

Official Journal

of the European Union

L 348

Volume 47

24 November 2004

English edition

Legislation

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2003/2004**of 21 October 2004**

on the conclusion of the Protocol defining, for the period 3 December 2003 to 2 December 2007, the fishing opportunities and the financial compensation provided for by the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters

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 Article 12(3) of the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters⁽²⁾, the Contracting Parties held negotiations, at the end of the period of application of the Protocol, in order to determine by common accord the terms of the Protocol for the following period and where appropriate, any necessary amendments or additions to the Annex.
- (2) As a result of these negotiations, a new Protocol defining, for the period 3 December 2003 to 2 December 2007, the fishing opportunities and the financial compensation provided for by the said Agreement was initialled on 11 September 2003.

- (3) It is in the Community's interest to approve this Protocol.

- (4) The method for allocating the fishing opportunities among Member States should be defined on the basis of the traditional allocation of fishing opportunities under the Fisheries Agreement,

HAS ADOPTED THIS REGULATION:

Article 1

The Protocol defining, for the period 3 December 2003 to 2 December 2007, the fishing opportunities and the financial compensation provided for by the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters is hereby approved on behalf of the European Community.

The text of the Protocol is attached to this Regulation⁽³⁾.

Article 2

The fishing opportunities fixed in the Protocol shall be allocated among the Member States as follows:

- tuna seiners: France 16, Spain 22, Italy 2, United Kingdom 1,
- surface long-liners: Spain 19, France 23, Portugal 7,
- vessels fishing by line: France 25 gross registered tonnes (GRT) per month on an annual average.

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

Article 3

The Member States whose vessels fish under this Agreement shall notify the Commission of the quantities of each stock caught within the Mauritius fishing zone in accordance with Commission Regulation (EC) No 500/2001⁽⁴⁾.

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

⁽²⁾ OJ L 159, 10.6.1989, p. 2.

⁽³⁾ See page 3 of this Official Journal.

⁽⁴⁾ OJ L 73, 15.3.2001, p. 8.

Article 4

The President of the Council is hereby authorised to designate the persons empowered to sign the Protocol in order to bind the Community.

Article 5

This Regulation shall enter into force on the third 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, 21 October 2004.

For the Council

The President

G. ZALM

PROTOCOL

defining, for the period 3 December 2003 to 2 December 2007, the fishing opportunities and the financial compensation provided for by the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters

Article 1

1. Pursuant to Article 2 of the Agreement, and for a period of four years from 3 December 2003, the following fishing possibilities shall be accorded:

— tuna seiners: licences for 41 vessels;

— surface long-liners: licences for 49 vessels;

— vessels fishing by line: licences for 25 GRT/month on an annual average.

2. Only Community vessels having a valid licence, issued under this Protocol and according to the formalities described in the Annex, shall be authorised to conduct fishing in the Mauritius fishing zone.

Article 2

1. The financial compensation referred to in Article 6 of the Agreement for the abovementioned period is fixed at EUR 487 500 per year.

2. This compensation shall cover a catch weight in waters of Mauritius of 6 500 tonnes of catches per year. If the annual amount of catches by Community vessels in the waters of Mauritius exceeds this quantity, the above mentioned compensation shall be increased proportionately at the rate of EUR 75 per additional tonne caught. However, the total amount of the financial compensation to be paid by the Community for tuna and tuna-like species cannot exceed the double of the amount referred to in paragraph 1.

3. A first part of the financial compensation equivalent to EUR 292 500 per year shall be paid into an account in the name of the public Treasury, which will be communicated to the Delegation of the Commission of the European Communities in Mauritius after the entry into force of this Protocol. The first instalment shall be payable not later than 1 June 2004 and the others in equal annual instalments by the anniversary date of the Protocol. The use to which this compensation is put shall be of the sole competence of Mauritius.

4. A second part of the financial compensation equivalent to EUR 195 000 per year shall be earmarked to the financing of the measures referred to in Article 3 of this Protocol.

Article 3

1. With a view to ensuring the development of sustainable and responsible fishing the two parties will, in their mutual interest, promote a partnership for the purpose of encouraging, in particular better knowledge of fishery and biological resources, fisheries control, the development of non-industrial fishing, fishing communities, and training.

2. The measures set out below shall be financed from the second part of the financial compensation, to the amount of EUR 195 000 per year, broken down as follows:

(a) EUR 150 000 for scientific and technical programmes to promote better understanding and management of fisheries and living resources in Mauritius' fishing zone;

(b) EUR 30 000 for study grants and practical training courses in the various scientific, technical and economic fields linked to fishing and participation to international meetings relating to fisheries;

(c) EUR 15 000 for monitoring, control and surveillance, including the Vessel Monitoring System (VMS).

3. The amounts mentioned in paragraph 2, subparagraphs (a) and (c) shall be made available to the Mauritian Ministry responsible for fisheries after submission to the Commission of a detailed annual programming, including a schedule, and the expected objectives of specific actions to be undertaken for each measure and no later than 1 June 2004 for the first year and by 1 April for the following years. They shall be paid into an account in the name of the public Treasury, which will be communicated to the Delegation of the Commission in Mauritius after the entry into force of this Protocol.

4. The amount mentioned under point (b) of paragraph 2 shall be made available to the Mauritian Ministry responsible for fisheries and paid as it is used to the bank accounts of the Mauritian competent authorities.

5. The Mauritian Ministry responsible for fisheries shall transmit a detailed annual report on the implementation of these measures and the results achieved to the Delegation of the Commission in Mauritius, no later than three months after the anniversary date of the protocol. The Commission reserves the right to request additional information on these results from the Mauritian authority responsible for fisheries and to review the payments concerned in the light of the actual implementation of the measures.

Article 4

Should the European Community fail to make any of the payments specified in Articles 2 and 3 in due time, Mauritius may suspend the application of this Protocol.

Article 5

Where severe circumstances not attributable to natural phenomena prevent fishing activities in Mauritius' fishing zone, the European Community may suspend payment of the financial contribution following prior consultations, where possible, between the two Parties in the framework of the Joint Committee provided for in Article 8 of the Agreement.

Payment of the financial contribution shall recommence once the situation returns to normal and following consultation between the two Parties in the framework of the Joint Committee provided for in Article 8 of the Agreement, confirming that the situation is likely to allow a return to normal fishing activities.

The validity of the licences granted to Community vessels under Article 4 of the Agreement shall be extended by a period equal to that during which fishing activities were suspended.

Article 6

The Annex to the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters is hereby repealed and replaced by the Annex to this Protocol.

Article 7

This Protocol and the Annex thereto shall enter into force on the date of its signature.

It shall apply from 3 December 2003.

ANNEX

Conditions for the pursuit of fishing activities by Community vessels in the waters of Mauritius**1. Licence application and issuing formalities**

The application procedure for, and issue of, the licences enabling Community vessels to fish in the waters of Mauritius shall be as follows:

- (a) The Commission shall present to the Mauritian authority via the Delegation of the European Commission in Mauritius an application, made by the ship-owner, for each vessel that wishes to fish under this Agreement, at least 20 days before the date of commencement of the period of validity requested. The application shall be made on the forms provided for that purpose by Mauritius, a specimen of which is attached as Appendix 1.
- (b) Every licence shall be issued to the ship-owner for one designated vessel. At the request of the Commission the licence for a vessel may and in cases of force majeure, shall be replaced by a licence for another Community vessel.
- (c) The licences shall be delivered by the authorities of Mauritius to the Delegation of the Commission in Mauritius.
- (d) The licence document must be held on board at all times. However, on receipt of the notification of the advance payment sent by the Commission to the Mauritian authority, the vessel will be included on a list, to be notified to the Mauritian fisheries control authorities. Whilst awaiting receipt of the licence document, a fax copy of this licence document may be obtained and shall be kept on board, which will authorise the vessel to fish, pending delivery on board of the licence document.
- (e) The Mauritian authority shall communicate before the date of entry into force of the Protocol the arrangements for payments of the licence fees, and in particular the details of the bank account and the currency to be used.
- (f) Ship-owners shall nominate and appoint an agent who shall be resident in Mauritius and whose powers shall include representation of the ship-owners in any legal process. The ship-owners shall notify to the Mauritian authorities the name and address of his agent.

2. Validity of licences and payment of fees**1. Advance payments**

For tuna seiners and surface long-liners, licences shall be valid for a period of one year. They are renewable.

The fee shall be set at EUR 25 per tonne caught in the waters of Mauritius.

For tuna seiners, licences shall be issued on advance payment of an annual sum of EUR 2 000 per tuna seiner, equivalent to the fees for 80 tonnes of annual catches within the waters of Mauritius.

For surface long-liners, licences shall be issued on advance payment to Mauritius of an annual sum of EUR 1 550 for surface long-liner of more than 150 GRT and EUR 1 100 for surface long-liners of 150 GRT or less. These amounts correspond respectively to the fees due for 62 tonnes and for 44 tonnes of annual catches in Mauritian waters.

For vessels fishing by line, licences shall be valid for three, six or twelve months. The fee shall be fixed in relation to the GRT as follows: EUR 80 per year per GRT *pro rata temporis*.

2. Final statement

For tuna seiners and surface long-liners, a final statement of the fees due for the fishing year shall be drawn up by the European Commission at the end of each calendar year on the basis of the catch statements made by the ship-owners and confirmed by the scientific institutes competent for verifying catch statistics such as IRD (Office for Research and Development), IFREMER (Institut Français de Recherche et d'Exploitation de la Mer), IEO (Spanish Oceanographic Institute), IPIMAR (Instituto Nacional das Pescas e do Mar) or any international fishing organisation in the Indian Ocean, as may be designated by the Mauritian authority.

The statement shall be notified to the Mauritian authorities not later than 15 March of the following year. The Mauritian authority shall react within 30 days after this notification. The statement shall then be notified to the ship-owners.

The ship-owners shall meet their financial obligations within 30 days of the receipt of the statement.

If the amount of the sum due for actual fishing operations is less than the advance payment, the corresponding outstanding sum shall not be recoverable by the ship-owner.

3. Transshipment

Vessels may tranship their catches in Mauritius according to their interests.

All transshipments taking place in Mauritian ports shall be notified to the authorities of Mauritius 48 hours in advance.

4. Declarations of catches

Vessels authorised to fish in the waters of Mauritius under the Agreement shall notify their catch statistics to the Mauritian authority, with a copy for the Delegation of the Commission in Mauritius, in accordance with the following procedure.

Tuna seiners shall complete a fishing logbook corresponding to the specimen in Appendix 2. Surface long-liners shall complete a fishing logbook corresponding to the specimen in Appendix 3. Vessels fishing by line shall complete a fishing logbook corresponding to the specimen in Appendix 4.

Fishing logbooks must be completed legibly and be signed by the master of the vessel or by the representative of the ship-owner's association. In addition, they must be completed by all vessels which have obtained a licence, even if they have not fished.

The fishing logbooks shall be forwarded to the Mauritian authority not later than 45 days after each fishing campaign.

5. Communication

Vessels above 50 GRT shall communicate, at least one hour before entering and/or leaving Mauritian waters, and every three days, while fishing in Mauritian waters, to a radio station (the name, call sign and frequency of which shall be specified in the licence) or by fax (No 230-208-1929) or by e-mail (fish@intnet.mu), their position and the volume of catches on board.

6. Observers

Any vessel above 50 GRT shall, at the request of the authorities of Mauritius, take on board an observer designated by these authorities. The observer shall have all facilities necessary for the performance of his duties, as set out below, including access to places and documents. He must not be present for longer than the time required to fulfil his duties. He shall be granted officer status while on board.

He shall be provided with suitable food and accommodation while on board. The salary and social contributions of the observer shall be borne by the authorities of Mauritius.

The embarkation port as well as the conditions governing his embarkation shall be fixed by common agreement between the ship-owner or his agent and the authorities of Mauritius.

Should a vessel with a Mauritian observer on board leave the waters of Mauritius, every step will be taken to ensure that the observer returns to Mauritius as soon as possible, at the ship-owner's expense.

The ship-owner shall, via his agent, make a payment of EUR 14 to the Mauritian government of each day spent by an observer on board a vessel in the Mauritius' fishing zone.

Once on board the observer shall:

- observe the fishing activities of the vessels,
- verify the position of vessels engaged in fishing operations,
- note the fishing gear used,

- verify the catch data for Mauritius' fishing zone recorded in the logbook,
- draw an activity report to be transmitted to the Mauritian authority.

While on board, the observer:

- must take all appropriate steps to ensure that the conditions under which he is taken on board and his presence on board do not interrupt or hamper fishing activities,
- must respect the material and equipment on board and the confidentiality of all documents belonging to the vessel.

7. Inspection

Vessels shall also allow on board and assist in the accomplishment of their duties, any other Mauritian official responsible for inspection and monitoring.

8. Employment of seamen

10 Mauritian seamen shall embark on the EC fleet.

For local seamen embarked to EC vessels, an employment contract shall be established between the owner of the vessel or his agent and the seaman and/or his labour union or his representative in liaison with the competent authorities of Mauritius. These contracts shall guarantee to the seamen the benefit of their social security regime, including a life, health and accident insurance. The local seamen remuneration conditions cannot be inferior to those applicable to the local crews and in any case not inferior to the ILO standards.

Copy of the contract shall be given to the signatories thereof and to the authorities of Mauritius.

In case the employment contract is established with a vessel owner's agent, it shall specify the name of the owner of the vessel and the flag State.

The owner of the vessel shall guarantee to the local seamen embarked life and work conditions aboard similar to those that the EC seamen benefit.

In case of non-embarkation, the ship-owners shall pay a lump-sum equivalent to the salary of the seamen non-embarked for the duration for the fishing campaign in the waters of Mauritius. In case the fishing campaign lasts less than one month, ship-owners shall be required to pay the sum corresponding to one month's salary.

9. Fishing zones

To avoid any adverse effect to small-scale fisheries in Mauritius, fishing by Community tuna seiners and surface long-liners shall not be authorised within a distance of 15 nautical miles measured from the baseline nor within a three nautical miles radius around any fish-aggregating device placed by Mauritius, the geographical position of which shall be communicated to the ship-owners representatives or agents.

Vessels fishing by line are only authorised to fish in their traditional grounds, namely Soudan Bank and East Soudan Bank.

10. Supply to the tuna canning industry

Community tuna vessels shall endeavour to sell part of their catch to the Mauritian tuna canning industry at a price to be fixed in common agreement between Community ship-owners and the owners of the Mauritian tuna canning industry.

11. Sanctions

Notwithstanding any sanction provided for in Mauritian law, failure to observe any of the conditions of the Protocol and this Annex or any relevant Mauritian legislation may be dealt with by suspension, revocation or non-renewal of the fishing licences of the vessel in question. Before taking any of these sanctions, the Mauritian authorities shall give due regard to the gravity of the failure and apply the principle of proportionality. Suspension or revocation of a fishing licence shall be regarded as *force majeure* for the purpose of paragraph 1(b).

The Delegation of the Commission and the ship-owner's agent in Mauritius shall be notified in writing within 24 hours of any suspension, revocation or non-renewal of a licence with a brief report of the relevant facts.

12. Procedure in case of boarding

1. Transmission of information

The Mauritian authority responsible for fisheries shall inform the Delegation of the Commission in Mauritius and the flag State in writing, within 48 hours, of the boarding of any fishing vessel flying the flag of a Member State of the Community fishing under the Fisheries Agreement in Mauritius's fishing zone and shall transmit a brief report of the circumstances and reasons leading to such boarding. The Delegation and the flag State shall be kept informed of any proceedings initiated and penalties imposed.

2. Settlement of boarding

In accordance with the law on fisheries and the relevant regulations, infringements may be settled:

- (a) either by composition, in which case the amount of the fine shall be determined in accordance with the Mauritian legislation laying down minimum and maximum figures;
- (b) or by legal proceedings, if no composition is possible, in accordance with the Mauritian law.

3. The vessel shall be released and its crew authorised to leave the port:

- (a) either as soon as the obligation imposed by the composition procedure have been completed on presentation of the receipt for the settlement, or
 - (b) on presentation of proof that a bank security has been lodged, pending completion of the legal proceedings.
-

Appendix 1

APPLICATION FOR A FOREIGN FISHING VESSEL LICENCE

Name of applicant:

Address of applicant:

Name and address of charterers of vessels if different from above:

.....

Name and address of agent in Mauritius:

.....

Name of vessel:

Type of vessel:

Country of registry:

Port and registration number:

Fishing vessel external identification:

Radio call sign and frequency:

Fax number of vessel:

Length of vessel:

Width of vessel:

Engine type and power:

Gross registered tonnage of vessel:

Net registered tonnage of vessel:

Minimum crew complement:

Type of fishing practised:

Proposed species of fish:

Period of validity requested:

I certify that the above particulars are correct.

Date: Signature:

TUNA VESSELS FISHING LOGBOOK

[illegible]

Appendix 3

STATEMENT OF CATCH FOR SURFACE LONG-LINERS

Name of vessel:

Skipper's name:

Date of setting: ____/____/____

Start of trip: ____/____/____/

at: ____

Trip number:

Setting number:

Wind direction:	Force: _____ (Beaufort)
Sea conditions: _____	Swell: _____
Surface temperature: ____ °C	Current: speed: _____ Direction: _____
Moon: New moon + ____ days	Moon rises:
	0 to 24 hours
	Moon sets:

SETTING DETAILS

Start time: _____ Finishing time: _____

Section	Position	Heading	Speed	Remarks
Depart: radio buoy number 1				
Radio buoy number 2				
Radio buoy number 3				
Radio buoy number 4				
Radio buoy number 5				
Radio buoy number 6				
Radio buoy number 7				

Number of hooks:	
Length:	Buoy lines: Branch lines:
Length of line:	
Recorded depth of the line (sounder):	
Bait:	Shrimp: _____ % Mackerel: _____ % _____: _____ %

DETAILS OF CATCH

	Time (0 - 24 H)		Latitude			Longitude		
Start of turn								
End of turn								

Species	Number	Estimated unit weight	Total weight	Number of fish eaten
Swordfish (*)				
Yellowfin (**)				
Bigeye (**)				
Marlin (**)				
Sailfish (*)				
Seabream				
Shark				
Other (give details)				
Total weight				

Total weight of catch landed
(weighed)

(*) VDK.

(**) with head, gilled.

State the type of weight used (VAT, VDK, WHOLE) if different from that specified.

COMMISSION REGULATION (EC) No 2004/2004**of 23 November 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 24 November 2004.

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

Done at Brussels, 23 November 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽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 Commission Regulation of 23 November 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	119,4
	070	62,9
	204	92,3
	999	91,5
0707 00 05	052	104,6
	204	41,8
	999	73,2
0709 90 70	052	100,2
	204	92,7
	999	96,5
0805 20 10	204	58,7
	999	58,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	73,2
	624	79,4
	999	76,3
0805 50 10	052	47,2
	388	49,8
	524	65,7
	528	21,1
	999	46,0
0808 10 20, 0808 10 50, 0808 10 90	388	139,3
	400	80,8
	404	103,4
	720	67,1
	800	194,4
	999	117,0
0808 20 50	720	69,7
	999	69,7

⁽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 2005/2004**of 23 November 2004****on the issue of licences for the import of garlic in the quarter from 1 December 2004 to 28 February 2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables⁽¹⁾,

Having regard to Commission Regulation (EC) No 565/2002 of 2 April 2002 establishing the method for managing the tariff quotas and introducing a system of certificates of origin for garlic imported from third countries⁽²⁾, and in particular Article 8(2) thereof,

Whereas:

- (1) The quantities for which licence applications have been lodged by traditional importers on 17, 18 and 19 November 2004, pursuant to Article 5(2) of Regulation (EC) No 565/2002 exceed the quantities available for products originating in Argentina and other third countries.
- (2) It is now necessary to establish the extent to which the licence applications sent to the Commission on 22 November 2004 can be met and to fix, for each

category of importer and product origin, the dates until which the issue of certificates must be suspended,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for import licences lodged pursuant to Article 3(1) of Regulation (EC) No 565/2002 on 17, 18 and 19 November 2004 and sent to the Commission on 22 November 2004, shall be met at a percentage rate of the quantities applied for as set out in Annex I hereto.

Article 2

For each category of importer and the origin involved, applications for import licences pursuant to Article 3(1) of Regulation (EC) No 565/2002 relating to the quarter from 1 December 2004 to 28 February 2005 and lodged after 19 November 2004 but before the date in Annex II hereto, shall be rejected.

Article 3

This Regulation shall enter into force on 24 November 2004.

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

Done at Brussels, 23 November 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

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

⁽²⁾ OJ L 86, 3.4.2002, p. 11. Regulation as last amended by Regulation (EC) No 537/2004 (OJ L 86, 24.3.2004, p. 9).

ANNEX I

Origin of the products	Percentage allocations		
	China	Third countries other than China or Argentina	Argentina
— traditional importers (Article 2(c) of Regulation (EC) No 565/2002)	—	—	52,212
— new importers (Article 2(e) of Regulation (EC) No 565/2002)	—	—	—

'X': No quota for this origin for the quarter in question.

'—': No application for a licence has been sent to the Commission.

ANNEX II

Origin of the products	Dates		
	China	Third countries other than China or Argentina	Argentina
— traditional importers (Article 2(c) of Regulation (EC) No 565/2002)	28.2.2005	—	28.2.2005
— new importers (Article 2(e) of Regulation (EC) No 565/2002)	28.2.2005	3.1.2004	28.2.2005

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION RECOMMENDATION

of 4 October 2004

on technical guidance for sampling and detection of genetically modified organisms and material produced from genetically modified organisms as or in products in the context of Regulation (EC) No 1830/2003

(Text with EEA relevance)

(2004/787/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, in particular the second indent of Article 211 thereof,

Whereas:

- (1) Regulation (EC) No 1830/2003 of the European Parliament and of the Council, of 22 September 2003, concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC ⁽¹⁾ sets up a system for the transmission and retention of information between operators at each stage of the placing on the market of products containing or consisting of genetically modified organisms, hereinafter 'GMOs', or food and feed products produced from GMOs, but does not require operators to sample and test products at each stage of the placing of the market for presence of GMOs or material produced from GMOs.
- (2) According to Article 9(1) of Regulation (EC) No 1830/2003, Member States are, however, required to ensure that inspections and other control measures including sample checks and testing (qualitative and quantitative), as appropriate, are carried out to ensure compliance with that Regulation.
- (3) In order to facilitate a coordinated approach for those inspections and control measures, Article 9(2) of Regulation (EC) No 1830/2003 requires that technical guidance on sampling and testing for GMOs and food and feed material produced from GMOs in products should be established.
- (4) This guidance should cover products that have received authorisations for their placing on the market but is without prejudice to Article 4(5) of Directive 2001/18/EC of the European Parliament and of the Council ⁽²⁾ with regard to GMOs which are not authorised in the European Union.

⁽¹⁾ OJ L 268, 18.10.2003, p. 24.

⁽²⁾ OJ L 106, 17.4.2001, p. 1. Directive as last amended by Regulation (EC) No 1830/2003.

- (5) The sampling and detection should be carried out using sound scientific and statistical protocols in order to achieve an appropriate level of confidence for detection of GMOs or material produced from GMOs.
- (6) In developing the guidance, the Committee set up by Article 30 of Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC has been consulted, and account has been taken of the work of the national competent authorities, the Standing Committee on the Food Chain and Animal Health and the Community Reference Laboratory.
- (7) Where lots of non-GM seed or other plant propagating material are required to comply with standards on adventitious or technically unavoidable presence of genetically modified seeds or other plant propagating material, a legally-binding protocol on sampling and testing for the presence of genetically modified seeds or other plant propagating material should be developed in the context of the specific legislation on seeds and other plant propagating material; whereby the elements provided in that protocol should also serve as a basis for sampling and testing of other GM crop species not covered by the abovementioned legislation, where appropriate,

HEREBY RECOMMENDS:

I. GENERAL PRINCIPLES

1. For the purpose of fulfilling the requirements set out in Article 9(1) of Regulation (EC) No 1830/2003, Member States should take account of:
 - (a) the past record of operators with respect to compliance with relevant legislation;
 - (b) the reliability of any controls that operators have already carried out;
 - (c) situations where non-compliance is suspected;
 - (d) using means proportionate to the desired specific objectives and particularly in the light of experience gained;
 - (e) the degree of heterogeneity and the point in the supply chain at which testing is being undertaken.
2. Official controls should be carried out without prior warning, except in cases where prior notification of an operator is necessary.
3. Official controls should be carried out at any stage of the production, processing, and storage, distribution of products that contain or may contain GMOs or food and feed produced from GMOs, including at the point of import⁽¹⁾.

⁽¹⁾ In accordance with Article 9(3) of Regulation (EC) No 1830/2003 relevant information concerning GMOs which are not authorised in the EU should, where available, be placed on a central register.

4. Official controls should not differentiate between products intended for export outside the Community and products intended for placing on the market within the Community.
5. Operators whose products are subject to sampling and analysis should be entitled to appeal for a second opinion. Official bodies should collect a sufficient number of counter samples for enforcement and referee purposes in order to guarantee operators appeal right and have a second opinion, as required by national legislation.
6. Alternative sampling strategies to those recommended in this guidance may be applied.
7. Alternative testing strategies to those recommended in this guidance may be applied provided such methods are approved by the Community Reference Laboratory established under Regulation (EC) 1829/2003.
8. Without prejudice to specific requirements laid down in EU legislation concerning food, feed and other controls, and in particular Directive 95/53/EC fixing the principles governing the organisation of official inspections in the field of animal nutrition, Directive 70/373/EEC on the introduction of Community methods of sampling and analysis for the official control of feeding stuffs, Directive 89/397/EEC on the official controls of foodstuffs and Directive 93/99/EEC on the subject of additional measures concerning the official control on foodstuffs, Member States should ensure that official controls are carried out, so as to achieve the objectives of Regulation (EC) No 1830/2003.

II. DEFINITIONS

- (a) Lot is defined as a distinct and specified quantity of material.

The following definitions take account of the type of material forming a lot and are in line with ISTA, ISO standards 6644 and 13690 and FAO (International Standards for Phytosanitary Measures):

seed lot: a specified quantity of seed, physically identifiable and uniform, not exceeding the maximum lot size as defined in the seeds Directives and forming the total or a part of a consignment;

other plant propagating material lot: a number of units of a single commodity identifiable by its homogeneity of composition, origin etc., not exceeding the maximum lot size as defined in the legislation on other plant propagating material, and forming the total or a part of a consignment;

food and feed products lot: quantity of product dispatched or received at one time and covered by a particular contract or shipping document.

- (b) Increment sample: small equal quantity of product taken from each individual sampling point in the lot through the full depth of the lot (static sampling), or taken from the product stream during a stated portion of time (flowing commodities sampling).
- (c) File increment sample: an increment sample that is retained for a specific period of time for further analysis.

- (d) Bulk sample: quantity of product obtained by combining and mixing the increments taken from a specific lot.
- (e) Laboratory sample: quantity of product taken from the bulk sample intended for laboratory inspection and testing.
- (f) Analytical sample: homogenised laboratory sample, consisting either of the whole laboratory sample or a representative portion thereof.
- (g) Counter sample: a sample retained for a specific period of time for enforcement or referee purposes.
- (h) Percentage of GM DNA: the percentage of GM-DNA copy numbers in relation to target taxon specific DNA copy numbers calculated in terms of haploid genomes.

III. PRINCIPLES FOR SAMPLING PROTOCOLS

1. Member States should take account of the guidance on sampling protocols for products consisting of, containing or produced from GMOs when inspecting and controlling whether operators are complying with Articles 4 and 5 of Regulation (EC) No 1830/2003.
2. The Community Reference Laboratory established under Regulation (EC) No 1829/2003, and the nationally designated laboratories to the European Network of GMO Laboratories, hereinafter 'ENGL', will provide further guidance and assistance on the methods of sampling falling within the scope of this Recommendation.
3. Harmonised sampling procedures should be utilised for the purpose of estimating the presence of GMOs. These procedures should apply to seed and other plant propagating material, food, feed and agricultural commodity lots.
4. The following sampling procedures are defined in order to ensure that the samples collected and analysed are representative of the different types of commodities under investigation. Whereas sampling protocols for the presence of GM seeds and other plant propagating material in seed lots should be developed according to the specific legislation on seeds or other propagating material, sampling strategies for bulk commodities and food and feed products are addressed in separate sections that take into account commodity-specific properties.

IV. SAMPLING PROTOCOLS

1. Sampling seed and other plant propagating material lots

This section deals with the detection of genetically modified seeds or other plant propagating material in lots of seed or other plant propagating material of non-GM varieties or clones and the detection of GM seeds or other plant propagating material arising from a transformation event other than that designated for a lot of seed or other plant propagating material of a GM variety or clone.

Samples should be drawn in accordance with current international methods and where appropriate from lot sizes as defined in Council Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 92/34/EEC, 98/56/EEC, 1999/105/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC and 2002/57/EC. The general principles and methods of sampling of seeds and other plant propagating material should be in accordance with the International Seed Testing Association (ISTA) rules and the associated ISTA Handbook on Seed Sampling.

The sampling and testing schemes to be used for seeds or other plant propagating material should meet the requirements indicated in the specific legislation on seeds and other propagating material as regards statistical risks. Seed or other plant propagating material lot quality level and its associated statistical uncertainty are defined in relation to thresholds for GMOs and relate to the percentage of GM-DNA copy numbers in relation to target taxon specific DNA copy numbers calculated in terms of haploid genomes.

2. **Sampling bulk agricultural commodities**

The sampling protocol is based on a two-step procedure that allows, if necessary, to obtain estimates of GMO presence levels, together with their associated uncertainty expressed as Standard Deviation (SD), without imposing any assumption on the possible heterogeneity of the GMOs.

In order to allow the estimation of SD, in the first instance, a bulk sample should be produced and the derived analytical sample analysed for the presence of GM materials. Where the obtained analytical result is close to the established threshold ($\pm 50\%$ of its value), the analysis of the individual file increment samples is recommended to provide a measure of the associated uncertainty.

The following documents should be taken into account:

- (a) ISO standard 6644 (2002);
- (b) ISO standard 13690 (1999);
- (c) ISO standard 5725 (1994);
- (d) ISO standard 2859 (1985);
- (e) ISO standard 542 (1990).

2.1. *Protocol for sampling lots of bulk agricultural commodities*

It is recommended that sampling of bulk commodities (grains, oilseeds) takes place in accordance with the general principles and methods of sampling described in ISO standards 6644 and 13690. In case of flowing commodities, the sampling period should be defined, according to ISO standard 6644, as: total off-loading time/total number of increments. In case of static sampling, increments should be collected at specific sampling points. Such sampling points should be uniformly distributed throughout the lot volume, according to the principles described in ISO 13690. The number of increments or sampling points (where the increment samples for creating the bulk sample and the file increment samples are taken) is defined according to lot size, as follows:

Lot size in tonnes	Size of the bulk sample in kg	Number of incremental samples
≤ 50	5	10
100	10	20
250	25	50
≥ 500	50	100

In case of lots from 50 to 500 tonnes, the size of the bulk sample should be 0,01 % of the total lot size. In case of lots smaller than 50 tonnes, the size of the bulk sample should be 5 kg. In case of lots larger than 500 tonnes, the size of the bulk sample should be 50 kg. At each sampling interval (systematic sampling) or sampling point (static sampling) an increment of 1kg should be collected and split into two portions of 0,5 kg: one to be used as an increment for the production of the bulk sample, the other to be stored as a file increment sample.

Sampling of materials larger than grains (e.g. fruits, rhizomes, potatoes) should be carried out according to ISO standard 2859. Sampling of oilseed should be carried out according to ISO standard 542.

2.2. *Protocol for the preparation of the analytical samples*

A multiple-step protocol is recommended in order to minimise costs and maximise statistical power according to pre-defined acceptance levels.

Initially, the increment samples collected according to sub-section 2.1 are combined and mixed thoroughly, according to the procedures described in ISO standards 13690 and 6644, to form a bulk sample.

The bulk sample is used to create an analytical sample, according to the procedures described in ISO standards 13690 and 6644, and analysed for the presence of GMOs according to 'analytical test protocols/testing methods', as outlined in section V. If the result of the analysis is close to the established threshold (threshold $\pm$ 50 % of its value), an estimation of the associated uncertainty may be necessary (a protocol for estimating this uncertainty is foreseen in Article 2.3).

2.3. *Protocol for estimating uncertainty*

If there are 20 or fewer file increment samples, as in the case of smaller lots, all samples should be analysed individually and a decision as to labelling should be taken.

If there are more than 20 file increment samples, 20 samples should be randomly selected and individually analysed for the presence of GMOs. Analytical results from these 20 samples are used to estimate the GMO content of the lot and its associated uncertainty expressed as standard deviation (SD). If this uncertainty associated to the analysis of the 20 samples is acceptable, no additional analysis of the remaining file increment samples is necessary. If, instead, the level of associated uncertainty is not acceptable, additional analysis of the remaining file increment samples should be carried out.

The number of additional samples to be analysed should be established on a case-by-case basis, depending upon the level of uncertainty estimated from the initial 20 samples.

The sequential analytical process should stop when either or both of the following is the case:

- the estimated lot GMO content (mean GMO content of the analysed file increment samples) is above or below the established threshold $\pm 50\%$ of its value,
- the uncertainty associated to the measured lot GMO content reaches an acceptable level ($\pm 50\%$ of the mean analytical result).

Where all samples have been tested a decision as to labelling should be taken.

2.4. *Protocol for sampling lots of food and feed products*

Sampling of pre-packaged food and feed products should be carried out according to the procedures described in ISO 2859.

Sampling of non pre-packaged food and feed products should be carried out according to the protocol described in sub-section 2.1.

V. ANALYTICAL TEST PROTOCOLS/TESTING METHODS

1. The Community Reference Laboratory established under Regulation (EC) No 1829/2003, and the nationally designated laboratories to the ENGL, will provide further guidance and assistance on the methods of testing falling within the scope of this Recommendation.

2. **Laboratory requirements**

Member States' laboratories carrying out the analyses in accordance with this Recommendation should be accredited according to EN ISO/IEC 17025/1999 or certified according to an appropriate scheme, and should regularly participate in proficiency testing schemes organised or co-ordinated by nationally or internationally recognised laboratories and/or by national, international organisations.

Foodstuffs submitted for analysis in accordance with this Recommendation should be submitted to laboratories complying with the provisions of Article 3 of Directive 93/99/EEC.

The analytical investigation of the samples should be carried out in accordance with the general laboratory and procedural requirements from the draft European standard prEN ISO 24276:2002.

3. **Analytical sample preparation**

When taking samples, the aim is to obtain a representative and homogeneous laboratory sample without introducing secondary contamination. Member States should use the draft European standard prEN ISO 24276:2002 and prEN ISO 21571:2002 that indicate strategies for the homogenisation of the laboratory sample, the reduction of the laboratory sample to the test sample, the preparation of the test sample and the extraction of target analyte.

Obtaining samples of seeds should be done according to the ISTA International Rules for Seed Testing. Obtaining plant-propagating material samples should be done according to current international methods, in so far such methods exist.

4. **Analytical testing**

The current scientific knowledge does not allow for the detection and quantification of all GMOs or food and feed material produced from GMOs that have been approved for the placing on the market by using a single method.

Several testing approaches are likely to provide equally reliable results. These may include one or a combination of the following:

- (a) qualitative methods, that may be event-specific, construct-specific or genetic element-specific;
- (b) quantitative methods, that may be event-specific, construct-specific or genetic element-specific.

It may be appropriate to start with a screening method to test whether GMOs are present or not. If a positive result is obtained, specific methods for a genetic construct and/or transformation event should be carried out. If different GMOs containing the same genetic construct are present on the market, an event specific method is strongly recommended. The results of quantitative analysis should be expressed as the percentage of GM-DNA copy numbers in relation to target taxon specific DNA copy numbers calculated in terms of haploid genomes. Whenever possible, laboratories should use a method validated according to internationally recognised criteria (e.g. ISO 5725/1994 or IUPAC harmonised protocol), and include the use of certified reference material.

An up-dated list of validated methods, including validated methods reported to *Codex Alimentarius*, is available in (<http://biotech.jrc.it>).

5. **Absence of validated methods**

If a situation arises where no validated method exists, for instance to test whether GMOs are present or not, Member States' laboratories should carry out an in-house validation of the method according to internationally recognised criteria. If no validated method is available for the matrix under analysis, it is recommended to select from the database available on <http://biotech.jrc.it> a method that has been validated on a similar matrix or raw material. Before adoption, the performance of such method should be tested on the matrix of interest.

6. **Expression and interpretation of the results of the analyses**

In case of qualitative methods, the limit of detection (LOD) is the lowest level of analyte that can be reliably detected, given a known number of target taxon genome copies.

In case of quantitative methods, the limit of quantification (LOQ) is the lowest level of analyte that can be reliably quantified, given a known number of target taxon genome copies. Results of quantitative analysis should be expressed as GM-DNA copy numbers in relation to target taxon specific DNA copy numbers calculated in terms of haploid genomes. If the GM target sequence content is below the limit of quantification (LOQ), the results shall only be expressed qualitatively.

It is recommended to interpret the results according to the instructions given in the draft European standard prEN ISO 24276:2002.

VI. FINAL PROVISIONS

Sampling and detection methodology, including relevant protocols and documents, should continue to be developed and up-graded taking account of any change in thresholds and threshold values established under Articles 12, 24 and 47 of Regulation (EC) No 1829/2003, Article 21(2) and (3) of Directive 2001/18/EC and under other Community legislation, the report under Article 12 of Regulation (EC) No 1830/2003 concerning the implementation of that regulation, advances in technology and developments in international fora.

Done at Brussels, 4 October 2004.

For the Commission

Margot WALLSTRÖM

Member of the Commission

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

CODIFIED VERSION OF THE EESC RULES OF PROCEDURE

(in force from 24 October 2004)

(2004/788/EC, Euratom)

This edition combines:

- *The Rules of Procedure of the European Economic and Social Committee adopted at the plenary session of 17 and 18 July 2002 (OJ No L 268 of 4 October 2002);*
- *and the changes resulting from the following:*
 - (1) *Amendments of 27 February 2003 to the Rules of Procedure of the European Economic and Social Committee;*
 - (2) *Amendments of 31 March 2004 to the Rules of Procedure of the European Economic and Social Committee.*

This edition has been produced by the General Secretariat of the European Economic and Social Committee and groups together the different amendments approved by the EESC assembly. Those Articles that have been amended are indicated by a bracket next to the Article number containing the figure corresponding to the numbering of the amendments referred to above.

PREAMBLE

1. The European Economic and Social Committee represents the various economic and social components of organised civil society. It is an institutional consultative body established by the 1957 Treaty of Rome.

2. The Committee's consultative role enables its members, and hence the organisations they represent, to participate in the Community decision-making process. With views occasionally being diametrically opposed, the Committee's discussions often require real negotiations involving not only the usual social partners, i.e. employers (Group I) and wage-earners (Group II) but also and this is the distinguishing feature of the EESC, all the other socio-occupational interests represented (Group III). This expertise, these discussions and negotiations and the search for convergence may improve the quality and credibility of the Community decision-making process, inasmuch as they make it more comprehensible and acceptable for Europe's citizens and increase the transparency which is so vital for democracy.

3. Within the European institutional set-up, the EESC fulfils a specific role: it is the prime forum in which the organisations of

civil society in the European Union can have their views represented and discussed.

4. As a debating and consultative chamber, the EESC helps to strengthen the democratic credentials of the process of building the European Union, including the promotion of relations between the EU and socio-economic groupings in third countries. In so doing it helps to promote a genuine identification with Europe.

5. To carry out its missions successfully, the EESC adopted, on 17 July 2002, the Rules of Procedure which follow, in accordance with Article 260(2) of the Treaty establishing the European Community:

TITLE I

ORGANISATION OF THE COMMITTEE

CHAPTER I

Installation of the Committee in office

Article 1

1. The Committee shall hold office for terms of four years.

2. The first meeting of the Committee following each four-yearly renewal shall be convened by the oldest member, if possible not later than one month after the members of the Committee have been notified of their appointment by the Council.

Article 2

1. The Committee shall consist of the following bodies: the assembly, the Bureau, the President and the sections.

2. The Committee shall be divided into three Groups, the composition and role of which are set out in Article 27.

CHAPTER II

Bureau

Article 3 (2)

1. The Bureau shall have 37 members and include a representative of each Member State.

2. The Bureau of the Committee shall comprise:

(a) the President, the two Vice-Presidents and 25 members, directly elected by the assembly;

(b) the three Group Presidents, elected as provided for in Article 27;

(c) the six specialised section Presidents.

3. The President shall be elected in turn from among the members of the three Groups.

4. The President and Vice-Presidents may not be re-elected for the two-years immediately following the expiry of their two-year term of office.

5. The Vice-Presidents shall be elected from among the members of the two Groups to which the President does not belong.

6. The election of the Bureau members shall comply with the principle laid down in Article 3(1) and observing the balance between the Groups formed pursuant to Article 27.

Article 4

1. At its first meeting, held in pursuance of Article 1, the Committee, with the interim President in the chair, shall elect from among its members a President, two Vice-Presidents, the Presidents of the specialised sections and the other members of the Bureau other than the Group Presidents for a term of two years, commencing on the date of the installation of the Committee in office.

2. Only matters pertaining to these elections may be discussed under the chairmanship of the interim President.

Article 5

The meeting at which the Bureau of the Committee is elected for the last two years of a four-year period shall be convened by the outgoing President. It shall be held at the beginning of the session of the month in which the term of office of the Bureau elected for the first two years of a four-year period expires. The chair shall be taken by the outgoing President.

Article 6

1. The Committee may set up an election panel, drawn from its members and consisting of one representative per Member State, to receive candidatures and to submit a list of candidates to the assembly, taking due account of the provisions of Article 3.

2. The Committee, acting in accordance with the provisions of this Article, shall decide on the list or lists of candidates for the Bureau and the Presidency.

3. The Committee shall elect the members of the Bureau other than the Presidents of the Groups and specialised sections, holding more than one ballot if necessary, according to the procedure for voting by list.

4. Only complete lists of candidates conforming to the provisions of Article 3 and accompanied by a declaration of acceptance from each candidate may be admitted to the vote.

5. Those candidates on the list which obtains the highest number and at least one-quarter of the valid votes cast shall be declared elected as members of the Bureau.

6. The assembly shall then elect the President and the Vice-Presidents of the Committee by a simple majority from among the Bureau members elected in accordance with Article 6(3).

7. The Committee shall then elect the Presidents of the specialised sections by a simple majority.

8. Finally, the Committee shall vote on the Bureau as a whole. At least two thirds of the total number of valid votes must be cast in favour.

Article 7

In the event of inability to discharge the duties attaching to his post or in the cases provided for in Article 70(2), a member of the Bureau shall be replaced for the remainder of his term of office in accordance with Article 6.

Article 8 (2)

1. Meetings of the Bureau shall be convened by the President, acting either *ex officio* or at the request of 10 members.

2. Minutes of each Bureau meeting shall be drawn up. These minutes shall be submitted to the Bureau for approval.

3. The Bureau shall lay down its own procedural Articles.

4. It shall lay down the organisation and working procedures of the Committee and adopt provisions for implementing the Articles of Procedure.

5. The Bureau and the President shall exercise the budgetary and financial powers provided for in the Financial Regulation and the Committee's Articles of Procedure.

6. The Bureau shall determine the implementing arrangements regarding the travel and subsistence expenses of members, their alternates, appointed in accordance with Article 18, and the daily allowances of their experts appointed in accordance with Article 23, in compliance with the budget and financial procedures.

7. The Bureau shall have political responsibility for the general management of the Committee. In particular, it shall ensure that the activities of the Committee, its bodies and its staff are in keeping with its institutional aims.

8. The Bureau shall be responsible for ensuring that in carrying out the tasks entrusted to it by the Treaty, the Committee makes good use of the human, budgetary and technical resources available to it. The Bureau shall, for instance, take part in the budgetary procedure and in the organisation of the secretariat.

9. The Bureau may set up ad hoc groups, drawn from among its members, to examine any questions falling within its competence. Other members may also be involved in the

work of these groups, except when issues concerning the appointment of permanent staff are discussed.

10. Every six months the Bureau shall examine, on the basis of a report drawn up for this purpose, the action taken on opinions delivered by the Committee.

11. At the request of a member or of the secretary-general, the Bureau shall clarify the interpretation of the Rules of Procedure and its Implementing Provisions. Its findings shall be binding subject to the right of appeal to the assembly to make a final decision.

12. At the time of the Committee's four-yearly renewal, the outgoing Bureau shall take responsibility for current business until the first meeting of the new Committee.

Article 9

Within the framework of interinstitutional cooperation, the Bureau may instruct the President to conclude cooperation agreements with the institutions and other bodies of the European Union.

Article 10 (2)

1. A 'budget group' shall be set up to assist the Bureau in exercising its budgetary and financial powers.

2. The budget group shall be chaired by one of the two Vice-Presidents under the authority of the President. It shall have nine members, appointed by the Bureau on the proposal of the Groups.

3. For specified matters the Bureau may delegate its decision-making power to the budget group.

4. Proposals adopted unanimously by the budget group shall be submitted to the Bureau for approval without debate.

5. The budget group shall participate in the drawing-up of the budget and ensure that it is implemented properly.

6. The President of the budget group shall take part in negotiations with the budgetary authorities and shall report thereon to the Bureau.

7. The budget group's duties shall include advising the President, the Bureau and the Committee and exercising control over the various services.

Article 10 a (2)

1. A 'communication group' shall be set up, responsible for guiding and monitoring the Committee's communication strategy.

2. The communication group shall be chaired by one of the two Vice-Presidents under the authority of the President. It shall have nine members, appointed by the Bureau on the proposal of the Groups.

*CHAPTER III****Presidency and the President****Article 11*

1. The Presidency shall comprise the President and the two Vice-Presidents.

2. The Committee Presidency shall meet with the Group Presidents to prepare the work of the Bureau and the assembly. Any or all of the specialised section Presidents may also be invited to attend when necessary or appropriate.

3. As part of the Committee's programme of work, the Presidency shall meet with the Presidents of the Groups and specialised sections at least twice a year.

Article 12

1. The President shall direct the work of the Committee in accordance with the Treaties and with these Articles.

2. The President shall involve the Vice-Presidents in his activities on a permanent basis; he may delegate to them specific tasks or responsibilities falling within his remit.

3. The President may entrust specific tasks to the Secretary-General for a limited period.

4. The President shall have the authority to represent the Committee in its external relations. On certain occasions he may delegate this authority to a Vice-President or to a member.

5. The President shall report to the Committee on action and measures taken on its behalf between plenary sessions. These reports shall not be followed by a debate.

6. After his election, the President shall present his work programme for his term of office. He shall also present a review of achievements at the end of his term.

These two presentations may be debated by the assembly.

Article 13 (2)

The two Vice-Presidents shall be respectively President of the budget group and President of the communication group and shall perform these tasks under the authority of the President.

*CHAPTER IV****Specialised sections****Article 14*

1. The Committee shall comprise six specialised sections. Other specialised sections may be set up by the plenary assembly on a proposal from the Bureau, in the fields covered by the Treaties.

2. The Committee shall set up its specialised sections at the inaugural session following each four-yearly renewal.

3. The list of specialised sections and their terms of reference may be examined at the time of each four-yearly renewal.

Article 15

1. The number of members of the specialised sections shall be decided by the Committee on a proposal from its Bureau.

2. Apart from the President, every member of the Committee must be a member of at least one specialised section.

3. No member may belong to more than two specialised sections, although the Bureau of the Committee may allow exceptions where justified by the need to ensure fair representation of the Member States.

4. The members of the specialised sections shall be appointed by the Committee. Appointments shall be for two years and shall be renewable.

5. The procedure laid down for the appointment of specialised section members shall also be followed for the replacement of such members.

Article 16 (2)

1. The Bureau of a specialised section, elected for a term of two years, shall comprise 12 members including a President and three Vice-Presidents, one from each Group.
2. Elections of specialised section Presidents and of other members of specialised section Bureaux shall be conducted by the Committee.
3. Specialised section Presidents and other members of specialised section Bureaux may be re-elected.
4. The Presidency of three specialised sections shall be rotated between the Groups every two years. The same Group may not hold the Presidency of any specialised section for a period exceeding four consecutive years.

Article 17

1. It shall be the task of the specialised sections to draw up opinions or information reports on questions referred to them in accordance with Article 32.
2. The specialised sections may set up from among their members a study group or drafting group or appoint a rapporteur working alone to deal with the questions referred to them. The rapporteur shall be responsible for monitoring action taken on opinions after their adoption at the plenary session and in due course, shall report to the specialised section.
3. The appointment of rapporteurs and, where appropriate, co-rapporteurs, the composition of study and drafting groups shall be decided on the basis of proposals from the Groups.
4. Study groups may not become permanent bodies, save in exceptional cases for which the Committee Bureau's prior authorisation is required for the same two-year period.

Article 18

1. Any member of the Committee unable to attend a meeting of a study group to which he belongs may arrange to be represented by an alternate at that meeting.
2. The name and capacity of the alternate selected shall be communicated to the Bureau of the Committee for its approval.
3. The alternate shall carry out the same duties in the study groups as the member whom he replaces.

CHAPTER V

Subcommittees and rapporteur-general*Article 19 (2)*

1. On the initiative of the Bureau, the Committee may, in exceptional cases, set up subcommittees drawn from its members to produce, for submission initially to the Bureau and then to the assembly, draft opinions or information reports on strictly horizontal general matters.
2. In the periods between plenary sessions the Bureau may set up subcommittees, subject to subsequent confirmation by the Committee. In no case may a subcommittee be set up for more than one issue. A subcommittee shall be automatically dissolved as soon as the draft opinion or information report which it has prepared is voted on by the Committee.
3. Subcommittees set up for questions coming within the purview of two or more specialised sections shall be made up of members of those specialised sections.
4. The Articles governing specialised sections shall be applicable, *mutatis mutandis*, to subcommittees.

Article 20

The Committee may appoint a rapporteur-general for any question submitted to it.

CHAPTER VI

Observatories, hearings, experts*Article 21*

1. The Committee may set up observatories when the nature, extent and specific character of the subject to be dealt with calls for particular flexibility in terms of the working methods, procedures and instruments to be used.
2. An observatory shall be set up by a decision of the plenary assembly, ratifying a decision taken earlier by the Bureau on a joint proposal from the Groups or from a specialised section.
3. The decision to set up an observatory shall define the object, structure, composition, duration and working Articles in each case.

Article 22

If an issue under discussion is of sufficient importance, the various bodies and working units of the Committee may invite guest speakers from outside the Committee to a hearing. If the use of guest speakers involves additional costs, the body or unit concerned must seek prior authorisation from the Committee Bureau and submit a programme giving reasons why it considers that certain aspects call for outside assistance.

Article 23

Insofar as this is essential for carrying out certain tasks, the President may, on his own initiative, or on a proposal from the Groups, specialised sections or rapporteurs, appoint experts under the terms laid down by the Bureau in line with the provisions of Article 8(6).

CHAPTER VII

Consultative commissions*Article 24 (2)*

1. The Committee shall have the option of setting up consultative commissions. These shall be made up of members of the Committee and of delegates from areas of civil society that the Committee wishes to involve in its work.
2. Such commissions shall be set up by a decision of the plenary assembly which shall confirm a decision taken by the Bureau. The decision setting up such commissions shall define their object, their structure, their composition, their duration and their Articles.
3. In accordance with Article 24(1) and (2), a 'consultative commission on industrial change' (CCMI) may be set up, made up of members of the European Economic and Social Committee and delegates from professional organisations representing the coal and steel sector and related sectors. The President of the commission shall be a member of the Committee Bureau. He shall be chosen from among the 25 members of the Bureau referred to in Article 3(2)(a) of these Articles of Procedure.

CHAPTER VIII

Dialogue with economic and social organisations in EU and non-EU States*Article 25*

1. The Committee, on the initiative of the Bureau, may maintain structured relations with economic and social

councils and similar institutions and with civil society organisations of an economic and social nature in the European Union and non-EU countries.

2. In the same way, it shall undertake actions designed to foster the establishment of economic and social councils or similar institutions in countries which do not yet have them.

Article 26

1. The Committee, on a proposal from the Bureau, may appoint delegations to maintain relations with the various economic and social components of organised civil society in States or associations of States outside the European Union.
2. Cooperation between the Committee and partners from organised civil society in the candidate countries shall take the form of joint consultative committees if these have been formed by the Association Councils. Otherwise it shall take place in contact groups.

CHAPTER IX

The Groups and categories*Article 27*

1. The Committee shall be made up of three Groups of members representing respectively employers, employees and the various other economic and social components of organised civil society.
2. The Groups shall elect their Presidents and Vice-Presidents. These Groups shall participate in the preparation, organisation and coordination of the business of the Committee and its constituent bodies, and help supply them with information. Each Group shall be provided with a secretariat.
3. The Group Presidents shall be members of the Bureau in accordance with Article 3(2)(b).
4. The Group Presidents shall assist the Committee Presidency in the formulation of policy and where appropriate, in the monitoring of expenditure.
5. The Group Presidents shall meet with the Committee Presidency to assist in preparing the work of the Bureau and the assembly.
6. The Groups shall make proposals to the assembly for the election of specialised section Presidents under Article 6(7) and of specialised section Bureaux under Article 16.
7. The Groups shall make proposals for membership of the budget group to be set up by the Bureau under Article 10(1).
8. The Groups shall make proposals for the membership of observatories and consultative commissions to be set up by the assembly under Articles 21 and 24 respectively.

9. The Groups shall make proposals for the membership of delegations and joint consultative committees to be set up in accordance with Articles 26(1) and (2) respectively.

10. The Groups shall make proposals for rapporteurs and for the composition of study and drafting groups to be appointed/set up by the specialised sections under Article 17(3).

11. In applying Articles 27(6) to 27(10), the Groups shall take account of the representation within the Committee of the Member States, the various components of economic and social activity, terms of reference and the criteria of good management.

12. Members may, on a voluntary basis, join one of the Groups subject to the approval of their eligibility by the members of that Group. No member shall belong to more than one Group at the same time.

13. The general secretariat shall provide members not belonging to a Group with the material and technical support required for the performance of their duties. Their participation in study groups and other internal bodies shall be the subject of a decision by the Committee President after consultation of the Groups.

Article 28

1. Members of the Committee may, on a voluntary basis, form categories representing the various economic and social components of organised civil society in the European Union.

2. A category may be made up of members from the three Groups within the Committee. No member shall belong to more than one category at the same time.

3. The creation of a category shall be subject to approval being granted by the Bureau, who shall inform the assembly.

TITLE II

PROCEDURE OF THE COMMITTEE

CHAPTER I

Consultation of the Committee

Article 29

1. The Committee shall be convened by its President to produce opinions requested by the Council, the Commission or the European Parliament.

2. It shall be convened by its President, on a proposal from its Bureau and with the agreement of the majority of its members, to deliver, on its own initiative, opinions on any question pertaining to the tasks assigned to the European Union.

Article 30

Requests for opinions referred to in Article 29(1) shall be addressed to the President of the Committee. The President, in consultation with the Bureau, shall organise the work of the Committee, taking account as far as possible of the time limits set in the request for an opinion.

Article 31

The Committee may, on a proposal from the Bureau, decide to prepare an information report with a view to examining any question pertaining to the policies of the European Union.

CHAPTER II

Organisation of work

A. Work of the specialised sections

Article 32 (1)

1. When an opinion or information report is to be produced, the Bureau, in accordance with Article 8(4), shall designate the specialised section which is to be responsible for preparing the work in question. Where the matter for consideration is clearly within the purview of a given specialised section, the President shall designate that section and inform the Bureau of his decision.

2. Where a specialised section that has been designated to prepare an opinion wishes to hear the views of the Consultative Commission on Industrial Change (CCMI) or where the CCMI wishes to set out its views on an opinion allocated to a specialised section, the Bureau may authorise the CCMI to draw up a supplementary opinion on one or more of the issues covered by the referral. The Bureau may also take this decision on its own initiative. The Bureau shall organise the Committee's work in such a way that the CCMI is able to prepare its opinion in good time to be taken into consideration by the specialised section.

The specialised section alone shall be responsible for reporting to the Committee. It shall however append to its opinion the supplementary opinion drawn up by the Consultative Commission on Industrial Change.

3. The President of the specialised section concerned shall be notified by the Committee President of the decision and of the time limit for the completion of the section's work.

4. The Committee President shall inform the members of the Committee of the referral to the section and of the date on which the subject is to be dealt with by the plenary session.

Article 33

Specialised sections shall not discuss matters jointly.

Article 34

The Committee President, in agreement with the Bureau, may authorise a specialised section to hold a joint meeting with a European Parliament committee, or a Committee of the Regions commission or with another specialised section of the Committee.

Article 35

Specialised sections to which a question has been referred in accordance with these Articles shall be convened by their President.

Article 36

1. Meetings of the specialised sections shall be prepared by the specialised section Presidents in consultation with the section Bureau.
2. Meetings shall be chaired by the specialised section President or, in his absence, by one of the Vice-Presidents.

Article 37

1. A quorum shall exist at specialised section meetings if over half of the full members are present or represented.
2. If there is not a quorum, the President shall close the meeting and arrange for a further meeting to be held at a time which he considers appropriate, but during the course of the same day; at that further meeting a quorum shall exist irrespective of the number of members present or represented.

Article 38

The specialised sections shall draw up opinions with reference to the draft opinion submitted by the rapporteur and the co-rapporteur.

Article 39

1. Specialised section opinions shall contain only texts adopted by the specialised section in accordance with the procedure laid down in Article 56.
2. The text of proposed amendments which have been rejected, together with the result of the voting thereon, shall be appended to the opinion if the amendments received at least one-quarter of the votes cast.

Article 40

Specialised section opinions, together with all the documents appended thereto in accordance with Article 39, shall be sent by the President of the specialised section to the President of the Committee and shall be laid before the Committee by its Bureau as soon as possible. These documents shall be sent to the members of the Committee in good time.

Article 41

Concise minutes of each specialised section meeting shall be drawn up and submitted to the specialised section for approval.

Article 42

The President, in agreement with the Bureau or where appropriate the assembly, may refer a question back to a specialised section if he considers that the procedure laid down in these Articles for drawing up opinions has not been adhered to or that further study is necessary.

Article 43

1. Without prejudice to Article 17(2), the preparatory work of the specialised sections shall be carried out, in principle, within a study group.
2. The rapporteur, assisted where appropriate by one or more co rapporteurs and an expert, shall study the question referred, collect the views expressed and, on this basis, compile the draft opinion, which shall be sent to the President of the specialised section.
3. There shall be no voting at study group meetings.

B. Proceedings of the plenary sessions*Article 44*

The assembly, comprising all the members of the Committee, shall meet in plenary session.

Article 45

1. Sessions shall be prepared by the President in consultation with the Bureau. The Bureau shall meet before each session, and where appropriate during a session, to organise the proceedings.
2. The Bureau may set a time limit for the general discussion of each opinion at the session.

Article 46

1. The draft agenda drawn up by the Bureau on a proposal from the Committee Presidency in collaboration with the Group Presidents shall be sent by the Committee President to all Committee members and to the Council, the Commission and the European Parliament at least 15 days before the opening of the relevant session.
2. The draft agenda shall be submitted to the assembly for approval at the opening of each session. Once the agenda has been adopted, the items must be examined during the sitting for which they are scheduled. The documents necessary for the Committee's deliberations shall be sent to the members in accordance with Article 40.

Article 47

1. A quorum shall exist at session sittings if more than half of the members of the Committee are present or represented.

2. If there is not a quorum, the President shall close the sitting and arrange for a further sitting to be held at a time he considers appropriate but during the same session; at that further sitting there shall be a quorum whatever the number of members present or represented.

Article 48

When the agenda is submitted for adoption, the inclusion of any topical item shall be announced, where appropriate, by the President.

Article 49

The draft agenda may be amended by the Committee for the purpose of examining draft resolutions submitted by one or more Groups in accordance with the procedure in force.

Article 50 (2)

1. The President shall open session sittings, preside over discussions and ensure that these Articles are observed. The President shall be assisted by the Vice-Presidents.

2. If the President is absent, the Vice-Presidents shall deputise. If the Vice-Presidents are absent, the oldest member of the Bureau shall deputise.

3. The Committee shall base its deliberations on the work of the specialised section competent to report to the assembly on the questions concerned.

4. Where a text has been adopted by a specialised section with no votes against, the Bureau may propose to the assembly that the text be voted on without a discussion. This procedure shall be applied unless at least 25 members signify their objection.

5. If a text fails to secure a majority of votes in the assembly, the President of the Committee may, with the consent of the assembly, refer the opinion back to the competent specialised section for re-examination or appoint a rapporteur-general, who shall submit a new draft opinion at the same or another session.

Article 51 (2)

1. Proposals for amendments must be drawn up in writing, signed by the proposers and lodged with the secretariat before the opening of the relevant session.

2. In the interests of efficient organisation of the proceedings of the assembly, the Bureau shall fix the arrangements for the lodging of proposals for amendments.

3. The Committee shall, however, allow proposals for amendments to be lodged up to the opening of the relevant session sitting, provided such proposals are signed by at least fifteen members.

4. Proposals for amendments must specify the part of the text to which they refer and be supported by a brief explanatory statement.

5. As a general Article, for each amendment the assembly shall hear only the proposer, a member who is against the proposed amendment and the rapporteur.

6. When a proposal for an amendment is examined, the rapporteur may put forward compromise proposals orally with the agreement of the proposer of the amendment. The Committee shall then vote on these compromise proposals.

7. In the case of a counter-opinion, the purpose of which is to set out a generally divergent view to the specialised section opinion, it is for the Bureau to decide, in consultation with the specialised section President and the rapporteur, whether this amendment can be submitted as it stands to the Committee, or whether the matter should be referred back to the specialised section for further study.

8. Where appropriate, the President of the Committee, in consultation with the President and the rapporteur of the competent specialised section, may propose to the Committee that any amendments be dealt with in such a way as to ensure that the final text is consistent.

Article 52 (2)

1. The President, either on his own initiative or at the request of a member, may invite the Committee to decide on a limitation of speaking time or the number of speakers, the adjournment of a sitting or the closure of a discussion. Once a discussion has been declared closed, no member may speak except to explain his vote; such explanations of voting shall be made after the relevant vote has been taken and shall not exceed the speaking time allotted by the President.

2. A member may at any time request and be given precedence to speak during a discussion for the purpose of submitting a procedural motion.

Article 53

1. Minutes of each plenary session shall be drawn up and submitted to the Committee for its approval.

2. The final version of such minutes shall be signed by the President and the Secretary-General of the Committee.

Article 54

1. Opinions of the Committee shall consist of, in addition to the legal basis of the opinion, an explanatory statement and the views of the Committee on the question as a whole.

2. The result of the voting on the opinion as a whole shall be set out in a preamble to the text of the opinion. Where a recorded vote is held, the names of the voters shall be given.

3. If proposed amendments are rejected by the plenary session but receive at least one-quarter of the votes cast, their texts and explanatory statements shall be appended to the relevant Committee opinions, together with the results of the voting. This requirement shall also apply to counter-opinions.

4. Specialised section opinion texts that are rejected in favour of amendments adopted by the assembly shall also be appended to Committee opinions together with the results of the voting, provided that at least one-quarter of the votes cast were in favour of retention of the specialised section opinion texts.

5. When one of the groups formed within the Committee under Article 27 or one of the categories of economic and social activity formed under Article 28 adopts a divergent but uniform standpoint on a matter submitted to the assembly for examination, its position may be summarised in a brief statement to be appended to the opinion, where the debate on that matter has been concluded by a recorded vote.

Article 55

1. Opinions adopted by the Committee and minutes of Committee sessions shall be sent to the European Parliament, the Council and the Commission.

2. The follow-up to opinions shall be monitored by the rapporteur with the assistance of the General-Secretariat.

TITLE III

GENERAL PROVISIONS

CHAPTER I

Methods of voting

Article 56

1. The valid forms of votes shall be votes for, votes against and abstentions.

2. Except where otherwise provided in these Articles, adoption of the texts and decisions of the Committee and its constituent bodies shall be by a majority of the votes cast for and against.

3. Voting shall be by open ballot, by recorded vote, or by secret ballot.

4. Voting on a proposed amendment shall be by recorded vote if one-quarter of the members of the Committee so request. The final vote on opinions shall also be a recorded vote if ten or more members so wish.

5. Voting shall be by secret ballot where a majority of the members of the Committee so request.

6. If the public or recorded vote by the plenary session or specialised section is a tie (an equal number of votes for and against), the chairman of the meeting shall have a casting vote.

7. The acceptance by the rapporteur of an amendment shall not constitute a reason for not voting on that amendment.

CHAPTER II

Urgency procedure and written procedure

Article 57

1. Where the urgency results from a deadline for the submission of its opinion imposed on the Committee by the

Council, by the European Parliament or by the Commission, the urgency procedure may be applied if the President finds that this is necessary to enable the Committee to adopt its opinion in good time.

2. In cases of urgency at Committee level the President may, immediately and without consulting the Bureau beforehand, take all requisite steps to enable the Committee to carry out its work. He shall inform the members of the Bureau of the steps which he takes.

3. Arrangements made by the President under the urgency procedure shall be submitted to the following session of the Committee for confirmation.

Article 58

Certain opinions of the Committee which are the subject of a mandatory referral by the Council or the Commission but only require a formal opinion from the Committee may be adopted by a written procedure by decision of the Bureau on a proposal from the specialised section concerned.

Article 59

1. Where the urgency results from the deadlines imposed on a specialised section, the President of that section may, with the agreement of the President of the Committee and in consultation with the specialised section Bureau, organise the work of the section otherwise than as provided in these Articles.

2. Arrangements made by the President of a specialised section under the urgency procedure shall be submitted to the following meeting of that section for confirmation.

CHAPTER III

Absence and representation

Article 60

1. Any member of the Committee who is unable to attend a meeting to which he has been duly invited must give the President concerned advance notice of his absence.

2. Where a member of the Committee fails to attend more than three consecutive plenary sessions of the Committee without appointing a member to represent him and without a reason recognised as valid, the President may, after consulting the Bureau and inviting the member concerned to explain his absence, call upon the Council to remove that member from office.

3. Where a member of a specialised section fails to attend more than three consecutive meetings of the section without appointing a member to represent him and without a reason recognised as valid, the President of that specialised section may, after inviting the member concerned to explain his absence, call upon him to yield his seat on the specialised section to another member.

Article 61

1. Any member of the Committee who is unable to attend a Committee session or a specialised section meeting may, after notifying the President concerned, delegate his voting right, in writing, to another member of the Committee or specialised section.

2. No member may hold more than one delegated voting right at a plenary session or specialised section meeting.

Article 62

1. Any member of a specialised section, study group or delegation who is unable to attend a meeting to which he has been duly invited may, after giving written notice to the President concerned directly or through his Group secretariat, arrange for another member of the Committee to represent him at the relevant meeting.

2. Such proxies shall be valid solely for the meeting in respect of which they are issued.

3. At the time of the constitution of a study group, any member designated as a member of that study group may ask to be replaced by another member of the Committee. Such replacement shall apply for a specific question and for the duration of the work of the specialised section on that question. It may not be revoked.

*CHAPTER IV****Publication and distribution of Committee texts — admission of the public****Article 63*

1. The Committee shall publish its opinions in the *Official Journal of the European Union* in accordance with the procedure laid down by the Council and the Commission after consultation of the Committee Bureau.

2. The names of the members of the Committee, its Bureau and its specialised sections, and all changes in the membership thereof, shall be published in the *Official Journal of the European Union* and on the Committee's website.

Article 64

1. The Committee shall ensure the transparency of its decisions, in accordance with Article 1 of the EU Treaty.

2. The Secretary-General shall be responsible for taking the measures necessary to guarantee the public's right of access to the corresponding documents.

3. Any citizen of the European Union may write to the Committee in one of the official languages and receive a reply written in the same language (in accordance with Article 21(3) of the EC Treaty).

Article 65

1. Plenary sessions of the Committee and meetings of the specialised sections shall be public.

2. Certain debates that do not concern consultative work may be declared confidential by the Committee, acting on a request from a concerned institution or body or on a proposal from the Bureau.

3. Other meetings shall not be public.

Article 66

1. Members of the European institutions may attend and address meetings of the Committee and its constituent bodies.

2. Members of other bodies and duly authorised officials of the institutions and these other bodies may be invited to attend, address or answer questions at meetings, under the direction of the President of the meeting.

*CHAPTER V****Titles, privileges, immunities and statute of members, quaestors****Article 67*

1. Members of the Committee shall have the title 'member of the European Economic and Social Committee'.

2. The provisions of Article 11, Chapter IV of the Protocol on the privileges and immunities of the European Communities of 8 April 1965, annexed to the Treaty, shall apply to the members of the European Economic and Social Committee.

Article 68

1. The members' statute shall contain the rights and duties of Committee members, as well as the Articles governing their activity and their relations with the institution and its services.

2. It shall also determine the measures that may be taken in the event of violations of the Articles of Procedure or of the statute.

Article 69

On a proposal from the Bureau, the assembly shall elect, for each two-year period, three members, who have no other permanent responsibilities within the Committee structure, to form the quaestors' group with the following functions:

- (a) to monitor and ensure the proper implementation of the members' statute;
- (b) to draw up appropriate proposals for perfecting and improving the members' statute;
- (c) to endeavour, by taking appropriate steps, to resolve any cases of doubt or dispute arising from application of the members' statute;
- (d) to be responsible for relations between the members of the Committee and the general-secretariat as regards application of the members' statute.

CHAPTER VI

Termination of members' tenure of office, incompatibilities

Article 70

1. Membership of the Committee shall expire at the end of the four-year term laid down by the Council at the time of the Committee's renewal.
2. Individual membership shall cease on resignation, on removal from office, through death, in the case of *force majeure* or in the event of an incompatibility of functions arising.
3. The functions of a member of the Committee shall be incompatible with those of a member of a government, a parliament, a Community institution, the Committee of the Regions or the board of directors of the European Investment Bank, and with the post of official or other servant of the Communities in active employment.
4. Resignations shall be in writing and shall be addressed to the President of the Committee.
5. The circumstances in which members may be removed from office are laid down in Article 60(2). In such cases the Council shall initiate the replacement procedure, if it decides to terminate membership.
6. In the case of resignation, death, *force majeure* or incompatibility of functions, the President of the Committee shall notify the Council, which shall verify the vacancy and initiate the replacement procedure. In the case of resignation, however, the resigning member shall remain in office until the date on which the appointment of his replacement takes effect, unless the resigning member indicates otherwise.

7. In all the cases referred to in the second paragraph of this Article, the replacement shall be appointed for the remainder of the current term of office.

CHAPTER VII

Administration of the Committee

Article 71

1. The Committee shall be assisted by a secretariat headed by a Secretary-General, who shall discharge his duties under the direction of the President, representing the Bureau.
 2. The Secretary-General shall attend the meetings of the Bureau in an advisory capacity and shall keep the minutes of those meetings.
 3. He shall give a solemn undertaking, before the Bureau, to discharge his duties conscientiously and with complete impartiality.
 4. The Secretary-General shall be responsible for giving effect to decisions taken by the assembly, the Bureau and the President pursuant to the Articles of Procedure; he shall report in writing every three months to the President on the criteria and arrangements which have been adopted or are envisaged for handling administrative or organisational problems and staff matters.
 5. The Secretary-General may delegate his powers within the limits decided by the President.
 6. The Bureau, acting on a proposal from the Secretary-General, shall draw up the establishment plan for the General-Secretariat in such a way that it can ensure the efficient functioning of the Committee and its constituent bodies and help the members in the performance of their duties, in particular in the organisation of meetings and the preparation of opinions.
- Article 72 (2)*
1. The powers which the Staff Regulations of Officials of the Communities confer on the appointing authority shall be exercised as follows:
 - with respect to the Secretary-General, by the Bureau,
 - with respect to officials in grades 16, 15 and 14 of function group AD, by the Bureau, acting on a proposal from the Secretary-General, as regards application of Articles 13, 29, 30, 31, 32, 40, 41, 49, 50, 51, 78 and 90(1) of the Staff Regulations; by the President, acting on a proposal from the Secretary-General, as regards application of the other provisions of the Staff Regulations, including Article 90(2),

— with respect to officials in grades 13, 12 and 11 of function group AD, by the President, acting on a proposal from the Secretary-General,

— with respect to officials in the other grades of function group AD and all grades of function group AST, by the Secretary-General.

2. The powers which the Conditions of Employment of Other Servants of the Communities (CEOS) confer on the authority competent to conclude contracts of service shall be exercised as follows:

— with respect to temporary staff in grades 16, 15 and 14 of function group AD, by the Bureau, as regards application of Articles 11, 17, 33 and 48 of the CEOS; as regards the other provisions of the CEOS, by the President, acting on a proposal from the Secretary-General,

— with respect to temporary staff in grades 13, 12 and 11 of function group AD, by the President, acting on a proposal from the Secretary-General,

— with respect to temporary staff in other grades of the administrators' function group and all grades of the assistants' function group, by the Secretary-General,

— with respect to special advisers, and contract and local staff, by the Secretary-General.

3. The President shall exercise the powers conferred on the institution by Article 110 of the Staff Regulations with a view to implementing the general provisions for giving effect to the Staff Regulations and the Articles adopted by agreement between the institutions.

4. The Bureau, the President and the Secretary-General may delegate the powers vested in them by this Article.

5. Decisions to delegate adopted in accordance with Article 72(4) above shall specify the scope of the powers delegated, their limits and period of validity, as well as stating whether they may be subdelegated.

Article 73

1. The President shall have a private secretariat.

2. The staff of the secretariat shall be engaged under the budget as temporary staff, the powers of the authority competent to conclude contracts of service being exercised by the President.

Article 74

1. Before 1 June of each year the Secretary-General shall submit to the Bureau the draft estimates of the expenditure and revenue of the Committee for the next financial year. The Bureau shall draw up the estimates of the expenditure and revenue of the Committee. It shall forward these estimates in accordance with the procedure and within the time limits laid down in the Financial Regulation of the European Communities.

2. The President of the Committee, acting in accordance with the Financial Regulation, shall implement or cause to be implemented the statement of expenditure and revenue.

Article 75

Correspondence to the Committee shall be addressed to the President or the Secretary-General.

CHAPTER VIII

General provisions

Article 76

The terms used in these Rules of Procedure for the various offices are not gender-specific.

Article 77

1. The Committee may decide by an absolute majority of its members that these Rules should be revised.

2. If such a decision is taken, the Committee shall set up a panel, which shall be known as the Rules of Procedure Panel. The Committee shall appoint a rapporteur-general to produce a draft text of the new Rules.

3. The date on which the new Rules of Procedure shall enter into force shall be decided at the time of their adoption by the Committee.

Article 78

These Rules of Procedure shall enter into force on the first day of the month following their adoption by an absolute majority of Committee members.

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

COUNCIL JOINT ACTION 2004/789/CFSP
of 22 November 2004
on the extension of the European Union Police Mission in the Former Yugoslav Republic of
Macedonia (EUPOL PROXIMA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in particular Article 14, Article 25, third paragraph, Article 26 and Article 28(3) thereof,

Whereas:

- (1) Pursuant to the Ohrid Framework Agreement, the Union's contribution is based upon a broad approach with activities to address the whole range of rule of law aspects, including institution building programmes and police activities which should be mutually supportive and reinforcing. The activities of the Union, supported, *inter alia*, by the Community's institution building programmes under the CARDS Regulation, will contribute to the overall peace implementation in the Former Yugoslav Republic of Macedonia as well as to the achievement of the Union's overall policy in the region, notably the stabilisation and association process.
- (2) The Union appointed a European Union Special Representative (EUSR) to contribute to the consolidation of the peaceful political process and the full implementation of the Ohrid Framework Agreement, to help to ensure the coherence of the EU external action and to ensure coordination of the international community's efforts to help in the implementation and sustainability of the provisions of that Framework Agreement.
- (3) The UN Security Council Resolution 1371 (2001) adopted on 26 September 2001 welcomes the Ohrid Framework Agreement and supports its full implementation by the efforts of, *inter alia*, the EU.
- (4) In the interest of preserving and building upon the significant results achieved in the Former Yugoslav Republic of Macedonia through a considerable commitment of EU political effort and resources, the

EU has enhanced its role in policing to further contribute to a stable secure environment to allow the Former Yugoslav Republic of Macedonia government to implement the Ohrid framework agreement.

- (5) The security situation in the Former Yugoslav Republic of Macedonia has continued to improve since the conflict in 2001. In 2004 stability has been further strengthened. Steps in the preparation and implementation of key Ohrid Framework Agreement reforms were taken and efforts to address other reform priorities, including in the field of rule of law, were made. It can, however, not be excluded that the security situation may deteriorate with potentially serious repercussions on international security. A continued commitment of EU political effort and resources will thus help to further embed stability in the country as well as in the region.
- (6) On 16 September 2003, the authorities of the Former Yugoslav Republic of Macedonia invited the EU to assume responsibility for an enhanced role in policing and the deployment of an EU Police Mission (EUPOL PROXIMA).
- (7) Council Joint Action 2003/681/CFSP⁽¹⁾, of 29 September 2003 established EUPOL PROXIMA for a 12-month period between 15 December 2003 and 14 December 2004.
- (8) On 1 October 2004, the Prime Minister of the former Yugoslav Republic of Macedonia (FYROM), Mr Hari Kostov, sent a letter to the Secretary-General/High Representative (SG/HR), inviting the EU to take the necessary steps to extend EUPOL PROXIMA by 12 months after the expiration of the current mandate on 14 December 2004.

⁽¹⁾ OJ L 249, 1.10.2003, p. 66.

(9) On 11 October 2004 the Council, noting the progress made, agreed to extend EUPOL PROXIMA for another 12 months after the expiration of the current mandate on 14 December 2004. The Council also agreed that the objective of the extended mission will be to further support the development of an efficient and professional police service based on European standards of policing. Under the guidance of the EU Special Representative in Skopje and in partnership with the host Government authorities, EU police experts will continue to monitor, mentor, and advise the country's police, focussing on middle and senior management, thus helping to fight organised crime more effectively, to further facilitate public confidence in policing, to consolidate law and order, and to further assist in the creation of a border police service.

(10) The Political and Security Committee (PSC) should exercise political control of and provide strategic direction to EUPOL PROXIMA and take the relevant decisions in accordance with Article 25, third subparagraph of the Treaty on the European Union (TEU). The PSC should be informed on a regular basis on all aspects of the mission, including through briefings by the EUSR and the Head of Mission/Police Commissioner as necessary.

(11) In conformity with the guidelines of the European Council meeting at Nice on 7-9 December 2000, this Joint Action should determine the role of the SG/HR in accordance with Articles 18 and 26 of the TEU in the implementation of measures falling within the political control and strategic direction exercised by the PSC, in accordance with Article 25 of the TEU.

(12) Third States should participate in the operation in accordance with the guidelines laid down by the Nice European Council.

(13) Article 14(1) of the TEU calls for the indication of a financial reference amount for the whole period of implementation of the Joint Action; the indication of amounts to be financed by the Community budget illustrates the will of the legislative authority and is subject to the availability of commitment appropriations during the respective budget year,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Mission

1. The European Union hereby extends the European Union Police Mission (EUPOL PROXIMA) in the Former Yugoslav Republic of Macedonia (FYROM) from 15 December 2004 to 14 December 2005.

2. EUPOL PROXIMA shall operate in accordance with the objectives and other provisions as contained in the mission statement set out in Article 3.

Article 2

Planning for the extension

1. In preparation for the extension of the mission, the current Police Head of Mission shall set down a task force within the mission consisting of the necessary staff to deal with functions ensuing from the needs for the extension of the mission.

2. A comprehensive risk assessment shall be carried out as a priority in the planning process and may be updated as necessary.

3. The current Head of Mission shall, on the basis of the Concept of Operations (CONOPS) approved by the Council, and on the basis of the guidance given by the Political and Security Committee (PSC), draw up a revised Operation Plan (OPLAN) and develop all technical instruments necessary to execute the extension of EUPOL PROXIMA. The revised OPLAN shall take into account the comprehensive risk assessment.

4. In preparing for the extension of the mission, including in drafting the revised OPLAN, the current Head of Mission shall consult and co-ordinate with the European Commission Police Reform Project and the OSCE in Skopje.

Article 3

Mission Statement

EUPOL PROXIMA, in line with the objectives of the Ohrid Framework Agreement, in strong partnership with the relevant authorities, and within a broader Rule of Law perspective, shall, in full coordination and complementarity with Community institution building as well as OSCE and bilateral programmes, continue to monitor, mentor, and advise the country's police, focussing on middle and senior management, thus further supporting, as appropriate:

- the consolidation of law and order, including the fight against organised crime notably in Sensitive Areas;
- the practical implementation of the comprehensive reform of the Ministry of Internal Affairs, including the police;
- the operational transition towards, and the creation of a border police, as a part of the wider EU effort to promote integrated border management;
- the local police in building confidence within the population;
- enhanced cooperation with neighbouring States in the field of policing.

Article 4

Structure

EUPOL PROXIMA shall in principle be structured as follows:

- (a) headquarters in Skopje, composed of the Head of the Mission/Police Commissioner and staff as defined in the revised OPLAN.
- (b) one central co-location unit at the Ministry of Interior level.
- (c) some units co-located within the Former Yugoslav Republic of Macedonia at appropriate levels.

Article 5

Head of Mission/Police Commissioner

1. The Head of Mission/Police Commissioner shall exercise Operational Control (OPCON) over EUPOL PROXIMA and assume the day-to-day management of EUPOL PROXIMA operations.
2. The Head of Mission/Police Commissioner shall sign a contract with the Commission.

3. All police officers shall remain under full command of the appropriate national authority. National authorities shall transfer OPCON to the Head of EUPOL PROXIMA.

4. The Head of Mission/Police Commissioner shall be responsible for disciplinary control over the personnel. For seconded personnel, disciplinary action shall be exercised by the national or EU authority concerned.

Article 6

Staff

1. The numbers and competence of EUPOL PROXIMA staff shall be consistent with the mission statement set out in Article 3 and the structure set out in Article 4.

2. Police officers shall be seconded by Member States. Each Member State shall bear the costs related to the police officers seconded by it, including salaries, medical coverage, allowances other than per diems, and travel expenses to and from the Former Yugoslav Republic of Macedonia.

3. International civilian staff and local staff shall be recruited on a contractual basis by EUPOL PROXIMA, as required.

4. Contributing States or Community institutions may also, if required, second international civilian staff. Each contributing State or Community institution shall bear the costs related to any of the staff seconded by it including salaries, medical coverage, allowances other than per diems, and travel expenses to and from the Former Yugoslav Republic of Macedonia.

Article 7

Chain of Command

The structure of EUPOL PROXIMA as part of the broader EU Rule of Law approach in the Former Yugoslav Republic of Macedonia shall have a unified chain of command, as a crisis management operation.

- The European Union Special Representative (EUSR) shall report to the Council through the SG/HR,

- The PSC shall provide the political control and strategic direction,
- The Head of Mission/Police Commissioner shall lead EUPOL PROXIMA and assume its day to-day management,
- The Head of Mission/Police Commissioner shall report to the SG/HR through the EUSR,
- The SG/HR shall give guidance to the Head of Mission/Police Commissioner through the EUSR.

Article 8

Political control and strategic direction

1. The PSC shall exercise under the responsibility of the Council the political control and strategic direction of the mission. The Council hereby authorises the Political and Security Committee to take the relevant decisions in accordance with Article 25 of the TEU. This authorisation shall include the powers to appoint, upon a proposal from the SG/HR, a Head of Mission, to approve and to amend the revised OPLAN and the Chain of Command. The powers of decision with respect to the objectives and termination of the operation shall remain vested in the Council, assisted by the SG/HR.
2. The EUSR shall provide local political guidance to the Police Head of Mission. The EUSR shall ensure coordination with other EU actors as well as relations with host party authorities and media.
3. The PSC shall report to the Council at regular intervals.
4. The PSC shall receive reports by the Police Head of Mission regarding the conduct of the mission at regular intervals. The PSC may invite the Police Head of Mission to its meetings as appropriate.

Article 9

Participation of Third States

1. Without prejudice to the decision-making autonomy of the EU and the single institutional framework of the Union, Acceding States shall be invited and other third States may be invited to contribute to EUPOL PROXIMA on the basis that they bear the cost of sending the police officers and/or the international civilian staff seconded by them, including salaries, allowances and travel expenses to and from the Former Yugoslav Republic of Macedonia, and contribute to the running costs of EUPOL PROXIMA, as appropriate.

2. Without prejudice to the decision-making autonomy of the EU and the Single Institutional Framework, third States may be invited to participate in the operation.

3. The Council hereby authorises the PSC to take, upon the recommendation of the Police Head of Mission and the Committee for Civilian Aspects of Crisis Management, the relevant decisions on acceptance of the proposed contributions.

4. Third States making contributions to EUPOL PROXIMA shall have the same rights and obligations in terms of day-to-day management of the operation as EU Member States taking part in the operation.

5. The PSC shall take appropriate action with regard to participation arrangements and shall, if required, submit those to the Council, including on possible financial participation from third States in the common costs.

6. Detailed arrangements regarding the participation of Third States shall be subject of an agreement, in conformity with Article 24 of the TEU. The SG/HR assisting the Presidency may negotiate such arrangements on its behalf.

Article 10

Financial arrangements

1. The financial reference amount intended to cover the expenditure related to the extended mission shall be EUR 15 950 000 for commitment, out of which EUR 5 000 000 out of the 2004 budget and EUR 10 950 000 out of the 2005 budget.

2. As regards expenditure financed out of the Community budget, the following shall apply:

- (a) expenditure shall be managed in accordance with the European Community rules and procedures applicable to the budget, with the exception that any pre-financing shall not remain the property of the Community. Nationals of third States shall be allowed to tender for contracts;

(b) the Police Head of Mission shall report fully to, and be supervised by, the Commission on the activities undertaken in the framework of his contract.

3. The financial arrangements shall respect the operational requirements of EUPOL PROXIMA, including compatibility of equipment and interoperability of its teams.

Article 11

Community action

1. The Council notes that the Commission shall continue to direct its action towards achieving the objectives of this Joint Action, where appropriate, by relevant Community measures.

2. The Council also notes that appropriate coordination arrangements shall continue in Skopje as well as in Brussels.

Article 12

Release of classified information

1. The SG/HR is authorised to release to NATO/KFOR and to the third parties associated with this Joint Action, EU classified information and documents up to the level 'CONFIDENTIEL UE' generated for the purposes of the operation, in accordance with the Council's security regulations.

2. The SG/HR is also authorised to release, in accordance with the operational needs of the Mission, to the OSCE EU classified information and documents up to the level 'RESTREINT UE' generated for the purposes of the operation, in accordance with the Council's security regulations. Local arrangements shall be drawn up for this purpose.

3. In the event of a specific and immediate operational need, the SG/HR is also authorised to release to the host State EU classified information and documents up to the level 'CONFIDENTIEL UE' generated for the purposes of the operation, in accordance with the Council's security regulations. In all other cases, such information and documents shall be released to the host State in accordance with procedures appropriate to the host State's level of cooperation with the EU.

4. The SG/HR is authorised to release to third parties associated with this Joint Action EU non-classified documents related to the deliberations of the Council with regard to the operation, covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council Rules of Procedure.

Article 13

Status of staff of EUPOL PROXIMA

1. The status of EUPOL PROXIMA staff in the Former Yugoslav Republic of Macedonia, including the privileges, immunities and further guarantees necessary for the completion and smooth functioning of EUPOL PROXIMA is set out in the Agreement between the European Union and the former Yugoslav Republic of Macedonia on the status and activities of the European Union Police Mission in the former Yugoslav Republic of Macedonia (EUPOL 'Proxima'), concluded by Decision 2004/75/CFSP⁽¹⁾.

2. The State or Community institution having seconded a staff member shall be responsible for answering any claims linked to the secondment, from or concerning the staff member and for bringing any action against the secondee.

Article 14

Entry into force

This Joint Action shall enter into force on the date of its adoption.

It shall expire on 14 December 2005.

Article 15

Publication

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

Done at Brussels, 22 November 2004.

For the Council

The President

B. R. BOT

⁽¹⁾ OJ L 16, 23.1.2004, p. 65.

COUNCIL DECISION 2004/790/CFSP**of 22 November 2004****extending and amending Decision 2003/276/CFSP implementing Joint Action 2002/589/CFSP with a view to a European Union contribution to the destruction of ammunition for small arms and light weapons in Albania**

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

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

Article 1

Decision 2003/276/CFSP is hereby amended as follows:

Having regard to Council Joint Action 2002/589/CFSP of 12 July 2002 on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons⁽¹⁾, and in particular Article 6 thereof,

1. In Article 2(1), the financial reference amount 'EUR 820 000' shall be replaced by 'EUR 1 320 000'.
2. In Article 4(1) the second sentence shall be replaced by 'It shall expire on 31 December 2005'.

Whereas:

Article 2

This Decision shall take effect on 1 November 2004.

- (1) On 14 April 2003 the Council adopted Decision 2003/276/CFSP concerning a European Union contribution to the destruction of ammunition for small arms and light weapons in Albania⁽²⁾, which was aimed at implementing Joint Action 2002/589/CFSP and which made available EUR 820 000 for this purpose.

Article 3

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

- (2) Some objectives could not be fulfilled by 31 October 2004, the date on which Council Decision 2003/276/CFSP expires, and others should be consolidated and expanded after that date. The project in question is a multi-annual project lasting four years.

Done at Brussels, 22 November 2004.

- (3) Decision 2003/276/CFSP should therefore be extended and amended,

For the Council

The President

B. R. BOT

⁽¹⁾ OJ L 191, 19.7.2002, p. 1.

⁽²⁾ OJ L 99, 17.4.2003, p. 60.

COUNCIL DECISION 2004/791/CFSP

of 22 November 2004

extending and amending Decision 2002/842/CFSP implementing Joint Action 2002/589/CFSP with a view to a European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons in South East Europe

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to Joint Action 2002/589/CFSP⁽¹⁾ and in particular Article 6 thereof, in conjunction with the second indent of Article 23(2) of the Treaty on European Union,

Whereas:

- (1) On 21 October 2002 the Council adopted Decision 2002/842/CFSP⁽²⁾ concerning a European Union contribution to combating the destabilising accumulation and spread of small arms and light weapons in South East Europe, which was aimed at implementing Joint Action 2002/589/CFSP and which made available EUR 200 000 for this purpose.
- (2) Some objectives could not be fulfilled by 31 December 2004, the date on which Decision 2002/842/CFSP expires, and others should be consolidated and expanded after that date. The project in question is a multi-annual project.
- (3) Decision 2002/842/CFSP should therefore be extended and amended,

Article 1

Decision 2002/842/CFSP is hereby amended as follows:

1. In Article 2(1), the financial reference amount 'EUR 300 000' shall be replaced by 'EUR 330 000';
2. In Article 4(1), the second sentence shall be replaced by the sentence 'It shall expire on 31 December 2005'.

Article 2

This Decision shall take effect on the day of its adoption.

*Article 3*This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 22 November 2004.

*For the Council**The President*

B. R. BOT

⁽¹⁾ OJ L 191, 19.7.2002, p. 1.

⁽²⁾ OJ L 289, 26.10.2002, p. 1. Decision amended by Decision 2003/807/CFSP (OJ L 302, 20.11.2003, p. 39).

COUNCIL DECISION 2004/792/CFSP**of 22 November 2004****extending and amending Decision 1999/730/CFSP implementing Joint Action 1999/34/CFSP with a view to a European Union contribution to combating the destabilising accumulation and spread of small arms and light weapons in Cambodia**

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

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

Article 1

Decision 1999/730/CFSP is hereby amended as follows:

Having regard to Council Joint Action 1999/34/CFSP of 17 December 1998 on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons⁽¹⁾, and in particular Article 6 thereof,

1. in Article 3(1), the financial reference amount 'EUR 1 436 953' shall be replaced by 'EUR 1 375 565';
2. in Article 4 second subparagraph, '15 November 2004' shall be replaced by '15 November 2005'.

Whereas:

Article 2

This decision shall take effect on 16 November 2004.

Article 3

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

Done at Brussels, 22 November 2004.

- (1) On 15 November 1999 the Council adopted Decision 1999/730/CFSP concerning a European Union contribution to combating the destabilising accumulation and spread of small arms and light weapons in Cambodia⁽²⁾ which was aimed at implementing Joint Action 1999/34/CFSP.
- (2) Some objectives could not be fulfilled by 15 November 2004, the date on which Decision 1999/730/CFSP expires, and others should be consolidated and expanded after that date. The project in question is a multi-annual project.
- (3) Decision 1999/730/CFSP should therefore be extended and amended,

For the Council

The President

B. R. BOT

⁽¹⁾ OJ L 9, 15.1.1999, p. 1.

⁽²⁾ OJ L 294, 16.11.1999, p. 5.

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