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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 866/2005**of 6 June 2005**

extending the definitive anti-dumping measures imposed by Regulation (EC) No 1470/2001 on imports of integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China to imports of the same product consigned from the Socialist Republic of Vietnam, the Islamic Republic of Pakistan and the Republic of the Philippines

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (the 'basic Regulation'), and in particular Article 13 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE**1. Existing measures and former investigations**

- (1) By Regulation (EC) No 1470/2001 ⁽²⁾, (the 'original Regulation'), the Council imposed definitive anti-dumping duties ranging from 0 to 66,1 % on imports of integrated electronic compact fluorescent lamps ('CFL-i') originating in the People's Republic of China ('the original investigation').
- (2) In October 2002, the Commission initiated an absorption investigation ⁽³⁾ pursuant to Article 12 of the basic Regulation with regard to the above anti-dumping measures. This investigation was terminated in March 2004 after the applicant formally withdrew its request ⁽⁴⁾.

2. Request

- (3) On 16 August 2004, the Commission received a request pursuant to Article 13(3) of the basic Regulation to investigate the alleged circumvention of the anti-dumping measures imposed on CFL-i originating in the People's Republic of China ('the PRC' or 'China'). The request was submitted by the Lighting Industry and Trade in Europe ('LITE') on behalf of producers and importers of CFL-i in the Community ('the applicant'). The request alleged that the anti-dumping measures in force on imports of CFL-i originating in the PRC were being circumvented by means of transshipment and/or assembly operations via Vietnam, Pakistan and/or the Philippines.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 195, 19.7.2001, p. 8.

⁽³⁾ OJ C 244, 10.10.2002, p. 2.

⁽⁴⁾ OJ L 71, 10.3.2004, p. 35.

- (4) The request further alleged that since the imposition of the anti-dumping measures, there had been a change in the pattern of trade (with decreasing Chinese imports and increasing imports from the abovementioned countries), for which there is insufficient due cause or economic justification other than the imposition of the anti-dumping measures and that the remedial effects of the existing anti-dumping measures on imports of CFL-i originating in the PRC were being undermined both in terms of quantity and price. In addition, there was sufficient evidence that these increased imports from Vietnam, Pakistan and the Philippines were made at prices below the non-injurious price established in the investigation that led to the existing measures.
- (5) Finally, the applicant alleged that the prices of CFL-i consigned from Vietnam, Pakistan and the Philippines were dumped in relation to the normal value established for the like product during the original investigation.

3. Initiation

- (6) Having determined, after consulting the Advisory Committee, that sufficient *prima facie* evidence existed for the initiation of an investigation pursuant to Article 13 of the basic Regulation, the Commission initiated an investigation by Regulation (EC) No 1582/2004 ⁽¹⁾ (the 'initiating Regulation'). Pursuant to Articles 13(3) and 14(5) of the basic Regulation, the Commission, by means of the initiating Regulation, also instructed the customs authorities to register imports of CFL-i consigned from Vietnam, Pakistan and the Philippines whether declared as originating in Vietnam, Pakistan or the Philippines or not, as from 11 September 2004.

4. Investigation

- (7) The Commission officially advised the authorities of the PRC, Vietnam, Pakistan and the Philippines, the producers/exporters, the importers in the Community known to be concerned and the applicant Community industry of the initiation of the investigation. Questionnaires were sent to the exporters/producers in Vietnam, Pakistan and the Philippines, to the exporters/producers in the PRC, to the importers in the Community named in the request, which were known to the Commission from the original investigation or which made themselves known within the deadlines specified in Article 3(1) of the initiating Regulation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation.
- (8) Four producers/exporters in Vietnam, one producer/exporter in Pakistan and five producers/exporters in China submitted a reply to the questionnaire whilst no reply was received from the producers/exporters in the Philippines. Replies to the questionnaire were also submitted by two related and two unrelated importers in the Community.
- (9) The following companies cooperated in the investigation and submitted replies to the questionnaires:

Unrelated importers:

- Elektro Cirkel BV, the Netherlands
- Carrefour SA, France

Related importers:

- Energy Research 2000 BV, the Netherlands,
- e3light A/S, Denmark,

Vietnamese producers/exporters:

- Eco Industries Vietnam Co., Ltd, Haiphong (related to e3light A/S)
- Energy Research Vietnam Co., Ltd, Haiphong (related to Energy Research 2000 BV)
- Halong service and import export company (Halong Simexco), Haiphong
- Rang Dong Light Source and Vacuum Flask Joint Stock Company (Ralaco), Hanoi

⁽¹⁾ OJ L 289, 10.9.2004, p. 54.

Pakistani producer/exporter:

- Ecopak Lighting, Karachi

Chinese producers/exporters:

- Firefly Lighting Co. Ltd, Shenzhen
- Lisheng Electronic & Lighting (Xiamen) Co., Ltd
- City Bright Lighting (Shenzhen), Ltd, Shenzhen
- Ningbo Super Trend Electron Co. Ltd, Ningbo
- Zhejiang Sunlight Group Co. Ltd, Shangyu

- (10) Verification visits were carried out at the premises of the following companies:

- Ecopak Lighting, Karachi (Pakistan)
- Eco Industries Vietnam Co., Ltd, Haiphong and its related company e3light in Denmark
- Energy Research Vietnam Co., Ltd, Haiphong
- Rang Dong Light Source and Vacuum Flask Joint Stock Company (Ralaco), Hanoi
- Carrefour SA, France.

5. Investigation period

- (11) The investigation period (the 'IP') covered the period from 1 July 2003 to 30 June 2004. Data was collected from 1999 up to the end of the IP to investigate the alleged change in the pattern of trade.

6. Disclosure

- (12) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend:
- (i) the extension of the definitive anti-dumping measures imposed by Council Regulation (EC) No 1470/2001 on imports of integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China to imports of the same product consigned from Vietnam, Pakistan and the Philippines;
 - (ii) not to grant exemptions to the companies having requested them.

In accordance with the provisions of the basic Regulation, parties were granted a period in which they could make representations subsequent to this disclosure.

- (13) The oral and written comments submitted by the parties were considered and, where appropriate, the definitive findings have been modified accordingly.

B. RESULTS OF THE INVESTIGATION**1. General considerations**

- (14) As mentioned above, the analysis of a change in the pattern of trade covered the period from 1999 up to the end of the IP, i.e. covering mainly the period before the enlargement of the European Union on 1st May 2004. A meaningful determination as to whether there has been a change of pattern in trade within this period could therefore only be made on the basis of a comparison of import levels of the product concerned into the 15 Member States before enlargement ('EU-15' or 'the Community'). Indeed, it should be noted that, since before enlargement the existing measures only applied to EU-15, before enlargement they could only be circumvented with respect to EU-15. Moreover, any data relating to the period after enlargement with regard to the 10 new Member States would as such not allow a trend to be discerned, as comparable data for previous years do not exist.

2. Degree of cooperation and determination of the import volume

- (15) As stated above in recital 9, four exporters/producers in Vietnam, of which only one company exported CFL-i to the Community, one exporting producer in Pakistan and five exporting producers in China cooperated by submitting questionnaire replies. No cooperation was obtained from the Philippines.
- (16) The import volume recorded in Eurostat covered a larger product group than CLF-i, i.e. all fluorescent lamps.
- (17) The export volume of CFL-i reported by the sole cooperating exporter in Vietnam covered only 3 % of the export volume recorded in Eurostat. The information received during the investigation indicated the existence of a number of other non cooperating exporters/producers in Vietnam which exported CFL-i to the Community during the IP. Therefore, it was considered that the data provided by the cooperating exporter did not sufficiently reflect the overall import volume of CFL-i from Vietnam.
- (18) With regard to Pakistan, and as mentioned below in recital 52, it was found that the data reported by the cooperating exporter were unreliable. With regard to the Philippines, no cooperation at all was obtained. There was also a low level of cooperation from exporters in the PRC, where out of at least 12 known Chinese exporting producers (representing approximately 30 % of the total exports from China during the investigation period of the original investigation) only five submitted a questionnaire reply. Moreover, three of these questionnaire replies were largely incomplete. Therefore, on the basis of the information submitted by the cooperating parties no reasonable determination could be made as to import volumes of CFL-i into the Community.
- (19) Given the above, findings in respect of exports of CFL-I into the Community had to be made partially on the basis of facts available in accordance with Article 18 of the basic Regulation. In the absence of any other more reliable source of information, Eurostat data were therefore used to determine overall import volumes from the PRC, Vietnam, Pakistan and the Philippines. These data were cross-checked and confirmed by other statistical sources.

3. Methodology

- (20) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of circumvention was done by analysing successively whether there was a change in the pattern of trade between third countries and the Community, if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty, if there was evidence of injury or that the remedial effects of the duty were being undermined in terms of the prices and/or quantities of the like product, and whether there was evidence of dumping in relation to the normal values previously established for the like product, if necessary in accordance with the provisions of Article 2 of the basic Regulation.
- (21) The practice, process or work referred to above includes, *inter alia*, the consignment of the product subject to measures via third countries and the assembly of parts by an assembly operation in the Community or a third country. For this purpose the existence of assembly operations was determined in accordance with Article 13(2) of the basic Regulation.
- (22) In this regard, and as explained below in recitals 42 and 82, it is noted that none of the cooperating companies submitted reliable information which could have been used as a basis for the calculation of the value of the parts used in the assembly operations or the value added to the parts brought in during the completion of the operations. Findings in this regard were therefore based on facts available in accordance with Article 18 of the basic Regulation.
- (23) To assess whether the operation started or substantially increased after, or just prior to, the initiation of the anti-dumping investigation, an analysis of the trade flow of the imports into the Community which occurred after the imposition of definitive measures on imports originating in China was made.

- (24) To assess whether the imported products had, in terms of quantities and prices, undermined the remedial effects of the measures in force on imports of CFL-i from China, the quantities and prices to unrelated customers in the Community of the imports consigned from the three countries under investigation were used where available. In other cases, Eurostat data was used as the best data available concerning quantities and prices. The prices so determined were compared to the injury elimination level established for Community producers in the original investigation.
- (25) Finally, in accordance with Article 13(1) and (2) of the basic Regulation, it was examined whether there was evidence of dumping in relation to the normal value previously established for like or similar products. In this regard, export prices of the cooperating producer/exporter of CFL-i during the IP were compared with the normal value established in the investigation leading to the imposition of the definitive measures for the like product. In the original investigation normal value was established on the basis of prices or constructed value in Mexico, which was found to be an appropriate market economy analogue country for the PRC.
- (26) For the purpose of a fair comparison between the normal value and the export price, due allowance, in the form of adjustments, was made for differences which affect prices and price comparability. With regard to the product exported from Vietnam it was found that it had specific physical characteristics. Therefore, it was deemed appropriate to grant an adjustment for differences in physical differences in accordance with Article 2(10)(a) of the basic Regulation.
- (27) In accordance with Article 2(11) and (12) of the basic Regulation, dumping was calculated by comparing the weighted average normal value as established in the original investigation and the weighted average export prices during this investigation's IP, expressed as a percentage of the CIF price at the Community frontier, duty unpaid.

4. Product concerned and like product

- (28) The product concerned is, as defined in the original Regulation, CFL-i, currently classifiable within CN code ex 8539 31 90. A CFL-i is an electronic compact fluorescent discharge lamp with one or more glass tubes, with all lighting elements and electronic components fixed to the lamp foot or integrated in the lamp foot.
- (29) The investigation showed that the CFL-i exported to the Community from the People's Republic of China and those consigned from Vietnam, Pakistan or the Philippines to the Community have the same basic physical characteristics and have the same uses. They are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

5. Change in the pattern of trade

- (30) Imports from China more than halved after the imposition of measures in 2001, i.e. decreased from 85 million units in 2000 to 37 million units in 2002. Although imports recovered partially after 2002, their level in 2004 was still more than 20 % below the level of 2000, i.e. before the imposition of the measures. On the other hand, imports from Vietnam, Pakistan and the Philippines, practically inexistent before 2001, increased significantly after the imposition of measures.

- (31) The following table 1 shows import quantities (pieces) of fluorescent lamps from the above mentioned countries into the EU15, including CFL-i as recorded in Eurostat at CN code level:

Table 1

Partner/Period	1999	2000	2001	2002	2003	2004
China (units)	70 483 168	85 154 477	46 763 569	37 493 151	54 845 219	69 604 510
% of growth	151	182	100	80	117	149
Vietnam (units)	0	0	925 518	1 920 973	5 451 201	8 215 491
% of growth	0	0	100	208	589	888
Philippines (units)	768 406	82 840	1 487 219	2 995 323	3 250 691	3 956 526
% of growth	52	6	100	201	219	266
Pakistan (units)	0	0	196 240	584 065	674 119	1 255 456
% of growth	0	0	100	298	344	640

Source: Eurostat, CN code 8539 31 90, EU15, Base 100 in 2001.

- (32) Further analysis of these data, complemented and cross-checked by other statistical sources revealed that around half of the total exports for China as recorded in Eurostat consisted of CLF-i and that the import trend for imports of the product concerned is correlated to the one of the fluorescent lamps, i.e. both showed similar trends.
- (33) In addition, it was found that the resurgence in the Chinese imports in 2003 and 2004 was mainly due to an increase in exports from companies subject to no or low anti-dumping duties — Lisheng Electronic & Lighting (Xiamen) Co., Ltd ('Lisheng') and Shenzhen Zuoming Electronic Co., Ltd ('Shenzhen') — while import levels from the remaining companies were relatively stable during the same period.
- (34) The table below, based on statistical data collected by Member States and compiled by the Commission pursuant to Article 14(6) of the basic Regulation, shows the import quantities of CFL-i (in pieces) from Lisheng and Shenzhen on the one hand, and the remaining Chinese companies subject to higher duty rates, on the other hand:

Table 2

Company	AD in force	2002	2003	2004
Lisheng Electronic & Lighting (Xiamen) Co., Ltd,	0 %	100	101	154
Shenzhen Zuoming Electronic Co., Ltd	8,4 %	100	178	221
Other companies	17,1 to 66,1 %	100	119	128
Total		100	110	150

Source: Statistical data collected by Member States and compiled by the Commission pursuant to Article 14(6) of the basic Regulation.

The Philippines

- (35) As mentioned above in recitals 18 and 19, import volumes with regard to the Philippines were determined on the basis of Eurostat statistics.
- (36) Before 2001, the year of the imposition of the definitive anti-dumping measures, imports from the Philippines were insignificant. In 2001, after the imposition of the duties, they almost doubled, however, and increased further from 1,4 million units in 2001 to 2,9 million units in 2002. During the IP imports amounted to 3,9 million units, i.e. increased by a total of 262 % in comparison to 2001.
- (37) The investigation revealed that exports from the PRC to the Philippines have increased consistently since 2000 and dramatically in 2003. At the same time, import statistics from the Philippines show consistently significantly higher volumes than export statistics from the PRC to the Philippines. The difference between the statistics corresponds to the volumes exported from the Philippines to the Community, which indicates that goods may have been transhipped from China via the Philippines to the Community.

Pakistan

- (38) As indicated in recital 18 and as explained below in recital 52, the information submitted by the sole cooperating exporter in Pakistan, Ecopak Lighting, was unreliable, *inter alia*, with regard to its export sales to the Community and had therefore to be disregarded. Instead, Eurostat statistics were used to determine import volumes from Pakistan. Eurostat figures show that imports from Pakistan started in 2001, i.e. after the imposition of the definitive measures in the original investigation and increased by 490 % during the IP, i.e. from 0,2 million units in 2001 to 0,9 million units in the IP.

Vietnam

- (39) As mentioned above in recitals 17 and 19, import volumes with regard to Vietnam were established on the basis of Eurostat statistics. Thus, imports started after the imposition of definitive measures in 2001 and doubled in 2002. In total, imports increased from 0,9 million units in 2001 to 7,1 million units in the IP, i.e. by 767 %.

6. Conclusion on the change in the pattern of trade

- (40) The overall decrease of Chinese exports to the Community and the parallel increase of exports from Vietnam, Pakistan and the Philippines after the imposition of the definitive measures constituted a change in the pattern of trade between the above mentioned countries, on the one hand, and the Community, on the other hand.
- (41) It was considered also that the increase of imports from the PRC from 2002 up to the end of the IP is mainly due to an increase of imports of Lisheng and Shenzhen which were subject to no, or to low, duty rates and which should therefore normally have no, or at least a lower, interest in circumventing the measures in force by transshipment via and/or assembly operations in third countries. Therefore, this increase should not devalue the conclusion outlined above.

7. The Philippines

(a) Nature of the circumvention practice

- (42) Since no Philippine company cooperated in the present investigation, the assessment was based on information available in accordance with Article 18 of the basic Regulation, including information provided in the request. The applicant provided *prima facie* evidence for both the existence of transshipment and of assembly operations in the Philippines.

(b) *Insufficient due cause or economic justification other than the imposition of the anti-dumping duty*

- (43) In the absence of any cooperation, the Commission had to base its findings on the facts available, in accordance with Article 18 of the basic Regulation. In the present case, the information submitted by the applicant contained *prima facie* evidence of transshipment and assembly operations circumventing the anti-dumping measures in force. Moreover, there is a coincidence in time between the imposition of the anti-dumping measures on the PRC and the change in the export trends from China, on the one hand, and of the import trends from the Philippines to the Community, on the other hand, as mentioned in recital 37. Since this confirmed the *prima facie* evidence already submitted in the request it was concluded that the change in the pattern of trade stemmed from the imposition of the anti-dumping measures rather than from any other due cause or economic justification within the meaning of Article 13(1) of the basic Regulation.

(c) *Undermining of the remedial effect of the anti-dumping duty*

- (44) The change in the pattern of Community imports occurred after the imposition of the anti-dumping measures on imports of CFL-i from China. This change in trade flows was translated in a significant increase in import volumes, i.e. as mentioned in recital 36 by over 250 % between 2001 and the IP. It was therefore concluded that this increase of imports in terms of quantities has undermined the remedial effects of the anti-dumping measures in the Community market.
- (45) With regard to prices of the products consigned from the Philippines and in the absence of any cooperation from exporters in the Philippines, export prices were established on the basis of data recorded in Eurostat in accordance with Article 18 of the basic Regulation. On that basis, export prices from the Philippines were on average below the injury elimination level of Community prices as established in the original investigation.
- (46) Therefore, it was concluded that the imports of the product concerned from the Philippines undermined the remedial effects of the duty in terms of prices and quantities.

(d) *Evidence of dumping*

- (47) The comparison of the weighted average normal value as established in the original investigation and the weighted average of export prices as established under recital 45 during this IP, expressed as a percentage of the CIF price at the Community frontier, duty unpaid, showed dumping for the imports of CFL-i consigned from the Philippines.

(e) *Conclusion*

- (48) Given the above, it was concluded that the definitive anti-dumping duty imposed on imports of CFL-i originating in China was circumvented by transshipment via the Philippines pursuant to Article 13(1) of the basic Regulation.

8. Pakistan

(a) *Nature of the circumvention practice*

- (49) The investigation revealed that Ecopak Lighting had a production/assembly facility for CFL-i in Pakistan. Ecopak Lighting is related to a Chinese company subject to the definitive anti-dumping duty, namely Firefly Lighting Co. Ltd.

- (50) Ecopak Lighting was registered at the beginning of 2001 (during the original investigation) and started actual operation in May 2001, after the imposition of provisional measures in the original investigation. Machinery and equipment were purchased from a trading company located in the PRC. The transfer of equipment from the PRC to Pakistan started in February 2001, immediately prior to the imposition of provisional measures in the original investigation. The investigation revealed, however, that Ecopak Lighting did not start the production of CFL-i in Pakistan, but only carried out assembly operations. Indeed, evidence was found showing that CFL-i components were manufactured by the related company located in the PRC and imported in semi-assembled 'kits'. Furthermore, Ecopak Lighting did not have the necessary machinery and equipment, which would have allowed it to produce CFL-i. At its premises in Pakistan, only assembly machinery was found.
- (51) It should be noted that at the time of the verification visit, it was found that no activity (neither production nor assembly) was taking place, no personnel was present and no stocks existed. The company explained that although they had assembly operations during the IP, as shown in particular by the machinery, and a personnel list which was provided, they had stopped the operations shortly before the initiation of the present investigation and had not decided yet whether or not they would restart the activity. On this basis, the existence of a production capacity could not be established.
- (52) Moreover, it was found that Ecopak Lighting had two sets of accounting documents. The accounting records, including the reports of the auditors, were not in line with international accounting standards and were therefore considered unreliable. As a result, a reliable value of the machinery (needed for the calculation of the depreciation to be included in the value added calculation) could not be assessed, nor the precise value of the imported parts or the value added to these parts. In any event, the company did not provide any information which would have enabled the Institutions to examine the thresholds mentioned in Article 13(2)(b).
- (53) In the light of the evidence available, i.e. the information submitted by the applicant and the fact that almost all parts were imported from the PRC in the form of kits from a related company subject to measures, it was concluded that the operations taking place in Pakistan during the IP should be considered as assembly operations circumventing the definitive anti-dumping duties in force.
- (b) *Insufficient due cause or no economic justification other than the imposition of the anti-dumping duty*
- (54) The investigation revealed further facts which confirmed that the assembly operations in Pakistan had no other due cause or economic justification than the imposition of the anti-dumping duty.
- (55) The change described above in the pattern of trade coincided with the establishment of assembly operations of CFL-i in Pakistan. It was also found that while sales of CFL-i to the Community were made from Pakistan, the Chinese related company continued supplying other markets directly from the PRC. Customers of Ecopak Lighting in the Community ordered CFL-i directly from the related company in China.
- (56) The exporter claimed that the reason for starting the operation in Pakistan was in particular the favourable environment for foreign investments, improved infrastructure and low labour costs in Pakistan. The company also claimed that the Community market is different from other markets with regard to demand, product types and prices which required a different export strategy than for other markets.
- (57) However, none of these arguments could be supported by sufficient evidence and the company could not show that these factors were taken into consideration at the time of the decision to start the operation in Pakistan. Indeed the results of the on-the-spot verification strongly contradicted the company's statements. Furthermore, as regards the interruption of the activity, the company was not able to provide a reasonable explanation. In any event, it is noted that the company could restart its assembly operations very easily, if it decided to do so.

- (58) Given the above and since the company also admitted itself that the assembly operation started due to the anti-dumping duties in place in the Community, it was concluded that there was insufficient due cause and no economic justification for the change in the pattern of trade other than the imposition of the anti-dumping duty.

(c) Undermining of the remedial effect of the anti-dumping duty

- (59) The trade flow analysis on the basis of the Eurostat data shows that the change in the pattern of Community imports, which occurred after the imposition of definitive measures on imports originating in China, has undermined the remedial effects of the anti-dumping measures in terms of quantities imported into the Community market. Indeed, the Pakistani company even exported significantly more to the Community during the IP of this investigation than its related company in China had done during the investigation period of the original investigation.
- (60) With regard to the prices of the product consigned from Pakistan, it was found that the prices to unrelated customers in the Community were below the injury elimination level established for Community producers in the original investigation.
- (61) Therefore, it was concluded that the imports from Pakistan of the product concerned undermined the remedial effects of the duty in terms of prices and quantities.

(d) Evidence of dumping

- (62) In accordance with Article 2(11) and (12) of the basic Regulation, a comparison of the weighted average normal value as established in the original investigation and the weighted average of export prices during this investigation's IP, expressed as a percentage of the CIF price at the Community frontier, duty unpaid, showed dumping for the imports of CFL-i consigned from Pakistan.

9. Vietnam

(a) General considerations

- (63) The request contained sufficient *prima facie* evidence of the existence of circumvention practices by means of transshipment and assembly of the anti-dumping measures in force by imports consigned in Vietnam.
- (64) Four exporters/producers in Vietnam submitted a reply to the questionnaire. On-the-spot verifications were carried out at the premises of three of them. The fourth company (Halong Simexco) did not allow for an on-the-spot verification and therefore its reply to the questionnaire had to be considered unreliable. Findings with regard to this company were based on facts available in accordance with Article 18 of the basic Regulation. On this basis it was concluded that there was no reason to believe that the operations of this company did not constitute circumvention as defined in Article 13 of the basic Regulation.
- (65) As regards the remaining three companies, all established assembly/production lines of CFL-i in Vietnam. However, only one of them exported the product concerned to the Community during the IP (Eco Industries Vietnam). Energy Research Vietnam started exporting after the IP, and therefore requested to be granted an exemption as a newcomer on the basis of Articles 11(4) and 13(4) of the basic Regulation.
- (66) Finally, Rang Dong Light Source and Vacuum Flask Joint Stock Company (Ralaco) did not export the product concerned at all during the IP or after this period. With regard to this company, no conclusions could therefore be drawn as to whether definitive anti-dumping duties were being circumvented or not. The situation of this company will be reviewed upon request in cases where the conditions of Articles 11(4) and 13(4) are fulfilled.

(b) *Nature of the circumvention practice*

- (67) One of the companies mentioned in recital 65, Energy Research Vietnam Co. Ltd, which did not export to the Community during the IP, started, however, exporting CFL-i after the IP and therefore requested to be treated as a newcomer in accordance with Articles 13(4) and 11(4) of the basic Regulation.
- (68) The verification of this company's questionnaire reply was, however, significantly impeded by, *inter alia*, the submission of misleading information (for instance hiding the existence of a stock of the product concerned sold to the Community), and the information submitted thus had to be considered as unreliable. Moreover, Energy Research Vietnam Co. Ltd omitted information concerning its purchase of a Vietnamese company for which the applicant submitted *prima facie* evidence of circumvention practices in the request. Finally, Energy Research Vietnam Co. Ltd did not allow an on-the-spot verification visit at the premises of its parent company in Hong Kong although it claimed that most of the documents relevant for the investigation would be located at that company.
- (69) Given the above, it was concluded that Energy Research Vietnam Co. Ltd could not be considered as a cooperating party, and therefore the findings related to the company had to be made on the basis of the facts available. On that basis, and in particular the evidence submitted by the complainant and the fact that the information provided in the questionnaire reply was largely deficient, it was concluded that the request of the company to be granted a newcomer status could not be assessed.
- (70) Subsequent to disclosure, the company argued that it had been fully cooperating and denied most of the findings detailed in recital 68. However, on the basis of the factual evidence collected by the Commission, these objections were found to be unsubstantiated and groundless. Therefore, the conclusions in recital 69 are confirmed.
- (71) Eco Industries Vietnam, a company mentioned in recital 65, is part of a group whose parent company, Eco International Inc., is located in the United States of America (USA). The production facilities for CFL-i were established in August 2003 and exports to the Community started the same year. Two related companies in the Community (Denmark and Spain) are involved in the import, sales and marketing of CLF-i in the Community. CLF-i manufactured in Vietnam are almost entirely exported to the Community (with the exception of some minor sales to Indonesia outside the IP). e3-light, the related Danish company, also purchased CFL-i via a related trader (Eco Industries China) from China and resold the product in the USA.
- (72) The investigation revealed that the company's accounts were not in line with international GAAP and that the accounts as a whole showed serious deficiencies and had therefore to be considered unreliable. The company's costs could therefore not be established on this basis. The investigation also revealed that, during the IP, the company in Vietnam imported almost all CLF-i components used for the production of CFL-i from China.
- (73) Given that the precise value of the imported parts could not be assessed, the value added to these parts could not be calculated. The company did not provide any reliable information which would have enabled an examination of the thresholds mentioned in Article 13(2)(b).
- (74) As a consequence, the assessment regarding Eco Industries Vietnam had to be made on the basis of the facts available, in accordance with Article 18 of the basic Regulation. Consequently, in the light of the evidence available, i.e. the fact that the company started operations after the imposition of measures on the PRC, and that the majority of the parts are imported from the PRC, it was concluded that the operations of Eco Industries Vietnam during the IP should be considered as assembly operations circumventing the definitive anti-dumping duties in force.

- (75) Subsequent to disclosure, the company claimed that the Vietnamese production plant was almost exclusively supplying the Community because its capacity was not sufficient to supply other markets. However, it could be verified that no production had taken place during a significant part of the IP and that therefore sufficient spare capacities to supply markets other than the Community would have been available. The company also claimed that its accounts should be considered as reliable, since they were audited and stated to be in accordance with Vietnamese GAAP. In this context, it is recalled that the company did not keep any ledgers nor did the accounting system used by the company allow verification of the completeness and accuracy of the accounts. Therefore, the conclusions in recital 74 are maintained.

(c) Undermining of the remedial effect of the anti-dumping duty

- (76) The trade flow analysis shows that the change in the pattern of Community imports, which occurred since the imposition of definitive measures on imports originating in China, has undermined the remedial effects of the anti-dumping measures in terms of quantities imported into the Community market.
- (77) Since only one company with exports of the product concerned during the IP to EU15 cooperated in the present investigation, the analysis for the rest of the companies, i.e. in terms of quantities and prices, had to be done on the basis of the data from Eurostat. As shown in recitals 17 and 39, imports increased significantly, i.e. by more than 700 % since the imposition of definitive measures.
- (78) With regard to prices of the product consigned from Vietnam, it was found that the prices of Vietnamese exports were on average below the injury elimination level established for Community producers in the original investigation.
- (79) Therefore, it was concluded that the imports from Vietnam of the product concerned undermined the remedial effects of the duty in terms of prices and quantities. The same conclusions apply to the analysis made on the exports of Eco Industries.

(d) Evidence of dumping

- (80) In accordance with Article 2(11) and (12) of the basic Regulation, a comparison of the weighted average normal value as established in the original investigation and the weighted average of export prices during this investigation's IP, expressed as a percentage of the CIF price at the Community frontier duty unpaid, showed dumping the imports of CFL-i consigned from Vietnam. The same conclusion was reached when analysing the export prices of Eco Industries Vietnam.
- (81) Eco Industries Vietnam claimed that the normal values of the original investigation did not reflect the market characteristics in terms of prices during the IP and should therefore be recalculated or adjusted accordingly without further substantiating its claim. It is noted that Article 13(2)(c) of the basic Regulation provides explicitly that evidence of dumping should be established in relation to the normal values previously established for like or similar products. The methodology used by the Commission was therefore in line with the basic Regulation and no adjustments or recalculations of the normal value during the current IP were warranted. The company also claimed that in constructing the export price of Eco Industries Vietnam in accordance with Article 2(9) of the basic Regulation, a significant amount of selling, general and administrative costs (SG&A) of the Danish related importer (e3light) was wrongly included in the calculation, since this amount would concern services provided to the American parent company and was therefore not related to the sales of the product concerned in the Community, but the company did not provide any evidence supporting this claim. Furthermore, the company did not quantify the amount allegedly incorrectly included in the SG&A nor did it submit any information which would have allowed the Commission to determine these costs, even roughly. The conclusions in recital 80 regarding this company are therefore maintained.

C. CONCLUSIONS

- (82) The present investigation was characterised by a high level of non-cooperation. The companies which were willing to cooperate submitted unreliable information; therefore the findings had to a large extent to be based on facts available in accordance with Article 18 of the basic Regulation.
- (83) The above findings showed that there is circumvention of the measures on CFL-i from the PRC within the meaning of Article 13(1) and (2) of the basic Regulation via the three countries. In view of the above, the existing anti-dumping measures imposed on imports of the product concerned originating in the PRC should be extended to the same product consigned from Vietnam, Pakistan and/or the Philippines, whether declared as originating in Vietnam, Pakistan or the Philippines or not.
- (84) The measures to be extended should be those established in Article 1(2) of the original Regulation for 'all other companies'.
- (85) In accordance with Article 14(5) of the basic Regulation, which provides that any extended measures should apply to imports which entered the Community under registration imposed by the initiating Regulation, duties should be collected on those registered imports of CFL-i consigned from Pakistan, Vietnam and the Philippines.

D. REQUESTS FOR EXEMPTION

- (86) The four companies in Vietnam and the one company in Pakistan which submitted a questionnaire reply requested an exemption in accordance with Article 13(4) of the basic Regulation.
- (87) As mentioned in recital 64, one of these companies (Halong Simexco) subsequently ceased co-operation and in the absence of any other more reliable information, it had to be concluded that this company was circumventing the anti-dumping measures in force. An exemption in accordance with Article 13(4) had therefore to be rejected.
- (88) A second company in Vietnam, Ralaco, as mentioned in recital 66, did not export the product either during the IP or after that period and no conclusions could be drawn as to the nature of its operations. Therefore, an exemption to this company could not be granted. However, should the conditions in Articles 11(4) and 13(4) of the basic Regulation be fulfilled after extension of the anti-dumping measures in force, the company's situation may be reviewed upon request.
- (89) The third company, Energy Research Vietnam Co, Ltd., as outlined in recital 69, submitted misleading information and on this basis was found to be circumventing the definitive anti-dumping measures in force. Furthermore, its links to a Chinese company allegedly involved in circumvention practices could not be clarified. An exemption in accordance with Article 13(4) had therefore to be rejected.
- (90) The fourth company in Vietnam, Eco Industries Vietnam Co. Ltd., as outlined in recital 70 and following, did not have a reliable set of accounting records and the added value to the imported parts could thus not be determined. However, parts for the production of CFL-i were almost in their entirety imported from China. The assembly operation in Vietnam had therefore to be considered as circumventing the measures in force. Likewise, an exemption in accordance with Article 13(4) could therefore not be granted.
- (91) Finally, as explained in recital 49 and following, the company in Pakistan was found to be circumventing the anti-dumping duty in force pursuant to Article 13(2) of the basic Regulation. Moreover, this company is related to a company subject to measures, Firefly Lighting Co. Ltd.. On this basis, its request for an exemption in accordance with Article 13(4) has to be rejected.

- (92) Other exporters concerned which were not contacted by the Commission in the context of this proceeding and which intend to lodge a request for an exemption from the extended anti-dumping duty pursuant to Article 13(4) of the basic Regulation will be required to complete a questionnaire in order to enable the Commission to determine whether an exemption may be warranted. Such exemption may be granted after the assessment of the market situation of the product concerned, production capacity and capacity utilisation, procurement and sales and the likelihood of continuation of practices for which there is insufficient due cause or economic justification and the evidence of dumping. The Commission would normally also carry out an on-the-spot verification visit. The request would have to be addressed to the Commission forthwith, with all relevant information, in particular any modification in the company's activities linked to production and export sales of the product under consideration,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty of 66,1 % imposed by Regulation (EC) No 1470/2001 on imports of electronic compact fluorescent discharge lamps with one or more glass tubes, with all lighting elements and electronic components fixed to the lamp foot or integrated in the lamp foot, falling within CN code ex 8539 31 90 originating in the People's Republic of China, is hereby extended to electronic compact fluorescent discharge lamps with one or more glass tubes, with all lighting elements and electronic components fixed to the lamp foot or integrated in the lamp foot consigned from Vietnam, Pakistan and/or the Philippines whether declared as originating in Vietnam, Pakistan or the Philippines or not (TARIC code 8539 31 90*92).

2. The duties extended by paragraph 1 of this Article shall be collected on imports registered in accordance with Articles 13(3) and 14(5) of Regulation (EC) No 384/96.

3. The provisions in force concerning customs duties shall apply.

Article 2

1. Requests for exemption from the duty extended by Article 1 shall be made in writing in one of the official languages of the Community and must be signed by a person authorised to represent the applicant. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate B
Office: J-79 05/17
B-1049 Brussels
Fax (32-2) 295 65 05

2. In accordance with Article 13(4) of Regulation (EC) No 384/96, the Commission, after consulting the Advisory Committee, may authorise, by decision, the exemption of imports from companies, which do not circumvent the anti-dumping measures imposed by Regulation (EC) No 1470/2001, from the duty extended by Article 1.

Article 3

Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 2 of Regulation (EC) No 1582/2004.

Article 4

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

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

Done at Luxembourg, 6 June 2005.

For the Council
The President
J. KRECKÉ

COMMISSION REGULATION (EC) No 867/2005**of 8 June 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 9 June 2005.

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

Done at Brussels, 8 June 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 8 June 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	69,1
	204	49,9
	999	59,5
0707 00 05	052	83,1
	999	83,1
0709 90 70	052	92,6
	624	107,4
	999	100,0
0805 50 10	388	61,4
	528	61,8
	624	63,1
	999	62,1
0808 10 80	204	70,2
	388	80,6
	400	124,9
	404	122,8
	508	68,7
	512	68,1
	524	65,0
	528	64,9
	624	173,6
	720	80,7
	804	93,1
	999	92,1
0809 10 00	052	186,0
	999	186,0
0809 20 95	052	324,4
	068	238,7
	400	439,8
	999	334,3

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 868/2005**of 8 June 2005****opening an invitation to tender for the reduction in the duty on maize imported into Spain from third countries**

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 12(1) thereof,

Whereas:

- (1) Pursuant to the Community's international obligations in the context of the Uruguay Round of multilateral trade negotiations ⁽²⁾, it is necessary to create the conditions to import a certain quantity of maize into Spain.
- (2) Commission Regulation (EC) No 1839/95 of 26 July 1995 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal ⁽³⁾, lays down the special additional detailed rules necessary for implementing the invitation to tender.
- (3) In view of the current market demand in Spain, an invitation to tender for the reduction in the duty on maize is appropriate.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

Article 1

1. An invitation to tender is hereby opened for the reduction in the import duty referred to in Article 10(2) of Regulation (EC) No 1784/2003 on maize to be imported into Spain.

2. Regulation (EC) No 1839/95 shall apply save as otherwise provided for in this Regulation.

Article 2

The invitation to tender shall be open until 28 July 2005. During that period, weekly invitations shall be issued with quantities and closing dates as shown in the notice of invitation to tender.

Article 3

Import licences issued under these invitations to tender shall be valid 50 days from the date they are issued within the meaning of Article 10(4) of Regulation (EC) No 1839/95.

Article 4

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, 8 June 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 336, 23.12.1994, p. 22.

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

COMMISSION REGULATION (EC) No 869/2005

of 8 June 2005

amending Annexes I and II to Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin as regards ivermectin and carprofen

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2377/90 of 26 June 1990 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin ⁽¹⁾, and in particular Articles 2 and 3 thereof,

Having regard to the opinions of the European Medicines Agency formulated by the Committee for Medicinal Products for Veterinary Use,

Whereas:

- (1) All pharmacologically active substances which are used within the Community in veterinary medicinal products intended for administration to food-producing animals should be evaluated in accordance with Regulation (EEC) No 2377/90.
- (2) Ivermectin has been included in Annex I to Regulation (EEC) No 2377/90 for bovine, porcine, ovine and *Equidae* for liver and fat and for deer including reindeer for liver, fat, muscle and kidney. That entry should be modified and extended to all mammalian food producing species excluding animals from which milk is produced for human consumption.
- (3) Carprofen has been included in Annex I to Regulation (EEC) No 2377/90 with carprofen as marker residue for bovine and *Equidae* for muscle, fat, liver and kidney

excluding bovine from which milk is produced for human consumption. That marker residue should be replaced by the sum of carprofen and carprofen glucuronide conjugate. Carprofen should be included in Annex II to that Regulation for bovine milk only.

- (4) Regulation (EEC) No 2377/90 should be amended accordingly.
- (5) An adequate period should be allowed before the applicability of this Regulation in order to enable Member States to make any adjustment which may be necessary in the light of this Regulation to the marketing authorisations granted in accordance with Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products ⁽²⁾.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Veterinary Medicinal Products,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EEC) No 2377/90 are amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 8 August 2005.

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

Done at Brussels, 8 June 2005.

For the Commission
Günter VERHEUGEN
Vice-President

⁽¹⁾ OJ L 224, 18.8.1990, p. 1. Regulation as last amended by Commission Regulation (EC) No 712/2005 (OJ L 120, 12.5.2005, p. 3).

⁽²⁾ OJ L 311, 28.11.2001, p. 1. Directive as last amended by Directive 2004/28/EC (OJ L 136, 30.4.2004, p. 58).

ANNEX

A. The following substance(s) is(are) inserted in Annex I to Regulation (EEC) No 2377/90

- 2. Antiparasitic agents
- 2.3. Agents acting against endo- and ectoparasites
- 2.3.1. Avermectins

Pharmacologically active substance(s)	Marker residue	Animal species	MRLs	Target tissues
Ivermectin	22,23-Dihydro-avermectin B1a	All mammalian food-producing species ⁽¹⁾	100 µg/kg 100 µg/kg 30 µg/kg	Fat Liver Kidney
⁽¹⁾ Not for use in animals from which milk is produced for human consumption.				

- 4. Anti-inflammatory agents
- 4.1. Nonsteroidal anti-inflammatory agents
- 4.1.1. Arylpropionic acid derivative

Pharmacologically active substance(s)	Marker residue	Animal species	MRLs	Target tissues
Carprofen	Sum of carprofen and carprofen glucuronide conjugate	Bovine, equidae	500 µg/kg 1 000 µg/kg 1 000 µg/kg 1 000 µg/kg	Muscle Fat Liver Kidney

B. The following substance(s) is(are) inserted in Annex II to Regulation (EEC) No 2377/90

- 8. Anti-inflammatory agents

Pharmacologically active substance(s)		Animal species
Carprofen		Bovine ⁽¹⁾
⁽¹⁾ For bovine milk only.		

COMMISSION REGULATION (EC) No 870/2005**of 8 June 2005****on granting of import licences for cane sugar for the purposes of certain tariff quotas and preferential agreements**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

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

Whereas:

- (1) Article 9 of Regulation (EC) No 1159/2003 stipulates how the delivery obligations at zero duty of products of CN code 1701, expressed in white sugar equivalent, are to be determined for imports originating in signatory countries to the ACP Protocol and the Agreement with India.
- (2) Article 16 of Regulation (EC) No 1159/2003 stipulates how the zero duty tariff quotas for products of CN code 1701 11 10, expressed in white sugar equivalent, are to be determined for imports originating in signatory

countries to the ACP Protocol and the Agreement with India.

- (3) Article 22 of Regulation (EC) No 1159/2003 opens tariff quotas at a duty of EUR 98 per tonne for products of CN code 1701 11 10 for imports originating in Brazil, Cuba and other third countries.
- (4) In the week of 30 May to 3 June 2005 applications were presented to the competent authorities in line with Article 5(1) of Regulation (EC) No 1159/2003 for import licences for a total quantity exceeding a country's delivery obligation quantity of ACP-India preferential sugar determined pursuant to Article 9 of that Regulation.
- (5) In these circumstances the Commission must set reduction coefficients to be used so that licences are issued for quantities scaled down in proportion to the total available and must indicate that the limit in question has been reached,

HAS ADOPTED THIS REGULATION:

Article 1

In the case of import licence applications presented from 30 May to 3 June 2005 in line with Article 5(1) of Regulation (EC) No 1159/2003 licences shall be issued for the quantities indicated in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 9 June 2005.

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

Done at Brussels, 8 June 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 2).

⁽²⁾ OJ L 146, 20.6.1996, p. 1.

⁽³⁾ OJ L 162, 1.7.2003, p. 25. Regulation as last amended by Regulation (EC) No 568/2005 (OJ L 97, 15.4.2005, p. 9).

ANNEX

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

Country	Week of 30.5.2005-3.6.2005: percentage of requested quantity to be granted	Limit
Barbados	100	
Belize	0	reached
Congo	100	
Fiji	0	reached
Guyana	0	reached
India	3,5018	
Côte d'Ivoire	100	
Jamaica	100	
Kenya	100	
Madagascar	100	
Malawi	0	reached
Mauritius	0	reached
Mozambique	0	reached
Saint Kitts and Nevis	100	
Swaziland	0	reached
Tanzania	100	
Trinidad and Tobago	100	
Zambia	100	
Zimbabwe	0	reached

2005/06 marketing year

Country	Week of 30.5.2005-3.6.2005: percentage of requested quantity to be granted	Limit
Barbados	—	
Belize	100	
Congo	—	
Fiji	100	
Guyana	100	
India	—	
Côte d'Ivoire	—	
Jamaica	—	
Kenya	—	
Madagascar	—	
Malawi	100	
Mauritius	100	
Mozambique	100	
Saint Kitts and Nevis	—	
Swaziland	100	
Tanzania	—	
Trinidad and Tobago	—	
Zambia	—	
Zimbabwe	100	

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

Country	Week of 30.5.2005-3.6.2005: percentage of requested quantity to be granted	Limit
India	0	reached
ACP	100	

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

Country	Week of 30.5.2005-3.6.2005: percentage of requested quantity to be granted	Limit
Brazil	0	reached
Cuba	0	reached
Other third countries	0	reached

COMMISSION REGULATION (EC) No 871/2005**of 8 June 2005****laying down the reduction coefficient to be applied under tariff subquota III for common wheat of a quality other than high quality opened by Regulation (EC) No 2375/2002**

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 2375/2002 of 27 December 2002 opening and providing for the administration of Community tariff quotas for common wheat of a quality other than high quality from third countries and derogating from Council Regulation (EEC) No 1766/92 ⁽²⁾, and in particular Article 5(3) thereof,

Whereas:

- (1) Regulation (EC) No 2375/2002 opens an annual tariff quota of 2 981 600 tonnes of common wheat of a quality other than high quality. That quota is divided into three subquotas.

- (2) Article 3(3) of Regulation (EC) No 2375/2002 fixes a quantity of 592 900 tonnes for subquota III for the period 1 April to 30 June 2005.

- (3) The quantities applied for on 6 June 2005, in accordance with Article 5(1) of Regulation (EC) No 2375/2002, exceed the quantities available. The extent to which licences may be issued should therefore be determined and a reduction coefficient laid down to be applied to the quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

Each application for an import licence for subquota III for common wheat of a quality other than high quality lodged and forwarded to the Commission on 6 June 2005 in accordance with Article 5(1) and (2) of Regulation (EC) No 2375/2002 shall be accepted at a rate of 6,19683 % of the quantity applied for.

Article 2

This Regulation shall enter into force on 9 June 2005.

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

Done at Brussels, 8 June 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 358, 31.12.2002, p. 88. Regulation as last amended by Regulation (EC) No 1111/2003 (OJ L 158, 27.6.2003, p. 21).

II

(Acts whose publication is not obligatory)

EUROPEAN ECONOMIC AREA
EFTA SURVEILLANCE AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION

No 218/03/COL

of 12 November 2003

**with regard to state aid in the form of regionally differentiated social security contributions —
Norway**

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement on the European Economic Area ⁽¹⁾, in particular to Articles 61 to 63 and Protocol 26 thereof,

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice ⁽²⁾, in particular to Article 24 and Protocol 3 thereof,

Having regard to the Authority's Guidelines ⁽³⁾ on the application and interpretation of Articles 61 and 62 of the EEA Agreement,

Having regard to the Authority's decision to propose appropriate measures to Norway ⁽⁴⁾,

Having regard to the EEA Joint Committee Decision No 88/2002 of 25 June 2002 ⁽⁵⁾ incorporating into Annex XV to the EEA Agreement Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid ⁽⁶⁾,

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽⁷⁾,

Whereas the Norwegian authorities by letter dated 26 March 2003 notified to the Authority a three-year transitional period for the regionally differentiated social security contributions as well as a new direct transport aid scheme,

Whereas the present decision only concerns the notification of a three-year transitional period for the regionally differentiated social security contributions, and not the notification of a new direct transport aid scheme,

⁽¹⁾ Hereinafter referred to as the EEA Agreement.

⁽²⁾ Hereinafter referred to as the Surveillance and Court Agreement.

⁽³⁾ Procedural and Substantive Rules in the Field of State Aid (State Aid Guidelines), adopted and issued by the EFTA Surveillance Authority on 19 January 1994. Published in the *Official Journal of the European Communities* L 231 of 3 September 1994, p. 1. The Guidelines were last amended 5 November 2003 (not yet published in the Official Journal).

⁽⁴⁾ Decision of the EFTA Surveillance Authority No 172/02/COL (OJ C 52, 6. 3.2003, p. 16) and EEA Supplement No 13, 16.3.2003, p. 1.

⁽⁵⁾ OJ L 266, 3.10.2002, p. 56 and EEA Supplement No 49, 3.10.2002, p. 42.

⁽⁶⁾ OJ L 10, 13. 1.2001, p. 30.

⁽⁷⁾ EFTA Surveillance Authority Decision No 141/03/COL of 16 July 2003 (OJ C 216, 11. 9.2003, p. 3) and EEA Supplement No 45, 11.09.2003, p. 1.

WHEREAS:

I. FACTS

1. Introduction

By letter from the Mission of Norway to the European Union dated 26 March 2003 (Document No 03-1846 A), forwarding a letter from the Ministry of Trade and Industry dated 25 March 2003, a letter from the Ministry of Finance dated 25 March 2003 and a letter from the Ministry of Local Government and Regional Development, all received and registered by the Authority on 26 March 2003, the Norwegian authorities notified a three year transitional period, from 2004 to 2007, for the regionally differentiated social security contributions by employers in certain geographical areas (tax zones 3 and 4) and a new national direct transport aid scheme. The Norwegian authorities also described the introduction of a *de minimis* scheme to be applied in relation to employers' social security contributions.

By letter from the Mission of Norway to the European Union dated 15 April 2003 (Document No 03-2467 A), forwarding a letter from the Ministry of Trade and Industry dated 10 April 2003 and a letter from the Ministry of Finance dated 10 April 2003, all received and registered by the Authority on 16 April 2003, the Norwegian authorities notified a continuation of regionally differentiated social security contributions in Nord-Troms and Finnmark (zone 5).

By letter dated 16 May 2003 (Document No 03-2951 D), the Authority acknowledged the receipt of the above letters and requested additional information.

By letter from the Mission of Norway to the European Union dated 10 June 2003 (Document No 03-3707 A), forwarding a letter from the Ministry of Finance dated 5 June 2003, both received and registered by the Authority on 11 June 2003, the Norwegian authorities submitted additional information.

By letter from the Norwegian Ambassador to the European Union dated 4 July 2003 (Document No 03-4403 A), the notification concerning zone 5 was withdrawn, as the EFTA States, by common accord in the Standing Committee of the EFTA States on 1 July 2003 (No 2/2003/SC), and by reference to Article 1(2) of Protocol 3 to the Surveillance and Court Agreement, decided that the present scheme in zone 5 was compatible with the EEA Agreement due to the exceptional circumstances in this zone.

By letter dated 16 July 2003 (Document No 03-4598 D), the Authority informed the Norwegian authorities of its decision to initiate the procedure laid down in Article 1(2) in Part I of Protocol 3 to the Surveillance and Court Agreement, with regard to State aid in the form of regionally differentiated social security contributions and direct transport aid (hereinafter the decision to open an investigation).

The decision to open an investigation was published in the *Official Journal of the European Union* ⁽⁸⁾. The Authority invited interested parties to present comments on the aid scheme concerned.

The official response of the Norwegian authorities to the decision to open an investigation, was received by fax from the Ministry of Trade and Industry dated 17 September 2003, forwarding a letter from the Ministry of Finance dated 17 September 2003 (Document No 03-6381 A). The letter from the Ministry of Finance dated 17 September 2003 was also forwarded by letter from the Mission of Norway dated 18 September 2003, received and registered by the Authority on 19 September 2003 (Document No 03-6451 A).

The Authority received comments from 10 interested parties.

By letters dated 16 October 2003 (Document No 03-7071 D) and 17 October 2003 (Document No 03-7135), respectively, the Authority submitted the comments from third parties to the Norwegian authorities.

⁽⁸⁾ EFTA Surveillance Authority Decision No 141/03/COL of 16 July 2003 (OJ C 216, 11.9.2003, p. 3) and EEA Supplement No 45, 11. 9.2003, p. 1.

By fax dated 21 October 2003, the Ministry of Trade and Industry forwarded a reply dated 21 October 2003 from the Ministry of Finance (Document No 03-7243 A) concerning the comments from third parties. By letter from the Mission of Norway dated 23 October 2003, received and registered by the Authority on 24 October 2003 (Document No 03-7360 A), the letter from the Ministry of Finance was also forwarded to the Authority.

2. Background

On 22 September 1999 the Authority approved a proposal from the Norwegian authorities, concerning new regulations in the regionally differentiated social security contributions scheme ⁽⁹⁾. The approval was limited in time, not going beyond 31 December 2003.

On 21 December 2000 the European Commission took a negative decision concerning a reduced social contributions aid scheme notified by Sweden ⁽¹⁰⁾. The Commission pointed out that the amount of aid granted under the scheme to an eligible undertaking did not bear any relation to the additional transport costs actually incurred by that particular undertaking, and that it could not be excluded that there was overcompensation of the additional transport costs, at least in some cases. In the decision, it is also pointed out that Norway, by letter dated 27 July 2000, submitted comments to the decision to initiate the procedure, and that the Norwegian authorities confirmed that Norway operates a scheme that is similar to the Swedish scheme.

In the light of the Swedish decision, the Norwegian system was thereafter discussed at several meetings between the Norwegian authorities and the Authority, as well as between the Authority and the services of the European Commission.

By letter from the Authority dated 29 November 2001 (Document No 01-9557 D), the Norwegian authorities were *inter alia* informed that the Authority would start an assessment of the Norwegian system, aimed at formulating a proposal for appropriate measures so that equal conditions of competition within the territory covered by the EEA Agreement were to be re-established.

The Authority initiated a formal review of the Norwegian system by letter to the Norwegian authorities dated 4 June 2002 (Document No 02-4189 D). In this letter the Authority expressed its preliminary view that the Norwegian system of regionally differentiated social security contributions might no longer be compatible with the EEA Agreement.

In the Authority's decision of 25 September 2002 ⁽¹¹⁾ to propose appropriate measures, it was concluded that the present regionally differentiated social security contributions scheme did not qualify for the derogation provided for under Article 61(3)(c) EEA. The amount of aid granted under the present scheme does not bear any relation to the additional transport costs actually incurred by a particular undertaking and is not calculated in line with the provisions of Annex XI of the State Aid Guidelines. In the operative part of the Decision it is *inter alia* stated:

1. 'The EFTA Surveillance Authority proposes to Norway, on the basis of Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, the following appropriate measures with regard to the State aid involved in the system of regionally differentiated social security tax (Geografisk differensiert arbeidsgiveravgift):
 - (a) the Norwegian authorities shall take any legislative, administrative and other measures necessary to eliminate any State aid within the meaning of Article 61(1) EEA, resulting from the system of regionally differentiated social security tax, or to render such aid compatible with Article 61 of the EEA Agreement;

⁽⁹⁾ EFTA Surveillance Authority Decision No 228/99/COL (OJ C 3, 6.1.2000, p. 3) and EEA Supplement No 1, 6.1.2000.

⁽¹⁰⁾ OJ L 244, 14. 9.2001, p. 32.

⁽¹¹⁾ Decision No 172/02/COL.

- (b) the Norwegian authorities shall eliminate any such aid or render it compatible with effect from 1 January 2004 unless the Authority agrees to a later date should that be considered objectively necessary and justified by the Authority in order to allow an appropriate transition for the undertakings in question to the adjusted situation; and
 - (c) the Norwegian authorities shall communicate to the Authority the relevant measures adjusting the aid scheme as soon as possible and in any event no later than 25 March 2003.
2. The Norwegian authorities are requested to inform the Authority in writing within one month from receipt of this proposal that they accept, pursuant to Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, in its entirety this proposal for appropriate measures.'

By letter dated 29 October 2002 from the Mission of Norway to the European Union, received and registered by the Authority on 31 October 2002 (Document No 02-7855 A), the Norwegian authorities accepted the appropriate measures.

3. Description of the notified aid

3.1. Object and form of the aid

The current social security contributions by employers in Norway are differentiated according to geographical zones. The objective of the geographical differentiation is to stimulate the less favoured regions. The current rates, i.e. the rates for 2003, are described in Table 1 below. Table 1 also contains the population coverage and the population density for each of the zones.

Table 1

	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
Social security contribution rates (percentage)	14,1	10,6	6,4	5,1	0
Percentage of total population	76,6	9,4	2,6	9,4	2,0
Population density (inhabitants per square kilometre)	64,0	4,9	2,8	6,4	1,7

Zone 1 covers the most central and southern parts of the country. Zone 5 covers the very northernmost part of the country. Zones 3 and 4, for which a transition period has been notified, cover municipalities in the counties of Hedmark, Oppland, Sør-Trøndelag, Nord-Trøndelag, Nordland and Troms. Population density in zones 3 and 4 are 2,8 and 6,4 inhabitants per square kilometre, respectively. A detailed overview of the geographical zones is given in Annex 1 to this decision.

The social security contribution is levied on salaries and other remuneration for work. This includes salaries and wages and other remuneration for work or commission (except when performed by self-employed persons), directors' fees, etc., benefits in kind and profits derived from the repayment of expenses and social benefits replacing salaries, etc. Benefits in kind and expenses covered by the employer are, however, only included to the extent they are subject to tax withholding by the employer. Also included are the employers' contributions to pension schemes and certain pension payments. The employers' contributions are levied on gross remuneration. Contributions are related to the municipality of residence of each employee and not the location of the enterprise.

By letter dated 25 March 2003 from the Ministry of Finance, the Norwegian authorities notified a transitional arrangement for zones 3 and 4 for the three-year period 2004 to 2007, and presented the following table concerning the escalation of the social security contributions rates ⁽¹²⁾:

Table 2

	Current rates	Rates 2004	Rates 2005	Rates 2006	Rates 2007
Zone 1	14,1	14,1	14,1	14,1	14,1
Zone 2	10,6	14,1	14,1	14,1	14,1
Zone 3	6,4	8,3	10,2	12,1	14,1
Zone 4	5,1	7,3	9,5	11,7	14,1

No transition period is therefore notified for zone 2.

For employees aged 62 or more, social security contributions are proposed reduced by four percentage points, compared to the otherwise applicable rates, as presented in table 2.

According to the Norwegian authorities, the main reason for proposing a transitional period is that an abolishment of differentiation as from 2004 would raise significant and very serious difficulties, not only for individual firms, but for all firms in zones 3 and 4 (where aid would exceed the *de minimis* threshold) and thus for the employment situation in the whole area. It is estimated that, if the current system had been prolonged from 2004, the total gross tax relief to the private sector in zones 3 and 4, would be NOK 3 030 million (some EUR 370 million). Based on a report by a committee of independent experts (Effektutvalget), the Norwegian authorities present *inter alia* various calculations of possible macroeconomic effects of abolishing the regional differentiation of the tax. Provided that there are no incidence effects on wages and product prices, the estimates indicate an employment reduction in the private sector of 15 400 persons in zone 4 and 2 900 persons in zone 3, as a direct effect of the increase in total wage costs. This would represent an isolated reduction of employment in the private sector in these regions of 15,5 % (13,8 % in zone 3, 15,8 % in zone 4). The corresponding reduction in total employment in these regions would be 7,5 % in zone 3 and 8,5 % in zone 4. The Norwegian authorities also point out that firms have relied on the differentiated system since its establishment in 1975, when deciding their location and investment.

The Norwegian authorities furthermore argue that it is reasonable to believe that a regional increase in the social security contributions will, in the short run, only to a very limited extent be shifted through increased product prices or reduced wage costs, because of the delay in adjusting the economic activity to the new situation. This is supported by the fact that the Norwegian system of wage formation is characterised by a relatively high degree of centralised, collective bargaining, which implies that the wage level will not be adjusted immediately to the increased employer social security contributions. It is argued that parts of the increase in costs will be shifted to wage earners and consumers, but that this will only happen in the long run. In this respect, reference is made to various economic studies.

It is also highlighted that profit margins in zones 3 and 4 are low compared to zone 1 and also zone 2. This information is based on companies' annual reports submitted to the official Company Register and calculated by Statistics Norway.

Secondly, the Norwegian authorities are of the opinion that they received 'no clear signals' until late autumn 2002 that the system, as such, had to be abolished. The Norwegian authorities state that they did not find it professionally or politically advisable to request the undertakings to adapt to a situation with no differentiation (beyond *de minimis*), before they saw the contours of a new system. In this respect the Norwegian authorities refer to informal discussions that took place in the wake of the European Commission's decision on the Swedish system of reduced social security contributions.

⁽¹²⁾ The Standing Committee of the EFTA States decided on 1 July 2003 (No 2/2003/SC) that the present scheme in zone 5 is compatible with the functioning of the EEA Agreement due to the exceptional circumstances in this zone (see point 1 above).

By letter dated 16 May 2003, the Authority noted that the notified transition period is three years for zones 3 and 4, and therefore that the relative increases per year are higher in zone 4 than in zone 3. The Authority therefore stated that it would appreciate receiving arguments for why enterprises in zone 3 would need the same transition period as those in zone 4, in spite of facing a smaller increase in the tax burden. The Authority also indicated that it would appreciate receiving additional comments or calculations demonstrating the effects of transition periods of one and two years, respectively, for each of the zones, and compared to the notified three-year period.

By letter dated 5 June 2003, the Ministry of Finance submitted additional comments. The Ministry stated that without a transitional period, the increase in the social security tax corresponded to an immediate increase in the firms' labour costs of 8,6 and 7,2 % in zones 4 and 3, respectively (as soon as the *de minimis* threshold is reached). Assuming general wage increases as forecast by the authorities, no transition period would imply an increase in labour costs for enterprises in zones 3 and 4 in 2004 almost three times higher than the normally expected increase in such costs (*de minimis* effect not taken into consideration). It was maintained that, due to documented rigidities in nominal wages, a possible regional wage response to a significant reduction in firms' profitability can safely be considered very limited in the short run. It was pointed out that, without any transition period, a full carry-over of the higher wage costs would imply a significant reduction in nominal wages which is considered to be unrealistic. In relation to the low profitability margins in zones 3 and 4, it was observed that a full tax increase would have constituted a significant part of current operating profits. A transitional period of three years would, according to the Ministry, allow for a higher degree of wage adjustment to take place before the full rate is applied, postpone the rise in costs to firms and reduce the number of closures and jobs lost as a consequence of the increase in the tax rate. As to why enterprises in zone 3 need the same transitional period as enterprises in zone 4, the Ministry stated that three years is a very short period in both zones, that the relative differences in the increases between the zones are very small and that it would be unfortunate with a differentiation in the transitional period.

3.2. Eligible sectors/activities

The notified aid applies to all undertakings having employees resident in zones 3 and 4, with two main exceptions. The first exception is undertakings falling outside the scope of the EEA Agreement, while the other exception is undertakings in certain sectors where the full rate applies irrespective of location.

Employers' contributions for employees in the central government administration are also subject to 14,1 % tax, irrespective of where the employee is living. Salaries more than 16 times the basic amount of the National Insurance Scheme are subject to an additional contribution of 12,5 % on the excess amount. This additional contribution applies irrespective of where the employee lives or type of business.

Sectors falling outside the scope of the State aid provisions of the EEA Agreement

The major part of the primary industries (agriculture/forestry and fisheries sectors) falls outside the scope of the EEA Agreement or outside the scope of the Authority's competence to review State aid, cf. Article 8(3) and Protocols 3 and 9 to the EEA Agreement. The Norwegian Government has decided to maintain the current system of differentiated rates of social security contributions in these sectors. The Norwegian authorities have stated in the notification that they will ensure full compliance with the EEA Agreement, in order to avoid that undertakings not belonging to these sectors, would benefit from the current system.

Sectors subject to full rate irrespective of location

The highest tax rate of 14,1 % shall apply to the following enterprises, irrespective of the municipality in which the employee lives:

- enterprises producing electricity from hydropower,
- enterprises involved in extraction of crude oil or natural gas,

- enterprises providing one of more of the following services associated with oil or gas exploitation:
 - test or production drilling on contract,
 - service activities in connection with oil and gas exploitation,
 - drilling or well service on contract.
- enterprises excavating metal ore, except iron ore and iron ore containing manganese,
- enterprises excavating the industrial minerals nepheline cyenite and olivine,
- enterprises that build or repair self-propelled, ocean-going commercial vessels. These vessels are defined as follows:
 - vessels of at least 100 GRT for transporting passengers or cargo,
 - vessels of at least 100 GRT for special purposes,
 - tugs of at least 365 kW,
 - fishing vessels of at least 100 GRT intended for export to countries outside the EEA area,
 - floating and movable unfinished hulls of the above vessels.
- enterprises that carry out major alterations to vessels such as those referred to above, if the vessel is above 1 000 GRT,
- enterprises producing ECSC steel,
- financial enterprises (as mentioned in section 1-4 of the Financial Institutions Act or section 7-1, see section 1-2, first paragraph, of the Securities Trading Act) if the enterprise has branches, is involved in cross-border activities or has established subsidiaries carrying out similar activities in other states within the EEA area,
- enterprises providing goods transport by road, and employing more than what correspond to 50 man-years,
- enterprises producing telecommunications services.

The enterprises described above that cannot benefit from the regionally differentiated social security tax, may receive *de minimis* aid as described below.

3.3. De minimis arrangement

The increased rates in zones 2 to 4 from 2004 onwards described in table 2 above will apply only to aid exceeding the *de minimis* amount.

Employers' social security contributions will be based on the existing rates for zones 2, 3 and 4 in 2003, as long as the difference between the social security contributions based on the highest rate (14,1 %) and the social security contributions based on the existing lower rates, do not exceed NOK 270 000 for one year (EUR 100 000 over a three-year period). When this limit is exceeded, the social security contributions will have to be based on the rates otherwise applicable, see table 2 above. This provision does not apply to undertakings in the transport sector. Enterprises subject to the full rate irrespective of location will also benefit from the *de minimis* scheme. Other *de minimis* aid can be granted together with *de minimis* aid under the social security tax system only as long as total *de minimis* aid does not exceed NOK 270 000 on an annual basis.

3.4. Budget

The Norwegian authorities have calculated that the reduction in social security contributions due to the reduced rates in 2004 is NOK 997 million in zones 3 and 4 (NOK 896 million in zone 4 and NOK 101 million in zone 3), NOK 674 million in 2005 (NOK 606 million in zone 4 and NOK 68 million in zone 3) and NOK 352 million in 2006 (NOK 317 million in zone 4 and NOK 35 million in zone 3), i.e. NOK 2 022 million (some EUR 247 million) for the whole three-year period.

4. The decision to open an investigation

In its decision to open an investigation, the Authority expressed two doubts in respect of the three-year transition period in zones 3 and 4 for the regionally differentiated social security contributions.

The main consideration expressed by the Authority was that the Norwegian authorities had not submitted calculations demonstrating the effects of transition periods of one and two years, respectively, for each of the zones, and compared to the notified three-year period. The Norwegian authorities had only submitted comparisons between a transition period of three years and no transition period at all while stating that: 'a transition period of less than three years would be too short'. The Authority also requested arguments as to why enterprises in zone 3 needed the same transition period as those in zone 4, in spite of facing a smaller increase in the tax burden.

Secondly, the Authority disputed the relevance of the argument from the Norwegian authorities that they received 'no clear signals' until late autumn 2002 that the system as such had to be abolished, as a Government could not claim a misunderstanding of EEA rules as an excuse for not fulfilling its obligations under the Agreement.

4.1. The comments from Norway

By letter dated 17 September 2003 from the Ministry of Finance, the Norwegian authorities submitted comments on the Authority's decision to open an investigation. The Ministry maintained the previous considerations expressed in the letters dated 25 March 2003 and 5 June 2003, and submitted additional comments regarding the effects of transitional periods of one and two years, respectively, for each of the zones and compared with the notified three-year period. The Ministry also submitted additional comments as to why enterprises in zone 3 needed the same transitional period as those in zone 4.

— Economic effects of transitional periods of one and two years

The Ministry of Finance submitted the following table showing the effects of the annual increase in labour costs and tax burden, depending on the duration of the transitional period.

Table 3

‘Annual changes in labour costs and tax burden due to increase in tax rates, taking into account the duration of the transitional period’

		No transitional period	One year transitional period	Two year transitional period	Three year transitional period
Increases in tax rates	zone 4	9,0 percentage points	4,5 percentage points	3,0 percentage points	2,25 percentage points
	zone 3	7,7 percentage points	3,85 percentage points	2,6 percentage points	1,93 percentage points
Increase in nominal labour costs due only to the rise in tax rates (wage growth not included)	zone 4	8,6 %	4,3 %	2,9 %	2,1 %
	zone 3	7,2 %	3,6 %	2,4 %	1,8 %
Increase in total tax burden due to the rise in tax rates (effect of wage growth not included)	zone 4	NOK 1 186 million	NOK 593 million	NOK 395 million	NOK 296 million
	zone 3	NOK 134 million	NOK 67 million	NOK 45 million	NOK 34 million
Increase in nominal total labour costs when normal wage growth is included	zone 4	13,9 %	9,2 %	7,6 %	6,9 %
	zone 3	12,6 %	8,5 %	7,2 %	6,5 %
Increase in total labour costs (wage growth and tax increase) compared to normal wage growth	zone 4	309 %	205 %	170 %	152 %
	zone 3	279 %	189 %	160 %	145 %

The Ministry comments upon the figures presented in table 3 above, and points out that with no transitional period, the immediate increase in the social security contributions would be 9 and 7,7 percentage points in zones 4 and 3, respectively, which corresponds to an immediate increase in the firms' labour costs of 8,6 and 7,2 % (as soon as the *de minimis* threshold is reached) reflecting an increase in total tax burden in zones 4 and 3 of NOK 1 186 million and NOK 134 million. The Norwegian authorities also referred to a research report by Møreforskning⁽¹³⁾ that presents slightly higher figures (NOK 1,3 billion and NOK 177 million, respectively).

The Norwegian authorities pointed out that if no transitional period was granted and provided there are no immediate carry-over effect in wages in response to the tax increases, the increase in labour costs of the firms in question in 2004 (when *de minimis* aid is not taken into consideration) would be about 300 % of the normal annual increase in labour costs (growth rates of 13,9 and 12,6 % in zone 4 and zone 3, respectively), compared with the estimated annual wage growth rate of 4,5 %.

With a transitional period of one year, the increase in the social security tax would be 4,5 and 3,9 percentage points in zones 4 and 3, respectively, which corresponds to an annual increase in the firms' labour costs of 4,3 and 3,6 % (as soon as the allowed *de minimis* threshold is reached), reflecting an increase in the total tax burden in zones 4 and 3 of NOK 593 million and NOK 67 million respectively. Provided that there is no carry-over effect in wages in response to the tax increases, the annual increase in labour costs (when *de minimis* aid is not taken into consideration) would be about twice of the normal annual increase in labour costs (205 % and 189 % in zone 4 and zone 3, respectively).

⁽¹³⁾ 'En analyse av regionale virkninger av omlegging av differensiert arbeidsgiveravgift'. Møreforskning, arbeidsrapport M 0309, see website: www.mfm.no

With a transitional period of two years, the ensuing increase in the social security tax rates would correspond to an isolated annual increase in the firms' labour costs of 2,9 and 2,4 % (as soon as the *de minimis* threshold is reached), reflecting an increase in total tax burden in zones 4 and 3 of NOK 395 million and NOK 45 million each year. Provided there is no carry-over effect in wages in response to the tax increases, the annual growth in labour costs of the firms in question (when *de minimis* aid is not taken into consideration) would be about 170 % and 160 % of the normal annual increase in labour costs in zones 4 and 3, respectively.

With a transitional period of three years, the ensuing increase in the social security tax rates would correspond to an isolated annual increase in the firms' labour costs of 2,1 and 1,8 % in zones 4 and 3 (as soon as the allowed *de minimis* threshold is reached), reflecting an increase in total tax burden in zones 4 and 3 of NOK 296 million and NOK 34 million. Provided there is no carry-over effect in wages in response to the tax increases, the annual increase in labour costs of the firms in question (when *de minimis* aid is not taken into consideration) would be about 152 % and 145 % of the normal annual increase in labour costs in zones 4 and zone 3, respectively.

It was furthermore outlined that in the short run, adjustment to increased tax rates may take the form of changes in product prices, wages or production volume. The Ministry of Finance also maintained that a substantial number of enterprises are exposed to international competition and, the fact that the profitability margins of the industry in the concerned regions are low on average, may indicate that in most cases, there are limited possibilities for increasing product prices. Furthermore, it is mentioned that figures referred in Table 3, show that even with a transitional period of three years, the annual increase in labour costs would be much higher than what could be expected to be reflected in corresponding wage adjustments the same year.

It was also referred that no empirical studies provided precise answers as to how the wage formation process was influenced by a change in the level of social security contributions. Analytical results concerning partial regional changes are even more varied as regards the long-term incidence effects. No studies seem to have focused specifically on the time path of incidence effects. It is maintained that, due to nominal downward rigidity, one might expect that the time path of an increase in rates and decrease in rates would be asymmetric. In the case of a significant increase in taxes, one might expect that it would take several years for the firms' costs to adjust to the tax increase. It was pointed out that this implied that the transitional period would not only postpone the rise in costs to firms, but also reduce the maximum level of costs the firms would have to bear the first year the full tax rate of 14,1 percent is applied. Therefore, the Ministry stressed that the length of the transitional period was of greater importance when the adjustment process of nominal wages was taken into consideration.

The Norwegian authorities concluded that a three-year transitional period compared to a two year period, would reduce the number of closures or necessary downscaling of production resulting from the increase of the contribution rate and, hence, reduce the risk of a substantially worsened employment situation, increased depopulation and rise in unemployment.

— Why do enterprises in zone 3 need the same transitional period as enterprises in zone 4?

The Norwegian authorities pointed out that the relative differences between the two zones are very small compared to the size of the transitional problems and the time needed for adjustments in both zones. They also referred to the recent very high increase in the number of bankruptcies in zone 3. Furthermore, the Norwegian authorities pointed out that a one-year shorter transitional period in zone 3 than in zone 4 would not imply more equality between the zones, but rather that the increase in costs would be higher in zone 3 than in zone 4 (see table 3 above).

4.2. *Comments from interested parties*

Ten organisations and undertakings from Norway submitted comments to the decision to open an investigation. All comments support the Norwegian government's proposal for a three-year transition period.

Several of the comments pointed out that the system of regionally differentiated social security contributions is the single most important regional policy instrument in Norway, and that it would have dramatic effects on business and industry in the regions concerned if the increase in the social security contributions were to occur all at once, on 1 January 2004. The Authority's approval of the proposed transitional period is therefore considered to be of the greatest importance.

By letter dated 23 October 2003 from the Mission of Norway to the European Union, forwarding a letter dated 21 October 2003 from the Ministry of Trade and Industry and a letter dated 21 October 2003 from the Ministry of Finance, all received and registered by the Authority on 24 October (Document No 03-7360 A), the Norwegian authorities briefly commented upon the comments from third parties. The Norwegian authorities noted that the comments from third parties substantiated the arguments that previously had been presented to the Authority, and that no objections had been raised by third parties to the proposed transitional period.

II. APPRECIATION

1. The existence of aid

Article 61(1) of the EEA Agreement reads as follows:

'Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States 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 Contracting Parties, be incompatible with the functioning of this Agreement.'

The EFTA Court stated in Case E-6/98 ⁽¹⁴⁾, paragraph 43, that: 'the Norwegian social security contribution scheme constitutes State aid within the meaning of Article 61 EEA. For the purpose of assessing whether the notification of a transitional arrangement in zones 3 and 4 involves State aid, it is noted that the main principles of the scheme have not changed compared to the scheme which was subject to the EFTA Court's judgment in Case E-6/98. As the present scheme satisfies all the conditions for the application of Article 61(1) of the EEA Agreement, the Authority takes the view that the notified transitional arrangement in zones 3 and 4 constitutes State aid.'

On 22 September 1999 ⁽¹⁵⁾ the Authority decided not to raise objections to a notification from the Norwegian authorities concerning the measures that the Norwegian Government intended to take in order to comply with the EFTA Surveillance Authority's decision of 2 July 1998. The Authority found that the aid could be exempted as regional aid (indirect transport aid) on the basis of Article 61(3)(c) of the EEA Agreement. The approval was limited in time, not going beyond 31 December 2003. Consequently, the current regionally differentiated social security contributions scheme is an existing aid scheme until the end of 2003.

The Authority considers that any State aid resulting from the system of regionally differentiated social security contributions after 1 January 2004, would be new aid.

⁽¹⁴⁾ EFTA Court Case E-6/98, *The Government of Norway v EFTA Surveillance Authority* [1999] Report of the EFTA Court, p. 74.

⁽¹⁵⁾ EFTA Surveillance Authority Decision No 228/99/COL (OJ C 3, 6. 1.2000, p. 3) and EEA Supplement No 1, 6.1.2000.

However, certain aspects of the notified scheme do not involve aid which should be scrutinized by the Authority under Article 61 of the EEA Agreement. This concerns the following provisions:

- enterprises paying the full rate, naturally, do not receive any aid under the scheme,
- received *de minimis* aid as described in section I 3.3 above, is not aid in the meaning of Article 61(1) of the EEA Agreement ⁽¹⁶⁾,
- the reduced rate of 4 percentage points to all employees aged 62 years and above applies to all economic sectors and equally to all regions in Norway. This is therefore considered to be a general measure falling outside the scope of Article 61(1).
- review of aid to agriculture and fishing falls outside the scope of the Authority's competence ⁽¹⁷⁾.

Against this background, the aid to be assessed in the case at hand, is the aid that stems from the notified transition period of three years for zones 3 and 4.

2. Notification requirement

Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement states: 'The EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid.' Aid provided without notification or aid that is notified late, i.e. notified after being 'put into effect' is considered unlawful aid. The Authority's decision to adopt appropriate measures (Decision No 172/02/COL) also stated that the Norwegian authorities should 'communicate' to the Authority, before 25 March 2003, measures adjusting the aid scheme (see point I 2 above).

By letters from the Mission of Norway to the European Union dated 26 March 2003 (Document No 03-1846 A) and 10 June 2003 (Document No 03-3707 A), the Norwegian authorities have complied with their obligation under Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement and their obligation under the appropriate measures.

3. The compatibility of the aid

3.1. Previous assessment by the Authority concerning the compatibility of the regionally differentiated social security contributions scheme

In the decision to propose appropriate measures to Norway (Decision No 172/02/COL), the Authority considered that the present Norwegian regionally differentiated social security contributions scheme does not satisfy the conditions of Chapter 25.4.(27) and Annex XI of the State Aid Guidelines. Aid granted to an eligible undertaking depends on the size of its wage bill, which depends in turn on the number of persons employed, and their salaries. As such, the amount of aid granted under the present scheme does not bear any relation to the additional transport costs actually incurred by a particular undertaking, and is not calculated in line with the above-mentioned provisions of the State Aid Guidelines. The Authority therefore concluded that the present regionally differentiated social security contributions did not qualify for the derogation provided for under Article 61(3)(c) of the EEA Agreement.

⁽¹⁶⁾ Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid (OJ L 10, 13.1.2001, p. 30), as incorporated into the EEA Agreement by Decision No 88/2002 of 25 June 2002 of the EEA Joint Committee (OJ L 266, 3.10.2002, p. 56 and EEA Supplement No 49, 3.10.2002). Cumulation rules ensure that overall *de minimis* aid will not exceed the threshold of EUR 100 000 in the course of three years (see Commission Regulation (EC) No 69/2001).

⁽¹⁷⁾ See for example Articles 8(3), 20 and Protocols 3 and 9 to the EEA Agreement, as well as Article 24 of the Surveillance and Court Agreement.

While a continuation of the current Norwegian scheme would be incompatible with Article 61(3)(c) of the EEA Agreement and the State aid Guidelines, recourse to Article 61(3)(c) should not be fully excluded, where a transitional arrangement phasing out that aid, would have the effect of avoiding an otherwise serious adverse economic effect to one or several regions. Under such circumstances, transitional arrangements might exceptionally be considered necessary and justified, in order to align the State aid measures with the requirements of the State aid rules, and to enable undertakings to adapt to the new economic environment ⁽¹⁸⁾. However, the requirement of such adverse economic effects to a region as a whole must be set high, since financial consequences of negative State aid decisions for single undertakings do not have any bearing on the compatibility assessment of a particular aid measure ⁽¹⁹⁾.

In the light of the above, the Authority will assess whether the notified transition period of three years for zones 3 and 4 is objectively necessary and justified in order to allow an appropriate transition for the undertakings in question to the adjusted situation ⁽²⁰⁾.

3.2. *Is a transition period of three years for zones 3 and 4 necessary and justified?*

The Norwegian authorities notably argued in the notification that no transitional period, or a very short one, would *inter alia* create uncertainty and crises in a large number of regional businesses and may severely hurt economic development in these regions. In the comments to the decision to open an investigation (see point I 5 above, in particular table 3), the Norwegian authorities *inter alia* submitted calculations regarding the effects of transitional periods of one and two years, respectively, for each of the zones and compared with the notified three-year period.

The Authority notes that, according to the calculations presented by the Norwegian authorities, if the regional differentiation of the social security contributions were to be abolished, and based on an assumption of no incidence effects, it would lead to an employment reduction in the private sector of 15 400 persons in zone 4 and 2 900 persons in zone 3, as a direct effect of the increase in total wage costs. This would represent an isolated reduction of employment in the private sector in these regions of 15,5 % (13,8 % in zone 3, 15,8 % in zone 4). The corresponding reduction in total employment in these regions would be 7,5 % in zone 3 and 8,5 % in zone 4.

The Authority furthermore notes that the profitability for enterprises in zones 3 and 4 is low. According to the Norwegian authorities, a (full) tax increase, taking the *de minimis* possibility into account, would, for the year 2001, correspond to about 24 % of total operating profit for companies in zone 3 and, correspondingly, almost 40 % in zone 4.

Without a transitional period, the increase in the social security tax corresponds to an immediate increase in the firms' labour costs of 8,6 and 7,2 % in zones 3 and 4, respectively (as soon as the *de minimis* threshold is reached). Assuming general wage increases as forecast by the authorities, no transition period would imply an increase in labour costs for enterprises in zones 3 and 4 in 2004, almost three times higher than the normally expected increase in such costs (*de minimis* effect not taken into consideration).

⁽¹⁸⁾ The Authority noted that the Commission also authorised transitional arrangements. See for example Commission Decision No 88/318/EEC of 2 March 1988 on Law No 64 of 1 March 1986 on aid to the Mezzogiorno (OJ L 143, 10.06.1988, p. 37); State aid No 586/2002 — Italy — Aid measures in favour of cableway installations introduced with L.R. 9/98, Regione Lombardia.

⁽¹⁹⁾ Case C-24/95 *Land Rheinland-Pfalz v Alcan Deutschland* [1997] ECR I-1591.

⁽²⁰⁾ As regards the Norwegian Government's argument that the Authority had sent 'no clear signals', the Authority maintains its view as expressed in its Decision of 16 July 2003 in point 3.1.

The Authority also observes that a gradual phasing out of the differentiated tax rates over a period of three years means that the annual cost increases for the undertakings will be spread over this period. An immediate abolishment of the current system would, in reality, imply a cost shock to the enterprises concerned. An appropriate transition period will mitigate the shock effects and give the undertakings time to adjust to a new economic environment. In this context, the Authority takes note of the arguments brought forward by the Norwegian authorities that adjustments in the price and wage formation is a process that takes time. Downward wage rigidity is by itself a commonly observed phenomenon. In a regional context, this fact may be reinforced when wage negotiations, to a large extent, are organised at the national level.

Some undertakings may more easily than others, increase prices on their products as a response to increased wage costs. This may result in bankruptcies or closure of business activities. Wage moderation or enhanced productivity are measures that would rectify the consequences of increased social security contributions, but any effects of such factors must be expected to materialise only in the longer run.

All undertakings will benefit from the introduction of the *de minimis* scheme. However, the effect will be significant only for very small enterprises, gradually becoming rather insignificant as the enterprises become larger. An example may illustrate this:

In zone 4, the tax rate applicable for *de minimis* purposes is 5,1 % (the rate in 2003), which is 9 percentage points lower than the rate in zone 1. An undertaking with a wage bill before social security taxes of NOK 3 million (or lower) will benefit fully from the *de minimis* scheme in the sense that it will continue to pay the same amount in social security contributions as today. 9 % tax relief of an amount of NOK 3 million is NOK 270 000. Firms with larger wage bills will also get this benefit for a wage amount up to NOK 3 million but for wage bills exceeding this amount, they will have to pay a higher rate. Undertakings with wage bills in the range of NOK 3 million will, on average, employ some 10 persons. For a medium sized enterprise with some 250 employees, the wage bill would be in the range of NOK 75 million. Being subject to a full tax rate of 14,1 %, the social security bill will be more than NOK 10 million. A tax relief of NOK 270 000 will thus not be very significant.

Based on key figures for non-financial joint stock companies, the Norwegian authorities have calculated that approximately 50 % of the total wage cost basis for these companies would fall outside the scope of the *de minimis* rule in zones 3 and 4.

The conclusion of the effect of the *de minimis* scheme is that it alleviates the shock effect of a sudden rise in social security taxes (even eliminates it for the very small firms employing some 10 persons or less), but around 50 % of overall employment is in enterprises where the effects of the scheme will be limited.

Another compensatory measure is the intended introduction of a direct transport aid scheme (the notified direct transport scheme will be subject to a separate decision). While the notified direct transport aid would help certain undertakings that have long and costly transports of goods, this scheme would, however, not fully compensate for the abolition of reduced social security rates. Furthermore, many undertakings, for example in the service industries, would not have the possibility to benefit from this scheme. It should also be mentioned that, according to the notified direct transport aid scheme, any benefits from reduced social security taxes, would be deducted from any calculated transport aid. According to the notifications from Norway, in case of an approval by the Authority, transport aid would then be phased in as aid through reduced social security taxes is phased out.

Concerning the difference in tax rates between zones 3 and 4, the Authority notes that the difference is not very big and that a shorter period for zone 3 than for zone 4 would imply a steeper rise in wage costs for enterprises in the former than in the latter zone. The Authority is therefore of the opinion that any transition period in the two zones should be of equal length.

Concerning the question of a transition period as such, the Authority is of the view that such a period would be necessary for zones 3 and 4 to dampen the shock effects that would follow from an immediate application of the full social security tax. As regards the length of a transition period, the Authority considers that the Norwegian authorities have demonstrated that time will be needed for undertakings to adjust to the new economic reality. On the basis of this information and the arguments provided, a period of three years seems appropriate. In addition to the arguments mentioned above, it should also be emphasised that the system of differentiated social security taxes has been in effect for almost 30 years and that undertakings have taken their decisions on location and investment under such a system. This also calls for some transitory arrangements.

It has to be borne in mind that the current case does not relate to a single undertaking receiving aid, but to all undertakings in a whole region. These are undertakings that at the outset, and as a whole, are in a weak competitive position. Increasing taxes will further weaken their position. However, it is important to note that the notified aid measure involves operating aid. Regional aid aimed at reducing firms current expenses (operating aid) is normally prohibited. Exceptionally, however, such aid may be granted, for example, in regions of low population density, where the aid partly offsets additional transport costs ⁽²¹⁾. As shown in Table 1 above, zones 3 and 4 are low population density regions, less than 12,5 inhabitants per square kilometre. The Authority has to ensure that aid does not adversely affect trading conditions to an extent contrary to the common interest. This is especially important where operating aid is at stake. On the other hand, the Authority has to consider the serious economic and social adverse effects that an abrupt termination of the notified scheme would cause. In carrying out this balancing act, the Authority considers it strictly necessary that the Norwegian authorities comply with the set three-year transitional phasing out deadline. In the Authority's view, a gradual phasing out of the current scheme in the economically fragile zones of 3 and 4, limited to three years, does not adversely affect trading conditions to an extent contrary to the common interest, under the particular circumstances of this case and having regard to all of the above considerations.

4. Conclusion

The Authority concludes, with reference to the arguments above and given the particular circumstances of this case, that the notified three-year transitional period for the regionally differentiated social security contributions in zones 3 and 4 can be authorised by the Authority,

HAS ADOPTED THIS DECISION:

1. The State aid which Norway is planning to implement in form of the notified transitional period for the regionally differentiated social security contributions in zones 3 and 4 is authorised under Article 61(3)(c) of the EEA Agreement.
2. This decision is addressed to the Kingdom of Norway.
3. This decision is authentic in the English language.

Done at Brussels, 12 November 2003.

For the EFTA Surveillance Authority

Einar M. BULL
President

Hannes HAFSTEIN
College Member

⁽²¹⁾ State Aid Guidelines, Chapter 25.4.

ANNEX

GEOGRAPHICAL ZONES AND CURRENT (2003) TAX RATES

— Zone I: 14,1 % tax.

This zone includes all municipalities not mentioned below under zones II to V.

— Zone II: 10,6 % tax.

This zone includes:

- in Nord-Trøndelag county, the municipalities of Meråker, Frosta, Leksvik, Mosvik, Verran,
- in Sør-Trøndelag county, the municipalities of Ørland, Agdenes, Rissa, Bjugn, Rennebu, Meldal, Midtre Gauldal, Selbu,
- in Møre og Romsdal county, the municipalities of Vanylven, Sande, Herøy, Norddal, Stranda, Stordal, Rauma, Nesset, Midsund, Sandøy, Gjemnes, Tingvoll, Sunndal, Haram, Aukra, Eide,
- in Sogn og Fjordane county, all municipalities,
- in Hordaland county, the municipalities of Etne, Ølen, Tysnes, Kvinnherad, Jondal, Odda, Ullensvang, Eidfjord, Ulvik, Granvin, Kvam, Modalen, Fedje, Masfjorden, Bømlo,
- in Rogaland county, the municipalities of Hjelmeland, Suldal, Sauda, Kvitsøy, Utsira, Vindafjord, Finnøy,
- in Vest-Agder county, the municipalities of Åseral, Audnedal, Hægebostad, Sirdal,
- in Aust-Agder county, the municipalities of Gjerstad, Vegårshei, Åmli, Iveland, Evje og Hornnes, Bygland, Valle, Bykle,
- in Telemark county, the municipalities of Drangedal, Tinn, Hjartdal, Seljord, Kviteseid, Nissedal, Fyresdal, Tokke, Vinje, Nome,
- in Buskerud county, the municipalities of Flå, Nes, Gol, Hemsedal, Ål, Hol, Sigdal, Rollag, Nore and Uvdal,
- in Oppland county, the municipalities of Nord-Fron, Sør-Fron, Ringebu, Gausdal, Søndre Land, Nordre Land,
- in Hedmark county, the municipalities of Nord-Odal, Eidskog, Grue, Åsnes, Våler, Trysil, Åmot.

— Zone III: 6,4 % tax.

This zone includes:

- in Nord-Trøndelag county, the municipality of Snåsa,
- in Sør-Trøndelag county, the municipalities of Hemne, Snillfjord, Oppdal, Røros, Holtålen, Tydal,
- in Oppland county, the municipalities of Dovre, Lesja, Skjåk, Lom, Vågå, Sel, Sør-Aurdal, Etnedal, Nord-Aurdal, Vestre Slidre, Øystre Slidre, Vang,
- in Hedmark county, the municipalities of Stor-Elvdal, Rendalen, Engerdal, Tolga, Tynset, Alvdal, Folldal, Os,

— Zone IV: 5,1 % tax.

This zone includes:

- in Troms county, municipalities not included among those listed below under zone V,
- in Nordland county, all municipalities,

— in Nord-Trøndelag county, the municipalities of Namsos, Namdalseid, Lierne, Røyrvik, Namsskogan, Grong, Høylandet, Overhalla, Fosnes, Flatanger, Vikna, Nærøy, Leka,

— in Sør-Trøndelag county, the municipalities of Hitra, Frøya, Åfjord, Roan, Osen,

— in Møre og Romsdal county, the municipality of Smøla.

— Zone V: 0 % tax.

This zone includes:

— in Finnmark county, all municipalities,

— in Troms county, the municipalities of Karlsøy, Lyngen, Storfjord, Kåfjord, Skjervøy, Nordreisa and Kvænangen.

CORRIGENDA**Corrigendum to Council Directive 89/682/EEC of 21 December 1989 amending Directive 86/298/EEC on rear-mounted roll-over protection structures of narrow-track wheeled agricultural and forestry tractors**

(Official Journal of the European Communities L 398 of 30 December 1989)

On page 30, Article 1, point 4:

for: '4. in Annex VI, the following point is inserted:

'7.3. Indication and results of any additional dynamic test';

read: '4. in Annex V, the following point is inserted:

'7.3. Indication and results of any additional dynamic test'.
