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## I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 279/2005**  
**of 18 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<sup>(1)</sup>, 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 19 February 2005.

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

Done at Brussels, 18 February 2005.

*For the Commission*

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> 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 18 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 <sup>(1)</sup> | Standard import value |
| 0702 00 00                                        | 052                               | 133,2                 |
|                                                   | 204                               | 79,2                  |
|                                                   | 212                               | 167,7                 |
|                                                   | 624                               | 181,1                 |
|                                                   | 628                               | 104,0                 |
|                                                   | 999                               | 133,0                 |
| 0707 00 05                                        | 052                               | 180,3                 |
|                                                   | 068                               | 116,3                 |
|                                                   | 204                               | 68,5                  |
|                                                   | 999                               | 121,7                 |
| 0709 10 00                                        | 220                               | 42,9                  |
|                                                   | 999                               | 42,9                  |
| 0709 90 70                                        | 052                               | 213,7                 |
|                                                   | 204                               | 217,9                 |
|                                                   | 999                               | 215,8                 |
| 0805 10 20                                        | 052                               | 38,1                  |
|                                                   | 204                               | 42,3                  |
|                                                   | 212                               | 53,1                  |
|                                                   | 220                               | 37,9                  |
|                                                   | 421                               | 30,9                  |
|                                                   | 448                               | 35,8                  |
|                                                   | 624                               | 64,5                  |
|                                                   | 999                               | 43,2                  |
| 0805 20 10                                        | 204                               | 82,6                  |
|                                                   | 624                               | 80,9                  |
|                                                   | 999                               | 81,8                  |
| 0805 20 30, 0805 20 50, 0805 20 70,<br>0805 20 90 | 052                               | 42,7                  |
|                                                   | 204                               | 89,7                  |
|                                                   | 220                               | 35,5                  |
|                                                   | 400                               | 77,0                  |
|                                                   | 464                               | 143,4                 |
|                                                   | 528                               | 96,4                  |
|                                                   | 624                               | 61,0                  |
|                                                   | 662                               | 40,8                  |
|                                                   | 999                               | 73,3                  |
| 0805 50 10                                        | 052                               | 55,2                  |
|                                                   | 999                               | 55,2                  |
| 0808 10 80                                        | 400                               | 103,5                 |
|                                                   | 404                               | 107,3                 |
|                                                   | 508                               | 85,1                  |
|                                                   | 512                               | 124,4                 |
|                                                   | 528                               | 88,0                  |
|                                                   | 720                               | 52,5                  |
|                                                   | 999                               | 93,5                  |
| 0808 20 50                                        | 388                               | 83,2                  |
|                                                   | 400                               | 93,4                  |
|                                                   | 528                               | 58,9                  |
|                                                   | 999                               | 78,5                  |

<sup>(1)</sup> 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 280/2005****of 18 February 2005****fixing the rates of the refunds applicable to eggs and egg yolks exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs<sup>(1)</sup>, and in particular Article 8(3) thereof,

Whereas:

- (1) Article 8(1) of Regulation (EEC) No 2771/75 provides that the difference between prices in international trade for the products listed in Article 1(1) of that Regulation and prices within the Community may be covered by an export refund where these goods are exported in the form of goods listed in the Annex to that Regulation. Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds<sup>(2)</sup>, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex I to Regulation (EEC) No 2771/75.

- (2) In accordance with Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for a period of the same duration as that for which refunds are fixed for the same products exported unprocessed.
- (3) Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lays down that the export refund for a product contained in goods may not exceed the refund applicable to that product when exported without further processing.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

*Article 1*

The rates of the refunds applicable to the basic products listed in Annex A to Regulation (EC) No 1520/2000 and in Article 1(1) of Regulation (EEC) No 2771/75, exported in the form of goods listed in Annex I to Regulation (EEC) No 2771/75, are fixed as set out in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 21 February 2005.

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

Done at Brussels, 18 February 2005.

*For the Commission*  
Günter VERHEUGEN  
Vice-President

<sup>(1)</sup> OJ L 282, 1.11.1975, p. 49. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

<sup>(2)</sup> OJ L 177, 15.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 886/2004 (OJ L 168, 1.5.2004, p. 14).

## ANNEX

**Rates of the refunds applicable from 21 February 2005 to eggs and egg yolks exported in the form of goods not covered by Annex I to the Treaty**

| (EUR/100 kg)  |                                                                                                                                                                                                             |                            |                |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|----------------|
| CN code       | Description                                                                                                                                                                                                 | Destination <sup>(1)</sup> | Rate of refund |
| 0407 00       | Birds' eggs, in shell, fresh, preserved or cooked:                                                                                                                                                          |                            |                |
|               | – Of poultry:                                                                                                                                                                                               |                            |                |
| 0407 00 30    | – – Other:                                                                                                                                                                                                  |                            |                |
|               | (a) On exportation of ovalbumin of CN codes 3502 11 90 and 3502 19 90                                                                                                                                       | 02                         | 10,00          |
|               |                                                                                                                                                                                                             | 03                         | 25,00          |
|               |                                                                                                                                                                                                             | 04                         | 5,00           |
|               | (b) On exportation of other goods                                                                                                                                                                           | 01                         | 5,00           |
| 0408          | Birds' eggs, not in shell and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter: |                            |                |
|               | – Egg yolks:                                                                                                                                                                                                |                            |                |
| 0408 11       | – – Dried:                                                                                                                                                                                                  |                            |                |
| ex 0408 11 80 | – – – Suitable for human consumption:                                                                                                                                                                       |                            |                |
|               | not sweetened                                                                                                                                                                                               | 01                         | 40,00          |
| 0408 19       | – – Other:                                                                                                                                                                                                  |                            |                |
|               | – – – Suitable for human consumption:                                                                                                                                                                       |                            |                |
| ex 0408 19 81 | – – – – Liquid:                                                                                                                                                                                             |                            |                |
|               | not sweetened                                                                                                                                                                                               | 01                         | 20,00          |
| ex 0408 19 89 | – – – – Frozen:                                                                                                                                                                                             |                            |                |
|               | not sweetened                                                                                                                                                                                               | 01                         | 20,00          |
|               | – Other:                                                                                                                                                                                                    |                            |                |
| 0408 91       | – – Dried:                                                                                                                                                                                                  |                            |                |
| ex 0408 91 80 | – – – Suitable for human consumption:                                                                                                                                                                       |                            |                |
|               | not sweetened                                                                                                                                                                                               | 01                         | 75,00          |
| 0408 99       | – – Other:                                                                                                                                                                                                  |                            |                |
| ex 0408 99 80 | – – – Suitable for human consumption:                                                                                                                                                                       |                            |                |
|               | not sweetened                                                                                                                                                                                               | 01                         | 19,00          |

<sup>(1)</sup> The destinations are as follows:

01 Third countries, except Bulgaria as from 1 October 2004. For Switzerland and Lichtenstein these rates are not applicable to the goods listed in Tables I and II to Protocol No 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported with effect from 1 February 2005,

02 Kuwait, Bahrain, Oman, Qatar, United Arab Emirates, Yemen, Turkey, Hong Kong SAR and Russia,

03 South Korea, Japan, Malaysia, Thailand, Taiwan and the Philippines,

04 All destinations except Switzerland, Bulgaria as from 1 October 2004 and those falling within 02 and 03.

**COMMISSION REGULATION (EC) No 281/2005****of 18 February 2005****amending Regulation (EEC) No 2921/90 as regards the amount of the aid for the production of casein and caseinates from skimmed milk**

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<sup>(1)</sup>, and in particular Article 15(b) thereof,

Whereas:

- (1) Article 2(1) of Commission Regulation (EEC) No 2921/90 of 10 October 1990 on aid for the production of casein and caseinates from skimmed milk<sup>(2)</sup> sets the amount of aid for the production of casein and caseinates from skimmed milk. In view of the development in the price of skimmed milk powder on the internal market and the price of casein and caseinates on the Community and world markets, the amount of the aid should be reduced.

- (2) Regulation (EEC) No 2921/90 should be amended accordingly.

- (3) 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 Article (2)1 of Regulation (EEC) No 2921/90, 'EUR 2,70' is hereby replaced by 'EUR 1,30'.

*Article 2*

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

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

Done at Brussels, 18 February 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

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

<sup>(2)</sup> OJ L 279, 11.10.1990, p. 22. Regulation as last amended by Regulation (EC) No 1826/2004 (OJ L 321, 22.10.2004, p. 3).

**COMMISSION REGULATION (EC) No 282/2005****of 18 February 2005****on import licences in respect of beef and veal products originating in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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 <sup>(1)</sup>,

Having regard to Council Regulation (EC) No 2286/2002 of 10 December 2002 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EC) No 1706/98 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 2247/2003 of 19 December 2003 laying down detailed rules for the application in the beef and veal sector of Council Regulation (EC) No 2286/2002 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) <sup>(3)</sup>, and in particular Article 5 thereof,

Whereas:

(1) Article 1 of Regulation (EC) No 2247/2003 provides for the possibility of issuing import licences for beef and veal products originating in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia. However, imports must take place within the limits of the quantities specified for each of these exporting non-member countries.

(2) The applications for import licences submitted between 1 and 10 February 2005, expressed in terms of boned meat, in accordance with Regulation (EC) No 2247/2003, do not exceed, in respect of products originating from Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia, the quantities available from those States. It is therefore possible to issue import licences in respect of the quantities applied for.

(3) The quantities in respect of which licences may be applied for from 1 March 2005 should be fixed within the scope of the total quantity of 52 100 t.

(4) This Regulation is without prejudice to Council Directive 72/462/EEC of 12 December 1972 on health and

veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries <sup>(4)</sup>,

HAS ADOPTED THIS REGULATION:

*Article 1*

The following Member States shall issue on 21 February 2005 import licences for beef and veal products, expressed as boned meat, originating in certain African, Caribbean and Pacific States, in respect of the following quantities and countries of origin:

United Kingdom:

— 430 t originating in Botswana,

— 275 t originating in Namibia;

Germany:

— 500 t originating in Botswana,

— 225 t originating in Namibia.

*Article 2*

Licence applications may be submitted, pursuant to Article 3(2) of Regulation (EC) No 2247/2003, during the first 10 days of March 2005 for the following quantities of boned beef and veal:

|             |           |
|-------------|-----------|
| Botswana:   | 17 536 t, |
| Kenya:      | 142 t,    |
| Madagascar: | 7 579 t,  |
| Swaziland:  | 3 347 t,  |
| Zimbabwe:   | 9 100 t,  |
| Namibia:    | 11 900 t. |

*Article 3*

This Regulation shall enter into force on 21 February 2005.

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Commission Regulation (EC) No 1899/2004 (OJ L 328, 30.10.2004, p. 67).

<sup>(2)</sup> OJ L 348, 21.12.2002, p. 5.

<sup>(3)</sup> OJ L 333, 20.12.2003, p. 37. Regulation as last amended by Regulation (EC) No 1118/2004 (OJ L 217, 17.6.2004, p. 10).

<sup>(4)</sup> OJ L 302, 31.12.1972, p. 28. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

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

Done at Brussels, 18 February 2005.

*For the Commission*  
J. M. SILVA RODRÍGUEZ  
*Director-General for Agriculture and  
Rural Development*

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## COMMISSION REGULATION (EC) No 283/2005

of 18 February 2005

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

marketing and transport costs and of the economic aspects of the exportation envisaged.

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<sup>(1)</sup>, and in particular the third subparagraph of Article 16(3) thereof,

Whereas:

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

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

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

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

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

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

*Article 2*

This Regulation shall enter into force on 22 February 2005.

<sup>(1)</sup> 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).

<sup>(2)</sup> OJ L 141, 24.6.1995, p. 28. Regulation as last amended by Regulation (EC) No 498/2004 (OJ L 80, 18.3.2004, p. 20).

<sup>(3)</sup> OJ L 366, 24.12.1987, p. 1. Regulation as last amended by Regulation (EC) No 2180/2003 (OJ L 335, 22.12.2003, p. 1).

<sup>(4)</sup> OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 636/2004 (OJ L 100, 6.4.2004, p. 25).

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

Done at Brussels, 18 February 2005.

*For the Commission*  
Mariann FISCHER BOEL  
*Member of the Commission*

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ANNEX

**to the Commission Regulation of 18 February 2005 setting export refunds for the processed fruit and vegetable sector other than those granted on added sugar (provisionally preserved cherries, peeled tomatoes, sugar-preserved cherries, prepared hazelnuts, certain orange juices)**

Period for lodging licence applications: 22 February to 23 June 2005.

Licence assignment period: March to June 2005.

| Product code <sup>(1)</sup>                           | Destination code <sup>(2)</sup> | Refund rate<br>(EUR/t net) | Permitted quantities<br>(t) |
|-------------------------------------------------------|---------------------------------|----------------------------|-----------------------------|
| 0812 10 00 9100                                       | F06                             | 50                         | 2 853                       |
| 2002 10 10 9100                                       | F10                             | 45                         | 42 477                      |
| 2006 00 31 9000<br>2006 00 99 9100                    | F06                             | 153                        | 287                         |
| 2008 19 19 9100<br>2008 19 99 9100                    | A00                             | 59                         | 344                         |
| 2009 11 99 9110<br>2009 12 00 9111<br>2009 19 98 9112 | A00                             | 5                          | 300                         |
| 2009 11 99 9150<br>2009 19 98 9150                    | A00                             | 29                         | 301                         |

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

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

The other destinations are:

F06 All destinations except the countries of North America.

F10 All destinations except the United States of America and Bulgaria.

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**COMMISSION REGULATION (EC) No 284/2005****of 18 February 2005****laying down derogations from Regulation (EC) No 800/1999 as regards products in the form of goods not covered by Annex I to the Treaty exported to third countries other than Switzerland and Liechtenstein**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

on application by the exporter once proof is furnished that the product has left the customs territory of the Community.

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products<sup>(1)</sup> and in particular Article 8(3) thereof,

Whereas:

(4) The Agreement between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972<sup>(4)</sup>, which was signed in October 2004, is provisionally applicable from 1 February 2005 by virtue of Council Decision 2005/45/EC of 22 December 2004 concerning the conclusion and the provisional application of the Agreement between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products<sup>(5)</sup>.

(1) Article 16(1) of Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds<sup>(2)</sup> provides that Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products<sup>(3)</sup> shall apply as regards exports of products in the form of goods not covered by Annex I to the Treaty.

(5) Pursuant to Decision 2005/45/EC exports of certain processed agricultural goods to Switzerland and Liechtenstein are, from 1 February 2005, no longer eligible for export refunds, unless the Community decides to introduce such refunds when the Swiss domestic reference price is lower than the Community's domestic reference price.

(2) Article 3 of Regulation (EC) No 800/1999, provides that entitlement to the export refund is acquired on importation into a specific third country when a differentiated refund applies for that third country. Articles 14, 15 and 16 of that Regulation lay down the conditions for the payment of the differentiated refund, in particular the documents to be supplied as proof of the goods' arrival at destination.

(6) Decision 2005/45/EC introduces special provisions on administrative cooperation aimed at combating irregularities and fraud in customs and export refund related matters.

(3) In the case of a differentiated refund, Article 18(1) and (2) of Regulation (EC) No 800/1999 provides that part of the refund, calculated using the lowest refund rate, is paid

(7) In the light of those provisions and in order to avoid the imposition of unnecessary costs on operators in their commercial trade with other third countries, it is appropriate to derogate from Regulation (EC) No 800/1999 in so far as it requires proof of import in the case of differentiated refunds. It is also appropriate, where no export refunds have been fixed for the particular countries of destination in question, not to take account of that fact when the lowest rate of refund is determined.

(8) Since the measures laid down in Decision 2005/45/EC apply from 1 February 2005, this Regulation should apply from the same date and enter into force immediately.

<sup>(1)</sup> OJ L 318, 20.12.1993, p. 18. Regulation as last amended by Regulation (EC) No 2580/2000 (OJ L 298, 25.11.2000, p. 5).

<sup>(2)</sup> OJ L 177, 15.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 886/2004 (OJ L 168, 1.5.2004, p. 14).

<sup>(3)</sup> OJ L 102, 17.4.1999, p. 11. Regulation as last amended by Regulation (EC) No 671/2004 (OJ L 105, 14.4.2004, p. 5).

<sup>(4)</sup> OJ L 23, 26.1.2005, p. 19.

<sup>(5)</sup> OJ L 23, 26.1.2005, p. 17.

- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I to the Treaty,

HAS ADOPTED THIS REGULATION:

*Article 1*

By way of derogation from Article 16 of Regulation (EC) No 800/1999, where the differentiation of the refund is the result solely of a refund not having been fixed for Switzerland or Liechtenstein proof that the customs import formalities have been completed shall not be a condition for payment of the refund in respect of the goods covered by Regulation (EC) No 1520/2000, which are listed in Tables I and II to Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972<sup>(1)</sup>.

*Article 2*

The fact that no export refund has been fixed in respect of the export to Switzerland or Liechtenstein of the goods covered by Regulation (EC) No 1520/2000, which are listed in Tables I and II to Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 shall not be taken into account in determining the lowest rate of refund within the meaning of Article 18(2) of Regulation (EC) No 800/1999.

*Article 3*

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

It shall apply from 1 February 2005.

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

Done at Brussels, 18 February 2005.

*For the Commission*

Günter VERHEUGEN

*Vice-President*

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<sup>(1)</sup> OJ L 300, 31.12.1972, p. 189.

**COMMISSION REGULATION (EC) No 285/2005****of 18 February 2005****laying down transitory measures arising from the adoption of improved trade arrangements concerning the export of certain processed agricultural products to Switzerland and Liechtenstein**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products <sup>(1)</sup>, and in particular Article 8(3) thereof,

Whereas:

- (1) The Agreement between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 <sup>(2)</sup>, which was signed in October 2004, is provisionally applicable from 1 February 2005 by virtue of Council Decision 2005/45/EC of 22 December 2004 concerning the conclusion and the provisional application of the Agreement between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products <sup>(3)</sup>.
- (2) Pursuant to Decision 2005/45/EC certain goods for which operators have applied for refund certificates in accordance with Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds <sup>(4)</sup> are, from 1 February 2005, no longer eligible for refunds when they are exported to Switzerland or Liechtenstein.
- (3) Reduction of refund certificates and pro rata release of the corresponding security should be allowed where operators can demonstrate to the satisfaction of the national competent authority that their claims for

refunds have been affected by Decision 2005/45/EC. When assessing requests for reduction of the amount of the refund certificate and proportional release of the relevant security, the national competent authority should, in cases of doubt, have regard in particular to the documents referred to in Article 1(2) of Council Regulation (EEC) No 4045/89 of 21 December 1989 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund and repealing Directive 77/435/EEC <sup>(5)</sup> without prejudice to the application of the other provisions of that Regulation.

- (4) For administrative reasons it is appropriate to provide that requests for reduction of the amount of the refund certificate and release of the security are to be made within a short period and that the amounts for which reductions have been accepted are to be notified to the Commission in time for their inclusion in the determination of the amount for which refund certificates for use from 1 April 2005 shall be issued, pursuant to Regulation (EC) No 1520/2000.
- (5) Since the measures laid down in Decision 2005/45/EC will apply from 1 February 2005, this Regulation should apply from the same date and enter into force immediately.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I to the Treaty,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. Refund certificates issued in accordance with Regulation (EC) No 1520/2000 in respect of exports of the goods for which export refunds have been abolished by Decision 2005/45/EC may, at request of the interested party, be reduced under the conditions provided for in paragraph 2.

<sup>(1)</sup> OJ L 318, 20.12.1993, p. 18. Regulation as last amended by Regulation (EC) No 2580/2000 (OJ L 298, 25.11.2000, p. 5).

<sup>(2)</sup> OJ L 23, 26.1.2005, p. 19.

<sup>(3)</sup> OJ L 23, 26.1.2005, p. 17.

<sup>(4)</sup> OJ L 177, 15.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 886/2004 (OJ L 168, 1.5.2004, p. 14).

<sup>(5)</sup> OJ L 388, 30.12.1989, p. 18. Regulation as last amended by Regulation (EC) No 2154/2002 (OJ L 328, 5.12.2002, p. 4.).

2. To be eligible for reduction of the amount of the refund certificate, the certificates referred to in paragraph 1 must have been applied for before 1 February 2005 and their validity period must expire after 31 January 2005.

3. The certificate shall be reduced by the amount for which the interested party is unable to claim export refunds from 1 February 2005, as demonstrated to the satisfaction of the national competent authority.

In making their appraisal the competent authorities shall, in cases of doubt, have regard in particular to the commercial documents referred to in Article 1(2) of Regulation (EEC) No 4045/89.

4. The relevant security shall be released in proportion to the reduction concerned.

#### Article 2

1. To be eligible for consideration under Article 1, the national competent authority must receive the requests by 7 March 2005, at the latest.

2. Member States shall notify the Commission not later than 14 March 2005 of the amounts for which reductions have been accepted in accordance with Article 1(3) of this Regulation. The notified amounts shall be taken into account for the determination of the amount for which refund certificates for use from 1 April 2005 shall be issued, pursuant to point (d) of Article 8(1) of Regulation (EC) No 1520/2000.

#### Article 3

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, 18 February 2005.

*For the Commission*

Günter VERHEUGEN

*Vice-President*

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**COMMISSION REGULATION (EC) No 286/2005****of 18 February 2005****on granting of import licences for cane sugar for the purposes of certain tariff quotas and preferential agreements**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1159/2003 of 30 June 2003 laying down detailed rules of application for the 2003/04, 2004/05 and 2005/06 marketing years for the import of cane sugar under certain tariff quotas and preferential agreements and amending Regulations (EC) No 1464/95 and (EC) No 779/96 <sup>(3)</sup>, and in particular Article 5(4) thereof,

Whereas:

- (1) Article 9 of Regulation (EC) No 1159/2003 lays down detailed rules on determining the delivery obligations at zero duty for products falling within CN code 1701 expressed as white sugar equivalent for imports origi-

nating in countries which are parties to the ACP Protocol and the India Agreement.

- (2) Commission Regulation (EC) No 221/2005 of 10 February 2005 fixing the quantities of the delivery obligations for sugar cane to be imported under the ACP Protocol and the India Agreement for the 2004/05 delivery period <sup>(4)</sup> fixed a delivery obligation for Congo, India and Mozambique higher than all the import licence applications submitted to date for the 2004/05 delivery period.
- (3) Under these circumstances, and in the interests of clarity, it should be indicated that the limits concerned have not been reached,

HAS ADOPTED THIS REGULATION:

*Article 1*

In the case of import licence applications presented from 7 to 11 February 2005 in line with Article 5(1) of Regulation (EC) No 1159/2003 licences shall be issued for the quantities indicated in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 19 February 2005.

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

Done at Brussels, 18 February 2005.

*For the Commission*

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 146, 20.6.1996, p. 1.

<sup>(3)</sup> OJ L 162, 1.7.2003, p. 25. Regulation as amended by Regulation (EC) No 1409/2004 (OJ L 256, 3.8.2004, p. 11).

<sup>(4)</sup> OJ L 39, 11.2.2005, p. 15.

## ANNEX

**ACP—INDIA preferential sugar****Title II of Regulation (EC) No 1159/2003****2004/05 marketing year**

| Country               | Week of 7.-11.2.2005: percentage of requested quantity to be granted | Limit   |
|-----------------------|----------------------------------------------------------------------|---------|
| Barbados              | 100                                                                  | reached |
| Belize                | 0                                                                    |         |
| Congo                 | 100                                                                  |         |
| Fiji                  | 100                                                                  |         |
| Guyana                | 100                                                                  |         |
| India                 | 100                                                                  |         |
| Côte d'Ivoire         | 100                                                                  |         |
| Jamaica               | 100                                                                  |         |
| Kenya                 | 100                                                                  |         |
| Madagascar            | 100                                                                  |         |
| Malawi                | 100                                                                  |         |
| Mauritius             | 100                                                                  |         |
| Mozambique            | 100                                                                  |         |
| Saint Kitts and Nevis | 100                                                                  |         |
| Swaziland             | 100                                                                  |         |
| Tanzania              | 100                                                                  |         |
| Trinidad and Tobago   | 100                                                                  |         |
| Zambia                | 100                                                                  |         |
| Zimbabwe              | 0                                                                    | reached |

**Special preferential sugar****Title III of Regulation (EC) No 1159/2003****2004/05 marketing year**

| Country | Week of 7.-11.2.2005: percentage of requested quantity to be granted | Limit |
|---------|----------------------------------------------------------------------|-------|
| India   | 100                                                                  |       |
| ACP     | 100                                                                  |       |

**CXL concessions sugar****Title IV of Regulation (EC) No 1159/2003****2004/05 marketing year**

| Country               | Week of 7.-11.2.2005: percentage of requested quantity to be granted | Limit   |
|-----------------------|----------------------------------------------------------------------|---------|
| Brazil                | 0                                                                    | reached |
| Cuba                  | 100                                                                  | reached |
| Other third countries | 0                                                                    |         |

**COMMISSION REGULATION (EC) No 287/2005**  
**of 18 February 2005**  
**fixing the export refunds on eggs applicable from 21 February 2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs<sup>(1)</sup>, and in particular the third subparagraph of Article 8(3) thereof,

Whereas:

- (1) Article 8 of Regulation (EEC) No 2771/75 provides that the difference between prices on the world market for the products listed in Article 1(1) of that regulation and prices for those products on the Community market may be covered by an export refund.
- (2) It follows from applying these rules and criteria to the present situation on the market in eggs that the refund should be fixed at an amount which would permit Community participation in world trade and would also take account of the nature of these exports and their importance at the present time.
- (3) The present market situation in certain third countries and that regarding competition makes it necessary to fix a refund differentiated by destination for certain products in the egg sector.
- (4) Article 21 of Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down detailed rules for the application of the system of export refunds on agricultural products<sup>(2)</sup>, stipulates that no refund is granted if the products are not of sound and fair marketable

quality on the date on which the export declaration is accepted. In order to ensure uniform application of the rules in force, it should be stated that, in order to qualify for the refund, the egg products listed in Article 1 of Regulation (EEC) No 2771/75 must bear the health mark laid down in Council Directive 89/437/EEC of 20 June 1989 on hygiene and health problems affecting the production and the placing on the market of egg products<sup>(3)</sup>.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The codes of products for which, when they are exported, the export refund referred to in Article 8 of Regulation (EEC) No 2771/75 is granted and the amount of that refund shall be as shown in the Annex hereto.

However, in order to qualify for the refund, products falling within the scope of Chapter XI of the Annex to Directive 89/437/EEC must also satisfy the health marking conditions laid down in that Directive.

*Article 2*

This Regulation shall enter into force on 21 February 2005.

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

Done at Brussels, 18 February 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 282, 1.11.1975, p. 49. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

<sup>(2)</sup> OJ L 102, 17.4.1999, p. 11. Regulation as last amended by Regulation (EC) No 444/2003 (OJ L 67, 12.3.2003, p. 3).

<sup>(3)</sup> OJ L 212, 22.7.1989, p. 87. Directive as last amended by Regulation (EC) No 806/2003.

## ANNEX

**Export refunds on eggs applicable from 21 February 2005**

| Product code    | Destination | Unit of measurement | Amount of refund |
|-----------------|-------------|---------------------|------------------|
| 0407 00 11 9000 | E16         | EUR/100 pcs         | 1,70             |
| 0407 00 19 9000 | E16         | EUR/100 pcs         | 0,80             |
| 0407 00 30 9000 | E09         | EUR/100 kg          | 10,00            |
|                 | E10         | EUR/100 kg          | 25,00            |
|                 | E17         | EUR/100 kg          | 5,00             |
| 0408 11 80 9100 | E18         | EUR/100 kg          | 40,00            |
| 0408 19 81 9100 | E18         | EUR/100 kg          | 20,00            |
| 0408 19 89 9100 | E18         | EUR/100 kg          | 20,00            |
| 0408 91 80 9100 | E18         | EUR/100 kg          | 75,00            |
| 0408 99 80 9100 | E18         | EUR/100 kg          | 19,00            |

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

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

The other destinations are defined as follows:

E09 Kuwait, Bahrain, Oman, Qatar, the United Arab Emirates, Yemen, Hong Kong SAR, Russia and Turkey.

E10 South Korea, Japan, Malaysia, Thailand, Taiwan and the Philippines.

E16 all destinations except the United States of America and Bulgaria.

E17 all destinations except Switzerland, Bulgaria and those of E09 and E10.

E18 all destinations except Switzerland and Bulgaria.

**COMMISSION REGULATION (EC) No 288/2005**  
**of 18 February 2005**  
**determining the world market price for unginned cotton**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Protocol 4 on cotton, annexed to the Act of Accession of Greece, as last amended by Council Regulation (EC) No 1050/2001<sup>(1)</sup>,

Having regard to Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton<sup>(2)</sup>, and in particular Article 4 thereof,

Whereas:

- (1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for unginned cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for unginned cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 laying down detailed rules for applying the cotton aid scheme<sup>(3)</sup>. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.
- (2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginned

cotton is to be determined in respect of a product of specific characteristics and by reference to the most favourable offers and quotations on the world market among those considered representative of the real market trend. To that end, an average is to be calculated of offers and quotations recorded on one or more European exchanges for a product delivered cif to a port in the Community and coming from the various supplier countries considered the most representative in terms of international trade. However, there is provision for adjusting the criteria for determining the world market price for ginned cotton to reflect differences justified by the quality of the product delivered and the offers and quotations concerned. Those adjustments are specified in Article 3(2) of Regulation (EC) No 1591/2001.

- (3) The application of the above criteria gives the world market price for unginned cotton determined hereinafter,

HAS ADOPTED THIS REGULATION:

*Article 1*

The world price for unginned cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling 18,370 EUR/100 kg.

*Article 2*

This Regulation shall enter into force on 19 February 2005.

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

Done at Brussels, 18 February 2005.

*For the Commission*

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 148, 1.6.2001, p. 1.

<sup>(2)</sup> OJ L 148, 1.6.2001, p. 3.

<sup>(3)</sup> OJ L 210, 3.8.2001, p. 10. Regulation as amended by Regulation (EC) No 1486/2002 (OJ L 223, 20.8.2002, p. 3).

**COMMISSION DIRECTIVE 2005/12/EC****of 18 February 2005****amending Annexes I and II to Directive 2003/25/EC of the European Parliament and of the Council  
on specific stability requirements for ro-ro passenger ships****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships<sup>(1)</sup>, and in particular Article 10 thereof,

Whereas:

- (1) Directive 2003/25/EC applies to all ro-ro passenger ships operating to or from a port of a Member State on a regular service, regardless of their flag, when engaged on international voyages.
- (2) Article 6 of Directive 2003/25/EC provides that ro-ro passenger ships shall comply with specific stability requirements which are set out in detail in Annex I to that Directive and that Member States shall use in the application of these requirements the guidelines set out in Annex II thereto.
- (3) Article 10 of Directive 2003/25/EC provides that the Annexes to the Directive may be amended in accordance with the procedure referred to in Article 11(2), in order to take account of developments at international level and particularly at the International Maritime Organisation (IMO).
- (4) IMO Resolution MSC 141(76) of 5 December 2002 introduced a revised model test method and associated guidance notes under Resolution 14 of the 1995 SOLAS (Safety of Life at Sea) Conference. Resolution 14 concerns regional agreements on specific stability requirements for ro-ro passenger ships.
- (5) The revised model test method should supersede the previously applied model test method provided for in Directive 2003/25/EC. Any ship having passed the test according to the previously applied model test method need not to do the test again.

(6) Directive 2003/25/EC should therefore be amended accordingly.

(7) The measures provided for in this Directive are in accordance with the opinion of the Committee on Safe Seas and the Prevention of Pollution from Ships, set up by Regulation (EC) No 2099/2002 of the European Parliament and of the Council<sup>(2)</sup>,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 2003/25/EC is amended as follows:

1. Annex I is amended as follows:

(a) paragraph 2.3 is replaced by the following:

‘2.3. the tightness of transverse or longitudinal bulkheads which are taken into account as effective to confine the assumed accumulated sea water in the compartment concerned in the damaged ro-ro deck shall be commensurate with the drainage system, and shall withstand hydrostatic pressure in accordance with the results of the damage calculation. Such bulkheads shall be at least 4 m in height unless the height of water is less than 0,5 m. In such cases the height of the bulkhead may be calculated in accordance with the following:

$$Bh = 8hw$$

where:

Bh is the bulkhead height;

and hw is the height of water.

<sup>(1)</sup> OJ L 123, 17.5.2003, p. 22.

<sup>(2)</sup> OJ L 324, 29.11.2002, p. 1. Regulation as amended by Regulation (EC) No 415/2004 (OJ L 68, 6.3.2004, p. 10).

In any event, the minimum height of the bulkhead should be not less than 2,2 m. However, in case of a ship with hanging car decks, the minimum height of the bulkhead shall be not less than the height to the underside of the hanging deck when in its lowered position;'

(b) the Appendix entitled 'Model test method', is replaced by the text shown in Annex I to this Directive;

2. in Annex II, Part II, entitled 'Model testing', is replaced by the text shown in Annex II to this Directive.

#### Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within 12 months after its date of entry into force at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a

reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

#### Article 3

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

#### Article 4

This Directive is addressed to the Member States.

Done at Brussels, 18 February 2005.

*For the Commission*

Jacques BARROT  
Vice-President

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## ANNEX I

## Appendix

**Model test method****1. Objectives**

This revised model test method is a revision of the method contained in the Appendix to the Annex to resolution 14 of the 1995 SOLAS Conference. Since the entry into force of the Stockholm Agreement a number of model tests has been carried out in accordance with the test method previously in force. During these tests a number of refinements in the procedures have been identified. This new model test method aims to include these refinements and, together with the appended Guidance Notes, provide a more robust procedure for the assessment of survivability of a damaged ro-ro passenger ship in a seaway. In the tests provided for in paragraph 1.4 of the stability requirements included in Annex I, the ship should be capable of withstanding a seaway as defined in paragraph 4 hereunder in the worst-damage-case scenario.

**2. Definitions**

- $L_{BP}$  is the length between perpendiculars  
 $H_S$  is the significant wave height  
 $B$  is the moulded breadth of the ship  
 $T_P$  is the peak period  
 $T_Z$  is the zero crossing period

**3. Ship model**

- 3.1. The model should copy the actual ship for both outer configuration and internal arrangement, in particular all damaged spaces having an effect on the process of flooding and shipping of water. Intact draught, trim, heel and limiting operational KG corresponding to the worst damage case should be used. Furthermore, the test case(s) to be considered should represent the worst damage case(s) defined in accordance with SOLAS regulation II-1/8.2.3.2 (SOLAS 90) with regard to the total area under the positive GZ curve and the centreline of the damage opening should be located within the following range:

3.1.1.  $\pm 35\%$   $L_{BP}$  from midship;

3.1.2. an additional test will be required for the worst damage within  $\pm 10\%$   $L_{BP}$  from midship if the damage case referred to in .1 is outside of  $\pm 10\%$   $L_{BP}$  from midship.

3.2. The model should comply with the following:

3.2.1. length between perpendiculars ( $L_{BP}$ ) is to be at least 3 m or a length corresponding to a model scale of 1:40, whichever is greater, and the vertical extent up to at least three superstructure standard heights above the bulkhead (freeboard) deck;

3.2.2. hull thickness of flooded spaces should not exceed 4 mm;

3.2.3. in both intact and damaged conditions, the model should satisfy the correct displacement and draught marks ( $T_A$ ,  $T_M$ ,  $T_F$ , port and starboard) with a maximum tolerance in any one draught mark of +2 mm. Draught marks forward and aft should be located as near FP and AP as practicable;

3.2.4. all damaged compartments and ro-ro spaces should be modelled with the correct surface and volume permeabilities (actual values and distributions) ensuring that floodwater mass and mass distribution are correctly represented;

3.2.5. the characteristics of motion of the actual ship should be modelled properly, paying particular attention to the intact GM tolerance and radii of gyration in roll and pitch motion. Both radii should be measured in air and be in the range of 0,35B to 0,4B for roll motion, and 0,2LOA to 0,25LOA for pitch motion;

3.2.6. main design features such as watertight bulkheads, air escapes, etc., above and below the bulkhead deck that can result in asymmetric flooding should be modelled properly as far as practicable to represent the real situation; Ventilating and cross-flooding arrangements should be constructed to a minimum cross section of 500 mm<sup>2</sup>;

3.2.7. the shape of the damage opening should be as follows:

1. trapezoidal profile with side at 15° slope to the vertical and the width at the design waterline defined according to SOLAS regulation II-1/8.4.1;
2. isosceles triangular profile in the horizontal plane with the height equal to B/5 according to SOLAS regulation II-1/8.4.2. If side casings are fitted within B/5, the damaged length in way of the side casings should not be less than 25 mm;
3. notwithstanding the provisions of subparagraphs 3.2.7.1 and 3.2.7.2 above, all compartments taken as damaged in calculating the worst damage case(s) referred to in paragraph 3.1 should be flooded in the model tests;

3.3. The model in the flooded equilibrium condition should be heeled by an additional angle corresponding to that induced by the heeling moment  $M_h = \max(M_{pass}, M_{launch}) - M_{wind}$ , but in no case should the final heel be less than 1° towards damage.  $M_{pass}$ ,  $M_{launch}$  and  $M_{wind}$  are as specified in SOLAS regulation II-1/8.2.3.4. For existing ships this angle may be taken as 1°.

#### 4. Procedure for experiments

4.1. The model should be tested in a long-crested irregular seaway defined by the JONSWAP spectrum with significant wave height  $H_S$ , a peak enhancement factor  $\gamma = 3,3$  and a peak period  $T_p = 4\sqrt{H_S}$  ( $T_Z = T_p/1,285$ ).  $H_S$  is the significant wave height for the area of operation, which is not exceeded by a probability of more than 10 % on a yearly basis, but limited to a maximum of 4 m.

Furthermore,

4.1.1. the basin width should be sufficient to avoid contact or other interaction with the sides of the basin and is recommended not to be less than  $L_{BP} + 2$  m;

4.1.2. the basin depth should be sufficient for proper wave modelling but should not be less than 1 m;

4.1.3. for a representative wave realisation to be used, measurements should be performed prior to the test at three different locations within the drift range;

4.1.4. the wave probe closer to the wave maker should be located at the position where the model is placed when the test starts;

4.1.5. variation in  $H_S$  and  $T_p$  should be within  $\pm 5$  % for the three locations; and

4.1.6. during the tests, for approval purposes, a tolerance of  $\pm 2,5$  % in  $H_S$ ,  $\pm 2,5$  % in  $T_p$  and  $\pm 5$  % in  $T_Z$  should be allowed with reference to the probe closer to the wave maker.

4.2. The model should be free to drift and placed in beam seas (90° heading) with the damage hole facing the oncoming waves, with no mooring system permanently attached to the model used. To maintain a beam sea heading of approximately 90° during the model test the following requirements should be satisfied:

4.2.1. heading control lines, intended for minor adjustment, should be located at the centre line of the stem and stern, in a symmetrical fashion and at a level between the position of KG and the damaged waterline; and

4.2.2. the carriage speed should be equal to the actual drift speed of the model with speed adjustment made when necessary.

4.3. At least 10 experiments should be carried out. The test period for each experiment should be of a duration such that a stationary state is reached, but not less than 30 min in full-scale. A different wave realisation train should be used for each experiment.

5. **Survival criteria**

The model should be considered as surviving if a stationary state is reached for the successive test runs as required in paragraph 4.3. The model should be considered as capsized if angles of roll of more than 30° to the vertical axis or steady (average) heel greater than 20° for a period longer than three minutes full-scale occur, even if a stationary state is reached.

6. **Test documentation**

- 6.1. The model test programme should be approved by the Administration in advance.
  - 6.2. Tests should be documented by means of a report and a video or other visual records containing all relevant information on the model and the test results, which are to be approved by the Administration. These should include, as a minimum, the theoretical and measured wave spectra and statistics ( $H_s$ ,  $T_p$ ,  $T_z$ ) of the wave elevation at the three different locations in the basin for a representative realisation, and for the tests with the model, the time series of main statistics of the measured wave elevation close to the wave maker and records of model roll, heave and pitch motions, and of the drift speed.
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## ANNEX II

## PART II

**MODEL TESTING**

The purpose of these guidelines is to ensure uniformity in the methods employed in the construction and verification of the model as well as in the undertaking and analyses of the model tests.

The contents of paragraphs 1 and 2 of the Appendix to Annex I are considered self-explanatory.

**Paragraph 3 — Ship model**

- 3.1. The material of which the model is made is not important in itself, provided that the model both in the intact and damaged condition is sufficiently rigid to ensure that its hydrostatic properties are the same as those of the actual ship and also that the flexural response of the hull in waves is negligible.

It is also important to ensure that the damaged compartments are modelled as accurately as practicably possible to ensure that the correct volume of flood water is represented.

Since ingress of water (even small amounts) into the intact parts of the model will affect its behaviour, measures must be taken to ensure that this ingress does not occur.

In model tests involving worst SOLAS damages near the ship ends, it has been observed that progressive flooding was not possible because of the tendency of the water on deck to accumulate near the damage opening and hence flow out. As such models were able to survive very high sea states, while they capsized in lesser sea states with less onerous SOLAS damages, away from the ends, the limit  $\pm 35\%$  was introduced to prevent this.

Extensive research carried out for the purpose of developing appropriate criteria for new vessels has clearly shown that in addition to the GM and freeboard being important parameters in the survivability of passenger ships, the area under the residual stability curve is also another major factor. Consequently in choosing the worst SOLAS damage for compliance with the requirement of paragraph 3.1 the worst damage is to be taken as that which gives the least area under the residual stability curve.

3.2. Model particulars

- 3.2.1. In recognising that scale effects play an important role in the behaviour of the model during tests, it is important to ensure that these effects are minimised as much as practically possible. The model should be as large as possible since details of damaged compartments are easier constructed in larger models and the scale effects are reduced. It is therefore required that the model length is not less than that corresponding to 1:40 scale or 3 m, whichever is greater.

It has been found during tests that the vertical extent of the model can affect the results when tested dynamically. It is therefore required that the ship is modelled to at least three super structure standard heights above the bulkhead (freeboard) deck so that the large waves of the wave train do not break over the model.

- 3.2.2. The model in way of the assumed damages must be as thin as practically possible to ensure that the amount of flood water and its centre of gravity is adequately represented. The hull thickness should not exceed 4 mm. It is recognised that it may not be possible for the model hull and the elements of primary and secondary subdivision in way of the damage to be constructed with sufficient detail and due to these constructional limitations it may not be possible to calculate accurately the assumed permeability of the space.

- 3.2.3. It is important that not only the draughts in the intact condition are verified, but also that the draughts of the damaged model are accurately measured for correlation with those derived from the damaged stability calculation. For practical reasons a tolerance of + 2 mm in any draught is accepted.
- 3.2.4. After measuring the damaged draughts it may be found necessary to make adjustments to the permeability of the damaged compartment by either introducing intact volumes or by adding weights. However it is also important to ensure that the centre of gravity of the flood water is accurately represented. In this case any adjustments made must err on the side of safety.

If the model is required to be fitted with barriers on deck and the barriers are less than the bulkhead height indicated below, the model is to be fitted with CCTV so that any "splashing over" and any accumulation of water on the undamaged area of the deck can be monitored. In this case a video recording of the event is to form part of the test records.

The height of transverse or longitudinal bulkheads which are taken into account as effective to confine the assumed accumulated sea water in the compartment concerned in the damaged ro-ro deck should be at least 4 m in height unless the height of water is less than 0,5 m. In such cases the height of the bulkhead may be calculated in accordance with the following:

$$B_h = 8h_w$$

where  $B_h$  is the bulkhead height; and

$h_w$  is the height of water.

In any event, the minimum height of the bulkhead should be not less than 2,2 m. However, in the case of a ship with hanging car decks, the minimum height of the bulkhead should be not less than the height to the underside of the hanging car deck when in its lowered position.

- 3.2.5. In order to ensure that the model motion characteristics represent those of the actual ship it is important that the model is both inclined and rolled in the intact condition so that the intact GM and the mass distribution are verified. The mass distribution should be measured in air. The transverse radius of gyration of the actual ship should be in the range 0,35B to 0,4B and the longitudinal radius of gyration should be in the range 0,2L to 0,25L.

*Note:* While inclining and rolling the model in the damaged condition may be accepted as a check for the purpose of verifying the residual stability curve, such tests should not be accepted in lieu of the intact tests.

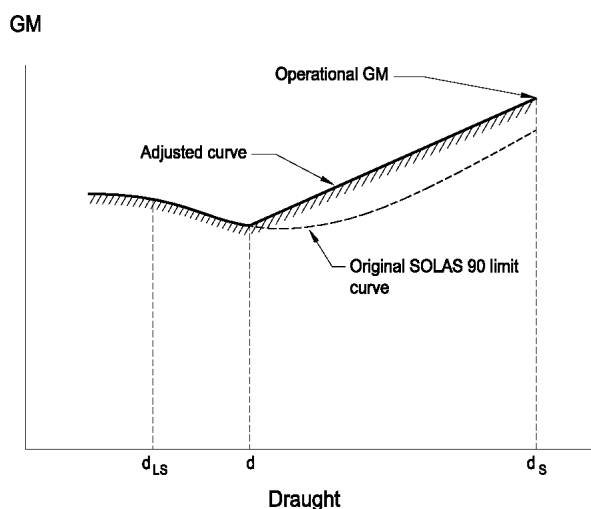
- 3.2.6. It is assumed that the ventilators of the damage compartment of the actual ship are adequate for unhindered flooding and movement of the flood water. However in trying to scale down the ventilating arrangements of the actual ship undesirable scale effects may be introduced in the model. In order to ensure that no such effects occur it is recommended to construct the ventilating arrangements to a larger scale than that of the model, ensuring that this does not affect the flow of water on the car deck.

- 3.2.7. It is deemed appropriate to consider a damage shape representative of a cross section of the striking ship in the bow region. The 15° angle is based on a study of the cross section at a distance of B/5 from the bow for a representative selection of vessels of different types and sizes.

The isosceles triangular profile of the prismatic damage shape is that corresponding to the load waterline.

Additionally in cases where side casings of width less than  $B/5$  are fitted and in order to avoid any possible scale effects, the damage length in way of the side casings must not be less than 25 mm.

- 3.3. In the original model test method of resolution 14 of the 1995 SOLAS Conference the effect of heeling induced by the maximum moment deriving from any of passenger crowding, launching of survival craft, wind and turning was not considered even though this effect was part of SOLAS. Results from an investigation have shown, however, that it would be prudent to take these effects into account and to retain the minimum of  $1^\circ$  heel towards the damage for practical purposes. It is to be noted that heeling due to turning was considered not to be relevant.
- 3.4. In cases where there is a margin in GM in the actual loading conditions compared to the GM limiting curve (derived from SOLAS 90), the Administration may accept that this margin is taken advantage of in the model test. In such cases the GM limiting curve should be adjusted. This adjustment can be done as follows:



$$d = d_S - 0,6 (d_S - d_{LS})$$

where:  $d_S$  is the subdivision draught; and  $d_{LS}$  is the lightship draught.

The adjusted curve is a straight line between the GM used in the model test at the subdivision draught and the intersection of the original SOLAS 90 curve and draught  $d$ .

#### Paragraph 4 — Procedure for experiments

##### 4.1. Wave spectra

The JONSWAP spectrum should be used as this describes fetch- and duration- limited seas which correspond to the majority of conditions world wide. In this respect it is important that not only the peak period of the wave train is verified but also that the zero crossing period is correct.

It is required that for every test run the wave spectrum is recorded and documented. Measurements for this recording should be taken at the probe closest to the wave making machine.

It is also required that the model is instrumented so that its motions (roll, heave and pitch) as well as its attitude (heel, sinkage and trim) are monitored and recorded through-out the test.

It has been found that it is not practical to set absolute limits for significant wave heights, peak periods and zero crossing periods of the model wave spectra. An acceptable margin has therefore been introduced.

- 4.2. To avoid interference of the mooring system with the ship dynamics, the towing carriage (to which the mooring system is attached) should follow the model at its actual drifting speed. In a sea state with irregular waves the drift speed will not be constant; a constant carriage speed would result in low frequency, large amplitude drift oscillations, which may affect the model behaviour.
- 4.3. A sufficient number of tests in different wave trains is necessary to ensure statistical reliability, i.e. the objective is to determine with a high degree of confidence that an unsafe ship will capsize in the selected conditions. A minimum number of 10 runs is considered to provide a reasonable level of reliability.

**Paragraph 5 — Survival criteria**

The contents of this paragraph are considered self-explanatory.

**Paragraph 6 — Test approval**

The following documents are to be part of the report to the administration:

- (a) damage stability calculations for worst SOLAS and mid-ship damage (if different);
- (b) general arrangement drawing of the model together with details of construction and instrumentation;
- (c) inclining experiment and measurements of radii of gyration;
- (d) nominal and measured wave spectra (at the three different locations for a representative realisation and for the tests with the model from the probe closest to the wave maker);
- (e) representative record of model motions, attitude and drift;
- (f) relevant video recordings.

*Note:*

All tests must be witnessed by the administration.'

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## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 17 February 2005

**extending the period of application of the measures provided for by Decision 2002/148/EC concluding consultations held with Zimbabwe under Article 96 of the ACP-EC Partnership Agreement**

(2005/139/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the second subparagraph of Article 300(2) thereof,

Having regard to the Internal Agreement on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000 <sup>(1)</sup>, hereinafter referred to as the 'ACP-EC Agreement', and in particular Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) By Decision 2002/148/EC <sup>(2)</sup>, the consultations held with the Republic of Zimbabwe under Article 96(2)(c) of the ACP-EC Agreement were concluded and the appropriate measures specified in the letter attached to that Decision were taken.
- (2) The period of application of the said measures was extended until 20 February 2004 by Decision 2003/112/EC <sup>(3)</sup> and until 20 February 2005 by Decision 2004/157/EC <sup>(4)</sup>.
- (3) The essential elements cited in Article 9 of the ACP-EC Agreement continue to be violated by the Government of Zimbabwe and the current conditions in Zimbabwe do not ensure respect for human rights, democratic principles and the rule of law.

- (4) The period of application of the measures referred to in Article 2 of Decision 2002/148/EC should therefore be extended,

HAS DECIDED AS FOLLOWS:

*Article 1*

The application of the measures referred to in Article 2 of Decision 2002/148/EC shall be extended until 20 February 2006. These measures shall be reviewed on the basis of an in-depth assessment of the situation in the light of the parliamentary election scheduled to take place in Zimbabwe in March 2005.

The letter attached to this Decision shall be addressed to the President of Zimbabwe.

*Article 2*

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

Done at Brussels, 17 February 2005.

*For the Council*

*The President*

J.-C. JUNCKER

<sup>(1)</sup> OJ L 317, 15.12.2000, p. 376.

<sup>(2)</sup> OJ L 50, 21.2.2002, p. 64.

<sup>(3)</sup> OJ L 46, 20.2.2003, p. 25.

<sup>(4)</sup> OJ L 50, 20.2.2004, p. 60.

## ANNEX

Brussels, ...

## LETTER TO THE PRESIDENT OF ZIMBABWE

The European Union attaches the utmost importance to the provisions of Article 9 of the ACP-EC Partnership Agreement. As essential elements of the Partnership Agreement, respect for human rights, democratic institutions and the rule of law are the basis of our relations.

By letter of 19 February 2002, the European Union informed you of its decision to conclude the consultations held under Article 96 of the ACP-EC Partnership Agreement and to take certain 'appropriate measures' within the meaning of Article 96(2)(c) of that Agreement.

By letters of 19 February 2003 and 19 February 2004, the European Union informed you of its decisions not to revoke the application of the 'appropriate measures' and to extend the period of application of such measures until 20 February 2004 and 20 February 2005 respectively.

Today, at the end of a new 12-month period, the European Union considers that democratic principles are still not upheld in Zimbabwe and that no significant progress has been achieved by your country's Government in the five fields cited in the Council Decision of 18 February 2002 (end of politically motivated violence, free and fair elections, freedom of the media, independence of the judiciary and end of illegal occupations of farms).

Bearing in mind the above, the European Union considers that there is no question of the appropriate measures being revoked and it has decided to extend the period of their application until 20 February 2006. These measures will be reviewed on the basis of an in-depth assessment of the situation in the light of the parliamentary election scheduled to take place in Zimbabwe in March 2005.

The European Union would like to emphasise that it attaches paramount importance to the holding of free and fair parliamentary elections and, to this effect, it hopes that you and your Government will do everything you can to ensure that the political and electoral environment is conducive to the holding of free and fair parliamentary elections. This would enable a dialogue to be conducted on the basis of the ACP-EC Partnership Agreement, which could lead to the lifting of the suspension of the signing of the 9th EDF National Indicative Programme for Zimbabwe thereby making possible the resumption of full cooperation instruments in the near future.

Yours faithfully,

*For the Commission*

*For the Council*

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# COMMISSION

## COMMISSION DECISION

of 30 March 2004

**on the aid scheme for certain coalmining undertakings in the Autonomous Community of Castile-Leon implemented by Spain for 2001 and 2002**

*(notified under document number C(2004) 927)*

**(Only the Spanish text is authentic)**

**(Text with EEA relevance)**

(2005/140/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having called on interested parties to submit their comments pursuant to the provision(s) cited above<sup>(1)</sup> and having regard to their comments,

Whereas:

### 1. Procedure

- (1) By letter of 19 June 2000, registered by the Commission as notification No N/776/2000, Spain notified the Commission of aid measures planned for mining in the Autonomous Community of Castile-Leon. The measures planned in favour of the mining industry included certain aid schemes for the coal industry provided for in Commission Decision No 3632/93/ECSC of 28 December 1993 establishing Community rules for State aid to the coal industry<sup>(2)</sup>.
- (2) In its notification of 19 June 2000, Spain informed the Commission that the notified aid which the Autonomous Community of Castile-Leon intended to grant would be coordinated with the aid granted by the Spanish Government.
- (3) By letter of 25 September 2000, Spain notified the Commission that, since three months had elapsed without the Commission making its position on these measures known, the competent authorities intended to implement them if, within 15 working days of the letter, no decision was taken pursuant to Article 9(4) of Decision No 3632/93/ECSC.
- (4) By letter of 17 July 2002, the Commission asked Spain for information about the aid granted to the coal industry by the Government of Castile-Leon in 2000, 2001 and 2002, indicating the recipients, amounts and purpose of the aid and its classification within the categories laid down in Decision No 3632/93/ECSC. Spain was also asked to indicate how the aid fitted in with the general objectives and criteria laid down in Article 2, and with the plans notified to the Commission by Spain in accordance with Article 8, of Decision No 3632/93/ECSC.

<sup>(1)</sup> OJ C 105, 1.5.2003, p. 2.

<sup>(2)</sup> OJ L 329, 30.12.1993, p. 12.

- (5) By letter of 5 September 2002, Spain notified the Commission of the aid granted to coal undertakings in the Autonomous Community of Castile-Leon in 2000, 2001 and 2002. Spain submitted its notification in accordance with the procedural rules set out in Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty <sup>(1)</sup>. In its notification, Spain referred to Decision No 3632/93/ECSC, although both that Decision and the ECSC Treaty had expired on 23 July 2002.
- (6) By letter of 19 February 2003, the Commission informed Spain that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid measures for research and development, environmental protection, training and safety. It had also decided to initiate the procedure in respect of aid measures to cover exceptional costs, but such measures are not covered by this Decision.
- (7) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* <sup>(2)</sup>. The Commission invited interested parties to submit their comments on the aid/measure in question.
- (8) The Commission received no comments from interested parties. Spain sent additional information on 21 March 2003, 9 April 2003 and 12 December 2003.

## 2. Detailed description of the aid

### 2.1. Types of aid

- (9) The types of aid are as follows:
  - (a) aid for research and development (R & D), as provided for by Article 6 of Decision No 3632/93/ECSC;
  - (b) aid for environmental protection, as provided for by Article 7 of Decision No 3632/93/ECSC;
  - (c) aid for mining training;
  - (d) aid for mining safety.

### 2.2. Legal basis

- (10) The Orders of the Regional Ministry of Industry, Trade and Tourism governing the granting of aid for mining of 20 October 2000 (aid for 2000), 19 December 2000 (aid for 2001) and 19 December 2001 (aid for 2002) constitute the legal basis for the aid.

### 2.3. Recipients

- (11) The recipients of the aid were all coalmining undertakings (large firms and small and medium-sized enterprises) and associations of coalmining undertakings in the Autonomous Community of Castile-Leon covered by Decision No 3632/93/ECSC with the objective of promoting and developing the use of coal. The estimated number of recipient undertakings or entities is 50.
- (12) Castile-Leon is an autonomous community eligible for assistance under Article 87(3)(a) and has been classified as one of the regions eligible for this aid in the period 2000 to 2006.

<sup>(1)</sup> OJ L 83, 27.3.1999, p. 1. Regulation as last amended by the 2003 Act of Accession. See, in this regard, the Communication from the Commission concerning certain aspects of the treatment of competition cases resulting from the expiry of the ECSC Treaty (OJ C 152, 26.6.2002, p. 5).

<sup>(2)</sup> OJ C 105, 1.5.2003, p. 2.

#### 2.4. *Budget*

- (13) The following amounts were provided in order to finance the notified aid:

— 2001: 9 015 181,56 EUR (1 500 000 000 ESP),  
— 2002: 9 015 181,56 EUR (1 500 000 000 ESP),  
Total: 18 030 363,12 EUR (3 000 000 000 ESP).

#### 2.5. *Duration of the scheme*

- (14) The scheme expired on 23 July 2002.

#### 2.6. *Purpose of the aid*

- (15) The aid was intended to cover the measures specified in recitals 15 to 18 and, with regard to aid for research and development (R & D), covered measures designed to:

- encourage undertakings which had never carried out research and technological development projects to do so, or encourage those which regularly carried out such projects to engage in more of them,
- improve health and safety conditions in mines,
- make optimum use of mining reserves and resources by improving the methods for producing and using coal,
- promote technological innovation directed towards improving the environmental impact of the mines,
- promote the introduction of technological improvements directed towards adding value to the product, allowing easier access to new markets or increasing productivity,
- upgrade the technology of equipment and projects intended for the exploitation, processing and use of minerals.

This aid scheme accorded priority to projects geared towards one of the following priorities:

- reduction of the risk of catastrophic accidents, explosions, fires, etc. and removal of the causes of serious or frequent accidents,
- technical feasibility studies ahead of industrial mining research activities.

- (16) The following measures in the field of environmental protection:

- reduction of the damage which mining and metallurgy activities cause to the environment,
- restoration of the environment in areas affected by former mining activity,
- recovery of minerals or metals from mine-waste tips.

This aid scheme accorded priority to projects geared towards any of the following priorities:

- bringing the quality of mining undertakings' emissions into the atmosphere and into public watercourses into line with current mandatory standards on environmental protection, provided the undertakings' installations were in operation for at least two years prior to the entry into force of the aforementioned mandatory standards,

- improvement of the level of environmental protection so as to raise it substantially above the level laid down in the mandatory standards for mining undertakings,
  - remedial measures for already damaged environments,
  - technology studies and projects to help reduce the damage which mining and metallurgy activities cause to the environment.
- (17) The aid for mining training was intended to cover training activity projects with the basic objective of providing workers in the industry with good technical qualifications so as to minimise the number of pit accidents.
- (18) The aid for mining safety was intended to cover investment projects geared towards raising safety standards in mining installations above the minimum required by the legislation applicable.

#### 2.7. *Form of aid*

- (19) The aid took the form of a non-repayable grant.

#### 2.8. *Eligible costs*

- (20) Eligible costs were those specified in recitals 20 to 23 and, with regard to aid for research and development (R & D), comprised the following costs:
- (a) expenditure on staff (research staff, technicians and other auxiliary staff involved exclusively in research activity). The proportion of such costs actually attributable to eligible research and development activity were eligible;
  - (b) cost of equipment, materials, land and premises permanently used exclusively for research activities (save in the case of commercial transfer). The costs of acquiring unused fixed assets located in the region of Castile-Leon were eligible. Such assets and equipment, and the auxiliary installations and equipment necessary to keep it in proper working order, had to be permanently used exclusively for research and development activities (save in the case of a transfer for a consideration);
  - (c) cost of outsourced consultancy and similar services used exclusively for research activity (including research, technical know-how, patents, etc.). All such costs were eligible, provided they were directly related to and necessary for research and development activity;
  - (d) additional general expenditure arising directly from research activity. All such costs were eligible, provided they were directly related to and necessary for research and development activity;
  - (e) other operating expenditure (for example, cost of equipment, supplies and similar products) arising directly from research activity. All such costs were eligible, provided they were directly related to and necessary for research and development activity.
- (21) In the case of aid for environmental protection, the eligible costs were the additional costs of investment in land, buildings, installations and capital goods needed in order to meet environmental objectives.
- (22) In the case of aid for mining training, the eligible costs were: trainer costs; trainees' travel expenses; expenditure on consumables and depreciation of tools and equipment, in proportion to their exclusive use for the training project concerned; other staff costs up to the total amount of the eligible costs mentioned above.

- (23) In the case of aid for mining safety, the eligible costs were those related to:
- (a) acquisition of equipment to improve safety at mining installations;
  - (b) expenditure geared towards improving safety at mining installations and for mineworkers;
  - (c) studies to improve safety at mining installations.

#### 2.9. *Aid intensities*

- (24) The intensity of the aid is specified in recitals 24 to 27 and, with regard to aid for research and development (R & D), the gross amount was as follows:
- for industrial research, up to 60 % of investment and expenditure approved as eligible. If the applicant was a small or medium-sized enterprise (SME), the aid could total up to 70 % of the eligible project costs,
  - for technical feasibility studies ahead of industrial mining research, the maximum permissible limit would be 75 % of the eligible project costs.
- (25) In the case of aid for environmental protection, the maximum aid intensity could, in terms of equivalent net subsidy, be up to the maximum percentages of investment made which are specified in the regional aid map authorised by the European Commission for the period 2000-2006, as set out in Annex II to the Order. In the case of SMEs, these rates could be increased by the following percentages:
- investment aid to help undertakings adapt to the new mandatory environmental standards: 15 % gross of eligible costs,
  - investment aid to obtain a higher level of environmental protection than required by the mandatory standards: 20 % gross of eligible costs,
  - investment aid to improve the level of environmental protection for undertakings in sectors with no mandatory standards: 20 % gross of eligible costs.
- (26) In the case of aid for mining training, the maximum gross aid intensity was 80 % of eligible costs.
- (27) In the case of aid for mining safety, the maximum gross aid intensity could be up to 100 % of eligible costs.

#### 2.10. *Cumulation of aid*

- (28) All the aid provided for in this scheme could be combined with any other public aid for different purposes, provided the maximum limits set in the proposed aid scheme were observed. Under no circumstances could the amount of aid granted under the scheme exceed, on its own or combined with incentives, grants or aid from other public administrations or other national or international public or private bodies, the cost of the investment, expenditure or activity carried out by the recipient.

- (29) The cumulation of aid is detailed in recitals 29 to 32 and, in the case of aid for research and development (R & D), the aid could be combined with any other public aid for the same purpose. Where aid schemes were combined, the total public funding could not exceed 75 % of eligible costs.
- (30) In the case of aid for environmental protection, the aid could be combined with any other public aid for the same purpose, provided the combined total did not exceed the limits laid down in paragraph 6.1(b) of the regulatory bases in the Order.

The maximum aid intensity could, in terms of equivalent net subsidy, be up to the maximum percentages of investment made which are specified in the regional aid map authorised by the European Commission for the period 2000-2006, i.e.:

- 35 % for Burgos and Valladolid,
- 37 % for Palencia and Segovia,
- 40 % for the other provinces,
- in the case of SMEs, these rates could be increased by up to 15 % gross.

In the case of SMEs, the rates indicated above could be increased by the following percentages:

- investment aid to help undertakings adapt to the new mandatory environmental standards: 15 % gross of eligible costs,
  - investment aid to obtain a higher level of environmental protection than required by the mandatory standards: 20 % gross of eligible costs,
  - investment aid to improve the level of environmental protection for undertakings in sectors with no mandatory standards: 20 % gross of eligible costs.
- (31) In the case of aid for mining training, aid could be combined with any other public aid for the same purpose, provided the combined total did not exceed the limits laid down in paragraph 6.1(c) of the regulatory bases in the Spanish Ministerial Order, i.e. 100 % of eligible costs.
- (32) In the case of aid for mining safety:

aid for projects in this field could be combined with any other public aid for the same purpose, provided the combined total did not exceed the limits laid down in paragraph 6.1(b) of the regulatory bases in the Order, i.e. 100 % of eligible costs.

### 3. Comments from Spain

- (33) Spain submitted to the Commission additional information and arguments concerning the aid scheme, which consisted mainly of the following elements.

- (34) The aid scheme for the years 2001 and 2002 was notified correctly and was complete. The Commission was provided with all the information necessary, so that, according to Spain, there was no need to initiate the procedure. The aid granted should have been considered as existing aid. Spain therefore requests the closure of the procedure and a positive decision. Spain considers that the fact that the Commission waited a long time, until 17 July 2002, before commenting on the notification runs counter to the principles of good administration and legal certainty.
- (35) The Autonomous Community of Castile-Leon never intended to implement a scheme which was incompatible with the common market. The Autonomous Community acted in good faith and in a very transparent way. Owing to the fact that the Commission did not react to the notification, the Autonomous Community of Castile-Leon was justified in coming to the conclusion that the scheme was compatible with the common market and could be implemented.
- (36) Spain considers that the measures do not confer any advantage on the coalmining undertakings, because they are intended to cover the exceptional costs of the restructuring process. The aid for research and development, environmental protection, mining training and mining safety are in accordance with the State aid schemes concerning these matters. Regarding the aid for research and development, Spain confirmed that the definition of industrial research is in accordance with the definition in Annex 1 of the Community framework for State aid for research and development.
- (37) Regarding environmental aid, Spain provided the Commission with additional information about the different categories of aid, the national and regional standards that had to be complied with and the coalmines benefiting from such aid and the specification of the costs related to the rehabilitation of polluted industrial sites. Spain described in detail the measures covered by the aid. Spain confirmed the fact that the aid covering 15 % of eligible costs to meet new standards was strictly limited to environmental purposes. In the net calculation of the aid, account was taken of the benefits obtained as a result of the investment. In the calculation of the eligible costs, the greater potential value of the rehabilitated areas was taken into account.
- (38) With regard to aid for training, Spain considered that the amounts granted were very low and would therefore not distort competition. With regard to the aid for mining safety, Spain stresses that safety at mines is not always sufficient and it is therefore necessary to grant aid in this respect. The costs related to this issue are exceptional and have to be covered.
- (39) Spain corrected some amounts which had been granted to several coalmining undertakings. Some errors had been made in the figures submitted at previous stages.

#### **4. Assessment of the aid scheme**

- (40) The Commission is restricting its assessment to the aid measures related to research and development, environmental protection, training and safety. Aid measures to cover exceptional costs, which were also covered by the decision of 19 February 2003 to initiate the present investigation procedure, will be the subject of a separate decision. Although it is the aid scheme which will be assessed in this Decision, the Commission will also refer to individual cases, as the aid has been put into effect by Spain.

##### *4.1. Application of Council Regulation (EC) No 1407/2002*

- (41) Given that the ECSC Treaty and Decision No 3632/1993/ECSC both expired on 23 July 2003, the compatibility of the notified measures has to be assessed on the basis of Council Regulation (EC) No 1407/2002 of 23 July 2002 on State aid to the coal industry<sup>(1)</sup>. Article 14(2) of that Regulation does not apply.

<sup>(1)</sup> OJ L 205, 2.8.2002, p. 1. Regulation as last amended by the 2003 Act of Accession. See also point 47 of the Communication from the Commission concerning certain aspects of the treatment of competition cases resulting from the expiry of the ECSC Treaty.

- (42) In any case, the change of legislative framework, from the ECSC Treaty to the EC Treaty, does not produce a conflict as regards the assessment of the aid granted by the Autonomous Community of Castile-Leon. The relevant provisions of Regulation (EC) No 1407/2002 and of Decision No 3632/1993/ECSC are almost identical, and assessment on the basis of the legislative framework of the ECSC Treaty would not have led to a different outcome.

#### 4.2. *Application of Article 87(1)*

- (43) In order to determine whether the scheme's measures constitute aid within the meaning of Article 87(1) of the Treaty, it must be established whether they favour certain undertakings, whether the aid is granted by a Member State through State resources, whether the measures in question distort or threaten to distort competition and whether they are liable to affect trade between Member States.
- (44) The first condition from Article 87(1) relates to the possibility of measures favouring certain undertakings. It is necessary to determine, firstly, whether beneficiary undertakings derive economic benefit and, secondly, whether this benefit is granted to a specific type of undertaking. The aid provides clear economic benefits for its beneficiaries in that it constitutes a direct subsidy which covers current expenses which the undertakings would have to bear themselves. Moreover, the measures in question are aimed solely at coalmining undertakings in the Autonomous Community of Castile-Leon. They therefore favour certain undertakings over their competitors, i.e. they are selective.
- (45) The second condition from Article 87 relates to the granting of aid by States or through State resources. In this particular case, the existence of State resources is demonstrated by the fact that the measure is effectively financed by the public budget of a regional authority.
- (46) In accordance with the third and fourth conditions specified in Article 87(1) of the Treaty, the aid must not distort or threaten to distort competition or affect or be liable to affect trade between Member States. In the case in hand, the measures do threaten to distort competition as they reinforce the financial position and scope for action of the beneficiary undertakings compared with their non-beneficiary competitors. Although intra-Community trade in coal is very limited and these undertakings do not export, national production benefits from the fact that undertakings established in other Member States have less scope for exporting their products to the Spanish market. Moreover, these measures also distort competition and affect trade between Member States in that they are complementary to other measures approved by the Spanish Government.
- (47) For these reasons, the measures in question fall within the scope of Article 87(1) of the Treaty and may be considered compatible with the common market only if they qualify for one of the derogations provided for in the Treaty.
- (48) The derogations provided for in the Treaty are the object of frameworks for these three categories of aid, which are listed in Article 3 of Regulation (EC) No 1407/2002:

— Community framework for State aid for research and development. (Communication 96/C 45/06 of 17 February 1996<sup>(1)</sup>), amended by Communication 98/C 48/02 of 15 February 1998<sup>(2)</sup> and Communication 2002/C 111/03 of 8 May 2002<sup>(3)</sup>),

— Community guidelines on State aid for environmental protection (Communication 2001/C 37/03 of 3 February 2001<sup>(4)</sup>),

— Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid<sup>(5)</sup>.

<sup>(1)</sup> OJ C 45, 17.2.1996, p. 5.

<sup>(2)</sup> OJ C 48, 13.2.1998, p. 2.

<sup>(3)</sup> OJ C 111, 8.5.2002, p. 3.

<sup>(4)</sup> OJ C 37, 3.2.2001, p. 3.

<sup>(5)</sup> OJ L 10, 13.1.2001, p. 20. Regulation as last amended by Regulation (EC) No 363/2004 (OJ L 63, 28.2.2004, p. 20).

#### 4.3. Notification of aid

- (49) With regard to the notification of aid which a Member State intends to grant to the coal industry, in accordance with Article 8 of Decision No 3632/93/ECSC, Spain notified the Commission on 31 March 1998 of the 1998-2002 modernisation, rationalisation, restructuring and activity-reduction plan based on the 1998-2005 plan for the coal industry and alternative development of coalmining areas, which was approved by the Commission in Decision 98/637/ECSC of 3 June 1998<sup>(1)</sup>. In this plan, the Spanish Government provides for financial support to cover the aid provided for in Articles 3, 4 and 5 of Decision No 3632/93/ECSC within the framework of the abovementioned plans.
- (50) In accordance with Article 9(10) of Regulation (EC) No 1407/2002, which coincides with Article 9(1) of Decision 3632/93/ECSC, Member States are to notify all the financial support which they intend to grant to the coal industry in the following year. By letter of 19 June 2000 Spain notified aid measures to the Commission. The Commission did not react to this notification within the period laid down in Article 9(4) of Decision No 3632/93/ECSC and therefore the aid in relation to the year 2000 is deemed to be authorised, as already concluded in the Decision of 19 February 2003, by which the Commission initiated the formal investigation procedure. However, as also concluded in the decision of 19 February 2003, Spain failed to fulfil its obligations to submit prior notification for 2001 and 2002. Consequently, the aid granted by Castile-Leon for 2001 and 2002, as notified by Spain on 5 September 2002, must be considered to be non-notified aid.

#### 4.4. Assessment of aid for research and development (R & D)

- (51) The Commission has analysed these aid measures in the light of the Community framework for State aid for research and development. In the period covered by the aid, this framework was contained in Commission Communications 96/C 45/06 of 17 February 1996, 98/C 48/02 of 13 February 1998 and 2002/C 111/03 of 8 May 2002.

- (52) This concerns the following aid:

(in EUR)

| Project | Year | Undertaking            | Aid        |
|---------|------|------------------------|------------|
| 186/01  | 2001 | Carbones de Arlanza SA | 14 514,44  |
| 136/02  | 2002 | Alto Bierzo SA         | 133 829,29 |

The aid for R&D granted by the Government of Castile-Leon was subject to an open tender procedure and was designed to facilitate coalmining under optimum safety conditions, without adversely affecting conditions of trade in a manner contrary to the common interest.

- (53) The projects which were supported were aimed at acquiring new knowledge which would be useful in developing new mining processes or bringing about a significant improvement in existing processes. These projects were selected because it was considered that they could increase technical, organisational or scientific insight into a mining process or any relevant technology, as well as adapt a process or technology and improve its efficiency. This measure was not intended to subsidise practical experiments. These projects will play a crucial role in finding new solutions. The intention of the Spanish authorities was to realise or accelerate those developments which made an important contribution to the Government's objectives of a more efficient and competitive coalmining industry and which would not have been realised or applied on a wide scale without financial support from the Government. In view of the above, the Commission considers that these activities fall within the definition of industrial research in Annex I of the Community framework for State aid for research and development. The final results of these research activities will be used in developing plans of designs for new or modified mining processes.
- (54) The eligible costs were in keeping with the costs as defined in Annex II to the Community framework. The aid intensity was low and in both cases the aid was granted to SMEs. The aid intensity did not exceed the limits laid down in Section 5 of the Community framework. In accordance with the provisions of Section 6 of the Community framework, the aid had to serve

<sup>(1)</sup> OJ L 303, 13.11.1998, p. 57.

as an incentive for mining undertakings to carry out additional R & D activities and also as a stimulus for undertakings which had never engaged in such activities. As the recipients were SMEs, the Commission assumes, in accordance with point 6.4 of the Community framework, that the aid provided a necessary incentive.

- (55) The Commission must therefore conclude that the aid scheme for research and development is in accordance with the abovementioned framework.

#### 4.5. Assessment of aid for environmental protection

- (56) The Commission analyses aid measures of this type in accordance with the Community guidelines on State aid for environmental protection.
- (57) Taking into account the information submitted by Spain, the Commission considers that the aid scheme was intended, *inter alia*, to help SMEs adapt to new Community standards for a period of three years from the adoption of new mandatory Community rules, to foster investment in the absence of mandatory Community standards and to foster investment to ensure compliance with national standards that were more stringent than the applicable Community standards. The scheme authorised this aid up to a maximum of 15 % gross of eligible costs, which was in line with the Community guidelines. The Commission considers that the investments concerned were in keeping with Section E.1.6 of the Community guidelines. As far as water pollution is concerned, the investments were indispensable for controlling the movement of minewater from abandoned mines. The purpose of these investments was, *inter alia*, to control the groundwater table, to prevent flooding and to help ensure safe movement of the minewater. This water had to meet the quality standards laid down in Spanish legislation. The Commission considers that, in the definition of the costs qualifying for funding relating to investments, provision was made in the net calculation of the aid for taking account of the benefits obtained as a result of the investment. This element is in accordance with point 37 of the Community guidelines. In accordance with point 38 of the Community guidelines, the eligible costs took into account the greater potential value of the rehabilitated areas. With regard to the rehabilitation of mines, eligible costs were limited to the cost of mining works, including manpower, materials and the depreciation of machinery necessary to prevent the release of gases and liquids from underground mines, prevent access to dangerous mines and prevent water contamination, as well as for mine-waste tip reclamation. In this respect, the scheme conformed to point 36 of the Community guidelines.

- (58) The following aid granted by Castile-Leon:

| (in EUR) |      |                             |            |
|----------|------|-----------------------------|------------|
| Project  | Year | Undertaking                 | Aid        |
| 17/01    | 2001 | MSP.                        | 580 027,42 |
| 477/01   | 2001 | Mina la Sierra              | 5 395,65   |
| 607.1/01 | 2001 | Carbones San Isidro y María | 8 106,12   |
| 17/02    | 2002 | MSP.                        | 136 450,88 |

concerns environmental rehabilitation of opencast mines and, in the case of project 607.1/01, investment in a transformer station and electricity line.

- (59) After analysing the information submitted by Spain, the Commission considers that the interventions made by undertakings repairing environmental damage by rehabilitating polluted industrial sites may come within the scope of the Community guidelines. Environmental rehabilitation costs are historical costs. As a result of the abandonment of mining activities, minewater would flood the mines. Owing to the structure of the ground and various currents it is, in many cases, not clear which mine is responsible for such water, which could endanger the environment and has to be kept under control. As a result, it is not possible to identify the polluter. Moreover, in many cases, ownership of mines has changed or mines do not exist any more. The Commission therefore considers that the coal-mining undertakings currently operating the mines cannot be made to bear the cost. Consequently, the aid scheme to cover the costs of rehabilitation of mines was in conformity with the Community guidelines in these cases.

(60) The following aid granted by Castile-Leon:

(in EUR)

| Project   | Year | Undertaking                 | Aid        |
|-----------|------|-----------------------------|------------|
| 137/01    | 2001 | Alto Bierzo, SA             | 93 825,20  |
| 237/01    | 2001 | Antracitas de Arlanza       | 9 916,70   |
| 607.2/01  | 2001 | Carbones San Isidro y María | 8 119,04   |
| 1147/01   | 2001 | Coto Minero del Sil         | 60 101,21  |
| 2117.1/01 | 2001 | Unión Minera del Norte      | 55 934,56  |
| 2117.2/01 | 2001 | Unión Minera del Norte      | 136 506,80 |
| 27/02     | 2002 | Hullera Vasco Leonesa       | 292 504,00 |
| 137/02    | 2002 | Alto Bierzo, SA             | 15 879,22  |
| 1147.1/02 | 2002 | Coto Minero del Sil         | 68 582,02  |
| 1147.2/02 | 2002 | Coto Minero del Sil         | 47 856,86  |

concerns work to rehabilitate or ensure the safety of mine-waste tips, to protect watercourses and to restore land above disused mines. With regard to these individual cases, the Commission also considers that the deterioration of the environment occurred over many years, that there were no rules on rehabilitation or that it is not even possible to identify clearly who is responsible. The Commission therefore considers that the abovementioned coalmining undertakings which are currently operating the mines cannot be made to bear the cost. In keeping with point 38 of the Community guidelines, the aid intensity did not exceed 100 % of the eligible costs and did not include 15 % of the total cost of the work. The eligible costs were equal to the cost of the work less the increase in the value of the land.

(61) The following aid granted by Castile-Leon:

(in EUR)

| Project   | Year | Undertaking            | Aid        |
|-----------|------|------------------------|------------|
| 2111.1/01 | 2001 | Unión Minera del Norte | 109 569,31 |
| 2111.2/01 | 2001 | Unión Minera del Norte | 230 183,55 |
| 2111.3/01 | 2001 | Unión Minera del Norte | 121 656,87 |
| 2111.4/01 | 2001 | Unión Minera del Norte | 303 840,71 |
| 2111.5/01 | 2001 | Unión Minera del Norte | 306 940,49 |
| 891/02    | 2002 | Campomanes Hermanos    | 89 232,00  |
| 2111.1/02 | 2002 | Unión Minera del Norte | 35 526,45  |
| 2111.2/02 | 2002 | Unión Minera del Norte | 75 452,05  |
| 2111.4/02 | 2002 | Unión Minera del Norte | 118 602,83 |
| 2111.5/02 | 2002 | Unión Minera del Norte | 205 304,23 |
| 2111.6/02 | 2002 | Unión Minera del Norte | 248 210,85 |
| 2111.7/02 | 2002 | Unión Minera del Norte | 626 746,00 |
| 211.1/02  | 2002 | Viloria Hermanos SA    | 87 880,00  |
| 211.2/02  | 2002 | Viloria Hermanos SA    | 87 880,00  |

although notified by Spain as aid to cover exceptional costs arising from restructuring (Article 7 of Regulation (EC) No 1407/2002), was intended principally for environmental protection purposes, since the objective was to reclaim land on the surface above mines and to demolish fixed installations on the surface so as to help mitigate the environmental impact of disused coalmines. At the time that the work was carried out, there were no rules on the restoration of the sites affected.

- (62) The Commission considers that the special nature of mining means that a large part of the current pollution, caused by gases and water escaping from mines or from surface waste tips, derives from past activities. In most cases, therefore, it is a question of making good the impact of earlier mining activity, the aid has to be considered to be a historical cost, and it is not possible to identify the polluter clearly. The aid was therefore intended for environmental rehabilitation in mining regions. The environmental damage done to the quality of the soil or of surface water or groundwater falls within the scope of the Community guidelines. The aid intensity did not exceed 100 % of the eligible costs and did not include 15 % of the total cost of the work. The eligible costs, being the cost of the work less the increase in the value of the land, were also in conformity with the Community guidelines.
- (63) In view of the above, and after analysing the information submitted by Spain, the Commission has come to the conclusion that the aid scheme for environmental protection was compatible with the abovementioned Community guidelines.

#### 4.6. Assessment of aid for mining training

- (64) On the basis of Regulation (EC) No 1407/2002 on State aid to the coal industry, and in particular Article 3(1) and recital 21 thereof, training aid may be granted, provided that such aid is granted in accordance with the requirements and criteria laid down by the Commission for this category of aid. The Commission has therefore assessed the compatibility of these aid measures with the provisions of Regulation (EC) No 68/2001 on the application of Articles 87 and 88 of the EC Treaty to training aid. Spain had to notify these measures because the conditions for exemption from the notification requirement laid down in that Regulation do not apply to State aid to the coal industry.
- (65) In the case of the following aid:

| (in EUR) |      |                        |          |
|----------|------|------------------------|----------|
| Project  | Year | Undertaking            | Aid      |
| 183/01   | 2001 | Carbones de Arlanza SA | 6 436,84 |
| 453/01   | 2001 | Mina Adelina SA        | 4 376,33 |
| 473/01   | 2001 | Mina la Sierra SA      | 6 565,49 |
| 1353/01  | 2001 | Minas de Valdeloso SL  | 7 867,25 |

the Commission, after analysing the information submitted by Spain and taking into account the fact that Spain ensured that the maximum aid intensities laid down in Article 4 had been respected when applying the scheme, considers that the aid measures for mining training which the Autonomous Region of Castile-Leon granted will not lead to any distortion of competition and can be allowed on the basis of the abovementioned Regulation. In this respect, the scheme contained a reference to the abovementioned Regulation.

#### 4.7. Assessment of aid for mining safety

- (66) After analysing the aid and the information submitted by Spain, the Commission considers that this aid has to be assessed on the basis of Regulation (EC) No 1407/2002 on State aid to the coal industry.

(67) The following aid granted by Castile-Leon:

(in EUR)

| Project     | Year | Undertaking              | Aid        |
|-------------|------|--------------------------|------------|
| 182/01      | 2001 | Carbones de Arlanza SA   | 39 630,74  |
| 452/01      | 2001 | Mina Adelina SA          | 23 991,44  |
| 472/01      | 2001 | Mina La Sierra SA        | 12 020,24  |
| 502/01      | 2001 | Minex, SA                | 120 202,42 |
| 602.1/01-LE | 2001 | Carb. San Isidro y María | 30 050,61  |
| 602.3/01 PA | 2001 | Carb. San Isidro y María | 13 044,13  |
| 1352/01     | 2001 | Minas de Valdeloso SL    | 35 520,76  |
| 452/02      | 2002 | Mina Adelina SA          | 16 224,00  |
| 502/02      | 2002 | Minex SA                 | 64 835,64  |
| 1142/02     | 2002 | Coto Minero del Sil      | 383 920,19 |

concerns costs which undertakings have to bear in order to improve safety and health conditions. These costs were not related to current production and were intended for investments in equipment and mine workings. In this respect, the Commission considers that the amounts granted did not exceed the costs of the safety works and has come to the conclusion that these measures were in accordance with Article 7 of the aforementioned Regulation and with point 1(g) of the Annex thereto concerning the definition of the costs referred to in Article 7. On this basis, the Commission has come to the conclusion that the aid for mining safety was in accordance with the Regulation.

## 5. Conclusion

The Commission must conclude that Spain unlawfully put into effect the aid for research and development, environmental protection, mining training and mining safety to coalmining undertakings in the Autonomous Community of Castile-Leon in 2001 and 2002, in breach of Article 88(3) of the Treaty. However, after analysing the measures and the information submitted by Spain, the Commission,

HAS ADOPTED THIS DECISION:

### Article 1

The aid scheme for research and development, environmental protection, mining training and mining safety which Spain implemented in favour of coalmining undertakings in the Autonomous Community of Castile-Leon in 2001 and 2002 on the basis of the Orders of the Regional Ministry of Industry, Trade and Tourism of 19 December 2000 and 19 December 2001 governing the granting of aid for mining is compatible with the common market within the meaning of Article 87(3) of the Treaty.

### Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 30 March 2004.

For the Commission  
Loyola DE PALACIO  
Vice-President

**DECISION No 1/2005 OF THE ACP-EC CUSTOMS COOPERATION COMMITTEE****of 8 February 2005****derogating from the concept of 'originating products' to take account of the special situation of Cape Verde regarding the production of men's shirts (HS heading 62.05)**

(2005/141/EC)

THE ACP-EC CUSTOMS COOPERATION COMMITTEE,

limited to a period of three years running from the beginning of January 2005 until the end of 2007.

Having regard to the ACP-EC Partnership Agreement signed at Cotonou on 23 June 2000, and in particular Article 38 of Protocol 1 to Annex V thereto,

- (6) Therefore, pursuant to Article 38, a derogation can be granted to Cape Verde in respect of men's shirts for 160 000 pieces in 2005, 170 000 pieces in 2006 and 180 000 pieces in 2007,

Whereas:

HAS DECIDED AS FOLLOWS:

- (1) Article 38(1) of the said Protocol provides for derogations from the rules of origin to be granted whenever the development of an existing industry or the establishment of a new one warrants it.

*Article 1*

By way of derogation from the special provisions in the list in Annex II to Protocol 1 to Annex V of the ACP-EC Partnership Agreement, men's shirts of HS heading 62.05 produced in Cape Verde from non-originating fabric shall be regarded as originating in Cape Verde in accordance with the terms of this Decision.

- (2) On 30 September 2004 the ACP States submitted a request, on behalf of the Government of Cape Verde, for a derogation from the rule of origin in the Protocol, in respect of men's shirts produced by this country for 140 000 pieces in 2004 and gradually increasing to 180 000 pieces in 2008.

*Article 2*

The derogation provided for in Article 1 shall apply to the products and the quantities shown in the Annex to this Decision which are imported into the Community from Cape Verde during the period of 1 January 2005 to 31 December 2007.

- (3) The requested derogation is justified under the relevant provisions of Article 38(1) to (5); Cape Verde cannot use in its production of men's shirts, under the provisions for cumulation, a sufficient quantity of suitable materials originating in the Community, the Overseas Countries and Territories (OCT) or other ACP States. Cape Verde is a least-developed and an island ACP State and the derogation is expected to have a positive economic and social impact especially in respect of employment in Cape Verde.

*Article 3*

The quantities set out in the Annex shall be managed by the Commission, which shall take all administrative action it deems advisable for their efficient management. Articles 308(a), 308(b) and 308(c) of Commission Regulation (EEC) No 2454/93<sup>(1)</sup> relating to the management of tariff quotas shall apply *mutatis mutandis* to the management of the quantities referred to in the Annex.

- (4) The derogation would not cause serious injury to an established Community industry taking into account the quantities of the imports envisaged, provided that certain conditions relating to quantities, surveillance and duration are respected.

*Article 4*

The customs authorities of Cape Verde shall take the necessary steps to carry out quantitative checks on exports of the products referred to in Article 1. To that end, all the certificates they issue pursuant to this Decision shall bear a reference to it. The competent authorities of Cape Verde shall forward to the Commission every three months, a statement of the quantities in respect of which movement certificates EUR.1 have been issued pursuant to this Decision and the serial numbers of those certificates.

- (5) However, the derogation cannot be granted for the periods requested. The date of introduction of the request by the ACP States does not allow the adoption of a Decision of the ACP-EC Customs Cooperation Committee before 1 January 2005. Furthermore new trading arrangements for the ACP States have to enter into force no later than 1 January 2008. Consequently a derogation granted under the current regime will no longer be pertinent after 31 December 2007 where the legal framework for the derogation will no longer exist. For these reasons the validity of the derogation should be

<sup>(1)</sup> OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 2286/2003 (OJ L 343, 31.12.2003, p. 1).

*Article 5*

Box 7 of movement certificates EUR.1 issued under this Decision shall contain one of the following indications:

— 'Derogation — Decision No 1/2005';

— 'Derrogação — Decisão n.º 1/2005';

*Article 6*

The ACP States and the Member States and the European Community shall take the measures necessary on their part to implement this Decision.

*Article 7*

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

This Decision shall apply with effect from 1 January 2005.

Done at Brussels, 8 February 2005

*For the ACP-EC Customs Cooperation  
Committee*

*The Joint Chairmen*

Robert VERRUE

Isabelle BASSONG

## ANNEX

| Order No | HS heading | Description of goods | Period              | Quantities (in pieces) |
|----------|------------|----------------------|---------------------|------------------------|
| 09.1670  | 62.05      | Men's shirts         | 1.1.2005-31.12.2005 | 160 000                |
|          |            |                      | 1.1.2006-31.12.2006 | 170 000                |
|          |            |                      | 1.1.2007-31.12.2007 | 180 000                |

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

**COUNCIL JOINT ACTION 2005/142/CFSP**

**of 17 February 2005**

**amending Joint Action 2004/789/CFSP on the extension of the European Union Police Mission in the former Yugoslav Republic of Macedonia (EUPOL Proxima)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and, in particular, Articles 14 and 25(3) thereof,

Whereas:

(1) On 22 November 2004 the Council adopted Joint Action 2004/789/CFSP<sup>(1)</sup> extending the European Union Police Mission (EUPOL Proxima) in the Former Yugoslav Republic of Macedonia from 15 December 2004 to 14 December 2005.

(2) The Political and Security Committee should be authorised to take the relevant decisions on the setting-up of a Committee of Contributors for EUPOL Proxima, in line with the document on 'Consultations and Modalities for the Contribution of non-EU States to EU Civilian Crisis Management' approved by the Council on 10 December 2002.

(3) Joint Action 2004/789/CFSP should be amended accordingly,

HAS ADOPTED THIS JOINT ACTION:

*Article 1*

The following paragraph shall be added to Article 9 of Joint Action 2004/789/CFSP:

'7. The Political and Security Committee shall take the relevant decisions on the setting-up of a Committee of Contributors.'

*Article 2*

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

*Article 3*

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

Done at Brussels, 17 February 2005.

*For the Council*

*The President*

J.-C. JUNCKER

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<sup>(1)</sup> OJ L 348, 24.11.2004, p. 40.

**COUNCIL JOINT ACTION 2005/143/CFSP**  
**of 17 February 2005**  
**amending Joint Action 2002/210/CFSP on the European Union Police Mission**

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS JOINT ACTION:

Having regard to the Treaty on European Union and, in particular, Articles 14 and 25(3) thereof,

*Article 1*

The following paragraph shall be added to Article 8 of Joint Action 2002/210/CFSP:

Whereas:

‘4. The Political and Security Committee shall take the relevant decisions on the setting-up of a Committee of Contributors.’

- (1) On 11 March 2002 the Council adopted Joint Action 2002/210/CFSP<sup>(1)</sup> establishing a European Union Police Mission (EUPM) in order to ensure the follow-on to the United Nations International Police Task Force in Bosnia and Herzegovina as from 1 January 2003.

*Article 2*

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

- (2) The Political and Security Committee should be authorised to take the relevant decisions on the setting-up of a Committee of Contributors for the EUPM, in line with the document on ‘Consultations and Modalities for the Contribution of non-EU States to EU Civilian Crisis Management’ approved by the Council on 10 December 2002.

*Article 3*

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

Done at Brussels, 17 February 2005.

- (3) Joint Action 2002/210/CFSP should be amended accordingly,

*For the Council*  
*The President*  
J.-C. JUNCKER

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<sup>(1)</sup> 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 2256/2004 of 14 October 2004 amending Council Regulation (EC) No 747/2001 as regards Community tariff quotas for certain products originating in Egypt, in Malta and in Cyprus and as regards reference quantities for certain products originating in Malta and in Cyprus**

*(Official Journal of the European Union L 385 of 29 December 2004)*

On page 24, in the first recital,

*for:* '... Decision 2004/664/EC <sup>(3)</sup> ...',

*read:* '... Decision 2005/89/EC <sup>(3)</sup> ...'.

And at the foot of the page, footnote (3),

*for:* '<sup>(3)</sup> OJ L 303, 30.9.2004, p. 28.',

*read:* '<sup>(3)</sup> OJ L 31, 4.2.2005, p. 30.'

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**Corrigendum to Commission Regulation (EC) No 316/2004 of 20 February 2004 amending Regulation (EC) No 753/2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products**

*(Official Journal of the European Union L 55 of 24 February 2004)*

Throughout the text of the Regulation:

*for:* 'representative trade organisation',

*read:* 'representative professional organisation'.

On page 36, in Annex II, under 'ITALY', 'Terms referred to in Article 28':

*for:* 'Inticazione geografica tipica (IGT)',

*read:* 'Indicazione geografica tipica (IGT)'.

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