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Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1027/2005**of 1 July 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 2 July 2005.

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

Done at Brussels, 1 July 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 1 July 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	60,2
	999	60,2
0707 00 05	052	80,7
	999	80,7
0709 90 70	052	87,3
	999	87,3
0805 50 10	382	71,1
	388	64,9
	528	59,9
	999	65,3
0808 10 80	388	91,7
	400	88,3
	508	78,2
	512	72,2
	524	62,4
	528	73,7
	720	98,8
	804	99,3
0809 10 00	999	83,1
0809 20 95	052	179,2
	999	179,2
0809 40 05	052	272,5
	068	218,2
	400	307,0
	999	265,9
0809 40 05	624	121,4
	999	121,4

⁽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 1028/2005**of 1 July 2005****fixing the minimum selling prices for butter for the 166th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 10 thereof,

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs ⁽²⁾, to sell by invitation to tender certain quantities of butter from intervention stocks that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further stipulated that the price or aid may vary according to the

intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

The minimum selling prices of butter from intervention stocks and processing securities applying for the 166th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 2 July 2005.

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

Done at Brussels, 1 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

ANNEX

to the Commission Regulation of 1 July 2005 fixing the minimum selling prices for butter for the 166th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula			A		B	
Incorporation procedure			With tracers	Without tracers	With tracers	Without tracers
Minimum selling price	Butter ≥ 82 %	Unaltered	206,1	210	—	—
		Concentrated	204,1	—	—	—
Processing security		Unaltered	73	73	—	—
		Concentrated	73	—	—	—

COMMISSION REGULATION (EC) No 1029/2005

of 1 July 2005

fixing the minimum selling price for skimmed-milk powder for the 85th individual invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 2799/1999

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 10 thereof,

Whereas:

- (1) Pursuant to Article 26 of Commission Regulation (EC) No 2799/1999 of 17 December 1999 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the grant of aid for skimmed milk and skimmed-milk powder intended for animal feed and the sale of such skimmed-milk powder ⁽²⁾, intervention agencies have put up for sale by standing invitation to tender certain quantities of skimmed-milk powder held by them.
- (2) According to Article 30 of the said Regulation, in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no award. The amount of the processing security shall also be fixed taking account of the difference between the market price of skimmed-milk powder and the minimum selling price.

(3) In the light of the tenders received, the minimum selling price should be fixed at the level specified below and the processing security determined accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 85th individual invitation to tender pursuant to Regulation (EC) No 2799/1999, in respect of which the time limit for the submission of tenders expired on 28 June 2005, the minimum selling price and the processing security are fixed as follows:

- | | |
|--------------------------|--------------------|
| — minimum selling price: | 195,24 EUR/100 kg, |
| — processing security: | 35,00 EUR/100 kg. |

Article 2

This Regulation shall enter into force on 2 July 2005.

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

Done at Brussels, 1 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 340, 31.12.1999, p. 3. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

COMMISSION REGULATION (EC) No 1030/2005**of 1 July 2005****concerning the 338th special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community ⁽²⁾, the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter. Article 6 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat

content of 96 % or a decision is to be taken to make no award; the end-use security must be fixed accordingly.

- (2) On the basis of the examination of the offers received, the tendering procedure should not be proceeded with.
- (3) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

For the 338th tender under the standing invitation to tender opened by Regulation (EEC) No 429/90 no award shall be made.

Article 2

This Regulation shall enter into force on 2 July 2005.

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

Done at Brussels, 1 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 45, 21.2.1990, p. 8. Regulation as last amended by Commission Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

COMMISSION REGULATION (EC) No 1031/2005**of 1 July 2005****fixing the minimum selling price for skimmed-milk powder for the 21st individual invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 214/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 10(c) thereof,

Whereas:

(1) Pursuant to Article 21 of Commission Regulation (EC) No 214/2001 of 12 January 2001 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in skimmed milk ⁽²⁾, intervention agencies have put up for sale by standing invitation to tender certain quantities of skimmed-milk powder held by them.

(2) In the light of the tenders received in response to each individual invitation to tender a minimum selling price

shall be fixed or a decision shall be taken to make no award, in accordance with Article 24a of Regulation (EC) No 214/2001.

(3) In the light of the tenders received, a minimum selling price should be fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 21st individual invitation to tender pursuant to Regulation (EC) No 214/2001, in respect of which the time limit for the submission of tenders expired on 28 June 2005, the minimum selling price for skimmed milk is fixed at 196,24 EUR/100 kg.

Article 2

This Regulation shall enter into force on 2 July 2005.

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

Done at Brussels, 1 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 37, 7.2.2001, p. 100. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

COMMISSION REGULATION (EC) No 1032/2005**of 1 July 2005****fixing the maximum aid for cream, butter and concentrated butter for the 166th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 10 thereof,

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice cream and other foodstuffs ⁽²⁾, to sell by invitation to tender certain quantities of butter of intervention stocks that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further

stipulated that the price or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum aid and processing securities applying for the 166th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 2 July 2005.

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

Done at Brussels, 1 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

ANNEX

to the Commission Regulation of 1 July 2005 fixing the maximum aid for cream, butter and concentrated butter for the 166th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula		A		B	
Incorporation procedure		With tracers	Without tracers	With tracers	Without tracers
Maximum aid	Butter $\geq$ 82 %	41	37,5	—	—
	Butter < 82 %	—	36,1	—	—
	Concentrated butter	—	—	—	—
	Cream	—	—	20	16
Processing security	Butter	45	—	—	—
	Concentrated butter	—	—	—	—
	Cream	—	—	22	—

COMMISSION REGULATION (EC) No 1033/2005**of 1 July 2005****fixing the minimum selling price for butter for the 22nd individual invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 2771/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 10(c) thereof,

Whereas:

- (1) Pursuant to Article 21 of Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream ⁽²⁾, intervention agencies have put up for sale by standing invitation to tender certain quantities of butter held by them.
- (2) In the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no

award, in accordance with Article 24a of Regulation (EC) No 2771/1999.

- (3) In the light of the tenders received, a minimum selling price should be fixed.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 22nd individual invitation to tender pursuant to Regulation (EC) No 2771/1999, in respect of which the time limit for the submission of tenders expired on 28 June 2005, the minimum selling price for butter is fixed at 275 EUR/100 kg.

Article 2

This Regulation shall enter into force on 2 July 2005.

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

Done at Brussels, 1 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 333, 24.12.1999, p. 11. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

COMMISSION REGULATION (EC) No 1034/2005**of 1 July 2005****opening and providing for the administration of an autonomous tariff quota for garlic from
1 July 2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

the ones opened by Commission Regulation (EC) No 1077/2004 ⁽³⁾, Commission Regulation (EC) No 1743/2004 ⁽⁴⁾ and Commission Regulation (EC) No 218/2005 ⁽⁵⁾.

Having regard to the Treaty establishing the European Community,

(4) The new quota should be transitional and may not prejudice the outcome of the negotiations under way in the context of the World Trade Organisation (WTO) as a result of the accession of the new Member States.

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

(5) The Management Committee for fresh Fruit and Vegetables has not delivered an opinion within the time-limit set by its chairman,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular the first paragraph of Article 41 thereof,

HAS ADOPTED THIS REGULATION:

Whereas:

Article 1

(1) Commission Regulation (EC) No 565/2002 ⁽¹⁾ establishes the method for managing tariff quotas and introduces a system of certificates of origin for garlic imported from third countries.

1. An autonomous tariff quota of 4 400 tonnes, bearing order number 09.4018 (hereinafter the autonomous quota), shall be opened from 1 July 2005 for Community imports of fresh or chilled garlic falling within CN code 0703 20 00.

(2) Commission Regulation (EC) No 228/2004 of 3 February 2004 laying down transitional measures applicable to Regulation (EC) No 565/2002 by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia ⁽²⁾ adopts measures allowing importers from those countries (hereinafter the new Member States) to benefit from Regulation (EC) No 565/2002. The aim of those measures is to make a distinction between traditional importers and new importers in the new Member States, and to adapt the concept of the reference quantity so that those importers can benefit from the system.

2. The *ad valorem* duty applicable to products imported under the autonomous quota shall be 9,6 %.

Article 2

Regulation (EC) No 565/2002 and Regulation (EC) No 228/2004 shall apply to the management of the autonomous quota, subject to the provisions of this Regulation.

However, Articles 1, 5(5) and 6(1) of Regulation (EC) No 565/2002 shall not apply to the management of the autonomous quota.

Article 3

(3) To ensure uninterrupted supplies to the enlarged Community market while taking account of the economic supply conditions in the new Member States prior to their accession to the European Union, an autonomous and temporary import tariff quota should be opened for fresh or chilled garlic falling within CN code 0703 20 00. That new quota is in addition to

Import licences issued under the autonomous quota (hereinafter licences), shall be valid until 30 September 2005.

Box 24 of the licences shall show one of the entries listed in Annex I.

⁽¹⁾ OJ L 86, 3.4.2002, p. 11. Regulation as last amended by Regulation (EC) No 537/2004 (OJ L 86, 24.3.2004, p. 9).

⁽²⁾ OJ L 39, 11.2.2004, p. 10.

⁽³⁾ OJ L 203, 8.6.2004, p. 7.

⁽⁴⁾ OJ L 311, 8.10.2004, p. 19.

⁽⁵⁾ OJ L 39, 11.2.2005, p. 5.

Article 4

1. Importers may submit licence applications to the competent authorities of the Member States in the five working days following the date of entry into force of this Regulation.

Box 20 of the licences shall show one of the entries listed in Annex II.

2. Licence applications submitted by a single importer may not relate to a quantity exceeding 10 % of the autonomous quota.

Article 5

The autonomous quota shall be allocated as follows:

- 70 % to traditional importers,
- 30 % to new importers.

If the quantity allocated to one of the categories of importers is not used in full, the balance may be allocated to the other category.

Article 6

1. The Member States shall notify the Commission, on the seventh working day following that of the entry into force of this Regulation, of the quantities for which licence applications have been made.

2. Licences shall be issued on the 12th working day following that of the entry into force of this Regulation, unless the Commission has taken special measures under paragraph 3.

3. If the Commission finds, on the basis of the information notified under paragraph 1, that licence applications exceed the quantities available for a category of importers under Article 5, it shall adopt, by means of a regulation, a single reduction percentage for the applications in question.

Article 7

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, 1 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX I

Entries referred to in Article 3

- *in Spanish:* Certificado expedido en virtud del Reglamento (CE) n.º 1034/2005 y válido únicamente hasta el 30 de septiembre de 2005
- *in Czech:* licence vydaná na základě nařízení (ES) č. 1034/2005 a platná pouze do 30. září 2005
- *in Danish:* licens udstedt i henhold til forordning (EF) nr. 1034/2005 og kun gyldig til den 30. september 2005
- *in German:* Lizenz gemäß der Verordnung (EG) Nr. 1034/2005 erteilt und nur bis zum 30. September 2005 gültig
- *in Estonian:* määruise (EÜ) nr 1034/2005 kohaselt esitatud litsentsitaotlus kehtib ainult kuni 30. septembrini 2005
- *in Greek:* πιστοποιητικά που εκδίδονται κατ' εφαρμογή του κανονισμού (ΕΚ) αριθ. 1034/2005 και ισχύουν έως τις 30 Σεπτεμβρίου 2005
- *in English:* licence issued under Regulation (EC) No 1034/2005 and valid only until 30 September 2005
- *in French:* certificat émis au titre du règlement (CE) n.º 1034/2005 et valable seulement jusqu'au 30 septembre 2005
- *in Italian:* Domanda di titolo presentata ai sensi del regolamento (CE) n. 1034/2005 e valida soltanto fino al 30 settembre 2005
- *in Latvian:* licence ir izsniegta saskaņā ar Regulu (EK) Nr. 1034/2005 un ir derīga tikai līdz 2005. gada 30. septembrim
- *in Lithuanian:* licencija, išduota pagal Reglamento (EB) Nr. 1034/2005 nuostatas, galiojanti tik iki 2005 m. rugsėjo 30 d.
- *in Hungarian:* a 1034/2005/EK rendelet szerinti engedélykérelem, 2005. szeptember 30-ig érvényes
- *in Dutch:* overeenkomstig Verordening (EG) nr. 1034/2005 afgegeven certificaat dat slechts geldig is tot en met 30 september 2005
- *in Polish:* pozwolenie wydane zgodnie z rozporządzeniem (WE) nr 1034/2005 i ważne wyłącznie do dnia 30 września 2005 r.
- *in Portuguese:* certificado emitido a título do Regulamento (CE) n.º 1034/2005 e eficaz somente até 30 de Setembro de 2005
- *in Slovak:* povolenie vydané na základe nariadenia (ES) č. 1034/2005 a platné len do 30. septembra 2005
- *in Slovene:* dovoljenje, izdano v skladu z Uredbo (ES) št. 1034/2005 in veljavno samo do 30. septembra 2005
- *in Finnish:* asetuksen (EY) N:o 1034/2005 mukainen todistus, joka on voimassa ainoastaan 30 päivään syyskuuta 2005
- *in Swedish:* Licens utfärdad enligt förordning (EG) nr 1034/2005, giltig endast till och med den 30 september 2005

ANNEX II

Entries referred to in Article 4(1)

- *in Spanish:* Solicitud de certificado presentada al amparo del Reglamento (CE) n° 1034/2005
 - *in Czech:* žádost o licenci podaná na základě nařízení (ES) č. 1034/2005
 - *in Danish:* licensansøgning i henhold til forordning (EF) nr. 1034/2005
 - *in German:* Lizenzantrag gemäß der Verordnung (EG) Nr. 1034/2005
 - *in Estonian:* määruse (EÜ) nr 1034/2005 kohaselt esitatud litsentsitaotlus
 - *in Greek:* αίτηση χορήγησης πιστοποιητικού κατ' εφαρμογή του κανονισμού (ΕΚ) αριθ. 1034/2005
 - *in English:* licence application under Regulation (EC) No 1034/2005
 - *in French:* demande de certificat faite au titre du règlement (CE) n° 1034/2005
 - *in Italian:* domanda di titolo presentata ai sensi del regolamento (CE) n. 1034/2005
 - *in Latvian:* licence pieprasīta saskaņā ar Regulu (EK) Nr. 1034/2005
 - *in Lithuanian:* prašymas išduoti licenciją pagal Reglamentą (EB) Nr. 1034/2005
 - *in Hungarian:* a 1034/2005/EK rendelet szerinti engedélykérelem
 - *in Dutch:* overeenkomstig Verordening (EG) nr. 1034/2005 ingediende certificaataanvraag
 - *in Polish:* wniosek o pozwolenie przedłożony zgodnie z rozporządzeniem (WE) nr 1034/2005
 - *in Portuguese:* pedido de certificado apresentado a título do Regulamento (CE) n.º 1034/2005
 - *in Slovak:* žiadosť o povolenie na základe nariadenia (ES) č. 1034/2005
 - *in Slovene:* dovoljenje, izdano v skladu z Uredbo (ES) št. 1034/2005
 - *in Finnish:* asetuksen (EY) N:o 1034/2005 mukainen todistushakemus
 - *in Swedish:* Licensansökan enligt förordning (EG) nr 1034/2005
-

COMMISSION REGULATION (EC) No 1035/2005

of 1 July 2005

opening and providing for the administration of an autonomous tariff quota for preserved mushrooms from 1 July 2005

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

lation (EC) No 1076/2004 ⁽²⁾, Commission Regulation (EC) No 1749/2004 ⁽³⁾ and Commission Regulation (EC) No 220/2005 ⁽⁴⁾.

Having regard to the Treaty establishing the European Community,

(4) The new quota should be transitional and may not prejudice the outcome of the negotiations under way in the context of the World Trade Organisation (WTO) as a result of the accession of the new Member States.

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

(5) The Management Committee for Products Processed from Fruit and Vegetables has not delivered an opinion within the time-limit set by its Chairman,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular the first paragraph of Article 41 thereof,

HAS ADOPTED THIS REGULATION:

Article 1

Whereas:

(1) Commission Regulation (EC) No 1864/2004 ⁽¹⁾ opens tariff quotas for preserved mushrooms imported from third countries and lays down rules for the administration thereof.1. An autonomous tariff quota of 1 200 tonnes (drained net weight), bearing serial number 09.4019 (hereinafter the autonomous quota), shall be opened from 1 July 2005 for Community imports of preserved mushrooms of the genus *Agaricus* spp. falling within CN codes 0711 51 00, 2003 10 20 and 2003 10 30.

(2) Regulation (EC) No 1864/2004 provides for transitional measures allowing importers from the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (hereinafter the new Member States) to benefit from the quotas. The aim of those measures is to make a distinction between traditional importers and new importers in the new Member States, and to adjust the quantities to which licence applications presented by traditional importers from the new Member States can relate so that these importers can benefit from the system.

2. The *ad valorem* duty applicable to products imported under the autonomous quota shall be 12 % for products falling within CN code 0711 51 00 and 23 % for products falling within CN codes 2003 10 20 and 2003 10 30.

Article 2

Regulation (EC) No 1864/2004 shall apply to the management of the autonomous quota, subject to the provisions of this Regulation.

(3) To ensure uninterrupted supplies to the enlarged Community market while taking account of the economic supply conditions in the new Member States prior to their accession to the European Union, an autonomous and temporary import tariff quota should be opened for preserved mushrooms of the genus *Agaricus* falling within CN codes 0711 51 00, 2003 10 20 and 2003 10 30. That new tariff quota is in addition to the ones opened by Commission Regu-

However, Article 1, Article 5(2) and (5), Article 6(2), (3) and (4), Article 7, Article 8(2) and Articles 9 and 10 of Regulation (EC) No 1864/2004 shall not apply to the management of the autonomous quota.

Article 3

Import licences issued under the autonomous quota, hereinafter 'licences', shall be valid until 30 September 2005.

⁽¹⁾ OJ L 325, 28.10.2004, p. 30.⁽²⁾ OJ L 203, 8.6.2004, p. 3.⁽³⁾ OJ L 312, 9.10.2004, p. 3.⁽⁴⁾ OJ L 39, 11.2.2005, p. 11.

Box 24 of the licences shall show one of the entries listed in Annex I.

Article 4

1. Importers may submit licence applications to the competent authorities of the Member States in the five working days following the date of entry into force of this Regulation.

Box 20 of the licences shall show one of the entries listed in Annex II.

2. Licence applications submitted by a single traditional importer may not relate to a quantity exceeding 9 % of the autonomous quota.

3. Licence applications submitted by a single new importer may not relate to a quantity exceeding 1 % of the autonomous quota.

Article 5

The autonomous quota shall be allocated as follows:

- 95 % to traditional importers,
- 5 % to new importers.

If the quantity allocated to one of the categories of importers is not used in full, the balance may be allocated to the other category.

Article 6

1. The Member States shall notify the Commission, on the seventh working day following that of the entry into force of this Regulation, of the quantities for which licence applications have been made.

2. Licences shall be issued on the twelfth working day following that of the entry into force of this Regulation, unless the Commission has taken special measures under paragraph 3.

3. Where the Commission finds, on the basis of the information notified under paragraph 1, that licence applications exceed the quantities available for a category of importers under Article 5, it shall adopt, by means of a regulation, a single reduction percentage for the applications in question.

Article 7

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, 1 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX I

Entries referred to in Article 3

- *in Spanish:* Certificado expedido en virtud del Reglamento (CE) n.º 1035/2005 y válido únicamente hasta el 30 de septiembre de 2005
- *in Czech:* licence vydaná na základě nařízení (ES) č. 1035/2005 a platná pouze do 30. září 2005
- *in Danish:* licens udstedt i henhold til forordning (EF) nr. 1035/2005 og kun gyldig til den 30. september 2005
- *in German:* Lizenz gemäß der Verordnung (EG) Nr. 1035/2005 erteilt und nur bis zum 30. September 2005 gültig
- *in Estonian:* määruise (EÜ) nr 1035/2005 kohaselt esitatud litsentsitaotlus kehtib ainult kuni 30. septembrini 2005
- *in Greek:* πιστοποιητικά που εκδίδονται κατ' εφαρμογή του κανονισμού (ΕΚ) αριθ. 1035/2005 και ισχύουν έως τις 30 Σεπτεμβρίου 2005
- *in English:* licence issued under Regulation (EC) No 1035/2005 and valid only until 30 September 2005
- *in French:* certificat émis au titre du règlement (CE) n.º 1035/2005 et valable seulement jusqu'au 30 septembre 2005
- *in Italian:* Domanda di titolo presentata ai sensi del regolamento (CE) n. 1035/2005 e valida soltanto fino al 30 settembre 2005
- *in Latvian:* licence ir izsniegta saskaņā ar Regulu (EK) Nr. 1035/2005 un ir derīga tikai līdz 2005. gada 30. septembrim
- *in Lithuanian:* licencija, išduota pagal Reglamento (EB) Nr. 1035/2005 nuostatas, galiojanti tik iki 2005 m. rugsėjo 30 d.
- *in Hungarian:* a 1035/2005/EK rendelet szerinti engedélykérelem, 2005. szeptember 30-ig érvényes
- *in Dutch:* overeenkomstig Verordening (EG) nr. 1035/2005 afgegeven certificaat dat slechts geldig is tot en met 30 september 2005
- *in Polish:* pozwolenie wydane zgodnie z rozporządzeniem (WE) nr 1035/2005 i ważne wyłącznie do dnia 30 września 2005 r.
- *in Portuguese:* certificado emitido a título do Regulamento (CE) n.º 1035/2005 e eficaz somente até 30 de Setembro de 2005
- *in Slovak:* povolenie vydané na základe nariadenia (ES) č. 1035/2005 a platné len do 30. septembra 2005
- *in Slovene:* dovoljenje, izdano v skladu z Uredbo (ES) št. 1035/2005 in veljavno samo do 30. septembra 2005
- *in Finnish:* asetuksen (EY) N:o 1035/2005 mukainen todistus, joka on voimassa ainoastaan 30 päivään syyskuuta 2005
- *in Swedish:* Licens utfärdad enligt förordning (EG) nr 1035/2005, giltig endast till och med den 30 september 2005

ANNEX II

Entries referred to in Article 4(1)

- *in Spanish:* Solicitud de certificado presentada al amparo del Reglamento (CE) n° 1035/2005
 - *in Czech:* žádost o licenci podaná na základě nařízení (ES) č. 1035/2005
 - *in Danish:* licensansøgning i henhold til forordning (EF) nr. 1035/2005
 - *in German:* Lizenzantrag gemäß der Verordnung (EG) Nr. 1035/2005
 - *in Estonian:* määruse (EÜ) nr 1035/2005 kohaselt esitatud litsentsitaotlus
 - *in Greek:* αίτηση χορήγησης πιστοποιητικού κατ' εφαρμογή του κανονισμού (ΕΚ) αριθ. 1035/2005
 - *in English:* licence application under Regulation (EC) No 1035/2005
 - *in French:* demande de certificat faite au titre du règlement (CE) n° 1035/2005
 - *in Italian:* domanda di titolo presentata ai sensi del regolamento (CE) n. 1035/2005
 - *in Latvian:* licence pieprasīta saskaņā ar Regulu (EK) Nr. 1035/2005
 - *in Lithuanian:* prašymas išduoti licenciją pagal Reglamentą (EB) Nr. 1035/2005
 - *in Hungarian:* a 1035/2005/EK rendelet szerinti engedélykérelem
 - *in Dutch:* overeenkomstig Verordening (EG) nr. 1035/2005 ingediende certificaataanvraag
 - *in Polish:* wniossek o pozwolenie przedłożony zgodnie z rozporządzeniem (WE) nr 1035/2005
 - *in Portuguese:* pedido de certificado apresentado a título do Regulamento (CE) n.º 1035/2005
 - *in Slovak:* žiadosť o povolenie na základe nariadenia (ES) č. 1035/2005
 - *in Slovene:* dovoljenje, izdano v skladu z Uredbo (ES) št. 1035/2005
 - *in Finnish:* asetuksen (EY) N:o 1035/2005 mukainen todistushakemus
 - *in Swedish:* Licensansökan enligt förordning (EG) nr 1035/2005
-

COMMISSION REGULATION (EC) No 1036/2005

of 1 July 2005

amending Regulation (EC) No 2535/2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 29(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 2535/2001 ⁽²⁾ lays down, *inter alia*, detailed rules for the application to milk and milk products of the import arrangements provided for in the Europe Agreements between the Community and its Member States, of the one part, and certain central and east European countries, of the other part. In order to implement the concessions provided for by Council and Commission Decisions 2005/430/EC ⁽³⁾ and 2005/431/EC ⁽⁴⁾ on the conclusion of Additional Protocols to the Europe Agreements establishing an association between the European Communities and their Member States, of the one part, and Bulgaria and Romania, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union, the new import tariff quotas should be opened and certain existing quotas should be increased as from 1 July 2005, date of the entry into force of the Additional Protocols.

(2) Council Regulation (EC) No 747/2001 ⁽⁵⁾ provides for quota No 09.1302, concerning certain agricultural products originating in Israel, to be managed on a 'first come, first served' basis, in accordance with Articles 308a to 308c of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 estab-

lishing the Community Customs Code ⁽⁶⁾. It is appropriate to take account of that quota in Regulation (EC) No 2535/2001.

(3) Annex XII to Regulation (EC) No 2535/2001 contains a reference to the body issuing certificates in Cyprus which should be deleted by reason of the accession of Cyprus to the European Union.

(4) Regulation (EC) No 2535/2001 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2535/2001 is amended as follows:

1. in Article 5, point (b) is replaced by the following text:

'(b) the quotas provided for in Council and Commission Decisions 2005/430/EC (*) and 2005/431/EC (**);

(*) OJ L 155, 17.6.2005, p. 1.

(**) OJ L 155, 17.6.2005, p. 26.;

2. Article 19a is amended as follows:

(a) paragraph 1 is replaced by the following text:

'1. Within the context of the quotas provided for in Council Regulations (EC) No 312/2003 (*) and (EC) No 747/2001 (**), and given in Annex VIIa to this Regulation, Articles 308a to 308c of Regulation (EEC) No 2454/93 shall apply.

(*) OJ L 46, 20.2.2003, p. 1.

(**) OJ L 109, 19.4.2001, p. 2.;

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

⁽²⁾ OJ L 341, 22.12.2001, p. 29. Regulation last amended by Regulation (EC) No 810/2004 (OJ L 149, 30.4.2004, p. 138).

⁽³⁾ OJ L 155, 17.6.2005, p. 1.

⁽⁴⁾ OJ L 155, 17.6.2005, p. 26.

⁽⁵⁾ OJ L 109, 19.4.2001, p. 2. Regulation last amended by Commission Regulation (EC) No 503/2005 (OJ L 83, 1.4.2005, p. 13).

⁽⁶⁾ OJ L 253, 11.10.1993, p. 1. Regulation last amended by Regulation (EC) No 883/2005 (OJ L 148, 11.6.2005, p. 5).

(b) paragraph 4 is replaced by the following text:

‘4. Application of the reduced rate of duty shall be subject to the presentation of proof of origin issued in accordance with Annex III to the Agreement with Chile or with Protocol 4 to the Agreement with Israel.’;

3. part B of Annex I is replaced by the text set out in Annex I to this Regulation;

4. Annex VIIa is replaced by the text set out in Annex II to this Regulation;

5. in Annex XII the row relating to Cyprus is deleted.

Article 2

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

Points 1 and 3 of Article 1 shall apply from 1 July 2005.

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

Done at Brussels, 1 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX I

1B

TARIFF QUOTAS UNDER EUROPE AGREEMENTS BETWEEN THE COMMUNITY AND BULGARIA AND ROMANIA

1. Products originating in Romania

Quota number	CN code	Description ⁽¹⁾	Applicable duty (% of MFN)	Quantities (tonnes)	
				Annual quota from 1.7.2005 to 30.6.2006	Annual increase from 1 July 2006 and thereafter
09.4771	0402 10 19	Skimmed milk powder	Free	1 500	0
	0402 21 11				
	0402 21 19				
	0402 21 91				
09.4772	0403 10 11	Yoghurt, not flavoured	Free	1 000	0
	0403 10 13				
	0403 10 19				
	0403 10 31				
	0403 10 33				
	0403 10 39				
	0403 90 11	Other, not flavoured			
	0403 90 13				
	0403 90 19				
	0403 90 31				
	0403 90 33				
	0403 90 39				
	0403 90 51				
	0403 90 53				
	0403 90 59				
	0403 90 61				
	0403 90 63				
	0403 90 69				
09.4758	0406	Cheese and curd	Free ⁽²⁾	3 000	200

2. Products originating in Bulgaria

Quota number	CN code	Description ⁽¹⁾	Applicable duty (% of MFN)	Quantities (tonnes)	
				Annual quota from 1.7.2005 to 30.6.2006	Annual increase from 1 July 2006 and thereafter
09.4773	0402 10	Skimmed milk powder	Free ⁽²⁾	3 300	300
	0402 21	Whole milk powder, unsweetened			
09.4675	0403 10 11	Yoghurt, not flavoured	Free	7 70	70
	0403 10 13				
	0403 10 19				
	0403 10 31				
	0403 10 33				
09.4660	0403 10 39	Cheese and curd	Free ⁽²⁾	7 000	300
	0406				

⁽¹⁾ Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential arrangements being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are referred to, the applicability of the preferential arrangements is determined to the basis of the CN code and the corresponding description taken jointly.

⁽²⁾ This concession is only applicable to products not benefiting from any kind of export subsidies.

ANNEX II
‘ANNEX VIIa

1. Tariff quota under Annex I to the Association Agreement with the Republic of Chile

Quota No	CN code	Description ⁽¹⁾	Applicable rate of duty (% of the MFN duty)	Annual quantities (tonnes) (base = calendar year)	
				from 1.2.2003 to 31.12.2003	2004
09.1924	0406	Cheese and curd	Exemption	1 375	1 500
					Annual increase from 2005
					75

2. Tariff quota under Annex VII to Regulation (EC) No 747/2001 as regards certain agricultural products
originating in Israel

Quota No	CN Code	Description ⁽¹⁾	Applicable rate of duty	Annual quantities (tonnes) (base = calendar year)			
				2004	2005	2006	from 2007 onwards
09.1302	0404 10	Whey and modified whey	Exemption	824	848	872	896

⁽¹⁾ Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential arrangements being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are referred to, the applicability of the preferential arrangements is determined to the basis of the CN code and the corresponding description taken jointly.

COMMISSION REGULATION (EC) No 1037/2005**of 1 July 2005****establishing emergency measures for the protection and recovery of the anchovy stock in ICES Sub-area VIII**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾ and in particular Article 7(1) thereof,

Whereas:

- (1) New scientific information from the International Council for the Exploration of the Sea (ICES) indicates that urgent measures are necessary for the protection and recovery of the anchovy stock in ICES Sub-area VIII. The fishery should therefore be closed with immediate effect for a period of three months.
- (2) The Commission will, within the closure period, make an assessment of whether the closure should be reviewed

after consulting the Scientific, Technical and Economic Committee for Fisheries.

- (3) It is therefore appropriate for the Commission to take, on its own initiative, emergency measures to protect the anchovy stock,

HAS ADOPTED THIS REGULATION:

Article 1

Fishing for anchovy in ICES Sub-area VIII shall be prohibited. It shall also be prohibited to retain on board, tranship or land anchovy caught in ICES Sub-area VIII after the date of entry into force of this Regulation.

Article 2

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

It shall apply for a period of three months.

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

Done at Brussels, 1 July 2005.

For the Commission

Joe BORG

Member of the Commission

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

COMMISSION REGULATION (EC) No 1038/2005
of 1 July 2005
suspending the buying-in of butter in certain Member States

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream ⁽²⁾, and in particular Article 2 thereof,

Whereas:

- (1) Article 2 of Regulation (EC) No 2771/1999 lays down that buying-in is to be opened or suspended by the Commission in a Member State, as appropriate, once it is observed that, for two weeks in succession, the market price in that Member State is below or equal to or above 92 % of the intervention price.

- (2) Commission Regulation (EC) No 947/2005 ⁽³⁾ establishes the most recent list of Member States in which intervention is suspended. This list must be adjusted as a result of the market prices communicated by Sweden pursuant to Article 8 of Regulation (EC) No 2771/1999. In the interests of clarity, the list in question should be replaced and Regulation (EC) No 947/2005 should be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Buying-in of butter as provided for in Article 6(1) of Regulation (EC) No 1255/1999 is hereby suspended in Belgium, Denmark, Cyprus, Hungary, Malta, Greece, Luxembourg, the Netherlands, Austria, Slovenia, Finland and the United Kingdom.

Article 2

Regulation (EC) No 947/2005 is hereby repealed.

Article 3

This Regulation shall enter into force on 2 July 2005.

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

Done at Brussels, 1 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 333, 24.12.1999, p. 11. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

⁽³⁾ OJ L 160, 23.6.2005, p. 12.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 24 June 2005

appointing a member of the Committee of the Regions

(2005/478/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal from the United Kingdom Government,

Whereas:

- (1) On 22 January 2002 the Council adopted Decision 2002/60/EC ⁽¹⁾ appointing the members and alternate members of the Committee of the Regions for the period 26 January 2002 to 25 January 2006.
- (2) A seat as a member of the Committee of the Regions has become vacant following the resignation of Mr Derek BODEN,

HAS DECIDED AS FOLLOWS:

Article 1

Mr Dave QUAYLE
Member of the North West Regional Assembly
(Trafford Metropolitan Borough Council)

is hereby appointed a member of the Committee of the Regions in place of Mr Derek BODEN for the remainder of his term of office, which runs until 25 January 2006.

Article 2

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

It shall take effect on the date of its adoption.

Done at Luxembourg, 24 June 2005.

For the Council
The President
L. LUX

⁽¹⁾ OJ L 24, 26.1.2002, p. 38.

COUNCIL DECISION
of 24 June 2005
appointing an alternate member of the Committee of the Regions
(2005/479/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal from the United Kingdom Government,

Whereas:

- (1) On 22 January 2002 the Council adopted Decision 2002/60/EC ⁽¹⁾ appointing the members and alternate members of the Committee of the Regions for the period 26 January 2002 to 25 January 2006.
- (2) A seat as an alternate member of the Committee of the Regions has become vacant following the death of Ms Ruth BAGNALL,

HAS DECIDED AS FOLLOWS:

Article 1

Ms Sharon TAYLOR
Member of the East of England Regional Assembly
(Stevenage Borough Council)

is hereby appointed an alternate member of the Committee of the Regions in place of Ms Ruth BAGNALL for the remainder of her term of office, which runs until 25 January 2006.

Article 2

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

It shall take effect on the date of its adoption.

Done at Luxembourg, 24 June 2005.

For the Council
The President
L. LUX

⁽¹⁾ OJ L 24, 26.1.2002, p. 38.

COMMISSION

COMMISSION DECISION

of 30 April 2004

concerning cases COMP/D2/32448 and 32450 *Compagnie Maritime Belge SA* (Follow-up after the Court of Justice judgment of 16 March 2000)

(notified under document number C(2004) 1779)

(Only the Dutch text is authentic)

(2005/480/EC)

I. INTRODUCTION

- (1) On 30 April 2004, the Commission adopted a decision relating to a proceeding under Article 82 of the EC Treaty, imposing a fine of EUR 3 400 000 on the Antwerp shipping company *Compagnie Maritime Belge SA* (hereinafter CMB). In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty ⁽¹⁾, the Commission herewith publishes the name of the party and the main content of the decision, having regard to the legitimate interest of undertakings in the protection of their business interests. A non-confidential version of the full text of the decision can be found in the authentic languages of the case and in the Commission's working languages on the website of the Directorate-General for Competition at http://europa.eu.int/comm/competition/index_en.html

II. PROCEDURE

- (2) The decision is a follow-up to the so-called Cewal-case in which the Commission imposed fines on the members of a liner shipping conference called Associated Central West Africa Lines (hereinafter Cewal) for violating Article 86 of the EC Treaty (presently Article 82 and referred to below as such).
- (3) In Commission Decision 93/82/EEC ⁽²⁾ (hereinafter the original decision) the Commission established, *inter alia*, that Cewal and two other liner conferences, Cowac and Ukwac and the undertakings who were members of those conferences had infringed Article 85(1) of the EC Treaty (presently Article 81(1) and referred to below as such). Moreover, by engaging in three different forms of abuse of dominant position the undertakings who were members of Cewal had also infringed Article 82 of the EC Treaty. The undertakings were ordered to bring the infringements to an end.
- (4) In the original decision the Commission imposed fines for infringement of Article 82 of the EC Treaty on four of the member undertakings of Cewal. A fine of ECU 9,6 million was imposed on CMB.
- (5) All four companies and CMB's subsidiary CMBT submitted applications for annulment of the original decision to the Court of First Instance (CFI). In its judgment of 8 October 1996 ⁽³⁾ (hereafter the CFI judgment) the CFI dismissed the applications. However, it reduced the fines. CMB's fine was reduced to ECU 8 640 000.

⁽¹⁾ OJ L 1, 4.1.2003, p. 1. Regulation as amended by Regulation (EC) No 411/2004 (OJ L 68, 6.3.2004, p. 1).

⁽²⁾ OJ L 34, 10.2.1993, p. 20.

⁽³⁾ Joined cases T-24/93, T-25/93, T-26/93 and T-28/93, *CMB, CMBT and Dafra-Lines v Commission*, [1996] ECR II-1201.

- (6) CMB, CMBT and a second company that had been fined, Daфра-Lines A/S, appealed the CFI judgment. In its judgment of 16 March 2000 ⁽¹⁾ (hereafter the ECJ judgment) the Court of Justice (ECJ) rejected all appeal grounds submitted in relation to the substance of the original decision:
- but annulled the Articles of the original decision imposing the fines, and
 - dismissed the remainder of the appeal.
- (7) The reason for the annulment was that the Commission had failed to indicate clearly in the statement of objections:
- that it was contemplating imposing fines on each individual member of Cewal, and
 - that the amounts of the fines would be fixed in accordance with an assessment of the participation of each company in the conduct constituting the alleged infringement.
- (8) On 16 April 2003 the Commission sent CMB a new statement of objections informing them that it intended to adopt a new decision imposing fines for the infringements established in the original decision. In the statement of objections the Commission made CMB explicitly aware that it intended to impose fines on it individually, and that the amount of the fine imposed would be fixed in accordance with an assessment of the participation of each company in the conduct constituting the infringement.

III. THE DECISION

- (9) The present decision is based on the substantive findings of the original decision. It contains the explicit statement that it is not meant to supplement or amend the facts presented or the infringements established in the original decision. With a view thereto, the decision only contains a descriptive summary of the elements of the original decision that form the basis of the infringements established in it and a description of how these elements were assessed by the CFI and ECJ.
- (10) In the original decision the Commission found that the members of Cewal had a joint dominant position on the shipping routes between Zairean ports and northern European ports. They had abused that dominant position in order to eliminate competition from two other competing shipping companies by:
- insisting on the implementation of an exclusivity agreement between Cewal and a Zairean quasi-governmental agency (Ogefrem);
 - systematically using 'fighting ships'; and
 - imposing 100 % loyalty agreements and using blacklists to enable reprisals against users of independent vessels.
- (11) In the legal assessment it is reflected that the Commission considers the elements of the original decision as to the existence, character and extent of the infringements either as:
- *res judicata*, or
 - as having acquired a definitive nature since the time-limit for bringing an action against them has expired long ago.

⁽¹⁾ Joined cases C-395/96 P and C-396/96 P, CMB, CMBT and Daфра-Lines v Commission, [2000] ECR I-1365.

- (12) As regards the legal assessment of the situation regarding the fines the position is taken that CMB has been enabled to put forward a proper defence with respect to the fine to be imposed on it and the elements substantiating the fine.
- (13) As to the statute of limitations it is established that neither the five-year nor the ten-year limitation periods based on Regulation (EEC) No 2988/74 of the Council ⁽¹⁾ have expired, so that it is within the Commission's competence to impose a new fine.

IV. FINE

- (14) The Commission considers it necessary to impose a fine pursuant to Article 19(2) of Council Regulation (EEC) No 4056/86 ⁽²⁾ on CMB for the infringements of Article 82 of the EC Treaty established in the original Decision.
- (15) The present decision is based on the considerations regarding the imposition, level and allocation of the fines in the original decision, and the CFI's considerations with regard thereto.
- (16) The fine imposed is also based on the 1998 Guidelines. As to the amounts for gravity, account was taken of the nature of the infringements, their actual impact on the market and the relevant geographic market.
- (17) The relevant geographic market is the market in liner services between northern European ports and Zaire.
- (18) The infringements of Article 82 of the EC Treaty committed by CMB and the other members of Cewal are of a serious nature, in as much as they enabled Cewal to maintain a virtual monopoly on its routes to and from Zaire. Moreover, they were implemented in order to drive out the only competitor on the market.
- (19) Account was also taken of the fact that the President and secretary of Cewal were staff members of CMB and Cewal had its office in the same premises as CMB.
- (20) In its judgment the CFI held that for reasons of deterrence, the Commission was lawfully entitled to take account of the fact that vessels belonging to the CMB group carried, at the time when the original decision was adopted, almost all the cargoes of the conference. However, since at the time of the adoption of the present decision no such specific circumstance applies this circumstance was not taken into account when calculating the fine in the present decision.
- (21) On the basis of the foregoing considerations the Commission defined a basic amount of EUR 1 million for each infringement.
- (22) These basic amounts were increased with 20 %, 15 % and 20 % respectively in view of the duration of the infringements.
- (23) In view of the lapse of time since the conduct was terminated, as well as the time passed following the ECJ judgment until the issue of the statement of objections in April 2003, an amount of EUR 50 000 was subtracted from all three amounts.
- (24) This lead the Commission to impose a fine of EUR 3,4 million.

⁽¹⁾ OJ L 319, 29.11.1974, p. 1. Regulation as amended by Regulation (EC) No 1/2003.

⁽²⁾ OJ L 378, 31.12.1986, p. 4. Regulation as last amended by Regulation (EC) No 1/2003.