing Council Directive 92/75/EEC with regard to energy labelling of household electric refrigerators, freezers and their combinations ⁽²⁾, is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

1. Annex II to the Agreement shall be amended as follows:
 - (a) The following shall be added in point 4a (Commission Directive 94/2/EC) of Chapter IV before the adaptation text:
'as amended by:
— **32003 L 0066**: Commission Directive 2003/66/EC of 3 July 2003 (OJ L 170, 9.7.2003, p. 10).'
 - (b) The text of adaptation (b) in point 4a (Commission Directive 94/2/EC) of Chapter IV shall be deleted.
2. Annex IV to the Agreement shall be amended as follows:
 - (a) The following shall be added in point 11a (Commission Directive 94/2/EC) before the adaptation text:
'as amended by:
— **32003 L 0066**: Commission Directive 2003/66/EC of 3 July 2003 (OJ L 170, 9.7.2003, p. 10).'
 - (b) The text of adaptation (b) in point 11a (Commission Directive 94/2/EC) shall be deleted.

Article 2

The texts of Directive 2003/66/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

⁽¹⁾ OJ L 41, 12.2.2004, p. 11.

⁽²⁾ OJ L 170, 9.7.2003, p. 10.

(*) No constitutional requirements indicated.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee

The President

P. WESTERLUND

DECISION OF THE EEA JOINT COMMITTEE

No 20/2004

of 19 March 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 171/2003 of 5 December 2003 ⁽¹⁾.
- (2) Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements ⁽²⁾ is to be incorporated into the Agreement.
- (3) Commission Directive 2003/69/EC of 11 July 2003 amending the Annex to Council Directive 90/642/EEC as regards maximum residue levels for chlormequat, lambda-cyhalothrin, kresoxim-methyl, azoxystrobin and certain dithiocarbamates ⁽³⁾ is to be incorporated into the Agreement.
- (4) Directive 2003/52/EC of the European Parliament and of the Council of 18 June 2003 amending Directive 95/2/EC as regards the conditions of use for a food additive E 425 konjac ⁽⁴⁾ is to be incorporated into the Agreement.
- (5) Commission Decision 2003/550/EC of 22 July 2003 amending Decision 2002/79/EC imposing special conditions on the import of peanuts and certain products derived from peanuts originating in or consigned from China ⁽⁵⁾ is to be incorporated into the Agreement.
- (6) Commission Decision 2003/552/EC of 22 July 2003 amending Decision 2002/80/EC imposing special conditions on the import of figs, hazelnuts and pistachios and certain products derived thereof originating in or consigned from Turkey ⁽⁶⁾ is to be incorporated into the Agreement.
- (7) Commission Directive 2003/78/EC of 11 August 2003 laying down the sampling methods and the methods of analysis for the official control of the levels of patulin in foodstuffs ⁽⁷⁾ is to be incorporated into the Agreement.
- (8) Commission Decision 2003/602/EC of 12 August 2003 repealing Decision 2002/75/EC laying down special conditions on the import from third countries of star anise ⁽⁸⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Chapter XII of Annex II to the Agreement shall be amended as follows:

1. The following indent shall be added in point 54 (Council Directive 90/642/EEC):

— **32003 L 0069:** Commission Directive 2003/69/EC of 11 July 2003 (OJ L 175, 15.7.2003, p. 37).'

⁽¹⁾ OJ L 88, 25.3.2004, p. 43.

⁽²⁾ OJ L 183, 12.7.2002, p. 54.

⁽³⁾ OJ L 175, 15.7.2003, p. 37.

⁽⁴⁾ OJ L 178, 17.7.2003, p. 23.

⁽⁵⁾ OJ L 187, 26.7.2003, p. 39.

⁽⁶⁾ OJ L 187, 26.7.2003, p. 47.

⁽⁷⁾ OJ L 203, 12.8.2003, p. 40.

⁽⁸⁾ OJ L 204, 13.8.2003, p. 60.

2. The following indent shall be added in point 54zb (Directive 95/2/EC of the European Parliament and of the Council):
‘— **32003 L 0052**: Directive 2003/52/EC of the European Parliament and of the Council of 18 June 2003 (OJ L 178, 17.7.2003, p. 23).’
3. The following indent shall be added in point 54zv (Commission Decision 2002/79/EC):
‘— **32003 D 0550**: Commission Decision 2003/550/EC of 22 July 2003 (OJ L 187, 26.7.2003, p. 39).’
4. The following indent shall be added in point 54zw (Commission Decision 2002/80/EC):
‘— **32003 D 0552**: Commission Decision 2003/552/EC of 22 July 2003 (OJ L 187, 26.7.2003, p. 47).’
5. The following points shall be inserted after point 54zzh (Commission Directive 2003/40/EC):
‘54zzi. **32002 L 0046**: Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements (OJ L 183, 12.7.2002, p. 54).
54zzj. **32003 L 0078**: Commission Directive 2003/78/EC of 11 August 2003 laying down the sampling methods and the methods of analysis for the official control of the levels of patulin in foodstuffs (OJ L 203, 12.8.2003, p. 40).
54zzk. **32003 D 0602**: Commission Decision 2003/602/EC of 12 August 2003 repealing Decision 2002/75/EC laying down special conditions on the import from third countries of star anise (OJ L 204, 13.8.2003, p. 60).’
6. The text of point 54zu (Commission Decision 2002/75/EC) shall be deleted.

Article 2

The texts of Directives 2002/46/EC, 2003/69/EC, 2003/52/EC and 2003/78/EC and Decisions 2003/550/EC, 2003/552/EC and 2003/602/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee

The President

P. WESTERLUND

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 21/2004

of 19 March 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 171/2003 of 5 December 2003 ⁽¹⁾.
- (2) Commission Directive 2003/95/EC of 27 October 2003 amending Directive 96/77/EC laying down specific purity criteria on food additives other than colours and sweeteners ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 54zf (Commission Directive 96/77/EC) of Chapter XII of Annex II to the Agreement:

‘— **32003 L 0095**: Commission Directive 2003/95/EC of 27 October 2003 (OJ L 283, 31.10.2003, p. 71).’

Article 2

The texts of Directive 2003/95/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

*For the EEA Joint Committee**The President*

P. WESTERLUND

⁽¹⁾ OJ L 88, 25.3.2004, p. 43.

⁽²⁾ OJ L 283, 31.10.2003, p. 71.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 22/2004

of 19 March 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 3/2004 of 6 February 2004 ⁽¹⁾.
- (2) Commission Regulation (EC) No 1490/2003 of 25 August 2003 amending Annex I to Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 14 (Council Regulation (EEC) No 2377/90) of Chapter XIII of Annex II to the Agreement:

— **32003 R 1490:** Commission Regulation (EC) No 1490/2003 of 25 August 2003 (OJ L 214, 26.8.2003, p. 3).'

Article 2

The texts of Regulation (EC) No 1490/2003 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

*For the EEA Joint Committee**The President*

P. WESTERLUND

⁽¹⁾ OJ L 116, 22.4.2004, p. 44.

⁽²⁾ OJ L 214, 26.8.2003, p. 3.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 23/2004

of 19 March 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 3/2004 of 6 February 2004 ⁽¹⁾.
- (2) Commission Directive 2003/94/EC of 8 October 2003 laying down the principles and guidelines of good manufacturing practice in respect of medicinal products for human use and investigational medicinal products for human use ⁽²⁾ is to be incorporated into the Agreement.
- (3) Directive 2003/94/EC repeals Commission Directive 91/356/EEC ⁽³⁾, which is incorporated into the Agreement and which is consequently to be repealed under the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Chapter XIII of Annex II to the Agreement shall be amended as follows:

1. The following point shall be inserted after point 15s (Commission Regulation (EC) No 1085/2003):
'15t. **32003 L 0094:** Commission Directive 2003/94/EC of 8 October 2003 laying down the principles and guidelines of good manufacturing practice in respect of medicinal products for human use and investigational medicinal products for human use (OJ L 262, 14.10.2003, p. 22).'
2. The text of point 15 (Commission Directive 91/356/EEC) shall be deleted.

Article 2

The texts of Directive 2003/94/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

⁽¹⁾ OJ L 116, 22.4.2004, p. 44.

⁽²⁾ OJ L 262, 14.10.2003, p. 22.

⁽³⁾ OJ L 193, 17.7.1991, p. 30.

(*) No constitutional requirements indicated.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee

The President

P. WESTERLUND

DECISION OF THE EEA JOINT COMMITTEE

No 24/2004

of 19 March 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 11/2004 of 6 February 2004 ⁽¹⁾.
- (2) Commission Decision 2003/213/EC of 25 March 2003 on the application of Article 3(3)(e) of Directive 1999/5/EC of the European Parliament and of the Council to radio equipment intended to be used on non-SOLAS vessels and which is intended to participate in the automatic identification system (AIS) ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 4zzk (Commission Decision 2001/148/EC) of Chapter XVIII of Annex II to the Agreement:

'4zzl. **32003 D 0213:** Commission Decision 2003/213/EC of 25 March 2003 on the application of Article 3(3)(e) of Directive 1999/5/EC of the European Parliament and of the Council to radio equipment intended to be used on non-SOLAS vessels and which is intended to participate in the automatic identification system (AIS) (OJ L 81, 28.3.2003, p. 46).'

Article 2

The texts of Decision 2003/213/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

*For the EEA Joint Committee**The President*

P. WESTERLUND

⁽¹⁾ OJ L 116, 22.4.2004, p. 60.

⁽²⁾ OJ L 81, 28.3.2003, p. 46.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 25/2004

of 19 March 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 150/2003 of 7 November 2003 ⁽¹⁾.
- (2) Commission Decision 2003/424/EC of 6 June 2003 amending Decision 96/603/EC establishing the list of products belonging to Class A 'No contribution to fire' provided for in Decision 94/611/EC implementing Article 20 of Council Directive 89/106/EEC on construction products ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 1 (Council Directive 89/106/EEC) of Chapter XXI of Annex II to the Agreement:

— **32003 D 0424:** Commission Decision 2003/424/EC of 6 June 2003 (OJ L 144, 12.6.2003, p. 9).'

Article 2

The texts of Decision 2003/424/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

*For the EEA Joint Committee**The President*

P. WESTERLUND

⁽¹⁾ OJ L 41, 12.2.2004, p. 39.

⁽²⁾ OJ L 144, 12.6.2003, p. 9.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE

No 26/2004

of 19 March 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 150/2003 of 7 November 2003 ⁽¹⁾.
- (2) Commission Decision 2003/639/EC of 4 September 2003 on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards pins for structural joints ⁽²⁾ is to be incorporated into the Agreement.
- (3) Commission Decision 2003/640/EC of 4 September 2003 on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards kits for exterior wall claddings ⁽³⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indents shall be added in point 1 (Council Directive 89/106/EEC) of Chapter XXI of Annex II to the Agreement:

- **32003 D 0639:** Commission Decision 2003/639/EC of 4 September 2003 (OJ L 226, 10.9.2003, p. 18),
- **32003 D 0640:** Commission Decision 2003/640/EC of 4 September 2003 (OJ L 226, 10.9.2003, p. 21).'

Article 2

The texts of Decisions 2003/639/EC and 2003/640/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

⁽¹⁾ OJ L 41, 12.2.2004, p. 39.

⁽²⁾ OJ L 226, 10.9.2003, p. 18.

⁽³⁾ OJ L 226, 10.9.2003, p. 21.

(*) No constitutional requirements indicated.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee

The President

P. WESTERLUND

DECISION OF THE EEA JOINT COMMITTEE

No 27/2004

of 19 March 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 150/2003 of 7 November 2003 ⁽¹⁾.
- (2) Commission Decision 2003/655/EC of 12 September 2003 on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards watertight covering kits for wetroom floors and walls ⁽²⁾ is to be incorporated into the Agreement.
- (3) Commission Decision 2003/656/EC of 12 September 2003 on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards seven products for European technical approvals without guidelines ⁽³⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indents shall be added in point 1 (Council Directive 89/106/EEC) of Chapter XXI of Annex II to the Agreement:

- **32003 D 0655:** Commission Decision 2003/655/EC of 12 September 2003 (OJ L 231, 17.9.2003, p. 12),
- **32003 D 0656:** Commission Decision 2003/656/EC of 12 September 2003 (OJ L 231, 17.9.2003, p. 15).'

Article 2

The texts of Decisions 2003/655/EC and 2003/656/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

⁽¹⁾ OJ L 41, 12.2.2004, p. 39.

⁽²⁾ OJ L 231, 17.9.2003, p. 12.

⁽³⁾ OJ L 231, 17.9.2003, p. 15.

(*) No constitutional requirements indicated.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee

The President

P. WESTERLUND

DECISION OF THE EEA JOINT COMMITTEE

No 28/2004

of 19 March 2004

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 10/2003 of 31 January 2003 ⁽¹⁾.
- (2) Commission Decision 2003/641/EC of 5 September 2003 on the use of colour photographs or other illustrations as health warnings on tobacco packages ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 3 (Directive 2001/37/EC of the European Parliament and of the Council) of Chapter XXV of Annex II to the Agreement:

- '4. **32003 D 0641**: Commission Decision 2003/641/EC of 5 September 2003 on the use of colour photographs or other illustrations as health warnings on tobacco packages (OJ L 226, 10.9.2003, p. 24).'

Article 2

The texts of Decision 2003/641/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

*For the EEA Joint Committee**The President*

P. WESTERLUND

⁽¹⁾ OJ L 94, 10.4.2003, p. 61.

⁽²⁾ OJ L 226, 10.9.2003, p. 24.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 29/2004
of 19 March 2004
amending Annex XIV (Competition) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XIV to the Agreement was amended by Decision of the EEA Joint Committee No 153/2003 of 7 November 2003 ⁽¹⁾.
- (2) Commission Regulation (EC) No 2790/1999 of 22 December 1999 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices ⁽²⁾ was incorporated into the Agreement through Decision of the EEA Joint Committee No 18/2000 ⁽³⁾.
- (3) Commission Regulation (EC) No 1400/2002 of 31 July 2002 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector ⁽⁴⁾ was incorporated into the Agreement through Decision of the EEA Joint Committee No 136/2002 ⁽⁵⁾.
- (4) There is a need for an adaptation text with regard to Article 8 of Regulation (EC) No 2790/1999 and Article 7 of Regulation (EC) No 1400/2002,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XIV to the Agreement shall be amended as follows:

1. The following shall be inserted in point 2 (Commission Regulation (EC) No 2790/1999):

 '(c) The following shall be added at the end of Article 8:

 "Pursuant to the provisions of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the EFTA Surveillance Authority may by recommendation declare that, where parallel networks of similar vertical restraints cover more than 50 % of a relevant market in the EFTA States, this Regulation shall not apply to vertical agreements containing specific restraints relating to that market.

 A recommendation pursuant to paragraph 1 shall be addressed to the EFTA State or EFTA States comprising the relevant market in question. The Commission shall be informed of the issuance of such a recommendation.

 Within three months from the issuance of a recommendation pursuant to paragraph 1, all EFTA States addressees shall notify the EFTA Surveillance Authority whether they accept the recommendation. If the three-month deadline expires without a response, this shall be understood as an acceptance of the EFTA State not responding in time.

 If an EFTA State addressee of the recommendation either accepts the recommendation or does not respond in time, a legal obligation according to the Agreement to implement the recommendation within three months from its issuance shall be bestowed upon it.

⁽¹⁾ OJ L 41, 12.2.2004, p. 45.

⁽²⁾ OJ L 336, 29.12.1999, p. 21.

⁽³⁾ OJ L 103, 12.4.2001, p. 36.

⁽⁴⁾ OJ L 203, 1.8.2002, p. 30.

⁽⁵⁾ OJ L 336, 12.12.2002, p. 38.

If within the three-month deadline, an EFTA State addressee notifies the EFTA Surveillance Authority that it does not accept its recommendation, the EFTA Surveillance Authority shall notify the Commission of this response. Should the Commission disagree with the position of the EFTA State in question, Article 92(2) of the Agreement shall apply.

The EFTA Surveillance Authority and the Commission shall exchange information and consult each other in the application of this provision.

Where parallel networks of similar vertical restraints cover more than 50 % of a relevant market within the territory of the EEA Agreement, the two surveillance authorities can initiate cooperation with the aim of adopting separate measures. If the two surveillance authorities agree on a relevant market and the appropriateness of adopting a measure pursuant to this provision, the Commission shall adopt a regulation addressed to the Community Member States and the EFTA Surveillance Authority a recommendation of corresponding substance to the EFTA State or EFTA States comprising the relevant market in question.”

2. The following shall be inserted in point 4b (Commission Regulation (EC) No 1400/2002):

‘(c) The following shall be added at the end of Article 7:

“Pursuant to the provisions of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the EFTA Surveillance Authority may by recommendation declare that, where parallel networks of similar vertical restraints cover more than 50 % of a relevant market in the EFTA States, this Regulation shall not apply to vertical agreements containing specific restraints relating to that market.

A recommendation pursuant to paragraph 1 shall be addressed to the EFTA State or EFTA States comprising the relevant market in question. The Commission shall be informed of the issuance of such a recommendation.

Within three months from the issuance of a recommendation pursuant to paragraph 1, all EFTA States addressees shall notify the EFTA Surveillance Authority whether they accept the recommendation. If the three-month deadline expires without a response, this shall be understood as an acceptance of the EFTA State not responding in time.

If an EFTA State addressee of the recommendation either accepts the recommendation or does not respond in time, a legal obligation according to the Agreement to implement the recommendation within three-month from its issuance shall be bestowed upon it.

If within the three-month deadline, an EFTA State addressee notifies the EFTA Surveillance Authority that it does not accept its recommendation, the EFTA Surveillance Authority shall notify the Commission of this response. Should the Commission disagree with the position of the EFTA State in question, Article 92(2) of the Agreement shall apply.

The EFTA Surveillance Authority and the Commission shall exchange information and consult each other in the application of this provision.

Where parallel networks of similar vertical restraints cover more than 50 % of a relevant market within the territory of the EEA Agreement, the two surveillance authorities can initiate cooperation with the aim of adopting separate measures. If the two surveillance authorities agree on a relevant market and the appropriateness of adopting a measure pursuant to this provision, the Commission shall adopt a regulation addressed to the Community Member States and the EFTA Surveillance Authority a recommendation of corresponding substance to the EFTA State or EFTA States comprising the relevant market in question.”

Article 2

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

(*) No constitutional requirements indicated.

Article 3

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee

The President

P. WESTERLUND

DECISION OF THE EEA JOINT COMMITTEE
No 30/2004
of 19 March 2004
amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XXI to the Agreement was amended by Decision of the EEA Joint Committee No 14/2004 of 6 February 2004 ⁽¹⁾.
- (2) Commission Regulation (EC) No 1358/2003 of 31 July 2003 implementing Regulation (EC) No 437/2003 of the European Parliament and of the Council on statistical returns in respect of the carriage of passengers, freight and mail by air and amending Annexes I and II thereto ⁽²⁾ is to be incorporated into the Agreement.
- (3) This Decision is not to apply to Liechtenstein,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XXI to the Agreement shall be amended as follows:

1. The following shall be added in point 7h (Regulation (EC) No 437/2003 of the European Parliament and of the Council):
'as amended by:
— **32003 R 1358**: Commission Regulation (EC) No 1358/2003 of 31 July 2003 (OJ L 194, 1.8.2003, p. 9).'
2. The following point shall be inserted after point 7h (Regulation (EC) No 437/2003 of the European Parliament and of the Council):
'7i. **32003 R 1358**: Commission Regulation (EC) No 1358/2003 of 31 July 2003 implementing Regulation (EC) No 437/2003 of the European Parliament and of the Council on statistical returns in respect of the carriage of passengers, freight and mail by air and amending Annexes I and II thereto (OJ L 194, 1.8.2003, p. 9).
The provisions of the Regulation shall, for the purposes of the present Agreement, be read with the following adaptation:
This Regulation shall not apply to Liechtenstein.'

Article 2

The texts of Regulation (EC) No 1358/2003 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

⁽¹⁾ OJ L 116, 22.4.2004, p. 66.

⁽²⁾ OJ L 194, 1.8.2003, p. 9.

(*) No constitutional requirements indicated.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee

The President

P. WESTERLUND

DECISION OF THE EEA JOINT COMMITTEE
No 31/2004
of 19 March 2004
amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XXI to the Agreement was amended by Decision of the EEA Joint Committee No 14/2004 of 6 February 2004 ⁽¹⁾.
- (2) Commission Regulation (EC) No 1216/2003 of 7 July 2003 implementing Regulation (EC) No 450/2003 of the European Parliament and of the Council concerning the labour cost index ⁽²⁾ is to be incorporated into the Agreement.
- (3) This Decision is not to apply to Liechtenstein,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 18g (Regulation (EC) No 450/2003 of the European Parliament and of the Council) of Annex XXI to the Agreement:

'18h. **32003 R 1216**: Commission Regulation (EC) No 1216/2003 of 7 July 2003 implementing Regulation (EC) No 450/2003 of the European Parliament and of the Council concerning the labour cost index (OJ L 169, 8.7.2003, p. 37).

The provisions of the Regulation shall, for the purposes of the present Agreement, be read with the following adaptation:

This Regulation shall not apply to Liechtenstein.'

Article 2

The texts of Regulation (EC) No 1216/2003 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee
The President
P. WESTERLUND

⁽¹⁾ OJ L 116, 22.4.2004, p. 66.

⁽²⁾ OJ L 169, 8.7.2003, p. 37.

(*) No constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 32/2004
of 19 March 2004
amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XXI to the Agreement was amended by Decision of the EEA Joint Committee No 14/2004 of 6 February 2004 ⁽¹⁾.
- (2) Regulation (EC) No 1177/2003 of the European Parliament and of the Council of 16 June 2003 concerning Community statistics on income and living conditions (EU-SILC) ⁽²⁾ is to be incorporated into the Agreement.
- (3) This Decision is not to apply to Liechtenstein,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 18h (Commission Regulation (EC) No 1216/2003) of Annex XXI to the Agreement:

'18i. **32003 R 1177**: Regulation (EC) No 1177/2003 of the European Parliament and of the Council of 16 June 2003 concerning Community statistics on income and living conditions (EU-SILC) (OJ L 165, 3.7.2003, p. 1).

The provisions of the Regulation shall, for the purposes of the present Agreement, be read with the following adaptation:

This Regulation shall not apply to Liechtenstein.'

Article 2

The texts of Regulation (EC) No 1177/2003 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee
The President
P. WESTERLUND

⁽¹⁾ OJ L 116, 22.4.2004, p. 66.

⁽²⁾ OJ L 165, 3.7.2003, p. 1.

(*) Constitutional requirements indicated.

DECISION OF THE EEA JOINT COMMITTEE
No 33/2004
of 19 March 2004
amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Annex XXI to the Agreement was amended by Decision of the EEA Joint Committee No 14/2004 of 6 February 2004 ⁽¹⁾.
- (2) Commission Regulation (EC) No 143/2002 of 24 January 2002 amending Annex 1 to Council Regulation (EEC) No 571/88 in the view of the organisation of the Community surveys on the structure of agricultural holding in 2003, 2005 and 2007 ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XXI to the Agreement shall be amended as follows:

1. The following indent shall be added in point 23 (Council Regulation (EEC) No 571/88):
— **32002 R 0143**: Commission Regulation (EC) No 143/2002 of 24 January 2002 (OJ L 24, 26.1.2002, p. 16).'
2. In adaptation (f) of point 23 (Council Regulation (EEC) No 571/88), 'and 2003/2005/2007' shall be added to the last sentence.
3. The list in Appendix 1 shall be replaced with the list in the Annex to the present Decision.

Article 2

The texts of Regulation (EC) No 143/2002 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 20 March 2004, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 19 March 2004.

For the EEA Joint Committee
The President
P. WESTERLUND

⁽¹⁾ OJ L 116, 22.4.2004, p. 66.

⁽²⁾ OJ L 24, 26.1.2002, p. 16.

(*) No constitutional requirements indicated.

ANNEX

to Decision of the EEA Joint Committee No 33/2004

A. LIST OF CHARACTERISTICS for 2003, 2005 and 2007 ⁽¹⁾

LI	N	IS
----	---	----

A. Geographical situation of the holding

1. Survey district

(a) Municipality or sub-survey district ⁽²⁾

2. Less-favoured area

(a) Mountain area

3. Agricultural areas with environmental restrictions

code
code
Yes/no
Yes/no
Yes/no

	NR	NR
	NR	NR
	NR	NR
	NR	NR
NS	NR	NR

B. Legal personality and management of the holding (on the day of the survey)

1. Is the legal and economic responsibility of the holding assumed by

(a) a natural person who is a sole holder, where the holding is independent?

(b) one or more natural persons who is/are a partner, where the holding is a group holding? ⁽³⁾

(c) a legal person?

Yes/no
Yes/no
Yes/no

NS	NS	NS
NS	NS	NS

2. If the answer to question B/1 (a) is yes, is this person (the holder) also the manager?

(a) If the answer to question B/2 is no, is the manager a member of the holder's family?

(b) If the answer to question B/2 (a) is yes, is the manager the spouse of the holder?

Yes/no
Yes/no
Yes/no

NS	NS	NS
NS	NS	NS

3. Agricultural training of the managers (only practical agricultural experience, basic agricultural training, full agricultural training) ⁽⁴⁾

code

NR		
----	--	--

Explanation: NR = not relevant, NS = non-significant, NE = not existing.

⁽¹⁾ Note to the reader:

The numbering is a consequence of the long history of the structure surveys and cannot be changed without repercussion on comparability between surveys.

⁽²⁾ The municipality or sub-survey district code is optional for those countries that supply detailed information on items 2, 2(a) and 3.

⁽³⁾ Voluntary information.

⁽⁴⁾ Not recorded in the 2003 and 2007 surveys.

LI	N	IS
----	---	----

NR		
NR		
NR	NE	NE

ha/a

ha/a

ha/a

NR		
NR		
NR		
NR	NR	NR

ha/a

ha/a

totally, partly, not
at all

Yes/no

LI	N	IS
----	---	----

NE	NE	NE
NS		NE
NS		NE
	NE	NE
NE	NE	NE
	NS	NE

ha/a

ha/a

ha/a

ha/a

ha/a

ha/a

ha/a

ha/a

NS	NS	NE
----	----	----

ha/a

NS	NS	NE
NS	NE	NE
NS	NE	NE
NS	NE	NE

ha/a

ha/a

ha/a

C. Type of tenure (in relation to the holder) and farming system

Agricultural area utilised:

1. For owner farming
2. For tenant farming
3. For share farming or other modes
5. Farming system and practices:

(a) The utilised agricultural area of the holding on which farming production methods are organic

(d) The utilised agricultural area of the holding that is under conversion to organic farming production methods

(e) Is the holding applying organic production methods to the animal production also?

(c) Does the holding benefit from support for agri-environmental commitments, other than for organic farming? ⁽³⁾

D. Arable land

Cereals for the production of grain (including seed):

1. Common wheat and spelt
2. Durum wheat
3. Rye
4. Barley
5. Oats
6. Grain maize
7. Rice
8. Other cereals for the production of grain

9. Protein crops for the production of grain (including seed and mixtures of cereals and pulses) of which

(e) Peas, field beans and sweet lupines

(f) Lentils, chick peas and vetches

(g) Other protein crops harvested dry

⁽³⁾ Not recorded in the 2005 and 2007 surveys.

		LI	N	IS
	ha/a			
	ha/a		NE	NE
	ha/a		NS	NS
10. Potatoes (including early potatoes and seed potatoes)		NE	NE	NE
11. Sugar beet (excluding seeds)		NE	NE	NE
12. Fodder roots and brassicas (excluding seeds)		NE	NE	NE
Industrial plants:				
23. Tobacco	ha/a	NE	NE	NE
24. Hops	ha/a			
25. Cotton	ha/a	NE	NE	NE
26. Rape and turnip rape	ha/a			
27. Sunflower	ha/a	NE	NE	NE
28. Soya	ha/a			
29. Linseed (oil flax)	ha/a	NS	NE	NE
30. Other oil seed crops	ha/a	NS	NE	NE
31. Flax	ha/a	NS	NE	NE
32. Hemp	ha/a	NS	NE	NE
33. Other textile crops	ha/a	NE	NE	NE
34. Aromatic plants, medicinal and culinary plants	ha/a	NE	NS	NS
35. Industrial plants, not mentioned elsewhere	ha/a	NS	NE	NE
Fresh vegetables, melons, strawberries:				
14. Outdoor or under low (not accessible) protective cover	ha/a			
of which:				
(a) open field				
(b) market gardening	ha/a	NR		
15. Under glass or other (accessible) protective cover	ha/a	NR		
Flowers and ornamental plants (excluding nurseries):		NS	NS	NS
16. Outdoor or under low (not accessible) protective cover	ha/a	NS	NS	NS
17. Under glass or other (accessible) protective cover	ha/a	NS		
18. Forage plants:				
(a) temporary grass	ha/a			
(b) other green fodder	ha/a			
of which:				
(i) green maize (maize for silage)	ha/a	NR	NS	NE
(iii) other forage plants	ha/a	NR		

⁽⁶⁾ Belgium, the Netherlands and Austria may include item G/01 (c) 'nuts' under this heading.

H. Other land

1. Unutilised agricultural land (agricultural land which is no longer farmed, for economic, social or other reasons, and which is not used in the crop-rotation system)
2. Wooded area ⁽⁷⁾
3. Other land (land occupied by buildings, farmyards, tracks, ponds, quarries, infertile land, rock, etc.) ⁽⁸⁾

LI	N	IS
NE		
NE		
NE		
LI	N	IS

ha/a
ha/a
ha/a

I. Combined and successive secondary cropping, mushrooms, irrigation, storage facilities for natural fertilisers, set-aside of arable land and nutrients management

1. Successive secondary crops (excluding market-garden crops and crops under glass) ⁽⁹⁾

NE	NE	NE
NE	NS	NS

ha/a
ha/a

2. Mushrooms
3. Irrigated area
 - (a) total irrigable area
 - (b) cultivated area irrigated

NE		NS
NE		NS

ha/a
ha/a

of which:

- (1) durum wheat ⁽¹⁰⁾
- (2) maize ⁽¹⁰⁾
- (3) potatoes ⁽¹⁰⁾
- (4) sugar beet ⁽¹⁰⁾
- (5) sunflower ⁽¹⁰⁾
- (6) soya ⁽¹⁰⁾
- (7) fodder plants ⁽¹⁰⁾
- (8) fruit and berry orchards ⁽¹⁰⁾
- (9) citrus fruit ⁽¹⁰⁾
- (10) vines ⁽¹⁰⁾

NE	NE	NE
NE	NE	NE
NE		NS
NE	NE	NE
NE	NE	NE
NE	NE	NE
NE		NS
NE		NS
NE	NE	NE
NE	NE	NE
NE	NE	NE

ha/a
ha/a
ha/a
ha/a
ha/a
ha/a
ha/a
ha/a
ha/a
ha/a
ha/a
ha/a

5. Combined (associated) crops ⁽¹⁰⁾

NE	NE	NE
----	----	----

ha/a

7. Storage facilities for natural fertilisers of animal origin (solid dung, liquid manure and slurry) ⁽²⁾

(a) Does the holding have storage facilities for ⁽¹⁰⁾:

- (i) solid dung?
- (ii) liquid manure?
- (iii) slurry?

yes/no
yes/no
yes/no

NR		
NR		
NR		
NR	NS	
NR		

⁽⁷⁾ In Norway and Iceland, this item comprises productive forest area.

⁽⁸⁾ In Norway and Iceland, this item comprises woodland other than productive forest area.

⁽⁹⁾ Not recorded in the 2003 and 2007 surveys.

⁽¹⁰⁾ Not recorded in the 2005 and 2007 surveys.

⁽¹¹⁾ Not recorded in the 2005 and 2007 surveys.

	LI	N	IS
Pigs:			
11. Piglets having a live weight of under 20 Kg			
12. Breeding sows weighing 50 Kg and over			
13. Other pigs			
Poultry:			
14. Broilers			
15. Laying hens ⁽¹²⁾			
16. Other poultry		NS	
of which:			
(a) turkeys	NS	NS	NS
(b) ducks	NS	NS	NS
(c) geese	NS	NS	NS
(d) other poultry, not mentioned elsewhere	NE	NE	NS
17. Rabbits, breeding females	NS	NS	NS
18. Bees	NS	NS	NE
19. Livestock, not mentioned elsewhere.	NS	NS	NS
	LI	N	IS
K. Tractors, cultivators, machinery and equipment			
(1) On day of survey, belonging exclusively to the holding			
1. Four-wheel tractors, track-laying tractors, tool carriers by power rating (kW) ⁽¹³⁾	NR		
(a) < 40 ⁽¹³⁾	NR		
(b) 40 to < 60 ⁽¹³⁾	NR		
(c) 60 to < 100 ⁽¹³⁾	NR		
(d) 100 and more ⁽¹³⁾	NR		
2. Cultivators, hoeing machines, rotary hoes and motor mowers ⁽¹³⁾	NR	NS	
3. Combine harvesters ⁽¹³⁾	NR		
9. Other fully mechanised harvesters ⁽¹³⁾	NR		
10. Irrigation equipment ⁽¹³⁾			
(a) if yes, is the equipment mobile ⁽¹³⁾	NR		NE
(b) if yes, is the equipment fixed ⁽¹³⁾	NR		NE
	NR	NS	NE

⁽¹²⁾ In Norway, breeding cocks are excluded from this item.

⁽¹³⁾ Not recorded in the 2003 and 2007 surveys.

LI	N	IS
NR		
NR	NS	
NR		
NR		

yes/no
yes/no
yes/no
yes/no

(2) Machinery used in the last 12 months, used by several holdings (belonging to another holding, to a cooperative or owned jointly with other holdings) or belonging to a service supply agency

- 1. Four-wheel tractors, track-laying tractors, tool carriers by power rating (kW) ⁽¹³⁾
- 2. Cultivators, hoeing machines, rotary hoes and motor mowers ⁽¹³⁾
- 3. Combine harvesters ⁽¹³⁾
- 9. Other fully mechanised harvesters ⁽¹³⁾

L. Farm labour force (in the 12 months preceding the day of the survey)

Statistical information is collected for each person working on the holding, belonging to the following farm labour force categories in a way allowing multiple crossing with each other and/or with any other survey characteristics.

1. Holders:

In this category are found:

- Natural persons:
 - sole holders of independent holdings (all persons who have answered 'yes' to question B/1(a))
 - the partner on group holdings that has been identified as being the holder
- Legal persons

The following information is recorded for each natural person mentioned above:

- The gender
- The age according to the following age classes:
 - from school leaving age to < 25 years, 25-34, 35-44, 45-54, 55-64, 65 and over
- The farm work on the holding (apart from housework) according to the classification:
 - > 0 - < 25 %, 25 - < 50 %, 50 - < 75 %, 75 - < 100 %, 100 % (full-time) of annual time worked by a full-time farm worker

LI	N	IS
NR		
NR		
NR		

⁽¹³⁾ Not recorded in the 2003 and 2007 surveys.

LI	N	IS
----	---	----

1. (a) Managers:

In this category are found:

- The managers on independent holdings, including spouses and other members of the holders' families who are also manager; that is where the answer is 'yes' to either B/2 (a) or B/2 (b)
- The partners on group holdings who have been identified as managers
- The managers on holdings where the holder is a legal person
(The managers who are at the same time sole holders or partners identified as being the holder of a group holding are recorded only once, that is, as a holder in category L/1).

The following information is recorded for each person mentioned above:

- The gender
- The age according to the following age classes:
from school leaving age to < 25 years, 25-34, 35-44, 45-54, 55-64, 65 and over
- The farm work on the holding (apart from housework) according to the classification:
> 0 - < 25 %, 25 - < 50 %, 50 - < 75 %, 75 - < 100 %, 100 % (full-time) of annual time worked by a full-time farm worker

NR		
----	--	--

NR		
----	--	--

NR		
----	--	--

2. Spouses of holders

In this category are found the spouses of sole holders (the answer to question B/1(a) is 'yes') who are not included in L/1, nor included in L/1(a) (they are not managers: the answer to question B/2(b) is 'no')

The following information is recorded for each person mentioned above:

- The gender
- The age according to the following age classes:
from school leaving age to < 25 years, 25-34, 35-44, 45-54, 55-64, 65 and over
- The farm work on the holding (apart from housework) according to the classification:
> 0 - < 25 %, 25 - < 50 %, 50 - < 75 %, 75 - < 100 %, 100 % (full-time) of annual time worked by a full-time farm worker

LI	N	IS
----	---	----

NR		
----	--	--

NR		
----	--	--

NR		
----	--	--

LI	N	IS
----	---	----

3. (a) Other members of sole holders' families carrying out farm work for the holding: male (excluding persons in categories L/1, L/1(a) and L/2)
3. (b) Other members of sole holders' families carrying out farm work for the holding: female (excluding persons in categories L/1, L/1(a) and L/2)

The following information on the number of persons on the holding corresponding to the following classes is to be recorded for each person of the categories mentioned above:

- The age according to the following age classes:
from school leaving age to < 25 years, 25-34, 35-44, 45-54, 55-64, 65 and over ⁽¹⁵⁾
- The farm work on the holding (apart from housework) according to the classification:
> 0 - < 25 %, 25 - < 50 %, 50 - < 75 %, 75 - < 100 %, 100 % (full-time) of annual time worked by a full-time farm worker

NR		
----	--	--

NR		
----	--	--

4. (a) Non-family labour regularly employed: male (excluding persons in categories L/1, L/1a, L/2 and L/3)
4. (b) Non-family labour regularly employed: female (excluding persons in categories L/1, L/1a, L/2 and L/3)

The following information on the number of persons on the holding corresponding to the following classes is to be recorded for each of the categories mentioned above:

- The age according to the following age classes:
from school leaving age to < 25 years, 25-34, 35-44, 45-54, 55-64, 65 and over ⁽¹⁵⁾
- The farm work on the holding (apart from housework) according to the classification:
> 0 - < 25 %, 25 - < 50 %, 50 - < 75 %, 75 - < 100 %, 100 % (full-time) of annual time worked by a full-time farm worker

LI	N	IS
----	---	----

NR		
----	--	--

NR		
----	--	--

Number of
working days

NR		
----	--	--

NR		
NR		

Yes/no

Yes/no

NR		
NR		

Yes/no

Yes/no

5. + 6. Non-family labour employed on a non regular basis: male and female

7. Does the holder who is also the manager have any other gainful activities?

- as his/her major occupation?
- as a subsidiary occupation?

8. Does the sole holder's spouse have any other gainful activity:

- as his/her major occupation?
- as a subsidiary occupation?

⁽¹⁵⁾ Not recorded in the 2003 and 2007 surveys.

9. Does any other member of the sole holder's family engaged in the farm work of the holding have any other gainful activity? If 'yes', how many have other gainful activities:

- as his/her major occupation?
- as a subsidiary occupation?

LI	N	IS
NR		
NR		

Number of persons

10. Total number of equivalent full-time working days of farm work during the 12 months preceding the day of the survey, not included under L/1 to L/6, undertaken on the holding by persons not employed directly by the holding (e.g. contractors' employees) ⁽¹⁶⁾

LI	N	IS
NR		

Number of days

M. Rural development

1. Other gainful activities on the holding (other than agriculture), directly related to the holding

- (a) tourism, accommodation and other leisure activities
- (b) handicraft
- (c) processing of farm products
- (d) wood processing (e.g. sawing, etc.)
- (e) aqua culture
- (f) renewable energy production (wind energy, strawburning, etc.)
- (g) contractual work (using equipment of the holding)
- (h) other

NS		
NS	NS	NS
NS	NS	
NS		NS
NS	NS	
NS	NE	NE
NS		
NS		

Yes/no

Yes/no

Yes/no

Yes/no

Yes/no

Yes/no

Yes/no

Yes/no

N. Environmental aspects

1. Source of irrigation water used on the holding ⁽¹⁷⁾

- (a) ground water ⁽¹⁷⁾
- (b) on-farm surface water (ponds or dams) ⁽¹⁷⁾
- (c) off-farm surface water from lakes, rivers or watercourses ⁽¹⁷⁾
- (d) off-farm water from common water supply networks ⁽¹⁷⁾
- (e) other sources ⁽¹⁷⁾ of which
 - (i) desalinated or brackish water ⁽¹⁷⁾
 - (ii) re-used water ⁽¹⁷⁾

NR		
NR		
NR		
NR	NS	NS
NR	NE	NE

Yes/no

Yes/no

Yes/no

Yes/no

Yes/no

NR	NE	NE
NR	NE	NE

Yes/no

Yes/no

⁽¹⁶⁾ Optional for Member States which are able to provide an overall estimate for this characteristic at regional level.

⁽¹⁷⁾ Not recorded in the 2005 and 2007 surveys. Optional for Norway in the 2003 survey.

LI	N	IS
NR	NE	NE
NR		
NR	NS	NE
NR	NR	NR

yes/no
yes/no
yes/no
ha/a

2. Irrigation methods employed ⁽¹⁷⁾/⁽¹⁸⁾:
(a) surface irrigation (flooding, furrows) ⁽¹⁷⁾
(b) sprinkler irrigation ⁽¹⁷⁾
(c) drop irrigation ⁽¹⁷⁾
3. Non-cultivated field borders or parts of fields, maintained by the farmer for environmental purposes and receiving Community support for this ⁽¹⁷⁾

⁽¹⁷⁾ Not recorded in the 2005 and 2007 surveys. Optional for Norway in the 2003 survey.
⁽¹⁸⁾ Optional for Norway in the 2003 survey.

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 766/2004 of 23 April 2004 fixing the A1 and B export refunds for fruit and vegetables (tomatoes, oranges and apples)

(Official Journal of the European Union L 120 of 24 April 2004)

On page 22 the Annex is replaced by the following:

‘ANNEX

to the Commission Regulation of 23 April 2004 fixing the export refunds on fruit and vegetables (tomatoes, oranges and apples)

Product code ⁽¹⁾	Destination ⁽²⁾	System A1 Refund application period 1.5.2004 to 23.6.2004		System B Licence application period 7.5.2004 to 3.6.2004	
		Refund amount (EUR/t net weight)	Scheduled quantity (t)	Indicative refund amount (EUR/t net weight)	Scheduled quantity (t)
0702 00 00 9100	F08	30		30	8 986
0805 10 10 9100 0805 10 30 9100 0805 10 50 9100	A00	24		24	12 858
0808 10 20 9100 0808 10 50 9100 0808 10 90 9100	F09	27		27	4 487

⁽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:

F03: All destinations except Switzerland.

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 Bulgaria.

F09: The following destinations:

- Norway, Iceland, Greenland, Faeroe Islands, Romania, Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia, Serbia and Montenegro, 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).’

Corrigendum to Commission Regulation (EC) No 772/2004 of 27 April 2004 on the application of Article 81(3) of the Treaty to categories of technology transfer agreements

(Official Journal of the European Union L 123 of 27 April 2004)

In the contents on the cover, on page 11 in the title and on page 17 in the signature:

for: '27 April 2004',

read: '7 April 2004'.

Corrigendum to Commission Regulation (EC) No 1943/2003 of 3 November 2003 laying down rules for the application of Council Regulation (EC) No 2200/96 as regards aid to producer groups granted preliminary recognition

(Official Journal of the European Union L 286 of 4 November 2003)

On page 7, in the third line of Article 5(1):

for: '... each annual period as referred ...',

read: '... each annual or semestral period as referred ...'.
