

Official Journal

of the European Union

L 360

English edition

Legislation

Volume 47

7 December 2004

Contents

I Acts whose publication is obligatory

Commission Regulation (EC) No 2078/2004 of 6 December 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables 1

★ Commission Regulation (EC) No 2079/2004 of 6 December 2004 fixing the adjustment coefficients to be applied to the specific reference quantities of traditional operators and to the specific allocations of non-traditional operators for the purposes of the additional quantity in respect of banana imports to the new Member States for 2005 3

★ Commission Regulation (EC) No 2080/2004 of 6 December 2004 adapting Regulation (EC) No 2298/2001 laying down detailed rules for the export of products supplied as food aid, on account of the accession to the European Union of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia 4

★ Commission Regulation (EC) No 2081/2004 of 6 December 2004 laying down rules for the communication of the information necessary for implementing Council Regulation (EEC) No 2358/71 on the common organisation of the market in seeds 6

★ Commission Regulation (EC) No 2082/2004 of 6 December 2004 amending Regulation (EC) No 216/96 laying down the rules of procedure of the Boards of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) 8

★ Commission Regulation (EC) No 2083/2004 of 6 December 2004 amending Regulations (EC) No 1432/94 and 1458/2003 laying down detailed rules for the application of the system of import licences in the pigmeat sector 12

★ Commission Regulation (EC) No 2084/2004 of 6 December 2004 derogating from Regulation (EEC) No 2837/93 as regards the period for paying the aid to maintain olive groves in traditional olive-growing areas in the smaller Aegean islands 19

(Continued overleaf)

Commission Regulation (EC) No 2085/2004 of 6 December 2004 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip	20
--	----

II Acts whose publication is not obligatory

Commission

2004/834/EC:

- ★ **Commission Decision of 7 May 2004 on the scheme of aid which Spain intends to grant to certain olive oil producer organisations** (notified under document number C(2004) 1630) 22

2004/835/EC:

- ★ **Commission Decision of 3 December 2004 approving plans for the approval of establishments for the purposes of intra-Community trade in poultry and hatching eggs** (notified under document number C(2004) 4544) ⁽¹⁾ 28

2004/836/EC:

- ★ **Commission Decision of 6 December 2004 amending and correcting Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt** (notified under document number C(2004) 4602) 30

Acts adopted under Title V of the Treaty on European Union

- ★ **Council Decision 2004/837/CFSP of 6 December 2004 concerning the implementation of Joint Action 2002/210/CFSP on the European Union Police Mission** 32

Corrigenda

- ★ **Corrigendum to Commission Regulation (EC) No 2286/2003 of 18 December 2003 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 343, 31.12.2003)** 33



⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2078/2004
of 6 December 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 7 December 2004.

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

Done at Brussels, 6 December 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 6 December 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	93,6
	204	102,1
	999	97,9
0707 00 05	052	83,1
	204	32,5
	999	57,8
0709 90 70	052	105,0
	204	69,9
	999	87,5
0805 10 10, 0805 10 30, 0805 10 50	204	35,9
	388	48,1
	999	42,0
0805 20 10	204	49,0
	999	49,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	74,4
	204	55,3
	464	161,3
	624	80,4
	720	30,1
	999	80,3
0805 50 10	052	38,2
	528	34,1
	999	36,2
0808 10 20, 0808 10 50, 0808 10 90	052	90,5
	388	138,0
	400	93,4
	404	90,1
	512	104,5
	720	80,1
	999	99,4
0808 20 50	720	66,4
	999	66,4

⁽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 2079/2004

of 6 December 2004

fixing the adjustment coefficients to be applied to the specific reference quantities of traditional operators and to the specific allocations of non-traditional operators for the purposes of the additional quantity in respect of banana imports to the new Member States for 2005

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1892/2004 of 29 October 2004 on transitional measures for imports of bananas into the Community by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia⁽¹⁾, and in particular Articles 5(4) and 6(5) thereof,

Whereas:

- (1) Regulation (EC) No 1892/2004 fixes at 460 000 tonnes the additional quantity available for imports of bananas into the new Member States in 2005, at a rate of 381 800 tonnes for traditional operators and 78 200 tonnes for non-traditional operators.
- (2) In accordance with Articles 5 and 6 of the abovementioned Regulation, the adjustment coefficients needed for the competent national authorities to determine the specific reference quantities of traditional operators and the specific allocations for non-traditional operators for 2005 should be fixed.
- (3) In the light of the national authorities' notifications, the sum total of the specific reference quantities of traditional operators amounts to 579 810,262 tonnes; the total of the applications for a specific allocation made by non-traditional operators amounts to 365 777,714 tonnes.

- (4) The adjustment coefficients mentioned above must therefore be set in the light of the additional quantities and the Member States' notifications. So that the operators can submit licence applications in time, this Regulation must enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of the available additional quantity for imports of bananas into the new Member States in 2005 as laid down in Article 3 of Regulation (EC) No 1892/2004:

- (a) the adjustment coefficient to be applied to the specific reference quantity of each traditional operator as referred to in Article 5(4) of the abovementioned Regulation shall be 0,65849;
- (b) the adjustment coefficient to be applied to the application for a specific allocation made by each non-traditional operator as referred to in Article 6(5) shall be 0,21379.

Article 2

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

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

Done at Brussels, 6 December 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 328, 30.10.2004, p. 50.

COMMISSION REGULATION (EC) No 2080/2004

of 6 December 2004

adapting Regulation (EC) No 2298/2001 laying down detailed rules for the export of products supplied as food aid, on account of the accession to the European Union of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular Article 57(2) thereof,

Whereas:

(1) In view of the accession to the Community of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (hereinafter referred to as the new Member States), Commission Regulation (EC) No 2298/2001⁽¹⁾ should be adapted and provision should be made for certain entries in the languages of the new Member States.

(2) Regulation (EC) No 2298/2001 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3(3) of Regulation (EC) No 2298/2001 is hereby replaced by the following:

‘3. In the document used to apply for the refund as referred to in Article 5(4) of Regulation (EC) No 800/1999 and in addition to the requirements of Article 16 of Regulation (EC) No 1291/2000, in box 20 of the application for licences and the export licence itself, one of the following entries shall be included:

— Ayuda alimentaria comunitaria — Accion n° .../... o Ayuda alimentaria nacional

— Potravinová pomoc Společenství – akce č. .../... nebo vnitrostátní potravinová pomoc

— Fællesskabets fødevarehjælp — Aktion nr. .../... eller National fødevarehjælp

— Gemeinschaftliche Nahrungsmittelhilfe — Maßnahme Nr. .../... oder Nationale Nahrungsmittelhilfe

— Ühenduse toiduabi – programm nr .../... või siseriiklik toiduabi

— Κοινωνική επισιτιστική βοήθεια — Δράση αριθ. .../... ή εθνική επισιτιστική βοήθεια

— Community food aid — Action No .../... or National food aid

— Aide alimentaire communautaire — Action n° .../... ou Aide alimentaire nationale

— Aiuto alimentare comunitario — Azione n. .../... o Aiuto alimentare nazionale

— Kopienas pārtikas atbalsts – Pasākums Nr. .../... vai Valsts pārtikas atbalsts

— Bendrijos pagalba maisto produktais – Priemonė Nr. .../... arba Nacionalinė pagalba maisto produktais

— Közösségi élelmiszersegély – ... számú intézkedés/... vagy Nemzeti élelmiszersegély

— Ghajnuna alimentari komuni – Azzjoni nru .../... jew Ghajnuna alimentari nazzjonali

— Communautaire voedselhulp — Actie nr. .../... of Nationale voedselhulp

— Wspólnotowa pomoc żywnościowa — Działanie nr .../... lub Krajowa pomoc żywnościowa

— Ajuda alimentar comunitária — Acção n.º .../... ou Ajuda alimentar nacional

— Potravinová pomoc Spoločenstva – Akcia č. .../... alebo Národná potravinová pomoc

⁽¹⁾ OJ L 308, 27.11.2001, p. 16. Regulation as amended by Regulation (EC) No 688/2004 (OJ L 106, 15.4.2004, p. 15).

— Pomoč Skupnosti v hrani – Akcija št. .../... ali državna pomoč v hrani

indicated in box 7 of both the licence application and the licence.'

— Yhteisön elintarvikeapu – Toimi nro .../... tai kansallinen elintarvikeapu

Article 2

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

— Livsmedelsbistånd från gemenskapen – Aktion nr .../.... eller Nationellt livsmedelsbistånd.

It shall apply from 1 May 2004. However, it shall not affect the validity of the documents referred to in Article 3(3) of Regulation (EC) No 2298/2001 issued between 1 May 2004 and the date of entry into force of this Regulation.

The action number to be indicated is that specified in the tender notice. In addition, the country of destination shall be

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

Done at Brussels, 6 December 2004.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

COMMISSION REGULATION (EC) No 2081/2004**of 6 December 2004****laying down rules for the communication of the information necessary for implementing Council Regulation (EEC) No 2358/71 on the common organisation of the market in seeds**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2358/71 of 26 October 1971 on the common organisation of the market in seeds⁽¹⁾, and in particular Articles 4(2) and 9 thereof,

Whereas:

- (1) In the light of the reform of the seed sector introduced by Council Regulation (EC) No 1782/2003⁽²⁾, the required information to be communicated to the Commission by the Member States pursuant to Article 9 of Regulation (EEC) No 2358/71 needs to be reviewed and simplified. Moreover, Commission Regulation (EEC) No 3083/73 of 14 November 1973 on the communication of the information necessary for implementing Regulation (EEC) No 2358/71 on the common organisation of the market in seeds⁽³⁾ has been amended several times. For the sake of clarity it is necessary to replace that Regulation by a new text. Regulation (EEC) No 3083/73 should therefore be repealed.
- (2) Given the changed situation of the market for hybrid maize and sorghum for sowing, it is no longer necessary to be able to monitor continuously trade patterns with third countries. Hybrid maize and

sorghum for sowing should no longer be subject to the system of import licences under Article 4(1) of Regulation (EEC) No 2358/71. It is therefore appropriate to repeal Commission Regulation (EEC) No 1117/79 of 6 June 1979 specifying the products in the seeds sector to be subject to the system of import licences⁽⁴⁾ and to no longer provide for the corresponding data communication.

- (3) The Management Committee for seeds has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Member States shall communicate to the Commission by electronic transmission, for each species and group of varieties set out in the Annex to Regulation (EEC) No 2358/71, the information listed in the Annex to this Regulation by the dates specified therein.

Article 2

Regulation (EEC) No 3083/73 and Regulation (EEC) No 1117/79 are repealed.

Article 3

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

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

Done at Brussels, 6 December 2004.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 246, 5.11.1971, p. 1. Regulation last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

⁽²⁾ OJ L 270, 21.10.2003, p. 1. Regulation last amended by Regulation (EC) No 864/2004 (OJ L 161, 30.4.2004, p. 48).

⁽³⁾ OJ L 314, 15.11.1973, p. 20. Regulation last amended by Regulation (EEC) No 1679/92 (OJ L 176, 30.6.1992, p. 17).

⁽⁴⁾ OJ L 139, 7.6.1979, p. 11. Regulation last amended by Regulation (EEC) No 2811/86 (OJ L 260, 12.9.1986, p. 8).

ANNEX

No	Nature of information (by species and group of variety)	Date by which the information must be supplied	
		Year of harvest	Calendar year following harvest
1	Total area entered for certification (in ha)	1 July ⁽¹⁾	
2	Total area accepted for certification (in ha)	15 November	
3	Estimated harvest (in 100 kg) ⁽²⁾ ⁽³⁾	15 November	
4	Total quantities harvested (in 100 kg) ⁽³⁾ ⁽⁴⁾		1 October
5	Net farm-gate selling prices received by grower (in EUR/100 kg) ⁽³⁾ ⁽⁴⁾ ⁽⁵⁾ ⁽⁷⁾		1 October
6	Stocks held by wholesalers at end of marketing year (in 100 kg) ⁽⁴⁾ ⁽⁶⁾		1 October

⁽¹⁾ In the case of species of seed harvested on the second moving, the relevant date is 1 September of the year of harvest.

⁽²⁾ These data apply only to basic and certified seed.

⁽³⁾ Figures for quantities to relate to seed satisfying 'certification requirement'; for items 4 and 6 the requirements applied may be those relating to acceptance for certification.

⁽⁴⁾ For species which may be marketed within the Community, as 'commercial' seed, data shall be given separately in respect of:
— basic seed and certified seed,
— commercial seed.

⁽⁵⁾ Costs of preparation for marketing, certification and transport charges, VAT and sums received in respect of aid are not included in this price.

⁽⁶⁾ Marketing year as specified in Article 2 of Regulation (EEC) No 2358/71 (OJ L 246, 5.11.1971, p. 1).

⁽⁷⁾ In Member States outside the euro zone, the conversion rate to apply is that applying on 1 August of the marketing year.

COMMISSION REGULATION (EC) No 2082/2004**of 6 December 2004****amending Regulation (EC) No 216/96 laying down the rules of procedure of the Boards of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Regulation (EC) No 216/96 is amended as follows:

Having regard to Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark⁽¹⁾, and in particular Article 157(3) thereof,

1. Article 1 is replaced by the following:

Whereas:

*'Article 1***Presidium of the Boards of Appeal**

(1) Regulation (EC) No 422/2004 amended Regulation (EC) No 40/94 with regard, *inter alia*, to the organisation and procedures of the Boards of Appeal provided for in Articles 130 and 131.

1. The authority referred to in Articles 130 and 131 of the Regulation shall be the Presidium of the Boards of Appeal (referred to hereinafter as 'the Presidium').

(2) Regulation (EC) No 422/2004 introduced, *inter alia*, the new post of President of the Boards of Appeal, created an enlarged Board of Appeal and laid down that, under certain conditions, decisions of the Boards of Appeal may be taken by a single member. It is therefore necessary to set out in detail the powers of the President of the Boards of Appeal, the composition and powers of the Boards of Appeal, the allocation of cases to the Boards of Appeal and the composition of the enlarged Board, cases to be referred to the enlarged Board and cases to be decided by a single member.

2. The Presidium shall comprise the President of the Boards of Appeal, who shall chair it, the chairmen of the Boards and Board members elected for each calendar year by and from among all the members of the Boards other than the President of the Boards of Appeal and the chairmen of the Boards. The number of Board members so elected shall be a quarter of the number of Board members, other than the President of the Boards of Appeal and the chairmen of the Boards, rounded up if necessary.

(3) The practical operation of the Boards of Appeal has shown the need to make certain changes to their organisation and procedures, including changes to the role of the Registry and certain procedural aspects. Centralisation of the Registry and revision of its powers, and rules on exchanges of submissions between parties, are designed to ensure greater efficiency in the handling of cases by the Boards of Appeal. In order not to interfere with proceedings already pending when this Regulation enters into force, a transitional period must be provided for with respect to the exchange of submissions by the parties.

3. If the President of the Boards of Appeal is unable to act or if the post of President is vacant, the Presidium shall be chaired by:

(a) the chairman of the Board having the longest service on the Boards of Appeal; or

(b) where chairmen have the same length of service, by the eldest of those qualifying under the preceding subparagraph.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Committee on fees, Implementation Rules and the Procedure of the Boards of Appeal of the Office for Harmonization in the Internal Market (trade mark and designs),

4. The Presidium may validly deliberate only if at least two-thirds of its members are present, including its chairman and two Board chairmen. Decisions of the Presidium shall be taken by a majority vote. In the event of a tie, the vote of the chairman shall be decisive.

⁽¹⁾ OJ L 11, 14.1.1994, p. 1. Regulation as last amended by Regulation (EC) No 422/2004 (OJ L 70, 9.3.2004, p. 1).

5. Before the beginning of each calendar year, and without prejudice to Article 1(b), the Presidium shall decide on objective criteria for allocating cases among the Boards for the calendar year in question and shall designate the full and alternate members of each of the Boards for that year. Each member of the Boards of Appeal may be assigned to several Boards as a full or alternate member. These measures may be modified, as necessary, in the course of the calendar year in question. Decisions adopted by the Presidium pursuant to this paragraph shall be published in the Official Journal of the Office.

6. The Presidium shall also be competent to:

- (a) lay down such rules of a procedural nature as are necessary for the processing of cases brought before the Boards and such rules as are necessary on the organisation of the Boards' work;
- (b) rule on any conflict concerning the allocation of cases among the Boards of Appeal;
- (c) lay down its internal rules;
- (d) lay down practical instructions of a procedural nature for parties involved in proceedings before the Boards of Appeal, for example, with regard to the submission of written statements and to oral proceedings;
- (e) exercise any other powers as are conferred to it by the present Regulation.

7. The President of the Boards of Appeal shall consult the Presidium on the expenditure requirements of the Boards, which he shall communicate to the President of the Office with a view to drawing up the expenditure estimates and where he considers it appropriate, on any other question relating to the management of the Boards of Appeal.'

2. Articles 1(a) to (d) are inserted as follows:

'Article 1(a)

Grand Board

1. The enlarged Board set up by Article 130(3) of the Regulation shall be the Grand Board.

2. The Grand Board shall comprise nine members, including the President of the Boards of Appeal, who shall chair it, the chairmen of the Boards, the rapporteur designated prior to referral to the Grand Board, if applicable, and members drawn in rotation from a list comprising the names of all members of the Boards of Appeal other than the President of the Boards of Appeal and the chairmen of the Boards.

The Presidium shall draw up the list referred to in the first paragraph and establish the rules according to which members are drawn from that list on the basis of objective criteria. The list and such rules shall be published in the

Official Journal of the Office. If a rapporteur has not been designated prior to referral to the Grand Board, the chairman of the Grand Board shall designate a rapporteur from among the members of the Grand Board.

3. If the President of the Boards of Appeal is unable to act or if the post of President is vacant, or in the event of exclusion or objection within the meaning of Article 132 of the Regulation, the Grand Board shall be chaired by:

- (a) the chairman having the longest service on the Boards of Appeal; or
- (b) where chairmen have the same length of service, by the eldest of those qualifying under the preceding subparagraph 4.

4. If another member of the Grand Board is unable to act or in the event of exclusion or objection within the meaning of Article 132 of the Regulation, he or she shall be replaced by the person highest on the list referred to in paragraph 2 of this Article.

5. The Grand Board may not hear cases and oral proceedings may not take place before it unless seven of its members are present, including its chairman and the rapporteur.

If the Grand Board hears a case in the presence of only eight of its members, the member with the least seniority in the Boards of Appeal shall not take part in the vote, unless that member is the chairman or the rapporteur, in which case the member with the next highest seniority to that of the chairman or rapporteur shall not vote.

Article 1(b)

Referral to the Grand Board

1. A Board may refer a case allocated to it to the Grand Board if it believes that this is justified by the legal difficulty or importance of the case or by special circumstances, for example, if Boards of Appeal have issued diverging decisions on a point of law raised by that case.

2. A Board shall refer a case allocated to it to the Grand Board if it believes that it must deviate from an interpretation of the relevant legislation given in an earlier decision of the Grand Board.

3. The Presidium may, on a proposal made by the President of the Boards of Appeal on his or her own initiative or at the request of a member of the Presidium, refer to the Grand Board a case allocated to a Board if it believes that this is justified by the legal difficulty or importance of the case or by special circumstances, for example, if Boards of Appeal have issued diverging decisions on a point of law raised by that case.

4. The Grand Board shall, without delay, refer the case back to the Board to which it was originally allocated if it believes that the conditions for the original referral are not met.

5. All decisions relating to referral to the Grand Board shall be reasoned and shall be communicated to the parties to the case.

Article 1(c)

Decisions by a single member

1. The Presidium shall draw up an indicative list of the types of cases which the Boards may, unless special circumstances apply, devolve to a single member, such as decisions closing the proceedings following agreement between the parties, and decisions on the award of costs and the admissibility of the appeal.

The Presidium may also draw up a list of the types of cases which may not be devolved to a single member.

2. A Board may delegate to its chairman the decision to allocate to a single member cases falling within the types of cases defined by the Presidium in accordance with paragraph 1.

3. The decision to devolve the case upon a single member shall be communicated to the parties.

The member to whom the case has been devolved shall refer it to the Board if he finds that the conditions for devolution are no longer met.

Article 1(d)

Referral of a case following a ruling of the Court of Justice

1. If, pursuant to Article 63(6) of the Regulation, the measures necessary to comply with a judgment of the Court of Justice annulling all or part of a decision of a Board of Appeal or of the Grand Board include re-examination by the Boards of Appeal of the case which was the subject of that decision, the Presidium shall decide if the case shall be referred to the Board which adopted that decision, or to another Board, or to the Grand Board.

2. If the case is referred to another Board, that Board shall not comprise members who were party to the contested decision. This provision shall not apply if the case is referred to the Grand Board.'

3. Article 4(3) is deleted and Article 4(4) is renumbered as Article 4(3).

4. Article 5 is replaced by the following:

'Article 5

Registry

1. A Registry shall be set up at the Boards of Appeal, and shall, *inter alia*, be responsible, under the authority of the President of the Boards of Appeal, for the receipt, dispatch, safekeeping and notification of all documents relating to the proceedings before the Boards of Appeal, and for compilation of the relevant files.

2. The Registry shall be headed by a Registrar. The President of the Boards of Appeal shall appoint a Registry agent who shall perform the tasks of the Registrar when the latter is absent or unable to act or if the post of Registrar is vacant.

3. The Registrar shall, in particular, ensure that the deadlines and other formal conditions relating to the presentation of the appeal and of the statement of grounds are respected.

If an irregularity is detected which is liable to make the appeal inadmissible, the Registrar shall, without delay, send a reasoned opinion to the chairman of the Board concerned.

4. The minutes of oral proceedings and of the taking of evidence shall be drawn up by the Registrar or, if the President of the Boards of Appeal agrees, by such agent of the Boards of Appeal as the chairman of the Board concerned may designate.

5. The President of the Boards of Appeal may delegate to the Registrar the task of allocating cases to the Boards of Appeal in accordance with allocation criteria laid down by the Presidium.

The Presidium may, upon a proposal by the President of the Boards of Appeal, delegate to the Registry other tasks relating to the conduct of proceedings before the Boards of Appeal.'

5. Article 8 is replaced by the following:

'Article 8

Procedure

1. If the Registrar sends the chairman of a Board of Appeal an opinion on the admissibility of an appeal in accordance with Article 5(3), second paragraph, the chairman of the Board in question may either suspend the proceedings and request the Board to rule on the admissibility of the appeal, or reserve judgement on the admissibility of the appeal for the decision to end the proceedings before the Board of Appeal.

2. In *inter partes* proceedings, and without prejudice to Article 61(2) of the Regulation, the statement setting out the grounds of appeal and the response to it may be supplemented by a reply from the appellant, lodged within two months of the notification of the response, and a rejoinder by the defendant, lodged within two months of notification of the reply.

3. In *inter partes* proceedings, the defendant may, in his or her response, seek a decision annulling or altering the contested decision on a point not raised in the appeal.

Such submissions shall cease to have effect should the appellant discontinue the proceedings.'

Article 2

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

The provisions of Article 8(2) and (3) of Regulation (EC) No 216/96, as amended by Article 1(5) of this Regulation, shall apply only to proceedings in respect of which the appeal was lodged after the entry into force of this Regulation.

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

Done at Brussels, 6 December 2004.

For the Commission

Charlie McCREEVY

Member of the Commission

COMMISSION REGULATION (EC) No 2083/2004**of 6 December 2004****amending Regulations (EC) No 1432/94 and 1458/2003 laying down detailed rules for the application of the system of import licences in the pigmeat sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat⁽¹⁾, and in particular Articles 8(2) and 11(1) thereof,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations⁽²⁾, and in particular Article 1 thereof,

Whereas:

- (1) In order to simplify the management of import quotas and enable them to be processed electronically, a reference consisting of the serial number of each quota should be provided for in Commission Regulation (EC) No 1432/94 of 22 June 1994 laying down detailed rules for the application in the pigmeat sector of the import arrangements provided for in Council Regulation (EC) No 774/94 opening and providing for the administration of certain Community tariff quotas for pigmeat and certain other agricultural products⁽³⁾, and in Commission Regulation (EC) No 1458/2003 of 18 August 2003 opening and providing for the administration of a tariff quota in the pigmeat sector⁽⁴⁾.

- (2) Regulations (EC) No 1432/94 and 1458/2003 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1432/94 is hereby amended as follows:

1. The first sentence of Article 3(b) is replaced by the following:
- ‘(b) Licence applications must mention the serial number, and may relate to products covered by the two different CN codes and originating in only one country.’
2. The Annexes are replaced by the text set out in Annex I hereto.

Article 2

Annexes I to IV to Regulation (EC) No 1458/2003 are replaced by the text set out in Annex II hereto.

Article 3

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

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

Done at Brussels, 6 December 2004.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 1. Regulation as last amended by Commission Regulation (EC) No 258/2004 (OJ L 44, 14.2.2004, p. 14).

⁽²⁾ OJ L 146, 20.6.1996, p. 1.

⁽³⁾ OJ L 156, 23.6.1994, p. 14. Regulation as last amended by Regulation (EC) No 1006/2001 (OJ L 140, 24.5.2001, p. 13).

⁽⁴⁾ OJ L 208, 19.8.2003, p. 3.

ANNEX I

'ANNEX I

CUSTOMS DUTY SET AT 0 %

(tonnes)

Serial No	CN code	From 1 January to 31 December
09.4046	0203 19 13 0203 29 15	7 000

ANNEX II

Application of Regulation (EC) No 1432/94

COMMISSION OF THE EUROPEAN COMMUNITIES — DG AGRI/D/2 — Pigmeat

Application for import licences with customs duty set at 0 %	Date	Period
Member State:		
Sender:		
Contact:		
Telephone:		
Fax:		

Send to: DG AGRI/D/2 — Fax (32-2) 298 87 94

Serial No	Quantity applied for
09.4046	

ANNEX III

Application of Regulation (EC) No 1432/94

COMMISSION OF THE EUROPEAN COMMUNITIES — DG AGRI/D/2 — Pigmeat

Application for import licences	Date	Period
Member State:		

Serial No	CN code	Applicant (name and address)	Quantity (tonnes)
09.4046			
		Total (tonnes) by product	

ANNEX IV

Communication of quantities actually imported

Member State:

Application of Article of Regulation (EC) No

Quantities of products actually imported:

To: DG AGRI/D/2 — Fax (32-2) 298 87 94

Serial No	Quantity actually imported	Country of origin'

ANNEX II

'ANNEX I

Serial No	Group	CN code	Description	Customs duties (EUR/tonne)	Quantity in tonnes from 1 July 2000
09.4038	G2	ex 0203 19 55 ex 0203 29 55	Boned loins and hams, fresh, chilled or frozen	250	34 000
09.4039	G3	ex 0203 19 55 ex 0203 29 55	Tenderloin, fresh, chilled or frozen	300	5 000
09.4071	G4	1601 00 91 1601 00 99	Sausages, dry or for spreading, uncooked Others	747 502	} 3 000
09.4072	G5	1602 41 10 1602 42 10 1602 49 11 1602 49 13 1602 49 15 1602 49 19 1602 49 30 1602 49 50	Other prepared or preserved meat, meat offal or blood	784 646 784 646 646 428 375 271	
09.4073	G6	0203 11 10 0203 21 10	Carcases and half-carcases, fresh, chilled or frozen	268	15 000
09.4074	G7	0203 12 11 0203 12 19 0203 19 11 0203 19 13 0203 19 15 ex 0203 19 55 0203 19 59 0203 22 11 0203 22 19 0203 29 11 0203 29 13 0203 29 15 ex 0203 29 55 0203 29 59	Cuts, fresh, chilled or frozen, boned and with bone in, excluding tenderloin, presented alone	389 300 300 434 233 434 434 389 300 300 434 233 434 434	} 5 500

ANNEX II

Application of Regulation (EC) No 1458/2003 — GATT imports

COMMISSION OF THE EUROPEAN COMMUNITIES — DG AGRI/D/2 — Pigmeat

Application for import licences	Date	Period
Member State:		
Sender:		
Contact:		
Telephone:		
Fax:		

Send to: DG AGRI/D/2 — Fax (32-2) 298 87 94

Serial No	Group No	Quantity applied for
09.4038	G2	
09.4039	G3	
09.4071	G4	
09.4072	G5	
09.4073	G6	
09.4074	G7	

ANNEX III

Application of Regulation (EC) No 1458/2003 — GATT imports

COMMISSION OF THE EUROPEAN COMMUNITIES — DG AGRI/D/2 — Pigmeat

Application for import licences			Date	Period
Member State:				

(tonnes)					
Serial No	Group No	CN code	Applicant (name and address)	Quantity	Country of origin
09.4038	G2				
			Total		

(tonnes)					
Serial No	Group No	CN code	Applicant (name and address)	Quantity	Country of origin
09.4039	G3				
			Total		

(tonnes)					
Serial No	Group No	CN code	Applicant (name and address)	Quantity	Country of origin
09.4071	G4				
			Total		

(tonnes)					
Serial No	Group No	CN code	Applicant (name and address)	Quantity	Country of origin
09.4072	G5				
			Total		

(tonnes)					
Serial No	Group No	CN code	Applicant (name and address)	Quantity	Country of origin
09.4073	G6				
			Total		

(tonnes)					
Serial No	Group No	CN code	Applicant (name and address)	Quantity	Country of origin
09.4074	G7				
			Total		

ANNEX IV

Communication of quantities actually imported

Member State:

Application of Article of Regulation (EC) No

Quantities of products actually imported:

To: DG AGRI/D/2 — Fax (32-2) 298 87 94

Serial No	Quantity actually imported	Country of origin'

COMMISSION REGULATION (EC) No 2084/2004**of 6 December 2004****derogating from Regulation (EEC) No 2837/93 as regards the period for paying the aid to maintain olive groves in traditional olive-growing areas in the smaller Aegean islands**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2019/93 of 19 July 1993 introducing specific measures for the smaller Aegean islands concerning certain agricultural products⁽¹⁾, and in particular Article 11(2) thereof,

Whereas:

- (1) The third subparagraph of Article 2(1) of Commission Regulation (EEC) No 2837/93 of 18 October 1993 laying down detailed rules for the application of Council Regulation (EEC) No 2019/93 with regard to the maintenance of olive groves in traditional olive-growing areas⁽²⁾ provides that the flat-rate aid per hectare to maintain olive groves in traditional olive-growing areas in the smaller Aegean islands is to be paid out during the period 16 October to 30 November each year.
- (2) In the Aegean islands, the aid might be paid using software covering the entire region concerned. This software was introduced in a pilot project in 2003 and now needs to be adjusted. For 2004, therefore, Greece

should be allowed to extend the period for payment of the flat-rate aid per hectare from 16 October 2004 until 31 January 2005 instead of 16 November as in other years.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Oils and Fats,

HAS ADOPTED THIS REGULATION:

Article 1

As an exception to the third subparagraph of Article 2(1) of Regulation (EEC) No 2837/93, Greece is hereby authorised, for 2004, to pay the flat-rate aid per hectare to maintain olive groves as provided for in Article 11(1) of Regulation (EEC) No 2019/93 from 16 October 2004 until 31 January 2005.

Article 2

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 Brussels, 6 December 2004.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 184, 27.7.1993, p. 1. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

⁽²⁾ OJ L 260, 19.10.1993, p. 5. Regulation as last amended by Regulation (EC) No 2384/2002 (OJ L 358, 31.12.2002, p. 124).

COMMISSION REGULATION (EC) No 2085/2004

of 6 December 2004

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 7 December 2004.

It shall apply from 8 to 21 December 2004.

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

Done at Brussels, 6 December 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture
and Rural Development*

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

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

ANNEX

to the Commission Regulation of 6 December 2004 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

(EUR/100 pieces)

Period: from 8 to 21 December 2004

Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	13,95	11,08	32,33	14,78
Community import prices	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
Israel	—	—	—	—
Morocco	—	—	—	—
Cyprus	—	—	—	—
Jordan	—	—	—	—
West Bank and Gaza Strip	9,81	—	—	—

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 7 May 2004

on the scheme of aid which Spain intends to grant to certain olive oil producer organisations

(notified under document number C(2004) 1630)

(Only the Spanish text is authentic)

(2004/834/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having given the parties concerned notice to submit their comments pursuant to that Article⁽¹⁾, and having regard to those comments,

Whereas:

I. PROCEDURE

- (1) By letter dated 5 June 2001, the Spanish authorities notified the Commission of the aid to olive oil producer organisations set out in the decision to initiate proceedings, as provided for in Article 88(3) of the Treaty.
- (2) By faxes dated 28 June and 12 September 2001 and 29 January and 29 April 2002, the Commission requested further information, which was sent by letters dated 27 July 2001 and 17 January, 4 March and 12 June 2002. In their letter dated 12 June 2002, the Spanish authorities stated that the information supplied was complete and sufficient and asked the Commission to adopt a decision on compatibility as soon as possible.
- (3) By letter dated 17 July 2002, the Commission informed Spain of its decision to initiate the procedure laid down in Article 88(2) of the Treaty concerning this aid scheme.
- (4) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽²⁾. The Commission invited interested parties to submit their comments on the aid in question.

- (5) By letter dated 24 September 2002 Spain submitted a series of comments.

- (6) The Commission has received comments on the aid from the interested parties. It sent those comments to Spain so that it could comment on them.

II. DETAILED DESCRIPTION OF THE AID

- (7) Name, scheme: scheme of aid to olive oil producer organisations.
- (8) Budget: for 2001, ESP 20 million (EUR 120 200).
- (9) Duration: indefinite.
- (10) Beneficiaries: four olive oil producer organisations in Extremadura.
- (11) Purpose of the aid: to help these organisations to undertake the management of olive oil production aid.
- (12) Possible impact of the aid: distortion of competition, encouragement for certain olive oil producers and violation of the provisions of the corresponding market organisation.
- (13) Intensity of the aid, eligible costs, cumulation: between ESP 1 500 and ESP 2 000 per application forwarded by the organisation.

⁽¹⁾ OJ C 222, 18.9.2002, p. 18.

⁽²⁾ See footnote 1.

- (14) The reasons why the procedure was initiated are described below:
- (15) The draft regional decree notified provides for aid to be granted to olive oil producer organisations which undertake the management and inspection of production aid for olive oil and table olives; the aid is in the form of a grant calculated on the basis of the number of aid applications forwarded. These organisations undertake administrative work and are not concerned with the marketing of the oil.
- (16) According to the Spanish authorities, the beneficiaries are four organisations with a total of 11 500 producers. These organisations are recognised in accordance with Council Regulation No 136/66/EEC establishing a common organisation of the market in oils and fats⁽¹⁾.
- (17) The aid for the first 1 200 applications processed is ESP 1 500 (EUR 9,02), a figure which may be increased, if the number of applications processed is greater than in the previous year, to ESP 1 600 (EUR 9,62) and ESP 2 000 (EUR 12,02) per application. If the number of applications exceeds 1 200, the aid is ESP 2 000 (EUR 12,02) per application.
- (18) The financing of these organisations is governed by Article 20d of Regulation No 136/66/EEC, which allows 0,8 % of the production aid to be paid to recognised organisations and associations to help finance expenditure incurred by their activities as a whole.
- (19) According to the Spanish authorities, the region of Extremadura currently does not pay the full 0,8 % to the organisations but only pays about 0,6 %. This is due to two factors:
- The first is the enormous difference in the allocation of the 0,8 % advance between the organisations and the associations of organisations, specifically under Commission Regulation (EC) No 647/2001⁽²⁾ fixing, for the 2000/2001 marketing year, the amounts provided for in Article 21(1)(a) and (b) of Regulation (EC) No 2366/98 laying down rules for the application of the aid scheme for the 1998/99, 1999/2000 and 2000/2001 marketing years⁽³⁾. That difference is EUR 2 per aid application in favour of the associations. Spain is the only country in the Community where the associations enjoy this advantage.
 - The second factor is the subsequent allocation of the balance of the 0,8 %, using a different criterion, to the number of applications transmitted by each organisation, creating differences between regions.
- (20) According to the Spanish authorities, the olive oil producer organisations are an effective means of managing production aid but in the region of Extremadura most applications for aid are made on an individual basis; the aid analysed will allow the number of organisations and the number of members of existing organisations to increase.
- (21) The duration of the aid scheme is indefinite and the budget for 2001 is ESP 20 million (EUR 120 200).
- (22) In initiating the procedure, the Commission had regard to the following:
- (23) Article 20d of Regulation No 136/66/EEC allows 0,8 % of the amount of the production aid to be paid to recognised organisations and associations to help finance expenditure incurred by their activities as a whole. Furthermore, Article 11(2) of Council Regulation (EEC) No 2261/84 laying down general rules on the granting of aid for the production of olive oil and of aid to olive oil producer organisations⁽⁴⁾ requires the producer Member States to ensure that the sums made over to the associations and to producer organisations are used by them only for financing the activities for which they are responsible under Community legislation, including the submission of aid applications on behalf of their members. Article 11(3) states that if sums are not used, in whole or in part, as specified in paragraph 2, they must be repaid to the Member States concerned and shall be deducted from the expenditure financed by the European Agricultural Guidance and Guarantee Fund.
- (24) The granting of State aid to producer organisations, over and above the aid allowed under Community rules, is not allowed under those rules and could cause market distortions and possible discrimination against other producers in the Community. The producer organisations which undertake the management of aid receive two types of aid: Community aid plus State aid on top. The management of production aid may be considered to confer an advantage on producers forming part of the organisations receiving this aid as compared with producers not forming part of an organisation or forming part of other organisations not receiving State aid. This would be the case in particular if the total amount of the aid received exceeded the cost of managing the aid and the surplus went to the producers or to activities which benefited them. Furthermore, the producers or organisations which do not benefit from State aid could be obliged to bear part of the cost of managing the applications for aid, which those producers forming part of organisations receiving aid would not have to do.

⁽¹⁾ OJ L 172, 30.9.1966, p. 3025/66. Regulation last amended by the 2003 Act of Accession.

⁽²⁾ OJ L 91, 31.3.2001, p. 44.

⁽³⁾ OJ L 293, 31.10.1998, p. 50. Regulation last amended by Regulation (EC) No 1780/2003 (OJ L 260, 11.10.2003, p. 6).

⁽⁴⁾ OJ L 208, 3.8.1984, p. 3. Regulation last amended by Regulation (EC) No 1639/98. (OJ L 210, 28.7.1998, p. 38).

(25) Since the Spanish authorities, in their letter dated 12 June 2002, considered the information supplied to be complete and sufficient and asked the Commission to adopt a decision on its compatibility as soon as possible, the Commission had to take its decision on the basis of the information available.

(26) On that basis, the Commission considered that the aid planned appeared to be State aid intended to improve the financial situation of olive oil producer organisations, not contributing in any way to the development of the sector (point 3.5 of the Community Guidelines on State aids in the agricultural sector⁽¹⁾). Therefore, at this phase, this aid is regarded as operating aid, incompatible with the common market. This type of aid has no lasting effect on the development of the sector and its immediate effect disappears with the measure itself (see the judgment of the Court of First Instance in Case T-459/93, *Siemens SA v. Commission* ⁽²⁾). This aid results directly in an improvement in the opportunities for the production and marketing of the products by the operators concerned as compared with those not receiving comparable aid (in the same or in other countries).

(27) It also considered that this aid to olive oil producer organisations related to a product, olive oil, subject to a market organisation governed by Council Regulation No 136/66/EEC which is the exclusive competence of the Community and in whose operation the Member States have only a limited capacity to intervene. The Court of Justice of the European Communities has always held (see, *inter alia*, Case 177/78 *Pigs and Bacon Commission v. McCarren* ⁽³⁾) that market organisations must be considered to be complete and exhaustive systems which exclude any possibility of the Member States adopting measures which could establish exceptions or undermine them. This means that, at this phase, this aid should be regarded as an infringement of the market organisation and hence of Community rules.

(28) Accordingly, at the phase of initiating the procedure, the Commission considered that the aid in question seemed not to benefit from any of the exceptions in Article 87(3) of the Treaty and so decided to initiate against it the procedure under Article 88(2) of the Treaty; it asked Spain to submit its comments and provide information for the assessment of the aid.

III. COMMENTS BY SPAIN

(29) By letter dated 24 September 2002, Spain put forward the following arguments.

⁽¹⁾ OJ C 28, 1.2.2000, p. 2.

⁽²⁾ [1995] ECR II-1675.

⁽³⁾ [1979] ECR 2161.

(30) The aid in question was based on Regulations No 136/66/EEC, (EC) No 2366/98 and (EC) No 674/2001, constituting the market organisation, and so was compatible with Articles 87 and 88 of the Treaty.

(31) The draft Decree had not been published and so was not finalised.

IV. COMMENTS BY THE INTERESTED PARTIES

(32) The Organisation of olive oil producers in Extremadura (Opracolex) made comments as part of the procedure.

(33) The beneficiaries of this aid are four organisations which have, according to Opracolex, 11 500 producers as members. These organisations carry out administrative duties involving the management and inspection of production aid for olive oil and table olives.

(34) Opracolex considers that this aid does not fall under Article 87(1) of the Treaty, which requires beneficiaries to be undertakings, meaning bodies which carry out an economic activity so that measures which affect other types of beneficiary are excluded. The activity carried out by Opracolex in managing the inspection measures required for the granting of production aid under Community rules is not done for profit and is not one of the purposes of any form of economic activity. This activity cannot be regarded as a business activity and so falls outside the scope of Article 87 of the Treaty.

(35) The activities carried out by Opracolex do not distort competition or affect trade. They are activities which have no impact on the market and so cannot be regarded in any way as an aid likely to have an impact on trade between the Member States.

(36) The aid is intended solely for the administrative activities undertaken by the organisation, and there is no possibility of any surplus which could be used for production. The aid presupposes a benefit granted to offset the disadvantages existing in the region of Extremadura, such as the low level of infrastructure there, the level of education and training of the work force, etc. Hence it is an aid tending to benefit a particularly disadvantaged region.

- (37) It is highly improbable that the total amount of the aid received will exceed the cost of managing the aid. Opracolex provided a copy of the annual summaries of its income and expenditure in 1999, 2000 and 2001. They show that expenditure exceeded income and that the organisation relied basically on loans. In no circumstances did the aid generate a surplus which could be shared among the producers who were members of Opracolex. The difference between income and expenditure is borne by the members, who pay annual contributions, which means a reduction in their income.

Without aid it could not continue, so depriving its members of the management of aid which it now offers them,

- as regards Opracolex, this aid would have a lasting effect as regards its members' situation since it would mean that Opracolex could continue to operate, so providing olive oil producers with support.

V. ASSESSMENT OF THE AID

Article 87(1) of the Treaty

(EUR)

	Balance for 1999	Balance for 2000	Balance for 2001
Aid retained from total production aid ⁽¹⁾	15 090,58	59 606,87	0
Expenditure on the management and operation of the organisation	136 819,32	193 868,87	172 423,29
Loans used	58 977,47	63 733,58	115 765,80

⁽¹⁾ Within the meaning of Article 20d of Regulation No 136/1966/EEC.

- (38) Furthermore, even if this aid were considered to fall under Article 87(1) of the Treaty, it could in any case, in Opracolex's view, be eligible for the exception provided for in Article 87(3)(a) of the Treaty as aid for the economic development of regions where the standard of living is abnormally low.

- (40) Under Article 87(1) of the Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, insofar as it affects trade between Member States, incompatible with the common market.

- (41) Articles 87 and 88 of the Treaty apply to all agricultural products under Annex I which are subject to a market organisation. Olive oil is such a product so Articles 87 and 88 of the Treaty apply to it.

- (42) The beneficiaries of this aid scheme are producer groups recognized within the meaning of Regulation No 136/66/EEC. These producer groups must, in conformity with Article 20(1)(c) of the Regulation:

- (39) In this respect, Extremadura considers itself a region to which Article 87(2)(a) of the Treaty ⁽¹⁾ could apply. This aid would contribute to the development of Extremadura for the following reasons:

'(a) consist of individual growers and/or organisations engaged in producing, processing or marketing olives and olive oil and consisting solely of olive growers;

- it would improve supervision of the approaches required to secure aid. Although this is not production aid, it helps improve the situation of olive oil producers in a particularly disadvantaged region by allowing them to secure cooperation for an important aspect of their activities, namely the management of aid,

(b) be capable of verifying the olive and olive-oil production of their members;

(c) where they do not belong to a recognized association be empowered to:

- Opracolex will benefit from economic aid which will allow it to cover at least some of its operating costs.

- submit an application for production aid on behalf of all their member growers,

- receive the aid and to share it out among their members;

⁽¹⁾ Map of State aids for regional purposes for 2000-06 (State aid No N 773/99, SG 2000 D/103727.cor).

- (d) where they belong to an association, be empowered to provide the association with a statement of the production of each member grower, for the purposes of the application for aid;
- (e) have a minimum number of members or represent a minimum percentage of growers or of oil production in the region in which they have been set up;
- (f) exercise no discrimination in any of their activities, between producers who are eligible to become members, in particular on grounds of nationality or location of establishment;
- (g) have statutes which include provisions to ensure that the members of a group who wish to withdraw from membership may do so [...].'
- (43) The activities developed by the organisations benefiting from these aids are detailed in the above mentioned Article 20c of Regulation No 136/1966/EEC. These activities consist in an administrative task of managing and inspecting Community olive oil production aid. These activities can only be executed by the producer groups recognised by each Member state within the meaning of the Regulation No 136/1966/EEC. For these reasons, it would not be possible for these activities, which include the inspection of producers, to be executed by other entities or by a producer group of another Member state.
- (44) The organisations receiving the aid submit the applications for production aid on behalf of the producers and verify the olive and olive-oil production of their members. These groups carry on this activity for the benefit of olive oil producers.
- (45) Opracolex, whose comments included a copy of the annual summaries of income and expenditure for 1999, 2000 and 2001, showed that expenditure exceeded income, that the organisation is basically dependent on loans and that the aid does not generate a surplus. The difference between income and expenditure is borne by the members who pay annual contributions. This aid therefore allows members' contributions to the organisation receiving aid to be reduced or even eliminated.
- (46) For these reasons, the real beneficiaries of this aid are producers who benefit from lower annual contributions. The funding by the state of services which reduce farmers' normal operating costs is an aid to the farmer (see judgment of 20 November 2003 of the Court of Justice in Case C-126/01, *Ministère de l'Economie, des Finances et de l'Industrie v GEMO SA* ⁽¹⁾).
- (47) The aid in question confers on its beneficiaries an advantage which reduces the normal burden on their budget. It is granted by the State or from State resources. It is specific or selective in that it favours certain undertakings or types of productions, specifically olive oil producers.
- (48) In the light of the experience acquired, the Commission considers that very low levels of aid granted in the agriculture sector do not fulfil the criteria of Article 87(1) of the Treaty, provided certain conditions are met. This is the case where both the amount of aid received by individual producers remains small, and the overall level of aid granted to the agriculture sector does not go above a small percentage of the value of production.
- (49) Agricultural production in the Community is normally characterised by the fact that a commodity is produced by a large number of very small producers, producing largely interchangeable goods within the framework of common organisations of the market. For this reason, the impact of small amounts of aid granted to individual producers over a given period of time should be related to the value of agricultural production at sector level over the same period of time.
- (50) Aid not exceeding a ceiling of EUR 3 000 per beneficiary over any period of three years, where the total amount of such aid granted to all enterprises over three years remains below a ceiling around 0,3 % of the agricultural output for 2001 (for Spain, EUR 106 755 000) does not affect trade between Member States and/or does not distort or threaten to distort competition and therefore does not fall under Article 87(1) of the Treaty
- (51) This conclusion would not apply to aid the amount of which is fixed on the basis of price or quantity of products put on the market, aid to export-related activities, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity and aid contingent upon the use of domestic over imported goods.
- (52) The total budget for the present scheme of aid is EUR 120 200 per year. As the number of producers who benefit from the scheme is said to be 11 500, the amount of aid per beneficiary and year is EUR 10,4.

(¹) Not yet published.

Conclusion

- (53) In view of the reduced amount of aid per beneficiary, its method of granting and the overall level of aid granted, the Commission considers that the aid in question does not fall within the scope of Article 87(1) of the Treaty.

notified does not constitute aid within the meaning of Article 87(1) of the Treaty.

Implementation of the aid is accordingly authorised.

VI. CONCLUSIONS

- (54) This aid does not constitute aid within the meaning of Article 87(1) of the Treaty,

Article 2

This Decision is addressed to the Kingdom of Spain.

HAS ADOPTED THIS DECISION:

Done at Brussels, 7 May 2004.

Article 1

The scheme of State aid which Spain intends to grant to olive oil producer organisations under the draft regional decree

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 3 December 2004

approving plans for the approval of establishments for the purposes of intra-Community trade in poultry and hatching eggs

(notified under document number C(2004) 4544)

(Text with EEA relevance)

(2004/835/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/539/EEC of 15 October 1990 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs⁽¹⁾, in particular Article 3(2) and (3),

Whereas:

- (1) Commission Decisions 92/139/EEC⁽²⁾, 92/140/EEC⁽³⁾, 92/141/EEC⁽⁴⁾, 92/281/EEC⁽⁵⁾, 92/282/EEC⁽⁶⁾, 92/283/EEC⁽⁷⁾, 92/342/EEC⁽⁸⁾, 92/344/EEC⁽⁹⁾, 92/345/EEC⁽¹⁰⁾, 92/379/EEC⁽¹¹⁾, 92/480/EEC⁽¹²⁾, 94/964/EC⁽¹³⁾ and 95/141/EC⁽¹⁴⁾ approve plans for establishments for the purposes of intra-Community trade in poultry and hatching eggs submitted by Denmark, Ireland, France, the United Kingdom, Portugal, the Netherlands, Germany, Greece, Spain, Belgium, Italy, Finland and Sweden.
- (2) In view of the developments in the poultry sector those Member States and Austria have been requested to update their plans and resubmit them to the Commission.
- (3) The Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia have submitted plans to the Commission for the approval of establishments for the purposes of intra-Community trade in poultry and hatching eggs.
- (4) Those plans fulfil the criteria laid down in Directive 90/539/EEC and subject to an effective implementation, permit the desired objective to be attained.

- (5) For the sake of clarity and consistency of Community legislation, the amended plans submitted by Member States and the plans submitted by the new Member States and by Austria should be approved.
- (6) Accordingly, Decisions 92/139/EEC, 92/140/EEC, 92/141/EEC, 92/281/EEC, 92/282/EEC, 92/283/EEC, 92/342/EEC, 92/344/EEC, 92/345/EEC, 92/379/EEC, 92/480/EEC, 94/964/EC and 95/141/EC should therefore be repealed and replaced by this Decision.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

The plans and the amended plans for the approval of establishments for the purposes of intra-Community trade in poultry and hatching eggs submitted by the Member States listed in the Annex are approved.

Article 2

Decisions 92/139/EEC, 92/140/EEC, 92/141/EEC, 92/281/EEC, 92/282/EEC, 92/283/EEC, 92/342/EEC, 92/344/EEC, 92/345/EEC, 92/379/EEC, 92/480/EEC, 94/964/EC and 95/141/EC are repealed.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 3 December 2004.

For the Commission

Markos KYPRIANOU

Member of the Commission

⁽¹⁾ OJ L 303, 31.10.1990, p. 6. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽²⁾ OJ L 58, 3.3.1992, p. 27.

⁽³⁾ OJ L 58, 3.3.1992, p. 28.

⁽⁴⁾ OJ L 58, 3.3.1992, p. 29.

⁽⁵⁾ OJ L 150, 2.6.1992, p. 23.

⁽⁶⁾ OJ L 150, 2.6.1992, p. 24.

⁽⁷⁾ OJ L 150, 2.6.1992, p. 25.

⁽⁸⁾ OJ L 188, 8.7.1992, p. 39.

⁽⁹⁾ OJ L 188, 8.7.1992, p. 41.

⁽¹⁰⁾ OJ L 188, 8.7.1992, p. 42.

⁽¹¹⁾ OJ L 198, 17.7.1992, p. 53.

⁽¹²⁾ OJ L 284, 29.9.1992, p. 27.

⁽¹³⁾ OJ L 371, 31.12.1994, p. 30.

⁽¹⁴⁾ OJ L 92, 25.4.1995, p. 25.

ANNEX

List of Member States referred to in Article 1

Code	Country
AT	Austria
BE	Belgium
CY	Cyprus
CZ	Czech Republic
DE	Germany
DK	Denmark
EE	Estonia
EL	Greece
ES	Spain
FI	Finland
FR	France
HU	Hungary
IE	Ireland
IT	Italy
LV	Latvia
LT	Lithuania
MT	Malta
NL	Netherlands
PL	Poland
PT	Portugal
SE	Sweden
SI	Slovenia
SK	Slovakia
UK	United Kingdom

COMMISSION DECISION

of 6 December 2004

amending and correcting Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt

(notified under document number C(2004) 4602)

(2004/836/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, and in particular Article 16(3) thereof,

Whereas:

(1) Under Commission Decision 2004/4/EC⁽²⁾, tubers of *Solanum tuberosum* L., originating in Egypt, must not in principle be introduced into the Community. However for the 2003/2004 import season the entry into the Community of such tubers is permitted from 'pest-free areas' and subject to specific conditions.

(2) During the 2003/2004 import season, a number of interceptions of *Pseudomonas solanacearum* (Smith) Smith were recorded and Egypt itself decided to ban all exports of Egyptian potatoes to the Community as of 9 April 2004.

(3) The situation was reassessed. Egypt informed the Commission that stringent measures are taken against producers, inspectors, exporters and packing stations which violate Egyptian instructions on the export of potatoes destined for the Community. Additional measures were taken with regard to the identification of the pest-free areas, the reduction of the period of validity of the Phytosanitary Certificate from 15 to 7 days, an increase of the number of inspectors, stricter rules on the labelling of bags and stringent rules on companies who want to export potatoes to the Community.

(4) In the light of the information provided by Egypt, the Commission has established that there is no risk of

spreading *Pseudomonas solanacearum* (Smith) Smith with the entry into the Community of tubers of *Solanum tuberosum* L. from pest-free areas of Egypt, provided that specific conditions are satisfied. The entry into the Community of tubers of *Solanum tuberosum* L., originating in Egypt, should therefore be permitted for the 2004/2005 import season.

(5) In addition, certain textual errors should be corrected.

(6) Decision 2004/4/EC should therefore be amended accordingly.

(7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2004/4/EC is amended as follows:

1. Article 2 is amended as follows:

(a) in paragraph 1, '2003/2004' is replaced by '2004/2005';

(b) in paragraph 2, '2003/04' is replaced by '2004/2005';

2. in Article 3, '2003/2004' is replaced by '2004/2005';

3. in Article 4, '30 August 2004' is replaced by '30 August 2005';

4. in Article 7, '30 September 2004' is replaced by '30 September 2005';

5. the Annex is amended as follows:

(a) in point 1(a), the words 'as established by the Commission' are deleted;

(b) in point 1(b)(iii), '2003/04' is replaced by '2004/2005';

⁽¹⁾ OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2004/102/EC (OJ L 309, 6.10.2004, p. 9).

⁽²⁾ OJ L 2, 6.1.2004, p. 50.

(c) in point 1(b)(iii), second indent, '1 January 2004' is replaced by '1 January 2005';

(d) point 1(b)(x) is replaced by:

'(x) clearly labelled on each bag which is sealed, under the control of the competent Egyptian authorities, with an indelible indication of the relevant official code number as given in the list of "approved pest-free areas" compiled under Article 2 of this Decision, and of the relevant lot number;'

(e) in point 1(b)(xii), '1 January 2004' is replaced by '1 January 2005';

(f) in point 5, second subparagraph, '2003/04' is replaced by '2004/2005'.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 6 December 2004.

For the Commission

Markos KYPRIANOU

Member of the Commission

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

COUNCIL DECISION 2004/837/CFSP
of 6 December 2004
concerning the implementation of Joint Action 2002/210/CFSP on the European Union Police Mission

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Joint Action 2002/210/CFSP of 11 March 2002 on the European Union Police Mission ⁽¹⁾, and in particular Article 9(1) thereof, in conjunction with the second indent of Article 23(2) of the Treaty on European Union,

Whereas the Council should decide on the final budget for the year 2005,

HAS DECIDED AS FOLLOWS:

Article 1

1. An amount of EUR 17 410 000 covering operational running costs of EUPM in 2005 shall be financed in common from the general budget of the European Union.
2. The management of the expenditure financed by the general budget of the European Union specified in paragraph 1 shall be subject to the procedures and rules of the Community applying to budget matters with the exception that any pre-financing shall not remain the property of the Community.

Article 2

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

Article 3

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

Done at Brussels, 6 December 2004.

For the Council
The President
H. HOOGERVORST

⁽¹⁾ OJ L 70, 13.3.2002, p. 1. Joint Action as last amended by Joint Action 2003/188/CFSP (OJ L 73, 19.3.2003, p. 9).

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 2286/2003 of 18 December 2003 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

(Official Journal of the European Union L 343 of 31 December 2003)

On page 3, Article 1(4):

for: '...following second paragraph ...'

read: '...following second subparagraph ...';

on page 78 in Annex IV, Annex 37, Title I, B, column 'G', box 2 in the form:

for: 'A'

read: 'B';

on page 83, under Title II, heading '**Box 2**', second paragraph:

for: '... in Article 206, third paragraph.',

read: '... in Article 206, third subparagraph.';

on page 96 in Annex 38, heading '**Box 1: Declaration**', first and third subdivisions:

the colon after the codes shall be deleted;

on page 98, Box 14(a):

the full stop after the codes shall be deleted;

on page 99, Box 20: last three lines concerning the third subdivision:

the colon after the codes shall be deleted;

on page 100, Box 24:

the full stops after the codes shall be deleted;

on pages 108, 109 and 110, Box 37, codes 07, 45 and 49:

the last paragraph is a second example and should be printed in the same way as the first example;

on page 109, Box 37, example in code 31:

for: '... export.',

read: '... re-export.';

on page 118, Box 47, under the subheading '*Last column: Method of payment*':

the colon after the codes shall be deleted.
