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EN

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2021/2005

of 12 December 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 December 2005.

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

Done at Brussels, 12 December 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 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 12 December 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	63,6
	204	48,4
	212	89,9
	999	67,3
0707 00 05	052	113,9
	204	59,8
	220	147,3
	999	107,0
0709 90 70	052	140,1
	204	103,5
	999	121,8
0805 10 20	052	51,5
	204	70,8
	388	22,0
	508	13,2
	524	38,5
	999	39,2
0805 20 10	052	73,9
	204	61,2
	999	67,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	78,6
	400	82,8
	624	80,1
	999	80,5
0805 50 10	052	54,6
	999	54,6
0808 10 80	400	104,5
	404	93,0
	720	87,6
	999	95,0
0808 20 50	052	104,1
	400	94,2
	404	53,1
	720	63,5
	999	78,7

(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 2022/2005

of 12 December 2005

amending Regulation (EC) No 14/2004 as regards the forecast supply balances for various agricultural products for the outermost regions

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1452/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the French overseas departments, amending Directive 72/462/EEC and repealing Regulations (EEC) No 525/77 and No 3763/91 (Poseidom) [1], and in particular Article 3(6) thereof,

Having regard to Council Regulation (EC) No 1453/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Azores and Madeira and repealing Regulation (EEC) No 1600/92 (Poseima) [2], and in particular Articles 3(6) and 4(5) thereof,

Having regard to Council Regulation (EC) No 1454/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Canary Islands and repealing Regulation (EEC) No 1601/92 (Poseican) [3], and in particular Articles 3(6) and 4(5) thereof,

Whereas:

(1) Commission Regulation (EC) No 14/2004 of 30 December 2003 establishing the supply balances and Community aid for the supply of certain essential products for human consumption, for processing and as agricultural inputs and for the supply of live animals and eggs to the outermost regions under Council Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001 [4] establishes forecast supply balances and fixes the Community aid.

(2) Current implementation of the annual supply balances for various products for the French overseas departments, the Azores and Madeira, and the Canary Islands shows that the quantities set for supplies of the above products are below requirements owing to unexpectedly higher demand.

(3) The quantities and descriptions of these products should be brought into line with actual needs in the outermost regions concerned.

(4) Regulation (EC) No 14/2004 should therefore be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinions of the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 14/2004 is hereby amended as follows:

1. Parts 1 and 3 of Annex I are replaced by the text in Annex I to this Regulation.
2. Part 7 of Annex III is replaced by the text in Annex II to this Regulation.
3. Parts 4 and 11 of Annex V are replaced by the text in Annex III to this Regulation.

Article 2

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

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

Done at Brussels, 12 December 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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[1] OJ L 198, 21.7.2001, p. 11. Regulation as last amended by Regulation (EC) No 1690/2004 (OJ L 305, 1.10.2004, p. 1).
[2] OJ L 198, 21.7.2001, p. 26. Regulation as last amended by Regulation (EC) No 1690/2004.
[3] OJ L 198, 21.7.2001, p. 45. Regulation as last amended by Regulation (EC) No 1690/2004.
[4] OJ L 3, 7.1.2004, p. 6. Regulation as last amended by Regulation (EC) No 936/2005 (OJ L 158, 21.6.2005, p. 6).

ANNEX I

'Part 1

Cereals and cereal products intended for human consumption and animal feed; oilseeds, protein crops and dried fodder

Forecast supply balance and Community aid for the supply of Community products per calendar year

Department	Description	CN code	Quantity (tonnes)	Aid (EUR/tonne)		
				I	II	III
Guadeloupe	common wheat, barley, maize and malt	1001 90, 1003 00, 1005 90 and 1107 10	56 400	—	42	(*)
French Guiana	common wheat, barley, maize, products intended as animal feed and malt	1001 90, 1003 00, 1005 90, 2309 90 31, 2309 90 41, 2309 90 51, 2309 90 33, 2309 90 43, 2309 90 53 and 1107 10	7 400	—	52	(*)
Martinique	common wheat, barley, maize, groats and meal of durum wheat, oats and malt	1001 90, 1003 00, 1005 90, 1103 11, 1004 00 and 1107 10	52 000	—	42	(*)
Réunion	common wheat, barley, maize and malt	1001 90, 1003 00, 1005 90 and 1107 10	188 000	—	48	(*)

(*) The aid is equal to the refund on products falling within the same CN code, granted under Article 7 of Commission Regulation (EC) No 1501/95 (OJ L 147, 30.6.1995, p. 7).

Part 3

Processed fruit and vegetable products

Forecast supply balance and Community aid for the supply of Community products per calendar year

Description	CN code	Department	Quantity (tonnes)	Aid (EUR/tonne)		
				I	II	III
Fruit purée obtained by cooking, whether or not containing added sugar or other sweetening matter, for processing	ex 2007	All	100	—	395	—
Fruit pulp otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included, for processing	ex 2008	French Guiana	1 060	—	586	—
		Guadeloupe		—	408	—
		Martinique		—	408	—
		Réunion		—	456	—
Concentrated fruit juices (including grape must), unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, for processing	ex 2009	French Guiana	635		727	
		Martinique		—	311	(*)
		Réunion		—	311	
		Guadeloupe		—	311	
Tomatoes prepared or preserved otherwise than by vinegar or acetic acid	2002	All	100	—	91	(*)

(*) The aid is equal to the refund on products falling within the same CN code, granted under Article 16 of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).'

ANNEX II

'Part 7

Beef and veal sector

Forecast supply balance and Community aid for the supply of Community products per calendar year

MADEIRA

Description	Code (*)	Quantity (tonnes)	Aid (EUR/tonne)		
			I	II	III
Meat:					
— meat of bovines, fresh or chilled	0210 0201 10 00 9110 (1) 0201 10 00 9120 0201 10 00 9130 (1) 0201 10 00 9140 0201 20 20 9110 (1) 0201 20 20 9120 0201 20 30 9110 (1) 0201 20 30 9120 0201 20 50 9110 (1) 0201 20 50 9120 0201 20 50 9130 (1) 0201 20 50 9140 0201 20 90 9700	5 050	153	171	(**)
	0201 30 00 9100 (2) (6) 0201 30 00 9120 (2) (6) 0201 30 00 9060 (6)		123	141	(**)
— meat of bovines, frozen	0202 0202 10 00 9100 0202 10 00 9900 0202 20 10 9000 0202 20 30 9000 0202 20 50 9100 0202 20 50 9900 0202 20 90 9100	1 083	119	137	(**)
	0202 30 90 9200 (6)		95	113	(**)

(*) The product codes and footnotes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), as amended.

(**) The aid is equal to the refund on products falling within the same CN code granted under Article 33 of Regulation (EC) No 1254/1999. Where the refunds granted under Article 33 of that Regulation have more than one rate, the amount of aid shall be equal to the amount of the refund for products falling within the same code under the agricultural product nomenclature for export refunds for destination B03 in force at the time the aid application is submitted.'

ANNEX III

'Part 4

Products processed from fruit and vegetables

Forecast supply balance and Community aid for the supply of Community products per calendar year

Description	CN code	Quantity (tonnes)	Aid (EUR/tonne)		
			I	II	III
Jams, fruit jellies, marmalades, fruit purée and fruit pastes, obtained by cooking, whether or not containing added sugar or other sweetening matter:					
— Preparations other than homogenised, containing fruit other than citrus fruit	2007 99	4 250 (1)	125	143	—
Fruit and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:		16 850 (2)	108	126	
— pineapples	2008 20				
— citrus fruit	2008 30				
— pears	2008 40				
— apricots	2008 50				
— peaches	2008 70				
— strawberries	2008 80				
— other, including mixtures, other than those of subheading 2008 19					
— mixtures	2008 92				
— other	2008 99				

(1) Including 750 tonnes for the products intended for processing and/or packaging.
(2) Including 6 300 tonnes for the products intended for processing and/or packaging.

Part 11

Dairy products

Forecast supply balance and Community aid for the supply of Community products per calendar year

Description	CN code	Quantity (tonnes)	Aid (EUR/tonne)		
			I	II	III [1]
Milk and cream, not concentrated nor containing added sugar or other or other sweetening matter [2]	0401	125 000 [3]	41	59	[4]
Milk and cream, concentrated or containing added sugar or other or other sweetening matter [2]	0402	24 600 [5]	41	59	[4]
Milk and cream, concentrated or containing added sugar or other or other sweetening matter of a non-fat milk solid content of 15 % or more by weight and a fat content by weight not exceeding 3 % [6]	0402 91 19 9310		—	97	—
Butter and other fats and oils derived from milk; dairy spreads [2]	0405	4 000	72	90	[4]
Cheese [2]	0406 0406 30 0406 90 23 0406 90 25 0406 90 27 0406 90 76 0406 90 78 0406 90 79 0406 90 81	15 000	72	90	[4]
	0406 90 86 0406 90 87 0406 90 88	1 900			
Fat-free milk preparations	1901 90 99	800		59	[7]
Milk preparations for children containing no milk fat etc.	2106 90 92	45			

[1] In EUR/100 kg net weight, unless otherwise specified.

[2] The products concerned and the related footnotes are the same as those covered by the Commission Regulation fixing the export refunds under Article 31 of Regulation (EC) No 1255/1999.

[3] Including 1 300 tonnes for the processing and/or packaging sector.

[4] The amount shall be equal to the refund for product falling within the same CN code granted pursuant to Article 31 of Regulation (EC) No 1255/1999. Where the refunds granted pursuant to Article 31 of that Regulation have more than one rate as defined in Article 2(1)(e) and 2(1)(1) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11), the amount shall be equal to the highest amount of the refund for products falling within the same CN code (Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1).

However for the butter awarded in accordance with Regulation (EC) No 2571/97, the amount shall be as indicated in column II.

[5] To be allocated as follows:

— 7 250 tonnes falling within CN codes 0402 91 and/or 0402 99 for direct consumption,

— 5 350 tonnes falling within CN codes 0402 91 and/or 0402 99 for the processing and/or packaging sector,

— 12 000 tonnes falling within CN codes 0402 10 and/or 0402 21 for the processing and/or packaging sector.

[6] Where the milk protein content (nitrogen content × 6,38) in the non-fatty milk solid of a product under this position is less than 34 %, no aid shall be granted. Where the water content by weight of the powdered products under this position is greater than 5 %, no aid shall be granted. When completing customs formalities, the applicant shall state on the declaration provided for this purpose the minimum milk protein content in the non-fatty milk solid, and the maximum water content for powdered products.

[7] The amount shall be equal to the refund set in the Commission Regulation fixing the refund rates applicable to certain milk products exported in the goods not covered by Annex I, granted under Regulation (EC) No 1520/2000.'

COMMISSION REGULATION (EC) No 2023/2005

of 12 December 2005

amending Regulation (EC) No 3199/93 on the mutual recognition of procedures for the complete denaturing of alcohol for the purposes of exemption from excise duty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages [1], and in particular Article 27(4) thereof,

Whereas:

(1) Commission Regulation (EC) No 3199/93 [2] provides that the denaturants which are employed in each Member State for the purposes of completely denaturing alcohol in accordance with Article 27(1)(a) of Directive 92/83/EEC are to be described in the Annex of that Regulation.

(2) Pursuant to Article 27(1)(a) of Directive 92/83/EEC, Member States are required to exempt from excise duty alcohol which has been completely denatured in accordance with the requirements of any Member State, provided that such requirements have been duly notified and accepted in accordance with the conditions laid down in paragraphs 3 and 4 of that Article.

(3) Latvia has communicated some changes to denaturing process number 2 authorised by Regulation (EC) No 3199/93.

(4) The Commission transmitted the said communication to the other Member States on 25 March 2005.

(5) No objections have been received to the requirements notified.

(6) Regulation (EC) No 3199/93 should therefore be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Excise Duties,

HAS ADOPTED THIS REGULATION:

Article 1

The paragraph concerning Latvia in the Annex to Regulation (EC) No 3199/93 is hereby replaced by the following:

'Latvia

Minimum amount per 100 litres of spirit:

1. mix of following substances:

   — isopropyl alcohol 9 litres,

   — acetone 1 litre,

   — methylene blue or thymol blue or crystallic violet 0,4 grams;

2. mix of following substances:

   — methylethylketone 2 litres,

   — methylisobutylketone 3 litres;

3. mix of following substances:

   — acetone or isopropyl alcohol 3 litres,

   — denatonium benzoate 2 grams;

4. ethylacetate 10 litres.

Minimum amount per 100 litres of dehydrated ethyl alcohol (containing maximum 0,5 % of water):

1. benzine or petroleum minimum 5 litres and maximum 7 litres.'

Article 2

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

[1] OJ L 316, 31.10.1992, p. 21. Directive as amended by the 2003 Act of Accession.

[2] OJ L 288, 23.11.1993, p. 12. Regulation as last amended by Regulation (EC) No 1309/2005 (OJ L 208, 11.8.2005, p. 12).

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

Done at Brussels, 12 December 2005.

For the Commission
László KOVÁCS
Member of the Commission

COMMISSION REGULATION (EC) No 2024/2005

of 12 December 2005

amending Council Regulation (EC) No 872/2004 concerning further restrictive measures in relation to Liberia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 872/2004 concerning further restrictive measures in relation to Liberia [1], and in particular Article 11(a) thereof,

Whereas:

(1) Annex I to Regulation (EC) No 872/2004 lists the natural and legal persons, bodies and entities covered by the freezing of funds and economic resources under that Regulation.

(2) On 30 November 2005, the Sanctions Committee of the United Nations Security Council decided to add two natural persons and several legal persons or entities to the list of persons, groups and entities to whom the freezing of funds and economic resources should apply. Annex I should therefore be amended accordingly.

(3) In order to ensure that the measures provided for in this Regulation are effective, this Regulation must enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 872/2004 is hereby amended as set out in the Annex to this Regulation.

Article 2

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, 12 December 2005.

For the Commission
Eneko LANDÁBURU
Director-General for External Relations

[1] OJ L 162, 30.4.2004, p. 32. Regulation as last amended by Commission Regulation (EC) No 1453/2005 (OJ L 230, 7.9.2005, p. 14).

ANNEX

Annex I to Council Regulation (EC) No 872/2004 is amended as follows:

1. The following natural persons shall be added:

(a) Richard Ammar **Chichakli** (*alias* Ammar M. **Chichakli**). Address: (a) 225 Syracuse Place, Richardson, Texas 75081, USA; (b) 811 South Central Expressway Suite 210 Richardson, Texas 75080, USA. Date of birth: 29.3.1959. Place of birth: Syria. Nationality: USA. Other information: (a) Social Security No: 405 41 5342 or 467 79 1065; (b) a certified public accountant and certified fraud examiner; (c) an officer of San Air General Trading.

(b) Valeriy **Naydo** (*alias* Valerii **Naido**). Address: c/o CET Aviation, P.O. Box 932-20C, Ajman, United Arab Emirates. Date of birth: 10.8.1957. Nationality: Ukraine. Passport No: (a) AC251295 (Ukraine), (b) KC024178 (Ukraine). Other information: (a) a pilot, (b) one of the directors of Air Pass (Pietersburg Aviation Services and Systems), (c) Chief Executive Officer of CET Aviation.

2. The following legal persons or entities shall be added:

(a) Abidjan Freight. Address: Abidjan, Côte d'Ivoire.

(b) Air Cess (*alias* (a) Air Cess Equatorial Guinea, (b) Air Cess Holdings, Ltd., (c) Air Cess Liberia, (d) Air Cess Rwanda, (e) Air Cess Swaziland (Pty.) Ltd., (f) Air Cess, Inc. 360-C, (g) Air Pas, (h) Air Pass, (i) Chess Air Group, (j) Pietersburg Aviation Services & Systems, (k) Cessavia). Address: (a) Malabo, Equatorial Guinea; (b) P.O. Box 7837, Sharjah, United Arab Emirates; (c) P.O. Box 3962, Sharjah, United Arab Emirates; (d) Islamabad, Pakistan; (e) Entebbe, Uganda.

(c) Air Zory (*alias* (a) Air Zori, (b) Air Zori, Ltd.). Address: (a) 54 G.M. Dimitrov Blvd., BG-1125, Sofia, Bulgaria; (b) 6 Zenas Kanther Str., 1065 Nicosia, Cyprus. Other information: majority shareholder is Sergei Bout.

(d) Airbas Transportation FZE (*alias* (a) Air Bas, (b) Air Bass, (c) Airbas Transportation, Inc., (d) Aviabas). Address: (a) P.O. Box 8299, Sharjah, United Arab Emirates; (b) 811 S. Central Expressway, Suite 210 Richardson, Texas 75080, USA. Other information: created in 1995 by Sergei Bout.

(e) ATC, Ltd. Address: Gibraltar, United Kingdom.

(f) Bukava Aviation Transport. Address: Democratic Republic of the Congo.

(g) Business Air Services. Address: Democratic Republic of the Congo.

(h) Centrafrican Airlines (*alias* (a) Centrafricain Airlines, (b) Central African Airways, (c) Central African Air, (d) Central African Airlines). Address: (a) P.O. Box 2760, Bangui, Central African Republic; (b) c/o Transavia Travel Agency, P.O. Box 3962, Sharjah, United Arab Emirates; (c) P.O. Box 2190, Ajman, United Arab Emirates; (d) Kigali, Rwanda; (e) Ras-al-Khaimah, United Arab Emirates.

(i) Central Africa Development Fund. Address: (a) 811 S. Central Expressway, Suite 210, Richardson, Texas 75080, USA; (b) P.O. Box 850431, Richardson, Texas 75085, USA.

(j) CET Aviation Enterprise (FZE). Address: (a) P.O. Box 932 — C20, Ajman, United Arab Emirates; (b) Equatorial Guinea.

(k) Chichakli & Associates, PLLC (*alias* (a) Chichakli Hickman-Riggs & Riggs, PLLC, (b) Chichakli Hickmanriggs & Riggs). Address: 811 S. Central Expressway, Suite 210, Richardson, Texas 75080, USA. Other information: an accounting and auditing firm.

(l) Continue Professional Education, Inc. (*alias* Gulf Motor Sales). Address: 811 S. Central Expressway, Suite 210, Richardson, Texas 75080, USA.

(m) Daytona Pools, Inc. Address: 225 Syracuse Place, Richardson, Texas 75081, USA.

(n) DHH Enterprise, Inc. Address: 811 S. Central Expressway, Suite 210, Richardson, Texas 75080, USA.

(o) Gambia New Millennium Air Company (*alias* (a) Gambia New Millennium Air, (b) Gambia Millennium Airline). Address: State House, Banjul, Gambia.

(p) IB of America Holdings, Inc. Address: 811 S. Central Expressway, Suite 210, Richardson, Texas 75080, USA.

(q) Irbis Air Company. Address: ul. Furmanova 65, Office 317, Almaty, Kazakhstan 48004. Other information: created in 1998.

(r) Moldtransavia SRL. Address: Aeroport MD-2026, Chisinau, Moldova.

(s) Nordic, Ltd. (*alias* Nordik Limited EOOD). Address: 9 Fredrick J. Curie Street, Sofia, Bulgaria 1113.

(t) Odessa Air (*alias* Okapi Air). Address: Entebbe, Uganda.

(u) Orient Star Cooperation (*alias* Orient Star Aviation). Address: 811 S. Central Expressway, Suite 210, Richardson, Texas 75080, USA.

(v) Richard A. Chichakli, P.C. Address: (a) 811 S. Central Expressway, Suite 210, Richardson, Texas 75080, USA; (b) P.O. Box 850432, Richardson, Texas 75085, USA.

(w) Rockman, Ltd. (*alias* Rokman EOOD). Address: 9 Fredrick J. Curie Street, Sofia, Bulgaria 1113.

(x) San Air General Trading FZE (*alias* San Air General Trading, LLC). Address: (a) P.O. Box 932-20C, Ajman, United Arab Emirates; (b) P.O. Box 2190, Ajman, United Arab Emirates; (c) 811 S. Central Expressway, Suite 210, Richardson, Texas 75080, USA. Other information: General manager is Serguei Denissenko.

(y) Santa Cruz Imperial Airlines. Address: (a) P.O. Box 60315, Dubai, United Arab Emirates; (b) Sharjah, United Arab Emirates.

(z) Southbound, Ltd. Address: P.O. Box 398, Suite 52 and 553 Monrovia House, 26 Main Street, Gibraltar, UK.

(aa) Trans Aviation Global Group, Inc. Address: 811 S. Central Expressway, Suite 210, Richardson, Texas 75080, USA.

(bb) Transavia Network (*alias* (a) NV Trans Aviation Network Group, (b) TAN Group, (c) Trans Aviation, (d) Transavia Travel Agency, (e) Transavia Travel Cargo). Address: (a) 1304 Boorj Building, Bank Street, Sharjah, United Arab Emirates; (b) P.O. Box 3962, Sharjah, United Arab Emirates; (c) P.O. Box 2190, Ajman, United Arab Emirates; (d) Ostende Airport, Belgium.

(cc) Vial Company. Address: Delaware, USA.

(dd) Westbound, Ltd. Address: P.O. Box 399, 26 Main Street, Gibraltar, UK.

COUNCIL DIRECTIVE 2005/85/EC

of 1 December 2005

on minimum standards on procedures in Member States for granting and withdrawing refugee status

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular point (1)(d) of the first paragraph of Article 63 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Having regard to the opinion of the European Economic and Social Committee [3],

Whereas:

(1) A common policy on asylum, including a Common European Asylum System, is a constituent part of the European Union's objective of establishing progressively an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Community.

(2) The European Council, at its special meeting in Tampere on 15 and 16 October 1999, agreed to work towards establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention of 28 July 1951 relating to the status of refugees, as amended by the New York Protocol of 31 January 1967 (Geneva Convention), thus affirming the principle of non-refoulement and ensuring that nobody is sent back to persecution.

(3) The Tampere Conclusions provide that a Common European Asylum System should include, in the short term, common standards for fair and efficient asylum procedures in the Member States and, in the longer term, Community rules leading to a common asylum procedure in the European Community.

(4) The minimum standards laid down in this Directive on procedures in Member States for granting or withdrawing refugee status are therefore a first measure on asylum procedures.

(5) The main objective of this Directive is to introduce a minimum framework in the Community on procedures for granting and withdrawing refugee status.

(6) The approximation of rules on the procedures for granting and withdrawing refugee status should help to limit the secondary movements of applicants for asylum between Member States, where such movement would be caused by differences in legal frameworks.

(7) It is in the very nature of minimum standards that Member States should have the power to introduce or maintain more favourable provisions for third country nationals or stateless persons who ask for international protection from a Member State, where such a request is understood to be on the grounds that the person concerned is a refugee within the meaning of Article 1(A) of the Geneva Convention.

(8) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

(9) With respect to the treatment of persons falling within the scope of this Directive, Member States are bound by obligations under instruments of international law to which they are party and which prohibit discrimination.

(10) It is essential that decisions on all applications for asylum be taken on the basis of the facts and, in the first instance, by authorities whose personnel has the appropriate knowledge or receives the necessary training in the field of asylum and refugee matters.

(11) It is in the interest of both Member States and applicants for asylum to decide as soon as possible on applications for asylum. The organisation of the processing of applications for asylum should be left to the discretion of Member States, so that they may, in accordance with their national needs, prioritise or accelerate the processing of any application, taking into account the standards in this Directive.

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[1] OJ C 62, 27.2.2001, p. 231 and OJ C 291, 26.11.2002, p. 143.
[2] OJ C 77, 28.3.2002, p. 94.
[3] OJ C 193, 10.7.2001, p. 77. Opinion delivered following non-compulsory consultation.

(12) The notion of public order may cover a conviction for committing a serious crime.

(13) In the interests of a correct recognition of those persons in need of protection as refugees within the meaning of Article 1 of the Geneva Convention, every applicant should, subject to certain exceptions, have an effective access to procedures, the opportunity to cooperate and properly communicate with the competent authorities so as to present the relevant facts of his/her case and sufficient procedural guarantees to pursue his/her case throughout all stages of the procedure. Moreover, the procedure in which an application for asylum is examined should normally provide an applicant at least with the right to stay pending a decision by the determining authority, access to the services of an interpreter for submitting his/her case if interviewed by the authorities, the opportunity to communicate with a representative of the United Nations High Commissioner for Refugees (UNHCR) or with any organisation working on its behalf, the right to appropriate notification of a decision, a motivation of that decision in fact and in law, the opportunity to consult a legal adviser or other counsellor, and the right to be informed of his/her legal position at decisive moments in the course of the procedure, in a language he/she can reasonably be supposed to understand.

(14) In addition, specific procedural guarantees for unaccompanied minors should be laid down on account of their vulnerability. In this context, the best interests of the child should be a primary consideration of Member States.

(15) Where an applicant makes a subsequent application without presenting new evidence or arguments, it would be disproportionate to oblige Member States to carry out a new full examination procedure. In these cases, Member States should have a choice of procedure involving exceptions to the guarantees normally enjoyed by the applicant.

(16) Many asylum applications are made at the border or in a transit zone of a Member State prior to a decision on the entry of the applicant. Member States should be able to keep existing procedures adapted to the specific situation of these applicants at the border. Common rules should be defined on possible exceptions made in these circumstances to the guarantees normally enjoyed by applicants. Border procedures should mainly apply to those applicants who do not meet the conditions for entry into the territory of the Member States.

(17) A key consideration for the well-foundedness of an asylum application is the safety of the applicant in his/her country of origin. Where a third country can be regarded as a safe country of origin, Member States should be able to designate it as safe and presume its safety for a particular applicant, unless he/she presents serious counter-indications.

(18) Given the level of harmonisation achieved on the qualification of third country nationals and stateless persons as refugees, common criteria for designating third countries as safe countries of origin should be established.

(19) Where the Council has satisfied itself that those criteria are met in relation to a particular country of origin, and has consequently included it in the minimum common list of safe countries of origin to be adopted pursuant to this Directive, Member States should be obliged to consider applications of persons with the nationality of that country, or of stateless persons formerly habitually resident in that country, on the basis of the rebuttable presumption of the safety of that country. In the light of the political importance of the designation of safe countries of origin, in particular in view of the implications of an assessment of the human rights situation in a country of origin and its implications for the policies of the European Union in the field of external relations, the Council should take any decisions on the establishment or amendment of the list, after consultation of the European Parliament.

(20) It results from the status of Bulgaria and Romania as candidate countries for accession to the European Union and the progress made by these countries towards membership that they should be regarded as constituting safe countries of origin for the purposes of this Directive until the date of their accession to the European Union.

(21) The designation of a third country as a safe country of origin for the purposes of this Directive cannot establish an absolute guarantee of safety for nationals of that country. By its very nature, the assessment underlying the designation can only take into account the general civil, legal and political circumstances in that country and whether actors of persecution, torture or inhuman or degrading treatment or punishment are subject to sanction in practice when found liable in the country concerned. For this reason, it is important that, where an applicant shows that there are serious reasons to consider the country not to be safe in his/her particular circumstances, the designation of the country as safe can no longer be considered relevant for him/her.

(22) Member States should examine all applications on the substance, i.e. assess whether the applicant in question qualifies as a refugee in accordance with Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted [1], except where the present Directive provides otherwise, in particular where it can be reasonably assumed that another country would do the examination or provide sufficient protection. In particular, Member States should not be obliged to assess the substance of an asylum application where a first country of asylum has granted the applicant refugee status or otherwise sufficient protection and the applicant will be readmitted to this country.

(23) Member States should also not be obliged to assess the substance of an asylum application where the applicant, due to a connection to a third country as defined by national law, can reasonably be expected to seek protection in that third country. Member States should only proceed on this basis where this particular applicant would be safe in the third country concerned. In order to avoid secondary movements of applicants, common principles for the consideration or designation by Member States of third countries as safe should be established.

(24) Furthermore, with respect to certain European third countries, which observe particularly high human rights and refugee protection standards, Member States should be allowed to not carry out, or not to carry out full examination of asylum applications regarding applicants who enter their territory from such European third countries. Given the potential consequences for the applicant of a restricted or omitted examination, this application of the safe third country concept should be restricted to cases involving third countries with respect to which the Council has satisfied itself that the high standards for the safety of the third country concerned, as set out in this Directive, are fulfilled. The Council should take decisions in this matter after consultation of the European Parliament.

(25) It follows from the nature of the common standards concerning both safe third country concepts as set out in this Directive, that the practical effect of the concepts depends on whether the third country in question permits the applicant in question to enter its territory.

(26) With respect to the withdrawal of refugee status, Member States should ensure that persons benefiting from refugee status are duly informed of a possible reconsideration of their status and have the opportunity to submit their point of view before the authorities can take a motivated decision to withdraw their status. However, dispensing with these guarantees should be allowed where the reasons for the cessation of the refugee status is not related to a change of the conditions on which the recognition was based.

(27) It reflects a basic principle of Community law that the decisions taken on an application for asylum and on the withdrawal of refugee status are subject to an effective remedy before a court or tribunal within the meaning of Article 234 of the Treaty. The effectiveness of the remedy, also with regard to the examination of the relevant facts, depends on the administrative and judicial system of each Member State seen as a whole.

(28) In accordance with Article 64 of the Treaty, this Directive does not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

(29) This Directive does not deal with procedures governed by Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national [2].

(30) The implementation of this Directive should be evaluated at regular intervals not exceeding two years.

(31) Since the objective of this Directive, namely to establish minimum standards on procedures in Member States for granting and withdrawing refugee status cannot be sufficiently attained by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective.

(32) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom has notified, by letter of 24 January 2001, its wish to take part in the adoption and application of this Directive.

[1] OJ L 304, 30.9.2004, p. 12.

[2] OJ L 50, 25.2.2003, p. 1.

(33) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Ireland has notified, by letter of 14 February 2001, its wish to take part in the adoption and application of this Directive.

(34) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Directive and is not bound by it or subject to its application,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Purpose

The purpose of this Directive is to establish minimum standards on procedures in Member States for granting and withdrawing refugee status.

Article 2

Definitions

For the purposes of this Directive:

(a) 'Geneva Convention' means the Convention of 28 July 1951 relating to the status of refugees, as amended by the New York Protocol of 31 January 1967;

(b) 'application' or 'application for asylum' means an application made by a third country national or stateless person which can be understood as a request for international protection from a Member State under the Geneva Convention. Any application for international protection is presumed to be an application for asylum, unless the person concerned explicitly requests another kind of protection that can be applied for separately;

(c) 'applicant' or 'applicant for asylum' means a third country national or stateless person who has made an application for asylum in respect of which a final decision has not yet been taken;

(d) 'final decision' means a decision on whether the third country national or stateless person be granted refugee status by virtue of Directive 2004/83/EC and which is no longer subject to a remedy within the framework of Chapter V of this Directive irrespective of whether such remedy has the effect of allowing applicants to remain in the Member States concerned pending its outcome, subject to Annex III to this Directive;

(e) 'determining authority' means any quasi-judicial or administrative body in a Member State responsible for examining applications for asylum and competent to take decisions at first instance in such cases, subject to Annex I;

(f) 'refugee' means a third country national or a stateless person who fulfils the requirements of Article 1 of the Geneva Convention as set out in Directive 2004/83/EC;

(g) 'refugee status' means the recognition by a Member State of a third country national or stateless person as a refugee;

(h) 'unaccompanied minor' means a person below the age of 18 who arrives in the territory of the Member States unaccompanied by an adult responsible for him/her whether by law or by custom, and for as long as he/she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he/she has entered the territory of the Member States;

(i) 'representative' means a person acting on behalf of an organisation representing an unaccompanied minor as legal guardian, a person acting on behalf of a national organisation which is responsible for the care and well-being of minors, or any other appropriate representation appointed to ensure his/her best interests;

(j) 'withdrawal of refugee status' means the decision by a competent authority to revoke, end or refuse to renew the refugee status of a person in accordance with Directive 2004/83/EC;

(k) 'remain in the Member State' means to remain in the territory, including at the border or in transit zones, of the Member State in which the application for asylum has been made or is being examined.

Article 3

Scope

1. This Directive shall apply to all applications for asylum made in the territory, including at the border or in the transit zones of the Member States, and to the withdrawal of refugee status.

2. This Directive shall not apply in cases of requests for diplomatic or territorial asylum submitted to representations of Member States.

3. Where Member States employ or introduce a procedure in which asylum applications are examined both as applications on the basis of the Geneva Convention and as applications for other kinds of international protection given under the circumstances defined by Article 15 of Directive 2004/83/EC, they shall apply this Directive throughout their procedure.

4. Moreover, Member States may decide to apply this Directive in procedures for deciding on applications for any kind of international protection.

Article 4

Responsible authorities

1. Member States shall designate for all procedures a determining authority which will be responsible for an appropriate examination of the applications in accordance with this Directive, in particular Articles 8(2) and 9.

In accordance with Article 4(4) of Regulation (EC) No 343/2003, applications for asylum made in a Member State to the authorities of another Member State carrying out immigration controls there shall be dealt with by the Member State in whose territory the application is made.

2. However, Member States may provide that another authority is responsible for the purposes of:

(a) processing cases in which it is considered to transfer the applicant to another State according to the rules establishing criteria and mechanisms for determining which State is responsible for considering an application for asylum, until the transfer takes place or the requested State has refused to take charge of or take back the applicant;

(b) taking a decision on the application in the light of national security provisions, provided the determining authority is consulted prior to this decision as to whether the applicant qualifies as a refugee by virtue of Directive 2004/83/EC;

(c) conducting a preliminary examination pursuant to Article 32, provided this authority has access to the applicant's file regarding the previous application;

(d) processing cases in the framework of the procedures provided for in Article 35(1);

(e) refusing permission to enter in the framework of the procedure provided for in Article 35(2) to (5), subject to the conditions and as set out therein;

(f) establishing that an applicant is seeking to enter or has entered into the Member State from a safe third country pursuant to Article 36, subject to the conditions and as set out in that Article.

3. Where authorities are designated in accordance with paragraph 2, Member States shall ensure that the personnel of such authorities have the appropriate knowledge or receive the necessary training to fulfil their obligations when implementing this Directive.

Article 5

More favourable provisions

Member States may introduce or maintain more favourable standards on procedures for granting and withdrawing refugee status, insofar as those standards are compatible with this Directive.

CHAPTER II

BASIC PRINCIPLES AND GUARANTEES

Article 6

Access to the procedure

1. Member States may require that applications for asylum be made in person and/or at a designated place.

2. Member States shall ensure that each adult having legal capacity has the right to make an application for asylum on his/her own behalf.

3. Member States may provide that an application may be made by an applicant on behalf of his/her dependants. In such cases Member States shall ensure that dependant adults consent to the lodging of the application on their behalf, failing which they shall have an opportunity to make an application on their own behalf.

Consent shall be requested at the time the application is lodged or, at the latest, when the personal interview with the dependant adult is conducted.

4. Member States may determine in national legislation:

(a) the cases in which a minor can make an application on his/her own behalf;

(b) the cases in which the application of an unaccompanied minor has to be lodged by a representative as provided for in Article 17(1)(a);

(c) the cases in which the lodging of an application for asylum is deemed to constitute also the lodging of an application for asylum for any unmarried minor.

5. Member States shall ensure that authorities likely to be addressed by someone who wishes to make an application for asylum are able to advise that person how and where he/she may make such an application and/or may require these authorities to forward the application to the competent authority.

Article 7

Right to remain in the Member State pending the examination of the application

1. Applicants shall be allowed to remain in the Member State, for the sole purpose of the procedure, until the determining authority has made a decision in accordance with the procedures at first instance set out in Chapter III. This right to remain shall not constitute an entitlement to a residence permit.

2. Member States can make an exception only where, in accordance with Articles 32 and 34, a subsequent application will not be further examined or where they will surrender or extradite, as appropriate, a person either to another Member State pursuant to obligations in accordance with a European arrest warrant [1] or otherwise, or to a third country, or to international criminal courts or tribunals.

Article 8

Requirements for the examination of applications

1. Without prejudice to Article 23(4)(i), Member States shall ensure that applications for asylum are neither rejected nor excluded from examination on the sole ground that they have not been made as soon as possible.

2. Member States shall ensure that decisions by the determining authority on applications for asylum are taken after an appropriate examination. To that end, Member States shall ensure that:

(a) applications are examined and decisions are taken individually, objectively and impartially;

(b) precise and up-to-date information is obtained from various sources, such as the United Nations High Commissioner for Refugees (UNHCR), as to the general situation prevailing in the countries of origin of applicants for asylum and, where necessary, in countries through which they have transited, and that such information is made available to the personnel responsible for examining applications and taking decisions;

(c) the personnel examining applications and taking decisions have the knowledge with respect to relevant standards applicable in the field of asylum and refugee law.

3. The authorities referred to in Chapter V shall, through the determining authority or the applicant or otherwise, have access to the general information referred to in paragraph 2(b), necessary for the fulfilment of their task.

4. Member States may provide for rules concerning the translation of documents relevant for the examination of applications.

Article 9

Requirements for a decision by the determining authority

1. Member States shall ensure that decisions on applications for asylum are given in writing.

2. Member States shall also ensure that, where an application is rejected, the reasons in fact and in law are stated in the decision and information on how to challenge a negative decision is given in writing.

Member States need not state the reasons for not granting refugee status in a decision where the applicant is granted a status which offers the same rights and benefits under national and Community law as the refugee status by virtue of Directive 2004/83/EC. In these cases, Member States shall ensure that the reasons for not granting refugee status are stated in the applicant's file and that the applicant has, upon request, access to his/her file.

Moreover, Member States need not provide information on how to challenge a negative decision in writing in conjunction with a decision where the applicant has been provided with this information at an earlier stage either in writing or by electronic means accessible to the applicant.

3. For the purposes of Article 6(3), and whenever the application is based on the same grounds, Member States may take one single decision, covering all dependants.

[1] Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

Article 10

Guarantees for applicants for asylum

1. With respect to the procedures provided for in Chapter III, Member States shall ensure that all applicants for asylum enjoy the following guarantees:

(a) they shall be informed in a language which they may reasonably be supposed to understand of the procedure to be followed and of their rights and obligations during the procedure and the possible consequences of not complying with their obligations and not cooperating with the authorities. They shall be informed of the time-frame, as well as the means at their disposal for fulfilling the obligation to submit the elements as referred to in Article 4 of Directive 2004/83/EC. This information shall be given in time to enable them to exercise the rights guaranteed in this Directive and to comply with the obligations described in Article 11;

(b) they shall receive the services of an interpreter for submitting their case to the competent authorities whenever necessary. Member States shall consider it necessary to give these services at least when the determining authority calls upon the applicant to be interviewed as referred to in Articles 12 and 13 and appropriate communication cannot be ensured without such services. In this case and in other cases where the competent authorities call upon the applicant, these services shall be paid for out of public funds;

(c) they shall not be denied the opportunity to communicate with the UNHCR or with any other organisation working on behalf of the UNHCR in the territory of the Member State pursuant to an agreement with that Member State;

(d) they shall be given notice in reasonable time of the decision by the determining authority on their application for asylum. If a legal adviser or other counsellor is legally representing the applicant, Member States may choose to give notice of the decision to him/her instead of to the applicant for asylum;

(e) they shall be informed of the result of the decision by the determining authority in a language that they may reasonably be supposed to understand when they are not assisted or represented by a legal adviser or other counsellor and when free legal assistance is not available. The information provided shall include information on how to challenge a negative decision in accordance with the provisions of Article 9(2).

2. With respect to the procedures provided for in Chapter V, Member States shall ensure that all applicants for asylum enjoy equivalent guarantees to the ones referred to in paragraph 1(b), (c) and (d) of this Article.

Article 11

Obligations of the applicants for asylum

1. Member States may impose upon applicants for asylum obligations to cooperate with the competent authorities insofar as these obligations are necessary for the processing of the application.

2. In particular, Member States may provide that:

(a) applicants for asylum are required to report to the competent authorities or to appear before them in person, either without delay or at a specified time;

(b) applicants for asylum have to hand over documents in their possession relevant to the examination of the application, such as their passports;

(c) applicants for asylum are required to inform the competent authorities of their current place of residence or address and of any changes thereof as soon as possible. Member States may provide that the applicant shall have to accept any communication at the most recent place of residence or address which he/she indicated accordingly;

(d) the competent authorities may search the applicant and the items he/she carries with him/her;

(e) the competent authorities may take a photograph of the applicant; and

(f) the competent authorities may record the applicant's oral statements, provided he/she has previously been informed thereof.

Article 12

Personal interview

1. Before a decision is taken by the determining authority, the applicant for asylum shall be given the opportunity of a personal interview on his/her application for asylum with a person competent under national law to conduct such an interview.

Member States may also give the opportunity of a personal interview to each dependant adult referred to in Article 6(3).

Member States may determine in national legislation the cases in which a minor shall be given the opportunity of a personal interview.

2. The personal interview may be omitted where:

(a) the determining authority is able to take a positive decision on the basis of evidence available; or

(b) the competent authority has already had a meeting with the applicant for the purpose of assisting him/her with completing his/her application and submitting the essential information regarding the application, in terms of Article 4(2) of Directive 2004/83/EC; or

(c) the determining authority, on the basis of a complete examination of information provided by the applicant, considers the application to be unfounded in cases where the circumstances mentioned in Article 23(4)(a), (c), (g), (h) and (j) apply.

3. The personal interview may also be omitted where it is not reasonably practicable, in particular where the competent authority is of the opinion that the applicant is unfit or unable to be interviewed owing to enduring circumstances beyond his/her control. When in doubt, Member States may require a medical or psychological certificate.

Where the Member State does not provide the applicant with the opportunity for a personal interview pursuant to this paragraph, or where applicable, to the dependant, reasonable efforts shall be made to allow the applicant or the dependant to submit further information.

4. The absence of a personal interview in accordance with this Article shall not prevent the determining authority from taking a decision on an application for asylum.

5. The absence of a personal interview pursuant to paragraph 2(b) and (c) and paragraph 3 shall not adversely affect the decision of the determining authority.

6. Irrespective of Article 20(1), Member States, when deciding on the application for asylum, may take into account the fact that the applicant failed to appear for the personal interview, unless he/she had good reasons for the failure to appear.

Article 13

Requirements for a personal interview

1. A personal interview shall normally take place without the presence of family members unless the determining authority considers it necessary for an appropriate examination to have other family members present.

2. A personal interview shall take place under conditions which ensure appropriate confidentiality.

3. Member States shall take appropriate steps to ensure that personal interviews are conducted under conditions which allow applicants to present the grounds for their applications in a comprehensive manner. To that end, Member States shall:

(a) ensure that the person who conducts the interview is sufficiently competent to take account of the personal or general circumstances surrounding the application, including the applicant's cultural origin or vulnerability, insofar as it is possible to do so; and

(b) select an interpreter who is able to ensure appropriate communication between the applicant and the person who conducts the interview. The communication need not necessarily take place in the language preferred by the applicant for asylum if there is another language which he/she may reasonably be supposed to understand and in which he/she is able to communicate.

4. Member States may provide for rules concerning the presence of third parties at a personal interview.

5. This Article is also applicable to the meeting referred to in Article 12(2)(b).

Article 14

Status of the report of a personal interview in the procedure

1. Member States shall ensure that a written report is made of every personal interview, containing at least the essential information regarding the application, as presented by the applicant, in terms of Article 4(2) of Directive 2004/83/EC.

2. Member States shall ensure that applicants have timely access to the report of the personal interview. Where access is only granted after the decision of the determining authority, Member States shall ensure that access is possible as soon as necessary for allowing an appeal to be prepared and lodged in due time.

3. Member States may request the applicant's approval of the contents of the report of the personal interview.

Where an applicant refuses to approve the contents of the report, the reasons for this refusal shall be entered into the applicant's file.

The refusal of an applicant to approve the contents of the report shall not prevent the determining authority from taking a decision on his/her application.

4. This Article is also applicable to the meeting referred to in Article 12(2)(b).

Article 15

Right to legal assistance and representation

1. Member States shall allow applicants for asylum the opportunity, at their own cost, to consult in an effective manner a legal adviser or other counsellor, admitted or permitted as such under national law, on matters relating to their asylum applications.

2. In the event of a negative decision by a determining authority, Member States shall ensure that free legal assistance and/or representation be granted on request, subject to the provisions of paragraph 3.

3. Member States may provide in their national legislation that free legal assistance and/or representation is granted:

(a) only for procedures before a court or tribunal in accordance with Chapter V and not for any onward appeals or reviews provided for under national law, including a rehearing of an appeal following an onward appeal or review; and/or

(b) only to those who lack sufficient resources; and/or

(c) only to legal advisers or other counsellors specifically designated by national law to assist and/or represent applicants for asylum; and/or

(d) only if the appeal or review is likely to succeed.

Member States shall ensure that legal assistance and/or representation granted under point (d) is not arbitrarily restricted.

4. Rules concerning the modalities for filing and processing requests for legal assistance and/or representation may be provided by Member States.

5. Member States may also:

(a) impose monetary and/or time-limits on the provision of free legal assistance and/or representation, provided that such limits do not arbitrarily restrict access to legal assistance and/or representation;

(b) provide that, as regards fees and other costs, the treatment of applicants shall not be more favourable than the treatment generally accorded to their nationals in matters pertaining to legal assistance.

6. Member States may demand to be reimbursed wholly or partially for any expenses granted if and when the applicant's financial situation has improved considerably or if the decision to grant such benefits was taken on the basis of false information supplied by the applicant.

Article 16

Scope of legal assistance and representation

1. Member States shall ensure that a legal adviser or other counsellor admitted or permitted as such under national law, and who assists or represents an applicant for asylum under the terms of national law, shall enjoy access to such information in the applicant's file as is liable to be examined by the authorities referred to in Chapter V, insofar as the information is relevant to the examination of the application.

Member States may make an exception where disclosure of information or sources would jeopardise national security, the security of the organisations or person(s) providing the information or the security of the person(s) to whom the information relates or where the investigative interests relating to the examination of applications of asylum by the competent authorities of the Member States or the international relations of the Member States would be compromised. In these cases, access to the information or sources in question shall be available to the authorities referred to in Chapter V, except where such access is precluded in cases of national security.

2. Member States shall ensure that the legal adviser or other counsellor who assists or represents an applicant for asylum has access to closed areas, such as detention facilities and transit zones, for the purpose of consulting that applicant. Member States may only limit the possibility of visiting applicants in closed areas where such limitation is, by virtue of national legislation, objectively necessary for the security, public order or administrative management of the area, or in order to ensure an efficient examination of the application, provided that access by the legal adviser or other counsellor is not thereby severely limited or rendered impossible.

3. Member States may provide rules covering the presence of legal advisers or other counsellors at all interviews in the procedure, without prejudice to this Article or to Article 17(1)(b).

4. Member States may provide that the applicant is allowed to bring with him/her to the personal interview a legal adviser or other counsellor admitted or permitted as such under national law.

Member States may require the presence of the applicant at the personal interview, even if he/she is represented under the terms of national law by such a legal adviser or counsellor, and may require the applicant to respond in person to the questions asked.

The absence of a legal adviser or other counsellor shall not prevent the competent authority from conducting the personal interview with the applicant.

Article 17

Guarantees for unaccompanied minors

1. With respect to all procedures provided for in this Directive and without prejudice to the provisions of Articles 12 and 14, Member States shall:

(a) as soon as possible take measures to ensure that a representative represents and/or assists the unaccompanied minor with respect to the examination of the application. This representative can also be the representative referred to in Article 19 of Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers [1];

(b) ensure that the representative is given the opportunity to inform the unaccompanied minor about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare himself/herself for the personal interview. Member States shall allow the representative to be present at that interview and to ask questions or make comments, within the framework set by the person who conducts the interview.

Member States may require the presence of the unaccompanied minor at the personal interview, even if the representative is present.

2. Member States may refrain from appointing a representative where the unaccompanied minor:

(a) will in all likelihood reach the age of maturity before a decision at first instance is taken; or

(b) can avail himself, free of charge, of a legal adviser or other counsellor, admitted as such under national law to fulfil the tasks assigned above to the representative; or

(c) is married or has been married.

3. Member States may, in accordance with the laws and regulations in force on 1 December 2005, also refrain from appointing a representative where the unaccompanied minor is 16 years old or older, unless he/she is unable to pursue his/her application without a representative.

4. Member States shall ensure that:

(a) if an unaccompanied minor has a personal interview on his/her application for asylum as referred to in Articles 12, 13 and 14, that interview is conducted by a person who has the necessary knowledge of the special needs of minors;

(b) an official with the necessary knowledge of the special needs of minors prepares the decision by the determining authority on the application of an unaccompanied minor.

5. Member States may use medical examinations to determine the age of unaccompanied minors within the framework of the examination of an application for asylum.

In cases where medical examinations are used, Member States shall ensure that:

(a) unaccompanied minors are informed prior to the examination of their application for asylum, and in a language which they may reasonably be supposed to understand, of the possibility that their age may be determined by medical examination. This shall include information on the method of examination and the possible consequences of the result of the medical examination for the examination of the application for asylum, as well as the consequences of refusal on the part of the unaccompanied minor to undergo the medical examination;

(b) unaccompanied minors and/or their representatives consent to carry out an examination to determine the age of the minors concerned; and

(c) the decision to reject an application for asylum from an unaccompanied minor who refused to undergo this medical examination shall not be based solely on that refusal.

The fact that an unaccompanied minor has refused to undergo such a medical examination shall not prevent the determining authority from taking a decision on the application for asylum.

[1] OJ L 31, 6.2.2003, p. 18.

6. The best interests of the child shall be a primary consideration for Member States when implementing this Article.

Article 18

Detention

1. Member States shall not hold a person in detention for the sole reason that he/she is an applicant for asylum.

2. Where an applicant for asylum is held in detention, Member States shall ensure that there is a possibility of speedy judicial review.

Article 19

Procedure in case of withdrawal of the application

1. Insofar as Member States provide for the possibility of explicit withdrawal of the application under national law, when an applicant for asylum explicitly withdraws his/her application for asylum, Member States shall ensure that the determining authority takes a decision to either discontinue the examination or reject the application.

2. Member States may also decide that the determining authority can decide to discontinue the examination without taking a decision. In this case, Member States shall ensure that the determining authority enters a notice in the applicant's file.

Article 20

Procedure in the case of implicit withdrawal or abandonment of the application

1. When there is reasonable cause to consider that an applicant for asylum has implicitly withdrawn or abandoned his/her application for asylum, Member States shall ensure that the determining authority takes a decision to either discontinue the examination or reject the application on the basis that the applicant has not established an entitlement to refugee status in accordance with Directive 2004/83/EC.

Member States may assume that the applicant has implicitly withdrawn or abandoned his/her application for asylum in particular when it is ascertained that:

(a) he/she has failed to respond to requests to provide information essential to his/her application in terms of Article 4 of Directive 2004/83/EC or has not appeared for a personal interview as provided for in Articles 12, 13 and 14, unless the applicant demonstrates within a reasonable time that his/her failure was due to circumstances beyond his control;

(b) he/she has absconded or left without authorisation the place where he/she lived or was held, without contacting the competent authority within a reasonable time, or he/she has not within a reasonable time complied with reporting duties or other obligations to communicate.

For the purposes of implementing these provisions, Member States may lay down time-limits or guidelines.

2. Member States shall ensure that the applicant who reports again to the competent authority after a decision to discontinue as referred to in paragraph 1 of this Article is taken, is entitled to request that his/her case be reopened, unless the request is examined in accordance with Articles 32 and 34.

Member States may provide for a time-limit after which the applicant's case can no longer be re-opened.

Member States shall ensure that such a person is not removed contrary to the principle of non-refoulement.

Member States may allow the determining authority to take up the examination at the stage where it was discontinued.

Article 21

The role of UNHCR

1. Member States shall allow the UNHCR:

(a) to have access to applicants for asylum, including those in detention and in airport or port transit zones;

(b) to have access to information on individual applications for asylum, on the course of the procedure and on the decisions taken, provided that the applicant for asylum agrees thereto;

(c) to present its views, in the exercise of its supervisory responsibilities under Article 35 of the Geneva Convention, to any competent authorities regarding individual applications for asylum at any stage of the procedure.

2. Paragraph 1 shall also apply to an organisation which is working in the territory of the Member State concerned on behalf of the UNHCR pursuant to an agreement with that Member State.

Article 22

Collection of information on individual cases

For the purposes of examining individual cases, Member States shall not:

(a) directly disclose information regarding individual applications for asylum, or the fact that an application has been made, to the alleged actor(s) of persecution of the applicant for asylum;

(b) obtain any information from the alleged actor(s) of persecution in a manner that would result in such actor(s) being directly informed of the fact that an application has been made by the applicant in question, and would jeopardise the physical integrity of the applicant and his/her dependants, or the liberty and security of his/her family members still living in the country of origin.

CHAPTER III

PROCEDURES AT FIRST INSTANCE

SECTION I

Article 23

Examination procedure

1. Member States shall process applications for asylum in an examination procedure in accordance with the basic principles and guarantees of Chapter II.

2. Member States shall ensure that such a procedure is concluded as soon as possible, without prejudice to an adequate and complete examination.

Member States shall ensure that, where a decision cannot be taken within six months, the applicant concerned shall either:

(a) be informed of the delay; or

(b) receive, upon his/her request, information on the time-frame within which the decision on his/her application is to be expected. Such information shall not constitute an obligation for the Member State towards the applicant concerned to take a decision within that time-frame.

3. Member States may prioritise or accelerate any examination in accordance with the basic principles and guarantees of Chapter II, including where the application is likely to be well-founded or where the applicant has special needs.

4. Member States may also provide that an examination procedure in accordance with the basic principles and guarantees of Chapter II be prioritised or accelerated if:

(a) the applicant, in submitting his/her application and presenting the facts, has only raised issues that are not relevant or of minimal relevance to the examination of whether he/she qualifies as a refugee by virtue of Directive 2004/83/EC; or

(b) the applicant clearly does not qualify as a refugee or for refugee status in a Member State under Directive 2004/83/EC; or

(c) the application for asylum is considered to be unfounded:

(i) because the applicant is from a safe country of origin within the meaning of Articles 29, 30 and 31, or

(ii) because the country which is not a Member State, is considered to be a safe third country for the applicant, without prejudice to Article 28(1); or

(d) the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his/her identity and/or nationality that could have had a negative impact on the decision; or

(e) the applicant has filed another application for asylum stating other personal data; or

(f) the applicant has not produced information establishing with a reasonable degree of certainty his/her identity or nationality, or it is likely that, in bad faith, he/she has destroyed or disposed of an identity or travel document that would have helped establish his/her identity or nationality; or

(g) the applicant has made inconsistent, contradictory, improbable or insufficient representations which make his/her claim clearly unconvincing in relation to his/her having been the object of persecution referred to in Directive 2004/83/EC; or

(h) the applicant has submitted a subsequent application which does not raise any relevant new elements with respect to his/her particular circumstances or to the situation in his/her country of origin; or

(i) the applicant has failed without reasonable cause to make his/her application earlier, having had opportunity to do so; or

(j) the applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his/her removal; or

(k) the applicant has failed without good reason to comply with obligations referred to in Article 4(1) and (2) of Directive 2004/83/EC or in Articles11(2)(a) and (b) and 20(1) of this Directive; or

(l) the applicant entered the territory of the Member State unlawfully or prolonged his/her stay unlawfully and, without good reason, has either not presented himself/-herself to the authorities and/or filed an application for asylum as soon as possible, given the circumstances of his/her entry; or

(m) the applicant is a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security and public order under national law; or

(n) the applicant refuses to comply with an obligation to have his/her fingerprints taken in accordance with relevant Community and/or national legislation; or

(o) the application was made by an unmarried minor to whom Article 6(4)(c) applies, after the application of the parents or parent responsible for the minor has been rejected and no relevant new elements were raised with respect to his/her particular circumstances or to the situation in his/her country of origin.

Article 24

Specific procedures

1. Member States may provide for the following specific procedures derogating from the basic principles and guarantees of Chapter II:

(a) a preliminary examination for the purposes of processing cases considered within the framework set out in Section IV;

(b) procedures for the purposes of processing cases considered within the framework set out in Section V.

2. Member States may also provide a derogation in respect of Section VI.

SECTION II

Article 25

Inadmissible applications

1. In addition to cases in which an application is not examined in accordance with Regulation (EC) No 343/2003, Member States are not required to examine whether the applicant qualifies as a refugee in accordance with Directive 2004/83/EC where an application is considered inadmissible pursuant to this Article.

2. Member States may consider an application for asylum as inadmissible pursuant to this Article if:

(a) another Member State has granted refugee status;

(b) a country which is not a Member State is considered as a first country of asylum for the applicant, pursuant to Article 26;

(c) a country which is not a Member State is considered as a safe third country for the applicant, pursuant to Article 27;

(d) the applicant is allowed to remain in the Member State concerned on some other grounds and as result of this he/she has been granted a status equivalent to the rights and benefits of the refugee status by virtue of Directive 2004/83/EC;

(e) the applicant is allowed to remain in the territory of the Member State concerned on some other grounds which protect him/her against refoulement pending the outcome of a procedure for the determination of status pursuant to point (d);

(f) the applicant has lodged an identical application after a final decision;

(g) a dependant of the applicant lodges an application, after he/she has in accordance with Article 6(3) consented to have his/her case be part of an application made on his/her behalf, and there are no facts relating to the dependant's situation, which justify a separate application.

Article 26

The concept of first country of asylum

A country can be considered to be a first country of asylum for a particular applicant for asylum if:

(a) he/she has been recognised in that country as a refugee and he/she can still avail himself/herself of that protection; or

(b) he/she otherwise enjoys sufficient protection in that country, including benefiting from the principle of non-refoulement;

provided that he/she will be re-admitted to that country.

In applying the concept of first country of asylum to the particular circumstances of an applicant for asylum Member States may take into account Article 27(1).

Article 27

The safe third country concept

1. Member States may apply the safe third country concept only where the competent authorities are satisfied that a person seeking asylum will be treated in accordance with the following principles in the third country concerned:

(a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;

(b) the principle of non-refoulement in accordance with the Geneva Convention is respected;

(c) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and

(d) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention.

2. The application of the safe third country concept shall be subject to rules laid down in national legislation, including:

(a) rules requiring a connection between the person seeking asylum and the third country concerned on the basis of which it would be reasonable for that person to go to that country;

(b) rules on the methodology by which the competent authorities satisfy themselves that the safe third country concept may be applied to a particular country or to a particular applicant. Such methodology shall include case-by-case consideration of the safety of the country for a particular applicant and/or national designation of countries considered to be generally safe;

(c) rules in accordance with international law, allowing an individual examination of whether the third country concerned is safe for a particular applicant which, as a minimum, shall permit the applicant to challenge the application of the safe third country concept on the grounds that he/she would be subjected to torture, cruel, inhuman or degrading treatment or punishment.

3. When implementing a decision solely based on this Article, Member States shall:

(a) inform the applicant accordingly; and

(b) provide him/her with a document informing the authorities of the third country, in the language of that country, that the application has not been examined in substance.

4. Where the third country does not permit the applicant for asylum to enter its territory, Member States shall ensure that access to a procedure is given in accordance with the basic principles and guarantees described in Chapter II.

5. Member States shall inform the Commission periodically of the countries to which this concept is applied in accordance with the provisions of this Article.

SECTION III

Article 28

Unfounded applications

1. Without prejudice to Articles 19 and 20, Member States may only consider an application for asylum as unfounded if the determining authority has established that the applicant does not qualify for refugee status pursuant to Directive 2004/83/EC.

2. In the cases mentioned in Article 23(4)(b) and in cases of unfounded applications for asylum in which any of the circumstances listed in Article 23(4)(a) and (c) to (o) apply, Member States may also consider an application as manifestly unfounded, where it is defined as such in the national legislation.

Article 29

Minimum common list of third countries regarded as safe countries of origin

1. The Council shall, acting by a qualified majority on a proposal from the Commission and after consultation of the European Parliament, adopt a minimum common list of third countries which shall be regarded by Member States as safe countries of origin in accordance with Annex II.

2. The Council may, acting by a qualified majority on a proposal from the Commission and after consultation of the European Parliament, amend the minimum common list by adding or removing third countries, in accordance with Annex II. The Commission shall examine any request made by the Council or by a Member State to submit a proposal to amend the minimum common list.

3. When making its proposal under paragraphs 1 or 2, the Commission shall make use of information from the Member States, its own information and, where necessary, information from UNHCR, the Council of Europe and other relevant international organisations.

4. Where the Council requests the Commission to submit a proposal for removing a third country from the minimum common list, the obligation of Member States pursuant to Article 31(2) shall be suspended with regard to this third country as of the day following the Council decision requesting such a submission.

5. Where a Member State requests the Commission to submit a proposal to the Council for removing a third country from the minimum common list, that Member State shall notify the Council in writing of the request made to the Commission. The obligation of this Member State pursuant to Article 31(2) shall be suspended with regard to the third country as of the day following the notification to the Council.

6. The European Parliament shall be informed of the suspensions under paragraphs 4 and 5.

7. The suspensions under paragraphs 4 and 5 shall end after three months, unless the Commission makes a proposal before the end of this period, to withdraw the third country from the minimum common list. The suspensions shall in any case end where the Council rejects a proposal by the Commission to withdraw the third country from the list.

8. Upon request by the Council, the Commission shall report to the European Parliament and the Council on whether the situation of a country on the minimum common list is still in conformity with Annex II. When presenting its report, the Commission may make such recommendations or proposals as it deems appropriate.

Article 30

National designation of third countries as safe countries of origin

1. Without prejudice to Article 29, Member States may retain or introduce legislation that allows, in accordance with Annex II, for the national designation of third countries other than those appearing on the minimum common list, as safe countries of origin for the purposes of examining applications for asylum. This may include designation of part of a country as safe where the conditions in Annex II are fulfilled in relation to that part.

2. By derogation from paragraph 1, Member States may retain legislation in force on 1 December 2005 that allows for the national designation of third countries, other than those appearing on the minimum common list, as safe countries of origin for the purposes of examining applications for asylum where they are satisfied that persons in the third countries concerned are generally neither subject to:

(a) persecution as defined in Article 9 of Directive 2004/83/EC; nor

(b) torture or inhuman or degrading treatment or punishment.

3. Member States may also retain legislation in force on 1 December 2005 that allows for the national designation of part of a country as safe, or a country or part of a country as safe for a specified group of persons in that country, where the conditions in paragraph 2 are fulfilled in relation to that part or group.

4. In assessing whether a country is a safe country of origin in accordance with paragraphs 2 and 3, Member States shall have regard to the legal situation, the application of the law and the general political circumstances in the third country concerned.

5. The assessment of whether a country is a safe country of origin in accordance with this Article shall be based on a range of sources of information, including in particular information from other Member States, the UNHCR, the Council of Europe and other relevant international organisations.

6. Member States shall notify to the Commission the countries that are designated as safe countries of origin in accordance with this Article.

Article 31

The safe country of origin concept

1. A third country designated as a safe country of origin in accordance with either Article 29 or 30 may, after an individual examination of the application, be considered as a safe country of origin for a particular applicant for asylum only if:

(a) he/she has the nationality of that country; or

(b) he/she is a stateless person and was formerly habitually resident in that country;

and he/she has not submitted any serious grounds for considering the country not to be a safe country of origin in his/her particular circumstances and in terms of his/her qualification as a refugee in accordance with Directive 2004/83/EC.

2. Member States shall, in accordance with paragraph 1, consider the application for asylum as unfounded where the third country is designated as safe pursuant to Article 29.

3. Member States shall lay down in national legislation further rules and modalities for the application of the safe country of origin concept.

SECTION IV

Article 32

Subsequent application

1. Where a person who has applied for asylum in a Member State makes further representations or a subsequent application in the same Member State, that Member State may examine these further representations or the elements of the subsequent application in the framework of the examination of the previous application or in the framework of the examination of the decision under review or appeal, insofar as the competent authorities can take into account and consider all the elements underlying the further representations or subsequent application within this framework.

2. Moreover, Member States may apply a specific procedure as referred to in paragraph 3, where a person makes a subsequent application for asylum:

(a) after his/her previous application has been withdrawn or abandoned by virtue of Articles 19 or 20;

(b) after a decision has been taken on the previous application. Member States may also decide to apply this procedure only after a final decision has been taken.

3. A subsequent application for asylum shall be subject first to a preliminary examination as to whether, after the withdrawal of the previous application or after the decision referred to in paragraph 2(b) of this Article on this application has been reached, new elements or findings relating to the examination of whether he/she qualifies as a refugee by virtue of Directive 2004/83/EC have arisen or have been presented by the applicant.

4. If, following the preliminary examination referred to in paragraph 3 of this Article, new elements or findings arise or are presented by the applicant which significantly add to the likelihood of the applicant qualifying as a refugee by virtue of Directive 2004/83/EC, the application shall be further examined in conformity with Chapter II.

5. Member States may, in accordance with national legislation, further examine a subsequent application where there are other reasons why a procedure has to be re-opened.

6. Member States may decide to further examine the application only if the applicant concerned was, through no fault of his/her own, incapable of asserting the situations set forth in paragraphs 3, 4 and 5 of this Article in the previous procedure, in particular by exercising his/her right to an effective remedy pursuant to Article 39.

7. The procedure referred to in this Article may also be applicable in the case of a dependant who lodges an application after he/she has, in accordance with Article 6(3), consented to have his/her case be part of an application made on his/her behalf. In this case the preliminary examination referred to in paragraph 3 of this Article will consist of examining whether there are facts relating to the dependant's situation which justify a separate application.

Article 33

Failure to appear

Member States may retain or adopt the procedure provided for in Article 32 in the case of an application for asylum filed at a later date by an applicant who, either intentionally or owing to gross negligence, fails to go to a reception centre or appear before the competent authorities at a specified time.

Article 34

Procedural rules

1. Member States shall ensure that applicants for asylum whose application is subject to a preliminary examination pursuant to Article 32 enjoy the guarantees provided for in Article 10(1).

2. Member States may lay down in national law rules on the preliminary examination pursuant to Article 32. Those rules may, *inter alia*:

(a) oblige the applicant concerned to indicate facts and substantiate evidence which justify a new procedure;

(b) require submission of the new information by the applicant concerned within a time-limit after he/she obtained such information;

(c) permit the preliminary examination to be conducted on the sole basis of written submissions without a personal interview.

The conditions shall not render impossible the access of applicants for asylum to a new procedure or result in the effective annulment or severe curtailment of such access.

3. Member States shall ensure that:

(a) the applicant is informed in an appropriate manner of the outcome of the preliminary examination and, in case the application will not be further examined, of the reasons for this and the possibilities for seeking an appeal or review of the decision;

(b) if one of the situations referred to in Article 32(2) applies, the determining authority shall further examine the subsequent application in conformity with the provisions of Chapter II as soon as possible.

SECTION V

Article 35

Border procedures

1. Member States may provide for procedures, in accordance with the basic principles and guarantees of Chapter II, in order to decide at the border or transit zones of the Member State on applications made at such locations.

2. However, when procedures as set out in paragraph 1 do not exist, Member States may maintain, subject to the provisions of this Article and in accordance with the laws or regulations in force on 1 December 2005, procedures derogating from the basic principles and guarantees described in Chapter II, in order to decide at the border or in transit zones as to whether applicants for asylum who have arrived and made an application for asylum at such locations, may enter their territory.

3. The procedures referred to in paragraph 2 shall ensure in particular that the persons concerned:

(a) are allowed to remain at the border or transit zones of the Member State, without prejudice to Article 7;

(b) are be immediately informed of their rights and obligations, as described in Article 10(1) (a);

(c) have access, if necessary, to the services of an interpreter, as described in Article 10(1)(b);

(d) are interviewed, before the competent authority takes a decision in such procedures, in relation to their application for asylum by persons with appropriate knowledge of the relevant standards applicable in the field of asylum and refugee law, as described in Articles 12, 13 and 14;

(e) can consult a legal adviser or counsellor admitted or permitted as such under national law, as described in Article 15(1); and

(f) have a representative appointed in the case of unaccompanied minors, as described in Article 17(1), unless Article 17(2) or (3) applies.

Moreover, in case permission to enter is refused by a competent authority, this competent authority shall state the reasons in fact and in law why the application for asylum is considered as unfounded or as inadmissible.

4. Member States shall ensure that a decision in the framework of the procedures provided for in paragraph 2 is taken within a reasonable time. When a decision has not been taken within four weeks, the applicant for asylum shall be granted entry to the territory of the Member State in order for his/her application to be processed in accordance with the other provisions of this Directive.

5. In the event of particular types of arrivals, or arrivals involving a large number of third country nationals or stateless persons lodging applications for asylum at the border or in a transit zone, which makes it practically impossible to apply there the provisions of paragraph 1 or the specific procedure set out in paragraphs 2 and 3, those procedures may also be applied where and for as long as these third country nationals or stateless persons are accommodated normally at locations in proximity to the border or transit zone.

SECTION VI

Article 36

The European safe third countries concept

1. Member States may provide that no, or no full, examination of the asylum application and of the safety of the applicant in his/her particular circumstances as described in Chapter II, shall take place in cases where a competent authority has established, on the basis of the facts, that the applicant for asylum is seeking to enter or has entered illegally into its territory from a safe third country according to paragraph 2.

2. A third country can only be considered as a safe third country for the purposes of paragraph 1 where:

(a) it has ratified and observes the provisions of the Geneva Convention without any geographical limitations;

(b) it has in place an asylum procedure prescribed by law;

(c) it has ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and observes its provisions, including the standards relating to effective remedies; and

(d) it has been so designated by the Council in accordance with paragraph 3.

3. The Council shall, acting by qualified majority on a proposal from the Commission and after consultation of the European Parliament, adopt or amend a common list of third countries that shall be regarded as safe third countries for the purposes of paragraph 1.

4. The Member States concerned shall lay down in national law the modalities for implementing the provisions of paragraph 1 and the consequences of decisions pursuant to those provisions in accordance with the principle of non-refoulement under the Geneva Convention, including providing for exceptions from the application of this Article for humanitarian or political reasons or for reasons of public international law.

5. When implementing a decision solely based on this Article, the Member States concerned shall:

(a) inform the applicant accordingly; and

(b) provide him/her with a document informing the authorities of the third country, in the language of that country, that the application has not been examined in substance.

6. Where the safe third country does not re-admit the applicant for asylum, Member States shall ensure that access to a procedure is given in accordance with the basic principles and guarantees described in Chapter II.

7. Member States which have designated third countries as safe countries in accordance with national legislation in force on 1 December 2005 and on the basis of the criteria in paragraph 2(a), (b) and (c), may apply paragraph 1 to these third countries until the Council has adopted the common list pursuant to paragraph 3.

CHAPTER IV

PROCEDURES FOR THE WITHDRAWAL OF REFUGEE STATUS

Article 37

Withdrawal of refugee status

Member States shall ensure that an examination to withdraw the refugee status of a particular person may commence when new elements or findings arise indicating that there are reasons to reconsider the validity of his/her refugee status.

Article 38

Procedural rules

1. Member States shall ensure that, where the competent authority is considering withdrawing the refugee status of a third country national or stateless person in accordance with Article 14 of Directive 2004/83/EC, the person concerned shall enjoy the following guarantees:

(a) to be informed in writing that the competent authority is reconsidering his or her qualification for refugee status and the reasons for such a reconsideration; and

(b) to be given the opportunity to submit, in a personal interview in accordance with Article 10(1)(b) and Articles 12, 13 and 14 or in a written statement, reasons as to why his/her refugee status should not be withdrawn.

In addition, Member States shall ensure that within the framework of such a procedure:

(c) the competent authority is able to obtain precise and up-to-date information from various sources, such as, where appropriate, from the UNHCR, as to the general situation prevailing in the countries of origin of the persons concerned; and

(d) where information on an individual case is collected for the purposes of reconsidering the refugee status, it is not obtained from the actor(s) of persecution in a manner that would result in such actor(s) being directly informed of the fact that the person concerned is a refugee whose status is under reconsideration, nor jeopardise the physical integrity of the person and his/her dependants, or the liberty and security of his/her family members still living in the country of origin.

2. Member States shall ensure that the decision of the competent authority to withdraw the refugee status is given in writing. The reasons in fact and in law shall be stated in the decision and information on how to challenge the decision shall be given in writing.

3. Once the competent authority has taken the decision to withdraw the refugee status, Article 15, paragraph 2, Article 16, paragraph 1 and Article 21 are equally applicable.

4. By derogation to paragraphs 1, 2 and 3 of this Article, Member States may decide that the refugee status shall lapse by law in case of cessation in accordance with Article 11(1)(a) to (d) of Directive 2004/83/EC or if the refugee has unequivocally renounced his/her recognition as a refugee.

CHAPTER V

APPEALS PROCEDURES

Article 39

The right to an effective remedy

1. Member States shall ensure that applicants for asylum have the right to an effective remedy before a court or tribunal, against the following:

(a) a decision taken on their application for asylum, including a decision:

(i) to consider an application inadmissible pursuant to Article 25(2),

(ii) taken at the border or in the transit zones of a Member State as described in Article 35(1),

(iii) not to conduct an examination pursuant to Article 36;

(b) a refusal to re-open the examination of an application after its discontinuation pursuant to Articles 19 and 20;

(c) a decision not to further examine the subsequent application pursuant to Articles 32 and 34;

(d) a decision refusing entry within the framework of the procedures provided for under Article 35(2);

(e) a decision to withdraw of refugee status pursuant to Article 38.

2. Member States shall provide for time-limits and other necessary rules for the applicant to exercise his/her right to an effective remedy pursuant to paragraph 1.

3. Member States shall, where appropriate, provide for rules in accordance with their international obligations dealing with:

(a) the question of whether the remedy pursuant to paragraph 1 shall have the effect of allowing applicants to remain in the Member State concerned pending its outcome;

(b) the possibility of legal remedy or protective measures where the remedy pursuant to paragraph 1 does not have the effect of allowing applicants to remain in the Member State concerned pending its outcome. Member States may also provide for an ex officio remedy; and

(c) the grounds for challenging a decision under Article 25(2)(c) in accordance with the methodology applied under Article 27(2)(b) and (c).

4. Member States may lay down time-limits for the court or tribunal pursuant to paragraph 1 to examine the decision of the determining authority.

5. Where an applicant has been granted a status which offers the same rights and benefits under national and Community law as the refugee status by virtue of Directive 2004/83/EC, the applicant may be considered as having an effective remedy where a court or tribunal decides that the remedy pursuant to paragraph 1 is inadmissible or unlikely to succeed on the basis of insufficient interest on the part of the applicant in maintaining the proceedings.

6. Member States may also lay down in national legislation the conditions under which it can be assumed that an applicant has implicitly withdrawn or abandoned his/her remedy pursuant to paragraph 1, together with the rules on the procedure to be followed.

CHAPTER VI

GENERAL AND FINAL PROVISIONS

Article 40

Challenge by public authorities

This Directive does not affect the possibility for public authorities of challenging the administrative and/or judicial decisions as provided for in national legislation.

Article 41

Confidentiality

Member States shall ensure that authorities implementing this Directive are bound by the confidentiality principle as defined in national law, in relation to any information they obtain in the course of their work.

Article 42

Report

No later than 1 December 2009, the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States and shall propose any amendments that are necessary. Member States shall send the Commission all the information that is appropriate for drawing up this report. After presenting the report, the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States at least every two years.

Article 43

Transposition

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 December 2007. Concerning Article 15, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 December 2008. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

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

Article 44

Transition

Member States shall apply the laws, regulations and administrative provisions set out in Article 43 to applications for asylum lodged after 1 December 2007 and to procedures for the withdrawal of refugee status started after 1 December 2007.

Article 45

Entry into force

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 46

Addressees

This Directive is addressed to the Member States in conformity with the Treaty establishing the European Community.

Done at Brussels, 1 December 2005.

For the Council

The President

Ashton of UPHOLLAND

ANNEX I

Definition of 'determining authority'

When implementing the provision of this Directive, Ireland may, insofar as the provisions of section 17(1) of the *Refugee Act 1996* (as amended) continue to apply, consider that:

— 'determining authority' provided for in Article 2(e) of this Directive shall, insofar as the examination of whether an applicant should or, as the case may be, should not be declared to be a refugee is concerned, mean the *Office of the Refugee Applications Commissioner*; and

— 'decisions at first instance' provided for in Article 2(e) of this Directive shall include recommendations of the *Refugee Applications Commissioner* as to whether an applicant should or, as the case may be, should not be declared to be a refugee.

Ireland will notify the Commission of any amendments to the provisions of section 17(1) of the *Refugee Act* 1996 (as amended).

ANNEX II

Designation of safe countries of origin for the purposes of Articles 29 and 30(1)

A country is considered as a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive 2004/83/EC, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict.

In making this assessment, account shall be taken, *inter alia*, of the extent to which protection is provided against persecution or mistreatment by:

(a) the relevant laws and regulations of the country and the manner in which they are applied;

(b) observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention;

(c) respect of the non-refoulement principle according to the Geneva Convention;

(d) provision for a system of effective remedies against violations of these rights and freedoms.

ANNEX III

Definition of 'applicant' or 'applicant for asylum'

When implementing the provisions of this Directive Spain may, insofar as the provisions of *'Ley 30/1992 de Régimen jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común'* of 26 November 1992 and *'Ley 29/1998 reguladora de la Jurisdicción Contencioso-Administrativa'* of 13 July 1998 continue to apply, consider that, for the purposes of Chapter V, the definition of 'applicant' or 'applicant for asylum' in Article 2(c) of this Directive shall include '*recurrente*' as established in the abovementioned Acts.

A '*recurrente*' shall be entitled to the same guarantees as an 'applicant' or an 'applicant for asylum' as set out in this Directive for the purposes of exercising his/her right to an effective remedy in Chapter V.

Spain will notify the Commission of any relevant amendments to the abovementioned Act.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 2 December 2005

concerning the effects of the accession of the Czech Republic and the Republic of Poland to the European Union on the participation of the European Community in the Convention on the International Commission for the Protection of the Oder and the Convention on the International Commission for the Protection of the Elbe

(2005/884/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the 2003 Act of Accession, and in particular Article 57 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The participation of the European Community in the Convention on the International Commission for the Protection of the Oder [1] and to the Convention on the International Commission for the Protection of the Elbe [2] (hereinafter referred to as the Oder and Elbe Conventions) was necessary because the two Conventions were concluded with third countries and addressed matters covered by Community environmental policy.

(2) As from 1 May 2004, after the accession of the Czech Republic and the Republic of Poland to the European Union, all Contracting Parties to the Oder and Elbe Conventions are Member States of the European Union. Therefore, the basis for the Community's consent to be bound by such Conventions no longer exists. From this moment, the participation of the Community is no longer necessary or justified.

(3) Moreover, the enlargement of the European Union has had the effect of radically transforming the legal relations between the Contracting Parties. Upon accession, the underlying policy objectives of the Oder and Elbe Conventions may be achieved through the measures laid down in Community legislation.

(4) The 2003 Act of Accession has not specifically provided for this situation and it is therefore necessary to adopt the required measures in accordance with Article 57 thereof, which allows such omissions to be corrected.

(5) It should be therefore made clear that, with effect of the date of accession, the Community is no longer a party to the Oder and Elbe Conventions and that certain transitory measures may need to be taken,

HAS ADOPTED THIS DECISION:

Article 1

1. The European Community has ceased to be a party to the Convention on the International Commission for the Protection of the Oder and to the Convention on the International Commission for the Protection of the Elbe with effect of 1 May 2004.

2. If appropriate, the Commission shall agree with the Czech Republic, the Federal Republic of Germany and the Republic of Poland solutions to any transitory problem which may result from the end of the participation of the Community in the Oder and Elbe Conventions.

[1] Decision 1999/257/EC (OJ L 100, 15.4.1999, p. 20).
[2] Decision 91/598/EEC (OJ L 321, 23.11.1991, p. 24).

Article 2

This Decision is addressed to the Czech Republic, the Federal Republic of Germany and the Republic of Poland.

Done at Brussels, 2 December 2005.

For the Council
The President
M. BECKETT

COMMISSION

COMMISSION RECOMMENDATION

of 7 December 2005

on the release of security oil stocks following the supply disruption caused by Hurricane Katrina

(notified under document number C(2005) 4655)

(2005/885/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211, second indent, thereof,

Whereas:

(1) Council Directive 68/414/EEC [1] imposes an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products.

(2) The losses in production of crude oil and petroleum products caused by Hurricane Katrina disrupted the world's oil supply, therefore also affecting the Community's oil supplies.

(3) In the wake of Hurricane Katrina the International Energy Agency (IEA) asked a number of Member States to participate in an international initial collective action in response to the supply disruptions caused by the hurricane, to cover the loss of oil production during the period from 2 September 2005 to 2 October 2005, but which may also entail action beyond 2 October 2005 in some Member States.

(4) Member States which are not member countries of the IEA have expressed their support for the emergency action taken by the Member States participating in the stock releases.

(5) Participation in the initial collective action could result in some Member States reducing their security oil stocks below the compulsory minimum levels laid down by Directive 68/414/EEC.

(6) The second paragraph of Article 7 of Directive 68/414/EEC requires Member States to refrain from drawing on their stocks to any extent which would reduce those stocks to below the compulsory minimum level, prior to the consultation provided for in the first paragraph of Article 7 of that Directive.

(7) The amounts of security oil stocks to be released by individual Member States are not expected to bring the overall level of security oil stocks in the Community below the compulsory minimum levels.

(8) The overall level of security stocks of gasoline (Category I) in the Community is well above the compulsory minimum level and far greater, in terms of number of days of daily internal consumption of the Community, than the level of stocks of gas oils (Category II).

(9) Once the release of stocks has finished, Member States will need to replenish their security oil stocks up to the compulsory minimum levels. In order to avoid placing unnecessary pressure on the oil market, such replenishment is expected to take place over an extended period of time, including the year 2006.

(10) Article 1 of Council Directive 73/238/EEC of 24 July 1973 on measures to mitigate the effects of difficulties in the supply of crude oil and petroleum products [2] indicates that the powers provided to competent authorities of Member States in the event of difficulties arising in the supply of crude oil or petroleum products should enable them to impose, amongst other measures, specific or broad restrictions on consumption.

[1] OJ L 308, 23.12.1968, p. 14. Directive as last amended by Directive 98/93/EC (OJ L 358, 31.12.1998, p. 10).

[2] OJ L 228, 16.8.1973, p. 1.

(11) Article 3 of Directive 73/238/EEC states that consultations between the Member States and the Commission are due to take place through a group (i.e. the Oil Supply Group) to ensure the coordination of measures taken or proposed by Member States under Article 1 of that Directive.

(12) The measures referred to in this Recommendation correspond to the results of the consultations carried out pursuant to the first paragraph of Article 7 of Directive 68/414/EEC and Article 3 of Directive 73/238/EEC,

HEREBY RECOMMENDS:

1. In their plans for releasing security oil stocks following the supply disruption caused by Hurricane Katrina, Member States should give preference to the release of gasoline stocks, which belong to Category I, rather than gas oil stocks belonging to Category II.

2. Member States should proceed with their plans for releasing security oil stocks in order to participate in the international collective action following the supply disruption caused by Hurricane Katrina, to cover the loss of oil production during the period from 2 September to 2 October 2005, even if such stock release temporarily brings their security oil stocks below the compulsory minimum levels.

3. Member States should replenish their security oil stocks in coordination with the Commission which will facilitate, on a country-by-country basis, the adoption by Member States of flexible schemes taking due account of the market conditions. Member States should submit their replenishment plans once they have released all the security oil stocks they intend to release.

4. At meetings of the Oil Supply Group, starting with the meeting before the end of year 2005, Member States should explore possible measures for restricting oil consumption, including demand restraint measures, in the event of further oil supply disruptions. In particular, Member States should consider two separate sets of demand restraint measures, one set of 'soft' and highly cost-effective measures for minor oil supply disruptions and another set for major ones. Member States should commit to coordinate the implementation of such measures through the Oil Supply Group.

5. This Recommendation is addressed to the Member States.

Done at Brussels, 7 December 2005.

For the Commission
Andris PIEBALGS
Member of the Commission

COMMISSION DECISION

of 9 December 2005

releasing Cyprus and Malta from the obligation to apply Council Directive 2002/54/EC on the marketing of beet seed

(notified under document number C(2005) 4756)

(Only the Greek and Maltese texts are authentic)

(Text with EEA relevance)

(2005/886/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed [1], and in particular Article 30a thereof,

Having regard to the requests submitted by Cyprus and Malta,

Whereas:

(1) Directive 2002/54/EC sets out certain provisions for the marketing of beet seed. This Directive also provides that, subject to certain conditions, Member States may be wholly or partly released from the obligation to apply this Directive.

(2) Seed of beet is not normally reproduced or marketed in Cyprus and Malta. In addition, the growing of beet is of minimal economic importance in the abovementioned countries.

(3) As long as those conditions remain, the relevant Member States should be released from the obligation to apply the provisions of Directive 2002/54/EC to the material in question.

(4) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

Cyprus and Malta are hereby released from the obligation to apply Directive 2002/54/EC, with the exception of Article 20.

Article 2

This Decision is addressed to the Republic of Cyprus and the Republic of Malta.

Done at Brussels, 9 December 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

[1] OJ L 193, 20.7.2002, p. 12. Directive as last amended by Directive 2004/117/EC (OJ L 14, 18.1.2005, p. 18).

CORRIGENDA

Corrigendum to Council Regulation (EC) No 1952/97 of 7 October 1997 amending Regulation (EC) No 1015/94 imposing a definitive anti-dumping duty on imports of television camera systems originating in Japan

(Official Journal of the European Union L 276 of 9 October 1997)

On page 24, in recital (39):

for: '(b) *JVC*

— (…)

— viewfinder VF-P116',

read: '(b) *JVC*

— (…)

— viewfinder VF-P116E',

On page 28 in the Annex, opposite the company name 'JVC', in the column 'Viewfinder':

for: 'VF-P116',

read: 'VF-P116E'.

Corrigendum to Council Regulation (EC) No 2042/2000 of 26 September 2000 imposing a definitive anti-dumping duty on imports of television camera systems originating in Japan

(Official Journal of the European Communities L 244 of 29 September 2000)

In the Annex on page 50, under the company name 'Hitachi', in the column 'Viewfinder', the entries 'GM-9 ([1])' and 'GM-51 ([1])' shall be added.

On page 52, under the company name 'JVC', in the column 'Viewfinder':

for: 'VF-P116',

read: 'VF-P116E'.
