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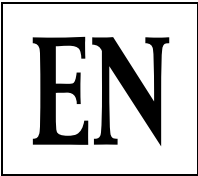
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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1239/2006**of 17 August 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 18 August 2006.

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

Done at Brussels, 17 August 2006.

For the Commission

Jean-Luc 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 17 August 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
0707 00 05	052	90,7
	999	90,7
0709 90 70	052	75,6
	999	75,6
0805 50 10	388	61,2
	524	53,0
	528	52,0
	999	55,4
0806 10 10	052	77,8
	220	108,9
	999	93,4
0808 10 80	388	86,6
	404	87,6
	508	87,1
	512	84,8
	528	71,2
	720	81,3
	804	94,4
0808 20 50	999	84,7
	052	126,7
	388	85,9
0809 30 10, 0809 30 90	999	106,3
	052	134,4
0809 40 05	999	134,4
	052	39,5
	098	37,5
	624	150,7
	999	75,9

⁽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 1240/2006

of 17 August 2006

amending Regulation (EC) No 902/2006 as regards the available quantity for which import licence applications for certain pigmeat products may be lodged for the period from 1 October to 31 December 2006

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1458/2003 of 18 August 2003 opening and providing for the administration of tariff quotas for certain products in the pigmeat sector ⁽²⁾, and in particular Article 5(6) thereof,

Whereas:

- (1) In accordance with the Agreement in the form of an Exchange of Letters between the European Community and the United States of America under Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 ⁽³⁾, approved by Council Decision 2006/333/EC ⁽⁴⁾, the quantities provided for by the quotas in Regulation (EC) No 1458/2003 have been amended.

- (2) It is therefore necessary to amend Commission Regulation (EC) No 902/2006 of 19 June 2006 determining the extent to which applications lodged in June 2006 for import licences under the regime provided for by tariff quotas for certain products in the pigmeat sector for the period 1 July to 30 September 2006 can be accepted ⁽⁵⁾, and to adapt the available quantities for the period from 1 October to 31 December 2006 in proportion to those fixed in Annex I to Regulation (EC) No 1458/2003,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 902/2006 is replaced by the text in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 17 August 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 1. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 208, 19.8.2003, p. 3. Regulation as last amended by Regulation (EC) No 1191/2006 (OJ L 215, 5.8.2006, p. 3).

⁽³⁾ OJ L 124, 11.5.2006, p. 15.

⁽⁴⁾ OJ L 124, 11.5.2006, p. 13.

⁽⁵⁾ OJ L 167, 20.6.2006, p. 24.

ANNEX

‘ANNEX II

(tonnes)	
Order No	Total quantity available for the period from 1 October to 31 December 2006
09.4038	15 286,248
09.4039	2 250,000
09.4071	1 501,000
09.4072	3 080,500
09.4073	7 533,500
09.4074	2 658,200

COMMISSION REGULATION (EC) No 1241/2006**of 17 August 2006****amending Regulation (EC) No 929/2006 as regards the available quantity for which import licence applications for certain poultrymeat products may be lodged for the period from 1 October to 31 December 2006**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1251/96 of 28 June 1996 opening and providing for the administration of tariff quotas in the poultrymeat sector ⁽²⁾, and in particular Article 5(5) thereof,

Whereas:

- (1) In accordance with the Agreement in the form of an Exchange of Letters between the European Community and the United States of America under Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 ⁽³⁾, approved by Council Decision 2006/333/EC ⁽⁴⁾, the quantities provided for by the quotas in Regulation (EC) No 1251/96 have been amended.

- (2) It is therefore necessary to amend Commission Regulation (EC) No 929/2006 of 22 June 2006 determining the extent to which applications lodged in June 2006 for import licences for certain egg sector products and poultrymeat pursuant to Regulations (EC) No 593/2004 and (EC) No 1251/96 can be accepted ⁽⁵⁾, and to adapt the available quantities for the period from 1 October to 31 December 2006 in proportion to those fixed in Annex I to Regulation (EC) No 1251/96,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 929/2006 is replaced by the text in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 17 August 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 77. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1).

⁽²⁾ OJ L 161, 29.6.1996, p. 136. Regulation as last amended by Regulation (EC) No 1179/2006 (OJ L 212, 2.8.2006, p. 7).

⁽³⁾ OJ L 124, 11.5.2006, p. 15.

⁽⁴⁾ OJ L 124, 11.5.2006, p. 13.

⁽⁵⁾ OJ L 170, 23.6.2006, p. 17.

ANNEX

'ANNEX

(tonnes)

Group	Acceptance percentage of applications for import licences lodged for the period from 1 July to 30 September 2006	Total quantity available for the period from 1 October to 31 December 2006
E1	—	67 500,000
E2	42,686820	1 750,000
E3	100,0	5 593,513
P1	63,681183	1 574,500
P2	100,0	4 005,750
P3	1,488031	977,500
P4	11,125945	350,500

“—”: No application for a licence has been sent to the Commission.’

COMMISSION REGULATION (EC) No 1242/2006**of 17 August 2006****amending Regulation (EC) No 1555/96 on rules of application for additional import duties on fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾, and in particular Article 33(1) thereof,

Whereas:

- (1) Article 33(1) Regulation (EC) No 2200/96 clearly sets out the conditions to be fulfilled in order for the Commission to impose additional import duties. For clarity and legal certainty, the same wording should also be used in Article 3(1) of Commission Regulation (EC) No 1555/96 of 30 July 1996 on rules of application for additional import duties on fruit and vegetables ⁽²⁾.
- (2) Regulation (EC) No 1555/96 provides for surveillance of imports of the products listed in the Annex thereto. That surveillance is to be carried out in accordance with the rules laid down in Article 308d of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾.
- (3) For the purposes of Article 5(4) of the Agreement on Agriculture ⁽⁴⁾ concluded during the Uruguay Round of multilateral trade negotiations and in the light of the latest data available for 2003, 2004 and 2005, the trigger levels for additional duties on apples should be adjusted.

- (4) Regulation (EC) No 1555/96 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 3(1) of Regulation (EC) No 1555/96 is replaced by the following:

‘1. If it is found that, for one of the products and one of the periods listed in the Annex hereto, the quantity put into free circulation exceeds the corresponding triggering volume the Commission shall levy an additional duty unless the imports are unlikely to disturb the Community market, or the effects would be disproportionate to the intended objective.’

Article 2

The Annex to Regulation (EC) No 1555/96 is replaced by the Annex hereto.

Article 3

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

It shall apply from 1 September 2006.

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

Done at Brussels, 17 August 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 193, 3.8.1996, p. 1. Regulation as last amended by Regulation (EC) No 808/2006 (OJ L 147, 31.5.2006, p. 9).

⁽³⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 402/2006 (OJ L 70, 9.3.2006, p. 35).

⁽⁴⁾ OJ L 336, 23.12.1994, p. 22.

ANNEX

‘ANNEX

Without prejudice to the rules governing the interpretation of the combined nomenclature, the description of the products is deemed to be indicative only. The scope of the additional duties for the purposes of this Annex is determined by the scope of the CN codes as they exist at the time of the adoption of this Regulation.

Order No	CN code	Description	Trigger period	Trigger level (tonnes)
78.0015	0702 00 00	Tomatoes	— 1 October to 31 May	260 534
78.0020			— 1 June to 30 September	18 280
78.0065	0707 00 05	Cucumbers	— 1 May to 31 October	9 278
78.0075			— 1 November to 30 April	11 060
78.0085	0709 10 00	Artichokes	— 1 November to 30 June	90 600
78.0100	0709 90 70	Courgettes	— 1 January to 31 December	68 401
78.0110	0805 10 20	Oranges	— 1 December to 31 May	271 073
78.0120	0805 20 10	Clementines	— 1 November to end of February	150 169
78.0130	0805 20 30 0805 20 50 0805 20 70 0805 20 90	Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids	— 1 November to end of February	94 492
78.0155	0805 50 10	Lemons	— 1 June to 31 December	301 899
78.0160			— 1 January to 31 May	34 287
78.0170	0806 10 10	Table grapes	— 21 July to 20 November	189 604
78.0175	0808 10 80	Apples	— 1 January to 31 August	922 228
78.0180			— 1 September to 31 December	51 920
78.0220	0808 20 50	Pears	— 1 January to 30 April	263 711
78.0235			— 1 July to 31 December	33 052
78.0250	0809 10 00	Apricots	— 1 June to 31 July	4 569
78.0265	0809 20 95	Cherries, other than sour cherries	— 21 May to 10 August	46 088
78.0270	0809 30	Peaches, including nectarines	— 11 June to 30 September	17 411
78.0280	0809 40 05	Plums	— 11 June to 30 September	11 155'

COMMISSION REGULATION (EC) No 1243/2006**of 17 August 2006****on the issue of system B export licences in the fruit and vegetables sector (peaches)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1961/2001 of 8 October 2001 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables ⁽²⁾, and in particular Article 6(6) thereof,

Whereas:

- (1) Commission Regulation (EC) No 858/2006 ⁽³⁾ fixes the indicative quantities for which system B export licences may be issued.
- (2) In the light of the information available to the Commission today, there is a risk that the indicative quantities laid down for the current export period for

peaches will shortly be exceeded. This overrun will prejudice the proper working of the export refund scheme in the fruit and vegetables sector.

- (3) To avoid this situation, applications for system B licences for peaches after 17 August 2006 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for system B export licences for peaches submitted pursuant to Article 1 of Regulation (EC) No 858/2006, export declarations for which are accepted after 17 August and before 1 November 2006, are hereby rejected.

Article 2

This Regulation shall enter into force on 18 August 2006.

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

Done at Brussels, 17 August 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

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

⁽²⁾ OJ L 268, 9.10.2001, p. 8. Regulation as last amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

⁽³⁾ OJ L 159, 13.6.2006, p. 5.

COMMISSION REGULATION (EC) No 1244/2006**of 17 August 2006****amending the rates of refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the market in the sugar sector ⁽¹⁾, and in particular Article 33(2)(a) and (4) thereof,

Whereas:

- (1) The rates of the refunds applicable from 28 July 2006 to the products listed in the Annex, exported in the form of goods not covered by Annex I to the Treaty, were fixed by Commission Regulation (EC) No 1151/2006 ⁽²⁾.

- (2) It follows from applying the rules and criteria contained in Regulation (EC) No 1151/2006 to the information at present available to the Commission that the export refunds at present applicable should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of refund fixed by Regulation (EC) No 1151/2006 are hereby altered as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 18 August 2006.

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

Done at Brussels, 17 August 2006.

For the Commission

Günter VERHEUGEN

Vice-President

⁽¹⁾ OJ L 58, 28.2.2006, p. 1.

⁽²⁾ OJ L 207, 28.7.2006, p. 23.

ANNEX

Rates of refunds applicable from 18 August 2006 to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty ⁽¹⁾

CN code	Description	Rate of refund in EUR/100 kg	
		In case of advance fixing of refunds	Other
1701 99 10	White sugar	30,96	30,96

⁽¹⁾ The rates set out in this Annex are not applicable to exports to Bulgaria, with effect from 1 October 2004, to Romania with effect from 1 December 2005, and to the goods listed in Tables I and II to Protocol No 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation or to the Principality of Liechtenstein with effect from 1 February 2005.

COMMISSION REGULATION (EC) No 1245/2006**of 17 August 2006****amending Regulation (EC) No 1143/2006 fixing the export refunds on syrup and certain other sugar products exported without further processing**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the market in the sugar sector ⁽¹⁾, and in particular the fourth subparagraph of Article 33(2) thereof,

Whereas:

- (1) Export refunds on the products listed in Article 1(1)(c), (d) and (g) of Regulation (EC) No 318/2006 were fixed from 11 August 2006 by Commission Regulation (EC) No 1143/2006 ⁽²⁾.
- (2) In the light of additional information available to the Commission, related in particular to the change in the

relation between prices in the internal and world market, it is necessary to adjust export refunds currently applying.

- (3) Regulation (EC) No 1143/2006 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1143/2006 is replaced by the text in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 18 August 2006.

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

Done at Brussels, 17 August 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 58, 28.2.2006, p. 1.

⁽²⁾ OJ L 207, 28.7.2006, p. 5. Regulation as amended by Regulation (EC) No 1218/2006 (OJ L 220, 11.8.2006, p. 11).

ANNEX

Export refunds on syrups and certain other sugar products exported without further processing applicable from 18 August 2006 ^(a)

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	S00	EUR/100 kg dry matter	30,96
1702 60 10 9000	S00	EUR/100 kg dry matter	30,96
1702 60 95 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,3096
1702 90 30 9000	S00	EUR/100 kg dry matter	30,96
1702 90 60 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,3096
1702 90 71 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,3096
1702 90 99 9900	S00	EUR/1 % sucrose × 100 kg of net product	0,3096 ⁽¹⁾
2106 90 30 9000	S00	EUR/100 kg dry matter	30,96
2106 90 59 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,3096

NB: The destinations are defined as follows:

S00: all destinations except Albania, Croatia, Bosnia and Herzegovina, Bulgaria, Romania, Serbia, Montenegro, Kosovo and the former Yugoslav Republic of Macedonia.

^(a) 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 application of 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⁾ The basic amount is not applicable to the product defined under point 2 of the Annex to Commission Regulation (EEC) No 3513/92 (OJ L 355, 5.12.1992, p. 12).

COMMISSION REGULATION (EC) No 1246/2006
of 17 August 2006
amending Regulation (EC) No 1213/2006 fixing the export refunds on white and raw sugar
exported without further processing

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the market in the sugar sector ⁽¹⁾, and in particular the fourth subparagraph of Article 33(2) thereof,

Whereas:

(1) Export refunds on products listed in Article 1(1)(b) of Regulation (EC) No 318/2006 were fixed from 11 August 2006 by Commission Regulation (EC) No 1213/2006 ⁽²⁾.

(2) In the light of additional information available to the Commission, related in particular to the change in the

relation between prices in the internal and world market, it is necessary to adjust export refunds currently applying.

(3) Regulation (EC) No 1213/2006 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1213/2006 is replaced by the text in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 18 August 2006.

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

Done at Brussels, 17 August 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 58, 28.2.2006, p. 1.

⁽²⁾ OJ L 220, 11.8.2006, p. 3.

ANNEX

Export refunds on white and raw sugar exported without further processing applicable from 18 August 2006 ^(a)

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	28,48 ⁽¹⁾
1701 11 90 9910	S00	EUR/100 kg	28,48 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	28,48 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	28,48 ⁽¹⁾
1701 91 00 9000	S00	EUR/1 % sucrose × 100 kg of net product	0,3096
1701 99 10 9100	S00	EUR/100 kg	30,96
1701 99 10 9910	S00	EUR/100 kg	30,96
1701 99 10 9950	S00	EUR/100 kg	30,96
1701 99 90 9100	S00	EUR/1 % sucrose × 100 kg of net product	0,3096

NB: The destinations are defined as follows:

S00: all destinations except Albania, Croatia, Bosnia and Herzegovina, Bulgaria, Romania, Serbia, Montenegro, Kosovo, the former Yugoslav Republic of Macedonia.

^(a) 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 application of 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 multiplied, for each exporting operation concerned, by a conversion factor obtained by dividing by 92 the yield of the raw sugar exported, calculated in accordance with paragraph 3 of Point III of the Annex I of Regulation (EC) 318/2006.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 23 November 2005

**on the aid scheme 'Real Estate Transfer Tax Exemption for Housing Companies in the *Neue Länder*'
with regard to the labour market region Berlin**

(notified under document number C(2005) 4434)

(Only the German text is authentic)

(Text with EEA relevance)

(2006/566/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽¹⁾ and having regard to their comments,

Whereas:

(3) By letter dated 26 April 2004 and further to a meeting held on 10 April 2004, in which Germany announced that it would provide supplementary information on the scheme, Germany requested an extension of the deadline. This extension was granted by letter dated 10 May 2004.

(4) By letter dated 14 May 2004, registered as received by the Commission on the same day, Germany submitted further information. By letters dated 30 June 2004 and 14 September 2004, the Commission requested additional information concerning the scheme. This information was submitted by Germany by letters dated 29 July 2004 and 6 October 2004, registered as received by the Commission on 29 July 2004 and on 15 October 2004.

1. PROCEDURE

(1) By letter dated 16 January 2004, registered as received by the Commission on 19 January 2004, Germany notified the Commission of the aid scheme entitled 'Real Estate Transfer Tax Exemption for Mergers between Housing Companies and Housing Associations in the *Neue Länder*'.

(2) By letter dated 17 February 2004, the Commission requested additional information. By letter dated 17 March 2004, registered as received by the Commission on 19 March 2004, additional information was submitted by Germany.

(5) By letter dated 1 December 2004, the Commission informed Germany that it had decided to raise no objections to those parts of the scheme that were restricted to the new German *Länder* which are assisted areas under Article 87(3)(a) ⁽²⁾. In the same letter the Commission informed Germany that it had decided to initiate the formal investigation procedure laid down in Article 88(2) of the EC Treaty as regards Berlin and those parts of Brandenburg that belong to the labour market region of Berlin and are assisted areas under Article 87(3)(c) of the EC Treaty ⁽³⁾.

⁽¹⁾ OJ C 53, 3.3.2005, p. 18.

⁽²⁾ Brandenburg (except areas belonging to the labour market region of Berlin), Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt, Thuringia.

⁽³⁾ See list of German assisted areas, State aid N 195/99, C 47/99, and N 641/02.

- (6) The decision was published in the *Official Journal of the European Union* on 3 March 2005. The Commission invited interested parties to submit their comments on the aid scheme ⁽⁴⁾, but received none.
- (7) Germany submitted its comments by letter dated 14 February 2005.

2. DETAILED DESCRIPTION OF THE AID SCHEME

2.1. Background

- (8) The aid scheme temporarily exempts housing companies and housing associations from the real estate transfer tax in cases of mergers and acquisitions involving real estate located in the labour market region of Berlin.
- (9) In the former GDR apartments were built for many decades on the basis of a centralised planning system. At the same time old buildings were neglected to such an extent that in 1990 many apartments were no longer habitable. German reunification resulted in strong demand for newly built apartments or private homes, which led to a shortage on the housing market in the new *Länder* and in the labour market region of Berlin. Experts and politicians expected the housing shortage to last and reacted by providing tax subsidies and accelerated depreciations for new buildings and refurbishments in the new *Länder* and in the labour market region of Berlin in the period 1990 to 1998. These incentives led to a housing surplus, in particular as in the meantime it had become clear that demand for apartments did not grow as predicted, but decreased. At present, the surplus amounts to some 1 million units.
- (10) Germany and the new *Länder* therefore decided to demolish vacant apartments in a programme called 'urban rebuilding East' (*Stadtumbau Ost*). According to the information provided by Germany, a substantial part of the demolition costs will have to be borne by the housing companies and housing associations themselves.
- (11) Germany argues that the undercapitalisation of many housing companies and associations in the new *Länder* and in the labour market region of Berlin — caused by lost revenues due to high vacancy rates and the relative fragmentation of the market — is threatening to jeopardise the demolition programme deemed necessary by the Federal Government and the *Länder* as they will not be able to bear their share of the demolition costs.
- (12) Germany emphasises that the re-balancing of demand and supply cannot be achieved by simply eliminating oversupply, but also necessitates supplying the quality

of living space actually demanded. In order to achieve this, housing companies and associations in the new *Länder* and in the labour market region of Berlin need to invest massively to adapt their current stock of apartments. In order to put the companies in the new *Länder* and in the labour market region of Berlin in a position to invest, Germany concludes they should have the opportunity to merge, thereby benefiting from the resulting synergy effects.

- (13) According to Germany, the real estate transfer tax has proved to be a barrier to mergers and acquisitions between such companies and associations. By suspending the real estate transfer tax temporarily, market participants will have the opportunity to merge. The broadened capital base of merged housing companies and associations will put them in a better position to bear the costs of necessary demolition while simultaneously undertaking the investments necessary to offer modern housing.
- (14) A real estate transfer tax is a tax levied on real estate transactions resulting in a change in the ownership of the relevant property. Tax liability arises when real estate is transferred through sale or other legal transaction. The real estate transfer tax (*Grunderwerbsteuer*) in Germany is calculated on the basis of the standardised value (*Einheitswert*) of the property and is levied at a rate of 3,5 %.

2.2. Scope of this Decision

- (15) In its letter dated 1 December 2004 the Commission decided to raise no objections to those parts of the aid measure 'Real Estate Transfer Tax Exemption for Housing Companies in the New *Länder*' which relate to assisted areas covered by Article 87(3)(a) of the EC Treaty. This Decision accordingly concerns only those parts of the scheme which relate to the labour market region of Berlin, which is an assisted area covered by Article 87(3)(c) of the EC Treaty.

2.3. Objective of the aid scheme

- (16) The objective of the scheme is to redevelop the housing market in the labour market region of Berlin by eliminating oversupply and by helping housing companies and housing association to provide the quality of housing which is actually demanded. By enabling such companies to demolish unoccupied apartment blocks, Germany intends to improve the physical appearance and infrastructure of certain areas in the labour market region of Berlin which are otherwise characterised by a poor physical environment. [...] (*)

⁽⁴⁾ See footnote 1.

(*) Business secret.

2.4. Beneficiaries

(17) The potential beneficiaries of the scheme are housing companies and housing associations (*Wohnungsunternehmen* and *Wohnungsgenossenschaften*) acquiring real estate in the labour market region of Berlin by means of mergers and acquisitions. For the purpose of this Decision, housing companies and housing associations will be defined as companies and associations whose main business is the administration, construction, sale and renting of apartments. Enterprises in difficulty are excluded from the scheme.

(18) For the time being, three mergers between housing companies are anticipated in the labour market region of Berlin. In the case of mergers that took place in Berlin between 1995 and 1998, the following real estate transfer tax amounts were registered: EUR 3,1 million for a merger involving 19 plots of land; EUR 1,4 million for a merger involving 39 plots of land; and EUR 6,7 million for a merger involving 491 plots of land.

2.5. Duration of the scheme

(19) The scheme is limited to all merger and acquisition activities between housing companies and associations taking place between 31 December 2003 and 31 December 2006.

3. DECISION TO INITIATE THE PROCEDURE

(20) In its letter of 1 December 2004, the Commission considered the following and concluded that the notified scheme constituted State aid within the meaning of Article 87(1) of the EC Treaty:

- the involvement of State resources is demonstrated by the fact that by allowing exemption from the real estate transfer tax, Germany forgoes tax revenues that would otherwise have accrued to it;
- the measure is selective as it is targeted upon particular geographical areas in the new *Länder* and the labour market region of Berlin by favouring certain undertakings, namely housing companies and associations, and is limited to mergers and acquisitions between such companies and associations involving real estate property in the new *Länder* and the labour market region of Berlin;

- the scheme constitutes an advantage for the housing companies and associations involved in mergers and acquisitions, as they are exempted from the payment of the real estate transfer tax they would otherwise have had to bear in the absence of the scheme;

- finally, as the transfer of real estate is an activity in which there is trade between Member States, it cannot be excluded that the scheme affects trade between Member States.

(21) In its Decision 2002/581/EC⁽⁵⁾ on the tax measures for banks and banking foundations implemented by Italy, the Commission considered that tax exemptions aimed at restructuring sectors in difficulty by specifically favouring mergers and acquisitions should be regarded as aid aimed at reducing firms' current expenses and thus constituting operating aid. However, in its decision to initiate the present formal investigation procedure this matter was left undecided as the Commission took into consideration the arguments put forward by Germany in order to demonstrate that the present aid measure could be finally assessed in a different way.

(22) The Commission had serious doubts whether the scheme proposed by Germany for the Article 87(3)(c) labour market region of Berlin is proportionate to the objective and does not distort competition to an extent contrary to the common interest, for the following reasons:

- the vacancy rate in Berlin, at 5,3 % for privately owned apartments and 8,77 % for communal apartments, is significantly lower than in the new *Länder*, where the overall vacancy rate is 14,2 %. Almost all vacant apartments are located in the eastern districts of Berlin;

- no data had been provided by Germany to demonstrate that the labour market region of Berlin was suffering from depopulation in a way that is comparable with the Article 87(3)(a) assisted areas covered by the scheme;

- whereas the typical amounts of real estate transfer tax involved in mergers and acquisitions between housing companies and associations are in the range of EUR 150 000 and EUR 1,5 million for the Article 87(3)(a) areas, the corresponding amounts for the city of Berlin — based on past experience — lie between EUR 1,4 million and EUR 6,7 million.

⁽⁵⁾ OJ L 184, 13.7.2002, p. 27.

- No data had been provided by Germany that would demonstrate that the temporary tax exemption was likely to contribute to activating the real estate market in the labour market region of Berlin as well as having positive spill-over effects and that it is extremely unlikely that private sector involvement in remediation can be expected without any state intervention.

4. COMMENTS FROM GERMANY

- (23) Germany argues that aid granted under the present aid scheme cannot be considered to be operating aid under the Community guidelines on national regional aid ⁽⁶⁾. The particularity of the scheme is to exempt transactions regarding real estate situated in the labour market region of Berlin from real estate transfer tax. Beneficiaries are housing companies and associations where the transaction is the result of a merger or acquisition between such entities. Only in such cases will the companies which are involved in the transaction be exempted temporarily from the real estate transfer tax. As a merger or acquisition between two housing companies (or housing associations) takes place in principle only once, Germany does not regard the aid as compensating for current expenses.
- (24) Furthermore, the housing companies and associations will in principle continue to pay the real estate transfer tax when buying property. As the regular business activity of housing companies and associations in general is the purchase and sale and/or rent of property, the payment of the real estate transfer tax would constitute regular current expenses of the companies concerned. However, the scheme does not affect these regular current expenses as it does not apply in cases where housing companies and associations simply acquire or sell a piece of property.
- (25) With regard to the alleged lower vacancy rates in Berlin, Germany argues that such a contention is unfounded as the Commission's argument is based on average data, whereas certain districts in Berlin have vacancy rates which are comparable to those in the new *Länder*. According to the data provided by Germany, the districts with similar low vacancy rates (around 14 %) are mostly located in the eastern districts of Berlin, e.g. *Hohenschönhausen*, *Marzahn-Hellersdorf* and *Lichtenberg*.
- (26) As regards depopulation, Germany argues that the labour market region of Berlin suffered from a decline of population in recent years, resulting in a decline in demand

for housing. However, the statistical data provided by Germany show that, having become the capital for the Federal Republic of Germany, Berlin is not suffering from a decline of population, but has a stable population trend. Nevertheless, the data do confirm that the eastern districts of Berlin have suffered from out-migration in comparable proportions to the new *Länder*.

- (27) Germany confirmed that aid amounts involved in mergers between housing companies and housing associations in the labour market region of Berlin are substantially higher than in the Article 87(3)(a) assisted areas, which is due to the size and higher value of real estate in the labour market region of Berlin ⁽⁷⁾.
- (28) Germany claims that mergers and acquisitions in the housing sector will have a positive spill-over effect on the housing market as the newly created undertakings have the capacity to start the overdue restructuring processes, e.g. by putting vacant real estate on the market and/or by demolishing run-down apartments. As the real estate transfer tax puts a serious strain on the overall liquidity of the companies involved, levying it delays the necessary investments.

5. ASSESSMENT OF THE AID

5.1. Existence of State aid

- (29) For the reasons given in its letter of 1 December 2004 (recitals 20, 21 and 22), which have not been contested by Germany, the Commission considers that the present aid scheme 'Real Estate Transfer Tax Exemption for Housing Companies in the New *Länder*' involves State aid pursuant to Article 87(1) of the EC Treaty.

5.2. Legality of the measure

- (30) By notifying the aid scheme as a draft, Germany met its obligation under Article 88(3) of the EC Treaty.

5.3. Compatibility of the measure

- (31) Article 87(2) of the EC Treaty provides that certain types of aid are compatible with the common market. In view of the purpose of the aid, which is to redevelop the housing market through the demolition of empty apartment spaces, the Commission considers that Article 87(2)(a) and (b) of the EC Treaty are not applicable to the aid scheme, nor has Germany argued that this may be the case.

⁽⁶⁾ OJ C 74, 10.3.1998, p. 9; point 4.15 of the guidelines states that regional aid aimed at reducing a firm's current expenses (so-called operating aid) is normally prohibited.

⁽⁷⁾ Based on information provided in a letter dated 21 June 2004, the assets of certain housing companies in Berlin amount to between EUR 552,4 million and EUR 1 202 million.

- (32) Nor is Article 87(2)(c) of the EC Treaty applicable, as the oversupply of housing was not caused by the division of Germany and Berlin, but rather by tax measures to promote new buildings and refurbishments in the new *Länder* and Berlin during the years 1990 to 1998.
- (33) Article 87(3) of the EC Treaty specifies other forms of aid which may be regarded as compatible with the common market. In view of the nature and purpose of the scheme and its geographical scope, the Commission considers that Article 87(3)(b) and (d) of the EC Treaty are not applicable. Article 87(3)(a) of the EC Treaty allows aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment. However, as the labour market region of Berlin is an assisted area under Article 87(3)(c) of the EC Treaty, Article 87(3)(a) is not applicable.
- (34) In assessing whether the exemptions provided for in Article 87(3) (c) of the EC Treaty can apply, the Court of Justice of the European Communities held in Case C-169/95 *Kingdom of Spain v Commission* ⁽⁸⁾ that Article 87(3) 'gives the Commission a discretion the exercise of which involves economic and social assessments that must be made in a Community context'. For certain types of aid, the Commission has defined how it will exercise these discretionary powers, be it in the form of block exemptions or of Community frameworks, guidelines or notices. Where such secondary texts exist, the Commission must follow them in its assessment of cases of aid.
- (35) In this respect, the Commission notes that the scheme is not limited to measures that are in line with Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to state aid to small and medium-sized enterprises ⁽⁹⁾, or to measures covered by the Community guidelines on state aid for rescuing and restructuring firms in difficulty ⁽¹⁰⁾, or to any of the following instruments: the Community framework for State aid for research and development ⁽¹¹⁾, Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid ⁽¹²⁾ or Commission Regulation (EC) No 2204/2002 of 12 December 2002 on the application of Articles 87 and 88 of the EC Treaty to State aid for employment ⁽¹³⁾. Therefore, none of these guidelines, frameworks or regulations are applicable to the present case. The Community guidelines on state aid for environmental protection ⁽¹⁴⁾ are not applicable either because the scheme is not intended for environmental protection.
- (36) For assisted areas covered by Article 87(3)(c) of the EC Treaty such as the labour market region of Berlin, the guidelines on national regional aid (hereinafter referred to as the regional aid guidelines) apply. The regional aid guidelines support investment and job creation by promoting the expansion, modernisation and diversification of the establishments located in such less favoured regions. However, the regional aid guidelines also state that aid confined to one area of activity may have a major impact on competition in the relevant market, and its effects on regional development are likely to be limited.
- (37) In any case, the regional aid guidelines only apply to certain categories of aid which include aid for initial investment, aid for job creation and, exceptionally, operating aid. According to point 4.15 of the regional aid guidelines, such operating aid may only be granted in regions eligible under the derogation in Article 87(3)(a) of the EC Treaty provided that it is justified in terms of its contribution to regional development and its nature and that its level is proportional to the handicaps it seeks to alleviate.
- (38) The present tax exemption for housing companies active in the labour market region of Berlin does not appear to be specifically linked to an initial investment or the extension of an existing establishment as provided in point 4.4 of the regional aid guidelines. Nor does it concern any job creation linked to the carrying out of an initial investment project as provided for in point 4.11 of the regional aid guidelines.
- (39) Consequently, the scheme does not fall within the scope of any existing guidelines, frameworks or regulations adopted on the basis of Article 87(3)(c) of the EC Treaty. The Commission will thus assess the scheme directly upon the basis of Article 87(3)(c) of the EC Treaty.
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- ⁽⁸⁾ [1997] ECR I-135. See also judgement dated 17 September 1980 in case 730/79 *Philip Morris v Commission* [1980] ECR I-2671.
- ⁽⁹⁾ OJ L 10, 13.1.2001, p. 33. Regulation as last amended by Regulation (EC) No 1040/2006 (OJ L 187, 8.7.2006, p. 8).
- ⁽¹⁰⁾ OJ C 244, 1.10.2004, p. 2.
- ⁽¹¹⁾ OJ C 45, 17.2.1996, p. 5.
- ⁽¹²⁾ OJ L 10, 13.1.2001, p. 20. Regulation as last amended by Regulation (EC) No 1040/2006.
- ⁽¹³⁾ OJ L 337, 13.12.2002, p. 3. Regulation as last amended by Regulation (EC) No 1040/2006.
- ⁽¹⁴⁾ OJ C 37, 3.2.2001, p. 3.

5.3.1. Compatibility with Article 87(3)(c) of the EC Treaty

(40) Article 87(3)(c) of the EC Treaty allows State aid measures intended to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest. When examining whether aid is compatible under Article 87(3)(c) of the EC Treaty, the Commission takes into account the Community's objectives and determines whether the State aid is an appropriate instrument for dealing with the problem as opposed to other policy instruments and whether the aid is proportionate to the objective pursued.

(41) The objective of the present aid scheme is to redevelop the housing market in the labour market region of Berlin by eliminating oversupply and by helping housing companies and housing associations to provide the quality of housing which is actually demanded. By enabling companies to demolish unoccupied apartment blocks, Germany intends to improve the physical appearance and infrastructure of certain areas in the labour market region of Berlin [...].

(42) Tackling physical deprivation and regenerating [...] urban areas are an increasing political priority in the Community. The Commission has accordingly approved aid schemes directly under Article 87(3)(c) of the EC Treaty in the field of urban regeneration, for example in Commission Decision 2003/433/EC of 21 January 2003 on the aid scheme 'Stamp duty exemption for non-residential properties in disadvantaged areas' notified by the United Kingdom⁽¹⁵⁾ or in State aid N 211/03 'Nouvelles Zones Franches Urbaines'⁽¹⁶⁾. In these decisions the Commission acknowledged that many cities in the Community, including the most prosperous ones, contain 'pockets of deprivation', i.e. areas that are characterised by a lack of social inclusion and a poor physical environment in terms of infrastructure, housing and local amenities. The Commission recognised the need for public financial aid in order to support the urban regeneration process and found that the schemes were compatible under the Community objectives of economic and social cohesion, which implies the reduction of disparities between levels of development of different areas.

(43) Germany acknowledged that the city of Berlin — now that it had become the capital of the Federal Republic of Germany — was not suffering from a decline in population. A study provided by Germany indicates that the number of inhabitants will remain stable. However, what is also clear from the data is that the districts *Marzahn-Hellersdorf*, *Lichtenberg* and *Hohenschönhausen* have indeed

suffered from out-migration in comparable proportions to that in the new *Länder*. As a result the vacancy rate in *Marzahn-Hellersdorf* is as high as 14,1 %.

(44) The Commission notes, however, that under the present aid scheme not only housing companies and housing associations owning real estate in certain districts in the labour market region of Berlin (e.g. *Marzahn-Hellersdorf*, *Lichtenberg*, *Hohenschönhausen*, *Neukölln*) can benefit from real estate transfer tax exemptions, but that the scheme applies to all such undertakings in the whole of the labour market region of Berlin. While the Commission recognises that the regeneration process in Berlin might suffer from several handicaps resulting from its unique past and that the above mentioned districts might be considered 'pockets of deprivation', it is of the opinion that the labour market region of Berlin as a whole is not in need of aid to support urban regeneration.

(45) Germany did not provide data for the labour market region of Berlin to demonstrate that State aid to support mergers and acquisitions among housing companies (housing associations) is in fact the appropriate instrument for tackling efficiently the oversupply of apartments in certain districts. Whether or not the scheme will result in the undertakings actually demolishing empty housing space in districts like *Marzahn-Hellersdorf*, *Lichtenberg*, *Hohenschönhausen* and *Neukölln* remains unknown.

5.3.2. Effect on trade to an extent contrary to the common interest

(46) Having established that urban regeneration falls within the Community's objectives, the Commission will now assess whether trading conditions are adversely effected to an extent contrary to the common interest.

(47) Germany acknowledged that the aid amounts involved in mergers and acquisitions between housing companies (housing associations) in the labour market region of Berlin are substantially higher than in Article 87(3)(a) assisted areas, which is due to the size and the higher value of real estate in the labour market region of Berlin⁽¹⁷⁾. Germany has confirmed that aid for housing companies in Berlin under the present scheme can amount up to EUR 6,7 million. The Commission considers that aid of this magnitude distorts competition and affects trade within the Community. In addition, the present scheme does not prevent housing companies (housing associations) from merging more than once, and no mechanism is put into place to monitor the cumulation of aid.

⁽¹⁵⁾ OJ L 149, 17.6.2003, p. 18.

⁽¹⁶⁾ See website: http://europa.eu.int/comm/secretariat_general/sgb/state_aids/industrie_2003.htm

⁽¹⁷⁾ According to the information provided in a letter sent on 21 June 2004, the assets of certain housing companies in Berlin amount to between EUR 542,4 million and EUR 1 202 million.

(48) In view of the fact that the scheme potentially benefits all housing companies and housing associations owning real estate in the labour market region of Berlin whereas only certain districts are in fact in need of regeneration, the Commission concludes the scheme proposed by Germany for the labour market region of Berlin, which is an assisted area covered by Article 87(3)(c) of the EC Treaty, is not proportionate to the objective pursued. The Commission considers that promoting real estate transfer in the whole of the labour market region of Berlin will prove to be ineffective and that the aid adversely affects trade and competition contrary to the common interest.

6. CONCLUSIONS

- (49) The regional aid guidelines are not applicable in this specific case. The scheme does not support initial investment or job creation.
- (50) The Commission has considered it appropriate to examine the aid measure directly on the basis of Article 87(3)(c) of the EC Treaty as no Community framework, guidelines or regulations are applicable to it. Though urban regeneration falls within the Community objectives of economic cohesion and sustainable development, the present measure is not well targeted.
- (51) The measure is aimed at the labour market region of Berlin as a whole, whereas only certain districts suffer from deprivation. The Commission therefore concludes that the scheme is disproportionately wide. Germany did not provide any information on how the aid measure will specifically address the districts which are in need of regeneration and finally lead to the demolition of empty housing. Germany acknowledged that all housing companies and associations active in the labour market region of Berlin are eligible for the tax exemption under the measure and even if they do not own any real estate in the deprived districts.

- (52) The aid amounts involved in the measure are significant, especially in cases where a housing company or housing association merges several times or receives cumulated aid. The Commission concludes that the aid scheme adversely affects trading conditions to an extent contrary to the common interest,

HAS ADOPTED THIS DECISION:

Article 1

The State aid scheme 'Real Estate Transfer Tax Exemption for Housing Companies in the Neue Länder' is incompatible with the common market as far as the labour market region Berlin is concerned.

The aid may accordingly not be implemented.

Article 2

Germany shall inform the Commission, within two months of notification of this decision, of the measures taken to comply with it.

Article 3

This decision is addressed to the Federal Republic of Germany.

Done at Brussels, 23 November 2005.

For the Commission

Neelie KROES

Member of the Commission