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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 177/2005

of 24 January 2005

concerning Community financial contributions to the International Fund for Ireland (2005-2006)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission,

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

Whereas:

- (1) The International Fund for Ireland (hereinafter 'the Fund') was established in 1986 by the Agreement of 18 September 1986 between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the International Fund for Ireland (hereinafter 'the Agreement') in order to promote economic and social advance, and to encourage contact, dialogue and reconciliation between nationalists and unionists throughout Ireland, in implementation of one of the objectives specified by the Anglo-Irish Agreement of 15 November 1985.
- (2) The Community has provided financial contributions to the Fund from 1989. For the period 2003 to 2004 EUR 15 million was committed from the Community budget for each of the years 2003 and 2004 in accordance with Council Regulation (EC) No 2236/2002 of 10 December 2002 concerning Community financial contributions to the International Fund for Ireland (2003–2004)⁽²⁾. That Regulation expired on 31 December 2004.
- (3) The assessments carried out in accordance with Article 6 of Regulation (EC) No 2236/2002 have confirmed the need for further support for Fund activities, while continuing reinforcing synergy of objectives and coordination with Structural Funds interventions, in particular with the Special Programme for Peace and Reconciliation in Northern Ireland and the Border Counties of Ireland

(hereinafter 'the PEACE Programme') set up in accordance with Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds⁽³⁾.

- (4) The peace process in Northern Ireland requires a continuation of Community support to the Fund beyond 31 December 2004.
- (5) At its meeting in Brussels on 17 and 18 June 2004, the European Council called on the Commission to examine the possibility of aligning interventions under the PEACE Programme and the International Fund for Ireland with those of the other programmes under the Structural Funds that come to an end in 2006, including the implications in financial terms.
- (6) The Community contribution to the Fund should take the form of financial contributions for the years 2005 and 2006, thus terminating at the same time as an extended PEACE programme.
- (7) In allocating the Community contribution, the Fund should give priority to projects of a cross-border or cross-community nature, in such a way as to complement the activities funded by the PEACE Programme.
- (8) In accordance with the Agreement, all financial contributors to the Fund participate as observers at the meetings of the Board of the International Fund for Ireland.
- (9) The Commission should foster coordination at all levels between the Fund's Board and agents, and the managing bodies set up under the Structural Funds interventions concerned, in particular under the PEACE programme.
- (10) Assistance from the Fund should be regarded as effective only in so far as it brings about sustainable economic and social improvement and is not used as a substitute for other public or private expenditure.

⁽¹⁾ Opinion delivered on 14 December 2004 (not yet published in the Official Journal).

⁽²⁾ OJ L 341, 17.12.2002, p. 6.

⁽³⁾ OJ L 161, 26.6.1999, p. 1. Regulation as last amended by Regulation (EC) No 1105/2003 (OJ L 158, 27.6.2003, p. 3).

- (11) An assessment reviewing the performance of the Fund and the need for further Community support should be carried out before 1 April 2006.
- (12) A financial reference amount, within the meaning of Point 34 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure⁽¹⁾ is included in this Regulation for the entire duration of the programme, without thereby affecting the powers of the budgetary authority as they are defined by the Treaty.
- (13) The amount of the Community contribution to the Fund should be EUR 15 million for each of the years 2005 and 2006, expressed in current values.
- (14) That support will contribute to reinforcing solidarity between the Member States and between their peoples.
- (15) The Treaty provides for no powers other than those in Article 308 thereof for the adoption of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The financial reference amount for the implementation of the Community contribution to the International Fund for Ireland (hereinafter 'the Fund') for the period 2005-2006 shall be EUR 30 million.

The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 2

The contribution shall be used by the Fund in accordance with the Agreement of 18 September 1986 between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the International Fund for Ireland (hereinafter 'the Agreement').

In allocating the contribution the Fund shall give priority to projects of a cross-border or cross-community nature, in such a way as to complement the activities financed by the Structural Funds, and especially those of the Special Programme for Peace and Reconciliation in Northern Ireland and the Border Counties of Ireland (hereinafter 'the PEACE Programme') set up in accordance with the first subparagraph of Article 7(4) of Regulation (EC) No 1260/1999.

⁽¹⁾ OJ C 172, 18.6.1999, p. 1. Agreement as amended by Decision 2003/429/EC of the European Parliament and of the Council (OJ L 147, 14.6.2003, p. 25).

The contribution shall be used in such a way as to bring about sustainable economic and social improvement in the areas concerned. It shall not be used as a substitute for other public and private expenditure.

Article 3

The Commission shall represent the Community as an observer at the meetings of 'the Board' of the Fund (hereinafter 'the Board').

The Fund shall be represented as an observer at the Monitoring Committee meetings of the PEACE Programme, and of other Structural Funds interventions as appropriate.

Article 4

The Commission shall, in cooperation with the Fund's Board, determine appropriate publicity and information procedures in order to publicise the Community's contribution to the projects financed by the Fund.

Article 5

By 31 March 2006, the Commission shall submit a report to the Budgetary Authority, assessing the results of the activities of the Fund and the need for continuing contributions beyond 2006, taking into account developments in the peace process in Northern Ireland. That report shall incorporate, *inter alia*, the following:

- (a) a survey of the Fund's activities;
- (b) a list of projects which have received aid;
- (c) an assessment of the nature and impact of the Fund's activities, notably in relation to its objectives and the criteria laid down in Articles 2 and 7;
- (d) an assessment of action taken by the Fund to ensure cooperation and coordination with Structural Funds interventions, taking account, in particular, of obligations under Articles 3 and 4;
- (e) an annex setting out the results of the verifications and controls carried out by the Commission pursuant to the undertaking referred to in Article 6.

Article 6

1. The Commission shall administer the contributions.

Subject to paragraph 2, the annual contribution shall be paid in instalments as follows:

- (a) a first advance payment of 40 % shall be made after the Commission has received an undertaking, signed by the Chairman of the Fund's Board, to the effect that the Fund will comply with the conditions for the grant of the contribution set out in this Regulation;
- (b) a second advance payment of 40 % shall be made six months later;
- (c) a final payment of 20 % shall be made after the Commission has received and accepted the Fund's annual activity report and audited accounts for the year in question.

2. Before paying out an instalment the Commission shall carry out an assessment of the Fund's financial needs on the

basis of the Fund's cash balance at the time scheduled for each payment. If, following that assessment, the Fund's financial needs do not justify payment of one of those instalments, the payment concerned shall be suspended. The Commission shall review that decision on the basis of new information provided by the Fund and shall continue payments as soon as they are considered justified.

Article 7

A contribution from the Fund may be allocated to an operation which receives or is due to receive financial assistance under a Structural Funds intervention, only if the sum of that financial assistance, plus 40 % of the contribution from the Fund, does not exceed 75 % of the operation's total eligible costs.

Article 8

This Regulation shall enter into force on 1 January 2005.

It shall expire on 31 December 2006.

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

Done at Brussels, 24 January 2005.

For the Council
The President
F. BODEN

COMMISSION REGULATION (EC) No 178/2005**of 2 February 2005****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 3 February 2005.

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

Done at Brussels, 2 February 2005.

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 2 February 2005 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	105,7
	204	82,8
	212	152,0
	624	81,6
	999	105,5
0707 00 05	052	165,5
	999	165,5
0709 90 70	052	197,6
	204	239,9
	624	56,7
	999	164,7
0805 10 20	052	45,0
	204	38,8
	212	55,5
	220	41,4
	448	35,4
	624	44,6
	999	43,5
0805 20 10	052	49,1
	204	61,0
	624	72,5
	999	60,9
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	63,4
	204	84,8
	400	78,8
	464	131,4
	624	66,2
	662	36,0
	999	76,8
0805 50 10	052	65,0
	999	65,0
0808 10 80	052	104,3
	400	110,8
	404	107,6
	720	59,3
	999	95,5
0808 20 50	388	83,2
	400	90,9
	528	71,9
	720	41,5
	999	71,9

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

COMMISSION REGULATION (EC) No 179/2005**of 2 February 2005****amending Regulation (EC) No 1917/2000 with regard to the transmission of data to the Commission**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1172/95 of 22 May 1995 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries⁽¹⁾, and in particular Articles 11 and 13 thereof,

Whereas:

- (1) Regulation (EC) No 638/2004 of the European Parliament and of the Council of 31 March 2004 on Community statistics relating to the trading of goods between Member States and repealing Council Regulation (EEC) No 3330/91⁽²⁾, which applies from 1 January 2005, establishes a common framework for the systematic production of Community statistics relating to the trading of goods between Member States.
- (2) In order to align it with the transmission period for aggregated data on intra-Community trade, the transmission period for external trade data should be reduced from 6 weeks to 40 days.
- (3) As stated regularly by the Council, the monitoring of the Economic and Monetary Union requires fast delivery of trade statistics.
- (4) Commission Regulation (EC) No 1917/2000 of 7 September 2000 laying down certain provisions for the implementation of Council Regulation (EC) No 1172/95 as regards statistics on external trade⁽³⁾ should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Committee on the

statistics relating to the trading of goods with third countries,

HAS ADOPTED THIS REGULATION:

Article 1

Article 32 of Regulation (EC) No 1917/2000 is replaced by the following:

'Article 32

1. Member States shall compile:
 - (a) aggregated results defined, for each flow, as the total value of the trade with non-member countries and the breakdown by products according to Sections of the Standard International Trade Classification, Revision 3;
 - (b) detailed results referred to in Article 10(1) of the basic Regulation.
2. Member States shall transmit data to the Commission without delay, as follows:
 - (a) in accordance with paragraph 1(a), no later than 40 days after the end of the reference period;
 - (b) in accordance with paragraph 1(b) no later than 42 days after the end of the reference period.'

Article 2

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

It shall apply from 1 March 2005.

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

Done at Brussels, 2 February 2005.

For the Commission

Joaquín ALMUNIA

Member of the Commission

⁽¹⁾ OJ L 118, 25.5.1995, p. 10. Regulation as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 102, 7.4.2004, p. 1.

⁽³⁾ OJ L 229, 9.9.2000, p. 14. Regulation as amended by Regulation (EC) No 1669/2001 (OJ L 224, 21.8.2001, p. 3).

COMMISSION REGULATION (EC) No 180/2005**of 2 February 2005****amending Regulation (EC) No 1535/2003 laying down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the aid scheme for products processed from fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products⁽¹⁾, and in particular Article 6(1) thereof,

Whereas:

- (1) The second subparagraph of Article 7(1) of Commission Regulation (EC) No 1535/2003⁽²⁾ initially laid down that, in contracts concluded between producer organisations and processors, the payment deadline could not exceed two months from the end of the month of delivery of each consignment in the case of tomatoes, peaches and pears.
- (2) Commission Regulation (EC) No 444/2004⁽³⁾ extended the above provision to all products processed from fruit and vegetables.
- (3) Experience shows that the requirement should be limited to contracts for tomatoes, peaches, pears or dried figs.

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

HAS ADOPTED THIS REGULATION:

Article 1

The second subparagraph of Article 7(1) of Regulation (EC) No 1535/2003 is hereby replaced by the following:

'The contract shall also indicate the delivery stage to which the price referred to in point (f) applies and the payment terms. In the case of tomatoes, peaches, pears and dried figs, the payment deadline may not exceed two months from the end of the month of delivery of each consignment.'

*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, 2 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 297, 21.11.1996, p. 29. Regulation as last amended by Commission Regulation (EC) No 386/2004 (OJ L 64, 2.3.2004, p. 25).

⁽²⁾ OJ L 218, 30.8.2003, p. 14. Regulation as last amended by Regulation (EC) No 2169/2004 (OJ L 371, 18.12.2004, p. 18).

⁽³⁾ OJ L 72, 11.3.2004, p. 54.

COMMISSION REGULATION (EC) No 181/2005**of 2 February 2005****amending Regulation (EEC) No 2191/81 on the granting of aid for the purchase of butter
by non-profit making institutions and organisations**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products⁽¹⁾, and in particular Article 15 thereof,

Whereas:

- (1) Commission Regulation (EEC) No 2191/81⁽²⁾ provides for the grant of aid for the purchase of butter by non-profit making institutions and organisations. In view of the current situation on the butter market, the level of sales under that Regulation, the reduction in the butter intervention price and the subsequent reduction of aid levels in other butter support schemes, the aid amount should be reduced.

- (2) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

In the first subparagraph of Article 2(1) of Regulation (EEC) No 2191/81, the amount of 'EUR 100' is replaced by the amount 'EUR 80'.

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, 2 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 213, 1.8.1981, p. 20. Regulation last amended by Regulation (EC) No 921/2004 (OJ L 163, 30.4.2004, p. 94).

COMMISSION REGULATION (EC) No 182/2005**of 2 February 2005****determining the extent to which applications for import rights lodged in respect of the quota for live bovine animals of a weight exceeding 160 kg and originating in Switzerland, provided for in Regulation (EC) No 2124/2004, can be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾,

Having regard to Commission Regulation (EC) No 2124/2004 of 14 December 2004 laying down detailed rules for the application of an import tariff quota for live bovine animals of a weight exceeding 160 kg and originating in Switzerland provided for in Council Regulation (EC) No 1922/2004 ⁽²⁾, and in particular in the first sentence of Article 4(2) thereof,

Whereas:

- (1) Article 1(1) of Regulation (EC) No 2124/2004 fixes at 4 600 head the quantity of the quota in respect of which

Community importers can lodge an application for import rights in accordance with Article 3 of that Regulation.

- (2) Since the import rights applied for exceed the available quantity referred to in Article 1(1) of Regulation (EC) No 2124/2004, a unique reduction coefficient should be fixed for quantities tendered,

HAS ADOPTED THIS REGULATION:

Article 1

Each application for import rights lodged in accordance with Article 3(3) of Regulation (EC) No 2124/2004 shall be accepted at a rate of 13,10541 % of the import rights applied for.

Article 2

This Regulation shall enter into force on 3 February 2005.

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

Done at Brussels, 2 February 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

⁽²⁾ OJ L 368, 15.12.2004, p. 3.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 24 January 2005

approving the accession of the European Atomic Energy Community to the 'Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management'

(2005/84/Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management was open for signature from 29 September 1997 until its entry into force on 18 June 2001.
- (2) This Convention is now open for accession by regional organisations of an integration or other nature, provided that any such organisation is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention and the Community has chosen to accede.
- (3) In view of the tasks assigned to the Community by Chapter 3 'Health and Safety' of the Treaty establishing the European Atomic Energy Community, the accession of the European Atomic Energy Community to the Joint Convention should be approved.
- (4) When acceding to this Convention the European Atomic Energy Community will have to put forward a reservation with regard to the non-compliance of Article 12(1) of the Directive 92/3/Euratom on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community⁽¹⁾ with the specific requirement in Article 27(1)(i) of the Joint Convention which requires the consent of the state

of destination in the framework of transboundary movements.

- (5) When becoming party to this Convention, Article 39(4)(iii) of this Convention obliges such an organisation to communicate to the Depositary a declaration indicating which States are members thereof, which Articles of this Convention apply to it, and the extent of its competence in the field covered by those articles.
- (6) The competences, under the Joint Convention, of Member States as contracting parties to it will not be affected by the Community accession,

HAS DECIDED AS FOLLOWS:

Sole article

1. The accession of the European Atomic Energy Community to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management is hereby approved.
2. The text of the declaration by the European Atomic Energy Community according to the provisions of Article 39(4)(iii) of the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management is attached to the present Decision.

Done at Brussels, 24 January 2005.

For the Council

The President

F. BODEN

⁽¹⁾ OJ L 35, 12.2.1992, p. 24.

ANNEX

Declaration by the European Atomic Energy Community According to the provisions of Article 39(4)(iii) of the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management

The following States are presently members of the European Atomic Energy Community: the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland.

The Community declares that Articles 1 to 16, 18, 19, 21 and 24 to 44 of the Joint Convention apply to it.

The Community possesses competences, shared with the abovementioned Member States, in the fields covered by Articles 4, 6 to 11, 13 to 16, 19 and 24 to 28 of the Joint Convention as provided by the Treaty establishing the European Atomic Energy Community in Article 2(b) and the relevant Articles of Title II, Chapter 3, entitled 'Health and Safety'.

COMMISSION

COMMISSION DECISION

of 26 January 2005

imposing special conditions on the import of pistachios and certain products derived from pistachios originating in, or consigned from Iran

(notified under document number C(2005) 117)

(Text with EEA relevance)

(2005/85/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs⁽⁴⁾. This Regulation does no longer contain the legal basis for a safeguard measure.

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽¹⁾, and in particular Article 53 (1)(b) thereof,

- (3) Regulation (EC) No 178/2002 provides that where it is evident that food or feed originating in the Community or imported from a third country is likely to constitute a serious risk to human health, animal health and the environment, measures are to be adopted.

Whereas:

- (1) Commission Decision 97/830/EC of 11 December 1997 repealing Commission Decision 97/613/EC and imposing special conditions on the import of pistachios and certain products derived from pistachios originating in, or consigned from Iran⁽²⁾ has been substantially amended several times.
- (2) The legal basis for Decision 97/830/EC is Article 10 of the Council Directive 93/43/EC of 14 June 1993 on the hygiene of foodstuffs⁽³⁾. Directive 93/43/EEC will be repealed as from 1 January 2006 by Regulation (EC)

- (4) Pistachios originating in, or consigned from Iran have been found, in many cases, to be contaminated with excessive levels of Aflatoxin B1.

- (5) The Scientific Committee for Food has noted that Aflatoxin B1 is a potent genotoxic carcinogen and, even at extremely low doses, contributes to the risk of liver cancer.

- (6) The import of pistachios from Iran therefore constitutes a serious threat to public health within the Community and it is imperative to adopt protective measures at Community level.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1. Regulation as amended by Regulation (EC) No 1642/2003 (OJ L 245, 29.9.2003, p. 4).

⁽²⁾ OJ L 343, 13.12.1997, p. 30. Decision as last amended by Decision 2004/429/EC (OJ L 154, 30.4.2004, p. 19. Corrigendum published in OJ L 189, 27.5.2004, p. 13).

⁽³⁾ OJ L 175, 19.7.1993, p. 1. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽⁴⁾ OJ L 139, 30.4.2004, p.1. Corrigendum published in OJ L 226, 25.6.2004, p. 3.

- (7) An examination of conditions of hygiene in Iran was undertaken by the Commission's Food and Veterinary Office (FVO) for the first time in 1997 and revealed that improvements in hygiene practices and the traceability of pistachios were required. The mission team was unable to check all stages of the handling of pistachios prior to exportation. Commitments were received from the Iranian authorities in particular in relation to improvements in production, handling, sorting, processing, packaging and transport practices. It was therefore appropriate to subject pistachios and certain pistachio products from Iran to special conditions to provide a high level of protection to public health. Follow up missions have been organised in 1998 and 2001. Although during these missions substantial improvements in hygiene practices and the traceability have been observed, there is a continued need imposing special conditions on pistachios and certain pistachio products from Iran to protect public health.
- (8) Pistachios and certain pistachio products from Iran may be imported, provided that special conditions are applied.
- (9) One of those conditions is that it is necessary to provide that pistachios and products derived from pistachios have been produced, sorted, handled, processed, packaged and transported following good hygienic practices. It is necessary to establish the levels of Aflatoxin B1 and total Aflatoxin in samples taken from the consignment immediately prior to leaving Iran.
- (10) It is furthermore necessary for documentary evidence to be provided by the Iranian authorities to accompany each consignment of pistachios originating in, or consigned from Iran, relating to the conditions of production, sorting, handling, processing, packaging and transport and the results of laboratory analysis of the consignment for levels of Aflatoxin B1 and total Aflatoxin.
- (11) In the interests of public health, Member States will keep the Commission informed through periodical reports of all analytical results of official controls carried out in respect of consignments of pistachios and certain pistachio products from Iran. Such reports shall be in addition to the notification obligations under the Rapid Alert System for Food and Feed (RASFF) established by Regulation (EC) No 178/2002.
- (12) It is important to ensure that the sampling and analysis of consignments of pistachios and pistachio products from Iran are performed in a harmonised manner throughout the Community.
- (13) Checks carried out in 2003 and 2004 revealed that a large number of consignments of pistachios from Iran exceeded the maximum level of aflatoxins. It is therefore necessary to restrict the validity of the health certificate in order to limit the duration of transport and storage, when aflatoxins can be formed.
- (14) The operation of this Decision should be kept under review in the light of information and guarantees provided by the competent authorities of Iran and of the results of the tests carried out by Member States in order to assess whether the special conditions provide a sufficient level of protection of public health within the Community and whether they are still needed.
- (15) The measures provided for in this Decision have a significant impact on the control resources of the Member States. It is therefore appropriate to require that all costs resulting from sampling, analysis, storage and all costs resulting from official measures taken as regards non-compliant consignments are to be borne by the importers or food business operators concerned.
- (16) Decision 97/830/EC should accordingly be repealed.
- (17) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,
- HAS ADOPTED THIS DECISION:
- Article 1*
1. Member States may import
- pistachios falling within CN code 0802 50 00, and
 - roasted pistachios falling within CN codes 2008 19 13 and 2008 19 93,
- originating in, or consigned from Iran, only where the consignment is accompanied by the results of official sampling and analysis, and the health certificate in Annex I, completed, signed and verified by a representative of the Iranian Ministry of Health. The health certificate shall be valid for import carried out no more than four months after the issue date of the health certificate.
2. Products covered by paragraph 1 may only be imported into the Community through one of the points of entry listed in Annex II.
3. Each consignment of products covered by paragraph 1 shall be identified with a code which corresponds to the code on the sampling results of the official sampling and analysis and health certificate referred to in paragraph 1.

4. The competent authorities in each Member State shall ensure that products covered by paragraph 1 are subject to documentary checks to ensure that the requirement for the health certificate and sampling results referred to in paragraph 1, are complied with.

5. The competent authorities in each Member State shall take a sample for analysis from each consignment of products covered by paragraph 1 for analysis of aflatoxin B1 and total aflatoxin before release onto the market from the point of entry into the Community.

Member States shall submit to the Commission every three months a report of all analytical results of official controls on consignments of products covered by paragraph 1. This report shall be submitted during the month following each quarter (April, July, October, and January).

6. Any consignment which is to be subjected to sampling and analysis should be held before release onto the market from the point of entry into the Community for a maximum period of 15 working days. The competent authorities of the importing Member State shall issue an accompanying official document establishing that the consignment has been subjected to official sampling and analysis and indicating the result of the analysis.

7. If a consignment is split, copies of the health certificate and accompanying official documents referred to in paragraphs 1 and 6 and certified by the competent authority of the Member State on whose territory the splitting has taken place, shall accompany each part of the split consignment up to and including the wholesale stage.

Article 2

This Decision shall be kept under review in the light of information and guarantees provided by the competent authorities of Iran and of the results of the tests carried out by Member States in order to assess whether the special conditions set out in Article 1 provide a sufficient level of protection of public health within the Community and whether they are still necessary.

Article 3

All costs resulting from sampling, analysis, storage and issuing of accompanying official document and of copies of health certificate and accompanying documents pursuant to Article 1(4) to (7) shall be borne by the food business operator responsible for the consignment or its representative.

Also all costs related to official measures taken by the competent authorities as regards non-compliant consignments of pistachios and certain products derived from pistachios originating in or consigned from Iran shall be borne by the food business operator responsible for the consignment or its representative.

Article 4

Decision 97/830/EC is repealed.

Article 5

The Decision shall apply from 1 February 2005.

Member States shall take the measures necessary to comply with this Decision. They shall immediately inform the Commission thereof.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 26 January 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX I

Health Certificate for the importation into the European Community of pistachios and certain products derived from pistachios originating in, or consigned from Iran

Consignment Code

Certificate No

According to the provisions of European Commission Decision 2004/.../EC imposing special conditions on the import of pistachios falling within CN code 0802 50 00 and roasted pistachios falling within CN codes 2008 19 13 and 2008 19 93 originating in or consigned from the Republic of Iran.

the
(Health authority under direct control of Ministry of Health, Islamic Republic of Iran)

CERTIFIES:

that the pistachios of this consignment, Code No (Insert Consignment Code No)
 composed of:

.....

(description of consignment, product, number and type of packages, gross or net weight)

embarked at
(embarkation place)

by
(identification of transporter)

going to
(place and country of destination)

which comes from the establishment

.....

(name and address of establishment)

have been produced, sorted, handled, processed, packaged and transported in line with good hygiene practices.

From this consignment, *(number of samples)* samples of pistachios were taken on *(date)*, subjected to laboratory analysis on *(date)* in the *(name of laboratory)*, laboratory of the Ministry of Health, Islamic Republic of Iran, to determine the level of aflatoxin B1 and level of total aflatoxin contamination, and the details of sampling, methods of analysis used and all results are attached.

Done at on

Stamp and signature of
 Representative of the Ministry of Health, Islamic Republic of Iran

ANNEX II

List of points of entry through which pistachios and certain products derived from pistachios originating in or consigned from Iran may be imported into the Community

Member State	Point of entry
Belgium	Antwerpen, Zeebrugge, Brussel/Bruxelles, Aalst
Czech Republic	Celní úřad Praha D5
Denmark	All Danish harbours and airports
Germany	HZA Lörrach — ZA Weil am Rhein — Autobahn, HZA Stuttgart — ZA Flughafen, HZA München — ZA München — Flughafen, Bezirksamt Reinickendorf von Berlin, Abteilung Finanzen, Wirtschaft und Kultur, Veterinär- und Lebensmittelaufsichtsamt, Grenzkontrollstelle, HZA Frankfurt (Oder) — ZA Autobahn, HZA Cottbus — ZA Forst — Autobahn, HZA Bremen — ZA Neustädter Hafen, HZA Bremen — ZA Bremerhaven, HZA Hamburg — Hafen — ZA Waltershof, HZA Hamburg-Stadt, HZA Itzehoe — ZA Hamburg — Flughafen, HZA Frankfurt-am-Main-Flughafen, HZA Braunschweig — Abfertigungsstelle, HZA Hannover Hamburger Allee, HZA Koblenz — ZA Hahn-Flughafen, HZA Oldenburg — ZA Wilhelmshaven, HZA Bielefeld — ZA Eckendorfer Straße Bielefeld, HZA Erfurt — ZA Eisenach, HZA Potsdam — ZA Ludwigsfelde, HZA Potsdam — ZA Berlin-Flughafen Schönefeld, HZA Augsburg — ZA Memmingen, HZA Ulm — ZA Ulm (Donautal), HZA Karlsruhe — ZA Karlsruhe, HZA Berlin — ZA Dreilinden, HZA Gießen — ZA Gießen, HZA Gießen — ZA Marburg, HZA Singen — ZA Bahnhof, HZA Lörrach — ZA Weil am Rhein — Schusterinsel, HZA Hamburg-Stadt — ZA Oberelbe, HZA Hamburg-Stadt — ZA Oberelbe — Abfertigungsstelle Billbrook, HZA Hamburg-Stadt — ZA Oberelbe — Abfertigungsstelle Großmarkt, HZA Potsdam — ZA Berlin — Flughafen Schönefeld, HZA Düsseldorf — ZA Düsseldorf Nord, HZA Stralsund (HZA HST) — ZA Ludwigslust (ZA LWL)
Estonia	Muuga port BIP, Paljassaare port BIP, Paldiski-Lõuna port BIP, Dirhami port BIP, Luhamaa road BIP, Narva road BIP
Greece	Athina, Pireas, Elefsis, Aerodromio ton Athinon, Thessaloniki, Volos, Patra, Iraklion tis Kritis, Aerodromio tis Kritis, Euzoni, Idomeni, Ormenio, Kipi, Kakavia, Niki, Promahonas, Pithio, Igoumenitsa, Kristalopigi
Spain	Algeciras (Puerto), Alicante (Aeropuerto, Puerto), Almería (Aeropuerto, Puerto), Asturias (Aeropuerto), Barcelona (Aeropuerto, Puerto, Ferrocarril), Bilbao (Aeropuerto, Puerto), Cadiz (Puerto), Cartagena (Puerto), Castellon (Puerto), Ceuta (Puerto), Gijón (Puerto), Huelva (Puerto), Irun (Carretera), La Coruña (Puerto), La Junquera (Carretera) Las Palmas de Gran Canaria (Aeropuerto, Puerto), Madrid (Aeropuerto, Ferrocarril), Málaga (Aeropuerto, Puerto), Marin (Puerto), Melilla (Puerto), Murcia (Ferrocarril), Palma de Mallorca (Aeropuerto, Puerto), Pasajes (Puerto), San Sebastián (Aeropuerto), Santa Cruz de Tenerife (Puerto), Santander (Aeropuerto, Puerto), Santiago de Compostela (Aeropuerto), Sevilla (Aeropuerto, Puerto), Tarragona (Puerto), Tenerife Norte (Aeropuerto), Tenerife Sur (Aeropuerto), Valencia (Aeropuerto, Puerto), Vigo (Aeropuerto, Puerto), Villagarcía (Puerto), Vitoria (Aeropuerto), Zaragoza (Aeropuerto)
France	Marseille (Bouches-du-Rhone), Le Havre (Seine-Maritime), Rungis MIN (Val-de-Marne), Lyon Chassieu CRD (Rhône), Strasbourg CRD (Bas-Rhin), Lille CRD (Nord), Saint-Nazaire Montoir CRD (Loire-Atlantique), Agen (Lot-et-Garonne), Port de la Pointe des Galets à la Réunion
Ireland	Dublin — Port and Airport, Cork — Port and Airport, Shannon — Airport
Italy	Ufficio Sanità Marittima ed Aerea di Ancona Ufficio Sanità Marittima ed Aerea di Bari Ufficio Sanità Marittima ed Aerea di Genova Ufficio Sanità Marittima di Livorno Ufficio Sanità Marittima ed Aerea di Napoli Ufficio Sanità Marittima di Ravenna Ufficio Sanità Marittima di Salerno Ufficio Sanità Marittima ed Aerea di Trieste Dogana di Ferneti — Interporto Monrupino (Trieste) Ufficio di Sanità Marittima di La Spezia Ufficio di Sanità Marittima e Aerea di Venezia Ufficio di Sanità Marittima e Aerea di Reggio Calabria

Member State	Point of entry
Cyprus	Limassol Port, Larnaca Airport
Latvia	Grebneva — road with Russia Terehova — road with Russia Pātarnieki — road with Byelorussia Silene — road with Byelorussia Daugavpils — railway commodity station Rēzekne — railway commodity station Liepāja — sea port Ventspils — sea port Rīga — sea port Rīga — airport Rīga Rīga — Latvian Post
Lithuania	Road: Kybartai, Lavoriškės, Medininkai, Panemunė, Šalčininkai Airport: Vilnius Seaport: Malkū įlankos, Molo, Pilies Railway: Kena, Kybartai, Pagėgiai
Luxembourg	Centre Douanier, Croix de Gasperich, Luxembourg Administration des Douanes et Accises, Bureau Luxembourg — Aéroport, Niederanven
Hungary	Ferihegy — Budapest — airport Záhony — Szabolcs-Szatmár-Bereg — road Eperjeske — Szabolcs-Szatmár-Bereg — railway Nagylak — Csongrád — road Lökösháza — Békés — railway Röszke — Csongrád — road Kelebia — Bács-Kiskun — railway Letenye — Zala — road Gyékényes — Somogy — railway Mohács — Baranya — port
Malta	Malta Freeport, the Malta International Airport and the Grand Harbour
Netherlands	All harbours and airports and all border stations
Austria	HZA Feldkirch, HZA Graz, Nickelsdorf, Spielfeld, HZA Wien, ZA Wels, ZA Kledering, ZA Flughafen Wien, HZA Salzburg, ZA Klingenbach/Zweigstelle Sopron, ZA Karawankentunnel, ZA Villach
Poland	Bezledy — Warmińskie — Mazurskie — road border point Kuźnica Białostocka — Podlaskie — road border point Bobrowniki — Podlaskie — road border point Koroszczyń — Lubelskie — road border point Dorohusk — Lubelskie — road and railway border point Gdynia — Pomorskie — seaport border point Gdańsk — Pomorskie — seaport border point Medyka-Przemyśl — Podkarpackie — railway border point Medyka — Podkarpackie — road border point Korczowa — Podkarpackie — road border point Jasionka — Podkarpackie — airport border point Szczecin — Zachodnio — Pomorskie — seaport border point Świnoujście — Zachodnio — Pomorskie — seaport border point Kołobrzeg — Zachodnio — Pomorskie — seaport border point
Portugal	Lisboa, Leixões
Slovenia	Obrežje — road border crossing Koper — port border crossing Dobova — railway border crossing Brnik (airport) Jelšane (road) Ljubljana (railway and road) Sežana (railway and road)

Member State	Point of entry
Slovakia	Vyšné Nemecké — road, Čierna nad Tisou — railway
Finland	All Finnish Customs Offices
Sweden	Göteborg, Stockholm, Helsingborg, Landvetter, Arlanda, Norrköping
United Kingdom	Belfast, Dover, Felixstowe, Gatwick Airport, Goole, Grimsby, Harwich, Heathrow Airport, Hull, Immingham, Ipswich, Leith, Liverpool, London (including Tilbury, Thamesport and Sheerness), Manchester Airport, Manchester Containerbase, Manchester International Freight Terminal, Manchester (including Ellesmere Port), Middlesbrough, Southampton

COMMISSION DECISION
of 28 January 2005
amending Decision 2003/71/EC as regards its period of validity
(notified under document number C(2005) 186)
(Text with EEA relevance)
(2005/86/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC⁽¹⁾, and in particular Article 18(7) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries⁽²⁾ and in particular Article 22(6) thereof,

Whereas:

- (1) The occurrence of infectious salmon anaemia (ISA) in the Faroe Islands led to the adoption of Commission Decision 2003/71/EC of 29 January 2003 on certain protective measures in respect of infectious salmon anaemia in the Faroe Islands⁽³⁾.
- (2) Despite the control measures undertaken by the Faroe Islands, further outbreaks of ISA occurred and were notified by that State to the Commission in 2004.
- (3) The Faroe Islands have submitted to the veterinary subgroup established under the EU-Faroe Island Agreement⁽⁴⁾ a contingency plan in conformity with Article 15 of Council Directive 93/53/EEC of 24 June 1993 introducing minimum Community measures for the control of certain fish diseases⁽⁵⁾. The contingency plan includes a withdrawal scheme in accordance with Article 6 of Directive 93/53/EEC. The contingency plan,

including vaccination procedures, and withdrawal scheme submitted in September 2004 have been approved by the subgroup.

- (4) In the light of the disease situation in the Faroe Islands and the implementation of a control strategy including vaccination, the protective measures provided for in Decision 2003/71/EC should remain applicable as long as vaccination is applied. The vaccination is expected to remain as the control strategy for at least the next two years.
- (5) Decision 2003/71/EC should therefore be amended in order to extend its period of validity.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

In Article 6 of Decision 2003/71/EC, '31 January 2005' is replaced by '31 January 2007'.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 28 January 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

⁽¹⁾ OJ L 268, 24.9.1991, p. 56. Directive as last amended by the 2003 Act of Accession.

⁽²⁾ OJ L 24, 30.1.1998, p. 9. Directive as last amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council (OJ L 165, 30.4.2004, p. 1).

⁽³⁾ OJ L 26, 31.1.2003, p. 80. Decision as last amended by Decision 2004/160/EC (OJ L 50, 20.2.2004, p. 65).

⁽⁴⁾ OJ L 53, 22.2.1997, p. 2.

⁽⁵⁾ OJ L 175, 19.7.1993, p. 23. Directive as last amended by the 2003 Act of Accession.

COMMISSION DECISION

of 2 February 2005

authorising Sweden to make use of the system established by Title I of Regulation (EC) No 1760/2000 of the European Parliament and of the Council to replace surveys of bovine livestock

*(notified under document number C(2005) 194)***(Only the Swedish text is authentic)****(Text with EEA relevance)**

(2005/87/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 93/24/EEC of 1 June 1993 on the statistical surveys to be carried out on bovine animal production⁽¹⁾, and in particular Article 1(2) and (3) thereof,

Whereas:

- (1) Title I of Regulation (EC) No 1760/2000 of the European Parliament and of the Council⁽²⁾ establishes a system for the identification and registration of bovine animals.
- (2) Commission Decision 1999/693/EC⁽³⁾ recognises the fully operational character of the Swedish database for bovine animals.
- (3) Pursuant to Directive 93/24/EEC the Member States may, at their request, be authorised to use administrative statistical sources instead of surveys of the bovine population on condition that they satisfy the obligations arising out of the said Directive.
- (4) In support of its request of 29 October 2003, Sweden has submitted technical documentation on the structure and on the updating of the database referred to in Title I of Regulation (EC) No 1760/2000 and on the methods of calculating the statistical data.
- (5) In particular, Sweden proposed the calculation methods to obtain the statistical data for the categories, referred to in Article 3(1) of Directive 93/24/EEC, which are not directly available in the database referred to in Title I of Regulation (EC) No 1760/2000. Sweden should take all the appropriate measures to ensure that these calculation methods ensure the precision of the statistical data.

(6) Following examination of the request based on the technical documentation provided by the Swedish authorities, the request should be met.

(7) This Decision is in compliance with the opinion of the Standing Committee on Agricultural Statistics, set up by Council Decision 72/279/EEC⁽⁴⁾,

HAS ADOPTED THIS DECISION:

Article 1

Sweden is authorised to replace the surveys of bovine animals provided for by Directive 93/24/EEC by using the system for the identification and registration of bovine animals as referred to in Title I of Regulation (EC) No 1760/2000 to obtain all the statistical data required to comply with the obligations arising out of the said Directive.

Article 2

When the system referred to in Article 1 ceases to be operational or its contents no longer make it possible to obtain reliable statistical information regarding all or certain categories of bovine animals, Sweden shall return to a statistical survey system for the purpose of estimating the cattle population or the categories concerned.

Article 3

This Decision is addressed to the Kingdom of Sweden.

Done at Brussels, 2 February 2005.

For the Commission

Joaquín ALMUNIA

Member of the Commission

⁽¹⁾ OJ L 149, 21.6.1993, p. 5. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 204, 11.8.2000, p. 1. Regulation as last amended by the 2003 Act of Accession.

⁽³⁾ OJ L 273, 23.10.1999, p. 14.

⁽⁴⁾ OJ L 179, 7.8.1972, p. 1.

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 21 January 2005

amending Guideline ECB/2001/3 on a trans-European automated real-time gross settlement express transfer system (Target)

(ECB/2005/1)

(2005/88/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

HAS ADOPTED THIS GUIDELINE:

Having regard to the Treaty establishing the European Community, and in particular the first and fourth indents of Article 105(2) thereof,

Article 1

Guideline ECB/2001/3 is amended as follows:

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Articles 3.1, 12.1, 14.3, 17, 18 and 22 thereof,

1. Article 1 is amended as follows:

Whereas:

(a) the following definitions are inserted, having regard to alphabetical order:

(1) On 24 October 2002 the Governing Council of the European Central Bank (ECB) took note of a number of different options permitting central banks to connect to Target other than via interlinking. Further, it was decided that following the accession to the EU of the 10 new Member States on 1 May 2004, the central banks of such Member States would be given the same rights and obligations regarding connection to Target as other central banks pursuant to one of these options. This has necessitated the amendment of Guideline ECB/2001/3 on a trans-European automated real-time gross settlement express transfer system (Target) ⁽¹⁾.

“connected NCB” shall mean an NCB real-time gross settlement (RTGS) system of which is connected to TARGET via a service-providing NCB,

“non-participating Member States” shall mean the Member States which have not adopted the single currency in accordance with the Treaty,

“service-providing NCB” shall mean an NCB: (i) the RTGS system of which is connected to Target via interlinking; and (ii) which provides services to a connected NCB for the processing of cross-border payments within TARGET, thereby establishing a bilateral link;’

(2) A further minor amendment of Guideline ECB/2001/3 is required to reflect current practice regarding access of participants to Target.

(b) the definition of ‘EEA’ is replaced by the following:

(3) In accordance with Article 12.1 and Article 14.3 of the Statute, ECB guidelines form an integral part of Community law,

“EEA” shall mean the European Economic Area as defined in the Agreement on the European Economic Area concluded on 2 May 1992 between the European Community and its Member States and the Member States of the European Free Trade Association, as amended;’

⁽¹⁾ OJ L 140, 24.5.2001, p. 72. Guideline as last amended by Guideline ECB/2004/4 (OJ L 205, 9.6.2004, p. 1).

- (c) the definition of 'finality' or 'final' is replaced by the following:

“‘finality’ or ‘final’ shall mean that the settlement of a payment order cannot be revoked, reversed or made void by the connected NCB, by the sending NCB/ECB, by the sending participant or by any third party, or even in the event of insolvency proceedings against a participant, except in cases of imperfections in the underlying transaction(s) or payment order(s) arising from criminal offences or fraudulent acts (whereby fraudulent acts shall also include preferences and transactions at under-value during suspect periods in the case of insolvency) provided that such has been decided on a case-by-case basis by a court of competent jurisdiction or another competent dispute resolution body, or arising from error;”

- (d) the definition of 'inter-NCB accounts' is replaced by the following:

“‘inter-NCB accounts’ shall mean the accounts that, without prejudice to Article 4a of this Guideline, each NCB and the ECB shall open for each other on their respective books for the operation of cross-border Target payments; each such inter-NCB account is held for the benefit of the ECB or the NCB in whose name the account is opened;”

- (e) the definition of 'malfunctioning of a national RTGS system' or 'malfunctioning of Target' or 'malfunctioning' is replaced by the following:

“‘malfunctioning of a national RTGS system’ or ‘malfunctioning of Target’ or ‘malfunctioning’ shall mean technical difficulties, defects or failures in the technical infrastructure and/or the computer systems of any national RTGS system or the ECB payment mechanism or the computerised network connections for interlinking or a bilateral link, or any other event related to any national RTGS system or the ECB payment mechanism, interlinking or any bilateral link, that makes it impossible to execute and complete the same day processing of payment orders within Target; the definition shall also cover cases where a malfunctioning occurs simultaneously in more than one national RTGS system (due to, for instance, a breakdown related to the network service provider);”

- (f) the definition of 'standing facilities' is replaced by the following:

“‘standing facilities’ shall mean the marginal lending facility and the deposit facility provided by the Eurosystem.”

2. Article 2 is replaced by the following:

‘Article 2

Description of Target

1. The trans-European automated real-time gross settlement express transfer system is a real-time gross settlement system for the euro. Target is composed of the national RTGS systems, the ECB payment mechanism and interlinking. RTGS systems may connect to Target via interlinking or through a bilateral link.

2. The RTGS systems of non-participating Member States may connect to Target in so far as such RTGS systems comply with the minimum common features set out in Article 3 and are able to process the euro alongside their respective national currency. Any connection to Target of an RTGS system of a non-participating Member State is subject to an agreement whereby the national central banks concerned agree to adhere to the rules and procedures for Target referred to in this Guideline (with specifications and modifications, where appropriate, as referred to in such an agreement).’

3. Article 3 is amended as follows:

- (a) the following point (a)(1)(v) is added:

‘(v) central banks established in the EU, the RTGS systems of which are not connected to TARGET.’;

- (b) paragraph (b) is replaced by the following:

‘(b) Currency unit

All cross-border payments shall be in euro.’;

- (c) paragraph (c)(3) is replaced by the following:

‘3. Any cross-border payments effected within TARGET shall be subject to a common price established by the Governing Council of the ECB and specified in Annex III.’;

- (d) paragraph (f)(3) is replaced by the following:

‘3. Intraday credit shall be based on adequate collateral. Eligible collateral shall be the same assets and instruments and be subject to the same valuation and risk control rules as those prescribed for eligible collateral for monetary policy operations. Except for treasury departments and public sector bodies referred to respectively in Article 3(a)(1)(i) and (ii), an NCB shall not accept as underlying assets debt instruments issued or guaranteed by the participant, or by any other entity with which the counterparty has close links, as defined in Article 1(26) of Directive 2000/12/EC and as applied for monetary policy operations.

Each of the national central banks of the non-participating Member States the RTGS systems of which are connected to Target pursuant to Article 2(2) is allowed to establish and maintain a list of eligible assets which can be used by institutions participating in their relevant national RTGS system connected to Target to collateralise euro credits granted by such national central banks, provided that the assets on such list meet the same quality standards and are subject to the same valuation and risk control rules as those prescribed for eligible collateral for monetary policy operations. The national central bank in question shall submit such list of eligible assets for prior approval by the ECB.'

4. Article 4 is amended as follows:

(a) the title is replaced by the following:

'Arrangements for cross-border payments effected via interlinking';

(b) the introductory paragraph is replaced by the following:

'The provisions of this Article shall apply to the arrangements for cross-border payments effected or to be effected via interlinking.';

(c) paragraph (b)(3) is replaced by the following:

'3. All inter-NCB accounts shall be maintained in euro.'

5. The following Article 4a is inserted:

'Article 4a

Arrangements for cross-border payments effected through a service-providing NCB

The provisions of this Article shall apply to the arrangements for cross-border payments effected or to be effected through a bilateral link.

(a) Description of the connection

When effecting a cross-border payment through a bilateral link:

- the service-providing NCB shall be regarded as the receiving or sending NCB, as the case may be, as regards the obligations and liabilities relating to the processing of the cross-border payment via interlinking vis-à-vis either the sending or receiving NCB/ECB,
- the connected NCB shall be regarded as the receiving NCB or the sending NCB, as the case may be, as regards the obligations and liabilities relating to the

crediting/debiting of the receiving/sending participant's RTGS account.

(b) Opening and operation of an account for the connected NCB.

1. The service-providing NCB shall open an account in euro on its books for the connected NCB.
2. The service-providing NCB shall grant an unlimited and uncollateralised credit facility to the connected NCB.

3. To effect cross-border payments initiated by a participant in the connected NCB's RTGS system, the service-providing NCB shall debit the connected NCB's account and credit an RTGS account of the service-providing NCB's participant or credit the receiving NCB/ECB's inter-NCB account held with the service-providing NCB. To effect cross-border payments to a participant in the connected NCB's RTGS system, the service-providing NCB shall debit the sending NCB/ECB's inter-NCB account or debit an RTGS account of the service-providing NCB's participant and credit the connected NCB's account.

(c) Obligations and liabilities of the service-providing NCB and the connected NCB

1. Verification

(a) Both the connected NCB and the service-providing NCB shall be responsible for the accuracy and syntax of the data which they provide to each other, and they shall agree standards to be applied to such data.

(b) On receipt of a payment order submitted by the connected NCB, the service-providing NCB shall check without delay all the details contained in the payment order which are necessary for its appropriate processing. If the service-providing NCB detects syntactical errors or other grounds for rejecting a payment order, it shall not process such a payment order and shall handle the data and the payment order in accordance with specific rules to be agreed between the service-providing NCB and the connected NCB.

2. Settlement

(a) To effect a cross-border payment initiated by a participant in the connected NCB's RTGS system, the connected NCB shall debit its participant's account and, in accordance with the terms and conditions agreed between the connected NCB and the service-providing NCB, submit a corresponding payment order to the service-providing NCB.

(b) As soon as the service-providing NCB has checked the validity of the payment order submitted pursuant to Article 4a(c)(1)(b), the service-providing NCB shall without delay:

(i) debit the connected NCB's account; and

(ii) send a positive acknowledgement to the connected NCB.

(c) On debiting the connected NCB's account, the service-providing NCB shall without delay credit the RTGS account of the participant in its national RTGS system or process the payment order via interlinking in accordance with Article 4. When the service-providing NCB receives a positive or negative acknowledgement from the receiving NCB/ECB it shall forward such an acknowledgement to the connected NCB.

(d) To effect a cross-border payment, which has been initiated by a participant in the service-providing NCB's RTGS system, to a participant in the connected NCB's RTGS system, the service-providing NCB shall credit the connected NCB's account immediately on receipt of such a payment order. The connected NCB shall thereafter immediately credit the account of the participant in the connected NCB's RTGS system.

(e) To effect a cross-border payment, which has been initiated by a participant in an RTGS system other than the service-providing NCB's RTGS system, to a participant in the connected NCB's RTGS system, the service-providing NCB shall, on receipt of a payment order from the sending NCB/ECB:

(i) carry out the procedures described in Article 4(d)(1) and 4(d)(2)(a);

(ii) thereafter credit the connected NCB's account and notify the connected NCB thereof; and

(iii) thereafter send a positive acknowledgement to the sending NCB/ECB.

On receipt of notification pursuant to point (ii), the connected NCB shall immediately credit the account of a participant in its RTGS system.

(f) The service-providing NCB shall take all necessary measures, as agreed with the connected NCB, in order to ensure that all information and data necessary to credit the account of the participant in the connected NCB's RTGS system in any circumstances are made available to the connected NCB.

(g) The hours of operation of the connected NCB's RTGS system shall comply with the specifications laid down in Annex IV.

3. Finality

The finality of cross-border payments processed through a bilateral link shall be determined in accordance with the rules laid down in Articles 4(c)(2) and 4(d)(2).

4. Transfer of responsibility for the execution of a payment order

For cross-border payments initiated by a participant in the connected NCB's RTGS system, responsibility for the execution of a payment order shall pass from the connected NCB to the service-providing NCB at the moment the connected NCB's account with the service-providing NCB is debited, and thereafter it shall pass to the receiving NCB/ECB in accordance with Article 4(e). For cross-border payments to a participant in the connected NCB's RTGS system, responsibility for the execution of a payment order shall pass from the sending NCB to the service-providing NCB on receipt by the sending NCB/ECB of a positive acknowledgement as described in Article 4a(c)(2)(e)(iii).

(d) Regime for errors

The regime specified in Article 4(f) shall apply to connected NCBs.

(e) Relation to the network service provider

The connected NCB shall be connected or have an entry point to the network service provider. It shall be the connected NCB's responsibility to claim compensation from the network service provider if the connected NCB suffers loss as a result of a breach of such rules and the connected NCB shall submit any claim directly to the network service provider.

(f) Information to participants

All NCBs shall inform participants in their RTGS systems that a positive acknowledgement issued by a service-providing NCB in relation to cross-border payments to participants in a connected NCB's RTGS system certifies the crediting of the connected NCB's account with the service-providing NCB but does not certify the crediting of a receiving participant's account with the connected NCB. To the extent necessary, the NCBs shall amend their national RTGS rules accordingly.'

6. Article 8 is amended as follows:

(a) Paragraph 1(b) is replaced by the following:

‘(b) The Target Compensation Scheme shall apply to all national RTGS systems (regardless of whether such RTGS systems are connected to Target via inter-linking or through a bilateral link) and to the ECB payment mechanism (EPM) and shall be available for all Target participants (including Target participants of national RTGS systems of participating Member States that are not counterparties to the Eurosystem monetary policy operations, and Target participants of national RTGS systems of non-participating Member States) in relation to all Target payments (without distinguishing between domestic payments and cross-border payments). The Target Compensation Scheme shall not apply to customers in the EPM in accordance with the Terms and Conditions governing the use of the EPM, which are available on the ECB’s web site (www.ecb.int) and are updated from time to time.’;

(b) the following paragraph 1(c)a is inserted:

‘(c)a For the purposes of Article 8(1)(c)(ii), a service-providing NCB shall not be regarded as a third party.’;

(c) the following paragraph 1(f) is added:

‘(f) If a connected NCB cannot process cross-border payments due to a malfunctioning of the service-providing NCB’s RTGS system, the service-providing NCB shall be regarded as the malfunctioning NCB in relation to such payments.’

7. Article 9 is replaced by the following:

‘Article 9

Force majeure

There shall be no liability on the part of the NCBs/ECB for non-compliance with this Guideline to the extent that, and

for so long as, there is an inability to perform the obligations in question under the Guideline, or such obligations are subject to suspension or delay, owing to the occurrence of any event arising from any reason or cause beyond reasonable control (including, but not limited to, equipment failure or malfunction, acts of God, natural disasters, strikes or labour disputes); provided that the above shall not prejudice the responsibility to have in place the back-up facilities required by this Guideline, to carry out the error-handling procedures, referred to in Articles 4(f) and 4a(d), as far as possible despite the *force majeure* event, and to use all reasonable efforts to mitigate the effects of any such event while it is taking place.’

8. In Article 10, paragraph 2 is replaced by the following:

‘2. In the event of such a dispute between NCBs, or between an NCB and the ECB, the respective rights and obligations to one another in relation to payment orders processed through TARGET and all other matters referred to in this Guideline shall be determined: (i) by the rules and procedures referred to in this Guideline and its Annexes; and (ii) as a supplementary source in disputes concerning cross-border payments, by the laws of the Member State of the seat of the receiving NCB/ECB.’

9. Annex IV is replaced by the Annex to this Guideline.

Article 2

This Guideline shall enter into force on 25 January 2005.

It shall apply from 7 March 2005.

Article 3

This Guideline is addressed to the national central banks of participating Member States.

Done at Frankfurt am Main, 21 January 2005.

For the Governing Council of the ECB
The President of the ECB
 Jean-Claude TRICHET

ANNEX

'ANNEX IV

TARGET HOURS OF OPERATION

TARGET and, therefore, NCBs and national RTGS systems participating in or connected to TARGET applies the following rules with respect to the time of operation.

1. The reference time for TARGET is 'European Central Bank time', defined as the local time at the seat of the ECB.
2. TARGET will have common operating hours from 07:00 to 18:00.
3. Early opening, before 07:00, may take place after prior notification has been sent to the ECB:
 - (i) for domestic reasons (e.g. in order to facilitate settlement of securities transactions, to settle balances of net settlement systems, or to settle other domestic transactions, such as batch transactions channelled by NCBs into RTGS systems during the night); or
 - (ii) for ESCB-related reasons (e.g. on days when exceptional payment volumes are expected, or in order to reduce foreign exchange settlement risk when processing the euro leg of foreign exchange deals involving Asian currencies).
4. A cut-off time for customer payments (both domestic and cross-border ⁽¹⁾) of one hour before the normal TARGET closing time will apply; the remaining time will be used only for interbank payments (both domestic and cross-border ⁽²⁾) to transfer liquidity between participants. Customer payments are defined as payment messages in the MT100 format, or equivalent national message format (which would use the MT100 format for cross-border transmission). The implementation of the 17:00 cut-off time for domestic payments is to be decided by each NCB in cooperation with its banking community. In addition, NCBs may continue to process domestic customer payments that were in a queue at 17:00.

⁽¹⁾ The cut-off time for cross-border customer payments sent from a participant in a connected NCB's RTGS system via a service-providing NCB is 16:52:30.

⁽²⁾ The cut-off time for cross-border interbank payments sent from a participant in a connected NCB's RTGS system via a service-providing NCB is 17:52:30.'

CORRIGENDA**Corrigendum to Commission Decision 2005/78/EC, Euratom of 1 February 2005 amending Decision 2001/844/EC, ECSC, Euratom**

(Official Journal of the European Union L 29 of 2 February 2005)

The publication of Decision 2005/78/EC, Euratom should be considered null and void.

Corrigendum to Corrigendum to Directive 2004/58/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC

(Official Journal of the European Union L 229 of 29 June 2004)

On the cover page in the Contents and on page 35 in the title:

- for:* 'Directive 2004/58/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC',
- read:* 'Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC'.
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