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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 613/2005
of 21 April 2005
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables⁽¹⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 22 April 2005.

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

Done at Brussels, 21 April 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 1947/2002 (OJ L 299, 1.11.2002, p. 17).

ANNEX

to Commission Regulation of 21 April 2005 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	137,4
	204	94,1
	212	118,7
	624	101,8
	999	113,0
0707 00 05	052	137,4
	204	62,7
	999	101,1
0709 90 70	052	103,5
	204	37,2
	999	70,4
0805 10 20	052	50,4
	204	45,1
	212	58,1
	220	48,6
	400	48,2
	624	58,4
	999	51,5
0805 50 10	052	50,4
	388	70,6
	400	60,0
	528	62,3
	624	65,8
	999	61,8
0808 10 80	388	90,8
	400	138,4
	404	127,8
	508	66,9
	512	63,3
	524	46,1
	528	66,3
	720	78,6
	804	103,1
	999	86,8
0808 20 50	388	82,5
	512	62,5
	528	64,9
	720	32,9
	999	60,7

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

COMMISSION REGULATION (EC) No 614/2005**of 21 April 2005****opening a standing invitation to tender for the export of common wheat held by the Lithuanian intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 6 thereof,

Whereas:

- (1) Commission Regulation (EEC) No 2131/93 ⁽²⁾ lays down the procedure and conditions for the disposal of cereals held by intervention agencies.
- (2) Commission Regulation (EEC) No 3002/92 ⁽³⁾ lays down common detailed rules for verifying the use and/or destination of products from intervention.
- (3) Given the current market situation, a standing invitation to tender should be opened for the export of 65 000 tonnes of common wheat held by the Lithuanian intervention agency.
- (4) Special rules must be laid down to ensure that the operations are properly carried out and monitored. To that end, securities should be lodged to ensure that the goals of the operation are achieved without excessive cost to the operators. Derogations should accordingly be made to certain rules, in particular those laid down in Regulation (EEC) No 2131/93.
- (5) To forestall reimportation, refunds should be awarded only for exportation to certain third countries.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

As provided for in this Regulation, the Lithuanian intervention agency shall issue a standing invitation to tender in accordance with Regulation (EEC) No 2131/93 for the export of common wheat held by it.

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 191, 31.7.1993, p. 76. Regulation as last amended by Regulation (EC) No 2045/2004 (OJ L 354, 30.11.2004, p. 17).

⁽³⁾ OJ L 301, 17.10.1992, p. 17. Regulation as last amended by Regulation (EC) No 770/96 (OJ L 104, 27.4.1996, p. 13).

Article 2

1. The invitation to tender shall cover a maximum of 65 000 tonnes of common wheat for export to third countries with the exception of Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Liechtenstein, Romania, Serbia and Montenegro ⁽⁴⁾ and Switzerland.

2. The quantity of common wheat referred to in paragraph 1 is stored in the regions mentioned in Annex I.

Article 3

1. No export refund or tax or monthly increase shall be granted on exports carried out under this Regulation.

2. Article 8(2) of Regulation (EEC) No 2131/93 shall not apply.

3. Notwithstanding the third paragraph of Article 16 of Regulation (EEC) No 2131/93, the price to be paid for the export shall be that quoted in the tender, without a monthly increase.

Article 4

1. Export licences shall be valid from their date of issue within the meaning of Article 9 of Regulation (EEC) No 2131/93 until the end of the fourth month thereafter.

2. Tenders submitted in response to this invitation to tender may not be accompanied by export licence applications submitted under Article 49 of Commission Regulation (EC) No 1291/2000 ⁽⁵⁾.

Article 5

1. Notwithstanding Article 7(1) of Regulation (EEC) No 2131/93, the time limit for the submission of tenders under the first partial invitation to tender shall be 9.00 (Brussels time) on 28 April 2005.

The time limit for submitting tenders under subsequent partial invitations to tender shall be 9.00 (Brussels time) each Thursday thereafter, with the exception of 5 May 2005.

⁽⁴⁾ Including Kosovo, as defined in UN Security Council Resolution No 1244 of 10 June 1999.

⁽⁵⁾ OJ L 152, 24.6.2000, p. 1.

The last partial invitation to tender shall expire at 9.00 (Brussels time) on 23 June 2005.

2. Tenders must be lodged with the Lithuanian intervention agency:

The Lithuanian Agricultural and Food Products Market Regulation Agency
L. Stuokos-Guceviciaus Str. 9-12,
Vilnius, Lithuania
Tel.: 370-5-2685049
Fax: 370-5-2685061

Article 6

The intervention agency, the storer and a successful tenderer shall, at the request of the latter and by common agreement, either before or at the time of removal from storage as the tenderer chooses, take reference samples for counter-analysis at the rate of at least one sample for every 500 tonnes and shall analyse the samples. The intervention agency may be represented by a proxy, provided this is not the storer.

Reference samples for counter-analysis shall be taken and analysed within seven working days of the date of the successful tenderer's request or within three working days if the samples are taken on removal from storage.

In the event of a dispute, the analysis results shall be forwarded to the Commission.

Article 7

1. The successful tenderer must accept the lot as established if the final result of the sample analyses indicates a quality:

(a) higher than that specified in the notice of invitation to tender;

(b) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, providing that the differences do not exceed the following limits:

— one kilogram per hectolitre as regards specific weight, which must not, however, be less than 75 kg/hl,

— one percentage point as regards moisture content,

— half a percentage point as regards the impurities referred to in points B.2 and B.4 of Annex I to Commission Regulation (EC) No 824/2000⁽¹⁾, and

— half a percentage point as regards the impurities referred to in point B.5 of Annex I to Regulation (EC) No 824/2000, the percentages admissible for noxious grains and ergot remaining unchanged, however.

2. If the final result of the analyses carried out on the samples indicates a quality higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender and the difference exceeds the limits set out in paragraph 1(b), the successful tenderer may:

(a) accept the lot as established, or

(b) refuse to take over the lot concerned.

In the case of (b) above, the successful tenderer shall be discharged of all obligations relating to the lot in question and the securities shall be released provided the Commission and the intervention agency are immediately notified using the form in Annex II.

3. If the final result of the sample analyses indicates a quality below the minimum characteristics laid down for intervention, the successful tenderer may not remove the lot in question. The successful tenderer shall be discharged of all obligations relating to the lot in question and the securities shall be released provided the Commission and the intervention agency are immediately notified using the form in Annex II.

Article 8

Should the cases mentioned in Article 7(2)(b) and 7(3) arise, the successful tenderer may ask the intervention agency to supply an alternative lot of common wheat of the requisite quality, at no extra cost. In that case, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall immediately inform the Commission thereof using the form in Annex II.

If, as a result of successive replacements, the successful tenderer has not received a replacement lot of the quality laid down within one month of the date of the request for a replacement, the successful tenderer shall be discharged of all obligations and the securities shall be released, provided the Commission and the intervention agency have been immediately informed using the form in Annex II.

Article 9

1. If the common wheat is removed before the results of the analyses provided for in Article 6 are known, all risks shall be borne by the successful tenderer from the time the lot is removed, without prejudice to any means of redress the tenderer might have against the storer.

⁽¹⁾ OJ L 100, 20.4.2000, p. 31.

2. The costs of taking the samples and conducting the analyses provided for in Article 6, with the exception of those referred to in Article 7(3), shall be borne by the European Agricultural Guidance and Guarantee Fund (EAGGF) for up to one analysis per 500 tonnes, with the exception of the cost of inter-bin transfers. The costs of inter-bin transfers and any additional analyses requested by a successful tenderer shall be borne by that tenderer.

Article 10

Notwithstanding Article 12 of Commission Regulation (EEC) No 3002/92, the documents relating to the sale of common wheat under this Regulation, and in particular the export licence, the removal order referred to in Article 3(1)(b) of Regulation (EEC) No 3002/92, the export declaration and, where applicable, the T5 copy shall carry the entry set out in Annex III.

Article 11

1. The security lodged under Article 13(4) of Regulation (EEC) No 2131/93 shall be released once the export licences have been issued to the successful tenderers.

2. Notwithstanding Article 17(1) of Regulation (EEC) No 2131/93, the obligation to export shall be covered by a security equal to the difference between the intervention price applying on the day of the award and the price awarded but not less than EUR 25 per tonne. Half of the security shall be lodged when the licence is issued and the balance shall be lodged before the cereals are removed.

Article 12

Within two hours of the expiry of the time limit for the submission of tenders, the Lithuanian intervention agency shall notify the Commission of tenders received. This notification shall be made using the form in Annex IV.

Article 13

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, 21 April 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX I

<i>(in tonnes)</i>	
Place of storage	Quantity
Alytus, Jonava, Joniškis, Kretinga, Pakruojis, Panevėžys, Rokiškis, Šiauliai, Vievis	65 000

ANNEX II

Communication of refusal of lots under the standing invitation to tender for the export of common wheat held by the Lithuanian intervention agency

(Regulation (EC) No 614/2005)

— Name of successful tenderer:

— Date of award:

— Date of refusal of the lot by the successful tenderer:

Lot number	Quantity in tonnes	Address of the silo	Reason for refusal to take over
			— specific weight — % of sprouted grains — % of miscellaneous impurities (Schwarzbesatz) — % of matter other than basic cereals of unimpaired quality — Other

ANNEX III

Entry referred to in Article 10

- Trigo blando de intervención sin aplicación de restitución ni gravamen, Reglamento (CE) n° 614/2005
 - Intervenční pšenice obecná nepodléhá vývozní náhradě ani clu, nařízení (ES) č. 614/2005
 - Blød hvede fra intervention uden restitutionsydelse eller -afgift, forordning (EF) nr. 614/2005
 - Weichweizen aus Interventionsbeständen ohne Anwendung von Ausfuhrerstattungen oder Ausfuhrabgaben, Verordnung (EG) Nr. 614/2005
 - Pehme nisu sekkumisvarudest, mille puhul ei rakendata toetust või maksu, määrus (EÜ) nr 614/2005
 - Μαλακός σίτος παρέμβασης χωρίς εφαρμογή επιστροφής ή φόρου, κανονισμός (ΕΚ) αριθ. 614/2005
 - Intervention common wheat without application of refund or tax, Regulation (EC) No 614/2005
 - Blé tendre d'intervention ne donnant pas lieu à restitution ni taxe, règlement (CE) n° 614/2005
 - Frumento tenero d'intervento senza applicazione di restituzione né di tassa, regolamento (CE) n. 614/2005
 - Intervences parastie kvieši bez kompensācijas vai nodokļa piemērošanas, Regula (EK) Nr. 614/2005
 - Intervenciniai paprastieji kviečiai, kompensacija ar mokesčiai netaikytini, Reglamentas (EB) Nr. 614/2005
 - Intervenciós búza, visszatérítés, illetve adó nem alkalmazandó, 614/2005/EK rendelet
 - Zachte tarwe uit interventie, zonder toepassing van restitutie of belasting, Verordening (EG) nr. 614/2005
 - Pszenica zwyczajna interwencyjna niedająca prawa do refundacji ani do opłaty, rozporządzenie (WE) nr 614/2005
 - Trigo mole de intervenção sem aplicação de uma restituição ou imposição, Regulamento (CE) n.º 614/2005
 - Intervenčná pšenica obyčajná nepodlieha vývozným náhradám ani clu, nariadenie (ES) č. 614/2005
 - Intervencija navadne pšenice brez zahtevkov za nadomestila ali carine, Uredba (ES) št. 614/2005
 - Interventiovehnä, johon ei sovelleta vientitukea eikä vientimaksua, asetus (EY) N:o 614/2005
 - Interventionsvete, utan tillämpning av bidrag eller avgift, förordning (EG) nr 614/2005.
-

ANNEX IV

Form (*)

Standing invitation to tender for the export of common wheat held by the Lithuanian intervention agency

(Regulation (EC) No 614/2005)

1	2	3	4	5	6	7
Serial numbers of tenderers	Lot number	Quantity in tonnes	Tender prices (EUR/tonne) ⁽¹⁾	Increases(+) Reductions(-) (EUR/tonne) (p.m.)	Commercial costs (EUR/tonne)	Destination
1						
2						
3						
etc.						

⁽¹⁾ This price includes the increases and reductions relating to the lot covered by the tender.

(*) To be sent to DG AGRI, Unit D.2:
— by fax (32-2) 292 10 34.

COMMISSION REGULATION (EC) No 615/2005**of 21 April 2005****opening a standing invitation to tender for the export of common wheat held by the Slovak intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 6 thereof,

Whereas:

- (1) Commission Regulation (EEC) No 2131/93⁽²⁾ lays down the procedure and conditions for the disposal of cereals held by intervention agencies.
- (2) Commission Regulation (EEC) No 3002/92⁽³⁾ lays down common detailed rules for verifying the use and/or destination of products from intervention.
- (3) Given the current market situation, a standing invitation to tender should be opened for the export of 65 000 tonnes of common wheat held by the Slovak intervention agency.
- (4) Special rules must be laid down to ensure that the operations are properly carried out and monitored. To that end, securities should be lodged to ensure that the goals of the operation are achieved without excessive cost to the operators. Derogations should accordingly be made to certain rules, in particular those laid down in Regulation (EEC) No 2131/93.
- (5) To forestall reimportation, refunds should be awarded only for exportation to certain third countries.
- (6) The second paragraph of Article 7(2) of Regulation (EEC) No 2131/93 allows the successful exporting tenderer to be reimbursed the lowest transport costs between the place of storage and the actual place of exit, up to a certain ceiling. In view of Slovakia's geographical location, this provision should be applied.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

Article 1

As provided for in this Regulation, the Slovak intervention agency shall issue a standing invitation to tender in accordance with Regulation (EEC) No 2131/93 for the export of common wheat held by it.

Article 2

1. The invitation to tender shall cover a maximum of 65 000 tonnes of common wheat for export to third countries with the exception of Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Liechtenstein, Romania, Serbia and Montenegro⁽⁴⁾ and Switzerland.

2. The quantity of common wheat referred to in paragraph 1 is stored in the regions mentioned in Annex I.

Article 3

1. No export refund or tax or monthly increase shall be granted on exports carried out under this Regulation.

2. Article 8(2) of Regulation (EEC) No 2131/93 shall not apply.

3. Notwithstanding the third paragraph of Article 16 of Regulation (EEC) No 2131/93, the price to be paid for the export shall be that quoted in the tender, without monthly increase.

4. Under the second paragraph of Article 7(2) of Regulation (EEC) No 2131/93, the lowest transport costs between the place of storage and the actual place of exit shall be reimbursed to the successful tenderer, up to the ceiling set in the invitation to tender.

Article 4

1. Export licences shall be valid from their date of issue within the meaning of Article 9 of Regulation (EEC) No 2131/93 until the end of the fourth month thereafter.

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 191, 31.7.1993, p. 76. Regulation as last amended by Regulation (EC) No 2045/2004 (OJ L 354, 30.11.2004, p. 17).

⁽³⁾ OJ L 301, 17.10.1992, p. 17. Regulation as last amended by Regulation (EC) No 770/96 (OJ L 104, 27.4.1996, p. 13).

⁽⁴⁾ Including Kosovo, as defined in UN Security Council Resolution 1244 of 10 June 1999.

2. Tenders submitted in response to this invitation to tender may not be accompanied by export licence applications submitted under Article 49 of Commission Regulation (EC) No 1291/2000⁽¹⁾.

Article 5

1. Notwithstanding Article 7(1) of Regulation (EEC) No 2131/93, the time limit for the submission of tenders under the first partial invitation to tender shall be 9.00 (Brussels time) on 28 April 2005.

The time limit for submitting tenders under subsequent partial invitations to tender shall be 9.00 (Brussels time) each Thursday thereafter, with the exception of 5 May 2005.

The last partial invitation to tender shall expire at 9.00 (Brussels time) on 23 June 2005.

2. Tenders must be lodged with the Slovak intervention agency:

Pôdohospodárska platobná agentúra
oddelenie obilnín a škrobu
Dobrovičova 12
SK-815 26 Bratislava
Tel. (421-2) 58 24 32 71
Fax (421-2) 58 24 33 62.

Article 6

The intervention agency, the storer and a successful tenderer shall, at the request of the latter and by common agreement, either before or at the time of removal from storage as the tenderer chooses, take reference samples for counter-analysis at the rate of at least one sample for every 500 tonnes and shall analyse the samples. The intervention agency may be represented by a proxy, provided this is not the storer.

Reference samples for counter-analysis shall be taken and analysed within seven working days of the date of the successful tenderer's request or within three working days if the samples are taken on removal from storage.

In the event of a dispute, the analysis results shall be forwarded to the Commission.

Article 7

1. The successful tenderer must accept the lot as established if the final result of the sample analyses indicates a quality:

(a) higher than that specified in the notice of invitation to tender;

(b) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, providing that the differences do not exceed the following limits:

- one kilogram per hectolitre as regards specific weight, which must not, however, be less than 75 kg/hl,
- one percentage point as regards moisture content,
- half a percentage point as regards the impurities referred to in points B.2 and B.4 of Annex I to Commission Regulation (EC) No 824/2000⁽²⁾, and
- half a percentage point as regards the impurities referred to in point B.5 of Annex I to Regulation (EC) No 824/2000, the percentages admissible for noxious grains and ergot remaining unchanged, however.

2. If the final result of the analyses carried out on the samples indicates a quality higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender and the difference exceeds the limits set out in paragraph 1(b), the successful tenderer may:

(a) accept the lot as established, or

(b) refuse to take over the lot concerned.

In the case of (b) above, the successful tenderer shall be discharged of all obligations relating to the lot in question and the securities shall be released provided the Commission and the intervention agency are immediately notified using the form in Annex II.

3. If the final result of the sample analyses indicates a quality below the minimum characteristics laid down for intervention, the successful tenderer cannot remove the lot in question. The successful tenderer shall be discharged of all obligations relating to the lot in question and the securities shall be released provided the Commission and the intervention agency are immediately notified using the form in Annex II.

Article 8

Should the cases mentioned in Article 7(2)(b) and 7(3) arise, the successful tenderer may ask the intervention agency to supply an alternative lot of common wheat of the requisite quality, at no extra cost. In that case, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall immediately inform the Commission thereof using the form in Annex II.

⁽¹⁾ OJ L 152, 24.6.2000, p. 1.

⁽²⁾ OJ L 100, 20.4.2000, p. 31.

If, as a result of successive replacements, the successful tenderer has not received a replacement lot of the quality laid down within one month of the date of the request for a replacement, the successful tenderer shall be discharged of all obligations and the securities shall be released, provided the Commission and the intervention agency have been immediately informed using the form in Annex II.

Article 9

1. If the common wheat is removed before the results of the analyses provided for in Article 6 are known, all risks shall be borne by the successful tenderer from the time the lot is removed, without prejudice to any means of redress the tenderer might have against the storer.

2. The costs of taking the samples and conducting the analyses provided for in Article 6, with the exception of those referred to in Article 7(3), shall be borne by the European Agricultural Guidance and Guarantee Fund (EAGGF) for up to one analysis per 500 tonnes, with the exception of the cost of inter-bin transfers. The costs of inter-bin transfers and any additional analyses requested by a successful tenderer shall be borne by that tenderer.

Article 10

Notwithstanding Article 12 of Commission Regulation (EEC) No 3002/92, the documents relating to the sale of common wheat under this Regulation, and in particular the export licence, the removal order referred to in Article 3(1)(b) of Regu-

lation (EEC) No 3002/92, the export declaration and, where applicable, the T5 copy shall carry the entry set out in Annex III.

Article 11

1. The security lodged under Article 13(4) of Regulation (EEC) No 2131/93 shall be released once the export licences have been issued to the successful tenderers.

2. Notwithstanding Article 17(1) of Regulation (EEC) No 2131/93, the obligation to export shall be covered by a security equal to the difference between the intervention price applying on the day of the award and the price awarded but not less than EUR 25 per tonne. Half of the security shall be lodged when the licence is issued and the balance shall be lodged before the cereals are removed.

Article 12

Within two hours of the expiry of the time limit for the submission of tenders, the Slovak intervention agency shall notify the Commission of tenders received. This notification shall be made using the form in Annex IV.

Article 13

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, 21 April 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX I

(in tonnes)	
Place of storage	Quantity
Veľké Ripňany, Lučenec, Rimavská Sobota, Senica, Bytčica, Malacky, Galanta-nové silo 1, Tornaľa, Sered', Želiezovce, Marcelová, Dvory n/Žitavou, Gbelce, Veľké Bedzany, Nedanovce, Podunajské Biskupice, Jesenské, Senec, Piešťany, Lužianky, Malé Straciny	65 000

ANNEX II

Communication of refusal of lots under the standing invitation to tender for the export of common wheat held by the Slovak intervention agency

(Regulation (EC) No 615/2005)

— Name of successful tenderer:

— Date of award:

— Date of refusal of the lot by the successful tenderer:

Lot number	Quantity in tonnes	Address of the silo	Reason for refusal to take over
			— specific weight — % of sprouted grains — % of miscellaneous impurities (Schwarzbesatz) — % of matter other than basic cereals of unimpaired quality — Other

ANNEX III

Entry referred to in Article 10

- Trigo blando de intervención sin aplicación de restitución ni gravamen, Reglamento (CE) n° 615/2005
 - Intervenční pšenice obecná nepodléhá vývozní náhradě ani clu, nařízení (ES) č. 615/2005
 - Blød hvede fra intervention uden restitutionsydelse eller -avgift, forordning (EF) nr. 615/2005
 - Weichweizen aus Interventionsbeständen ohne Anwendung von Ausfuhrerstattungen oder Ausfuhrabgaben, Verordnung (EG) Nr. 615/2005
 - Pehme nisu sekkumisvarudest, mille puhul ei rakendata toetust või maksu, määrus (EÜ) nr 615/2005
 - Μαλακός σίτος παρέμβασης χωρίς εφαρμογή επιστροφής ή φόρου, κανονισμός (ΕΚ) αριθ. 615/2005
 - Intervention common wheat without application of refund or tax, Regulation (EC) No 615/2005
 - Blé tendre d'intervention ne donnant pas lieu à restitution ni taxe, règlement (CE) n° 615/2005
 - Frumento tenero d'intervento senza applicazione di restituzione né di tassa, regolamento (CE) n. 615/2005
 - Intervences parastie kvieši bez kompensācijas vai nodokļa piemērošanas, Regula (EK) Nr. 615/2005
 - Intervenciniai paprastieji kviečiai, kompensacija ar mokesčiai netaikytini, Reglamentas (EB) Nr. 615/2005
 - Intervenciós búza, visszatérítés, illetve adó nem alkalmazandó, 615/2005/EK rendelet
 - Zachte tarwe uit interventie, zonder toepassing van restitutie of belasting, Verordening (EG) nr. 615/2005
 - Pszenica zwyczajna interwencyjna niedająca prawa do refundacji ani do opłaty, rozporządzenie (WE) nr 615/2005
 - Trigo mole de intervenção sem aplicação de uma restituição ou imposição, Regulamento (CE) n.º 615/2005
 - Intervenčná pšenica obyčajná nepodlieha vývozným náhradám ani clu, nariadenie (ES) č. 615/2005
 - Intervencija navadne pšenice brez zahtevkov za nadomestila ali carine, Uredba (ES) št. 615/2005
 - Interventiovehnä, johon ei sovelleta vientitukea eikä vientimaksua, asetus (EY) N:o 615/2005
 - Interventionsvete, utan tillämpning av bidrag eller avgift, förordning (EG) nr 615/2005.
-

ANNEX IV

Form (*)

Standing invitation to tender for the export of common wheat held by the Slovak intervention agency

(Regulation (EC) No 615/2005)

1	2	3	4	5	6	7
Serial numbers of tenderers	Lot number	Quantity in tonnes	Tender prices (EUR/tonne) ⁽¹⁾	Increases(+) Reductions(-) (EUR/tonne) (p.m.)	Commercial costs (EUR/tonne)	Destination
1						
2						
3						
etc.						

⁽¹⁾ This price includes the increases and reductions relating to the lot covered by the tender.

(*) To be sent to DG AGRI, Unit D.2:
— by fax (32-2) 292 10 34.

COMMISSION REGULATION (EC) No 616/2005**of 21 April 2005****amending Regulation (EC) No 1623/2000 laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Commission Regulation (EC) No 1623/2000⁽²⁾ provides for a system of disposal by public sale of wine alcohol for use as bio-ethanol in the Community. In order to enable the highest price offered by a tenderer to be obtained for such alcohol, the public sale system should be replaced by a tendering system.
- (2) To that end, the same rules should be applied to the different types of disposal of wine alcohol, while the characteristics necessary for each use or final destination of the alcohol should be respected.
- (3) In order to check that the alcohol is to be used for the production of bio-ethanol, Member States approve firms which they deem eligible on the basis of their capacity, the plants where the alcohol is processed, their annual processing capacity, and the certificates from the national authorities of the Member State of the final purchaser attesting that the final purchaser uses the alcohol only to produce bio-ethanol and that the bio-ethanol is used only in the fuel sector.
- (4) Sales by tender should be held each quarter, first in order to ensure that the alcohol stored by Member States' intervention agencies is disposed of, and second in order to provide some guarantee of supply for firms established in the European Community which use alcohol in the fuel sector.
- (5) The Member States should send information at the end of each month on the quantities of wine, wine lees and fortified wine which have been distilled in the previous month, as well as the quantities of alcohol, broken down into neutral alcohol, raw alcohol and spirits.

(6) Regulation (EC) No 1623/2000 should be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1623/2000 is hereby amended as follows:

1. Articles 92 to 94 are replaced by:

*'Article 92***Opening tendering procedures**

1. The Commission, acting in accordance with the procedure laid down in Article 75 of Regulation (EC) No 1493/1999, may issue one or more invitations to tender each quarter for alcohol to be used only in the fuel sector, in the form of bio-ethanol, in the Community.

The quantities of alcohol awarded under such tendering procedures shall not exceed 700 000 hectolitres of alcohol at 100 % vol per procedure.

2. The alcohol shall be assigned to firms established in the Community and shall be used in the fuel sector.

To this end, Member States shall approve firms deemed eligible by them which have submitted an application accompanied by the following documents and information:

- (a) a declaration by the firm stating that it is capable of using at least 50 000 hl of alcohol a year;
- (b) the location of the firm's administrative offices;
- (c) the place of establishment and a copy of the plans of the plant where the alcohol is processed, and an indication of the annual processing capacity;

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation last amended by the 2003 Act of Accession.

⁽²⁾ OJ L 194, 31.7.2000, p. 45. Regulation last amended by Regulation (EC) No 1774/2004 (OJ L 316, 15.10.2004, p. 61).

- (d) a copy of the permit, granted by the national authorities of the Member State concerned, to operate the plant; and
 - (e) certificates from the national authorities of the Member State of any final purchaser, attesting that the final purchaser is able to use the alcohol only to produce bio-ethanol and that the bio-ethanol will be used only in the fuel sector.
3. Approval by a Member State shall be valid throughout the Community.
4. Firms approved by the Commission at 1 March 2005 shall be considered to have been approved for the purposes of this Regulation.
5. Member States shall inform the Commission of any new approval or withdrawal of approval.
6. The Commission shall regularly publish a list of the firms approved by the Member States.

Article 93

Notice of invitation to tender

The notice of invitation to tender shall be published in the *Official Journal of the European Union*.

Such notices shall specify:

- (a) the special rules applicable to the tendering procedure and the names and addresses of the intervention agencies concerned;
- (b) the quantity of alcohol, expressed in hectolitres of alcohol at 100 % vol, covered by the tendering procedure;
- (c) the lots;
- (d) the payment terms;
- (e) the formalities for obtaining samples;
- (f) the amount of the tendering security referred to in Article 94(4) and of the performance guarantee referred to in Article 94c(3).

Article 94

Rules applicable to tenders

1. Tenderers may submit only one tender for each lot to be awarded. If a tenderer submits more than one tender for each lot, none of those tenders shall be admissible.
2. To be eligible for consideration, tenders shall indicate the Member State of final use of the alcohol awarded and contain an undertaking by the tenderer to comply with that destination.

3. Tenders shall reach the intervention agency of the Member State concerned not later than 12 noon (Brussels time) on the closing date set for the submission of tenders in the notice of invitation to tender.

4. Tenders shall be valid only if proof is provided, before the closing date for the submission of tenders, that a tendering security of EUR 4 per hectolitre of alcohol at 100 % vol has been lodged with the intervention agency concerned in respect of the entire quantity of the lot put up for sale.

To that end, the intervention agencies concerned shall immediately issue tenderers with a statement certifying that the tendering security has been lodged for the quantities for which each intervention agency is responsible.

5. For the purposes of the tendering security, the primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be that tenders are not withdrawn after the closing date for their submission and that a performance guarantee is lodged.

Article 94a

Notification concerning tenders

Not more than two working days after the closing date for the submission of tenders, the intervention agency concerned shall submit to the Commission an anonymous list showing, for each tender:

- (a) the prices offered;
- (b) the lots requested;
- (c) the final destination of the alcohol.

Article 94b

Award of contracts

1. On the basis of the tenders submitted, the Commission, acting in accordance with the procedure laid down in Article 75(2) of Regulation (EC) No 1493/1999, shall decide as quickly as possible whether or not to award contracts.

2. Should a contract be awarded, the Commission shall accept the most favourable tender for each lot. If two or more tenders quote the same price, the Commission shall make the award by drawing lots.

3. The Commission shall notify the decisions taken under this Article only to those Member States and intervention agencies holding alcohol for which tenders have been accepted.

4. The Commission shall publish the results of the tendering procedure in a simplified form in the *Official Journal of the European Union*.

*Article 94c***Statement of award**

1. The intervention agency shall inform tenderers in writing, without delay against a receipt, of the decision taken on their tenders.

2. Within two weeks of the date of receipt of the information notice referred to in paragraph 1, the intervention agency shall issue each successful tenderer with a statement of award certifying that their tender has been accepted.

3. Within two weeks of the date of receipt of the information notice referred to in paragraph 1, each successful tenderer shall provide proof that they have lodged with the intervention agency concerned a performance guarantee of EUR 30 per hectolitre of alcohol at 100 % vol to ensure that the alcohol awarded is used for the purposes stated in the tender.

*Article 94d***Removal of the alcohol**

1. The intervention agency holding the alcohol and the successful tenderer shall agree on a provisional timetable for the removal of the alcohol.

2. The alcohol may be removed on presentation of a removal order issued by the intervention agency once the quantity to be removed has been paid for. That quantity shall be determined to the nearest hectolitre of alcohol at 100 % vol.

Each removal order shall cover a quantity of at least 2 500 hectolitres, except in the case of the last removal in each Member State.

The removal order shall state the date by which the alcohol must be physically removed from the warehouse of the intervention agency concerned. The deadline for removal shall not be more than eight days from the date of issue of the removal order. However, where the removal order covers a quantity in excess of 25 000 hectolitres, that deadline may be more than eight days, but not more than fifteen days.

3. Ownership of the alcohol covered by a removal order shall be transferred on the date indicated in the order, which may not be more than eight days after its date of issue, and the quantities concerned shall be deemed to have been removed on that date. From then on, the purchaser shall be responsible for any theft, loss or destruction and for the storage costs of any alcohol awaiting removal.

4. All the alcohol must have been removed six months after the date of receipt of the information notice.

5. The alcohol must be fully used within two years of the date of first removal;

2. the first subparagraph of Article 97(1) is replaced by the following:

‘1. To be eligible for consideration, tenders must be submitted in writing and must include, in addition to the specific information referred to in subsections I, II or III;

3. in Article 98, paragraphs 1 and 2 are replaced by the following:

‘1. On publication of a notice of invitation to tender and until the closing date for the submission of tenders in response to such invitation, all interested parties may obtain samples of the alcohol offered for sale, against payment of EUR 10 per litre. The quantity made available to each interested party shall not exceed five litres per vat.

2. After the closing date for the submission of tenders, the tenderer or the approved firm referred to in Article 92 may obtain samples of the alcohol awarded.

After the closing date for the submission of tenders, a tenderer to whom a replacement pursuant to the second subparagraph of Article 83(3) is proposed may obtain samples of the replacement alcohol proposed.

Such samples, which may not exceed five litres per vat, may be obtained from the intervention agency against payment of EUR 10 per litre.’;

4. Article 100(2)(c) is replaced by the following:

‘(c) In the case of alcohol awarded for a new industrial use and alcohol awarded under tendering procedures for use as bio-ethanol in the fuel sector in the Community which must be rectified prior to the final use intended, the alcohol removed shall be deemed to have been used entirely for the purpose specified where at least 90 % of the total quantities of alcohol removed under an invitation to tender is used for that purpose.

The tenderer who has agreed to purchase the alcohol shall inform the intervention agency of the quantity, destination and use of the products derived from the rectification.

However, losses may not exceed the limits specified in point (b).’;

5. Article 103(2) is replaced by the following:

‘2. In the case of the distillation referred to in Articles 27, 28 and 30 of Regulation (EC) No 1493/1999, Member States shall communicate at the end of each month:

(a) the quantities of wine, wine lees and fortified wine which have been distilled in the previous month,

(b) the quantities of alcohol, broken down into neutral alcohol, raw alcohol and spirits:

— produced during the previous month,

— taken over by the intervention agencies during the previous month,

— disposed of by the intervention agencies during the previous month and the percentage of those quantities exported and the selling prices charged,

— held by the intervention agencies at the end of the previous month.’

Article 2

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

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

Done at Brussels, 21 April 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

COMMISSION REGULATION (EC) No 617/2005**of 21 April 2005****amending the import duties in the cereals sector applicable from 22 April 2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) The import duties in the cereals sector are fixed by Commission Regulation (EC) No 595/2005⁽³⁾.

- (2) Article 2(1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by EUR 5 per tonne from the duty fixed, a corresponding adjustment is to be made. Such a difference has arisen. It is therefore necessary to adjust the import duties fixed in Regulation (EC) No 595/2005,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 595/2005 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 22 April 2005.

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

Done at Brussels, 21 April 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 29.9.2003, p. 78.

⁽²⁾ OJ L 161, 29.6.1996, p. 125. Regulation as last amended by Regulation (EC) No 1110/2003 (OJ L 158, 27.6.2003, p. 12).

⁽³⁾ OJ L 98, 16.4.2005, p. 22.

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EC) No 1784/2003 applicable from 22 April 2005

CN code	Description	Import duty ⁽¹⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	Common high quality wheat other than for sowing	0,00
1002 00 00	Rye	34,66
1005 10 90	Maize seed other than hybrid	52,57
1005 90 00	Maize other than seed ⁽²⁾	52,57
1007 00 90	Grain sorghum other than hybrids for sowing	34,66

⁽¹⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

- EUR 3/t, where the port of unloading is on the Mediterranean Sea, or
- EUR 2/t, where the port of unloading is in Ireland, the United Kingdom, Denmark, Estonia, Latvia, Lithuania, Poland, Finland, Sweden or the Atlantic coasts of the Iberian peninsula.

⁽²⁾ The importer may benefit from a flat-rate reduction of EUR 24/t, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

period from 15.4.2005-20.4.2005

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Exchange quotations	Minneapolis	Chicago	Minneapolis	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2 (14 %)	YC3	HAD2	Medium quality (*)	Low quality (**)	US barley 2
Quotation (EUR/t)	108,04 (***)	63,21	158,82	148,82	128,82	84,48
Gulf premium (EUR/t)	—	11,93	—			—
Great Lakes premium (EUR/t)	25,13	—	—			—

(*) A discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(**) A discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(***) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight/cost: Gulf of Mexico–Rotterdam: 32,14 EUR/t; Great Lakes–Rotterdam: 42,17 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)
-
- 0,00 EUR/t (SRW2).

COMMISSION REGULATION (EC) No 618/2005**of 21 April 2005****fixing the A1 and B export refunds for fruit and vegetables (tomatoes, oranges, lemons and apples)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables⁽¹⁾, and in particular the third subparagraph of Article 35(3),

Whereas:

- (1) Commission Regulation (EC) No 1961/2001⁽²⁾ lays down the detailed rules of application for export refunds on fruit and vegetables.
- (2) Article 35(1) of Regulation (EC) No 2200/96 provides that, to the extent necessary for economically significant exports, the products exported by the Community may be covered by export refunds, within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty.
- (3) Under Article 35(2) of Regulation (EC) No 2200/96, care must be taken to ensure that the trade flows previously brought about by the refund scheme are not disrupted. For this reason and because exports of fruit and vegetables are seasonal in nature, the quantities scheduled for each product should be fixed, based on the agricultural product nomenclature for export refunds established by Commission Regulation (EEC) No 3846/87⁽³⁾. These quantities must be allocated taking account of the perishability of the products concerned.
- (4) Article 35(4) of Regulation (EC) No 2200/96 provides that refunds must be fixed in the light of the existing situation or outlook for fruit and vegetable prices on the

Community market and supplies available on the one hand, and prices on the international market on the other hand. Account must also be taken of the transport and marketing costs and of the economic aspect of the exports planned.

- (5) In accordance with Article 35(5) of Regulation (EC) No 2200/96, prices on the Community market are to be established in the light of the most favourable prices from the export standpoint.
- (6) The international trade situation or the special requirements of certain markets may call for the refund on a given product to vary according to its destination.
- (7) tomatoes, oranges, lemons and apples of classes Extra, I and II of the common quality standards can currently be exported in economically significant quantities.
- (8) In order to ensure the best use of available resources and in view of the structure of Community exports, it is appropriate to fix the A1 and B export refunds.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for fresh Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

1. For system A1, the refund rates, the refund application period and the scheduled quantities for the products concerned are fixed in the Annex hereto. For system B, the indicative refund rates, the licence application period and the scheduled quantities for the products concerned are fixed in the Annex hereto.

2. The licences issued in respect of food aid as referred to in Article 16 of Commission Regulation (EC) No 1291/2000⁽⁴⁾ shall not count against the eligible quantities in the Annex hereto.

Article 2

This Regulation shall enter into force on 7 May 2005.

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

⁽²⁾ OJ L 268, 9.10.2001, p. 8. Regulation as last amended by Regulation (EC) No 1176/2002 (OJ L 170, 29.6.2002, p. 69).

⁽³⁾ 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).

⁽⁴⁾ 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, 21 April 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

**to the Commission Regulation of 21 April 2005 fixing the export refunds on fruit and vegetables
(tomatoes, oranges, lemons and apples)**

Product code ⁽¹⁾	Destination ⁽²⁾	System A1 Refund application period 7.5.2005-23.6.2005		System B Licence application period 14.5.2005-30.6.2005	
		Refund amount (EUR/t net weight)	Scheduled quantity (t)	Indicative refund amount (EUR/t net weight)	Scheduled quantity (t)
0702 00 00 9100	F08	35		35	20 000
0805 10 20 9100	A00	35		35	20 000
0805 50 10 9100	A00	60		60	20 000
0808 10 80 9100	F09	36		36	66 667

⁽¹⁾ The product codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1).

⁽²⁾ The 'A' series destination codes are set out in Annex II to Regulation (EEC) No 3846/87.

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

The other destinations are defined as follows:

F03: All destinations except Switzerland.

F04: Sri Lanka, Hong Kong SAR, Singapore, Malaysia, Indonesia, Thailand, Taiwan, Papua New Guinea, Laos, Cambodia, Vietnam, Uruguay, Paraguay, Argentina, Mexico, Costa Rica and Japan.

F08: All destinations except Bulgaria.

F09: The following destinations:

- Norway, Iceland, Greenland, Faeroe Islands, Romania, Albania, Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Serbia and Montenegro, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, Saudi Arabia, Bahrain, Qatar, Oman, United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm al Qalwain, Ras al Khaimah, Fujairah), Kuwait, Yemen, Syria, Iran, Jordan, Bolivia, Brazil, Venezuela, Peru, Panama, Ecuador and Colombia;
- African countries and territories except for South Africa;
- destinations referred to in Article 36 of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).

COMMISSION REGULATION (EC) No 619/2005**of 21 April 2005****fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 2277/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 12(1) thereof,

Whereas:

(1) An invitation to tender for the maximum reduction in the duty on maize imported into Spain from third countries was opened pursuant to Commission Regulation (EC) No 2277/2004⁽²⁾.

(2) Pursuant to Article 7 of Commission Regulation (EC) No 1839/95⁽³⁾ the Commission, acting under the procedure laid down in Article 25 of Regulation (EC) No 1784/2003, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 15 to 21 April 2005, pursuant to the invitation to tender issued in Regulation (EC) No 2277/2004, the maximum reduction in the duty on maize imported shall be 28,49 EUR/t and be valid for a total maximum quantity of 141 000 t.

Article 2

This Regulation shall enter into force on 22 April 2005.

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

Done at Brussels, 21 April 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 396, 31.12.2004, p. 35.

⁽³⁾ OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 620/2005**of 21 April 2005****fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 487/2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 12(1) thereof,

Whereas:

- (1) An invitation to tender for the maximum reduction in the duty on maize imported into Portugal from third countries was opened pursuant to Commission Regulation (EC) No 487/2005⁽²⁾.
- (2) Pursuant to Article 7 of Commission Regulation (EC) No 1839/95⁽³⁾, the Commission, acting under the procedure laid down in Article 25 of Regulation (EC) No 1784/2003, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 15 to 21 April 2005, pursuant to the invitation to tender issued in Regulation (EC) No 487/2005, the maximum reduction in the duty on maize imported shall be 27,99 EUR/t and be valid for a total maximum quantity of 32 000 t.

Article 2

This Regulation shall enter into force on 22 April 2005.

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

Done at Brussels, 21 April 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 81, 30.3.2005, p. 6.

⁽³⁾ OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 621/2005**of 21 April 2005****fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 115/2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of common wheat to certain third countries was opened pursuant to Commission Regulation (EC) No 115/2005 ⁽²⁾.
- (2) In accordance with Article 7 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, the Commission may, on the basis of the tenders notified, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95.

In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified on 15 to 21 April 2005, pursuant to the invitation to tender issued in Regulation (EC) No 115/2005, the maximum refund on exportation of common wheat shall be 5,00 EUR/t.

Article 2

This Regulation shall enter into force on 22 April 2005.

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

Done at Brussels, 21 April 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 24, 27.1.2005, p. 3.

⁽³⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 622/2005**of 21 April 2005****fixing the export refunds on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13 of Regulation (EC) No 1784/2003 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund.
- (2) The refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽²⁾.
- (3) As far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture. These quantities were fixed in Regulation (EC) No 1501/95.

- (4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.
- (5) The refund must be fixed once a month. It may be altered in the intervening period.
- (6) It follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(a), (b) and (c) of Regulation (EC) No 1784/2003, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 22 April 2005.

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

Done at Brussels, 21 April 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 1431/2003 (OJ L 203, 12.8.2003, p. 16).

ANNEX

**to the Commission Regulation of 21 April 2005 fixing the export refunds on cereals and on wheat or rye flour,
groats and meal**

Product code	Destination	Unit of measurement	Amount of refunds	Product code	Destination	Unit of measurement	Amount of refunds
1001 10 00 9200	—	EUR/t	—	1101 00 15 9130	C01	EUR/t	6,40
1001 10 00 9400	A00	EUR/t	0	1101 00 15 9150	C01	EUR/t	5,90
1001 90 91 9000	—	EUR/t	—	1101 00 15 9170	C01	EUR/t	5,45
1001 90 99 9000	A00	EUR/t	0	1101 00 15 9180	C01	EUR/t	5,10
1002 00 00 9000	A00	EUR/t	0	1101 00 15 9190	—	EUR/t	—
1003 00 10 9000	—	EUR/t	—	1101 00 90 9000	—	EUR/t	—
1003 00 90 9000	A00	EUR/t	0	1102 10 00 9500	A00	EUR/t	0
1004 00 00 9200	—	EUR/t	—	1102 10 00 9700	A00	EUR/t	0
1004 00 00 9400	A00	EUR/t	0	1102 10 00 9900	—	EUR/t	—
1005 10 90 9000	—	EUR/t	—	1103 11 10 9200	A00	EUR/t	0
1005 90 00 9000	A00	EUR/t	0	1103 11 10 9400	A00	EUR/t	0
1007 00 90 9000	—	EUR/t	—	1103 11 10 9900	—	EUR/t	—
1008 20 00 9000	—	EUR/t	—	1103 11 90 9200	A00	EUR/t	0
1101 00 11 9000	—	EUR/t	—	1103 11 90 9800	—	EUR/t	—
1101 00 15 9100	C01	EUR/t	6,85				

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

C01: All third countries with the exception of Albania, Bulgaria, Romania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro, the former Yugoslav Republic of Macedonia, Lichtenstein and Switzerland.

COMMISSION REGULATION (EC) No 623/2005**of 21 April 2005****fixing the maximum export refund on barley in connection with the invitation to tender issued in Regulation (EC) No 1757/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 13(3) thereof,

Whereas:

(1) An invitation to tender for the refund for the export of barley to certain third countries was opened pursuant to Commission Regulation (EC) No 1757/2004⁽²⁾.

(2) In accordance with Article 7 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, the Commission may, on the basis of the tenders notified, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95.

In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified on 15 to 21 April 2005, pursuant to the invitation to tender issued in Regulation (EC) No 1757/2004, the maximum refund on exportation of barley shall be 16,50 EUR/t.

Article 2

This Regulation shall enter into force on 22 April 2005.

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

Done at Brussels, 21 April 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 313, 12.10.2004, p. 10.

⁽³⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 624/2005**of 21 April 2005****concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 1565/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 7 thereof,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽²⁾, and in particular Article 7 thereof,

Having regard to Commission Regulation (EC) No 1565/2004 of 3 September 2004 on a special intervention measure for cereals in Finland and Sweden for the 2004/2005 marketing year⁽³⁾,

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from

Finland and Sweden to all third countries, with the exception of Bulgaria, Norway, Romania and Switzerland was opened pursuant to Regulation (EC) No 1565/2004.

- (2) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95, a maximum refund should not be fixed.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 15 to 21 April 2005 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 1565/2004.

Article 2

This Regulation shall enter into force on 22 April 2005.

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

Done at Brussels, 21 April 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 1431/2003 (OJ L 203, 12.8.2003, p. 16).

⁽³⁾ OJ L 285, 4.9.2004, p. 3.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 7 May 2004

on the aid scheme which Italy is planning to implement to assist farmers in the province of Campobasso

(notified under document number C(2004) 1634)

(Only the Italian text is authentic)

(2005/319/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 cited above,

Whereas:

I. PROCEDURE

- (1) By letter dated 29 November 2000, recorded as received on 30 November 2000, the Italian Permanent Representation to the European Union notified the Commission, in accordance with Article 88(3) of the Treaty, of Decision No 629 of 29 December 1999 of the Campobasso Provincial Executive.
- (2) By letters dated 8 February, 21 February, 12 June and 11 September 2001, recorded as received on 12 February, 28 February, 14 June and 13 September 2001 respectively, the Italian Permanent Representation to the European Union provided the Commission with additional information it had requested in its letters of 12 January, 26 April and 7 August 2001.
- (3) By letter dated 13 November 2001 the Commission informed Italy that it had decided to initiate the procedure laid down in Article 88(2) of the Treaty in respect of the aid.

- (4) The Commission Decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽¹⁾. The Commission called on interested parties to submit their comments on the measure in question.

- (5) The Italian authorities did not submit any comments on the measure. The Commission has received no comment from other interested parties.

II. DESCRIPTION OF THE AID

1. The aid scheme

- (6) The Decision of the Provincial Executive provides for the granting of aid in the form of subsidised loans of up to ITL 20 million (EUR 10 329) at a rate of 2 % for:
 - adapting farms to health and hygiene standards in accordance with Decree No 54 of 14 January 1997 adopting the Regulation transposing Directives 92/46/EEC and 92/47/EEC on the production and placing on the market of milk and milk products,
 - improving health and safety in the workplace in accordance with Legislative Decree No 626 of 19 September 1994, and subsequent amendments thereto, transposing Directives 89/391/EEC, 89/654/EEC, 89/655/EEC, 89/656/EEC, 90/269/EEC, 90/270/EEC, 90/394/EEC, 90/679/EEC, 93/88/EEC, 97/42/EC and 1999/38/EC on improving health and safety at work,

⁽¹⁾ OJ C 354, 13.12.2001, p. 18.

- adapting food production control standards in accordance with Decree No 155 of 26 May 1997 transposing Directives 93/43/EEC and 96/3/EC on the hygiene of foodstuffs.
- (7) By way of indication, the aid scheme covers the following in particular:
- work on building and/or adapting facilities for the treatment of liquid waste,
 - work on building and/or adapting milk-collection and storage facilities,
 - work on building and/or adapting small-scale electrical installations,
 - work on building and/or adapting sanitation facilities,
 - work on building and/or adapting livestock housing,
 - work on building and/or adapting food-collection and storage facilities,
 - the use of building materials that lend themselves to better hygiene.
- (8) Aid under the above headings includes planning and construction, the purchase of materials and 'other costs' (covered by 'etc.' in the notification).
- (9) The maximum aid intensities are as specified in Article 7 of Council Regulation (EC) No 1257/1999⁽¹⁾.
- (10) The recipients of the aid are owner farmers, farmers practising farming as their main occupation, and groups thereof, registered with the Campobasso Chamber of Commerce.
- (11) ITL 150 million (EUR 77 468) has been earmarked for funding the scheme. The latter is set to last until the funds concerned have been used up.

- (12) The aid provided for in the Decision of the Provincial Executive may not be combined with other aid having the same purpose. In this connection, recipients must sign a declaration to the effect that they will not apply for other aid for the same purpose. Regular checks are to be carried out in this respect.

2. Grounds on which proceedings were initiated by the Commission

- (13) The Commission initiated proceedings under Article 88(2) of the Treaty because it had doubts as to whether the scheme was compatible with the common market. Those doubts were as follows.

A. Doubts regarding the types of investment eligible for aid

- (14) As part of the information they provided before proceedings were initiated, the Italian authorities stated that the maximum authorised aid intensity levels were those applicable under Article 7 of Regulation (EC) No 1257/1999, in other words those specified, for investment in agricultural holdings, at 4.1 of the Community guidelines for State aid in the agriculture sector⁽²⁾ (hereinafter the Guidelines). The Italian authorities also referred to Measure 4.9 under the Regional Operational Programme, which covers only investment in agricultural holdings.
- (15) In the light of that information and the above-mentioned reference, the aid rates applicable would be 50 % in less-favoured areas and 40 % elsewhere, plus, in both cases, an additional five percentage points if the investment is made by young farmers.
- (16) The aid could conceivably be covered by three points of the Guidelines:
- 4.1, on investment in agricultural holdings;
 - 4.2, on investment in connection with the processing and marketing of agricultural products (the application of this point cannot be ruled out because, according to the information transmitted by the Italian authorities, the recipients are owner farmers ('coltivatori diretti') and farmers generally ('imprenditori agricoli'); according to Article 2135 of Italy's Civil Code, 'imprenditori agricoli' are persons who carry on activities aimed at cultivation of the soil, silviculture, livestock farming and related activities', and the latter could include the processing and marketing of agricultural products);

⁽¹⁾ OJ L 160, 26.6.1999, p. 80. Regulation as last amended by Regulation (EC) No 2223/2004 (OJ L 379, 24.12.2004, p. 1).

⁽²⁾ OJ C 28, 1.2.2000, p. 2. Corrigendum published in OJ C 232, 12.8.2000, p. 17.

— 4.3, on the diversification of farm activities, which refers back to 4.1 and 4.2.

- (17) In its letter of 7 August 2001, the Commission department concerned invited the Italian authorities to describe in detail how each of these points had been complied with for each type of recipient. In their letter of 11 September 2001 the Italian authorities replied only that Community rules and provisions would not be overlooked and that, to ensure greater compliance, the Region would follow the same approach as for the management of EAGGF Guidance funds.
- (18) Taking account of that reply the Commission verified whether the above-mentioned points of the Guidelines were effectively being complied with.

B. Doubts regarding the nature and rate of financing of certain types of eligible expenditure

- (19) While on the one hand it could be assumed that the rates of aid would be complied with irrespective of which point of the Guidelines was applicable, since in the case of measures for the processing/marketing of agricultural products, Molise is among the Objective 1 regions and thus qualifies for an aid rate of 50 %, i.e. a figure which is not below the maximum indicated by the Italian authorities in their initial notification, on the other, the percentage of eligible expenditure represented by planning costs was not specified, whereas under the Guidelines it is limited to 12 % of the other items of eligible expenditure.

When proceedings were initiated it was not possible to determine the nature of certain costs covered by the term 'etc.' in the notification.

- (20) There was thus a possibility that some of the expenditure in that category might not be eligible and that the aid concerned might constitute operating aid incompatible with the common market.

C. Doubts regarding the reliability of the criteria used for assessing the viability of the recipients and the latter's compliance with minimum environmental, hygiene and animal welfare standards.

- (21) Points 4.1 and 4.2 of the Guidelines stipulate that the holdings receiving the aid are to be assessed for viability on the basis of their prospects and are to comply with certain minimum environmental, hygiene and animal welfare standards. Moreover, aid may be granted only for products for which there are market outlets. The matter of outlets was not at issue, since the Regional operational programme, which had been approved by

the Commission, laid down precise criteria in that respect.

- (22) On the question of viability, the Italian authorities had referred to Measure 4.9 under the Commission-approved Regional operational programme, which in turn referred to supplementary programming as regards the criteria applicable. It emerged from the supplementary programming that the indicators used were gross income and the number of man-work units (MWUs) employed on the holding. In order to be regarded as viable, the holding had to have a gross income of at least four or six 'gross income economic size units', depending on the area, and had to employ one MWU at least. This criterion was somewhat vague since, on the basis of the information available, it was not possible to establish what a 'gross income economic size unit' was. Moreover, the number of MWUs employed on the holding does not necessarily reflect its viability. Consequently, when it initiated proceedings, the Commission had doubts regarding the criteria for assessing the viability of the recipients.

- (23) As regards compliance with the minimum environmental, hygiene and animal welfare standards, the Commission pointed out that the aid was intended to finance work to be carried out pursuant to decrees transposing directives which, in the supplementary programming, were listed among the minimum requirements which agricultural holdings have to comply with in order to be eligible for aid under the Regional operational programme.

- (24) By virtue of the rules governing State aid, agricultural holdings must comply with the above-mentioned minimum requirements in order to be eligible for the aid. Moreover, point 4.1.1.3 of the Guidelines allows the assistance to be granted if the investment is intended to satisfy newly introduced minimum environmental, hygiene or animal welfare standards. It adds that that in such cases account must be taken of any period specified in accordance with the second paragraph of Article 2 of Commission Regulation (EC) No 1750/1999 of 23 July 1999 laying down detailed rules for the application of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) ⁽¹⁾.

- (25) In its letter of 7 August 2001 to the Italian authorities the Commission enquired as to the possible nature of any newly introduced standards and when they would be applicable. In their reply, the Italian authorities stated that they would order an expert survey to be carried out to verify that the minimum standards applicable under the Community, national and regional legislation applicable had been complied with.

⁽¹⁾ OJ L 214, 13.8.1999, p. 31. Regulation as last amended by Regulation (EC) No 1763/2001 (OJ L 239, 7.9.2001, p. 10).

(26) This information did not, however, answer the Commission's questions, insofar as it was not possible to determine which new requirements might be introduced and when they would be applicable. When it initiated proceedings, the Commission could not, therefore, rule out the possibility that the planned aid might be intended solely to fund compliance with standards that were already applicable and were part of the minimum requirements which holdings had to satisfy in order to be awarded aid. Aid granted to holdings which are in breach of Community rules could not be regarded as compatible with the common market.

(27) The Commission therefore had grave doubts as to whether potential recipients satisfied the minimum environmental, hygiene and animal welfare standards applicable by virtue of the Guidelines and, accordingly, as to the eligibility not only of the expenditure concerned but also of the recipients themselves.

D. Doubts regarding the possible retrospective nature of the aid

(28) The Commission departments concerned had invited the Italian authorities to provide guarantees that the measures provided for in the Decision of the Provincial Executive would be implemented in accordance with the non-retrospectiveness principle laid down at 3.6 of the Guidelines and to undertake not to grant aid for activities or work initiated prior to the recipient submitting an application and its binding approval by the relevant authorities, once the aid had been approved by the Commission.

(29) Information transmitted by the Italian authorities shows that aid has neither been paid, nor will be paid, without the scheme being approved by the Commission; the latest reply from the Italian authorities does not, however, contain the requested undertaking not to grant aid for activities or work initiated prior to a recipient submitting an aid application and its binding approval by the relevant authorities. Accordingly the Commission could not, when it initiated proceedings, rule out the possibility that retrospective aid without an incentive effect might be granted under the scheme. In this respect too, therefore, the Commission could not but doubt whether the aid was compatible with the common market.

III. COMMENTS SUBMITTED BY ITALY AND OTHER PARTIES

(30) Italy has not, in the wake of the Decision to initiate proceedings under Article 88(2) of the Treaty, trans-

mitted to the Commission departments concerned any comment on the aid in question. Nor has the Commission received any comments from other interested parties.

IV. LEGAL ASSESSMENT

1. Existence of aid within the meaning of Article 87(1) of the Treaty

(31) By virtue of Article 87(1) of the Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.

(32) The measures in question conform to that definition, in so far as they favour certain types of production (basic agricultural production, since the investment is made at primary production level) and can affect trade, given the wide range of products concerned (in 1998, for instance, Italy's imports and exports of agricultural products totalled ECU 15 222 billion and ECU 9 679 billion respectively; that same year the corresponding figures for intra-Community trade in agricultural products were ECU 128 256 billion and ECU 132 458 billion respectively).

(33) The measure in question thus falls within the definition of state aid laid down in Article 87(1) of the Treaty.

(34) The ban on the granting of state aid is not unconditional. In this particular case the exceptions provided for in Article 87(2) of the Treaty are manifestly inapplicable and indeed have not been invoked by the Italian authorities.

(35) Nor is Article 87(3)(a) of the Treaty applicable, since the aid is not intended to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment.

(36) Regarding Article 87(3)(b) of the Treaty, it should be pointed out that the aid in question is not intended to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State.

- (37) The aid in question is not intended to achieve the objectives referred to in Article 87(3)(d) of the Treaty.
- (38) In view of the nature of the measure in question, the only exception which may be invoked is that provided for in Article 87(3)(c) of the Treaty, whereby aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, may be considered to be compatible with the common market.

2. Scrutiny of the compatibility of the aid

- (39) The Decision of the Provincial Executive must be examined in the light of the Guidelines since it is aimed at introducing an investment aid scheme in the agriculture sector and was duly notified by the Italian authorities in accordance with Article 88(3) of the Treaty.
- (40) The Guidelines are, by virtue of 23.3 thereof, applicable to new State aids in the agriculture sector, including pending notifications by Member States, with effect from 1 January 2000.
- (41) Commission Regulation (EC) No 1/2004 of 23 December 2003 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises active in the production, processing and marketing of agricultural products ⁽¹⁾ is not applicable in this case because it is not possible, on the basis of the information provided regarding the recipients, to determine in every instance whether the aid is intended for small and medium-sized enterprises which are eligible under that Regulation ⁽²⁾.
- (42) According to the information transmitted by the Italian authorities, the maximum aid intensities allowed are those laid down in Article 7 of Regulation (EC) No 1257/1999, which correspond to those specified at 4.1 of the Guidelines concerning investment in agricultural holdings. The Italian authorities also referred to Measure 4.9 under the Regional Operational Programme, which covers only investment in agricultural holdings.
- (43) In the light of these indications and the above-mentioned reference, the following aid rates are applicable: 40 % in areas other than less-favoured areas and 50 % in less-favoured areas with, in both cases, an additional five percentage points if the investment is made by young farmers.

- (44) The aids concerned can, however, be classified as belonging to three types of investment, the conditions for approval of which are laid down at various points of the Guidelines:

- investment in agricultural holdings (4.1);
- investment in connection with the processing and marketing of agricultural products (4.2);
- investments to promote the diversification of farm activities (4.3, which refers back to points 4.1 and 4.2).

- (45) By virtue of 4.1 of the Guidelines, state aids for investment in agricultural holdings may be granted subject to the following requirements:

- (a) the investment should pursue one or more of the following objectives: to reduce production costs, to improve and redeploy production, to increase quality, to preserve and improve the natural environment, hygiene conditions and animal welfare standards or to promote the diversification of farm activities;
- (b) the intensity of the aid must not exceed 40 % (50 % in less-favoured areas). However, in the case of investments made by young farmers the maximum rate of aid rises to 45 % and 55 % respectively;
- (c) investment aid may be granted only to holdings the economic viability of which can be demonstrated by an assessment of the prospects of the holding and where the farmer possesses adequate occupational skill and competence. Moreover the holding must comply with minimum Community standards regarding the environment, hygiene and animal welfare;
- (d) aid may not be granted for investment whose objective is increased production unless normal market outlets can be found for the products concerned;
- (e) the eligible expenses cover only: the construction, acquisition or improvement of immovable property; new machinery and equipment, including computer software; general costs, such as architects, engineers and consultation fees, feasibility studies, the acquisition of patents and licences, up to 12 % of the expenditure referred to above; land purchase, including legal fees, taxes and land registration costs;

⁽¹⁾ OJ L 1, 3.1.2004, p. 1.

⁽²⁾ Cf. first subparagraph of Article 20(2) of the Regulation.

- (f) the maximum expenses eligible for support may not exceed the limit for total investment eligible for support set by the Member State in accordance with Article 7 of Regulation (EC) No 1257/1999.
- (46) Aid may, in accordance with 4.2 of the Guidelines, be granted for investments in connection with the processing and marketing of agricultural products, subject to the following requirements:
- (a) the economic viability of the holdings receiving the aid must be demonstrated on the basis of an assessment of their prospects;
 - (b) the holdings receiving the aid must comply with minimum standards regarding the environment, hygiene and animal welfare. However, where investments are made in order to comply with newly introduced minimum standards regarding the environment, hygiene and animal welfare, aid may be granted in order to reach these new standards;
 - (c) the aid rate may not exceed 40 % (50 % in the case of Objective 1 regions).
 - (d) eligible expenses may include only: the construction, acquisition or improvement of immovable property; new machinery and equipment, including computer software; general costs, such as architects, engineers and consultation fees, feasibility studies, the acquisition of patents and licences, up to 12 % of the expenditure referred to above; land purchase, including legal fees, taxes and land registration costs;
 - (e) aid may not be granted for products for which normal market outlets cannot be found;
 - (f) aids for investments with eligible expenses in excess of EUR 25 million must be specifically notified to the Commission in accordance with Article 88(3) of the Treaty.
- (47) By virtue of 4.3 the compatibility of aids to promote the diversification of farm activities must be assessed in accordance with 4.1 where the total eligible expenses do not exceed the limit for total investment eligible for support set by the Member State in accordance with Article 7 of Regulation (EC) No 1257/1999. If that limit is exceeded the requirements applicable are those set out at 4.2 of the Guidelines.
- (48) The description clearly shows that, irrespective of the exact nature of the investment aids provided for in the Decision of the Provincial Executive, compliance with many of the above-mentioned requirements applicable under the Guidelines, requirements which are intended to determine the compatibility of the investment aid with the common market, is not guaranteed by the Italian authorities, viz.:
- (a) the exact nature of the expenses eligible referred to by 'etc.' and a guarantee that the limit of 12 % of the other eligible expenses will be complied with as regards planning costs;
 - (b) the reliability of the criteria used for assessing the economic viability of the recipients;
 - (c) compliance, on the part of the recipients, with minimum environmental, hygiene and animal welfare standards;
 - (d) ruling out the possibility of aid being granted retrospectively under the scheme, i.e. without any incentive effect.
- (49) Moreover, the Italian authorities submitted no comment and provided no additional information in response to the Commission letter of 13 November 2001 initiating proceedings.
- (50) The Commission has thus not received any additional information which can dispel the doubts it harboured when it initiated proceedings under Article 88(2) of the Treaty.
- (51) In the light of the above the Commission feels that the measure notified is incompatible with the Community rules on competition and in particular with Article 87(3)(c) of the Treaty.
- (52) It may accordingly be concluded that the aid provided for in the Decision of the Provincial Executive constitutes state aid within the meaning of Article 87(1) of the Treaty and does not qualify under any of the exceptions provided for in Article 87(3).

V. CONCLUSIONS

(53) Since Decision No 629 of 29 December 1999 of the Campobasso Provincial Executive was notified in accordance with Article 88(3) of the Treaty, and since, according to information transmitted by the Italian authorities, no aid has been paid under the scheme in question, it is not necessary to require recovery of the aid provided for therein,

HAS ADOPTED THIS DECISION:

Article 1

The aid which Italy is planning to grant, on the basis of Decision No 629 of 29 December 1999 of the Campobasso Provincial Executive, to finance agricultural activities aimed at improving the quality of products and the quality of life of operators is incompatible with the common market.

The aid scheme may accordingly not be implemented.

Article 2

Italy shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with it.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 7 May 2004.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 21 April 2005

on the clearance of the accounts of certain paying agencies in Germany, Spain, Greece, France, Italy, Portugal and the United Kingdom in respect of expenditure financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, for the 2002 financial year

(notified under document number C(2005) 1210)

(Only the English, French, German, Greek, Italian, Portuguese and Spanish texts are authentic)

(2005/320/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy⁽¹⁾, and in particular Article 7(3) thereof,

After consulting the Fund Committee,

Whereas:

- (1) Commission Decision 2003/313/EC of 7 May 2003 on the clearance of the accounts of Member States' expenditure financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, for the 2002 financial year⁽²⁾ cleared the accounts of all the paying agencies except for the German paying agencies Baden-Württemberg and Bayern-Umwelt, the Spanish paying agencies Balearic Islands and Rioja, the Greek paying agency Opekepe, the French paying agencies SDE, Ofival, ONIC, Oniflhor, Onilait, Odeadom, FIRS and Onivins, the Italian paying agencies ARTEA and Lombardy, the Portuguese paying agency Ifadap and the United Kingdom paying agency NAWAD.
- (2) Following the transmission of new information by Germany, Spain, Greece, France, Italy, Portugal and the United Kingdom, and after additional checks, the Commission can now take a decision on the veracity, completeness, and accuracy of the accounts submitted by the paying agencies concerned.
- (3) In clearing the accounts of the German, Spanish, Greek, French, Italian, Portuguese and British paying agencies concerned, the Commission must take account of the amounts already paid to Italy and the United Kingdom and withheld from Germany, Spain, Greece, France, Italy and Portugal on the basis of Decision 2003/313/EC.

- (4) In accordance with Article 7(3) of Regulation (EC) No 1258/1999 and Article 7(1) of Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC)

No 729/70 regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section⁽³⁾, this Decision, adopted on the basis of accounting information, does not prejudice decisions taken subsequently by the Commission excluding from Community financing expenditure not effected in accordance with Community rules,

HAS ADOPTED THIS DECISION:

Article 1

The accounts of the German paying agencies Baden-Württemberg and Bayern-Umwelt, the Spanish paying agencies Balearic Islands and Rioja, the Greek paying agency Opekepe, the French paying agencies SDE, Ofival, ONIC, Oniflhor, Onilait, Odeadom, FIRS and Onivins, the Italian paying agencies ARTEA and Lombardy, the Portuguese paying agency Ifadap, and the UK paying agency NAWAD concerning expenditure financed by the EAGGF Guarantee Section for the 2002 financial year are hereby cleared.

The amounts which are recoverable from, or payable to, each Member State in accordance with this Decision are set out in the Annex.

Article 2

This Decision is addressed to the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Portuguese Republic and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 21 April 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

⁽²⁾ OJ L 114, 8.5.2003, p. 55.

⁽³⁾ OJ L 158, 8.7.1995, p. 6. Regulation as last amended by Regulation (EC) No 465/2005 (OJ L 77, 23.3.2005, p. 6).

ANNEX

Clearance of accounts of paying agencies 2002 financial year
Amount to be borne by or reimbursed to the Member State

MS	2002 — Expenditure of paying agencies whose accounts have been cleared	Reductions and suspensions for the entire financial year	Total including suspensions and reductions	Advances paid to the Member State for the financial year	Amount to be recovered from (–) or reimbursed to (+) the Member State	Amount recovered from (–) or paid to (+) the Member State under Decision 2003/313/EC	Amount to be recovered from (–) or paid to (+) the Member State under this Decision
	= expenditure declared in the annual declaration						
	a	b	c = a + b	d	e = c – d	f	g = e – f
DE	6 786 194 300,38	– 2 246 762,19	6 783 947 538,19	6 784 385 251,91	– 437 713,72	– 437 713,72	0,00
EL	2 646 229 855,76	– 16 299 893,40	2 629 929 962,36	2 633 805 475,53	– 3 875 513,17	– 3 875 513,17	0,00
ES	5 938 081 670,18	– 10 602 446,74	5 927 479 223,44	5 933 065 331,75	– 5 586 108,31	– 5 586 108,31	0,00
FR	9 783 093 268,90	– 31 644 507,47	9 751 448 761,43	9 752 167 012,04	– 718 250,61	– 970 574,65	252 324,04
IT	5 688 917 096,09	– 16 560 025,84	5 672 357 070,25	5 671 877 810,70	479 259,55	479 259,55	0,00
PT	758 723 999,31	– 4 627 760,50	754 096 238,81	753 613 049,56	483 189,25	483 840,10	– 650,85
UK	2 265 807 095,09	– 1 166 323,58	2 264 640 771,51	2 264 305 291,01	335 480,50	386 523,48	– 51 042,98

All amounts in EUR except for UK.

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 611/2005 of 20 April 2005 amending Regulation (EC) No 823/2000 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia)

(Official Journal of the European Union L 101 of 21 April 2005)

On page 11, the signature is replaced as follows:

*for: 'For the Commission
Neelie KROES
Member of the Commission'*

*read: 'For the Commission
José Manuel BARROSO
The President'.*
