

Official Journal

of the European Union

L 32

Volume 49

4 February 2006

English edition

Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 194/2006
of 3 February 2006
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 4 February 2006.

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

Done at Brussels, 3 February 2006.

For the Commission

J. L. DEMARTY

*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 3 February 2006 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	89,0
	204	50,3
	212	103,5
	624	111,0
	999	88,5
0707 00 05	052	105,4
	204	102,1
	628	167,7
	999	125,1
0709 10 00	220	66,1
	999	66,1
0709 90 70	052	161,6
	204	115,9
	999	138,8
0805 10 20	052	45,4
	204	48,8
	212	45,0
	220	49,4
	448	47,8
	624	81,8
	999	53,0
0805 20 10	204	87,4
	999	87,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	57,2
	204	112,0
	400	87,6
	464	135,7
	624	71,7
	662	36,9
	999	83,5
0805 50 10	052	61,9
	999	61,9
0808 10 80	400	125,0
	404	104,7
	720	82,0
	999	103,9
0808 20 50	388	92,4
	400	90,3
	720	57,9
	999	80,2

⁽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 195/2006**of 3 February 2006****amending Regulation (EC) No 1377/2005 as regards the quantity covered by the standing invitation to tender for the export of barley held by the Finnish intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Commission Regulation (EEC) No 2131/93 ⁽²⁾ lays down the procedure and conditions for the disposal of cereals held by intervention agencies.
- (2) Commission Regulation (EC) No 1377/2005 ⁽³⁾ has opened a standing invitation to tender for the export of 27 780 tonnes of barley held by the Finnish intervention agency.
- (3) Finland has informed the Commission of its intervention agency's intention to increase by 35 000 tonnes the quantity put out to tender for export. In view of this request, of the quantity available and of the market situation, the request made by Finland should be granted.
- (4) Regulation (EC) No 1377/2005 should therefore be amended.

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 of Regulation (EC) No 1377/2005 is replaced by the following:

'Article 2

The invitation to tender shall cover a maximum of 62 780 tonnes of barley for export to third countries with the exception of Albania, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, the former Yugoslav Republic of Macedonia, Liechtenstein, Mexico, Romania, Serbia and Montenegro (*) Switzerland and the United States of America.

(*) Including Kosovo, at defined by UN Security Council Resolution 1244 of 10 June 1999.'

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, 3 February 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 191, 31.7.1993, p. 76. Regulation as last amended by Regulation (EC) No 749/2005 (OJ L 126, 19.5.2005, p. 10).

⁽³⁾ OJ L 219, 24.8.2005, p. 21.

COMMISSION REGULATION (EC) No 196/2006**of 3 February 2006****amending Annex I to Regulation (EC) No 761/2001 of the European Parliament and of the Council to take account of the European Standard EN ISO 14001:2004, and repealing Decision 97/265/EC**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) ⁽¹⁾, and in particular Article 9(1)(a) and Article 15(2) thereof,

Whereas:

- (1) The requirements set out in Section 4 of the European Standard EN ISO 14001:1996 constitute the environmental management system requirements of the Regulation (EC) No 761/2001, as set out in Part A of Annex I thereto.
- (2) The International Standard ISO 14001:1996 has been modified in 2004 following the work of the International Organisation for Standardisation (ISO) Committee TC207/SC1 Environment Management System, in order to improve compatibility of ISO 14001 with ISO 9001 and to clarify the existing text of ISO 14001 without adding any new additional requirements.
- (3) ISO has subsequently released a new revised version of the International Standard ISO 14001:2004 and of the European Standard EN ISO 14001:2004.
- (4) Part A of Annex I to Regulation (EC) No 761/2001 should be amended to take account of the European Standard EN ISO 14001:2004.

- (5) Regulation (EC) No 761/2001 should therefore be amended accordingly.

- (6) Transitional arrangements are needed for organisations already registered under EMAS.

- (7) Commission Decision 97/265/EC ⁽²⁾ on the recognition of the International Standard ISO 14001:1996 and the European Standard EN ISO 14001:1996, should be repealed.

- (8) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 14 of Regulation (EC) No 761/2001,

HAS ADOPTED THIS REGULATION:

Article 1

Part A of Annex I to Regulation (EC) No 761/2001 is replaced by the Annex to this Regulation.

Article 2

1. Organisations registered in the EMAS register at the time of entry into force of this Regulation shall remain on the EMAS register, subject to the verification referred to in paragraph 2.

2. Compliance with the requirements of Regulation (EC) No 761/2001 as amended by this Regulation shall be checked at the time of the next verification of the organisation.

If the next verification is to be carried out sooner than six months after entry into force of this Regulation, the date of the next verification may be extended by six months in agreement with the environmental verifier and the competent body.

Article 3

Decision 97/265/EC is repealed.

*Article 4*This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 114, 24.4.2001, p. 1. Regulation as amended by the 2003 Act of Accession.

⁽²⁾ OJ L 104, 22.4.1997, p. 37.

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

Done at Brussels, 3 February 2006.

For the Commission

Stavros DIMAS

Member of the Commission

ANNEX

'ANNEX I

A. ENVIRONMENT MANAGEMENT SYSTEM REQUIREMENTS

Organisations participating in the eco-management and audit scheme (EMAS) shall implement the requirements of EN ISO 14001:2004, which are described in Section 4 of the European Standard (*) and are fully reproduced below:

I-A. Environmental management system requirements**I-A.1. General requirements**

The organisation shall establish, document, implement, maintain and continually improve an environmental management system in accordance with the requirements of this International Standard and determine how it will fulfil these requirements.

The organisation shall define and document the scope of its environmental management system.

I-A.2. Environmental policy

Top management shall define the organisation's environmental policy and ensure that, within the defined scope of its environmental management system, it:

- (a) is appropriate to the nature, scale and environmental impacts of its activities, products and services;
- (b) includes a commitment to continual improvement and prevention of pollution;
- (c) includes a commitment to comply with applicable legal requirements and with other requirements to which the organisation subscribes which relate to its environmental aspects;
- (d) provides the framework for setting and reviewing environmental objectives and targets;
- (e) is documented, implemented and maintained;
- (f) is communicated to all persons working for or on behalf of the organisation; and
- (g) is available to the public.

I-A.3. Planning**I-A.3.1. Environmental aspects**

The organisation shall establish, implement and maintain a procedure(s):

- (a) to identify the environmental aspects of its activities, products and services within the defined scope of the environmental management system that it can control and those that it can influence taking into account planned or new developments, or new or modified activities, products and services; and
- (b) to determine those aspects that have or can have significant impact(s) on the environment (i.e. significant environmental aspects).

The organisation shall document this information and keep it up to date.

(*) The use of the text reproduced in this Annex is made with the permission of CEN. The full text can be purchased from the national standard bodies, the list of which is given in this Annex. Any reproduction of this Annex for commercial reason is not permitted.

The organisation shall ensure that the significant environmental aspects are taken into account in establishing, implementing and maintaining its environmental management system.

I-A.3.2. *Legal and other requirements*

The organisation shall establish, implement and maintain a procedure(s):

- (a) to identify and have access to the applicable legal requirements and other requirements to which the organisation subscribes related to its environmental aspects; and
- (b) to determine how these requirements apply to its environmental aspects.

The organisation shall ensure that these applicable legal requirements and other requirements to which the organisation subscribes are taken into account in establishing, implementing and maintaining its environmental management system.

I-A.3.3. *Objectives, targets and programme(s)*

The organisation shall establish, implement and maintain documented environmental objectives and targets, at relevant functions and levels within the organisation.

The objectives and targets shall be measurable, where practicable, and consistent with the environmental policy, including the commitments to prevention of pollution, to compliance with applicable legal requirements and with other requirements to which the organisation subscribes, and to continual improvement.

When establishing and reviewing its objectives and targets, an organisation shall take into account the legal requirements and other requirements to which the organisation subscribes, and its significant environmental aspects. It shall also consider its technological options, its financial, operational and business requirements, and the views of interested parties.

The organisation shall establish, implement and maintain a programme(s) for achieving its objectives and targets. Programme(s) shall include:

- (a) designation of responsibility for achieving objectives and targets at relevant functions and levels of the organisation; and
- (b) the means and time-frame by which they are to be achieved.

I-A.4. *Implementation and operation*

I-A.4.1. *Resources, roles, responsibility and authority*

Management shall ensure the availability of resources essential to establish, implement, maintain and improve the environmental management system. Resources include human resources and specialised skills, organisational infrastructure, technology and financial resources.

Roles, responsibilities and authorities shall be defined, documented and communicated in order to facilitate effective environmental management.

The organisation's top management shall appoint a specific management representative(s) who, irrespective of other responsibilities, shall have defined roles, responsibilities and authority for:

- (a) ensuring that an environmental management system is established, implemented and maintained in accordance with the requirements of this International Standard;
- (b) reporting to top management on the performance of the environmental management system for review, including recommendations for improvement.

I-A.4.2. Competence, training and awareness

The organisation shall ensure that any person(s) performing tasks for it or on its behalf that have the potential to cause a significant environmental impact(s) identified by the organisation is (are) competent on the basis of appropriate education, training or experience, and shall retain associated records.

The organisation shall identify training needs associated with its environmental aspects and its environmental management system. It shall provide training or take other action to meet these needs, and shall retain associated records.

The organisation shall establish, implement and maintain a procedure(s) to make persons working for it or on its behalf aware of:

- (a) the importance of conformity with the environmental policy and procedures and with the requirements of the environmental management system;
- (b) the significant environmental aspects and related actual or potential impacts associated with their work, and the environmental benefits of improved personal performance;
- (c) their roles and responsibilities in achieving conformity with the requirements of the environmental management system; and
- (d) the potential consequences of departure from specified procedures.

I-A.4.3. Communication

With regard to its environmental aspects and environmental management system, the organisation shall establish, implement and maintain a procedure(s) for:

- (a) internal communication among the various levels and functions of the organisation;
- (b) receiving, documenting and responding to relevant communication from external interested parties.

The organisation shall decide whether to communicate externally about its significant environmental aspects, and shall document its decision. If the decision is to communicate, the organisation shall establish and implement a method(s) for this external communication.

I-A.4.4. Documentation

The environmental management system documentation shall include:

- (a) the environmental policy, objectives and targets;
- (b) description of the scope of the environmental management system;
- (c) description of the main elements of the environmental management system and their interaction, and reference to related documents;

- (d) documents, including records, required by this International Standard; and
- (e) documents, including records, determined by the organisation to be necessary to ensure the effective planning, operation and control of processes that relate to its significant environmental aspects.

I-A.4.5. *Control of documents*

Documents required by the environmental management system and by this International Standard shall be controlled. Records are a special type of document and shall be controlled in accordance with the requirements given in A.5.4.

The organisation shall establish, implement and maintain a procedure(s) to:

- (a) approve documents for adequacy prior to issue;
- (b) review and update as necessary and re-approve documents,
- (c) ensure that changes and the current revision status of documents are identified;
- (d) ensure that relevant versions of applicable documents are available at points of use;
- (e) ensure that documents remain legible and readily identifiable;
- (f) ensure that documents of external origin determined by the organisation to be necessary for the planning and operation of the environmental management system are identified and their distribution controlled; and
- (g) prevent the unintended use of obsolete documents and apply suitable identification to them if they are retained for any purpose.

I-A.4.6. *Operational control*

The organisation shall identify and plan those operations that are associated with the identified significant environmental aspects consistent with its environmental policy, objectives and targets, in order to ensure that they are carried out under specified conditions, by:

- (a) establishing, implementing and maintaining a documented procedure(s) to control situations where their absence could lead to deviation from the environmental policy, objectives and targets; and
- (b) stipulating the operating criteria in the procedure(s); and
- (c) establishing, implementing and maintaining procedures related to the identified significant environmental aspects of goods and services used by the organisation and communicating applicable procedures and requirements to suppliers, including contractors.

I-A.4.7. *Emergency preparedness and response*

The organisation shall establish, implement and maintain a procedure(s) to identify potential emergency situations and potential accidents that can have an impact(s) on the environment and how it will respond to them.

The organisation shall respond to actual emergency situations and accidents and prevent or mitigate associated adverse environmental impacts.

The organisation shall periodically review and, where necessary, revise its emergency preparedness and response procedures, in particular, after the occurrence of accidents or emergency situations.

The organisation shall also periodically test such procedures where practicable.

I-A.5. *C h e c k i n g*

I-A.5.1. *M o n i t o r i n g a n d m e a s u r e m e n t*

The organisation shall establish, implement and maintain a procedure(s) to monitor and measure, on a regular basis, the key characteristics of its operations that can have a significant environmental impact. The procedure(s) shall include the documenting of information to monitor performance, applicable operational controls and conformity with the organisation's environmental objectives and targets.

The organisation shall ensure that calibrated or verified monitoring and measurement equipment is used and maintained and shall retain associated records.

I-A.5.2. *E v a l u a t i o n o f c o m p l i a n c e*

I-A.5.2.1. Consistent with its commitment to compliance, the organisation shall establish, implement and maintain a procedure(s) for periodically evaluating compliance with applicable legal requirements.

The organisation shall keep records of the results of the periodic evaluations.

I-A.5.2.2. The organisation shall evaluate compliance with other requirements to which it subscribes. The organisation may wish to combine this evaluation with the evaluation of legal compliance referred to in A.5.2.1 or to establish a separate procedure(s).

The organisation shall keep records of the results of the periodic evaluations.

I-A.5.3. *N o n - c o n f o r m i t y , c o r r e c t i v e a c t i o n a n d p r e v e n t i v e a c t i o n*

The organisation shall establish, implement and maintain a procedure(s) for dealing with actual and potential non-conformity(ies) and for taking corrective action and preventive action. The procedure(s) shall define requirements for:

- (a) identifying and correcting non-conformity(ies) and taking action(s) to mitigate their environmental impacts;
- (b) investigating non-conformity(ies), determining their cause(s) and taking actions in order to avoid their recurrence;
- (c) evaluating the need for action(s) to prevent non-conformity(ies) and implementing appropriate actions designed to avoid their occurrence;
- (d) recording the results of corrective action(s) and preventive action(s) taken; and
- (e) reviewing the effectiveness of corrective action(s) and preventive action(s) taken. Actions taken shall be appropriate to the magnitude of the problems and the environmental impacts encountered.

The organisation shall ensure that any necessary changes are made to environmental management system documentation.

I-A.5.4. *C o n t r o l o f r e c o r d s*

The organisation shall establish and maintain records as necessary to demonstrate conformity to the requirements of its environmental management system and of this International Standard, and the results achieved.

The organisation shall establish, implement and maintain a procedure(s) for the identification, storage, protection, retrieval, retention and disposal of records.

Records shall be and remain legible, identifiable and traceable.

I-A.5.5. Internal audit

The organisation shall ensure that internal audits of the environmental management system are conducted at planned intervals to:

- (a) determine whether the environmental management system:
 - conforms to planned arrangements for environmental management including the requirements of this International Standard, and
 - has been properly implemented and is maintained; and
- (b) provide information on the results of audits to management.

Audit programme(s) shall be planned, established, implemented and maintained by the organisation, taking into consideration the environmental importance of the operation(s) concerned and the results of previous audits.

Audit procedure(s) shall be established, implemented and maintained that address:

- the responsibilities and requirements for planning and conducting audits, reporting results and retaining associated records,
- the determination of audit criteria, scope, frequency and methods.

Selection of auditors and conduct of audits shall ensure objectivity and the impartiality of the audit process.

I-A.6. Management review

Top management shall review the organisation's environmental management system, at planned intervals, to ensure its continuing suitability, adequacy and effectiveness. Reviews shall include assessing opportunities for improvement and the need for changes to the environmental management system, including the environmental policy and environmental objectives and targets.

Records of the management reviews shall be retained.

Input to management reviews shall include:

- (a) results of internal audits and evaluations of compliance with legal requirements and with other requirements to which the organisation subscribes;
- (b) communication(s) from external interested parties, including complaints;
- (c) the environmental performance of the organisation;
- (d) the extent to which objectives and targets have been met;
- (e) status of corrective and preventive actions;
- (f) follow-up actions from previous management reviews;

(g) changing circumstances, including developments in legal and other requirements related to its environmental aspects; and

(h) recommendations for improvement.

The outputs from management reviews shall include any decisions and actions related to possible changes to environmental policy, objectives, targets and other elements of the environmental management system, consistent with the commitment to continual improvement.

LIST OF NATIONAL STANDARD BODIES

BE: IBN/BIN (Institut belge de normalisation/Belgisch Instituut voor Normalisatie)

CZ: ČNI (Český normalizační institut)

DK: DS (Dansk Standard)

DE: DIN (Deutsches Institut für Normung e.V.)

EE: EVS (Eesti Standardikeskus)

EL: ELOT (Ελληνικός Οργανισμός Τυποποίησης)

ES: AENOR (Asociación Española de Normalización y Certificación)

FR: AFNOR (Association française de normalisation)

IE: NSAI (National Standards Authority of Ireland)

IT: UNI (Ente Nazionale Italiano di Unificazione)

CY: Κυπριακός Οργανισμός Προώθησης Ποιότητας

LV: LVS (Latvijas Standarts)

LT: LST (Lietuvos standartizacijos departamentas)

LU: SEE (Service de l'Energie de l'Etat) (Luxembourg)

HU: MSZT (Magyar Szabványügyi Testület)

MT: MSA (Awtorità Maltija dwar l-Istandards/Malta Standards Authority)

NL: NEN (Nederlands Normalisatie-Instituut)

AT: ON (Österreichisches Normungsinstitut)

PL: PKN (Polski Komitet Normalizacyjny)

PT: IPQ (Instituto Português da Qualidade)

SI: SIST (Slovenski inštitut za standardizacijo)

SK: SÚTN (Slovenský ústav technickej normalizácie)

FI: SFS (Suomen Standardisoimisliitto ry.)

SE: SIS (Swedish Standards Institute)

UK: BSI (British Standards Institution).'

COMMISSION REGULATION (EC) No 197/2006**of 3 February 2006****on transitional measures under Regulation (EC) No 1774/2002 as regards the collection, transport, treatment, use and disposal of former foodstuffs****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption ⁽¹⁾, and in particular Article 32(1) thereof,

Whereas:

- (1) Regulation (EC) No 1774/2002 provides for a complete revision of Community rules concerning animal by-products not intended for human consumption, including the introduction of a number of strict requirements. In addition, it provides that appropriate transitional measures may be adopted.
- (2) Due to the strict nature of those requirements, Commission Regulation (EC) No 813/2003 of 12 May 2003 on transitional measures Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards the collection, transport and disposal of former foodstuffs ⁽²⁾ granted a derogation to Member States in order to enable them to authorise operators to continue to apply national rules for the collection, transport and disposal of former foodstuffs of animal origin until 31 December 2005. Member States have asked to extend the derogation for a further period of time in order to avoid disruption of trade. It is therefore necessary to extend the derogation.
- (3) Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste ⁽³⁾ sets out conditions for the granting of permits for landfills and the waste to be accepted in the different landfills. Accordingly, it is appropriate to apply the measures provided for in that Directive, where the competent authority considers that the former foodstuffs do not pose a risk to public or animal health, if they are disposed of in a landfill.

- (4) Certain former foodstuffs, such as bread, pasta, pastry and similar products, pose little risk to public or animal health providing they have not been in contact with raw material of animal origin such as raw meat, raw fishery products, raw eggs and raw milk. In such cases, the competent authority should be permitted to allow the former foodstuffs to be used as feed material if the authority is satisfied that such practice does not pose a risk to public or animal health. The competent authority should also be permitted to allow it to be used for other purposes, such as fertiliser, or treated or disposed of in another way, such as in a biogas or a composting plant which is not approved in accordance with Article 15 of Regulation (EC) No 1774/2002.
- (5) The Commission is to seek the advice of the European Food Safety Authority on the possible risks involved in turning the current extended derogation into implementing measures under Article 6(2)(i) of Regulation (EC) No 1774/2002.
- (6) In order to prevent a risk to animal and public health, appropriate control systems should be maintained in the Member States for the period of the transitional measures.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

*Article 1***Derogation regarding the collection, transport, treatment, use and disposal of former foodstuffs**

1. By way of derogation from Articles 6(2) and 7 and Chapters I to III and Chapters V to VIII of Annex II to Regulation (EC) No 1774/2002, Member States may authorise the collection, transport, treatment, use and disposal of former foodstuffs referred to in Article 6(1)(f) of that Regulation (former foodstuffs), in accordance with Articles 2 and 3 of this Regulation, provided that:

- (a) they have not been in contact with any animal by-product referred to in Articles 4 and 5 and points (a) to (e) and (g) to (k) of Article 6(1) of Regulation (EC) No 1774/2002 or with other raw material of animal origin;
- (b) this does not pose a risk to public or animal health.

⁽¹⁾ OJ L 273, 10.10.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 416/2005 (OJ L 66, 12.3.2005, p. 10).

⁽²⁾ OJ L 117, 13.5.2003, p. 22.

⁽³⁾ OJ L 182, 16.7.1999, p. 1. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

2. The derogation provided for in the first paragraph shall not apply to raw material of animal origin.

Article 2

Collection and transport

Member States may authorise the collection and transport of former foodstuffs provided that the person consigning or transporting the former foodstuffs:

- (a) ensures that the former foodstuffs are consigned and transported to a plant or other outlet permitted pursuant to Article 6(2) of Regulation (EC) No 1774/2002 or a plant or other outlet or landfill pursuant to Article 3 of this Regulation; and
- (b) keeps a record of consignments for a period of at least two years from the date of such consignment or transport demonstrating this, and makes it available upon request to the competent authority.

Article 3

Treatment, use and disposal

Member States may authorise former foodstuffs to be:

- (a) disposed of as waste by burial in a landfill permitted under Directive 1999/31/EC;
- (b) treated in alternative systems approved under conditions minimising risk to animal and public health provided that the following conditions are complied with:

(i) the resulting material is sent for disposal to an incineration plant or a co-incineration plant in accordance with Directive 2000/76/EC ⁽¹⁾, or landfill in accordance with Directive 1999/31/EC; and

(ii) is not used as feed material or used as organic fertiliser or soil improver;

or

(c) to be used in feed without further treatment or used for other purposes without further treatment if such former foodstuffs have not been in contact with raw material of animal origin and the competent authority is satisfied that such use does not pose a risk to public or animal health.

Article 4

Control measures

The competent authority shall take the necessary measures to control compliance by operators with this Regulation.

Article 5

Entry into force

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

It shall apply from 1 January 2006 to 31 July 2007.

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

Done at Brussels, 3 February 2006.

For the Commission

Markos KYPRIANOU

Member of the Commission

⁽¹⁾ OJ L 332, 28.12.2000, p. 91.

COMMISSION REGULATION (EC) No 198/2006**of 3 February 2006****implementing Regulation (EC) No 1552/2005 of the European Parliament and the Council on statistics relating to vocational training in enterprises****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1552/2005 of the European Parliament and the Council of 7 September 2005 on statistics relating to vocational training in enterprises ⁽¹⁾, and in particular Articles 7(3), 8(2), 9(4), 10(2), and 11(3) thereof,

Whereas:

(1) Regulation (EC) No 1552/2005 establishes a common framework for the production of Community statistics on vocational training in enterprises.

(2) In order to implement Regulation (EC) No 1552/2005, measures concerning the sampling and precision requirements and sample size needed to meet these requirements, and the detailed NACE and size categories into which the results can be broken down, should be adopted.

(3) The Commission should define the specific data to be collected with respect to the training and non-training enterprises and to the different forms of vocational training.

(4) Implementing measures concerning the quality requirements for the data to be collected and transmitted for Community statistics on vocational training in enterprises, the structure of the quality reports and any measures necessary for assessing or improving the quality of the data should be adopted.

(5) The first reference year for which the data are to be collected should be established.

(6) Provisions should also be adopted concerning the appropriate technical format and interchange standard of the electronically transmitted data.

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

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down measures to implement Regulation (EC) No 1552/2005 on statistics relating to vocational training in enterprises.

Article 2

The first reference year for which the data are to be collected shall be the calendar year 2005.

Article 3

The specific variables to be transmitted to the Commission (Eurostat) shall be as specified in Annex I.

Article 4

Sampling and precision requirements, the sample sizes needed to meet these requirements, and the detailed specifications of the NACE and size categories into which the results can be broken down shall be as specified in Annex II.

Article 5

Member States shall be responsible for data checking, error correction, imputation and weighting.

Imputation and weighting of variables shall follow the principles laid down in Annex III. Derogation from these principles shall be fully justified and reported in the quality report.

⁽¹⁾ OJ L 255, 30.9.2005, p. 1.

Article 6

Data shall be transmitted to the Commission (Eurostat) by the means and in the format specified in Annex IV.

Article 7

Each Member State shall perform a quality evaluation of its data, to be presented in the form of a quality report. The quality report shall be prepared and presented to the Commission (Eurostat) in accordance with the format specified in Annex V.

Article 8

With a view to achieving a high level of harmonisation of the survey results across countries, the Commission (Eurostat) in close cooperation with Member States, shall propose methodological and practical recommendations and guidelines for the implementation of the survey in the form of a 'European Union Manual'.

Article 9

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

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

Done at Brussels, 3 February 2006.

For the Commission

Joaquín ALMUNIA

Member of the Commission

ANNEX I

VARIABLES

Note to the table:

The value 'core' and 'key' in the column 'variable group' are explained in Annex III.

The value 'ID' means that the variable is an 'identification variable'.

In the column 'variable type' the value 'QL' refers to 'Qualitative variable' and 'QT' refers to 'Quantitative variable'.

Variable name	Variable group	Variable type	Variable length	Variable format	Variable description	Variable remark
COUNTRY	ID		2	Char	Country code	No missing — Unique by Country
ENTERPR	ID		6	Num	Enterprise ID	No missing — Unique by case
WEIGHT	ID		10	Num	Two decimal positions — Use '.' as decimal separator	No missing
NACE_SP	ID		4	Num	Sampling plan NACE — Category economic activity	No missing
SIZE_SP	ID		1	Num	Sampling plan size group	No missing
NSTRA_SP	ID		5	Num	Sampling plan — Number of enterprises in the stratum defined by NACE_SP and SIZE_SP, i.e. the population	No missing
N_SP	ID		5	Num	Sampling plan — Number of sampled enterprises from the sample-frame in the stratum defined by NACE_SP and SIZE_SP	No missing
SUB_SP	ID		1	Num	Sub-sample indicator, shows if enterprise belongs to sub-sample	No missing
N_RESPST	ID		5	Num	Number of responding enterprises in the stratum defined by NACE_SP and SIZE_SP, i.e. the population	No missing
N_EMPREG	ID		6	Num	Number of persons employed according to the register	
RESPONSE	ID		1	Num	Response indicator	No missing
PROC	ID		2	Num	Record data collection method	No missing
IDLANGUA	ID		2	Char	Language identification	
IDREGION	ID		3	Char	Region identification NUTS — Level 1	No missing
EXTRA1	ID		10	Num	Extra variable 1	
EXTRA2	ID		10	Num	Extra variable 2	
EXTRA3	ID		10	Num	Extra variable 3	
A1	Core	QL	4	Num	Actual NACE CODE	Core variable — No missing — No imputation
A2tot04	Key	QT	6	Num	Total number of persons employed 31.12.2004	Key variable — No missing

Variable name	Variable group	Variable type	Variable length	Variable format	Variable description	Variable remark
A2tot05	Core	QT	6	Num	Total number of persons employed 31.12.2005	Core variable — No missing — No imputation
A2m05		QT	6	Num	Total number of males employed 31.12.2005	
A2f05		QT	6	Num	Total number of females employed 31.12.2005	
A3a		QT	6	Num	Persons employed — Under 25 years of age	
A3b		QT	6	Num	Persons employed — 25 to 54 years of age	
A3c		QT	6	Num	Persons employed — 55 years and older	
A4	Key	QT	12	Num	Total number of hours worked in the reference year 2005 by persons employed	Key variable — No missing — in hours
A4m		QT	12	Num	Total number of hours worked in the reference year 2005 by male persons employed	In hours
A4f		QT	12	Num	Total number of hours worked in the reference year 2005 by female persons employed	In hours
A5	Key	QT	12	Num	Total labour costs (direct + indirect) of all persons employed in the ref year 2005	Key variable — No missing — in euro
A6		QL	1	Num	SIGNIFICANTLY new technologically improved products or services or methods of producing or delivering products and services during the reference year	
B1a	Core	QL	1	Num	Internal CVT courses	Core variable — No missing — No imputation
B1b	Core	QL	1	Num	External CVT courses	Core variable — No missing — No imputation
B2aflag	Core	QL	1	Num	Flag — On-the-job training	Core variable — No missing — No imputation
B2a		QT	6	Num	Participants in other form of CVT — On-the-job training	
B2bflag	Core	QL	1	Num	Flag — Job rotation	Core variable — No missing — No imputation
B2b		QT	6	Num	Participants in other form of CVT — Job-rotation, exchanges, secondments or study visits	
B2cflag	Core	QL	1	Num	Flag — Learning and quality circles	Core variable — No missing — No imputation
B2c		QT	6	Num	Participants in other form of CVT — Learning or quality circles	

Variable name	Variable group	Variable type	Variable length	Variable format	Variable description	Variable remark
B2dflag	Core	QL	1	Num	Flag — Self-directed learning	Core variable — No missing — No imputation
B2d		QT	6	Num	Participants in other form of CVT — Self-directed learning	
B2eflag	Core	QL	1	Num	Flag — Attendance at conferences etc.	Core variable — No missing — No imputation
B2e		QT	6	Num	Participants in other form of CVT — Attendance at conferences, etc.	
B3a		QL	1	Num	CVT courses for persons employed in the previous year 2004	
B3b		QL	1	Num	Expect to provide CVT courses for persons employed during the next year 2006	
B4a		QL	1	Num	Other forms of CVT for persons employed in the previous year 2004	
B4b		QL	1	Num	Expect to provide other forms of CVT for persons employed during the next year 2006	
C1tot	Key	QT	6	Num	Total CVT course participants	Key variable — No missing
C1m		QT	6	Num	CVT course participants — Male	
C1f		QT	6	Num	CVT course participants — Female	
C2a		QT	6	Num	CVT participants — Under 25 years of age	
C2b		QT	6	Num	CVT participants — 25 to 54 years of age	
C2c		QT	6	Num	CVT participants — 55 years and older	
C3tot	Key	QT	10	Num	Paid working time (in hours) spent on all CVT courses	Key variable — No missing — In hours
C3i		QT	10	Num	Paid working time (in hours) for internal CVT courses	In hours
C3e		QT	10	Num	Paid working time (in hours) for external CVT courses	In hours
C4tot	Key	QT	10	Num	Paid working time (in hours) spent on all CVT courses	Key variable — No missing — In hours
C4m		QT	10	Num	Paid working time (in hours) in CVT courses — Male	In hours
C4f		QT	10	Num	Paid working time (in hours) in CVT courses — Female	In hours
C5a		QT	10	Num	Paid working time in hours — Languages, foreign (222) and mother tongue (223)	In hours

Variable name	Variable group	Variable type	Variable length	Variable format	Variable description	Variable remark
C5b		QT	10	Num	Paid working time in hours — Sales (341) and marketing (342)	In hours
C5c		QT	10	Num	Paid working time in hours — Accounting (344) and finance (343), management and administration (345) and office work (346)	In hours
C5d		QT	10	Num	Paid working time in hours — Personal skills/development (090), working life (347)	In hours
C5e		QT	10	Num	Paid working time in hours — Computer science (481) and computer use (482)	In hours
C5f		QT	10	Num	Paid working time in hours — Engineering, manufacturing and construction (5)	In hours
C5g		QT	10	Num	Paid working time in hours — Environment protection (850) and occupational health and safety (862)	In hours
C5h		QT	10	Num	Paid working time in hours — Personal services (81), transport services (84), protection of property and persons (861) and military (863)	In hours
C5i		QT	10	Num	Paid working time in hours — Other training subjects	In hours
C6a		QT	10	Num	Paid working time (in hours) — Schools, colleges, universities and other higher education institutions	In hours
C6b		QT	10	Num	Paid working time (in hours) — Public training institutions (financed or guided by the government; e.g. adult education centre)	In hours
C6c		QT	10	Num	Paid working time in (hours) — Private training companies	In hours
C6d		QT	10	Num	Paid working time (in hours) — Private companies whose main activity is not training, (equipment suppliers, parent/associate companies)	In hours
C6e		QT	10	Num	Paid working time (in hours) — Employers' associations, chambers of commerce, sector bodies	In hours
C6f		QT	10	Num	Paid working time (in hours) — Trade unions	In hours
C6g		QT	10	Num	Paid working time (in hours) — Other training providers	In hours
C7aflag		QL	1	Num	Flag — fees	
C7a		QT	10	Num	CVT course costs — Fees and payments for courses for employees	In euro

Variable name	Variable group	Variable type	Variable length	Variable format	Variable description	Variable remark
C7bflag		QL	1	Num	Flag — Travel costs	
C7b		QT	10	Num	CVT course costs — Travel and subsistence payments	In euro
C7cflag		QL	1	Num	Flag — Labour costs trainers	
C7c		QT	10	Num	CVT course costs — Labour costs of internal trainers	In euro
C7dflag		QL	1	Num	Flag — Training centre and teaching materials etc.	
C7d		QT	10	Num	CVT course costs — Training centre, or rooms and teaching materials for CVT courses	In euro
C7sflag		QL	1	Num	'Sub-total only' flag	
C7sub	Key	QT	10	Num	CVT costs sub-total	Key variable — No missing — In euro
PAC	Key	QT	10	Num	Personal absence cost — to be calculated ($PAC = C3_{tot} * A5 / A4$)	Key variable — No missing — In euro
C8aflag		QL	1	Num	Flag — CVT contributions	
C8a		QT	10	Num	Contributions CVT	In euro
C8bflag		QL	1	Num	Flag — CVT receipts	
C8b		QT	10	Num	Receipts CVT	In euro
C7tot	Key	QT	10	Num	Total cost CVT — To be calculated ($C7_{sub} + C8a - C8b$)	Key variable — No missing — In euro
C9a1		QL	1	Num	Migrants and ethnic minorities — Employed	
C9a2		QL	1	Num	Migrants and ethnic minorities — Specific courses	
C9b1		QL	1	Num	Persons with a disability — Employed	
C9b2		QL	1	Num	Persons with a disability — Specific courses	
C9c1		QL	1	Num	Persons without formal qualifications — Employed	
C9c2		QL	1	Num	Persons without formal qualifications — Specific courses	
C9d1		QL	1	Num	Persons at risk of losing job/redundancy — Employed	
C9d2		QL	1	Num	Persons at risk of losing job/redundancy — Specific courses	
C10a1		QL	1	Num	Part-time contract persons — Employed	

Variable name	Variable group	Variable type	Variable length	Variable format	Variable description	Variable remark
C10a2		QL	1	Num	CVT courses geared to part-time contract holders	
C10b1		QL	1	Num	Fixed term contract persons — Employed	
C10b2		QL	1	Num	CVT courses geared to fixed term contract holders	
D1		QL	1	Num	Own or shared training centre	
D2		QL	1	Num	Person or unit within your enterprise with responsibility for the organisation of CVT	
D3		QL	1	Num	Enterprise makes use of an external advisory service	
D4		QL	1	Num	Enterprise implements regular formal procedures with the objective of evaluating the future skills needs of the enterprise	
D5		QL	1	Num	Conduct structured interviews with its employees with the objective of establishing the specific training needs of persons employed	
D6		QL	1	Num	Planning of CVT in the enterprise lead to a written training plan or programme	
D7		QL	1	Num	Annual training budget, which includes provision for CVT	
D8		QL	1	Num	Measure the satisfaction of the persons trained after the training	
D9		QL	1	Num	After the training assess the trainees to establish whether the targeted skills were in fact successfully acquired	
D10		QL	1	Num	Enterprise assess the participants' occupational behaviour and change in performance following the training	
D11		QL	1	Num	Measures the impact of training on business performance through the use of indicators	
D12		QL	1	Num	National, sectorial or other agreements between the social partners, which influenced the CVT plans, policies and practices	
D13		QL	1	Num	Existence of a formal structure	
D13a		QL	1	Num	Role of formal structure — Objective and priority setting for CVT activities	
D13b		QL	1	Num	Role of formal structure — Establishing the criteria for the selection of the target population who should participate to CVT	

Variable name	Variable group	Variable type	Variable length	Variable format	Variable description	Variable remark
D13c		QL	1	Num	Role of formal structure — The subject matter of the CVT activity	
D13d		QL	1	Num	Role of formal structure — The budgeting process related to CVT	
D13e		QL	1	Num	Role of formal structure — The procedure for the selection external CVT providers	
D13f		QL	1	Num	Role of formal structure — Evaluation of training outcomes	
D14a		QL	1	Num	Publicly-funded advisory service aimed at identifying training needs and/or developing training plans	
D14b		QL	1	Num	Financial subsidies towards the costs of training persons employed	
D14c		QL	1	Num	Tax relief on expenditure on training persons employed	
D14d		QL	1	Num	Procedures to ensure the standards of trainers (e.g. by national registers, assessment etc.)	
D14e		QL	1	Num	Provision of recognised standards and frameworks for qualifications and certification	
D15a		QL	1	Num	The high costs of CVT courses	Max 3 — No ranking
D15b		QL	1	Num	The lack of suitable CVT courses in the market	Max 3 — No ranking
D15c		QL	1	Num	Difficulties in assessing the enterprise's CVT needs	Max 3 — No ranking
D15d		QL	1	Num	A major training effort was realised in a previous year	Max 3 — No ranking
D15e		QL	1	Num	The high workload and the limited available time of persons employed	Max 3 — No ranking
D15f		QL	1	Num	The current level of training is appropriate to the enterprises needs	Max 3 — No ranking
D15g		QL	1	Num	A higher focus on IVT than CVT	Max 3 — No ranking
D15h		QL	1	Num	Other reasons	Max 3 — No ranking
E1a		QL	1	Num	The existing skills and competences corresponded to the current needs of the enterprise	Max 3 — No ranking
E1b		QL	1	Num	The enterprise's preferred strategy was to recruit individuals with the required skills and competencies	Max 3 — No ranking
E1c		QL	1	Num	The enterprise had difficulties in assessing its needs concerning CVT	Max 3 — No ranking

Variable name	Variable group	Variable type	Variable length	Variable format	Variable description	Variable remark
E1d		QL	1	Num	The lack of suitable CVT courses in the market	Max 3 — No ranking
E1e		QL	1	Num	The costs of CVT courses were too high for the enterprise	Max 3 — No ranking
E1f		QL	1	Num	The enterprise preferred to focus on IVT rather than CVT	Max 3 — No ranking
E1g		QL	1	Num	An investment in CVT was made in a previous year and did not require to be repeated in 2005	Max 3 — No ranking
E1h		QL	1	Num	The persons employed had no available time to participation in CVT	Max 3 — No ranking
E1i		QL	1	Num	Other reasons	Max 3 — No ranking
F1tot05	Core	QT	6	Num	Total number of IVT participants in the enterprise during 2005	Core variable — No missing — No imputation
F1m05		QT	6	Num	Total number of male IVT participants in the enterprise during 2005	
F1f05		QT	6	Num	Total number of female IVT participants in the enterprise during 2005	
F2aflag		QL	1	Num	Flag — IVT individual labour costs	
F2a		QT	10	Num	IVT costs — Labour costs of individuals registered on an IVT activity	In euro
F2bflag		QL	1	Num	Flag — IVT other costs	
F2b		QT	10	Num	IVT costs — Other costs — Training fees, travel costs, teaching materials, costs of training centres etc.	In euro
F2cflag		QL	1	Num	Flag — IVT trainer or mentor labour costs	Optional variable
F2c		QT	10	Num	IVT costs — Labour costs of IVT trainers or mentors	Optional variable — In euro
F3aflag		QL	1	Num	Flag IVT contributions	
F3a		QT	10	Num	Contributions IVT	In euro
F3bflag		QL	1	Num	Flag IVT receipts	
F3b		QT	10	Num	Receipts IVT	In euro
F2tot	Key	QT	10	Num	Total IVT costs (F2b + F3a – F3b)	Key variable — No missing — In euro

ANNEX II

SAMPLE

1. The Statistical Business Register (SBR) referred to in Council Regulation (EEC) No 2186/93 ⁽¹⁾ shall normally be taken as the main source of the sampling frame. A nationally representative stratified probability sample of enterprises shall be taken from this frame.
2. The sample shall be stratified by NACE and size category according to the following minimum specification:
 - 20 NACE rev1.1 categories (C, D (15-16, 17-19, 21-22, 23-26, 27-28, 29-33, 34-35, 20 + 36-37), E, F, G (50, 51, 52), H, I (60-63, 64), J (65-66, 67), K + O)
 - 3 enterprise size categories, according to their number of persons employed: (10-49) (50-249) (250 and more)
3. A sample size shall be calculated to assure a **maximum** half length of the 95 % confidence interval of 0,2 for the estimated parameters, which are a proportion of 'training enterprises' (after allowance for the non-response rate in the sample) for each of the 60 stratified elements identified above.
4. The following formula may be used in determining the sample size:

$$n_h = 1/[c^2 \cdot te_h + 1/N_h] / r_h$$

Where:

n_h = the number of sampling units in the stratum cell, h

r_h = the anticipated response rate in the stratum cell, h

c = maximum length of half the confidence interval

te_h = the anticipated proportion of training enterprises in the stratum cell, h

N_h = the total number of enterprises (training and non-training) in the stratum cell, h

⁽¹⁾ OJ L 196, 5.8.1993, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

ANNEX III

Imputation principals and record weighting

Countries shall take all appropriate measures to reduce item and unit non-response. Prior to imputation countries shall make all reasonable efforts to use other data sources.

Core variables, for which no missing value shall be accepted, nor imputation permitted are:

— A1, A2tot05, B1a, B1b, B2aflag, B2bflag, B2cflag, B2dflag, B2eflag, F1tot05.

Key variables, for which every effort should be made to avoid missing values and for which imputation is recommended are:

— A2tot04, A4, A5, C1tot, C3tot, C4tot, C7sub, C7tot, PAC, F2tot.

Imputation for item non-response shall be recommended within the following general limits (Member State experts should at all times apply their professional judgement in the application of these rules):

1. When a record contains less than 50 % of variables presented then this record shall normally be considered as a unit non-response.
2. For a single NACE/size cell imputations shall not be allowed if more than 50 % of the responding enterprises have missing data for more than 25 % of the quantitative variables.
3. For a single NACE/size cell no imputation shall be performed on a quantitative variable if the proportion of responding enterprises for that particular variable is less than 50 %.
4. For a single NACE/size cell no imputation shall be performed on a qualitative variable if the proportion of responding enterprises for that particular variable is less than 80 %.

Quantitative and qualitative variables are identified in Annex 1.

Departures from these principals shall be fully documented and justified in the national quality report.

Member States shall calculate and transmit a weight to be applied to each data record together with any auxiliary variables, which may have been used in the calculation of this weight. These auxiliary variables should be recorded as the variables EXTRA1, EXTRA2, EXTRA3 as necessary. The methodology adopted for establishing the weights shall be detailed in the quality report.

ANNEX IV

Data file format and transmission rules

Data shall be transmitted to the Commission (Eurostat) in electronic form by means of a secure data transmission software application (STADIUM/EDAMIS) to be made available by the Commission (Eurostat).

Countries shall transmit two checked data sets to ESTAT:

- (a) the data set prior to imputation with preliminary checks;
- (b) the fully checked data set after imputation.

Both data sets shall contain the variables identified in Annex 1.

Both files shall be presented in comma separated variable (.csv) format. The first record in each file shall be a header record containing the 'variable names' as defined in Annex 1. Subsequent records shall detail the values of these variables for each responding enterprise.

ANNEX V

QUALITY REPORT FORMAT

1. RELEVANCE

Implementation of the survey and the degree to which statistics meet current and potential user's needs.

— Description and classification of users.

— Individual needs of each user group.

— Evaluation if and to what degree these needs have been satisfied.

2. ACCURACY

2.1 Sampling errors

— Description of the sample design and the realised sample.

— Description of the calculation of the final weights including non-response model and auxiliary variables used.

— Estimator used, e.g. Horvitz-Thompson estimator.

— Variance of the estimates according to the sample strata.

— Variance estimation software.

— In particular, a description of the auxiliary variables or information used should be reported in order to recalculate the final weights within Eurostat since it is needed for variance estimation.

— In case of non-response analysis, a description of the biases in the sample and results.

Tables to be provided (broken down by **NACE and size classes** according to the national sampling plan):

— Number of enterprises in the sampling frame.

— Number of enterprises in the sample.

Tables to be provided (broken down by **NACE and size classes** according to the national sampling plan, however allocation according to the observed enterprise characteristics):

— Coefficients of variation ⁽¹⁾ for the following **key statistics**.

— Total number of persons employed.

— Total number of enterprises that provided CVT.

— Ratio of the total number of enterprises that provided CVT to the total number of enterprises.

⁽¹⁾ The coefficient of variation is the ratio of the square root of the variance of the estimator to the expected value. It is estimated by the ratio of the square root of the estimate of the sampling variance to the estimated value. The estimation of the sampling variance must take into account the sampling design and changes of strata.

- Total number of enterprises that provided CVT courses.
- Ratio of the total number of enterprises that provided CVT courses to the total number of enterprises.
- Total number of persons employed in enterprises that provided CVT.
- Total number of participants in CVT courses.
- Ratio of the total number of participants in CVT courses to the total number of persons employed.
- Ratio of the total number of participants in CVT courses to the total number of persons employed in enterprises that provided CVT.
- Total costs of CVT courses.
- Total number of enterprises providing IVT.
- Total number of participants in IVT.
- Total costs of IVT.
- Ratio of the total number of enterprises providing IVT to the total number of enterprises.

2.2 Non-sampling errors

2.2.1 Coverage errors

- Description of the register used for sampling, and its overall quality.
- Information included in the register, and its updating frequency.
- Errors due to the discrepancies between the sampling frame and the target population and sub-populations (over-coverage, under-coverage, misclassifications).
- Methods used to obtain this information.
- Notes on the processing of misclassifications.

Tables to be provided (broken down by **NACE and size classes** according to the national sampling plan, however allocation according to the observed enterprise characteristics):

- Number of enterprises.
- Ratio of the number of enterprises for which the observed strata equals the sampling strata: the number of enterprises in the sampling strata. Indicate whether the changes of activities have been taken into account.

2.2.2 Measurement errors

Where appropriate an assessment of errors that occurred at the stage of data collection due **for example to**:

- The questionnaire design (results of pre-tests or laboratory methods; questioning strategies) — questionnaire to be submitted in annex.
- Reporting unit/respondent (reactions of respondents):
 - Memory errors.
 - Lack of attention of the respondents.

- Effects of age, education etc.
- Errors when filling the forms.
- Information system of the respondent and the use of administrative records (correspondence between the administrative and survey concept, e.g. Reference period, availability of individual data).
- Modes of data collection (comparison of different data collection methods).
- Interviewer characteristics and behaviour.
- Socio-economic characteristics.
- Different ways of administering the questionnaire.
- Different assistance to the respondent.
- Specific studies or techniques to assess these errors.
- Methods used to reduce this kind of errors.
- Detailed comments on problems with the questionnaire as a whole or with single questions (comments on all variables).
- Description and assessment of measures taken to assure the high quality of 'participants' and to assure that 'participant events' were not collected.

2.2.3 *Processing errors*

Description of the data editing process.

- Processing system and tools used.
- Errors due to coding, editing, weighting, and tabulation etc.
- Quality checks at macro/micro level.
- Corrections and failed edits breakdown into missing values, errors and anomalies.

2.2.4 *Non-response errors*

- A description of the measures undertaken regarding 're-contacts'.
- Unit and item response rates.
- Assessment of unit non-response.
- Assessment item non-response.
- Full report on imputation procedures including methods used for imputation and/or re-weighting.
- Methodological notes and results of non-response analysis or other methods to assess the effects of non-response.

Tables to be provided (broken down by **NACE and size classes** according to the national sampling plan, however allocation according to the observed enterprise characteristics):

- Unit response rates ⁽¹⁾.
- Item response rates ⁽²⁾ for the following with respect to all respondents.
 - Total number of hours work as a function of all respondents.
 - Total labour cost as a function of all respondents.
- Item response rates for the following with respect to enterprises offering CVT courses.
 - CVT courses by specific age groups as a function of enterprises offering CVT courses.
 - Total number of participants in courses, males, females as a function of enterprises offering CVT courses.
 - Total number of hours on CVT courses, males, females as a function of enterprises offering CVT courses.
 - Number of hours on CVT courses managed internally and externally as a function of enterprises offering CVT courses.
 - Total costs of CVT courses as a function of enterprises offering CVT courses.
- Item response rates for the following with respect to enterprises offering IVT.
 - Total costs of IVT as a function of enterprises offering IVT.

3. TIMELINESS AND PUNCTUALITY

- Table of dates when each of the following phases of the project started and ended.
 - Data collection.
 - Sending out questionnaires.
 - Reminders and follow-up.
 - Face-to-face interviews.
 - Data checking and editing.
 - Further validation and imputation.
 - Non-response survey (as appropriate).
 - Estimations.
 - Data transmission to Eurostat.
 - Dissemination of national results.

⁽¹⁾ The unit response rate is the ratio of the number of in scope respondents to the number of questionnaires sent to the population selected.

⁽²⁾ The item response rate for a variable is the ratio of the number of available data to the number of available and missing data (equal to the number of in scope respondents).

4. ACCESSIBILITY AND CLARITY

- What results where or will be sent to enterprises.
- Dissemination scheme of results.
- Copy of any methodological documents relating to the statistics provided.

5. COMPARABILITY

- As appropriate and relevant countries should comment upon.
- Deviations from the European questionnaire.
- Was the survey linked to another national survey.
- To what extent was the survey realised through existing data in registers.
- Definitions and recommendations.

6. COHERENCE

- Comparison of statistics for the same phenomenon or item from other surveys or sources.
- Assessment of coherence with structural business statistics for the number of persons employed as a function of NACE and Size Group.
- Assessment of the coherence of the age group distribution of persons employed (A3a,A3b,A3c) with other national data sources as a function of NACE and size group (if available).
- Assessment of the coherence of the age group distribution of CVT participants (C2a,C2b,C2c) with other national data sources as a function of NACE and size group (if available).

Tables to provide (broken down by **NACE and size classes** according to the national sampling plan, however allocation according to the observed enterprise characteristics):

- Number of persons employed from Structural Business Statistics (Commission Regulation (EC) No 2700/98 ⁽¹⁾ — code 16 11 0).
- Number of persons employed from CVTS3.
- Percentage of differences (SBS — CVTS3)/SBS.
- Number of persons employed for each age group A3a,A3b,A3c.
- Number of persons employed in other source for each age group.
- Percentage of differences of (A3x — other national source A3x)/A3x (where x = a, b, c).
- Number of CVT participants for each age group C2a,C2b,C2c.
- Number of CVT participants in other source for each age group.
- Percentage of CVT participants (C2x — other national source of C2x)/C2x (where x = a, b, c).

⁽¹⁾ OJ L 344, 18.12.1998, p. 49. Regulation as last amended by Regulation (EC) No 1670/2003 (OJ L 244, 29.9.2003, p. 74).

7. BURDEN AND BENEFIT

- Analysis of the burden and benefit at the national level through for example a consideration of:
 - Average time for answering to the each questionnaire.
 - Problematic questions and variables.
 - Which variables have been most/least useful in describing CVT at the national level.
 - Estimated or actual satisfaction level of data users at the national level.
 - Different burden for small and large enterprises.
 - Efforts made to reduce burden.
-

COMMISSION REGULATION (EC) No 199/2006**of 3 February 2006****amending Regulation (EC) No 466/2001 setting maximum levels for certain contaminants in foodstuffs as regards dioxins and dioxin-like PCBs****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food⁽¹⁾, and in particular Article 2(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 466/2001⁽²⁾ sets maximum levels for certain contaminants in foodstuffs.

(2) 'Dioxins' as referred to in this Regulation cover a group of 75 polychlorinated dibenzo-p-dioxin (PCDD) congeners and 135 polychlorinated dibenzofuran (PCDF) congeners, of which 17 are of toxicological concern. Polychlorinated biphenyls (PCBs) are a group of 209 different congeners which can be divided into two groups according to their toxicological properties: a small number exhibit toxicological properties similar to dioxins and are therefore often termed 'dioxin-like PCBs'. The majority do not exhibit dioxin-like toxicity but have a different toxicological profile.

(3) Each congener of dioxins or dioxin-like PCBs exhibits a different level of toxicity. In order to be able to sum up the toxicity of these different congeners, the concept of toxic equivalency factors (TEFs) has been introduced to facilitate risk assessment and regulatory control. This means that the analytical results relating to all the individual dioxin and dioxin-like PCB congeners of toxicological concern are expressed in terms of a quantifiable unit, namely the 'TCDD toxic equivalent' (TEQ).

(4) On 30 May 2001 the Scientific Committee for Food (SCF) adopted an Opinion on the Risk Assessment of Dioxins and Dioxin-like PCBs in Food, updating its Opinion of 22 November 2000 on this subject on the basis of new scientific information that had become available since the latter's adoption⁽³⁾. The SCF fixed a tolerable weekly intake (TWI) of 14 pg WHO-TEQ/kg body weight for dioxins and dioxin-like PCBs. Exposure estimates indicate that a considerable proportion of the Community population have a dietary intake in excess of the TWI. Certain population groups in some countries could be at higher risk owing to particular dietary habits.

(5) From a toxicological point of view, any level set should apply to both dioxins and dioxin-like PCBs, but in 2001 maximum levels were set for dioxins only and not for dioxin-like PCBs, given the very limited data available at that time on the prevalence of dioxin-like PCBs. In the meantime, however, more data on the presence of dioxin-like PCBs have become available.

(6) According to Regulation (EC) No 466/2001, the Commission was to review the provisions on dioxins in the light of new data on the presence of dioxins and dioxin-like PCBs, in particular with a view to the inclusion of dioxin-like PCBs in the levels to be set.

(7) All operators in the food and feed chain must continue to make all possible efforts and to do all that is necessary to limit the dioxins and PCBs present in feed and food. Regulation (EC) No 466/2001 accordingly provides that the maximum levels applicable should be further reviewed by 31 December 2006 at the latest with the aim of significantly reducing the maximum levels and possibly laying down maximum levels for other foodstuffs. Given the time necessary to obtain sufficient monitoring data to determine such significantly lower levels, that time-limit should be extended.

⁽¹⁾ OJ L 37, 13.2.1993, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 77, 16.3.2001, p. 1. Regulation as last amended by Regulation (EC) 1822/2005 (OJ L 293, 9.11.2005, p. 11).

⁽³⁾ Opinion of the Scientific Committee on Food on the Risk Assessment of Dioxins and Dioxin-like PCBs in Food adopted on 30 May 2001 — Update based on new scientific information available since the adoption of the SCF opinion of 22 November 2000 (http://europa.eu.int/comm/food/fs/sc/scf/out90_en.pdf).

- (8) It is proposed to set maximum levels for the sum of dioxins and dioxin-like PCBs expressed in World Health Organisation (WHO) toxic equivalents, using the WHO-TEFs as this is the most appropriate approach from a toxicological point of view. In order to ensure a smooth transition, for a transitional period the existing levels for dioxins should continue to apply in addition to the newly set levels for the sum of dioxins and dioxin-like PCBs. The foodstuffs indicated in section 5 of Annex I must comply during that period with the maximum levels for dioxins and with the maximum levels for the sum of dioxins and dioxin-like PCBs. Consideration will be given by 31 December 2008 to dispensing with the separate maximum level for dioxins.
- (9) It is of major importance that analytical results are reported and interpreted in a uniform way in order to ensure a harmonised enforcement approach throughout the Community. Commission Directive 2002/69/EC of 26 July 2002 laying down the sampling methods and the methods of analysis for the official control of dioxins and the determination of dioxin-like PCBs in foodstuffs⁽¹⁾ provides that a lot shall be considered as non-compliant with the established maximum level if the analytical result confirmed by duplicate analysis and calculated as the mean of at least two separate determinations exceeds the maximum level beyond reasonable doubt taking into account the measurement uncertainty. There are different possibilities to estimate the expanded uncertainty⁽²⁾.
- (10) In order to encourage a proactive approach to reducing the dioxins and dioxin-like PCBs present in food and feed, action levels were set by Commission Recommendation 2002/201/EC of 4 March 2002 on the reduction of the presence of dioxins, furans and PCBs in feedingstuffs and foodstuffs⁽³⁾. These action levels are a tool for competent authorities and operators to highlight those cases where it is appropriate to identify a source of contamination and to take measures to reduce or eliminate it. Since the sources of dioxins and dioxin-like PCBs are different, separate action levels should be determined for dioxins on the one hand and for dioxin-like PCBs on the other hand. Recommendation 2002/201/EC will therefore be amended accordingly.
- (11) Derogations have been granted to Finland and Sweden to place on the market fish originating in the Baltic region and intended for consumption in the territory with dioxin levels higher than those set in point 5.2 of section 5 of Annex I to Regulation (EC) No 466/2001. Those Member States have fulfilled the conditions as regards the provision of information to consumers on dietary recommendations. Every year they have communicated the results of their monitoring of the levels of dioxins in fish from the Baltic region to the Commission and have reported on the measures to reduce human exposure to dioxins from the Baltic region.
- (12) On the basis of the results of monitoring of levels of dioxins and dioxin-like PCBs carried out by Finland and Sweden, the transitional period during which the derogations granted to those Member States apply should be extended, but those derogations should be limited to certain fish species. Those derogations apply to the maximum levels for dioxins and to the maximum levels for the sum of dioxins and dioxin-like PCBs set in point 5.2 of section 5 of Annex I to Regulation (EC) No 466/2001.
- (13) The reduction of human exposure to dioxins and dioxin-like PCBs through food consumption is important and necessary to ensure consumer protection. As food contamination is directly related to feed contamination, an integrated approach must be adopted to reduce dioxin and dioxin-like PCB incidence throughout the food chain, i.e. from feed materials through food-producing animals to humans. A proactive approach is followed to actively reduce the dioxins and dioxin-like PCBs in feed and food and consequently the maximum levels applicable should be reviewed within a defined period of time with the objective to set lower levels. Therefore consideration will be given by 31 December 2008 at the latest to significantly reducing the maximum levels for the sum of dioxins and dioxin-like PCBs.
- (14) Operators need to make efforts to step up their capacity effectively to remove dioxins, furans and dioxin-like PCBs from marine oil. The significant lower level to which consideration shall be given by 31 December 2008, shall be based on the technical possibilities of the most effective decontamination procedure.
- (15) As regards the establishment of maximum levels for other foodstuffs by 31 December 2008, particular attention shall be paid to the need to set specific lower maximum levels for dioxins and dioxin-like PCBs in foods for infants and young children in the light of the monitoring data obtained through the 2005, 2006 and 2007 programmes for monitoring dioxins and dioxin-like PCBs in foods for infants and young children.
- (16) Regulation (EC) No 466/2001 should therefore be amended accordingly.
- ⁽¹⁾ OJ L 209, 6.8.2002, p. 5. Directive as amended by Commission Directive 2004/44/EC (OJ L 113, 20.4.2004, p. 17).
- ⁽²⁾ Information on different ways for the estimation of the expanded uncertainty and on the value of the measurement uncertainty can be found in the report 'Report on the relationship between analytical results, measurement uncertainty, recovery factors and the provisions of EU food and feed legislation' — http://europa.eu.int/comm/food/food/chemicalsafety/contaminants/report-sampling_analysis_2004_en.pdf
- ⁽³⁾ OJ L 67, 9.3.2002, p. 69.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 466/2001 is amended as follows:

1. Article 1 is amended as follows:

- (a) Paragraph 1a is replaced by the following:

‘1a. By way of derogation from paragraph 1, Finland and Sweden are authorised, for a transitional period extending to 31 December 2011, to place on their market salmon (*Salmo salar*), herring (*Clupea harengus*), river lamprey (*Lampetra fluviatilis*), trout (*Salmo trutta*), char (*Salvelinus* spp.) and roe of vendace (*Coregonus albula*) originating in the Baltic region and intended for consumption in their territory with levels of dioxins and/or levels of the sum of dioxins and dioxin-like PCBs higher than those set in point 5.2 of section 5 of Annex I, provided that a system is in place to ensure that consumers are fully informed of the dietary recommendations with regard to the restrictions on the consumption of these fish species from the Baltic region by identified vulnerable sections of the population in order to avoid potential health risks.

By 31 March each year, Finland and Sweden shall communicate to the Commission the results of their monitoring of the levels of dioxins and dioxin-like PCBs in fish from the Baltic region obtained in the preceding year and shall report on the measures taken to reduce human exposure to dioxins and dioxin-like PCBs from fish from the Baltic region. Finland and Sweden shall continue to implement the necessary measures to ensure that fish and fish products not complying with point 5.2 of Section 5 of Annex I are not marketed in other Member States.’

- (b) Paragraph 2 is replaced by the following:

‘2. The maximum levels specified in the Annex I shall apply to the edible part of the foodstuffs concerned, unless otherwise specified in that Annex.’

2. Article 4a is replaced by the following:

‘Article 4a

With regard to dioxins and the sum of dioxins and dioxin-like PCBs in products as referred to in section 5 of Annex I, it shall be prohibited:

- (a) to mix products complying with the maximum levels with products exceeding those maximum levels;
- (b) to use products not complying with the maximum levels as ingredients in the manufacture of other foodstuffs.’

3. Article 5, paragraph 3 is deleted.

4. Annex I is amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 4 November 2006.

As regards the maximum levels for the sum of dioxins and dioxin-like PCBs, this Regulation shall not apply to products that were placed on the market before 4 November 2006 in accordance with the provisions applicable. The burden of proving when the products were placed on the market shall be borne by the food business operator.

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

Done at Brussels, 3 February 2006.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX

Section 5 of Annex I to Regulation (EC) No 466/2001 is replaced by the following:

‘Section 5. Dioxins (sum of polychlorinated dibenzo-*para*-dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs), expressed in World Health Organisation (WHO) toxic equivalents using the WHO-TEFs (toxic equivalency factors, 1997), and sum of dioxins and dioxin-like PCBs (sum of polychlorinated dibenzo-*para*-dioxins (PCDDs)), polychlorinated dibenzofurans (PCDFs) and polychlorinated biphenyls (PCBs), expressed in World Health Organisation (WHO) toxic equivalents using the WHO-TEFs (toxic equivalency factors, 1997) ⁽¹⁾)

Food	Maximum levels Sum of dioxins and furans (WHO-PCDD/F-TEQ) (*)	Maximum levels Sum of dioxins, furans and dioxin-like PCBs (WHO-PCDD/ F-PCB-TEQ) (*)	Methods of sampling and performance criteria for methods of analysis
5.1.1. Meat and meat products (**)			Directive 2002/69/EC (****)
– of ruminants (bovine animals, sheep)	3,0 pg/g fat (***)	4,5 pg /g fat (***)	
– of poultry and farmed game	2,0 pg/g fat (***)	4,0 pg/g fat (***)	
– of pigs	1,0 pg/g fat (***)	1,5 pg/g fat (***)	
5.1.2. Liver of terrestrial animals and derived products thereof	6,0 pg/g fat (***)	12,0 pg/g fat (***)	
5.2. Muscle meat of fish and fishery products and products thereof with the exception of eel (****) (*****)	4,0 pg/g fresh weight	8,0 pg/g fresh weight	Directive 2002/69/EC (****)
– Muscle meat of eel (<i>Anguilla anguilla</i>) and products thereof	4,0 pg/g fresh weight	12,0 pg/g fresh weight	
5.3. Milk (*****) and milk products, including butter fat	3,0 pg/g fat (***)	6,0 pg/g fat (***)	Directive 2002/69/EC (****)

(¹) WHO TEFs for human risk assessment based on the conclusions of the World Health Organisation meeting in Stockholm, Sweden, 15 to 18 June 1997 (Van den Berg *et al.*, (1998) Toxic Equivalency Factors (TEFs) for PCBs, PCDDs, PCDFs for Humans and for Wildlife. *Environmental Health Perspectives*, 106(12), 775).

Congener	TEF value	Congener	TEF value
Dibenzo-<i>p</i>-dioxins (PCDDs)		“Dioxin-like” PCBs	
2,3,7,8-TCDD	1	Non-ortho PCBs + Mono-ortho PCBs	
1,2,3,7,8-PeCDD	1	Non-ortho PCBs	
1,2,3,4,7,8-HxCDD	0,1	PCB 77	0,0001
1,2,3,6,7,8-HxCDD	0,1	PCB 81	0,0001
1,2,3,7,8,9-HxCDD	0,1	PCB 126	0,1
1,2,3,4,6,7,8-HpCDD	0,01	PCB 169	0,01
OCDD	0,0001		
Dibenzofurans (PCDFs)		Mono-ortho PCBs	
2,3,7,8-TCDF	0,1	PCB 105	0,0001
1,2,3,7,8-PeCDF	0,05	PCB 114	0,0005
2,3,4,7,8-PeCDF	0,5	PCB 118	0,0001
1,2,3,4,7,8-HxCDF	0,1	PCB 123	0,0001
1,2,3,6,7,8-HxCDF	0,1	PCB 156	0,0005
1,2,3,7,8,9-HxCDF	0,1	PCB 157	0,0005
2,3,4,6,7,8-HxCDF	0,1	PCB 167	0,00001
1,2,3,4,6,7,8-HpCDF	0,01	PCB 189	0,0001
1,2,3,4,7,8,9-HpCDF	0,01		
OCDF	0,0001		

Abbreviations used: “T” = tetra; “Pe” = penta; “Hx” = hexa; “Hp” = hepta; “O” = octa; “CDD” = chlorodibenzodioxin; “CDF” = chlorodibenzofuran; “CB” = chlorobiphenyl.

Food	Maximum levels Sum of dioxins and furans (WHO-PCDD/F-TEQ) (*)	Maximum levels Sum of dioxins, furans and dioxin-like PCBs (WHO-PCDD/ F-PCB-TEQ) (*)	Methods of sampling and performance criteria for methods of analysis
5.4. Hen eggs and egg products (*****)	3,0 pg/g fat (**)	6,0 pg/g fat (**)	Directive 2002/69/EC (****)
5.5. Oils and fats			Directive 2002/69/EC (****)
– Animal fat			
-- of ruminants	3,0 pg/g fat	4,5 pg/g fat	
-- of poultry and farmed game	2,0 pg/g fat	4,0 pg/g fat	
-- of pigs	1,0 pg/g fat	1,5 pg/g fat	
-- mixed animal fats	2,0 pg/g fat	3,0 pg/g fat	
– Vegetable oil and fats	0,75 pg/g fat	1,5 pg/g fat	
– marine oil (fish body oil, fish liver oil and oils of other marine organisms intended for human consumption)	2,0 pg/g fat	10,0 pg/g fat	

(*) Upperbound concentrations: Upperbound concentrations are calculated on the assumption that all the values of the different congeners below the limit of quantification are equal to the limit of quantification.

(**) Meat of bovine animals, sheep, pig, poultry and farmed game as defined in Annex I to Regulation (EC) No 853/2004 of the European Parliament and of the Council (OJ L 139, 30.4.2004. Corrected version in OJ L 226, 25.6.2004, p. 22) but not including edible offal as defined in that Annex.

(***) The maximum levels are not applicable for food products containing < 1 % fat.

(****) OJ L 209, 6.8.2002, p. 5. Directive as last amended by Directive 2004/44/EC (OJ L 113, 20.4.2004, p. 17).

(*****) Muscle meat of fish and fishery products as defined in categories (a), (b), (c), (e) and (f) of the list in Article 1 of Council Regulation (EC) No 104/2000 (OJ L 17, 21.1.2000, p. 22. Regulation as amended by the 2003 Act of Accession). The maximum level applies to crustaceans, excluding the brown meat of crab and excluding head and thorax meat of lobster and similar large crustaceans (*Nephropidae* and *Palinuridae*) and to cephalopods without viscera.

(*****) Where fish are intended to be eaten whole, the maximum level applies to the whole fish.

(*****) Milk (raw milk, milk for the manufacture of milk-based products and heat-treated milk as defined in Annex I to Regulation (EC) No 853/2004).

(*****) Hen eggs and egg products as defined in Annex I to Regulation (EC) No 853/2004.

COMMISSION REGULATION (EC) No 200/2006**of 3 February 2006****amending the representative prices and additional duties for the import of certain products in the sugar sector fixed by Regulation (EC) No 1011/2005 for the 2005/2006 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽²⁾, and in particular the second sentence of the second subparagraph of Article 1(2), and Article 3(1) thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups for the 2005/2006 marketing year are fixed by

Commission Regulation (EC) No 1011/2005 ⁽³⁾. These prices and duties were last amended by Commission Regulation (EC) No 159/2006 ⁽⁴⁾.

- (2) The data currently available to the Commission indicate that the said amounts should be changed in accordance with the rules and procedures laid down in Regulation (EC) No 1423/95,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95, as fixed by Regulation (EC) No 1011/2005 for the 2005/2006 marketing year are hereby amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 4 February 2006.

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

Done at Brussels, 3 February 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 141, 24.6.1995, p. 16. Regulation as last amended by Regulation (EC) No 624/98 (OJ L 85, 20.3.1998, p. 5).

⁽³⁾ OJ L 170, 1.7.2005, p. 35.

⁽⁴⁾ OJ L 25, 28.1.2006, p. 19.

ANNEX

Amended representative prices and additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99 applicable from 4 February 2006

(EUR)

CN code	Representative price per 100 kg of the product concerned	Additional duty per 100 kg of the product concerned
1701 11 10 ⁽¹⁾	38,81	0,00
1701 11 90 ⁽¹⁾	38,81	3,26
1701 12 10 ⁽¹⁾	38,81	0,00
1701 12 90 ⁽¹⁾	38,81	2,96
1701 91 00 ⁽²⁾	37,27	6,60
1701 99 10 ⁽²⁾	37,27	3,16
1701 99 90 ⁽²⁾	37,27	3,16
1702 90 99 ⁽³⁾	0,37	0,30

⁽¹⁾ Fixed for the standard quality defined in Annex I.II to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

⁽²⁾ Fixed for the standard quality defined in Annex I.I to Regulation (EC) No 1260/2001.

⁽³⁾ Fixed per 1 % sucrose content.

COMMISSION REGULATION (EC) No 201/2006**of 3 February 2006****altering the export refunds on white sugar and raw sugar exported in the natural state fixed by
Regulation (EC) No 186/2006**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, and in particular the third subparagraph of Article 27(5) thereof,

Whereas:

- (1) The export refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 186/2006 ⁽²⁾

- (2) Since the data currently available to the Commission are different to the data at the time Regulation (EC) No 186/2006 was adopted, those refunds should be adjusted,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 186/2006 are hereby altered to the amounts shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 4 February 2006.

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

Done at Brussels, 3 February 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 31, 3.2.2006, p. 7.

ANNEX

AMENDED AMOUNTS OF REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING APPLICABLE FROM 4 FEBRUARY 2006 ^(e)

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	26,02 ⁽¹⁾
1701 11 90 9910	S00	EUR/100 kg	24,27 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	26,02 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	24,27 ⁽¹⁾
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,2829
1701 99 10 9100	S00	EUR/100 kg	28,29
1701 99 10 9910	S00	EUR/100 kg	26,39
1701 99 10 9950	S00	EUR/100 kg	26,39
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,2829

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

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

The other destinations are:

S00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including Kosovo, as defined in UN Security Council Resolution No 1244 of 10 June 1999), the former Yugoslav Republic of Macedonia, save for sugar incorporated in the products referred to in Article 1(2)(b) of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).

^(e) The amounts set out in this Annex are not applicable with effect from 1 February 2005 pursuant to Council Decision 2005/45/EC of 22 December 2004 concerning the conclusion and the provisional application of the Agreement between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products (OJ L 23, 26.1.2005, p. 17).

⁽¹⁾ This amount is applicable to raw sugar with a yield of 92 %. Where the yield for exported raw sugar differs from 92 %, the refund amount applicable shall be calculated in accordance with Article 28(4) of Regulation (EC) No 1260/2001.

COMMISSION REGULATION (EC) No 202/2006
of 3 February 2006
determining the world market price for unginned cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Protocol 4 on cotton, annexed to the Act of Accession of Greece, as last amended by Council Regulation (EC) No 1050/2001 ⁽¹⁾,

Having regard to Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton ⁽²⁾, and in particular Article 4 thereof,

Whereas:

- (1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for unginned cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for unginned cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 laying down detailed rules for applying the cotton aid scheme ⁽³⁾. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.
- (2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginned

cotton is to be determined in respect of a product of specific characteristics and by reference to the most favourable offers and quotations on the world market among those considered representative of the real market trend. To that end, an average is to be calculated of offers and quotations recorded on one or more European exchanges for a product delivered cif to a port in the Community and coming from the various supplier countries considered the most representative in terms of international trade. However, there is provision for adjusting the criteria for determining the world market price for ginned cotton to reflect differences justified by the quality of the product delivered and the offers and quotations concerned. Those adjustments are specified in Article 3(2) of Regulation (EC) No 1591/2001.

- (3) The application of the above criteria gives the world market price for unginned cotton determined hereinafter,

HAS ADOPTED THIS REGULATION:

Article 1

The world price for unginned cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling 24,357 EUR/100 kg.

Article 2

This Regulation shall enter into force on 4 February 2006.

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

Done at Brussels, 3 February 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 148, 1.6.2001, p. 1.

⁽²⁾ OJ L 148, 1.6.2001, p. 3.

⁽³⁾ OJ L 210, 3.8.2001, p. 10. Regulation as amended by Regulation (EC) No 1486/2002 (OJ L 223, 20.8.2002, p. 3).

COMMISSION DIRECTIVE 2006/13/EC

of 3 February 2006

amending Annexes I and II to Directive 2002/32/EC of the European Parliament and of the Council
on undesirable substances in animal feed as regards dioxins and dioxin-like PCBs

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

congeners are expressed in terms of a quantifiable unit,
namely the 'TCDD toxic equivalent concentration' (TEQ).Having regard to the Treaty establishing the European
Community,Having regard to Directive 2002/32/EC of the European
Parliament and of the Council of 7 May 2002 on undesirable
substances in animal feed⁽¹⁾, and in particular Article 8(1)
thereof,

Whereas:

(1) Directive 2002/32/EC provides that the putting into circulation and the use of products intended for animal feed that contain levels of undesirable substances exceeding the maximum levels laid down in Annex I thereto is prohibited.

(2) The term 'dioxins' as referred to in this Directive covers a group of 75 polychlorinated dibenzo-p-dioxin congeners (PCDD) and 135 polychlorinated dibenzofuran (PCDF) congeners, of which 17 are of toxicological concern. Polychlorinated biphenyls (PCBs) are a group of 209 different congeners which can be divided into two groups according to their toxicological properties: 12 congeners exhibit similar toxicological properties to dioxins and are therefore often termed 'dioxin-like PCBs'. The other PCBs do not exhibit dioxin-like toxicity but they have a different toxicological profile.

(3) Each congener of dioxins or dioxin-like PCBs exhibits a different level of toxicity. In order to be able to sum up the toxicity of these different congeners, the concept of toxic equivalency factors (TEFs) has been introduced to facilitate risk assessment and regulatory control. This means that the analytical results relating to all 17 individual dioxin congeners and to the 12 dioxin-like PCB

(4) On 30 May 2001 the Scientific Committee for Food (SCF) adopted an opinion on the Risk Assessment of Dioxins and Dioxin-like PCBs in Food, updating its opinion of 22 November 2000 on this subject on the basis of new scientific information that had become available since the latter's adoption⁽²⁾. The SCF fixed a tolerable weekly intake (TWI) of 14 pg WHO-TEQ/kg body weight for dioxins and dioxin-like PCBs. Exposure estimates indicate that a considerable proportion of the Community population have a dietary intake in excess of the TWI. Certain population groups in some countries could be at higher risk owing to particular dietary habits.

(5) More than 90 % of human dioxin and dioxin-like PCB exposure derives from foodstuffs. Foodstuffs of animal origin normally contribute approximately 80 % of overall exposure. The dioxin and dioxin-like PCB burden in animals stems mainly from feedingstuffs. Therefore feedingstuffs, and in some cases soil, are of concern as potential sources of dioxins and dioxin-like PCBs.

(6) The Scientific Committee for Animal Nutrition (SCAN) has been asked to advise on the sources of contamination of feedingstuffs with dioxins and PCBs, including dioxin-like PCBs, the exposure of food-producing animals to dioxins and PCBs, the carry-over of these compounds to food products of animal origin, and any impact on animal health of dioxins and PCBs present in feedingstuffs. The SCAN adopted an opinion on 6 November 2000. It identified fish meal and fish oil as the most heavily contaminated feed materials. Animal fat was identified as the next most seriously contaminated material. All other feed materials of animal and plant origin had relatively low levels of dioxin contamination. Roughages presented a wide range of dioxin contamination depending on location, degree of contamination with soil and exposure to sources of aerial pollution. The SCAN recommended, *inter alia*, that emphasis should be placed on reducing the impact of the most contaminated feed materials on overall diet contamination.

⁽¹⁾ OJ L 140, 30.5.2002, p. 10. Directive as last amended by Directive 2005/87/EC (OJ L 318, 6.12.2005, p. 19).

⁽²⁾ Opinion of the Scientific Committee on Food on the Risk Assessment of Dioxins and Dioxin-like PCBs in Food adopted on 30 May 2001 — Update based on new scientific information available since the adoption of the SCF opinion of 22 November 2000 (http://europa.eu.int/comm/food/fs/sc/scf/out90_en.pdf).

- (7) Although, from a toxicological point of view, the maximum level should apply to dioxins and dioxin-like PCBs, maximum levels were set for dioxins only and not for dioxin-like PCBs, given the very limited data available at that time on the prevalence of dioxin-like PCBs. However, in the meantime more data on the presence of dioxin-like PCBs have become available.
- (8) According to Directive 2002/32/EC, the Commission should review the provisions as regards dioxins by the end of 2004 for the first time, in the light of new data on the presence of dioxins and dioxin-like PCBs, in particular with a view to the inclusion of dioxin-like PCBs in the levels to be set.
- (9) All operators in the food and feed chain must continue to make all possible efforts to do all that is necessary to limit the presence of dioxins and PCBs present in feed and food. Directive 2002/32/EC accordingly provides that the maximum levels applicable should be further reviewed by 31 December 2006 at the latest with the aim of significantly reducing the maximum levels. Given the time necessary to obtain sufficient monitoring data to determine such significantly lower levels, that time-limit should be extended.
- (10) It is proposed to set maximum levels for the sum of dioxins and dioxin-like PCBs expressed in World Health Organisation (WHO) toxic equivalents, using the WHO-TEFs as this is the most appropriate approach from a toxicological point of view. In order to ensure a smooth switchover, for a transitional period the existing levels for dioxins should continue to apply, in addition to the newly set levels for the sum of dioxins and dioxin-like PCBs. The separate maximum level for dioxins (PCDD/F) remains applicable for a temporary period. The products intended for animal feed mentioned in point 27a have to comply during that period with the maximum levels for dioxins and with the maximum levels for the sum of dioxins and dioxin-like PCBs. Consideration will be given by 31 December 2008 to dispensing with the separate maximum level for dioxins.
- (11) It is of major importance that analytical results are reported and interpreted in a uniform way in order to ensure a harmonised enforcement approach throughout the Community. Commission Directive 2002/70/EC of 26 July 2002 establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feedingstuffs⁽¹⁾ provides that a product intended for animal feeding shall be considered as non-compliant with the established maximum level if the analytical result confirmed by duplicate analysis and calculated as the mean of at least two separate determinations exceeds the maximum level beyond reasonable doubt taking into account the measurement uncertainty. There are different possibilities to estimate the expanded uncertainty⁽²⁾.
- (12) The scope of Directive 2002/32/EC covers the possibility of establishing maximum levels of undesirable substances in feed additives. Since high levels of dioxins have been found in trace elements, a maximum level should be established for dioxins and the sum of dioxins and dioxin-like PCBs for all additives belonging to the functional group of compounds of trace elements and the maximum levels should be extended to all additives belonging to the functional group of binders and anti-caking agents and to premixtures.
- (13) In order to encourage a proactive approach to reducing the dioxins and dioxin-like PCBs present in food and feed, action levels were set by Commission Recommendation 2002/201/EC of 4 March 2002 on the reduction of the presence of dioxins, furans and PCBs in feedingstuffs and foodstuffs⁽³⁾. Those action levels are a tool for competent authorities and operators to highlight those cases where it is appropriate to identify a source of contamination and to take measures to reduce or eliminate it. Since the sources of dioxins and dioxin-like PCBs are different, separate action levels should be determined for dioxins on the one hand and for dioxin-like PCBs on the other hand.
- (14) Directive 2002/32/EC provides for the possibility of setting action levels. The action levels should therefore be transferred from Recommendation 2002/201/EC to Annex II to Directive 2002/32/EC.
- (15) The reduction of human exposure to dioxins and dioxin-like PCBs through food consumption is important and necessary to ensure consumer protection. As food contamination is directly related to feed contamination, an integrated approach must be adopted to reduce dioxin and dioxin-like PCB incidence throughout the food chain, i.e. from products intended for animal feed through food-producing animals to humans. A proactive approach is followed to actively reduce the dioxins and dioxin-like PCBs in feed and food and consequently the maximum levels applicable should be reviewed within a defined period of time with the objective to set lower levels. Therefore consideration will be given by 31 December 2008 at the latest to significantly reducing the maximum levels for the sum of dioxins and dioxin-like PCBs.

⁽¹⁾ OJ L 209, 6.8.2002, p. 15. Directive as amended by Directive 2005/7/EC (OJ L 27, 29.1.2005, p. 41).

⁽²⁾ Information on different ways for the estimation of the expanded uncertainty and on the value of the measurement uncertainty can be found in the report 'Report on the relationship between analytical results, measurement uncertainty, recovery factors and the provisions of EU food and feed legislation' — http://europa.eu.int/comm/food/food/chemicalsafety/contaminants/report-sampling_analysis_2004_en.pdf

⁽³⁾ OJ L 67, 9.3.2002, p. 69.

- (16) Operators need to make efforts to step up their decontamination capacity to remove effectively dioxins and dioxin-like PCBs from fish oil. Further efforts have to be done by the operators to investigate the different possibilities to remove dioxins and dioxin-like PCBs from fish meal and fish protein-hydrolysates. Once the decontamination technology is also available for fish meal and fish protein hydrolysates, operators will have to do efforts to provide for sufficient decontamination capacity. The significant lower maximum level for the sum of dioxins and dioxin-like PCBs, to which consideration shall be given by 31 December 2008, shall be for fish oil, fish meal and fish protein hydrolysates based on the technical possibilities of the most effective, economically viable, decontamination procedure. As regards fish feed, this significant lower level shall be determined based on the technical possibilities of the most effective, economically viable, decontamination procedure for fish oil and fish meal.
- (17) The extraction procedure used for the analysis of dioxins and dioxin-like PCBs has a large influence on the analytical result in particular on products intended for animal feed of mineral origin and it is therefore appropriate to determine before the date of application the extraction procedure to be used for the analysis of dioxins and dioxin-like PCBs.
- (18) Directive 2002/32/EC should therefore be amended accordingly.
- (19) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes I and II to Directive 2002/32/EC are amended in accordance with the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 4 November 2006 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 3 February 2006.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX

(a) Point 27 in Annex I to Directive 2002/32/EC is replaced by the following:

Undesirable substances	Products intended for animal feed	Maximum content relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
27a. Dioxins (sum of polychlorinated dibenzo- <i>para</i> -dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs) expressed in World Health Organisation (WHO) toxic equivalents, using the WHO-TEFs (toxic equivalency factors, 1997 (*)	(a) Feed materials of plant origin with the exception of vegetable oils and their by-products	0,75 ng WHO-PCDD/F-TEQ/kg (**) (***)
	(b) Vegetable oils and their by-products	0,75 ng WHO-PCDD/F-TEQ/kg (**) (***)
	(c) Feed materials of mineral origin	1,0 ng WHO-PCDD/F-TEQ/kg (**) (***)
	(d) Animal fat, including milk fat and egg fat	2,0 ng WHO-PCDD/F-TEQ/kg (**) (***)
	(e) Other land animal products including milk and milk products and eggs and egg products	0,75 ng WHO-PCDD/F-TEQ/kg (**) (***)
	(f) Fish oil	6,0 ng WHO-PCDD/F-TEQ/kg (**) (***)
	(g) Fish, other aquatic animals, their products and by-products with the exception of fish oil and fish protein hydrolysates containing more than 20 % fat (****)	1,25 ng WHO-PCDD/F-TEQ/kg (**) (***)
	(h) Fish protein hydrolysates containing more than 20 % fat	2,25 ng WHO-PCDD/F-TEQ/kg (**) (***)
	(i) The additives kaolinitic clay, calcium sulphate dihydrate, vermiculite, natrolite-phonolite, synthetic calcium aluminates and clinoptilolite of sedimentary origin belonging to the functional groups of binders and anti-caking agents	0,75 ng WHO-PCDD/F-TEQ/kg (**) (***)
	(j) Additives belonging to the functional group of compounds of trace elements	1,0 ng WHO-PCDD/F-TEQ/kg (**) (***)
	(k) Premixtures	1,0 ng WHO-PCDD/F-TEQ/kg (**) (***)
	(l) Compound feedingstuffs, with the exception of feed for fur animals, pet foods and feed for fish	0,75 ng WHO-PCDD/F-TEQ/kg (**) (***)
	(m) Feed for fish. Pet foods	2,25 ng WHO-PCDD/F-TEQ/kg (**) (***)
27b. Sum of dioxins and dioxin-like PCBs (sum of polychlorinated dibenzo- <i>para</i> -dioxins (PCDDs), polychlorinated dibenzofurans (PCDFs) and polychlorinated biphenyls (PCBs) expressed in World Health Organisation (WHO) toxic equivalents, using the WHO-TEFs (toxic equivalency factors, 1997 (*)	(a) Feed materials of plant origin with the exception of vegetable oils and their by-products	1,25 ng WHO-PCDD/F-PCB-TEQ/kg (**) (****)
	(b) Vegetable oils and their by-products	1,5 ng WHO-PCDD/F-PCB-TEQ/kg (**) (****)
	(c) Feed materials of mineral origin	1,5 ng WHO-PCDD/F-PCB-TEQ/kg (**) (****)
	(d) Animal fat, including milk fat and egg fat	3,0 ng WHO-PCDD/F-PCB-TEQ/kg (**) (****)

(1)	(2)	(3)
	(e) Other land animal products including milk and milk products and eggs and egg products	1,25 ng WHO-PCDD/F-PCB-TEQ/kg (**)
	(f) Fish oil	24,0 ng WHO-PCDD/F-PCB-TEQ/kg (**)
	(g) Fish, other aquatic animals, their products and by-products with the exception of fish oil and fish protein hydrolysates containing more than 20 % fat (****)	4,5 ng WHO-PCDD/F-PCB-TEQ/kg (**)
	(h) Fish protein hydrolysates containing more than 20 % fat	11,0 ng WHO-PCDD/F-PCB-TEQ/kg (**)
	(i) Additives belonging to the functional groups of binders and anti-caking agents	1,5 ng WHO-PCDD/F-PCB-TEQ/kg (**)
	(j) Additives belonging to the functional group of compounds of trace elements	1,5 ng WHO-PCDD/F-PCB-TEQ/kg (**)
	(k) Premixtures	1,5 ng WHO-PCDD/F-PCB-TEQ/kg (**)
	(l) Compound feedingstuffs, with the exception of feed for fur animals, pet foods and feed for fish	1,5 ng WHO-PCDD/F-PCB-TEQ/kg (**)
	(m) Feed for fish. Pet foods	7,0 ng WHO-PCDD/F-PCB-TEQ/kg (**)

(*) WHO-TEFs for human risk assessment based on the conclusions of the World Health Organisation meeting in Stockholm, Sweden, 15-18 June 1997 (Van den Berg et al., (1998) Toxic Equivalency Factors (TEFs) for PCBs, PCDDs, and PCDFs for Humans and for Wildlife. Environmental Health Perspectives, 106(12), 775).

Congener	TEF value	Congener	TEF value
Dibenzo-p-dioxins (PCDDs)		"Dioxin-like" PCBs	
2,3,7,8-TCDD	1		
1,2,3,7,8-PeCDD	1	Non-ortho PCBs + Mono-ortho PCBs	
1,2,3,4,7,8-HxCDD	0,1	Non-ortho PCBs	
1,2,3,6,7,8-HxCDD	0,1	PCB 77	0,0001
1,2,3,7,8,9-HxCDD	0,1	PCB 81	0,0001
1,2,3,4,6,7,8-HpCDD	0,01	PCB 126	0,1
OCDD	0,0001	PCB 169	0,01
Dibenzofurans (PCDFs)		Mono-ortho PCBs	
2,3,7,8-TCDF	0,1		
1,2,3,7,8-PeCDF	0,05	PCB 105	0,0001
2,3,4,7,8-PeCDF	0,5	PCB 114	0,0005
1,2,3,4,7,8-HxCDF	0,1	PCB 118	0,0001
1,2,3,6,7,8-HxCDF	0,1	PCB 123	0,0001
1,2,3,7,8,9-HxCDF	0,1	PCB 156	0,0005
2,3,4,6,7,8-HxCDF	0,1	PCB 157	0,0005
1,2,3,4,6,7,8-HpCDF	0,01	PCB 167	0,00001
1,2,3,4,7,8,9-HpCDF	0,01	PCB 189	0,0001
OCDF	0,0001		

Abbreviations used: "T" = tetra; "Pe" = penta; "Hx" = hexa; "Hp" = hepta; "O" = octa; "CDD" = chlorodibenzodioxin; "CDF" = chlorodibenzofuran; "CB" = chlorobiphenyl.

- (**) Upper-bound concentrations; upper-bound concentrations are calculated on the assumption that all values of the different congeners below the limit of quantification are equal to the limit of quantification.
- (***) The separate maximum level for dioxins (PCDD/F) remains applicable for a temporary period. The products intended for animal feed mentioned in point 27a have to comply both with the maximum levels for dioxins and with the maximum levels for the sum of dioxins and dioxin-like PCBs during that temporary period.
- (****) Fresh fish directly delivered and used without intermediate processing for the production of feed for fur animals is not subject to the maximum levels, while maximum levels of 4,0 ng WHO-PCDD/F-TEQ/kg product and 8,0 ng WHO-PCDD/F-PCB-TEQ/kg product are applicable to fresh fish used for the direct feeding of pet animals, zoo and circus animals. The products, processed animal proteins produced from these animals (fur animals, pet animals, zoo and circus animals) cannot enter the food chain and cannot be fed to farmed animals which are kept, fattened or bred for the production of food.

(b) Annex II to Directive 2002/32/EC is replaced by the following:

Undesirable substances	Products intended for animal feed	Action threshold relative to a feedingstuff with a moisture content of 12 %	Comments and additional information (e.g. nature of investigations to be performed)
(1)	(2)	(3)	(4)
1. Dioxins (sum of polychlorinated dibenzo- <i>para</i> -dioxins (PCDDs), polychlorinated dibenzofurans (PCDFs) expressed in World Health Organisation (WHO) toxic equivalents, using the WHO-TEFs (toxic equivalency factors, 1997 (*)	(a) Feed materials of plant origin with the exception of vegetable oils and their by-products	0,5 ng WHO-PCDD/F-TEQ/kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(b) Vegetable oils and their by-products	0,5 ng WHO-PCDD/F-TEQ/kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(c) Feed materials of mineral origin	0,5 ng WHO-PCDD/F-TEQ/kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(d) Animal fat, including milk fat and egg fat	1,0 ng WHO-PCDD/F-TEQ/kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(e) Other land animal products including milk and milk products and eggs and egg products	0,5 ng WHO-PCDD/F-TEQ/kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(f) Fish oil	5,0 ng WHO-PCDD/F-TEQ/kg (**) (***)	In many cases it might not be necessary to perform an investigation into the source of contamination as the background level in some areas is close to or above the action level. However, in cases where the action level is exceeded all information, such as sampling period, geographical origin, fish species etc., should be recorded with a view to future measures to manage the presence of dioxins and dioxin-like compounds in these materials for animal nutrition.

(1)	(2)	(3)	(4)
	(g) Fish, other aquatic animals, their products and by-products with the exception of fish oil and fish protein hydrolysates containing more than 20 % fat	1,0 ng WHO-PCDD/F-TEQ/kg (**) (***)	In many cases it might not be necessary to perform an investigation into the source of contamination as the background level in some areas is close to or above the action level. However, in cases where the action level is exceeded, all information, such as sampling period, geographical origin, fish species etc., must be recorded with a view to future measures to manage the presence of dioxins and dioxin-like compounds in these materials for animal nutrition.
	(h) Fish protein hydrolysates containing more than 20 % fat	1,75 ng WHO-PCDD/F-TEQ/kg (**) (***)	In many cases it might not be necessary to perform an investigation into the source of contamination as the background level in some areas is close to or above the action level. However, in cases where the action level is exceeded, all information, such as sampling period, geographical origin, fish species etc., must be recorded with a view to future measures to manage the presence of dioxins and dioxin-like compounds in these materials for animal nutrition.
	(i) Additives belonging to the functional groups of binders and anti-caking agents	0,5 ng WHO-PCDD/F-TEQ/kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(j) Additives belonging to the functional group of compounds of trace elements	0,5 ng WHO-PCDD/F-TEQ/kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(k) Premixtures	0,5 ng WHO-PCDD/F-TEQ/kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(l) Compound feedingstuffs, with the exception of feedingstuffs for fur animals, pet foods and feedingstuffs for fish	0,5 ng WHO-PCDD/F-TEQ/kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.

(1)	(2)	(3)	(4)
	(m) Feedingstuffs for fish. Pet foods	1,75 ng WHO-PCDD/F-TEQ/ kg (**) (***)	In many cases it might not be necessary to perform an investigation into the source of contamination as the background level in some areas is close to or above the action level. However, in cases where the action level is exceeded, all information, such as sampling period, geographical origin, fish species etc., must be recorded with a view to future measures to manage the presence of dioxins and dioxin-like compounds in these materials for animal nutrition.
2. Dioxin like PCBs (sum of polychlorinated biphenyls (PCBs) expressed in World Health Organisation (WHO) toxic equivalents, using the WHO-TEFs (toxic equivalency factors, 1997 (*)	(a) Feed materials of plant origin with the exception of vegetable oils and their by-products	0,35 ng WHO-PCB-TEQ/ kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(b) Vegetable oils and their by-products	0,5 ng WHO-PCB-TEQ/ kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(c) Feed materials of mineral origin	0,35 ng WHO-PCB-TEQ/ kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(d) Animal fat, including milk fat and egg fat	0,75 ng WHO-PCB-TEQ/ kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(e) Other land animal products including milk and milk products and eggs and egg products	0,35 ng WHO-PCB-TEQ/ kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.

(1)	(2)	(3)	(4)
	(f) Fish oil	14,0 ng WHO-PCB-TEQ/ kg (**) (***)	In many cases it might not be necessary to perform an investigation into the source of contamination as the background level in some areas is close to or above the action level. However, in cases where the action level is exceeded, all information, such as sampling period, geographical origin, fish species etc., must be recorded with a view to future measures to manage the presence of dioxins and dioxin-like compounds in these materials for animal nutrition.
	(g) Fish, other aquatic animals, their products and by-products with the exception of fish oil and fish protein hydrolysates containing more than 20 % fat	2,5 ng WHO-PCB-TEQ/ kg (**) (***)	In many cases it might not be necessary to perform an investigation into the source of contamination as the background level in some areas is close to or above the action level. However, in cases where the action level is exceeded, all information, such as sampling period, geographical origin, fish species etc., must be recorded with a view to future measures to manage the presence of dioxins and dioxin-like compounds in these materials for animal nutrition.
	(h) Fish protein hydrolysates containing more than 20 % fat	7,0 ng WHO-PCB-TEQ/ kg (**) (***)	In many cases it might not be necessary to perform an investigation into the source of contamination as the background level in some areas is close to or above the action level. However, in cases where the action level is exceeded, all information, such as sampling period, geographical origin, fish species etc., must be recorded with a view to future measures to manage the presence of dioxins and dioxin-like compounds in these materials for animal nutrition.
	(i) Additives belonging to the functional groups of binders and anti-caking agents	0,5 ng WHO-PCB-TEQ/ kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(j) Additives belonging to the functional group of compounds of trace elements	0,35 ng WHO-PCB-TEQ/ kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.

(1)	(2)	(3)	(4)
	(k) Premixtures	0,35 ng WHO-PCB-TEQ/ kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(l) Compound feedingstuffs, with the exception of feedingstuffs for fur animals, pet foods and feedingstuffs for fish	0,5 ng WHO-PCB-TEQ/ kg (**) (***)	Identification of source of contamination. Once source is identified, take appropriate measures, where possible, to reduce or eliminate source of contamination.
	(m) Feedingstuffs for fish. Pet foods	3,5 ng WHO-PCB-TEQ/ kg (**) (***)	In many cases it might not be necessary to perform an investigation into the source of contamination as the background level in some areas is close to or above the action level. However, in cases where the action level is exceeded, all information, such as sampling period, geographical origin, fish species etc., must be recorded with a view to future measures to manage the presence of dioxins and dioxin-like compounds in these materials for animal nutrition.

(*) WHO-TEFs for human risk assessment based on the conclusions of the World Health Organisation meeting in Stockholm, Sweden, 15-18 June 1997 (Van den Berg et al., (1998) Toxic Equivalency Factors (TEFs) for PCBs, PCDDs, PCDFs for Humans and for Wildlife. Environmental Health Perspectives, 106(12), 775).

Congener	TEF value	Congener	TEF value
Dibenzo-p-dioxins (PCDDs)		"Dioxin-like" PCBs	
2,3,7,8-TCDD	1	Non-ortho PCBs + Mono-ortho PCBs	
1,2,3,7,8-PeCDD	1	Non-ortho PCBs	
1,2,3,4,7,8-HxCDD	0,1	PCB 77	0,0001
1,2,3,6,7,8-HxCDD	0,1	PCB 81	0,0001
1,2,3,7,8,9-HxCDD	0,1	PCB 126	0,1
1,2,3,4,6,7,8-HpCDD	0,01	PCB 169	0,01
OCDD	0,0001		
Dibenzofurans (PCDFs)		Mono-ortho PCBs	
2,3,7,8-TCDF	0,1	PCB 105	0,0001
1,2,3,7,8-PeCDF	0,05	PCB 114	0,0005
2,3,4,7,8-PeCDF	0,5	PCB 118	0,0001
1,2,3,4,7,8-HxCDF	0,1	PCB 123	0,0001
1,2,3,6,7,8-HxCDF	0,1	PCB 156	0,0005
1,2,3,7,8,9-HxCDF	0,1	PCB 157	0,0005
2,3,4,6,7,8-HxCDF	0,1	PCB 167	0,00001
1,2,3,4,6,7,8-HpCDF	0,01	PCB 189	0,0001
1,2,3,4,7,8,9-HpCDF	0,01		
OCDF	0,0001		

Abbreviations used: "T" = tetra; "Pe" = penta; "Hx" = hexa; "Hp" = hepta; "O" = octa; "CDD" = chlorodibenzodioxin; "CDF" = chlorodibenzofuran; "CB" = chlorobiphenyl.

(**) Upper-bound concentrations; upper-bound concentrations are calculated on the assumption that all values of the different congeners below the limit of quantification are equal to the limit of quantification.

(***) The Commission will review these action levels by 31 December 2008 at the latest at the same time as it reviews the maximum levels for the sum of dioxins and dioxin-like PCBs.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 2 December 2005

on the conclusion, on behalf of the European Community, of the UN-ECE Protocol on Pollutant Release and Transfer Registers

(2006/61/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1), in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3), as well as Article 300(4) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) The UN-ECE Protocol on Pollutant Release and Transfer Registers (hereinafter the Protocol) aims at enhancing public access to information, in line with the UN-ECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (hereinafter the Aarhus Convention).

(2) The Community signed the Aarhus Convention on 25 June 1998 and approved it by Decision 2005/370/EC ⁽²⁾.

(3) The Community signed the Protocol on 21 May 2003.

(4) The Protocol is open to ratification, acceptance or approval by signatory States and by regional economic integration organisations.

(5) Under the terms of the Protocol, a regional economic integration organisation is to declare in its instrument

of ratification, acceptance, approval or accession, the extent of its competence with respect to the matters governed by the Protocol.

(6) Regulation (EC) No 166/2006 of the European Parliament and the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register ⁽³⁾ has incorporated the provisions of the Protocol into Community legislation.

(7) Article 20 of the Protocol stipulates a simplified and accelerated procedure for amending its annexes.

(8) It is therefore appropriate to approve the Protocol on behalf of the Community,

HAS DECIDED AS FOLLOWS:

Article 1

The UN-ECE Protocol on Pollutant Release and Transfer Registers is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Decision as Annex A.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit the instrument of approval with the Secretary-General of the United Nations, in accordance with Article 25 of the Protocol.

⁽¹⁾ Opinion of 30 May 2005 (not yet published in the Official Journal).

⁽²⁾ OJ L 124, 17.5.2005, p. 1.

⁽³⁾ OJ L 33, 4.2.2006, p. 1.

Article 3

The President of the Council is hereby authorised to designate the person(s) empowered to deposit, on behalf of the Community, the Declaration of Competence set out in Annex B to this Decision, in accordance with Article 26(4) of the Protocol.

Article 4

1. As regards matters falling within Community competence, the Commission is authorised to approve on behalf of the Community, amendments to the Annexes to the Protocol, pursuant to Article 20 thereof.

2. The Commission shall be assisted in carrying out this task by a special committee appointed by the Council.

3. The authorisation referred to in paragraph 1 shall be limited to those amendments that are consistent with, and do not entail any modification of, relevant Community legislation on the establishment of a European Pollutant Release and Transfer Register.

4. Whenever an amendment to the Annexes to the Protocol is not implemented in the relevant Community legislation within 12 months of the date of its circulation by the Depositary, the Commission shall, in writing, provide the Depositary with a notification of non-acceptance with respect to that amendment in accordance with Article 20(8) of the Protocol before the expiry of that 12-month period. Where the amendment is subsequently implemented, the Commission shall withdraw the notification without delay.

Article 5

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

Done at Brussels, 2 December 2005.

For the Council
The President
M. BECKETT

ANNEX A

PROTOCOL ON POLLUTANT RELEASE AND TRANSFER REGISTERS

The Parties to this Protocol,

Recalling Article 5(9), and Article 10(2), of the 1998 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention),

Recognising that pollutant release and transfer registers provide an important mechanism to increase corporate accountability, reduce pollution and promote sustainable development, as stated in the Lucca Declaration adopted at the first meeting of the Parties to the Aarhus Convention,

Having regard to principle 10 of the 1992 Rio Declaration on Environment and Development,

Having regard also to the principles and commitments agreed to at the 1992 United Nations Conference on Environment and Development, in particular the provisions in chapter 19 of Agenda 21,

Taking note of the Programme for the Further Implementation of Agenda 21, adopted by the General Assembly of the United Nations at its 19th special session, 1997, in which it called for, *inter alia*, enhanced national capacities and capabilities for information collection, processing and dissemination, to facilitate public access to information on global environmental issues through appropriate means,

Having regard to the Plan of Implementation of the 2002 World Summit on Sustainable Development, which encourages the development of coherent, integrated information on chemicals, such as through national pollutant release and transfer registers,

Taking into account the work of the Intergovernmental Forum on Chemical Safety, in particular the 2000 Bahia Declaration on Chemical Safety, the Priorities for Action Beyond 2000 and the Pollutant Release and Transfer Register/Emission Inventory Action Plan,

Taking into account also the activities undertaken within the framework of the Inter-Organisation Programme for the Sound Management of Chemicals,

Taking into account, furthermore, the work of the Organisation for Economic Cooperation and Development, in particular its Council Recommendation on Implementing Pollutant Release and Transfer Registers, in which the Council calls upon member countries to establish and make publicly available national pollutant release and transfer registers,

Wishing to provide a mechanism contributing to the ability of every person of present and future generations to live in an environment adequate to his or her health and well-being, by ensuring the development of publicly accessible environmental information systems,

Wishing also to ensure that the development of such systems takes into account principles contributing to sustainable development such as the precautionary approach set forth in principle 15 of the 1992 Rio Declaration on Environment and Development,

Recognising the link between adequate environmental information systems and the exercise of the rights contained in the Aarhus Convention,

Noting the need for cooperation with other international initiatives concerning pollutants and waste, including the 2001 Stockholm Convention on Persistent Organic Pollutants and the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal,

Recognising that the objectives of an integrated approach to minimising pollution and the amount of waste resulting from the operation of industrial installations and other sources are to achieve a high level of protection for the environment as a whole, to move towards sustainable and environmentally sound development and to protect the health of present and future generations,

Convinced of the value of pollutant release and transfer registers as a cost-effective tool for encouraging improvements in environmental performance, for providing public access to information on pollutants released into and transferred in and through communities, and for use by Governments in tracking trends, demonstrating progress in pollution reduction, monitoring compliance with certain international agreements, setting priorities and evaluating progress achieved through environmental policies and programmes,

Believing that pollutant release and transfer registers can bring tangible benefits to industry through the improved management of pollutants,

Noting the opportunities for using data from pollutant release and transfer registers, combined with health, environmental, demographic, economic or other types of relevant information, for the purpose of gaining a better understanding of potential problems, identifying 'hot spots', taking preventive and mitigating measures, and setting environmental management priorities,

Recognising the importance of protecting the privacy of identified or identifiable natural persons in the processing of information reported to pollutant release and transfer registers in accordance with applicable international standards relating to data protection,

Recognising also the importance of developing internationally compatible national pollutant release and transfer register systems to increase the comparability of data,

Noting that many Member States of the United Nations Economic Commission for Europe, the European Community and the Parties to the North American Free Trade Agreement are acting to collect data on pollutant releases and transfers from various sources and to make these data publicly accessible, and recognising, especially in this area, the long and valuable experience in certain countries,

Taking into account the different approaches in existing emission registers and the need to avoid duplication, and recognising therefore that a certain degree of flexibility is needed,

Urging the progressive development of national pollutant release and transfer registers,

Urging also the establishment of links between national pollutant release and transfer registers and information systems on other releases of public concern,

HAVE AGREED AS FOLLOWS:

Article 1

Objective

The objective of this Protocol is to enhance public access to information through the establishment of coherent, integrated, nationwide pollutant release and transfer registers (PRTRs) in accordance with the provisions of this Protocol, which could facilitate public participation in environmental decision-making as well as contribute to the prevention and reduction of pollution of the environment.

Article 2

Definitions

For the purposes of this Protocol,

1. 'Party' means, unless the text indicates otherwise, a State or a regional economic integration organisation referred to in Article 24 which has consented to be bound by this Protocol and for which the Protocol is in force;
2. 'Convention' means the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, done at Aarhus, Denmark, on 25 June 1998;
3. 'the public' means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organisations or groups;
4. 'facility' means one or more installations on the same site, or on adjoining sites, that are owned or operated by the same natural or legal person;

5. 'competent authority' means the national authority or authorities, or any other competent body or bodies, designated by a Party to manage a national pollutant release and transfer register system;
6. 'pollutant' means a substance or a group of substances that may be harmful to the environment or to human health on account of its properties and of its introduction into the environment;
7. 'release' means any introduction of pollutants into the environment as a result of any human activity, whether deliberate or accidental, routine or non-routine, including spilling, emitting, discharging, injecting, disposing or dumping, or through sewer systems without final waste-water treatment;
8. 'off-site transfer' means the movement beyond the boundaries of the facility of either pollutants or waste destined for disposal or recovery and of pollutants in waste water destined for waste-water treatment;
9. 'diffuse sources' means the many smaller or scattered sources from which pollutants may be released to land, air or water, whose combined impact on those media may be significant and for which it is impractical to collect reports from each individual source;
10. the terms 'national' and 'nationwide' shall, with respect to the obligations under the Protocol on Parties that are regional economic integration organisations, be construed as applying to the region in question unless otherwise indicated;
11. 'waste' means substances or objects which are:
 - (a) disposed of or recovered;
 - (b) intended to be disposed of or recovered; or
 - (c) required by the provisions of national law to be disposed of or recovered;
12. 'hazardous waste' means waste that is defined as hazardous by the provisions of national law;
13. 'other waste' means waste that is not hazardous waste;
14. 'waste water' means used water, containing substances or objects, that is subject to regulation by national law.

Article 3

General provisions

1. Each Party shall take the necessary legislative, regulatory and other measures, and appropriate enforcement measures, to implement the provisions of this Protocol.
2. The provisions of this Protocol shall not affect the right of a Party to maintain or introduce a more extensive or more publicly accessible pollutant release and transfer register than required by this Protocol.
3. Each Party shall take the necessary measures to require that employees of a facility and members of the public who report a violation by a facility of national laws implementing this Protocol to public authorities are not penalised, persecuted or harassed by that facility or public authorities for their actions in reporting the violation.
4. In the implementation of this Protocol, each Party shall be guided by the precautionary approach as set forth in principle 15 of the 1992 Rio Declaration on Environment and Development.
5. To reduce duplicative reporting, pollutant release and transfer register systems may be integrated to the degree practicable with existing information sources such as reporting mechanisms under licences or operating permits.
6. Parties shall strive to achieve convergence among national pollutant release and transfer registers.

Article 4

Core elements of a pollutant release and transfer register system

In accordance with this Protocol, each Party shall establish and maintain a publicly accessible national pollutant release and transfer register that:

- (a) is facility-specific with respect to reporting on point sources;
- (b) accommodates reporting on diffuse sources;
- (c) is pollutant-specific or waste-specific, as appropriate;
- (d) is multimedia, distinguishing among releases to air, land and water;

- (e) includes information on transfers;
- (f) is based on mandatory reporting on a periodic basis;
- (g) includes standardised and timely data, a limited number of standardised reporting thresholds and limited provisions, if any, for confidentiality;
- (h) is coherent and designed to be user-friendly and publicly accessible, including in electronic form;
- (i) allows for public participation in its development and modification; and
- (j) is a structured, computerised database or several linked databases maintained by the competent authority.

Article 5

Design and structure

1. Each Party shall ensure that the data held on the register referred to in Article 4 are presented in both aggregated and non-aggregated forms, so that releases and transfers can be searched and identified according to:

- (a) facility and its geographical location;
- (b) activity;
- (c) owner or operator, and, as appropriate, company;
- (d) pollutant or waste, as appropriate;
- (e) each of the environmental media into which the pollutant is released; and
- (f) as specified in Article 7, paragraph 5, the destination of the transfer and, where appropriate, the disposal or recovery operation for waste.

2. Each Party shall also ensure that the data can be searched and identified according to those diffuse sources which have been included in the register.

3. Each Party shall design its register taking into account the possibility of its future expansion and ensuring that the reporting data from at least the 10 previous reporting years are publicly accessible.

4. The register shall be designed for maximum ease of public access through electronic means, such as the Internet. The design shall allow that, under normal operating conditions, the information on the register is continuously and immediately available through electronic means.

5. Each Party should provide links in its register to its relevant existing, publicly accessible databases on subject matters related to environmental protection.

6. Each Party shall provide links in its register to the pollutant release and transfer registers of other Parties to the Protocol and, where feasible, to those of other countries.

Article 6

Scope of the register

1. Each Party shall ensure that its register includes the information on:

- (a) releases of pollutants required to be reported pursuant to Article 7(2);
- (b) off-site transfers required to be reported pursuant to Article 7(2); and
- (c) releases of pollutants from diffuse sources required pursuant to Article 7(4).

2. Having assessed the experience gained from the development of national pollutant release and transfer registers and the implementation of this Protocol, and taking into account relevant international processes, the Meeting of the Parties shall review the reporting requirements under this Protocol and shall consider the following issues in its further development:

- (a) revision of the activities specified in Annex I;
- (b) revision of the pollutants specified in Annex II;
- (c) revision of the thresholds in Annexes I and II; and
- (d) inclusion of other relevant aspects such as information on on-site transfers, storage, the specification of reporting requirements for diffuse sources or the development of criteria for including pollutants under this Protocol.

Article 7

Reporting requirements

1. Each Party shall either:

- (a) require the owner or the operator of each individual facility within its jurisdiction that undertakes one or more of the activities specified in Annex I above the applicable capacity threshold specified in Annex I, column 1, and;

- (i) releases any pollutant specified in Annex II in quantities exceeding the applicable thresholds specified in Annex II, column 1;
- (ii) transfers off-site any pollutant specified in Annex II in quantities exceeding the applicable threshold specified in Annex II, column 2, where the Party has opted for pollutant-specific reporting of transfers pursuant to paragraph 5(d);
- (iii) transfers off-site hazardous waste exceeding two tons per year or other waste exceeding 2 000 tons per year, where the Party has opted for waste-specific reporting of transfers pursuant to paragraph 5(d); or
- (iv) transfers off-site any pollutant specified in Annex II in waste water destined for waste-water treatment in quantities exceeding the applicable threshold specified in Annex II, column 1b;

to undertake the obligation imposed on that owner or operator pursuant to paragraph 2; or

- (b) require the owner or the operator of each individual facility within its jurisdiction that undertakes one or more of the activities specified in Annex I at or above the employee threshold specified in Annex I, column 2, and manufactures, processes or uses any pollutant specified in Annex II in quantities exceeding the applicable threshold specified in Annex II, column 3, to undertake the obligation imposed on that owner or operator pursuant to paragraph 2.

2. Each Party shall require the owner or operator of a facility referred to in paragraph 1 to submit the information specified in paragraphs 5 and 6, and in accordance with the requirements therein, with respect to those pollutants and wastes for which thresholds were exceeded.

3. In order to achieve the objective of this Protocol, a Party may decide with respect to a particular pollutant to apply either a release threshold or a manufacture, process or use threshold, provided that this increases the relevant information on releases or transfers available in its register.

4. Each Party shall ensure that its competent authority collects, or shall designate one or more public authorities or competent bodies to collect, the information on releases of pollutants from diffuse sources specified in paragraphs 7 and 8, for inclusion in its register.

5. Each Party shall require the owners or operators of the facilities required to report under paragraph 2 to complete and submit to its competent authority, the following information on a facility-specific basis:

- (a) the name, street address, geographical location and the activity or activities of the reporting facility, and the name of the owner or operator, and, as appropriate, company;
- (b) the name and numerical identifier of each pollutant required to be reported pursuant to paragraph 2;
- (c) the amount of each pollutant required to be reported pursuant to paragraph 2 released from the facility to the environment in the reporting year, both in aggregate and according to whether the release is to air, to water or to land, including by underground injection;
- (d) either:
 - (i) the amount of each pollutant required to be reported pursuant to paragraph 2 that is transferred off-site in the reporting year, distinguishing between the amounts transferred for disposal and for recovery, and the name and address of the facility receiving the transfer; or
 - (ii) the amount of waste required to be reported pursuant to paragraph 2 transferred off-site in the reporting year, distinguishing between hazardous waste and other waste, for any operations of recovery or disposal, indicating respectively with 'R' or 'D' whether the waste is destined for disposal or recovery pursuant to Annex III and, for transboundary movements of hazardous waste, the name and address of the disposer or recoverer of the waste and the actual disposal or recovery site receiving the transfer;
- (e) the amount of each pollutant in waste water required to be reported pursuant to paragraph 2 transferred off-site in the reporting year; and
- (f) the type of methodology used to derive the information referred to in subparagraphs (c) to (e), according to Article 9(2), indicating whether the information is based on measurement, calculation or estimation.

6. The information referred to in paragraph 5(c) to (e) shall include information on releases and transfers resulting from routine activities and from extraordinary events.

7. Each Party shall present on its register, in an adequate spatial disaggregation, the information on releases of pollutants from diffuse sources for which that Party determines that data are being collected by the relevant authorities and can be practicably included. Where the Party determines that no such data exist, it shall take measures to initiate reporting on releases of relevant pollutants from one or more diffuse sources in accordance with its national priorities.

8. The information referred to in paragraph 7 shall include information on the type of methodology used to derive the information.

Article 8

Reporting cycle

1. Each Party shall ensure that the information required to be incorporated in its register is publicly available, compiled and presented on the register by calendar year. The reporting year is the calendar year to which that information relates. For each Party, the first reporting year is the calendar year after the Protocol enters into force for that Party. The reporting required pursuant to Article 7 shall be annual. However, the second reporting year may be the second calendar year following the first reporting year.

2. Each Party that is not a regional economic integration organisation shall ensure that the information is incorporated into its register within 15 months from the end of each reporting year. However, the information for the first reporting year shall be incorporated into its register within two years from the end of that reporting year.

3. Each Party that is a regional economic integration organisation shall ensure that the information for a particular reporting year is incorporated into its register six months after the Parties that are not regional economic integration organisations are required to do so.

Article 9

Data collection and record-keeping

1. Each Party shall require the owners or operators of the facilities subject to the reporting requirements of Article 7 to collect the data needed to determine, in accordance with paragraph 2 below and with appropriate frequency, the facility's releases and off-site transfers subject to reporting

pursuant to Article 7 and to keep available for the competent authorities the records of the data from which the reported information was derived for a period of five years, starting from the end of the reporting year concerned. These records shall also describe the methodology used for data gathering.

2. Each Party shall require the owners or operators of the facilities subject to reporting pursuant to Article 7, to use the best available information, which may include monitoring data, emission factors, mass balance equations, indirect monitoring or other calculations, engineering judgments and other methods. Where appropriate, this should be done in accordance with internationally approved methodologies.

Article 10

Quality assessment

1. Each Party shall require the owners or operators of the facilities subject to the reporting requirements of Article 7(1), to assure the quality of the information that they report.

2. Each Party shall ensure that the data contained in its register are subject to quality assessment by the competent authority, in particular as to their completeness, consistency and credibility, taking into account any guidelines that may be developed by the Meeting of the Parties.

Article 11

Public access to information

1. Each Party shall ensure public access to information contained in its pollutant release and transfer register, without an interest having to be stated, and according to the provisions of this Protocol, primarily by ensuring that its register provides for direct electronic access through public telecommunications networks.

2. Where the information contained in its register is not easily publicly accessible by direct electronic means, each Party shall ensure that its competent authority upon request provides that information by any other effective means, as soon as possible and at the latest within one month after the request has been submitted.

3. Subject to paragraph 4, each Party shall ensure that access to information contained in its register is free of charge.

4. Each Party may allow its competent authority to make a charge for reproducing and mailing the specific information referred to in paragraph 2, but such charge shall not exceed a reasonable amount.

5. Where the information contained in its register is not easily publicly accessible by direct electronic means, each Party shall facilitate electronic access to its register in publicly accessible locations, for example in public libraries, offices of local authorities or other appropriate places.

Article 12

Confidentiality

1. Each Party may authorise the competent authority to keep information, held on the register, confidential where public disclosure of that information would adversely affect:

- (a) international relations, national defence or public security;
- (b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;
- (c) the confidentiality of commercial and industrial information, where such confidentiality is protected by law in order to protect a legitimate economic interest;
- (d) intellectual property rights; or
- (e) the confidentiality of personal data and/or files relating to a natural person if that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for in national law.

The aforementioned grounds for confidentiality shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information relates to releases into the environment.

2. Within the framework of paragraph 1(c), any information on releases which is relevant for the protection of the environment shall be considered for disclosure according to national law.

3. Whenever information is kept confidential according to paragraph 1, the register shall indicate what type of information has been withheld, through, for example, providing generic chemical information if possible, and for what reason it has been withheld.

Article 13

Public participation in the development of national pollutant release and transfer registers

1. Each Party shall ensure appropriate opportunities for public participation in the development of its national pollutant release and transfer register, within the framework of its national law.

2. For the purpose of paragraph 1, each Party shall provide the opportunity for free public access to the information on the proposed measures concerning the development of its national pollutant release and transfer register and for the submission of any comments, information, analyses or opinions that are relevant to the decision-making process, and the relevant authority shall take due account of such public input.

3. Each Party shall ensure that, when a decision to establish or significantly change its register has been taken, information on the decision and the considerations on which it is based are made publicly available in a timely manner.

Article 14

Access to justice

1. Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under Article 11(2), has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that paragraph has access to a review procedure before a court of law or another independent and impartial body established by law.

2. The requirements in paragraph 1 are without prejudice to the respective rights and obligations of Parties under existing treaties applicable between them dealing with the subject matter of this Article.

Article 15

Capacity-building

1. Each Party shall promote public awareness of its pollutant release and transfer register, and shall ensure that assistance and guidance are provided in accessing its register and in understanding and using the information contained in it.

2. Each Party should provide adequate capacity-building for and guidance to the responsible authorities and bodies to assist them in carrying out their duties under this Protocol.

*Article 16***International cooperation**

1. The Parties shall, as appropriate, cooperate and assist each other:

- (a) in international actions in support of the objectives of this Protocol;
- (b) on the basis of mutual agreement between the Parties concerned, in implementing national systems in pursuance of this Protocol;
- (c) in sharing information under this Protocol on releases and transfers within border areas; and
- (d) in sharing information under this Protocol concerning transfers among Parties.

2. The Parties shall encourage cooperation among one another and with relevant international organisations, as appropriate, to promote:

- (a) public awareness at the international level;
- (b) the transfer of technology; and
- (c) the provision of technical assistance to Parties that are developing countries and Parties with economies in transition in matters relating to this Protocol.

*Article 17***Meeting of the Parties**

1. A Meeting of the Parties is hereby established. Its first session shall be convened no later than two years after the entry into force of this Protocol. Thereafter, ordinary sessions of the Meeting of the Parties shall be held sequentially with or parallel to ordinary meetings of the Parties to the Convention, unless otherwise decided by the Parties to this Protocol. The Meeting of the Parties shall hold an extraordinary session if it so decides in the course of an ordinary session or at the written request of any Party provided that, within six months of it being communicated by the Executive Secretary of the Economic Commission for Europe to all Parties, the said request is supported by at least one third of these Parties.

2. The Meeting of the Parties shall keep under continuous review the implementation and development of this Protocol on

the basis of regular reporting by the Parties and, with this purpose in mind, shall:

- (a) review the development of pollutant release and transfer registers, and promote their progressive strengthening and convergence;
- (b) establish guidelines facilitating reporting by the Parties to it, bearing in mind the need to avoid duplication of effort in this regard;
- (c) establish a programme of work;
- (d) consider and, where appropriate, adopt measures to strengthen international cooperation in accordance with Article 16;
- (e) establish such subsidiary bodies as it deems necessary;
- (f) consider and adopt proposals for such amendments to this Protocol and its Annexes as are deemed necessary for the purposes of this Protocol, in accordance with the provisions of Article 20;
- (g) at its first session, consider and by consensus adopt rules of procedure for its sessions and those of its subsidiary bodies, taking into account any rules of procedure adopted by the Meeting of the Parties to the Convention;
- (h) consider establishing financial arrangements by consensus and technical assistance mechanisms to facilitate the implementation of this Protocol;
- (i) seek, where appropriate, the services of other relevant international bodies in the achievement of the objectives of this Protocol; and
- (j) consider and take any additional action that may be required to further the objectives of this Protocol, such as the adoption of guidelines and recommendations which promote its implementation.

3. The Meeting of the Parties shall facilitate the exchange of information on the experience gained in reporting transfers using the pollutant-specific and waste-specific approaches, and shall review that experience in order to investigate the possibility of convergence between the two approaches, taking into account the public interest in information in accordance with Article 1 and the overall effectiveness of national pollutant release and transfer registers.

4. The United Nations, its specialised agencies and the International Atomic Energy Agency, as well as any State or regional economic integration organisation entitled pursuant to Article 24 to sign this Protocol but which is not a Party to it, and any intergovernmental organisation qualified in the fields to which the Protocol relates, shall be entitled to participate as observers in the sessions of the Meeting of the Parties. Their admission and participation shall be subject to the rules of procedure adopted by the Meeting of the Parties.

5. Any non-governmental organisation qualified in the fields to which this Protocol relates, which has informed the Executive Secretary of the Economic Commission for Europe of its wish to be represented at a session of the Meeting of the Parties, shall be entitled to participate as an observer unless one third of the Parties present at the session raise objections. Their admission and participation shall be subject to the rules of procedure adopted by the Meeting of the Parties.

Article 18

Right to vote

1. Except as provided for in paragraph 2, each Party to this Protocol shall have one vote.

2. Regional economic integration organisations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their Member States which are Parties. Such organisations shall not exercise their right to vote if their Member States exercise theirs, and vice versa.

Article 19

Annexes

Annexes to this Protocol shall form an integral part thereof and, unless expressly provided otherwise, a reference to this Protocol constitutes at the same time a reference to any Annexes thereto.

Article 20

Amendments

1. Any Party may propose amendments to this Protocol.

2. Proposals for amendments to this Protocol shall be considered at a session of the Meeting of the Parties.

3. Any proposed amendment to this Protocol shall be submitted in writing to the secretariat, which shall communicate it at least six months before the session at which it is proposed for adoption to all Parties, to other States and regional economic integration organisations that have consented to be

bound by the Protocol and for which it has not yet entered into force and to Signatories.

4. The Parties shall make every effort to reach agreement on any proposed amendment to this Protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall, as a last resort, be adopted by a three fourths majority vote of the Parties present and voting at the session.

5. For the purposes of this Article, 'Parties present and voting' means Parties present and casting an affirmative or negative vote.

6. Any amendment to this Protocol adopted in accordance with paragraph 4 shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties, to other States and regional economic integration organisations that have consented to be bound by the Protocol and for which it has not yet entered into force and to Signatories.

7. An amendment, other than one to an Annex, shall enter into force for those Parties having ratified, accepted or approved it on the 19th day after the date of receipt by the Depositary of the instruments of ratification, acceptance or approval by at least three fourths of those which were Parties at the time of its adoption. Thereafter it shall enter into force for any other Party on the 19th day after that Party deposits its instrument of ratification, acceptance or approval of the amendment.

8. In the case of an amendment to an Annex, a Party that does not accept such an amendment shall so notify the Depositary in writing within 12 months from the date of its circulation by the Depositary. The Depositary shall, without delay, inform all Parties of any such notification received. A Party may at any time withdraw a previous notification of non-acceptance, whereupon the amendment to an Annex shall enter into force for that Party.

9. On the expiry of 12 months from the date of its circulation by the Depositary as provided for in paragraph 6, an amendment to an Annex shall enter into force for those Parties which have not submitted a notification to the Depositary in accordance with paragraph 8, provided that, at that time, not more than one third of those which were Parties at the time of the adoption of the amendment have submitted such a notification.

10. If an amendment to an Annex is directly related to an amendment to this Protocol, it shall not enter into force until such time as the amendment to this Protocol enters into force.

Article 21

Secretariat

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions for this Protocol:

- (a) the preparation and servicing of the sessions of the Meeting of the Parties;
- (b) the transmission to the Parties of reports and other information received in accordance with the provisions of this Protocol;
- (c) the reporting to the Meeting of the Parties on the activities of the secretariat; and
- (d) such other functions as may be determined by the Meeting of the Parties on the basis of available resources.

Article 22

Review of compliance

At its first session, the Meeting of the Parties shall, by consensus, establish cooperative procedures and institutional arrangements of a non-judicial, non-adversarial and of a consultative nature to assess and promote compliance with the provisions of this Protocol and to address cases of non-compliance. In establishing these procedures and arrangements, the Meeting of the Parties shall consider, *inter alia*, whether to allow for information to be received from members of the public on matters related to this Protocol.

Article 23

Settlement of disputes

1. If a dispute arises between two or more Parties about the interpretation or application of this Protocol, they shall seek a solution by negotiation or by any other peaceful means of dispute settlement acceptable to the parties to the dispute.
2. When signing, ratifying, accepting, approving or acceding to this Protocol, or at any time thereafter, a State may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:
 - (a) submission of the dispute to the International Court of Justice;
 - (b) arbitration in accordance with the procedure set out in Annex IV.

A regional economic integration organisation may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b).

3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2, the dispute may be submitted only to the International Court of Justice, unless the parties to the dispute agree otherwise.

Article 24

Signature

This Protocol shall be open for signature at Kiev (Ukraine) from 21 to 23 May 2003 on the occasion of the fifth Ministerial Conference 'Environment for Europe', and thereafter at United Nations Headquarters in New York until 31 December 2003, by all States which are Members of the United Nations and by regional economic integration organisations constituted by sovereign States Members of the United Nations to which their Member States have transferred competence over matters governed by this Protocol, including the competence to enter into treaties in respect of these matters.

Article 25

Depositary

The Secretary-General of the United Nations shall act as the Depositary of this Protocol.

Article 26

Ratification, acceptance, approval and accession

1. This Protocol shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organisations referred to in Article 24.
2. This Protocol shall be open for accession as from 1 January 2004 by the States and regional economic integration organisations referred to in Article 24.
3. Any regional economic integration organisation referred to in Article 24 which becomes a Party without any of its Member States being a Party shall be bound by all the obligations under this Protocol. If one or more Member States of such an organisation is a Party, the organisation and its Member States shall decide on their respective responsibilities for the performance of their obligations under this Protocol. In such cases, the organisation and the Member States shall not be entitled to concurrently exercise rights under this Protocol.

4. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organisations referred to in Article 24 shall declare the extent of their competence with respect to the matters governed by this Protocol. These organisations shall also inform the Depositary of any substantial modifications to the extent of their competence.

Article 27

Entry into force

1. This Protocol shall enter into force on the 19th day after the date of deposit of the 16th instrument of ratification, acceptance, approval or accession.

2. For the purposes of paragraph 1, any instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by the States Members of such an organisation.

3. For each State or regional economic integration organisation which ratifies, accepts or approves this Protocol or accedes thereto after the deposit of the 16th instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the 19th day after the date of deposit by such State or organisation of its instrument of ratification, acceptance, approval or accession.

Article 28

Reservations

No reservations may be made to this Protocol.

Article 29

Withdrawal

At any time after three years from the date on which this Protocol has come into force with respect to a Party, that Party may withdraw from the Protocol by giving written notification to the Depositary. Any such withdrawal shall take effect on the 19th day after the date of its receipt by the Depositary.

Article 30

Authentic texts

The original of this Protocol, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Protocol.

DONE at Kiev, this twenty-first day of May, two thousand and three.

ANNEX I

ACTIVITIES

No	Activity	Capacity threshold (column 1)	Employee threshold (column 2)
1.	Energy sector		
(a)	Mineral oil and gas refineries	*	10 employees
(b)	Installations for gasification and liquefaction	*	
(c)	Thermal power stations and other combustion installations	With a heat input of 50 megawatts (MW)	
(d)	Coke ovens	*	
(e)	Coal rolling mills	With a capacity of 1 ton per hour	
(f)	Installations for the manufacture of coal products and solid smokeless fuel	*	
2.	Production and processing of metals		
(a)	Metal ore (including sulphide ore) roasting or sintering installations	*	10 employees
(b)	Installations for the production of pig iron or steel (primary or secondary melting) including continuous casting	With a capacity of 2,5 tons per hour	
(c)	Installations for the processing of ferrous metals: (i) hot-rolling mills (ii) smitheries with hammers (iii) application of protective fused metal coats	With a capacity of 20 tons of crude steel per hour With an energy of 50 kilojoules per hammer, where the calorific power used exceeds 20 MW With an input of 2 tons of crude steel per hour	
(d)	Ferrous metal foundries	With a production capacity of 20 tons per day	
(e)	Installations: (i) for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes	*	
	(ii) for the smelting, including the alloying, of non-ferrous metals, including recovered products (refining, foundry casting, etc.)	With a melting capacity of 4 tons per day for lead and cadmium or 20 tons per day for all other metals	10 employees
(f)	Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process	Where the volume of the treatment vats equals 30 m³	

No	Activity	Capacity threshold (column 1)	Employee threshold (column 2)
3.	Mineral industry		
(a)	Underground mining and related operations	*	10 employees
(b)	Opencast mining	Where the surface of the area being mined equals 25 hectares	
(c)	Installations for the production of: (i) cement clinker in rotary kilns (ii) lime in rotary kilns (iii) cement clinker or lime in other furnaces	With a production capacity of 500 tons per day With a production capacity exceeding 50 tons per day With a production capacity of 50 tons per day	
(d)	Installations for the production of asbestos and the manufacture of asbestos-based products	*	
(e)	Installations for the manufacture of glass, including glass fibre	With a melting capacity of 20 tons per day	
(f)	Installations for melting mineral substances, including the production of mineral fibres	With a melting capacity of 20 tons per day	
(g)	Installations for the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain	With a production capacity of 75 tons per day, or with a kiln capacity of 4 m ³ and with a setting density per kiln of 300 kg/m ³	

No	Activity	Capacity threshold (column 1)	Employee threshold (column 2)
4.	Chemical industry		
(a)	Chemical installations for the production on an industrial scale of basic organic chemicals, such as: (i) simple hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic) (ii) oxygen-containing hydrocarbons such as alcohols, aldehydes, ketones, carboxylic acids, esters, acetates, ethers, peroxides, epoxy resins (iii) sulphurous hydrocarbons (iv) nitrogenous hydrocarbons such as amines, amides, nitrous compounds, nitro compounds or nitrate compounds, nitriles, cyanates, isocyanates (v) phosphorus-containing hydrocarbons (vi) halogenic hydrocarbons (vii) organometallic compounds (viii) basic plastic materials (polymers, synthetic fibres and cellulose-based fibres) (ix) synthetic rubbers (x) dyes and pigments (xi) surface-active agents and surfactants	*	10 employees
(b)	Chemical installations for the production on an industrial scale of basic inorganic chemicals, such as: (i) gases, such as ammonia, chlorine or hydrogen chloride, fluorine or hydrogen fluoride, carbonoxides, sulphur compounds, nitrogen oxides, hydrogen, sulphur dioxide, carbonyl chloride (ii) acids, such as chromic acid, hydrofluoric acid, phosphoric acid, nitric acid, hydrochloric acid, sulphuric acid, oleum, sulphurous acids (iii) bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide (iv) salts, such as ammonium chloride, potassiumchlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate (v) non-metals, metal oxides or other inorganic compounds such as calcium carbide, silicon, silicon carbide	*	
(c)	Chemical installations for the production on an industrial scale of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers)	*	
(d)	Chemical installations for the production on an industrial scale of basic plant health products and of biocides	*	
(e)	Installations using a chemical or biological process for the production on an industrial scale of basic pharmaceutical products	*	
(f)	Installations for the production on an industrial scale of explosives and pyrotechnic products	*	10 employees

No	Activity	Capacity threshold (column 1)	Employee threshold (column 2)
5.	Waste and waste-water management		
(a)	Installations for the incineration, pyrolysis, recovery, chemical treatment or landfilling of hazardous waste	Receiving 10 tons per day	10 employees
(b)	Installations for the incineration of municipal waste	With a capacity of 3 tons per hour	
(c)	Installations for the disposal of non-hazardous waste	With a capacity of 50 tons per day	
(d)	Landfills (excluding landfills of inert waste)	Receiving 10 tons per day or with a total capacity of 25 000 tons	
(e)	Installations for the disposal or recycling of animal carcasses and animal waste	With a treatment capacity of 10 tons per day	
(f)	Municipal waste-water treatment plants	With a capacity of 100 000 population equivalents	
(g)	Independently operated industrial waste-water treatment plants which serve one or more activities of this Annex	With a capacity of 10 000 m ³ per day	
6.	Paper and wood production and processing		
(a)	Industrial plants for the production of pulp from timber or similar fibrous materials	*	10 employees
(b)	Industrial plants for the production of paper and board and other primary wood products (such as chipboard, fibreboard and plywood)	With a production capacity of 20 tons per day	
(c)	Industrial plants for the preservation of wood and wood products with chemicals	With a production capacity of 50 m ³ per day	
7.	Intensive livestock production and aquaculture		
(a)	Installations for the intensive rearing of poultry or pigs	(i) With 40 000 places for poultry (ii) With 2 000 places for production pigs (over 30 kg) (iii) With 750 places for sows	10 employees
(b)	Intensive aquaculture	1 000 tons of fish and shellfish per year	10 employees
8.	Animal and vegetable products from the food and beverage sector		
(a)	Slaughterhouses	With a carcase production capacity of 50 tons per day	10 employees
(b)	Treatment and processing intended for the production of food and beverage products from: (i) Animal raw materials (other than milk) (ii) Vegetable raw materials	With a finished product production capacity of 75 tons per day With a finished product production capacity of 300 tons per day (average value on a quarterly basis)	
(c)	Treatment and processing of milk	With a capacity to receive 200 tons of milk per day (average value on an annual basis)	

No	Activity	Capacity threshold (column 1)	Employee threshold (column 2)
9.	Other activities		
(a)	Plants for the pretreatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles	With a treatment capacity of 10 tons per day	10 employees
(b)	Plants for the tanning of hides and skins	With a treatment capacity of 12 tons of finished product per day	
(c)	Installations for the surface treatment of substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating	With a consumption capacity of 150 kg per hour or 200 tons per year	
(d)	Installations for the production of carbon (hard-burnt coal) or electro-graphite by means of incineration or graphitisation	*	
(e)	Installations for the building of, and painting or removal of paint from ships	With a capacity for ships 100 m long	

Explanatory notes:

Column 1 contains the capacity thresholds referred to in Article 7 (1)(a).

An asterisk (*) indicates that no capacity threshold is applicable (all facilities are subject to reporting).

Column 2 contains the employee threshold referred to in Article 7(1)(b).

‘10 employees’ means the equivalent of 10 full-time employees.

ANNEX II

POLLUTANTS

No	CAS number	Pollutant	Threshold for releases (column 1)			Threshold for off-site transfers of pollutants (column 2)	Manufacture, process or use threshold (column 3)
			to air (column 1a)	to water (column 1b)	to land (column 1c)		
			kg/year	kg/year	kg/year	kg/year	kg/year
1	74-82-8	Methane (CH ₄)	100 000	-	-	-	*
2	630-08-0	Carbon monoxide (CO)	500 000	-	-	-	*
3	124-38-9	Carbon dioxide (CO ₂)	100 million	-	-	-	*
4		Hydro-fluorocarbons (HFCs)	100	-	-	-	*
5	10024-97-2	Nitrous oxide (N ₂ O)	10 000	-	-	-	*
6	7664-41-7	Ammonia (NH ₃)	10 000	-	-	-	10 000
7		Non-methane volatile organic compounds (NMVOC)	100 000	-	-	-	*
8		Nitrogen oxides (NO _x /NO ₂)	100 000	-	-	-	*
9		Perfluorocarbons (PFCs)	100	-	-	-	*
10	2551-62-4	Sulphur hexafluoride (SF ₆)	50	-	-	-	*
11		Sulphur oxides (SO _x /SO ₂)	150 000	-	-	-	*
12		Total nitrogen	-	50 000	50 000	10 000	10 000
13		Total phosphorus	-	5 000	5 000	10 000	10 000
14		Hydrochlorofluorocarbons (HCFCs)	1	-	-	100	10 000
15		Chlorofluorocarbons (CFCs)	1	-	-	100	10 000
16		Halons	1	-	-	100	10 000
17	7440-38-2	Arsenic and compounds (as As)	20	5	5	50	50
18	7440-43-9	Cadmium and compounds (as Cd)	10	5	5	5	5
19	7440-47-3	Chromium and compounds (as Cr)	100	50	50	200	10 000
20	7440-50-8	Copper and compounds (as Cu)	100	50	50	500	10 000
21	7439-97-6	Mercury and compounds (as Hg)	10	1	1	5	5
22	7440-02-0	Nickel and compounds (as Ni)	50	20	20	500	10 000
23	7439-92-1	Lead and compounds (as Pb)	200	20	20	50	50
24	7440-66-6	Zinc and compounds (as Zn)	200	100	100	1 000	10 000
25	15972-60-8	Alachlor	-	1	1	5	10 000
26	309-00-2	Aldrin	1	1	1	1	1
27	1912-24-9	Atrazine	-	1	1	5	10 000
28	57-74-9	Chlordane	1	1	1	1	1
29	143-50-0	Chlordecone	1	1	1	1	1
30	470-90-6	Chlorfenvinphos	-	1	1	5	10 000
31	85535-84-8	Chloro-alkanes, C ₁₀ -C ₁₃	-	1	1	10	10 000
32	2921-88-2	Chlorpyrifos	-	1	1	5	10 000
33	50-29-3	DDT	1	1	1	1	1
34	107-06-2	1,2-dichloroethane (EDC)	1 000	10	10	100	10 000
35	75-09-2	Dichloromethane (DCM)	1 000	10	10	100	10 000

No	CAS number	Pollutant	Threshold for releases (column 1)			Threshold for off-site transfers of pollutants (column 2)	Manufacture, process or use threshold (column 3)
			to air (column 1a)	to water (column 1b)	to land (column 1c)		
			kg/year	kg/year	kg/year	kg/year	kg/year
36	60-57-1	Dieldrin	1	1	1	1	1
37	330-54-1	Diuron	-	1	1	5	10 000
38	115-29-7	Endosulphan	-	1	1	5	10 000
39	72-20-8	Endrin	1	1	1	1	1
40		Halogenated organic compounds (as AOX)	-	1 000	1 000	1 000	10 000
41	76-44-8	Heptachlor	1	1	1	1	1
42	118-74-1	Hexachlorobenzene (HCB)	10	1	1	1	5
43	87-68-3	Hexachlorobutadiene (HCBd)	-	1	1	5	10 000
44	608-73-1	1,2,3,4,5,6-hexachlorocyclohexane (HCH)	10	1	1	1	10
45	58-89-9	Lindane	1	1	1	1	1
46	2385-85-5	Mirex	1	1	1	1	1
47		PCDD + PCDF (dioxins + furans) (as Teq)	0,001	0,001	0,001	0,001	0,001
48	608-93-5	Pentachlorobenzene	1	1	1	5	50
49	87-86-5	Pentachlorophenol (PCP)	10	1	1	5	10 000
50	1336-36-3	Polychlorinated biphenyls (PCBs)	0,1	0,1	0,1	1	50
51	122-34-9	Simazine	-	1	1	5	10 000
52	127-18-4	Tetrachloroethylene (PER)	2 000	-	-	1 000	10 000
53	56-23-5	Tetrachloromethane (TCM)	100	-	-	1 000	10 000
54	12002-48-1	Trichlorobenzenes (TCBs)	10	-	-	1 000	10 000
55	71-55-6	1,1,1-trichloroethane	100	-	-	1 000	10 000
56	79-34-5	1,1,2,2-tetrachloroethane	50	-	-	1 000	10 000
57	79-01-6	Trichloroethylene	2 000	-	-	1 000	10 000
58	67-66-3	Trichloromethane	500	-	-	1 000	10 000
59	8001-35-2	Toxaphene	1	1	1	1	1
60	75-01-4	Vinyl chloride	1 000	10	10	100	10 000
61	120-12-7	Anthracene	50	1	1	50	50
62	71-43-2	Benzene	1 000	200 (as BTEX) ^(a)	200 (as BTEX) ^(a)	2 000 (as BTEX) ^(a)	10 000
63		Brominated diphenylethers (PBDE)	-	1	1	5	10 000
64		Nonylphenol ethoxylates (NP/NPEs) and related substances	-	1	1	5	10 000
65	100-41-4	Ethyl benzene	-	200 (as BTEX) ^(a)	200 (as BTEX) ^(a)	2 000 (as BTEX) ^(a)	10 000
66	75-21-8	Ethylene oxide	1 000	10	10	100	10 000
67	34123-59-6	Isoproturon	-	1	1	5	10 000
68	91-20-3	Naphthalene	100	10	10	100	10 000
69		Organotin compounds (as total Sn)	-	50	50	50	10 000

No	CAS number	Pollutant	Threshold for releases (column 1)			Threshold for off-site transfers of pollutants (column 2)	Manufacture, process or use threshold (column 3)
			to air (column 1a)	to water (column 1b)	to land (column 1c)		
			kg/year	kg/year	kg/year		
70	117-81-7	Di-(2-ethyl hexyl) phthalate (DEHP)	10	1	1	100	10 000
71	108-95-2	Phenols (as total C)	-	20	20	200	10 000
72		Polycyclic aromatic hydrocarbons (PAHs) ^(b)	50	5	5	50	50
73	108-88-3	Toluene	-	200 (as BTEX) ^(a)	200 (as BTEX) ^(a)	2 000 (as BTEX) ^(a)	10 000
74		Tributyltin and compounds	-	1	1	5	10 000
75		Triphenyltin and compounds	-	1	1	5	10 000
76		Total organic carbon (TOC) (as total C or COD/3)	-	50 000	-	-	**
77	1582-09-8	Trifluralin	-	1	1	5	10 000
78	1330-20-7	Xylenes	-	200 (as BTEX) ^(a)	200 (as BTEX) ^(a)	2 000 (as BTEX) ^(a)	10 000
79		Chlorides (as total Cl)	-	2 million	2 million	2 million	10 000 ^(c)
80		Chlorine and inorganic compounds (as HCl)	10 000	-	-	-	10 000
81	1332-21-4	Asbestos	1	1	1	10	10 000
82		Cyanides (as total CN)	-	50	50	500	10 000
83		Fluorides (as total F)	-	2 000	2 000	10 000	10 000 ^(c)
84		Fluorine and inorganic compounds (as HF)	5 000	-	-	-	10 000
85	74-90-8	Hydrogen cyanide (HCN)	200	-	-	-	10 000
86		Particulate matter (PM ₁₀)	50 000	-	-	-	*

Explanatory notes:

The CAS number of the pollutant means the precise identifier in Chemical Abstracts Service.

Column 1 contains the thresholds referred to in Article 7(1)(a)(i) and (iv). If the threshold in a given subcolumn (air, water or land) is exceeded, reporting of releases or, for pollutants in waste water destined for waste-water treatment, transfers to the environmental medium referred to in that subcolumn is required with respect to the facility in question, for those Parties which have opted for a system of reporting pursuant to Article 7(1)(a). Column 2 contains the thresholds referred to in Article 7(1)(a)(ii). If the threshold in this column is exceeded for a given pollutant, reporting of the off-site transfer of that pollutant is required with respect to the facility in question, for those Parties which have opted for a system of reporting pursuant to Article 7(1)(a)(ii).

Column 3 contains the thresholds referred to in Article 7(1)(b). If the threshold in this column is exceeded for a given pollutant, reporting of the releases and off-site transfers of that pollutant is required with respect to the facility in question, for those Parties which have opted for a system of reporting pursuant to Article 7(1)(b).

A hyphen (-) indicates that the parameter in question does not trigger a reporting requirement.

An asterisk (*) indicates that, for this pollutant, the release threshold in column (1)(a) is to be used rather than a manufacture, process or use threshold.

A double asterisk (**) indicates that, for this pollutant, the release threshold in column (1)(b) is to be used rather than a manufacture, process or use threshold.

Footnotes:

^(a) Single pollutants are to be reported if the threshold for BTEX (the sum parameter of benzene, toluene, ethyl benzene, xylene) is exceeded.

^(b) Polycyclic aromatic hydrocarbons (PAHs) are to be measured as benzo(a)pyrene (50-32-8), benzo(b)fluoranthene (205-99-2), benzo(k)fluoranthene (207-08-9), indeno(1,2,3-cd)pyrene (193-39-5) (derived from the Protocol on Persistent Organic Pollutants to the Convention on Long-range Transboundary Air Pollution).

^(c) As inorganic compounds.

ANNEX III

PART A

DISPOSAL OPERATIONS (D)

- Deposit into or onto land (e.g. landfill)
- Land treatment (e.g. biodegradation of liquid or sludgy discards in soils)
- Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories)
- Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds or lagoons)
- Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment)
- Release into a water body except seas/oceans
- Release into seas/oceans including seabed insertion
- Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations specified in this part
- Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations specified in this part (e.g. evaporation, drying, calcination, neutralisation, precipitation)
- Incineration on land
- Incineration at sea
- Permanent storage (e.g. emplacement of containers in a mine)
- Blending or mixing prior to submission to any of the operations specified in this part
- Repackaging prior to submission to any of the operations specified in this part
- Storage pending any of the operations specified in this part

PART B

RECOVERY OPERATIONS (R)

- Use as a fuel (other than in direct incineration) or other means to generate energy
- Solvent reclamation/regeneration
- Recycling/reclamation of organic substances which are not used as solvents
- Recycling/reclamation of metals and metal compounds
- Recycling/reclamation of other inorganic materials
- Regeneration of acids or bases
- Recovery of components used for pollution abatement
- Recovery of components from catalysts

- Used oil re-refining or other reuses of previously used oil
 - Land treatment resulting in benefit to agriculture or ecological improvement
 - Uses of residual materials obtained from any of the recovery operations specified above in this part
 - Exchange of wastes for submission to any of the recovery operations specified above in this part
 - Accumulation of material intended for any operation specified in this part
-

ANNEX IV

ARBITRATION

1. In the event of a dispute being submitted for arbitration pursuant to Article 23(2), of this Protocol, a party or parties shall notify the other party or parties to the dispute by diplomatic means as well as the secretariat of the subject matter of arbitration and indicate, in particular, the Articles of this Protocol whose interpretation or application is at issue. The secretariat shall forward the information received to all Parties to this Protocol.
2. The arbitral tribunal shall consist of three members. Both the claimant party or parties and the other party or parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the president of the arbitral tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.
3. If the president of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Executive Secretary of the Economic Commission for Europe shall, at the request of either party to the dispute, designate the president within a further two-month period.
4. If one of the parties to the dispute does not appoint an arbitrator within two months of the notification referred to in paragraph 1, the other party may so inform the Executive Secretary of the Economic Commission for Europe, who shall designate the president of the arbitral tribunal within a further two-month period. Upon designation, the president of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. If it fails to do so within that period, the president shall so inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period.
5. The arbitral tribunal shall render its decision in accordance with international law and the provisions of this Protocol.
6. Any arbitral tribunal constituted under the provisions set out in this Annex shall draw up its own rules of procedure.
7. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.
8. The tribunal may take all appropriate measures to establish the facts.
9. The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:
 - (a) provide it with all relevant documents, facilities and information;
 - (b) enable it, where necessary, to call witnesses or experts and receive their evidence.
10. The parties and the arbitrators shall protect the confidentiality of any information that they receive in confidence during the proceedings of the arbitral tribunal.
11. The arbitral tribunal may, at the request of one of the parties, recommend interim measures of protection.
12. If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to render its final decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

13. The arbitral tribunal may hear and determine counterclaims arising directly out of the subject matter of the dispute.
 14. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.
 15. Any Party to this Protocol which has an interest of a legal nature in the subject matter of the dispute, and which may be affected by a decision in the case, may intervene in the proceedings with the consent of the tribunal.
 16. The arbitral tribunal shall render its award within five months of the date on which it is established, unless it finds it necessary to extend the time-limit for a period which should not exceed five months.
 17. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon all parties to the dispute. The award will be transmitted by the arbitral tribunal to the parties to the dispute and to the secretariat. The secretariat will forward the information received to all Parties to this Protocol.
 18. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.
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ANNEX B

Declaration by the European Community in accordance with Article 26(4) of the UN-ECE Protocol on Pollutant Release and Transfer Registers

The European Community declares that, in accordance with the Treaty establishing the European Community, and in particular Article 175(1) thereof, it is competent for entering into international agreements, and for implementing the obligations resulting therefrom, which contribute to the pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment,
- protecting human health,
- prudent and rational utilisation of natural resources,
- promoting measures at international level to deal with regional or worldwide environmental problems.

Pollutant release and transfer registers are appropriate tools for encouraging improvements in environmental performance, for providing public access to information on pollutants released, and for use by competent authorities in tracking trends, demonstrating progress in pollution reduction, supporting compliance monitoring and evaluating progress, thereby contributing to the achievement of the abovementioned objectives.

Moreover, the European Community declares that it has already adopted legislation, binding on its Member States, covering matters governed by this Protocol and will submit and update, as appropriate, a list of that legislation in accordance with Article 26(4) of the Protocol.

The European Community is responsible for the performance of those obligations resulting from the Protocol which are covered by Community law in force.

The exercise of Community competence is, by its nature, subject to continuous development.

COUNCIL DECISION

of 23 January 2006

enabling countries covered by the European Neighbourhood Policy, as well as Russia, to benefit from the Technical Assistance and Information Exchange (TAIEX) Programme

(2006/62/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 181a(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) In the area of pre-accession aid, centralised indirect management has proved a valuable tool in the past, in particular concerning the operations of the Office for Technical Assistance and Information Exchange (TAIEX).

(2) The European Neighbourhood Policy's (ENP) objective, as stated in the Commission's Strategy Paper adopted in May 2004, is to share the benefits of the European Union's 2004 enlargement with neighbouring countries and to use some of the instruments and experience gained during the enlargement process to bring partner countries closer to the European Union, aiming at gradual economic integration and a deepening of political cooperation. The European Neighbourhood countries should therefore be able to benefit from TAIEX.

(3) At the 15th EU-Russia Summit on 10 May 2005, the EU and Russia adopted roadmaps for the creation of four common spaces which set out objectives similar to those of the ENP, namely to intensify bilateral cooperation and to pursue regulatory convergence and legislative approximation towards higher standards.

(4) Russia will be eligible for funding under the future European Neighbourhood and Partnership Instrument (ENPI).

(5) Article 54(2) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾ (the Financial Regulation) allows for the implementation of the Community budget through centralised indirect management and sets specific requirements for implementation, provided this is authorised by the basic act of the programme.

(6) A harmonised implementation of the assistance through TAIEX is necessary. This Decision should therefore follow the same approach as Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of central and eastern Europe ⁽³⁾ (Phare), Council Regulation (EC) No 2666/2000 of 5 December 2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia ⁽⁴⁾ (CARDS) and Council Regulation (EC) No 2500/2001 of 17 December 2001 concerning pre-accession financial assistance for Turkey ⁽⁵⁾.

(7) Part of the actions of Council Regulation (EC, Euratom) No 99/2000 of 29 December 1999 concerning the provision of assistance to the partner States in eastern Europe and central Asia ⁽⁶⁾ falls within the scope of the Treaty establishing the European Atomic Energy Community (Euratom Treaty). Such parts are not concerned by this Decision,

HAS DECIDED AS FOLLOWS:

Article 1

The purpose of this Decision is to enable countries covered by the European Neighbourhood Policy, as well as Russia, particularly those with action plans or roadmaps under implementation, to benefit from assistance through TAIEX, which will provide targeted technical assistance to aid the partner countries in understanding and drafting legislation related to the action plans and to help them with implementation and enforcement.

⁽²⁾ OJ L 248, 16.9.2002, p. 1.

⁽³⁾ OJ L 375, 23.12.1989, p. 11. Regulation as last amended by Regulation (EC) No 2257/2004 (OJ L 389, 30.12.2004, p. 1).

⁽⁴⁾ OJ L 306, 7.12.2000, p. 1. Regulation as last amended by Regulation (EC) No 2112/2005 (OJ L 344, 27.12.2005, p. 23).

⁽⁵⁾ OJ L 342, 27.12.2001, p. 1. Regulation as last amended by Regulation (EC) No 2112/2005.

⁽⁶⁾ OJ L 12, 18.1.2000, p. 1.

⁽¹⁾ Not yet published in the Official Journal.

Article 2

For the purposes of implementing Council Regulation (EC) No 1488/96 of 23 July 1996 on financial and technical measures to accompany the reform of economic and social structures in the framework of the Euro-Mediterranean partnership (MEDA) ⁽¹⁾ and Regulation (EC, Euratom) No 99/2000, the Commission may, in accordance with Article 54(2) of the Financial Regulation, decide to entrust tasks of public authority and, in particular, budget implementation tasks following from such decision to the body implementing the TAIEX programme implemented under Regulation (EEC) No 3906/89, Regulation (EC) No 2666/2000 and Regulation (EC) No 2500/2001.

Article 3

This Decision shall not apply to those parts of actions implemented pursuant to Regulation (EC, Euratom) No 99/2000 that fall within the scope of the Euratom Treaty.

Article 4

Activities authorised by this Decision shall be financed from budget heading 19 06 01 'Assistance to partner countries in eastern Europe and central Asia', and the associated budget heading for administrative costs 19 01 04 07, and budget heading 19 08 02 01 MEDA (measures to accompany the reforms to the economic and social structures in the Mediterranean non-member countries) and the associated budget heading for administrative costs 19 01 04 06.

Done at Brussels, 23 January 2006.

For the Council
The President
J. PRÖLL

⁽¹⁾ OJ L 189, 30.7.1996, p. 1. Regulation as last amended by Regulation (EC) No 2112/2005.

COMMISSION

COMMISSION DECISION

of 26 November 2003

on the aid scheme which Italy (Region of Piedmont) is planning to implement for the reduction of airborne pollution in its territory

(notified under document number C(2003) 3520)

(Only the Italian version is authentic)

(Text with EEA relevance)

(2006/63/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

(2) By letter D/50722 of 3 February 2003, the Commission requested additional information on the notified scheme.

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

(3) The Italian authorities submitted additional information by letter of 25 March 2003, registered on 28 March (A/32278).

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

(4) By letter SG(2003) D/229965 dated 28 May 2003, the Commission informed Italy that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the proposed measure.

Having regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁾,

(5) The Commission decision to initiate the procedure was published in the *Official Journal of the European Union* ⁽²⁾. The Commission called on interested parties to submit their comments within the prescribed period (one month), pursuant to Article 6(1) of Regulation (EC) No 659/1999.

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

Whereas:

(6) The Commission received comments from interested parties on 29 August 2003 (Bundesverband der deutschen Gas- und Wasserwirtschaft e. V. (BGW), Germany), 1 September 2003 (Federal Ministry of Finance, Germany) and 2 September 2003 (OMV Erdgas, Austria).

1. PROCEDURE

(1) By letters dated 16 December 2002, registered by the Commission on 18 December (A/39321), and 20 December 2002, registered on 31 December (A/39483), the Italian authorities notified, pursuant to Article 88(3) of the EC Treaty, an aid scheme planned by the Region of Piedmont for the extension of the network of service stations for the sale of natural gas used as motor fuel.

(7) Italy's official response — after two extensions of the deadline had been requested by the Italian authorities on 10 July and 5 August 2003 and granted by the Commission on 7 August 2003 — was submitted by letter of 10 October 2003 (A/37006).

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

⁽²⁾ OJ C 183, 2.8.2003, p. 5.

2. DETAILED DESCRIPTION OF THE SCHEME

2.1. Legal basis and objective of the scheme

- (8) The notified aid is based on the following legal provisions:

A. Principal legislation

- Decision of the Regional Council (DGR) No 67-7675 of 11 November 2002 'Scheme for the extension of the network for the sale of natural gas used as motor fuel. Transfer to the municipalities of funds to be allocated to companies intending to set up service stations for the sale of natural gas used as motor fuel. Time limits for the submission of applications and criteria for assessing them';

B. Secondary legislation

- Law No 426 of 9 December 1998 'New measures in the environmental field';
- Ministerial Decree of 22 December 2000 'Identification of the national gas pipelines network for the purposes of Article 9 of Legislative Decree No 164 of 23 May 2000';
- Ministerial Decree No 256 of 17 July 1998 'Rules on incentives for motor vehicles powered by natural gas or liquefied petroleum gas (LPG)';
- Ministerial Decree of 28 May 1999 'Grant of loans to local authorities by Cassa Depositi e Prestiti for financing the measures in the environmental field provided for by Law No 426 of 9 December 1998';
- Ministerial Decree of 5 April 2001 'Direct grants to members of the public for the purchase of electric vehicles and vehicles powered by natural gas or LPG and for setting up service stations for the sale of natural gas and LPG';
- Decision of the Regional Council No 13-7622 'Extension of the use of natural gas, LPG and other innovative means of propulsion with a low environmental impact in the public service

vehicle fleet. Establishment of allocation criteria and transfer of funds to the Provinces';

- Decision of the Regional Council No 62-6806 'General criteria and arrangements for funding by the Plan for investment in local public transport in Piedmont under Law No 194/98. Allocation to the Regional Transport Directorate of EUR 9 009 895,07 under heading 25192/2002'.

- (9) The scheme concerns the extension of the network of service stations for the distribution of natural gas (methane) used as motor fuel. There are currently only 12 such stations in the territory of Piedmont, compared with 80 in Emilia-Romagna and 64 in Veneto. The number is deemed insufficient to attain the Kyoto target of reducing CO₂ emissions — as laid down in national and regional legislation — and to lessen the environmental impact of other hazardous airborne substances by reducing the level of the following pollutants in the region: (a) nitrogen dioxide; (b) fine particulates; (c) benzene. These pollutant emissions are a consequence of traffic congestion and the excessive use of a certain mix of traditional motor fuels. For this reason, the Region of Piedmont has focused its action on public and private transport, in terms of both traffic/structure of the vehicle fleet and fuel distribution.

2.2. Form of the measure

- (10) The proposed measure is provided in the form of a grant.

2.3. Intensity, recipients and eligible costs

- (11) The grant amounts to EUR 150 000 per service station. No intensity is indicated. Both the eligible costs and the recipients are described in Section 4 'Comments from Italy'.

2.4. Budget and duration

- (12) The budget amounts to around EUR 5 million. The duration of the scheme is conditional on the budget allocation. The latter is scheduled for the years 2002, 2003 and 2004.

3. GROUNDS FOR INITIATING THE PROCEDURE

- (13) In its decision of 28 May 2003 (hereinafter the decision initiating the procedure), the Commission set out the doubts raised by the notified scheme with regard to a number of issues.

3.1. Aid amount

- (14) The Commission pointed out that the aid amount exceeded the EUR 100 000 maximum that may be granted over a period of three years to any one enterprise under Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid⁽³⁾ and noted that the Italian authorities did not intend to reduce the planned grants of EUR 150 000 per service station, on the ground that the said amount was the minimum incentive needed to spur investments in new service stations in the region.

3.2. Distance of the network from intra-Community borders and possible impact of the measure on intra-Community trade as the aid is not *de minimis*

- (15) In its decision initiating the procedure, the Commission noted that, at first sight, trade was potentially affected as natural gas is traded internationally and service stations could be located close to the border.

3.3. Ownership of the natural gas service stations and identity of the aid recipients

- (16) In its decision initiating the procedure, the Commission referred to a previous decision it had taken in a similar case: Decision 1999/705/EC of 20 July 1999 on the State aid implemented by the Netherlands for 633 Dutch service stations located near the German border⁽⁴⁾. That Decision was subsequently upheld by the Court of Justice in its judgment of 13 June 2002⁽⁵⁾.

3.4. Environmental impact of the measure

- (17) The Commission stated that in the notification the Italian authorities had not clearly demonstrated that the environmental benefits which the scheme was intended to promote would materialise.
- (18) Two points raised by Decision 1999/705/EC and the subsequent Court judgment in Case C-382/99 are especially relevant for the present case.

- (19) In its decision initiating the procedure, the Commission stressed the need for correct identification of the 'recipient', which could be a person other than and not coinciding with the 'service station'. That would be the case, for example, if (a) the same owner possessed or operated several service stations or (b) the same dealer applied for aid more than once. It was quite possible for a large oil company to have *de facto* control over service station operators by virtue of an exclusive purchasing agreement or any other agreement.

- (20) Therefore, in order to verify that there was no incompatible cumulation of aid, the Commission classified service stations in six categories, of which the three most relevant were:

(a) dealer-owned/dealer-operated (Do/Do) service stations, where the dealer owns the service station, operates it at his own risk and is linked to the oil company (the supplier) by an exclusive purchasing agreement;

(b) company-owned/dealer-operated (Co/Do) service stations, where the dealer rents the service station, operates it at his own risk and is linked to the supplier by an exclusive purchasing agreement;

(c) company-owned/company-operated (Co/Co) service stations, where the service station is operated by employees or subsidiaries of the oil company. They bear no risk and are not free to choose their supplier.

- (21) The burden of proving the real ownership of the service stations — and the nature of the contractual agreement linking the supplier to the dealer — lay with the Italian authorities. To that end, the Commission submitted two questions to the Italian authorities, with regard to (1) the proposal to amend the scheme so as to bring it into line with all the provisions of Regulation (EC) No 69/2001⁽⁶⁾ and (2) the ownership structure of the service stations and the size of the recipient enterprises. In particular, the Commission wanted to know whether some or all of the new stations would be part of any selling network belonging to large companies or multinational oil groups.

⁽³⁾ OJ L 10, 13.1.2001, p. 30.

⁽⁴⁾ OJ L 280, 30.10.1999, p. 87.

⁽⁵⁾ Case C-382/99 *Netherlands v Commission* [2002] ECR I-5163.

⁽⁶⁾ See footnote 3.

- (22) The Commission deemed the Italian authorities replies insufficient as they did not rule out the possibility of applications for aid being repeatedly submitted by different service stations belonging to the same large enterprise(s), and they furthermore failed to provide evidence that the contractual relationship ⁽⁷⁾ was such as to bind the dealer (operating the service stations) to the supplier without leaving him any leeway.

3.5. Eligible costs

- (23) The Commission noted that the investment aid was not clearly linked to any eligible cost provided for by the Community guidelines on State aid for environmental protection ⁽⁸⁾, and in particular point 37 thereof. Neither did the investment aid notified under the scheme in question correspond to any of the cases covered by points 29 (aid to improve on Community standards), 30 (energy saving), 31 (combined production of electric power and heat) or 32 (aid to promote renewable sources of energy) of the environmental aid guidelines ⁽⁹⁾.

3.6. Final remarks

- (24) Notwithstanding its doubts, the Commission recognised that there was an a priori presumption that any distortions of competition would indeed be limited.
- (25) The Commission also noted that the scheme was not in line with any other guidelines or frameworks.

4. COMMENTS FROM ITALY

4.1. Environmental impact of the measure

- (26) In their comments, the Italian authorities took the view that — in order to attain the Kyoto targets, which had been embodied in both Community and Italian legislation — it was necessary to act on one of the most polluting human activities, namely road transport (mobility). CO₂, PM₁₀, PM_{2.5} and NO₂ were the main pollutants produced by this activity and natural gas was the best alternative to traditional fuels. Its wider use should have an impact on public transport, public service vehicle fleets and road haulage (freight transport).

⁽⁷⁾ Such as an exclusive purchasing agreement or other binding agreements — and possibly special exclusive clauses linking the supplier and the service stations.

⁽⁸⁾ OJ C 37, 3.2.2001, p. 3.

⁽⁹⁾ Points 68 to 71 of the Community guidelines on State aid for environmental protection refer to the commitment laid down in the Kyoto Protocol, signed by the Member States and by the Community, to limit or reduce greenhouse gas emissions but also stress that 'it is still too early to lay down the conditions for authorising any such aid [granted by Member States]'.

- (27) Moreover, in Piedmont, motor vehicle traffic in urban centres with more than 10 000 inhabitants was subject to limitations. In this respect, natural gas could play an important role in attaining the objective of sustainable mobility.

- (28) The claimed impact on pollutant emissions of replacing vehicles (buses, trucks, vans, etc.) powered by traditional fuels with natural gas-driven vehicles was supported by statistical evidence provided by the Piedmont regional authorities.

- (29) The Commission itself had proposed that 20 % of petrol and diesel fuel used in the road transport sector be replaced by alternative fuels, and natural gas had been identified as one of the fuels that could contribute significantly to the attainment of that objective.

4.2. Aid amount

- (30) In their comments, the Italian authorities took the view that EUR 150 000 per service station was the minimum level of incentive needed to stimulate and promote such investments — both when the infrastructure is built as part of an entirely new station for the supply of natural gas as motor fuel and when it is limited to a new outlet (dispenser or pump, with the annexed infrastructure) built at an existing station. The amount of EUR 150 000 was based on an estimate of the minimum incentive in a sector where profitability under normal market conditions was deemed to be still low, due to long pay-back periods and very slim profit margins. This was demonstrated by the fact that in the past 25 years only six sales outlets had been built.

- (31) In support of their arguments, the Italian authorities provided the Commission with estimates of the operating margin of an average operator, based on the costs calculated for a standard service station for the sale of natural gas as motor fuel connected to a pipeline with a normal pressure of between 5 and 12 bars. The operating margin, gross of both variable and fixed costs, amounted to EUR 0,069 per cubic metre of gas sold. Net of the variable costs, the margin fell to EUR 0,040 per cubic metre (standard margin applied by the operator), which would be further reduced by the annual overheads (staff, maintenance and administrative costs), estimated at EUR 10 000 per year.

- (32) In the example provided by the Italian authorities, natural gas accounted for only 2,51 % of the annual turnover of the service station.

4.3. Investment costs of the service stations

- (33) In their reply, the Italian authorities provided a detailed breakdown of the eligible investment costs. These were limited to the machinery and equipment needed for the supply of natural gas and the safety of the installation and included:

- substations,
- compressors,
- damping cylinders,
- control panels,
- housings for compressors,
- refrigeration units,
- electrical substations,
- check weight twin dispensers (nozzles),
- canopies for the dispensers,
- other equipment needed for the supply of the gas and the safety of the installation.

- (34) The total cost of the above machinery/equipment (the only eligible costs) averaged around EUR 500 000, for a compression system capable of handling gas delivery pressures of between 5 and 12 bars.

- (35) Other, non-eligible costs included: the connection to the gas pipeline, the electricity grid and other public utilities (around EUR 100 000 on average, but with possible variations that greatly depended on distance and the lie of the land); the purchase of land; construction works (road links); ancillary costs (planning, acquisition of permits and licences). Such costs were entirely borne by the investor.

- (36) Although it is not necessary to analyse any further the investment costs indicated by the Italian authorities for installing an additional sales outlet for natural gas at an existing service station, since the assessment concludes that the proposed measure does not constitute State aid, the Commission considers that a maximum cost of EUR 300 000 for installing a gas distribution outlet is acceptable, on the basis of market conditions in other Member States.

4.4. Distance of the network from the intra-Community borders and possible impact of the measure on intra-Community trade

- (37) Given the particular structure of Italy's domestic supply and the strategic choices made in the past in order to diversify supplies and reduce its dependence on oil, methane (natural gas) accounted for a very significant share of the main motor fuels supplied in Italy.

- (38) The following table compares the situation in Italy with that in other European countries ⁽¹⁰⁾.

Country	LPG outlets	Methane outlets
Austria	15	8
Belgium	625	8
Bulgaria	36	0
Croatia	16	1
Denmark	465	1
Finland	3	5
France	1 962	12
Germany	396	356 (51 under construction)
Greece	35	n/a
Ireland	150	2
Italy	2 126	402
Luxembourg	12	5
Norway	31	4
Netherlands	2 200	9
Poland	3 300	8
Portugal	140	5
United Kingdom	1 254	13
Czech Republic	350	12
Russia	342	208
Slovakia	25	4
Slovenia	6	n/a
Spain	39	10
Sweden	11	23
Switzerland	14	27
Turkey	181	3
Ukraine	n/a	87
Hungary	40	3

⁽¹⁰⁾ Assogasliquidi Consorzio ECOGAS.

- (39) The following table compares the situation of different Italian regions.

Region	Methane outlets
Valle d'Aosta	0
Piedmont	12 ⁽¹⁾
Liguria	7
Lombardy	29
Veneto	68
Friuli-Venezia Giulia	4
Trentino-Alto Adige	3
Emilia-Romagna	81
Marche	44
Abruzzo	12
Molise	3
Tuscany	51
Umbria	16
Lazio	13
Apulia	20
Campania	19
Basilicata	3
Calabria	1
Sicily	6
Sardinia	0
'White outlets' (independent outlets, not broken down by region): all fuels	[976]
Total for Italy	392

⁽¹⁾ The figure for Piedmont is 14 if two 'white outlets' are taken into account.

- (40) Out of 1 974 ⁽¹¹⁾ outlets for the supply of motor fuels in Piedmont (down from 3 753 in 1980), 14 are authorised also for the supply of methane, of which only 12 are operational and just six have been built in the past 25 years. The provinces of Turin and Alessandria have the largest share (six outlets each), followed by Cuneo and Novara, with just one outlet. Asti, Biella, Verbania and Vercelli have none.

- (41) The planned budget for the scheme will allow only 33 new outlets to be built. On the demand side, Piedmont has a total fleet of 5 500 methane-fuelled vehicles

(0,16 % of the total). Nationwide, the figure is 330 000 vehicles (0,80 % of the total fleet).

- (42) With regard to the proximity of the methane outlets to the border with France and the possible impact on intra-Community trade, the Italian authorities put forward the following arguments:

- The range of a methane-fuelled motor vehicle was around 300 km, meaning that refuelling was only possible at a station that was within reach during opening hours (no self-service was allowed by law in Italy).
- The territorial distribution of the pipelines heavily influenced the location of the service stations since, if an outlet was to be economically viable, it had to be positioned at short distance from the closest pipeline. A map provided by the regional authorities showed the path of the two pipelines closest to the border between Italy and France: (1) the 'Val di Susa' pipeline linked Salbertrand to Bardonecchia, via Oulx; (2) the 'Val Chisone' pipeline followed the alignment of the valley between Roure and Cesana Torinese, mid-way between Sestrière and Clavière, on the French border; the two pipelines were connected through Sauze d'Oulx.
- The regional authorities of Piedmont argued that natural gas service stations in Italy were not in any way in competition with existing or future French service stations and did not distort or threaten to distort competition such as to affect trade between Member States within the meaning of Article 87(1) of the EC Treaty. On the contrary, the anticipated growth in the number of natural gas-driven vehicles in Piedmont could be expected — through cross-border traffic flows — to result in increased sales of natural gas also by non-Italian service stations, located in France or other Member States.

- (43) In conclusion, the situation described above ruled out any negative cross-border impact of Piedmont's natural gas service stations and merely suggested that the measure would have a localised — i.e. regional — effect at present and a potential positive impact in the future.

4.5. Ownership of the natural gas service stations and identity of the aid recipients (nature of the agreement between the supplier and the dealer)

- (44) The fuel supply (distribution) sector was liberalised in 1998 ⁽¹²⁾.

⁽¹¹⁾ Situation updated to June 2003.

⁽¹²⁾ Under Legislative Decree No 32/1998.

- (45) All operators meeting the subjective and objective — such as minimum performance and safety standards, environmental protection, etc. — requirements were eligible for authorisation. The licence was issued by the competent municipality. The measure did not make any distinction based on the size or market power of the investor and was addressed to both large oil companies and independent dealers, either already operating on the market or wishing to enter it for the first time. The budget constraints made possible the construction of just 33 new outlets and the recipients would be selected by means of an open procedure (public tender).
- (46) The licensee could decide to operate the outlet itself or to entrust it to a third-party operator by means of either a loan for use of not less than six years' duration (renewable) or a fuel supply contract ⁽¹³⁾.
- (47) The licensees could be either oil companies which operated under their own brand (ERG, Tamoil) or independents (so-called *retisti* or network operators). Based on evidence provided by the Italian authorities, 65 % of all fuel distribution outlets in Piedmont belonged to oil companies whereas 35 % belonged to independents.
- (48) When the licensee was an oil company, the prevailing pattern — both in Piedmont and nationwide — was the company-owned/dealer-operated pattern (Co/Do), where the dealer rents the service station, operates it at his own risk and is linked to the supplier-licensee by either an exclusive purchasing agreement (*somministrazione*) or a loan for use (*comodato petrolifero*) ⁽¹⁴⁾. In this case, the outlet displays the brand of the oil company, the latter being the owner of the installation. The company makes all the necessary investments needed for the transformation and upgrading of the outlet. The operator buys the fuel from the company and pays for it with a deferment of three to four days. The dealer, having become the sole owner of the fuel (natural gas/LPG), sells it at a price set freely by him but the company has the right to suggest a selling price and/or indicate a maximum sale price.
- (49) Only in 10 instances had Piedmont seen the adoption of the company-owned/company-operated (Co/Co) pattern, where an oil company owns the service station and
- operates it itself. In none of those cases did the service station sell natural gas.
- (50) The contracts/agreements between the oil companies (the owner-licensee) and the operators' association had been notified to and approved by the Italian competition authority.
- (51) With regard to the remaining 35 % of outlets — the dealer-owned/dealer-operated (Do/Do) pattern — the operator (*retista*) concluded an exclusive purchasing agreement ⁽¹⁵⁾ with an oil company and used the company's brand.

5. COMMENTS FROM INTERESTED PARTIES

- (52) All the interested parties that submitted comments pursuant to Article 6(1) of Regulation (EC) No 659/1999 ⁽¹⁶⁾ supported the position taken by the Region of Piedmont with regard to the need to promote the use of natural gas in the transport sector to achieve environmental objectives.
- (53) OMV Erdgas pointed to the favourable environmental effects expected from the proposed initiative and the importance of promoting the use of natural gas as an objective of environmental policy. The use of natural gas as motor fuel had triggered a major conversion effort by the main car manufacturers in Europe (Fiat, Opel, Volvo, Renault, VW, Ford and Mercedes) and was deeply affecting the commercial vehicle sector too. Yet the market for natural gas was not mature and needed further investments. The first step in that direction was the development of an appropriate service station infrastructure which, given the limited number of natural gas-driven vehicles on the roads in Europe, was as yet not profitable. The proposal for a Directive presented by the Commission on 7 November 2001 set a target share of the motor fuel market for natural gas of 10 % by 2020 ⁽¹⁷⁾. Support for the establishment of the natural gas infrastructure was therefore necessary and justified. OMV Erdgas also pointed to the substantial difference between the scheme proposed by Piedmont and the Dutch scheme: in the latter case, Dutch service stations located along the border with Germany were granted aid in order to compensate for excise differentials in the border region and allow Dutch outlets to compete on an equal footing with German stations across the border. This was not the case in Piedmont.
- (49) Only in 10 instances had Piedmont seen the adoption of the company-owned/company-operated (Co/Co) pattern, where an oil company owns the service station and

⁽¹³⁾ In Italian these are called *contratto di comodato* and *contratto di somministrazione* respectively.

⁽¹⁴⁾ In relation to the discussion of the Dutch precedent, see points 17 to 22 above.

⁽¹⁵⁾ In Italian *contratto di convenzionamento*; the duration of these contracts is variable, often one year, and at all events less than five.

⁽¹⁶⁾ See footnote 1.

⁽¹⁷⁾ These observations, although not necessarily fully shared by the Commission, are not examined in detail since the assessment concludes that the proposed measure does not constitute State aid.

(54) In its observations, the Federal Government of Germany also stressed the substantial difference between the Dutch and Italian cases. First, the *de minimis* rule was clearly not applicable to the measure adopted by the Region of Piedmont and any discussion on that basis would be pointless. Second, the German Government took the view that the measure fell to be assessed under the Community guidelines on State aid for environmental protection, because of its stated objective (as distinct from its effect). The other arguments put forward by the German Government did not differ from those of OMV Erdgas⁽¹⁸⁾.

(55) BGW (Bundesverband der deutschen Gas- und Wasserwirtschaft e. V.), the Federal Association of the German Gas and Water Industry, welcomed the initiative of the Region of Piedmont and described similar developments and actions pursued in Germany to develop the market for natural gas in road transport. The central argument was that natural gas service stations in Italy were not in any way in competition with German stations, and there was no distortion or threat of distortion of competition affecting trade between Member States within the meaning of Article 87(1) of the EC Treaty. On the contrary, the anticipated growth in the number of natural gas-driven vehicles in Piedmont could be expected — through cross-border traffic flows — to result in increased sales of natural gas in German service stations too, a positive development in itself. It should be observed that the same argument was used by the regional authorities of Piedmont in relation to France.

6. ASSESSMENT

6.1. Legality of the aid

(56) The Italian authorities have fulfilled their obligation under Article 88(3) of the Treaty by notifying the scheme to the Commission before putting it into effect.

6.2. Presence of aid within the meaning of Article 87(1) of the EC Treaty

(57) Article 87(1) of the Treaty states that 'any aid granted by a Member State or through state resources in any form

whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market'.

(58) The scheme provides an advantage through state resources (grants of EUR 150 000 from the budget of the Piedmont Region) to certain undertakings (the licensees, owners of the service stations). The measure is therefore selective in scope. Nevertheless, based on the evidence provided by the Italian authorities after the Commission decided to initiate the formal investigation procedure, the effect on trade between Member States within the meaning of Article 87(1) of the Treaty has been demonstrated to be nil.

(59) Trade could, however, be affected by the measure if there was competition between the Italian outlets receiving the grant from the Piedmont Region and methane outlets in another Member State. In this context, it should be stressed that the only Member State with which Piedmont has a common border is France. Most of this border is mountainous and can therefore be crossed by vehicle only through passes or toll tunnels. In addition, the outlets have to be connected to the existing pipelines within the regional borders: as mentioned above, the path of the two pipelines closest to the border between Piedmont and France cross the Alps at Bardonecchia and Cesana Torinese, which are accessible from France by the Fréjus toll tunnel and the Montgenèvre pass respectively. Contrary to the case covered by Decision 1999/705/EC, it is therefore inconceivable that a driver would cross the border in order to buy cheaper methane, especially since the range of a methane-fuelled engine is smaller than a petrol engine (300 km versus at least 600 km) and refuelling with methane is possible only during service station opening hours.

(60) Trade could also be affected by the measure if the same undertaking could receive several grants through the building of several methane distribution outlets. In this connection, it should be mentioned that only 33 new outlets are expected to be built given the budget constraints. The grants will be allocated following a public tender. In practice, only existing service stations will receive the grant as a service station will never be viable if it sells only methane. Out of the 1 974 service stations in the Piedmont Region, only 10 are company-owned/company-operated (Co/Co) and are therefore owned by oil companies. The remaining 1 964 service

⁽¹⁸⁾ Other Commission documents or programmes cited by the German Government in support of its position are: the Commission Green Paper 'Towards a European strategy for the security of energy supply'; Directive 1999/30/EC (on limit values for various substances in ambient air); the Commission White Paper 'European transport policy for 2010'; the Civitas I and Civitas II (Clean urban transport) Community R & D programmes; and the Commission communication on alternative fuels for road transportation and on a set of measures to promote the use of biofuels (COM(2001) 547 final).

stations are dealer-owned/dealer-operated (Do/Do) (around 35 %) and company-owned/dealer-operated (Co/Do) (around 65 %). There is, in the present case, no similar mechanism to the PMS (price management system) clause which would result in the grant being passed through to the oil company in the Do/Do and Co/Do patterns as was the case in Decision 1999/705/EC ⁽¹⁹⁾. Therefore, the same company can receive several grants only in the Co/Co pattern. If it is assumed that the 33 grants will be distributed in proportion to the share of existing Co/Cos, Do/Dos and Co/Dos, it is not possible for an oil company to receive more than one grant. It should also be mentioned that currently none of the 14 service stations which sell methane are Co/Cos. The Italian authorities have furthermore undertaken not to grant any aid to service stations of that type. Given the above, it is therefore inconceivable that an oil company could receive several grants resulting in intra-Community trade being affected within the meaning of Article 87(1) of the EC Treaty.

6.3. Conclusion

- (61) In the light of the foregoing, the Commission finds that the aid scheme notified by the Region of Piedmont for

the extension of the network of service stations for the sale of natural gas used as motor fuel does not constitute State aid within the meaning of Article 87(1) of the EC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The measure which Italy (Region of Piedmont) is planning to implement for the reduction of greenhouse gas emissions, pursuant to Decision of the Regional Council (DGR) No 67-7675 of 11 November 2002, does not constitute State aid.

Article 2

This Decision is addressed to the Republic of Italy.

Done at Brussels, 26 November 2003.

For the Commission

Mario MONTI

Member of the Commission

⁽¹⁹⁾ See in particular point 85 of the Decision.

COMMISSION DECISION

of 1 February 2006

amending Decision 2005/393/EC as regards the restricted zones in relation to bluetongue in Spain and Portugal

(notified under document number C(2006) 180)

(Text with EEA relevance)

(2006/64/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue ⁽¹⁾, and in particular Article 8(2)(d), Article 8(3) and the third paragraph of Article 19 thereof,

Whereas:

- (1) Directive 2000/75/EC lays down control rules and measures to combat bluetongue in the Community, including the establishment of protection and surveillance zones and a ban on animals leaving those zones.
- (2) Commission Decision 2005/393/EC of 23 May 2005 on protection and surveillance zones in relation to bluetongue and conditions applying to movements from or through these zones ⁽²⁾ provides for the demarcation of the global geographic areas where protection and surveillance zones (the restricted zones) are to be established by the Member States in relation to bluetongue.
- (3) Spain and Portugal have informed the Commission that serotype 4 virus has been detected as circulating in a number of peripheral areas of restricted Zone E.
- (4) Consequently, those restricted zones should be extended, taking account of the data available on the ecology of the vector and the development of its seasonal activity.
- (5) Decision 2005/393/EC should therefore be amended accordingly.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

Article 1

In Annex I to Decision 2005/393/EC, the lists of restricted zones in Zone E, which relate to Spain and Portugal, are replaced by the following:

‘Spain:

- Province of Cádiz, Málaga, Sevilla, Huelva, Córdoba, Cáceres, Badajoz, Toledo and Ciudad Real
- Province of Jaen (comarcas of Jaen, Andujar, Alcala la Real, Huelma, Linares, Santiesteban del Puerto, Ubeda)
- Province of Avila (comarcas de Arenas de San Pedro, Candelada, Cebreros, Las Navas del Marques, Navalunga, Sotillo de la Adrada)
- Province of Salamanca (comarcas of Bejar, Ciudad Rodrigo and Sequeros)
- Province of Madrid (comarcas of Aranjuez, El Escorial, Grinon, Navalcarnero and San Martin de Valdeiglesias)’

‘Portugal:

- Regional Direction of Agriculture of Algarve: all *concelhos*
- Regional Direction of Agriculture of Alentejo: all *concelhos*
- Regional Direction of Agriculture of Ribatejo e Oeste: *concelhos* of Almada, Barreiro, Moita, Seixal, Sesimbra, Montijo, Coruche, Setúbal, Palmela, Alcochete, Benavente, Salvaterra de Magos, Almeirim, Alpiarça, Chamusca, Constância, Abrantes and Sardoal.
- Regional Direction of Agriculture of Beira Interior: *concelhos* of Penamacor, Fundão, Oleiros, Sertão, Vila de Rei, Idanha a Nova, Castelo Branco, Proença-a-nova, Vila Velha de Rodao and Mação.’

⁽¹⁾ OJ L 327, 22.12.2000, p. 74.

⁽²⁾ OJ L 130, 24.5.2005, p. 22. Decision as last amended by Decision 2005/828/EC (OJ L 311, 26.11.2005, p. 37).

Article 2

This Decision shall apply from 7 February 2006.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 1 February 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

COMMISSION DECISION

of 3 February 2006

amending Decision 97/467/EC as regards the inclusion of one establishment in Uruguay in provisional lists of third country establishments from which Member States are authorised to import ratite meat

(notified under document number C(2006) 233)

(Text with EEA relevance)

(2006/65/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 95/408/EC of 22 June 1995 on the conditions for drawing up, for an interim period, provisional lists of third country establishments from which Member States are authorised to import certain products of animal origin, fishery products or live bivalve molluscs ⁽¹⁾, and in particular Article 2(4) thereof,

Whereas:

- (1) Commission Decision 97/467/EC of 7 July 1997 drawing up provisional lists of third country establishments from which the Member States authorise imports of rabbit meat and farmed game meat ⁽²⁾ sets out provisional lists of establishments in third countries from which the Member States are authorised to import farmed game meat, rabbit meat and ratite meat.
- (2) Uruguay has provided the name of one establishment producing ratite meat for which the responsible authorities certify that the establishments comply with Community rules.
- (3) Accordingly, this establishment should be included in the lists set out in Decision 97/467/EC.
- (4) Imports from this establishment should not be eligible for reduced physical checks pursuant to Council Directive

97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries ⁽³⁾.

(5) Decision 97/467/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

Annex II to Decision 97/467/EC is amended in accordance with Annex to this Decision.

Article 2

This Decision shall apply from 11 February 2006.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 3 February 2006.

For the Commission

Markos KYPRIANOU

Member of the Commission

⁽¹⁾ OJ L 243, 11.10.1995, p. 17. Decision as last amended by Directive 2004/41/EC of the European Parliament and of the Council (OJ L 157, 30.4.2004, p. 33, corrected by OJ L 195, 2.6.2004, p. 12).

⁽²⁾ OJ L 199, 26.7.1997, p. 57. Decision as last amended by Decision 2005/302/EC (OJ L 95, 14.4.2005, p. 62).

⁽³⁾ OJ L 24, 30.1.1998, p. 9. Directive as last amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council (OJ L 165, 30.4.2004, p. 1, as corrected by OJ L 191, 28.5.2004, p. 1).

ANNEX

The following text is added to Annex II:

País: Uruguay/Země: Uruguay/Land: Uruguay/Land: Uruguay/Riik: Uruguay/Χώρα: Ουρουγουάη/Country: Uruguay/
Pays: Uruguay/Paese: Uruguay/Valsts: Urugvaja/Salis: Urugvajus/Ország: Uruguay/Pajjiz: L-Urugwaj/Land: Uruguay/
Państwo: Urugwaj/País: Uruguai/Krajina: Uruguaj/Država: Urugvaj/Maa: Uruguay/Land: Uruguay

1	2	3	4	5	6
240	Caltés S.A.	Paso de los Toros	Tacuarembó	CP, SH'	