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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1090/2005
of 12 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 13 July 2005.

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

Done at Brussels, 12 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 12 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	45,4
	096	43,2
	999	44,3
0707 00 05	052	87,6
	999	87,6
0709 90 70	052	77,2
	999	77,2
0805 50 10	388	60,8
	528	60,0
	999	60,4
0808 10 80	388	78,5
	400	79,0
	404	63,8
	508	65,1
	512	80,0
	528	60,4
	720	64,7
	804	89,6
	999	72,6
0808 20 50	388	87,3
	512	45,3
	528	59,4
	800	31,4
	804	99,5
	999	64,6
0809 10 00	052	161,2
	999	161,2
0809 20 95	052	263,8
	400	312,0
	999	287,9
0809 40 05	528	109,1
	624	112,0
	999	110,6

⁽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 1091/2005

of 12 July 2005

implementing Regulation (EC) No 2160/2003 of the European Parliament and of the Council as regards requirements for the use of specific control methods in the framework of the national programmes for the control of salmonella

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

be fully justified in advance and recorded by the competent authority.

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of salmonella and other specified food-borne zoonotic agents ⁽¹⁾ and, in particular Article 8(1) thereof,

Whereas:

(1) Under Regulation (EC) No 2160/2003, it may be decided that specific control methods are not to be used as part of national control programmes established by Member States to achieve the Community targets set up in accordance with that Regulation.

(2) Also, under Regulation (EC) No 2160/2003 it may be decided that specific control methods may or shall be applied for the reduction of prevalence of zoonoses and zoonotic agents at the stage of the primary production of animals and other stages in the food chain, and rules may be adopted concerning the conditions for the use of such methods.

(3) Pursuant to Article 15 of Regulation (EC) No 2160/2003, the Commission is to consult the European Food Safety Authority (EFSA) before proposing rules on specific control methods.

(4) The Commission consulted EFSA on the use of antimicrobials and on the use of vaccines for the control of salmonella in poultry. Following that request, EFSA issued two separate opinions on those issues on 21 October 2004.

(5) In its opinion on the use of antimicrobials for the control of salmonella in poultry, EFSA recommended that the use of antimicrobials should be discouraged due to public health risks associated with development, selection and spread of resistance. The use of antimicrobials should be subject to formally defined conditions that would ensure protection of public health, and must

(6) As regards breeding flocks, while the opinion acknowledged the potential risk of dissemination of residual *Salmonella* spp., including dissemination of any selected resistant strains through the production pyramid, it recognised that valuable genetic material may be salvaged from infected breeding flocks through the use of antimicrobials. The opinion concluded also that most generally and for all types of poultry, on the rare occasions when *Salmonella* spp. causes clinical infections, antimicrobials may be useful in reducing morbidity and mortality.

(7) Therefore, on the basis of the opinion of EFSA, it is appropriate to provide that antimicrobials should not be used as part of national control programmes to be adopted pursuant to Article 6 of Regulation (EC) No 2160/2003, other than in the exceptional circumstances referred to by EFSA in its opinion.

(8) In any circumstances, only veterinary medicinal products authorised 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⁾, or Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency ⁽³⁾, should be used. Anti-microbial veterinary medicinal products are referred to as anti-microbials in this Regulation.

(9) It is generally recognised that the basis for successful control of salmonella infections in poultry farms are good farming and hygienic practices as well as testing and removal of positive flocks from production.

(10) In its opinion on the use of vaccines for the control of salmonella in poultry, EFSA concludes that vaccination of poultry is regarded as an additional measure to increase the resistance of birds against salmonella exposure and decrease the shedding.

⁽¹⁾ OJ L 325, 12.12.2003, p. 1.

⁽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).

⁽³⁾ OJ L 136, 30.4.2004, p. 1.

- (11) In its conclusions, EFSA also states in particular that provided that the detection methods are able to differentiate the vaccine strains from wild strains, both inactivated and live vaccines can be safely used throughout the life of the birds except during the withdrawal period before slaughter.
- (12) Therefore, on the basis of the opinion of EFSA, it is appropriate to provide that live vaccines should not be used as part of national control programmes to be adopted pursuant to Article 6 of Regulation (EC) No 2160/2003, if the manufacturer does not provide an appropriate method to distinguish bacteriologically wild-type strains of salmonella from vaccine strains.
- (13) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,
- (b) salvaging of valuable genetic material, including 'elite flocks', flocks from endangered breeds, and flocks kept for research purposes, in order to establish new salmonella-free flocks; chicks born from hatching eggs collected from treated animals shall be subject to fortnightly sampling during the rearing phase, with a scheme aiming to detect 1 % prevalence of relevant salmonella with a 95 % confidence limit;
- (c) authorisation given by the competent authority on a case by case basis for purposes other than salmonella control in a flock suspect of salmonella infection, in particular following detection of salmonella at the hatchery or at the holding; however, Member States may decide to allow treatment without prior authorisation in emergency situations, subject to reporting the treatment immediately to the competent authority.

HAS ADOPTED THIS REGULATION:

Article 1

Use of antimicrobials

1. Antimicrobials shall not be used as a specific method to control salmonella in breeding flocks of *Gallus gallus* in the framework of national control programmes adopted pursuant to Article 6 of Regulation (EC) No 2160/2003, except in the circumstances established in paragraph 2.

2. By way of derogation from paragraph 1, and subject to the conditions specified in points (a), (b) and (c) and in paragraph 3, antimicrobials authorised in accordance with Directive 2001/82/EC or Regulation (EC) No 726/2004 may be used in the following exceptional circumstances:

- (a) animals presenting salmonella infection with clinical signs in a way likely to cause undue suffering to the animals; the infected breeding flocks treated with antimicrobials shall still be considered infected with salmonella, and appropriate measures shall be taken to reduce as much as possible the risk of spreading salmonella through the rest of the breeding pyramid;

3. The use of antimicrobials shall be subject to authorisation and supervision of the competent authority and shall be based wherever possible on the results of bacteriological sampling and of susceptibility testing.

Article 2

Use of vaccines

Live salmonella vaccines for which the manufacturer does not provide an appropriate method to distinguish bacteriologically wild-type strains of salmonella from vaccine strains shall not be used in the framework of national control programmes adopted pursuant to Article 6 of Regulation (EC) No 2160/2003.

Article 3

Entry into force

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

It shall apply from 1 January 2007.

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

Done at Brussels, 12 July 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

COMMISSION REGULATION (EC) No 1092/2005**of 12 July 2005****suspending the system of advances of aid to compensate for loss of income from marketing in the banana sector in respect of 2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas ⁽¹⁾, and in particular Article 14 thereof,

Whereas:

producers to repay advances, the application of rules on the submission of applications for advances and on the payment of such advances laid down by Regulation (EEC) No 1858/93 should be suspended. The payment of advances for bananas marketed after 30 April 2005 and the submission of new applications should accordingly be suspended.

(4) This Regulation should therefore apply from 1 July 2005.

(5) The measures provided for in this regulation are in accordance with the opinion of the Management Committee for Bananas,

(1) Articles 4, 5 and 7 of Commission Regulation (EEC) No 1858/93 ⁽²⁾, lay down rules applicable to the submission of applications for advances under the aid scheme to compensate for loss of income from marketing in the banana sector provided for in Article 12 of Regulation (EEC) No 404/93.

HAS ADOPTED THIS REGULATION:

Article 1

The submission of applications for advances on the compensatory aid provided for in Articles 4, 5 and 7 of Regulation (EEC) No 1858/93 in respect of 2005 is hereby suspended.

Article 2

Notwithstanding Article 10 of Regulation (EEC) No 1858/93, no advances on the compensatory aid will be paid for bananas marketed after 30 April 2005.

Article 3

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

(2) Prices in the Community production regions are much higher than those in the corresponding period in previous years, and remain at a relatively high level. If this situation continues, compensatory aid for 2005 will be fixed, in due course, at a level far below the amounts fixed in respect of previous years. As a result, producers will be required to reimburse a large proportion of the amounts received in the form of advances. A substantial reduction in the unit value of the advances fixed by Commission Regulation (EC) No 703/2005 of 4 May 2005 fixing the compensatory aid for bananas produced and marketed in the Community in 2004 and the unit value of the advances for 2005 ⁽³⁾ will not remedy the consequences of such a situation.

(3) In order to preserve the financial interests of the Community and to avoid the subsequent obligation on

⁽¹⁾ OJ L 47, 25.2.1993, p. 1. Regulation as last amended by the 2003 Act of Accession.

⁽²⁾ OJ L 170, 13.7.1993, p. 5. Regulation as last amended by Regulation (EC) No 789/2005 (OJ L 132, 26.5.2005, p. 13).

⁽³⁾ OJ L 118, 5.5.2005, p. 12.

It shall apply from 1 July 2005.

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

Done at Brussels, 12 July 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 1093/2005**of 12 July 2005****on the issuing of system A3 export licences in the fruit and vegetables sector (tomatoes, oranges, table grapes, apples and peaches)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Commission Regulation (EC) No 979/2005 ⁽²⁾ opens an invitation to tender setting the indicative refund rates and indicative quantities for system A3 export licences, which may be issued, other than those tendered for as part of food aid.
- (2) In the light of the tenders submitted, the maximum refund rates and the percentages of quantities to be awarded for tenders quoting those maximum rates should be set.

- (3) In the case of tomatoes, oranges, table grapes, apples and peaches, the maximum rate necessary to award licences for the indicative quantity up to the quantities tendered for is not more than one-and-a-half times the indicative refund rate,

HAS ADOPTED THIS REGULATION:

Article 1

In the case of tomatoes, oranges, table grapes, apples and peaches, the maximum refund rates and the percentages for reducing the quantities awarded under the invitation to tender opened by Regulation (EC) No 979/2005 shall be fixed in the Annex.

Article 2

This Regulation shall enter into force on 13 July 2005.

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

Done at Brussels, 12 July 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

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

⁽²⁾ OJ L 166, 28.6.2005, p. 5.

ANNEX

Issuing of system A3 export licences in the fruit and vegetable sector (tomatoes, oranges, table grapes, apples and peaches)

Product	Maximum refund rate (EUR/t net)	Percentage awarded of quantities tendered for quoting the maximum refund rate
Tomatoes	0	100 %
Oranges	—	100 %
Table grapes	35	100 %
Apples	46	100 %
Peaches	26	100 %

COMMISSION REGULATION (EC) No 1094/2005**of 12 July 2005****fixing the export refunds on olive oil**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats ⁽¹⁾, and in particular Article 3(3) thereof,

Whereas:

- (1) Article 3 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries.
- (2) The detailed rules for fixing and granting export refunds on olive oil are contained in Commission Regulation (EEC) No 616/72 ⁽²⁾.
- (3) Article 3(3) of Regulation No 136/66/EEC provides that the refund must be the same for the whole Community.
- (4) In accordance with Article 3(4) of Regulation No 136/66/EEC, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market. However, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period. The amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted, where appropriate,

to take account of export costs for the products on the world market.

- (5) In accordance with Article 3(3) third indent, point (b) of Regulation No 136/66/EEC, it may be decided that the refund shall be fixed by tender. The tendering procedure should cover the amount of the refund and may be limited to certain countries of destination, quantities, qualities and presentations.
- (6) The second indent of Article 3(3) of Regulation No 136/66/EEC provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary.
- (7) The refund must be fixed at least once every month. It may, if necessary, be altered in the intervening period.
- (8) It follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Oils and Fats,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(2)(c) of Regulation No 136/66/EEC shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 13 July 2005.

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

Done at Brussels, 12 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ 172, 30.9.1966, p. 3025/66. Regulation as last amended by Regulation (EC) No 865/2004 (OJ L 161, 30.4.2004, p. 97).

⁽²⁾ OJ L 78, 31.3.1972, p. 1. Regulation as last amended by Regulation (EEC) No 2962/77 (OJ L 348, 30.12.1977, p. 53).

ANNEX

to the Commission Regulation of 12 July 2005 fixing the export refunds on olive oil

Product code	Destination	Unit of measurement	Amount of refund
1509 10 90 9100	A00	EUR/100 kg	0,00
1509 10 90 9900	A00	EUR/100 kg	0,00
1509 90 00 9100	A00	EUR/100 kg	0,00
1509 90 00 9900	A00	EUR/100 kg	0,00
1510 00 90 9100	A00	EUR/100 kg	0,00
1510 00 90 9900	A00	EUR/100 kg	0,00

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

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

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 31 January 2005

on the signing of an Agreement for scientific and technological cooperation between the European Community and the Arab Republic of Egypt

(2005/492/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 170 thereof, in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Commission has negotiated, on behalf of the Community, an Agreement for scientific and technological cooperation with Egypt.
- (2) Subject to possible conclusion at a later date, the Agreement initialled on 4 March 2004 should be signed,

HAS DECIDED AS FOLLOWS:

Sole Article

The President of the Council is hereby authorised to designate the person empowered to sign, on behalf of the Community, the Agreement for scientific and technological cooperation between the European Community and the Arab Republic of Egypt, subject to its possible conclusion at a later date.

The text of the Agreement is attached to this Decision.

Done at Brussels, 31 January 2005.

For the Council

The President

J. ASSELBORN

AGREEMENT**for scientific and technological cooperation between the European Community and the Arab Republic of Egypt**

THE EUROPEAN COMMUNITY, (hereinafter referred to as the 'Community')

of the one part,

and

THE ARAB REPUBLIC OF EGYPT (hereinafter referred to as 'Egypt'),

of the other part,

Hereinafter referred to as the 'Parties',

CONSIDERING the Treaty establishing the European Community and in particular Article 170 thereof, in conjunction with the first sentence of Article 300(2) and the first subparagraph of Article 300(3) thereof,

CONSIDERING Decision No 1513/2002/EC of the European Parliament and of the Council of 27 June 2002 concerning the sixth framework programme of the European Community for research, technological development and demonstration projects, contributing to the creation of the European Research Area and to innovation (2002-2006) ⁽¹⁾;

CONSIDERING the importance of science and technology for their economic and social development and the reference which was made in Article 43 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, on the one hand, and the Arab Republic of Egypt, on the other hand, signed on 25 June 2001;

WHEREAS the Community and Egypt undertook common research, technological development and demonstration activities, in various fields of common interest, and whereas it would be to their mutual advantage were each one of them to take part in the activities of research and development of the other, on a reciprocity basis;

WISHING to establish a formal framework for cooperation in scientific and technological research which would make it possible to extend and intensify cooperative efforts in the fields of common interest and to encourage the use of the results of this cooperation considering their mutual economic and social interests;

WISHING to open the European Research Area to non-member countries, and in particular to the Mediterranean partner countries,

HAVE AGREED AS FOLLOWS:

*Article 1***Scope and principles**

1. The Parties shall encourage, develop and facilitate cooperative activities between the Community and Egypt in fields of common interest where they are pursuing research and development activities in science and technology.

2. Cooperative activities shall be conducted on the basis of the following principles:

— promotion of a knowledge-based society to foster the social and economic development of both Parties;

— mutual benefit based on an overall balance of advantages;

— reciprocal access to the activities of research programmes and projects undertaken by each Party;

— timely exchange of information which may affect cooperative activities;

— appropriate exchange and protection of intellectual property rights.

⁽¹⁾ OJ L 232, 29.8.2002, p. 1. Decision as amended by Decision No 786/2004/EC (OJ L 138, 30.4.2004, p. 7).

*Article 2***Means of cooperation**

1. Legal entities established in Egypt, as defined in Annex I, including either physical persons or private or public moral persons, shall participate in indirect actions of the Community's Framework programme for research and technological development and demonstration activities (hereinafter referred to as the 'EC Framework programme') under the same conditions as those applicable to legal entities of Member States of the European Union, subject to the terms and conditions established by, or referred to in, Annexes I and II.

2. Legal entities established in the Member States of the Community shall participate in Egypt's research programmes and projects in themes equivalent to those of the EC Framework programme under the same conditions as those applicable to legal entities of Egypt, subject to the terms and conditions established by, or referred to in, Annexes I and II.

3. Cooperation may also take the following forms and means:

- regular discussions on the guidelines and priorities for research policies and planning in Egypt and the Community,
- discussions on cooperation prospects and development,
- timely provision of information concerning the implementation of programmes and research projects of Egypt and of the Community, and concerning the results of work undertaken within the framework of this Agreement,
- joint meetings,
- visits and exchanges of research workers, engineers and technicians, including for training purposes,
- exchanges and sharing of equipment and materials,
- regular and sustained contacts between programme or project managers of Egypt and the Community,
- participation of experts in seminars, symposia and workshops,
- exchanges of information on practices, laws, regulations, and programmes relevant to cooperation under this Agreement,
- research and technological development training,

— reciprocal access to scientific and technologic information in the scope of this cooperation,

— any other modality adopted by the EC-Egypt Joint Scientific and Technical Cooperation Committee, as defined in Article 4, and deemed to be in accordance with the policies and procedures applicable in both Parties.

*Article 3***Enhancement of cooperation**

1. The Parties shall make every effort, within the framework of their applicable legislation, to facilitate the free movement and residence of research workers participating in the activities covered by this Agreement and to facilitate cross-border movement of goods intended for use in such activities.

2. Where, in accordance with its own rules, the Community unilaterally grants funding to a legal entity of Egypt participating in a Community indirect action, Egypt shall ensure that no charge or levy is imposed upon that transaction.

*Article 4***Management of the Agreement****EC-Egypt Joint Scientific and Technological Cooperation Committee**

1. The coordination and facilitation of activities under this Agreement shall be accomplished on behalf of Egypt by the Academy of Scientific Research and Technology and on behalf of the Community by the services of the Commission of the European Communities in charge of the Framework programme, acting as executive agents of the Parties (hereinafter referred to as 'Executive Agents').

2. The Executive Agents shall establish a joint committee called 'EC-Egypt Joint Scientific and Technological Cooperation Committee' (hereinafter referred to as the 'Joint Committee'), whose functions shall include:

- ensuring, evaluating and reviewing the implementation of this Agreement, as well as amending the Annexes thereto or adopting new ones to take into consideration developments in the Parties' scientific policies, subject to the fulfilment by each of the Parties of its internal procedures for that purpose,
- identifying, on an annual basis, potential sectors where cooperation should be developed and improved, and examining any measure to that end,

— regularly discussing the future orientations and priorities of research policies and research planning in Egypt and the Community and the prospects for future cooperation within this Agreement.

3. The Joint Committee, which shall be composed of representatives of the Executive Agents, shall adopt its rules of procedure.

4. The Joint Committee shall meet at least once a year, alternately in the Community and in Egypt. Extraordinary meetings shall be held at the request of one or other of the Parties. The conclusions and recommendations of the Joint Committee will be sent for information to the Association Committee of the Euro-Mediterranean Agreement between the European Union and the Arab Republic of Egypt.

Article 5

Financing

The reciprocal participations in research activities under this Agreement shall be set according to the conditions defined in Annex I and shall be subject to legislation, regulations, policies and conditions of implementation of the programmes in force on the territory of each Party.

Article 6

Dissemination and use of the results and information

The dissemination and use of the achieved and/or exchanged results as well as those of information, management, allocation and exercise of intellectual property rights resulting from the research activities undertaken under this Agreement shall be subject to the conditions provided for in Annex II.

Article 7

Final provisions

1. Annexes I and II shall form an integral part of this Agreement.

All questions or disputes related to the interpretation or implementation of this Agreement shall be settled by mutual agreement of the Parties.

2. This Agreement shall enter into force when the Parties have notified each other of the completion of their internal procedures for its conclusion. Pending the completion by the Parties of their internal procedures for its conclusion, the Parties shall provisionally apply this Agreement upon its signature.

Should one Party notify the other that it will not conclude the Agreement, it is hereby mutually agreed that projects and activities launched under this provisional application and that are still in progress at the time of the abovementioned notification shall continue until their completion under the conditions laid down in this Agreement.

3. Either of the Parties may terminate this Agreement at any time upon 12 months' notice.

Projects and activities in progress at the time of termination of this Agreement shall continue until their completion under the conditions laid down in this Agreement.

4. Should one of the Parties decide to amend its research programmes and projects referred to in Article 1(1), that Party's Executive Agent shall notify the other Party's Executive Agent of the precise content of the amendments in question.

By way of derogation from the second subparagraph of paragraph 2, this Agreement may be terminated under mutually agreed conditions should either of the Parties notify the other within one month after the adoption of the amendments referred to in the first subparagraph of its intention to terminate this Agreement.

5. This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Arab Republic of Egypt. This shall not prevent the conduct of cooperative activities on the high seas, in outer space or in the territory of third countries, in accordance with international law.

6. This Agreement shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Arabic languages, each of these texts being equally authentic.

Hecho en El Cairo, el veintiuno de junio de dos mil cinco.

Udfærdiget i Kairo den enogtyvende juni to tusind og fem.

Geschehen zu Kairo am einundzwanzigsten Juni zweitausendfünf.

Έγινε στο Κάιρο, στις είκοσι μία Ιουνίου δύο χιλιάδες πέντε.

Done at Cairo on the twenty-first day of June in the year two thousand and five.

Fait au Caire, le vingt-et-un juin deux mille cinq.

Fatto a il Cairo, addì ventuno giugno duemilacinque.

Gedaan te Kaïro, de eenentwintigste juni tweeduizend vijf.

Feito no Cairo, em vinte e um de Junho de dois mil e cinco.

Tehty Kairossa kahdentenakymmenentenäensimmäisenä päivänä kesäkuuta vuonna kaksituhattaviisi.

Som skedde i Kairo den tjugoförsta juni tjugohundrafern.

وُقِعَتْ فِي الْقَاهِرَةِ فِي ٢١ يُونِيُو ٢٠٠٥

Por la Comunidad Europea

For Det Europæiske Fællesskab

Für die Europäische Gemeinschaft

Για την Ευρωπαϊκή Κοινότητα

For the European Community

Pour la Communauté européenne

Per la Comunità europea

Voor de Europese Gemeenschap

Pela Comunidade Europeia

Euroopan yhteisön puolesta

För Europeiska gemenskapen

عن المفوضية، نيابة عن الجماعة الأوروبية

Por el Gobierno de la República Árabe de Egipto
På vegne af Den Arabiske Republik Egyptens regering
Für die Regierung der Arabischen Republik Ägypten
Για την Κυβέρνηση της Αραβικής Δημοκρατίας της Αιγύπτου
For the Government of the Arab Republic of Egypt
Pour le gouvernement de la République arabe d'Égypte
Per il Governo della Repubblica araba di Egitto
Voor de regering van de Arabische Republiek Egypte
Pelo Governo da República Árabe do Egipto
Egyptin arabitasavallan hallituksen puolesta
För Arabrepublikens Egyptens regering

عن حكومة جمهورية مصر العربية

A handwritten signature in black ink, consisting of a stylized, cursive script. It appears to be a personal signature, possibly of a government official, written in Arabic.

ANNEX I

Terms and conditions for the participation of legal entities of Member States of the European Union and of Egypt

For the purpose of this Agreement, a legal entity means any natural person, or any legal person created under the national law of its place of establishment or under Community law or international law, having legal personality and being entitled to have rights and obligations of any kind in its own name.

I. TERMS AND CONDITIONS FOR THE PARTICIPATION OF LEGAL ENTITIES OF EGYPT IN INDIRECT ACTIONS OF THE EC FRAMEWORK PROGRAMME

1. Participation of legal entities established in Egypt in indirect actions of the EC Framework programme shall follow the conditions laid down by the European Parliament and the Council according to Article 167 of the Treaty establishing the European Community.

In addition, legal entities established in Egypt may participate in indirect actions undertaken according to Article 164 of the Treaty establishing the European Community.

2. The Community may grant funding to legal entities established in Egypt participating in indirect actions referred to in paragraph 1 under the terms and conditions laid down by the decision taken by the European Parliament and the Council according to Article 167 of the Treaty establishing the European Community, the European Community's Financial Regulations and any other applicable Community legislation.

3. A contract concluded by the Community with any legal entity of Egypt in order to perform an indirect action shall provide for controls and audits to be carried out by, or under the authority of, the Commission or the Court of Auditors of the European Communities.

In a spirit of cooperation and mutual interest, the relevant authorities of Egypt shall provide any reasonable and feasible assistance as may be necessary or helpful under the circumstances to perform such controls and audits.

II. TERMS AND CONDITIONS FOR THE PARTICIPATION OF LEGAL ENTITIES OF MEMBER STATES OF THE EUROPEAN UNION IN EGYPTIAN RESEARCH PROGRAMMES AND PROJECTS

1. Any legal entity established in the Community, created under the national law of one of the Member States of the European Union or under Community law, may participate in projects of Egyptian research and development programmes jointly with Egyptian legal entities.

2. Subject to paragraph 1 and to Annex II, the rights and obligations of legal entities established in the Community participating in Egyptian research projects within research and development programmes, and the terms and conditions applicable for the submission and evaluation of proposals and for the granting and conclusion of contracts in such projects shall be subject to Egyptian laws, regulations and government directives governing the operation of research and development programmes, as applicable to Egyptian legal entities and assuring equitable treatment, taking into account the nature of the cooperation between Egypt and the Community in this field.

Funding of legal entities established in the Community participating in Egyptian research projects within research and development programmes shall be subject to the Egyptian laws, regulations and government directives governing the operation of research and development programmes, as applicable to non-Egyptian legal entities participating in Egyptian research projects within research and development programmes.

3. Egypt shall regularly inform the Community and Egyptian legal entities of current Egyptian programmes and participation opportunities for legal entities established in the Community.

ANNEX II

Principles on the allocation of intellectual property rights**I. APPLICATION**

For the purposes of this Agreement, 'intellectual property' shall have the meaning given in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm on 14 July 1967.

For the purposes of this Agreement, knowledge shall mean the results, including information, whether or not they can be protected, as well as copyrights or rights pertaining to such information following applications for, or the issue of, patents, designs, plant varieties, supplementary protection certificates or similar forms of protection.

II. INTELLECTUAL PROPERTY RIGHTS OF LEGAL ENTITIES OF THE PARTIES

1. Each Party shall ensure that the intellectual property rights of legal entities established in the other Party participating in activities carried out pursuant to this Agreement and the related rights and obligations arising from such a participation are consistent with the relevant international conventions that are applicable to the Parties, including the TRIPS Agreement (Agreement on trade-related aspects of intellectual property Rights administered by the World Trade Organisation) as well as the Berne Convention (Paris Act 1971) and the Paris Convention (Stockholm Act 1967).

2. Legal entities established in Egypt participating in an indirect action of the EC Framework programme shall have the same rights and obligations on intellectual property as those of legal entities established in the Community, under the conditions laid down by the decision taken by the European Parliament and the Council according to Article 167 of the Treaty establishing the European Community, and in the contract concluded with the Community accordingly, such rights and obligations being in compliance with paragraph 1.

3. Legal entities established in the Community participating in Egyptian research programmes or projects shall have the same rights and obligations on intellectual property as those of legal entities established in Egypt participating in such research programmes or projects, such rights and obligations being in compliance with paragraph 1.

III. INTELLECTUAL PROPERTY RIGHTS OF THE PARTIES

1. Except if otherwise specifically agreed by the Parties, the following rules shall apply to knowledge generated by the Parties in the course of activities carried out within Article 2(2) of this Agreement:

- (a) The Party generating such knowledge shall be the owner of that knowledge. Where their respective share of the work cannot be ascertained, they shall have joint ownership of such knowledge.
- (b) The Party owning that knowledge shall grant access rights on it to the other Party for carrying out activities referred to in Article 2(2) of this Agreement. Such access rights shall be granted on a royalty-free basis.

2. Unless otherwise specifically agreed by the Parties, the following rules shall apply to scientific literary works of the Parties:

- (a) In cases where a Party publishes scientific and technical data, information and results, by means of journals, articles, reports, books, including video and software, arising and relating to activities carried out pursuant to this Agreement, a worldwide, non-exclusive, irrevocable, royalty-free licence shall be granted to the other Party to translate, reproduce, adapt, transmit and publicly distribute such works.
- (b) All copies of data and information, protected by copyright, that have to be publicly distributed and prepared under this section shall indicate the names of the author(s) of the work unless an author explicitly declines to be named. They shall also bear a clearly visible acknowledgement of the cooperative support of the Parties.

3. Unless otherwise specifically agreed by the Parties, the following rules shall apply to undisclosed information of the Parties:

- (a) When communicating to the other Party information relating to activities carried out pursuant to this Agreement, each Party shall identify the information it wishes to remain undisclosed through confidential insignia or legends.
 - (b) The receiving Party may, under its own responsibility, communicate undisclosed information to bodies or persons under its authority for the specific purposes of implementing this Agreement.
 - (c) With the prior written consent of the Party providing undisclosed information, the receiving Party may disseminate such undisclosed information more widely than otherwise permitted in paragraph (b). The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party shall provide such approval to the extent permitted by its domestic policies, regulations and laws.
 - (d) Non-documentary undisclosed or other confidential information provided in seminars and other meetings between representatives of the Parties arranged under this Agreement, or information arising from the attachment of staff, use of facilities or indirect actions, shall remain confidential when the recipient of such undisclosed or other confidential or privileged information was made aware of the confidential character of the information communicated at the time such communication was made, pursuant to paragraph (a).
 - (e) Each Party shall endeavour to ensure that undisclosed information which it receives under paragraphs (a) and (d) is controlled as provided for in this Agreement. If one of the Parties becomes aware that it will be, or may be reasonably expected to become, unable to meet the non-dissemination provisions laid down in paragraphs (a) and (d), it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.
-

COMMISSION

COMMISSION DECISION

of 1 October 2003

**relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement
against Chisso Corporation, Daicel Chemical Industries Ltd, Hoechst AG, The Nippon Synthetic
Chemical Industry Co. Ltd and Ueno Fine Chemicals Industry Ltd**

(Case No C.37.370 — Sorbates)

(notified under document number C(2003) 3426)

(Only the English and German texts are authentic)

(Text with EEA relevance)

(2005/493/EC)

On 1 October 2003, the Commission adopted a Decision relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 ⁽¹⁾, the Commission herewith publishes the names of the parties and the main content of the Decision, as well as the penalties imposed, 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 at the Directorate-General for Competition's website at http://europa.eu.int/comm/competition/index_en.html

I. SUMMARY OF THE INFRINGEMENT

Addressees and nature of the infringement

- (1) This Decision is addressed to Chisso Corporation (hereinafter Chisso), Daicel Chemical Industries Ltd (hereinafter Daicel), Hoechst AG (hereinafter Hoechst), The Nippon Synthetic Chemical Industry Co. Ltd (hereinafter Nippon) and Ueno Fine Chemicals Industry Ltd (hereinafter Ueno).
- (2) The addressees participated in a single and continuous infringement of Article 81(1) of the Treaty establishing the European Community (hereinafter the EC Treaty or the Treaty) and, from 1 January 1994, Article 53(1) of the Agreement on the European Economic Area (hereinafter EEA Agreement), covering the whole of the EEA territory, by which they:

— agreed on price targets,

— allocated volume quotas for sorbates,

— decided not to supply technology to potential market entrants, and

— monitored their anti-competitive arrangements.

Duration of the infringement

- (3) The undertakings participated in the infringement from at least 31 December 1978 until at least 30 November 1995 in the case of Nippon, and until at least 31 October 1996 for the other Parties.

⁽¹⁾ OJ L 1, 4.1.2003, p. 1.

The market for sorbates

- (4) Sorbates are chemical preservatives (anti-microbial agents) capable of retarding or preventing growth of micro-organisms, such as yeast, bacteria, moulds or fungi, used primarily in food and beverages. Their principal mechanisms are to reduce water availability and increase acidity. Sometimes these additives also preserve other important food characteristics such as flavour, colour, texture and nutritional value. In addition to their use as a preservative in food and beverages, sorbates also perform well in the stabilisation of other types of products such as pharmaceutical products, cosmetics, pet food and animal feed.
- (5) There are three main types of sorbates: sorbic acid, potassium sorbate and calcium sorbate.
- (6) Sorbic acid is the basic product. It is a fatty acid, decomposed and utilised in the body, and physiologically inert. It has no effect on the odour or flavour of products it is used to preserve. It is widely used in margarine, mayonnaise, salads, cheese, fish products, meat and sausage products, fruit products, beverages, confectionery and bakery products, and for fungistatic packaging materials. It is a technically complex substance to produce, whilst other sorbate products are the result of a technically simpler conversion step from sorbic acid. The production of sorbic acid requires two essential raw materials ketene and crotonic aldehyde, the former (a gas) must be produced on site. The high investment necessary for production plants poses important barriers for potential entrants.
- (7) Potassium sorbate is used where high water solubility is desired. Use of sorbic acid is limited because of its low solubility in water. Therefore, potassium sorbate is the primary form used in most products with high water content.
- (8) Calcium sorbate is produced in small quantities, being used for the coating of cheese wrapping paper in France and Italy.
- (9) Sorbic acid and its salts (including potassium sorbate) rank among the main preservatives used in western Europe. Sorbic acid represents 30 % of sorbates sales and potassium sorbate represents the remaining 70 %.
- (10) Preservatives are mature products and not research and development intensive, and the prospects for new preservatives entering the market place are minimal.
- (11) Sorbates are the leading product segment in the preservatives sector. The main substitution products for sorbates are sodium and potassium benzoate together with parabens. However, many manufacturers prefer the sorbates, notwithstanding their higher price, for quality reasons. None of these products constitute perfect substitutes, with parabens in particular occupying only a niche market in the food preservative industry. The demand for sorbates is not price elastic since there are few, if any, alternatives to its use.
- (12) The geographic relevant market is worldwide in scope. It exceeds, thus, the geographic area on which the sanction applies, namely the EEA.

Functioning of the cartel

- (13) The structure, organisation and operation of the cartel were based upon a shared assessment of the market. Hoechst, representing the European market and Daicel, Chisso, Nippon and Ueno, as a group, representing the Japanese market.
- (14) Cartel meetings were held at several different levels. The twice-yearly meetings between Hoechst and the four Japanese producers (joint meetings); the Japanese producers' preparatory meetings (preparatory meetings or pre-meetings) and the bilateral meetings and telephone contacts (bilateral contacts).
- (15) Prior to each joint meeting, the Japanese producers used to have a series of preparatory meetings in order to agree on the prices and volume quotas to be discussed with Hoechst.
- (16) In addition to group meetings, there were a number of bilateral meetings and telephone contacts, between Hoechst and the Japanese producers.

II. FINES

Basic amount

- (17) Taking into account the nature of the infringement in this case, its actual impact on the sorbates market and the fact that it covered the whole of the common market and, following its creation, the whole of the EEA market, the Commission considers that the undertakings concerned by this Decision have committed an infringement of Article 81(1) of the EC Treaty and Article 53(1) of the EEA Agreement, which was very serious.

Differential treatment

- (18) Within the category of very serious infringements, the scale of likely fines makes it possible to apply differential treatment to undertakings in order to take account of the effective economic capacity of the offenders to cause significant damage to competition. This exercise is particularly necessary where, as in this case, there is considerable disparity in the market size of the undertakings participating in the infringement.
- (19) In the circumstances of this case, which involves several undertakings, it will be necessary in setting the basic amount of the fines to take account of the specific weight and therefore the real impact of the offending conduct of each undertaking on competition. For this purpose, the undertakings concerned can be divided into different groups established according to their relative importance in the relevant market.
- (20) In this case, the Commission therefore considers it appropriate to take the worldwide product turnover in the last full year of the infringement (1995) as the basis for comparing the relative importance of each undertaking in the market concerned.
- (21) According to worldwide product turnover provided by the companies themselves in their response to the Commission's requests for information, in 1995 Hoechst was by far the largest producer of sorbates in the worldwide market with a market share of [...] (*) % (in the EEA [...] (*) %). It is therefore placed in the first group. Daicel, Chisso Nippon and Ueno all have market shares between [...] (*) % and [...] (*) % (in the EEA between [...] (*) % and [...] (*) %). Therefore, they are placed in the second group.
- (22) On the basis of the foregoing, the appropriate starting amount for the fines to be imposed in this case resulting from the criterion of relative importance in the market concerned is, for each of the two groups, as follows:

— first group: EUR 20 million,

— second group: EUR 6,66 million.

Sufficient deterrence

- (23) In order to ensure that the fine has a sufficient deterrent effect on large undertakings and take account of the fact that large undertakings have legal and economic knowledge and infrastructures which enable them more easily to recognise that their conduct constitutes an infringement, and to be aware of the consequences stemming from that conduct under competition law, the starting amount for Hoechst should be further adjusted.
- (24) In the case of Hoechst, being by far the largest undertaking concerned by this Decision, the Commission considers that the appropriate starting amount for a fine resulting from the criterion of the relative importance in the market concerned requires further upward adjustment to take account of its size and its overall resources. Therefore, the starting amount of its fine determined in recital 22 should be increased by 100 % to EUR 40 million.

(*) Parts of this text have been edited to ensure that confidential information is not disclosed; those parts are enclosed in square brackets and marked with an asterisk.

Duration

- (25) The Commission considers that Chisso, Daicel, Hoechst and Ueno infringed Article 81(1) of the Treaty and Article 53(1) of the EEA Agreement from 31 December 1978 until 31 October 1996. They committed a long-term infringement of 17 years and 10 months. The starting amount of the fines determined for gravity for Chisso, Daicel, Ueno and for Hoechst, should therefore be increased by 175 %.
- (26) Nippon infringed Article 81(1) of the Treaty and Article 53(1) of the EEA Agreement from 31 December 1978 until 30 November 1995. It committed a long-term infringement of 16 years and 11 months. The starting amount of its fine determined in recital (22) for gravity should therefore be increased by 165 %.
- (27) The Commission accordingly sets the basic amounts of the fines for Chisso at EUR 18,315 million, for Daicel at EUR 18,315 million, for Hoechst at EUR 110 million, for Nippon at EUR 17,649 million and for Ueno at EUR 18,315 million.

Aggravating circumstances

- (28) Hoechst's leading role in the cartel and its recidivist behaviour should therefore be considered as aggravating circumstances, justifying increases of 30 % and of 50 % respectively of the basic amount of the fine.
- (29) Daicel, alongside with Hoechst, was a driving force behind the cartel. The two undertakings were by far the most powerful cartel members, with the largest market share and sharing the same interests. The fact that Hoechst played a leading role in the infringement does not mean that Daicel did not also do so. However, the Commission accepts that other members of the cartel took certain initiatives in order to realise their common anti-competitive goals. Having regard to the foregoing, the basic amount of the fine should be increased, in the case of Daicel, by 30 %.
- (30) There are no aggravating circumstances relating to the infringement in Chisso's case.
- (31) There are no aggravating circumstances relating to the infringement in Nippon's case.
- (32) There are no aggravating circumstances relating to the infringement in Ueno's case.

Attenuating circumstances

- (33) There are no attenuating circumstances relating to the infringement in Hoechst's case.
- (34) There are no attenuating circumstances relating to the infringement in Daicel's case.
- (35) There are no attenuating circumstances relating to the infringement in Chisso's case.
- (36) There are no attenuating circumstances relating to the infringement in Nippon's case.
- (37) With reference to Ueno's case the Commission will consider as an attenuating circumstance the non-implementation in practice of the agreed volume quota allocations.

Application of the 1996 Leniency Notice

- (38) The 2002 Leniency Notice is clearly inapplicable to this case. The dividing line for the application *ratione temporis* of the 1996 and 2002 Notices has been drawn in point 28 of the 2002 Notice, which reads as follows:

'From 14 February 2002, this notice replaces the 1996 notice for all cases in which no undertaking has contacted the Commission in order to take advantage of the favourable treatment set out in that notice.'

- (39) In this case, several undertakings, including Hoechst, had already 'contacted' the Commission before that date. The 1996 Leniency Notice therefore remains applicable.
- (40) In accordance with Section B of the 1996 Leniency Notice, the Commission grants Chisso a 100 % reduction of the fine that would otherwise have been imposed had it not cooperated with the Commission.
- (41) Therefore, the Commission will not impose any fine on Chisso.

Significant reduction of a fine ('Section D': reduction from 10 to 50 %)

- (42) After due consideration of Hoechst's cooperation under the 1996 Leniency Notice, the Commission grants it, in accordance with the first and second indent of Section D(2) of that Notice, a 50 % reduction of the fine that would have been imposed if it had not cooperated with the Commission.
- (43) After due consideration of Nippon's cooperation under the 1996 Leniency Notice, the Commission grants it, in accordance with the first and second indent of Section D(2) of that Notice, a 40 % reduction of the fine that would have been imposed if it had not cooperated with the Commission.
- (44) After due consideration of Daicel's cooperation under the 1996 Leniency Notice, and having taken into account the stage of the procedure when this cooperation took place, the Commission grants it, in accordance with the first and second indent of Section D(2) of that Notice, a 30 % reduction of the fine that would have been imposed if it had not cooperated with the Commission.
- (45) After due consideration of Ueno's cooperation under the 1996 Leniency Notice, and having taken into account the stage of the procedure when this cooperation took place, the Commission grants it, in accordance with the first and second indent of Section D(2) of that Notice, a 25 % reduction of the fine that would have been imposed if it had not cooperated with the Commission.
- (46) In conclusion, with regard to the nature of their cooperation and in the light of the conditions as set out in the 1996 Leniency Notice, the fines to be imposed on the addressees of this Decision should be reduced as follows:
 - (a) Chisso: a reduction of 100 %,
 - (b) Daicel: a reduction of 30 %,
 - (c) Hoechst: a reduction of 50 %,
 - (d) Nippon: a reduction of 40 %,
 - (e) Ueno: a reduction of 25 %.

Ability to pay

Arguments of Chisso and Ueno

- (47) Chisso submits that its financial situation has deteriorated in recent years due to the severe and lasting economic crisis in Japan for over two decades and the immense financial exposure to Chisso for damages and clean up costs arising from the Minamata disease. In its submission made on 10 June 2003, Chisso further explains and describes its precarious financial position and provides the Commission with financial data.
- (48) The Commission notes that Ueno failed to produce consolidated figures. After having examined Ueno's financial situation on the basis of non-consolidated figures, the Commission concludes that it is not appropriate to adjust the amount of the fine in Ueno's case. To take into account the adverse financial situation of an undertaking would be tantamount to conferring an unjustified competitive advantage on undertakings least well adapted to the conditions of the market. As the Commission does not impose a fine on Chisso, its argument is irrelevant.

Decision

- (49) In conclusion, the fines to be imposed pursuant to Article 23(2) of Regulation (EC) No 1/2003 should be as follows:
- Daicel Chemical Industries Ltd: EUR 16,6 million
 - Hoechst AG: EUR 99,0 million
 - The Nippon Synthetic Chemical Industry Co. Ltd: EUR 10,5 million
 - Ueno Fine Chemicals Industry Ltd: EUR 12,3 million
- (50) The undertakings listed shall immediately bring the infringements to an end, in so far as they have not already done so. They shall refrain from repeating any act or conduct as the infringement found in this case and from any act or conduct having the same or similar object or effect.
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COMMISSION DECISION

of 8 July 2005

amending Decision 2005/363/EC concerning animal health protection measures against African swine fever in Sardinia, Italy*(notified under document number C(2005) 2110)***(Text with EEA relevance)**

(2005/494/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽²⁾, and in particular Article 10(4) thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ⁽³⁾, and particular Articles 4(3) thereof,

Whereas:

(1) Commission Decision 2005/363/EC of 2 May 2005 concerning animal health protection measures against African swine fever in Sardinia, Italy ⁽⁴⁾ was adopted in response to the presence of African swine fever in the province of Nuoro and part of the province of Sassari in Sardinia.

(2) Italy has informed the Commission about the recent evolution of that disease in the provinces of Sassari and Oristano of Sardinia.

(3) The areas of Sardinia as referred to in point (b)(i) of Article 5(2) of Decision 2005/363/EC that are excluded from the derogation foreseen in this Article that authorises the Italian authorities to dispatch pig meat under certain conditions should therefore be extended with the province of Oristano and the municipalities Calangianus, Sant'Antonio di Gallura, Telti of the province of Sassari.

(4) Decision 2005/363/EC should therefore be amended accordingly.

(5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Annex I to Decision 2005/363/EC is replaced by the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 8 July 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

⁽¹⁾ OJ L 395, 30.12.1989, p. 13. Directive as last amended by Directive 2004/41/EC of the European Parliament and of the Council (OJ L 157, 30.4.2004, p. 33; corrected version in OJ L 195, 2.6.2004, p. 12).

⁽²⁾ OJ L 224, 18.8.1990, p. 29. Directive as last amended by Directive 2002/33/EC of the European Parliament and of the Council (OJ L 315, 19.11.2002, p. 14).

⁽³⁾ OJ L 18, 23.1.2003, p. 11.

⁽⁴⁾ OJ L 118, 5.5.2005, p. 39.

ANNEX

'ANNEX I

Areas of Sardinia as referred to in point (b)(i) of Article 5(2)

- (a) In the province of Nuoro: the whole territory.
 - (b) In the province of Sassari: the territory of the municipalities of Alà dei Sardi, Anela, Banari, Benetutti, Bessude, Bonnanaro, Bono, Bonorva, Borutta, Bottidda, Buddusò, Bultei, Burgos, Cheremule, Cossuine, Esporlatu, Giave, Illorai, Ittireddu, Mores, Nughedu di San Nicolò, Nule, Pattada, Siligo, Thiesi, Torralba, Calangianus, Sant'Antonio di Gallura, Telti.
 - (c) In the province of Oristano: the whole territory.'
-

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

COUNCIL DECISION 2005/495/CFSP

of 13 June 2005

concerning the conclusion of an Agreement between the European Union and Ukraine establishing a framework for the participation of Ukraine in the European Union crisis management operations

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 24 thereof,

Having regard to the recommendation from the Presidency,

Whereas:

- (1) Conditions regarding the participation of third States in EU crisis management operations should be laid down in an Agreement establishing a framework for such possible future participation, rather than defining these conditions on a case-by-case basis for each operation concerned.
- (2) Following authorisation by the Council on 23 February 2004, the Presidency, assisted by the Secretary-General/High Representative, negotiated an Agreement between the European Union and Ukraine establishing a framework for the participation of Ukraine in the European Union crisis management operations.
- (3) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Union and Ukraine establishing a framework for the participation of Ukraine in

the European Union crisis management operations is hereby approved on behalf of the European Union.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in order to bind the European Union.

Article 3

This Decision shall take effect on the day of its adoption.

Article 4

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

Done at Luxembourg, 13 June 2005.

For the Council

The President

J. ASSELBORN

AGREEMENT**between the European Union and Ukraine establishing a framework for the participation of Ukraine in the European Union crisis management operations**

THE EUROPEAN UNION,

of the one part, and

UKRAINE

of the other part,

hereinafter referred to as the 'Parties',

Whereas:

- (1) The European Union (EU) may decide to take action in the field of crisis management, including peacekeeping.
- (2) The European Council at Seville on 21 and 22 June 2002 has agreed arrangements for consultation and cooperation between the European Union and Ukraine on crisis management.
- (3) The European Union will decide whether third States will be invited to participate in an EU crisis management operation. Ukraine may accept the invitation by the European Union and offer its contribution. In such case, the European Union will decide on the acceptance of the proposed contribution of Ukraine.
- (4) General conditions regarding the participation of Ukraine in the EU civilian and military crisis management operations should be laid down in this Agreement establishing a framework for such possible future participation, rather than defining these conditions on a case-by-case basis for each operation concerned. Additional implementation arrangements should be concluded for each operation concerned as provided in Article 13 of this Agreement.
- (5) The Agreement should be without prejudice to the decision-making autonomy of the European Union, and should not prejudice the case-by-case nature of the decisions of Ukraine to participate in an EU crisis management operation, in accordance with its legislation.
- (6) The Agreement should only address future EU crisis management operations and should be without prejudice to possible existing agreements regulating the participation of Ukraine in an already deployed EU crisis management operation.

HAVE AGREED AS FOLLOWS:

SECTION I**GENERAL PROVISIONS***Article 1***Decisions relating to participation**

1. Following the decision of the European Union to invite Ukraine to participate in an EU crisis management operation, and once Ukraine has decided to participate, Ukraine shall provide information on its proposed contribution to the European Union.
2. The assessment by the European Union of Ukraine's contribution shall be conducted in consultation with Ukraine.
3. The European Union will provide Ukraine with an early indication of likely contribution to the common costs of the

operation as soon as possible with a view to assisting Ukraine in the formulation of its offer.

4. The European Union shall communicate the outcome of the assessment to Ukraine by letter with a view to securing the participation of Ukraine in accordance with the provisions of this Agreement.

*Article 2***Framework**

1. Ukraine shall associate itself with the Joint Action by which the Council of the European Union decides that the EU will conduct the crisis management operation, and with any Joint Action or Decision by which the Council of the European Union decides to extend the EU crisis management operation, in accordance with the provisions of this Agreement and any required implementing arrangements.

2. The contribution of Ukraine to an EU crisis management operation is without prejudice to the decision-making autonomy of the European Union.

Article 3

Status of personnel and forces

1. The status of personnel seconded to an EU civilian crisis management operation and/or of the forces contributed to an EU military crisis management operation by Ukraine shall be governed by the agreement on the status of forces/mission, if available, concluded between the European Union and the State(s) in which the operation is conducted.

2. The status of personnel contributed to headquarters or command elements located outside the State(s) in which the EU crisis management operation takes place, shall be governed by arrangements between the headquarters and command elements concerned and Ukraine.

3. Without prejudice to the agreement on the status of forces/mission referred to in paragraph 1 of this Article, Ukraine shall exercise jurisdiction over its personnel participating in the EU crisis management operation.

4. Ukraine shall be responsible for answering any claims linked to participation in an EU crisis management operation, from or concerning any of its personnel. Ukraine shall be responsible for bringing any action, in particular legal or disciplinary, against any of its personnel in accordance with its laws and regulations.

5. Ukraine undertakes to make a declaration as regards the waiver of claims against any State participating in an EU crisis management operation in which Ukraine participates, and to do so when signing this Agreement. A model for such a declaration is annexed to this Agreement.

6. European Union Member States undertake to make a declaration as regards the waiver of claims, for any future participation of Ukraine in an EU crisis management operation, and to do so when signing this Agreement. A model for such a declaration is annexed to this Agreement.

Article 4

Classified information

1. Ukraine shall take appropriate measures to ensure that EU classified information is protected in accordance with the European Union Council's security regulations, contained in Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations⁽¹⁾, and in accordance with further guidance issued by competent authorities, including the EU Operation Commander concerning an EU military

crisis management operation or by the EU Head of Mission concerning an EU civilian crisis management operation.

2. Where the EU and Ukraine have concluded an agreement on security procedures for the exchange of classified information, the provisions of such an agreement shall apply in the context of an EU crisis management operation.

SECTION II

GENERAL CONDITIONS ON PARTICIPATION IN CIVILIAN CRISIS MANAGEMENT OPERATIONS

Article 5

Personnel seconded to an EU civilian crisis management operation

1. Ukraine shall ensure that its personnel seconded to the EU civilian crisis management operation undertake their mission in conformity with:

— the Joint Action and subsequent amendments as referred to in Article 2(1) of this Agreement,

— the Operation Plan,

— implementing measures.

2. Ukraine shall inform in due time the EU civilian crisis management operation Head of Mission and the General Secretariat of the Council of the European Union of any change to its contribution to the EU civilian crisis management operation.

3. Personnel seconded to the EU civilian crisis management operation shall undergo a medical examination, vaccination and be certified medically fit for duty by a competent authority from Ukraine. Personnel seconded to the EU civilian crisis management operation shall produce a copy of this certification.

Article 6

Chain of command

1. Personnel seconded by Ukraine shall carry out their duties and conduct themselves solely with the interests of the EU civilian crisis management operation in mind.

2. All personnel shall remain under the full command of their national authorities.

3. National authorities shall transfer operational control to the EU civilian crisis management operation Head of Mission, who shall exercise that command through a hierarchical structure of command and control.

⁽¹⁾ OJ L 101, 11.4.2001, p. 1. Decision as amended by Decision 2004/194/EC (OJ L 63, 28.2.2004, p. 48).

4. The Head of Mission shall lead the EU civilian crisis management operation and assume its day-to-day management.

5. Ukraine shall have the same rights and obligations in terms of day-to-day management of the operation as European Union Member States taking part in the operation, in accordance with the legal instruments referred to in Article 2(1) of this Agreement.

6. The EU civilian crisis management operation Head of Mission shall be responsible for disciplinary control over EU civilian crisis management operation personnel. Where required, disciplinary action shall be taken by the national authority concerned.

7. A National Contingent Point of Contact (NPC) shall be appointed by Ukraine to represent its national contingent in the operation. The NPC shall report to the EU civilian crisis management operation Head of Mission on national matters and shall be responsible for day-to-day contingent discipline.

8. The decision to end the operation shall be taken by the European Union, following consultation with Ukraine, provided that Ukraine is still contributing to the EU civilian crisis management operation at the date of termination of the operation.

Article 7

Financial aspects

1. Ukraine shall assume all the costs associated with its participation in the operation apart from the costs, which are subject to common funding, as set out in the operational budget of the operation. This shall be without prejudice to Article 8.

2. In case of death, injury, loss or damage to natural or legal persons from the State(s) in which the operation is conducted, Ukraine shall, when its liability has been established, pay compensation under the conditions foreseen in the agreement on status of mission, if available, as referred to in Article 3(1) of this Agreement.

Article 8

Contribution to operational budget

1. Ukraine shall contribute to the financing of the operational budget of the EU civilian crisis management operation.

2. The financial contribution of Ukraine to the operational budget shall be the lower amount of the following two alternatives:

(a) that share of the reference amount which is in proportion to the ratio of its GNI to the total of the GNIs of all States contributing to the operational budget of the operation; or

(b) that share of the reference amount for the operational budget which is in proportion to the ratio of the number of its personnel participating in the operation to the total number of personnel of all States participating in the operation.

3. Notwithstanding paragraphs 1 and 2, Ukraine shall not make any contribution towards the financing of *per diem* allowances paid to personnel of the European Union Member States.

4. Notwithstanding paragraph 1, the European Union shall, in principle, exempt third States from financial contributions to a particular EU civilian crisis management operation when:

(a) the European Union decides that the third State participating in the operation provides a significant contribution which is essential for this operation; or

(b) the third State participating in the operation has a GNI per capita which does not exceed that of any Member State of the European Union.

5. An arrangement on the practical modalities of the payment shall be signed between the EU civilian crisis management operation Head of Mission and the relevant administrative services of Ukraine on the contributions of Ukraine to the operational budget of the EU civilian crisis management operation. This arrangement shall, *inter alia*, include the following provisions:

(a) the amount concerned;

(b) the arrangements for payment of the financial contribution;

(c) the auditing procedure.

SECTION III

GENERAL CONDITIONS ON PARTICIPATION IN MILITARY CRISIS MANAGEMENT OPERATIONS

Article 9

Participation in the EU military crisis management operation

1. Ukraine shall ensure that its forces and personnel participating in the EU military crisis management operation undertake their mission in conformity with:

— the Joint Action and subsequent amendments as referred to in Article 2(1) of this Agreement,

— the Operation Plan,

— implementing measures.

2. Personnel seconded by Ukraine shall carry out their duties and conduct themselves solely with the interest of the EU military crisis management operation in mind.

3. Ukraine shall inform the EU Operation Commander in due time of any change to its participation in the operation.

Article 10

Chain of command

1. All forces and personnel participating in the EU military crisis management operation shall remain under the full command of their national authorities.

2. National authorities shall transfer the Operational and Tactical command and/or control of their forces and personnel to the EU Operation Commander. The EU Operation Commander is entitled to delegate his authority.

3. Ukraine shall have the same rights and obligations in terms of the day-to-day management, of the operation as participating European Union Member States.

4. The EU Operation Commander may, following consultations with Ukraine, at any time request the withdrawal of Ukraine's contribution.

5. A Senior Military Representative (SMR) shall be appointed by Ukraine to represent its national contingent in the EU military crisis management operation. The SMR shall consult with the EU Force Commander on all matters affecting the operation and shall be responsible for day-to-day contingent discipline.

Article 11

Financial aspects

1. Without prejudice to Article 12, Ukraine shall assume all the costs associated with its participation in the operation unless the costs are subject to common funding as provided for in the legal instruments referred to in Article 2(1) of this Agreement, as well as in Council Decision 2004/197/CFSP of 23 February 2004 establishing a mechanism to administer the financing of the common costs of EU operations having military or defence implications ⁽¹⁾.

2. In case of death, injury, loss or damage to natural or legal persons from the State(s) in which the operation is conducted, Ukraine shall, when its liability has been established, pay compensation under the conditions foreseen in the agreement on status of forces, if available, as referred to in Article 3(1) of this Agreement.

Article 12

Contribution to the common costs

1. Ukraine shall contribute to the financing of the common costs of the EU military crisis management operation as defined in the Council Decision mentioned in Article 11.

2. The financial contribution of Ukraine to the common costs shall be the lower amount of the following two alternatives:

(a) that share of the reference amount for the common costs which is in proportion to the ratio of its GNI to the total of the GNIs of all States contributing to the common costs of the operation; or

(b) that share of the reference amount for the common costs which is in proportion to the ratio of the number of its personnel participating in the operation to the total number of personnel of all States participating in the operation.

In calculating 2(b), where Ukraine contributes personnel only to the Operation or Force Headquarters, the ratio used shall be that of its personnel to that of the total number of the respective headquarters personnel. Otherwise, the ratio shall be that of all personnel contributed by Ukraine to that of the total personnel of the operation.

3. Notwithstanding paragraph 1, the European Union shall, in principle, exempt third States from financial contributions to the common costs of a particular EU military crisis management operation when:

(a) the European Union decides that the third State participating in the operation provides a significant contribution to assets and/or capabilities which are essential for this operation; or

(b) the third State participating in the operation has a GNI per capita which does not exceed that of any Member State of the European Union.

4. An arrangement shall be concluded between the Administrator provided for in Council Decision 2004/197/CFSP of 23 February 2004 establishing a mechanism to administer the financing of the common costs of EU operations having military or defence implications, and the competent administrative authorities of Ukraine. This arrangement shall include, *inter alia*, provisions on:

(a) the amount concerned;

(b) the arrangements for payment of the financial contribution;

(c) the auditing procedure.

⁽¹⁾ OJ L 63, 28.2.2004, p. 68. Decision as last amended by Decision 2005/68/CFSP (OJ L 27, 29.1.2005, p. 59).

SECTION IV

FINAL PROVISIONS

Article 13

Arrangements to implement the Agreement

Without prejudice to the provisions of Articles 8(5) and 12(4), any necessary technical and administrative arrangements in pursuance of the implementation of this Agreement shall be concluded between the Secretary General of the Council of the European Union, High Representative for the Common Foreign and Security Policy, and the appropriate authorities of Ukraine.

Article 14

Non-compliance

Should one of the Parties fail to comply with its obligations laid down in the previous Articles, the other Party shall have the right to terminate this Agreement by serving a notice of one month.

Article 15

Dispute settlement

Disputes concerning the interpretation or application of this Agreement shall be settled by diplomatic means between the Parties.

Article 16

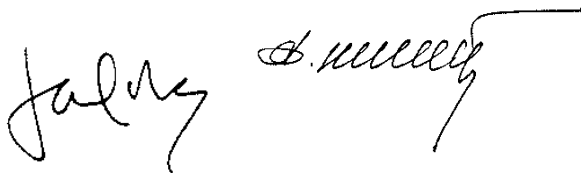
Entry into force

1. This Agreement shall enter into force on the first day of the first month after the Parties have notified each other of the completion of the internal procedures necessary for this purpose.
2. This Agreement shall be subject to review not later than 1 June 2008, and subsequently at least every three years.
3. This Agreement may be amended on the basis of mutual written agreement between the Parties.
4. This Agreement may be denounced by one Party by written notice of denunciation given to the other Party. Such denunciation shall take effect six months after receipt of notification by the other Party.

Done at Luxembourg, on 13 June 2005, in the English language in four copies.

For the European Union

For Ukraine

The image shows two handwritten signatures. The signature on the left is for the European Union, and the signature on the right is for Ukraine. Both signatures are in black ink and appear to be cursive or stylized.

ANNEX

TEXT OF DECLARATIONS

DECLARATION BY THE EU MEMBER STATES

The EU Member States applying an EU Joint Action on an EU crisis management operation in which Ukraine participates will endeavour, insofar as their internal legal systems so permit, to waive as far as possible claims against Ukraine for injury, death of their personnel, or damage to, or loss of, any assets owned by themselves and used by the EU crisis management operation if such injury, death, damage or loss:

- was caused by personnel from Ukraine in the execution of their duties in connection with the EU crisis management operation, except in case of gross negligence or wilful misconduct, or
- arose from the use of any assets owned by Ukraine, provided that the assets were used in connection with the operation and except in case of gross negligence or wilful misconduct of EU crisis management operation personnel from Ukraine using those assets.

DECLARATION BY UKRAINE

Ukraine applying an EU Joint Action on an EU crisis management operation will endeavour, insofar as its internal legal system so permits, to waive as far as possible claims against any other State participating in the EU crisis management operation for injury, death of its personnel, or damage to, or loss of, any assets owned by itself and used by the EU crisis management operation if such injury, death, damage or loss:

- was caused by personnel in the execution of their duties in connection with the EU crisis management operation, except in case of gross negligence or wilful misconduct, or
 - arose from the use of any assets owned by States participating in the EU crisis management operation, provided that the assets were used in connection with the operation and except in case of gross negligence or wilful misconduct of EU crisis management operation personnel using those assets.
-

CORRIGENDA**Corrigendum to of Decision No 197 of 23 March 2004 on the transitional periods for the introduction of the European Health Insurance Card in accordance with Article 5 of Decision No 191**

(Official Journal of the European Union L 343 of 19 November 2004)

On page 30, in Annex I, second column, against United Kingdom:

for: '31 December 2005'

read: '31 August 2005'.

Corrigendum to Commission Regulation (EC) No 1067/2005 of 6 July 2005 amending Regulation (EC) No 562/2000 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 as regards the buying-in of beef

(Official Journal of the European Union L 174 of 7 July 2005)

On page 63, in Annex II:

for: 'Deutschland

Bundesanstalt für Landwirtschaft und Ernährung (BLE)

Deichmanns Aue 29

D-53179 Bonn

DK-1780 København V

Tel.: (+49 228) 68 45-37 04/37 50

Fax: (+49 228) 68 45-39 85/32 76',

read: 'Deutschland

Bundesanstalt für Landwirtschaft und Ernährung (BLE)

Deichmanns Aue 29

D-53179 Bonn

Tel.: (+49 228) 68 45-37 04/37 50

Fax: (+49 228) 68 45-39 85/32 76'.
