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I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 649/2008

of 8 July 2008

imposing a definitive anti-dumping duty on imports of powdered activated carbon originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Articles 9 and 11(2) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Measures in force

- (1) By Regulation (EC) No 1006/96⁽²⁾, following an anti-dumping investigation, the Council imposed a definitive anti-dumping duty of EUR 323 per tonne on imports on powdered activated carbon originating in the People's Republic of China (PRC) (the original investigation).

- (2) By Regulation (EC) No 1011/2002⁽³⁾, following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council renewed the imposition of the definitive anti-dumping duty on imports on powdered activated carbon originating in the PRC (the first expiry review investigation).

1.2. Request for a review (Present investigation)

- (3) Following the publication of a notice of impending expiry⁽⁴⁾, the Commission received a request on 12 March 2007 for an expiry review pursuant to Article 11(2) of the basic Regulation.
- (4) The request was lodged by the European Chemical Industry Council (CEFIC) (the applicant) on behalf of two producers representing a major proportion, in this case more than 50 %, of the total Community production of powdered activated carbon. The request was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and injury to the Community industry.

- (5) Having determined, after consulting the advisory committee, that sufficient evidence existed for the initiation of the expiry review, the Commission initiated this review on 13 June 2007, by a notice published in the *Official Journal of the European Union* (the notice of initiation)⁽⁵⁾.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 134, 5.6.1996, p. 20.

⁽³⁾ OJ L 155, 14.6.2002, p. 1. Regulation as amended by Regulation (EC) No 931/2003 (OJ L 133, 29.5.2003, p. 36).

⁽⁴⁾ OJ C 228, 22.9.2006, p. 3.

⁽⁵⁾ OJ C 131, 13.6.2007, p. 14.

1.3. Parties concerned by the investigation

- (6) The Commission officially advised the exporters/producers, the representatives of the exporting country, importers, suppliers, producers, users in the Community and the applicant of the initiation of the expiry review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(a) Sampling of exporters/producers in the PRC

- (7) In view of the apparent large number of exporters/producers in the PRC (132 listed in the review request), it was considered appropriate to examine whether sampling should be used in the expiry review in conformity with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the exporters/producers were requested, pursuant to Article 17(2) of the basic Regulation, to make themselves known within 15 days of the initiation of the expiry review and provide the Commission with the information requested in the notice of initiation. However, no exporter/producer replied to the sampling questions or otherwise made itself known in response to the notice of initiation and, thus, sampling for exporters/producers was not at issue.

(b) Sampling of Community importers

- (8) In view of the apparent large number of importers in the Community (33 listed in the review request), it was considered appropriate to examine whether sampling should be used in the expiry review in conformity with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, importers in the Community were requested, pursuant to Article 17(2) of the basic Regulation, to make themselves known within 15 days of the initiation of the expiry review and provide the Commission with the information requested in the notice of initiation.
- (9) However, since only three out of the 33 importers which were contacted replied to the sampling questions and agreed to cooperate, it was decided that sampling was not warranted in this case.

1.4. Questionnaires and verification

- (10) Questionnaires were sent to the representatives of the exporting country and to all known importers, suppliers, producers, users in the Community and producers in the analogue country, the United States of America (USA) (see recitals 22 to 24).

- (11) Complete replies to the questionnaires were received from three suppliers of raw materials to the Community industry, three users, two Community producers supporting the request for the review, one additional producer opposing the proceeding and one producer in the analogue country. No exporting producer in the PRC cooperated.

- (12) The Commission sought and verified all the information deemed necessary for its analysis and carried out verification visits at the premises of the following companies:

(a) Community producers

— Norit BV, Amersfoort, the Netherlands, and Glasgow, United Kingdom,

— CECA SA, Paris and Bordeaux, France,

(b) Other producer

— Chemviron Carbon SA, Feluy, Belgium,

(c) Community suppliers

— Klasmann & Deilmann GmbH, Geeste, Niedersachsen, Germany,

— Rheinbraun Brennstoff GmbH, Cologne, Germany,

— WTL International Ltd, Macclesfield, Cheshire, United Kingdom,

(d) Producer in the analogue country

— Norit Americas Inc., Marshall, Texas, USA.

1.5. Review investigation period

- (13) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 April 2006 to 31 March 2007 (review investigation period or RIP).
- (14) The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2003 up to the end of the RIP (period considered).

2. PRODUCT CONCERNED AND LIKE PRODUCT

- (15) The product under consideration is the same as in the original investigation and the subsequent expiry review, i.e. powdered activated carbon (PAC) currently classifiable within CN code ex 3802 10 00. PAC is a micro-porous form of carbon, obtained from a variety of raw materials such as coal, lignite, peat, wood, olive stones or coconut shells, which are activated by means of steam or chemical processes. PAC is a very fine powder. Activated carbons are also sold in granular forms (granulated activated carbon GAC) which are not covered by the measures in force or by this review.
- (16) As confirmed by the previous expiry review PAC is defined as consisting of at least 90 % by mass (% m/m) of particles with a size less than 0,5 mm.
- (17) The general applications of PAC are water treatment (potable water as well as treatment of waste water), gas and air purification, solvent recovery, decolourisation of sugar, vegetable oils and fats, deodorisation and purification of different products in the chemical (i.e. organic acids), pharmaceutical (i.e. gastrointestinal capsules) and food industries (i.e. alcoholic and soft drinks).
- (18) The present investigation has confirmed that PAC produced and sold by Community producers and PAC imported from the PRC as well as PAC produced and sold in the analogue country (USA) share the same basic physical and technical characteristics and are in all respects identical. Therefore, they are considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF A CONTINUATION AND/OR RECURRENCE OF DUMPING

3.1. Preliminary remarks

- (19) In accordance with Article 11(2) of the basic Regulation, the purpose of an expiry review is to determine whether the expiry of the measures is likely to lead to a continuation or recurrence of dumping.
- (20) At the outset, the volumes exported to the Community during the RIP were examined. It should be noted that, since none of the Chinese exporting producers or any importer in the Community cooperated with the present investigation, export data were established in accordance with Article 18 of the basic Regulation, i.e. on the basis of information available. In this respect, it is recalled that no Chinese exporting producer or Community importer had also cooperated with the first expiry review investigation. However, since the imposition of a definitive anti-dumping duty in 1996, Eurostat statistics have been available for imports of PAC. These statistics have been

confirmed by market research information submitted by the Community industry. On this basis, and in the absence of any other more reliable information, these statistics were used. They showed that during the RIP some 529 tonnes of PAC were imported from the PRC into the Community. This quantity is small in comparison with the quantity imported into the Community before the imposition of measures, but it still represented more than 1 % of the PAC consumption in the Community during the RIP. However, an indicative dumping calculation was made.

3.2. Likelihood of continuation of dumping

- (21) In the context of the likelihood of a continuation of dumping, it was investigated whether dumping of exports from the PRC was currently taking place. This was done on the grounds that, if dumping was taking place now, it could be an important indication that dumping would be likely to continue in the future, should the measures be allowed to expire.
- (a) *Analogue country*
- (22) Since the PRC is an economy in transition, normal value was determined on the basis of information obtained in an appropriate market economy third country selected in accordance with Article 2(7) of the basic Regulation.
- (23) The USA was selected as an appropriate analogue country in the original and the first expiry review investigation. As indicated in the Notice of Initiation, the Commission envisaged using the USA as an appropriate analogue country also in the present expiry review investigation. In this respect, the investigation revealed that the USA was the most appropriate analogue country for the following reasons:

The USA is one of the largest producing countries of PAC worldwide. Figures submitted by the cooperating producer in the USA and the Community producers in the request for review showed that the production volume of both countries is comparable. Furthermore, as mentioned in recital 18, PAC produced and sold in the USA was found to be a like product to PAC produced in the PRC and exported to the Community. Domestic sales made by the cooperating US-producer (in terms of volume) were representative when compared to the imports of PAC from the PRC into the Community. Finally, the level of competition in the USA was found to be very high. Indeed, in addition to the competition amongst several producers in the USA, there was also competition from imported PAC (mainly from the PRC, Sri Lanka and the Philippines), which could be imported during the RIP without quantitative restrictions or import duties. Furthermore, the main US producer of PAC was willing to cooperate.

- (24) Given the above, and as no comments were received on the choice of the analogue country by any of the interested parties, the USA was consequently selected as the most appropriate analogue country.

(b) Normal value

- (25) In accordance with Article 2(1) of the basic Regulation, it was considered whether the representative domestic sales of PAC in the USA were, considering the prices charged, made in the ordinary course of trade. In this respect, it was examined whether domestic sales were profitable. For this purpose, the full cost of production of each grade during the RIP was compared to the average price of the sales transactions of each grade made during the same period. It was found that the majority of sales were made at a profit. The investigation also revealed that all sales were made to independent customers. As a result the prices paid or payable for PAC by independent customers on the US domestic market in the ordinary course of trade were used to determine the normal value in accordance with Article 2(1) of the basic Regulation.

(c) Export price

- (26) As mentioned above, no Chinese exporting producer or any importer of PAC in the Community cooperated with this expiry review investigation. Therefore, the export price was determined on the basis of facts available in accordance with Article 18 of the basic Regulation. As already mentioned in recital 20 above and in the absence of any other more reliable information, this was done by reference to the average price from the Eurostat (TARIC) import statistics during the RIP.

(d) Comparison

- (27) For the purpose of ensuring a fair comparison between normal value and export price, account was taken of differences in factors, which were found to affect prices and price comparability in accordance with Article 2(10) of the basic Regulation. In this regard, adjustments for differences in freight, insurance and inland transport costs were made. In the absence of any information from Chinese exporting producers, the adjustments on the export price were based on facts available, in this case on relevant information given in the review request.

(e) Dumping margin

- (28) The comparison of the weighted average normal value with the weighted average export price of all grades showed that exports of PAC to the Community were still being dumped at a substantial margin during the RIP. The dumping margin was equal to the amount by which the normal value exceeded the prices for exports

to the Community. The weighted average dumping margin exceeded 20 %. Although this dumping margin had to be based, to a large extent, on facts available because of the non-cooperation of Chinese exporting producers, it is nevertheless indicative of current Chinese export behaviour. Obviously, had there been cooperation by Chinese exporting producers, this would have allowed a more precise calculation.

3.3. Development of exports to the Community should measures expire

- (29) It was also considered how exports of PAC from the PRC to the Community would develop should measures expire. For that purpose the spare production capacity in the PRC, the export volume and the domestic market in the PRC as well as the Chinese price behaviour to other third countries were examined. In the absence of cooperation from exporting producers, market research information submitted by the Community industry was used.

(f) Production capacity, domestic market in China and export volume

- (30) The information available to the Commission showed that the PRC, with some 300 manufacturers, is the largest producer and exporter of activated carbons (granular and powdered) in the world. During the RIP, the Chinese production capacity of PAC was estimated at about 190 000 tonnes, of which around 70 000 tonnes were sold domestically and around 60 000 tonnes exported. A spare capacity of approximately 60 000 tonnes was thus available. It is noted that this spare capacity exceeds the Community consumption in the RIP.

- (31) The main export markets for Chinese PAC are South East Asia, Japan, the Republic of Korea, the USA and Europe. However, according to the evidence submitted by the Community industry, the additional need for imported PAC in third countries would be minimal and the capability to absorb further Chinese exports therefore almost negligible. Furthermore, it should be noted that a number of potential export markets in the Asian region, such as India and Indonesia, apply high customs tariffs for PAC.

- (32) On the basis of data available, it is estimated that the annual growth rate of domestic consumption, production and production capacity of PAC in the PRC will be around 5 %. Given that the USA imposed anti-dumping measures on Chinese steam activated PAC in April 2007 (i.e. after the IP), exports may even decrease. Thus, the spare capacities will certainly not decrease but in all likelihood even increase in the future.

(33) Furthermore, according to the information available to the Commission, the Chinese activated carbon industry is currently facing financial problems, in particular because the low capacity utilisation is leading to increased costs. This also increases the pressure to export at dumped prices in order to have better economies of scale.

(34) In these circumstances, should the measures be removed and the Community become an attractive export market, it is very likely that the Chinese producers will increase their capacity utilisation in order to export significant volumes and, thus, reduce their costs and improve their financial situation.

(g) Price behaviour on third country markets

(35) An analysis of the prices of Chinese exports to other third countries, such as the USA, revealed that exports of PAC were also made at very low prices even dumped at very significant rates (higher than the dumping margin established in the present expiry review investigation, see recital 28). It is obvious that there is a history of Chinese dumping practices for this product.

(36) Consequently, should the anti-dumping duty be removed, the Community market would most likely attract large quantities of low priced dumped Chinese PAC. In this respect, it should also be noted that Chinese imports remained, albeit in smaller quantities, present on the Community market since the imposition of anti-dumping measures in 1996, which will facilitate an increase of imports should measures be allowed to expire.

3.4. Conclusion on the likelihood of a continuation of dumping

(37) Imports of Chinese PAC during the RIP were made above *de minimis* levels and were still dumped. It was established that dumping continued and that there is a strong likelihood that it would continue should measures be allowed to expire. Moreover, in such a case it is likely that exports of Chinese PAC to the Community will significantly increase (and return to at least the levels found in the original investigation) since there are significant spare capacities available in the PRC. The prices of these additional import quantities will in all likelihood be dumped at significant levels.

4. DEFINITION OF THE COMMUNITY INDUSTRY

(38) The investigation showed that PAC is currently produced by a limited number of producers in the Community. The two applicant producers and two other producers, which did not cooperate in the investigation, are following the traditional process of mixing up the

necessary raw material to obtain PAC by activation processes.

(39) It was also found that certain other producers in the Community manufacture PAC by milling GAC imported from the PRC. On the basis of estimates provided by the Community industry, out of the GAC being imported from the PRC, approximately 10 000 tonnes are being milled into PAC in the Community. Indeed, one other producer that cooperated with the Commission during the investigation manufactured PAC using this method. However, as was the case in the first review investigation, these quantities have not been included in the calculation of total Community production and of Community consumption.

(40) The two Community producers on whose behalf the request for the review was lodged cooperated with the investigation. They represented around 80 % of Community production of PAC and therefore constitute the Community industry within the meaning of Article 4(1) and 5(4) of the basic Regulation.

(41) As the Community industry consists of two Community producers, the information concerning the Community industry had to be indexed where appropriate to preserve confidentiality of sensitive data.

5. SITUATION ON THE COMMUNITY MARKET

5.1. Consumption on the Community market

(42) Community consumption (EU-27) was established on the basis of:

— sales on the Community market by the two cooperating Community producers,

— sales on the Community market by non-cooperating Community producers of PAC (as estimated by the applicant),

— import statistics as derived from Eurostat.

(43) As already mentioned in recital 39, there are certain quantities of PAC being manufactured by milling GAC imported from the PRC, which have not been included in the calculation of Community consumption.

(44) On the basis of the above, Community consumption of PAC has increased by 7 % over the period considered. An increase between 2003 and 2005 of 10 % was followed by a small decline in 2006; after that consumption remained stable during the RIP.

	2003	2004	2005	2006	RIP
Consumption (tonnes)	38 163	39 499	41 983	40 697	40 783
Index (2003 = 100)	100	104	110	107	107

5.2. Current imports from the PRC

(a) Volume and market share

- (45) Based on information from Eurostat, the development of volumes and market share of imports of PAC from the PRC is set out in the following table. The volume of imports from the PRC has increased over the period considered by 55 %, but their market share remained overall below 2 %.

	2003	2004	2005	2006	RIP
Volume of imports (tonnes)	341	662	600	515	529
Index (2003 = 100)	100	194	176	151	155
Market share	0,9 %	1,7 %	1,4 %	1,3 %	1,3 %

(b) Price behaviour of imports

- (46) The average import prices of PAC originating in the PRC, as derived from Eurostat and by adding post importation costs, customs and anti-dumping duties, marked a rather moderate increase of 8 % over the period considered as shown in the following table.

	2003	2004	2005	2006	RIP
Price (EUR/tonne)	1 169	1 104	1 187	1 217	1 267
Index (2003 = 100)	100	94	102	104	108

- (47) In the absence of detailed sales data by exporting producers in the PRC, the Commission had to compare the adjusted import prices obtained from Eurostat with the average, ex-works sales prices of the Community industry as a whole, i.e. without distinction between different grades of PAC. This comparison has shown that the Chinese export prices during the RIP were 25 % to 30 % lower than the prices charged by the Community industry in the same period.

5.3. Imports from other third countries

- (48) The imports of PAC from countries other than the PRC have increased significantly over the period considered from about 7 300 tonnes in 2003 to 10 000 tonnes in the RIP, representing market shares of around 19 % and 25 %, respectively. The major exporting countries have been Malaysia, Indonesia, the Philippines and the USA.

- (49) While imports from the USA have halved, imports from Malaysia, Indonesia and the Philippines increased from 2 800 tonnes in 2003 to 6 200 tonnes in the RIP, representing a combined market share of the Community market of 15 % during the RIP. The investigation showed that certain of the imports from these three countries consist in PAC produced from coconut-shells, which Community producers are unable to produce themselves, due to the unavailability of the raw material concerned. Thus, parts of these imports have been triggered by the Community industry itself in order to complement their range of PAC on offer to Community users.

- (50) In terms of prices, the average import prices from Malaysia, Indonesia and the Philippines were lower than those of the Community industry. Prices of imports from Malaysia and Indonesia were in the same range as the prices of imports of PAC originating in the PRC, whereas the prices of imports from the Philippines marked a considerable increase over the period considered (37 %) and were 20 % above the Chinese import prices in the RIP.
- (51) Prices of imports from the USA were found to be significantly higher than those of the Community industry. The vast majority of these imports are speciality grades of PAC achieving high prices on the Community market.
- (52) In summary, the investigation showed that some imports of PAC from third countries are complementary to the production of the Community industry. Other imports were made at prices largely above the average price charged by the Community industry. There are also other imports made at relatively low prices that may have a certain effect on the Community market. However, on the basis of the trends observed over the period considered, it appears that this situation is not likely to expand.

5.4. Economic situation of the Community industry

(a) Production, installed production capacity and capacity utilisation rate

- (53) The ability to produce PAC can vary depending on the mix of low-activated (shorter time in oven) and high-activated (longer time in oven) compounds. Thus, the capacity shown in the table below has been established on the basis of a mix of high and low activated PAC actually produced.

	2003	2004	2005	2006	RIP
Production (tonnes)	100	105	95	100	100
Installed production capacity (tonnes)	100	90	85	86	86
Capacity utilisation rate	100	118	112	118	116

- (54) The production of PAC by the Community industry has been stable over the period considered, with some fluctuations in 2004 and 2005.
- (55) Installed capacity decreased between 2003 and 2005. This decrease is attributable to environmental legislation introduced in 2003 by the local authorities in one Member State where one Community industry plant is located. As a consequence, the Community producer concerned had to stop the operation of one of its activation plants due to these environmental requirements.
- (56) As a direct consequence of the lower production capacities available, the capacity utilisation rate increased correspondingly.

(b) Sales volumes, market share of Community consumption, average sales price and growth

	2003	2004	2005	2006	RIP
Sales volumes	100	96	94	96	96
Market share	100	93	87	91	91
Average sales price	100	99	98	99	99
Growth	100	96	92	95	96

- (57) Sales volumes were 4 % lower during the RIP in comparison with the beginning of the period considered. As Community consumption increased by 7 % over the period considered (see recital 44), the market share of the Community industry decreased by 9 % over the period considered. Despite this drop in market share, the Community industry's market share was kept above 50 % throughout the period considered.
- (58) Average sales prices of the Community industry on the Community market have remained rather stable over the period considered. The stable sales prices in the presence of lower sales volumes resulted in a negative growth of 4 % during the period considered, mirroring the decrease in sales volumes by the same percentage point.

(c) *Stocks*

	2003	2004	2005	2006	RIP
Stocks	100	138	115	97	85

- (59) Given the interruption of one of the production lines in 2004 (see recital 55) and in order to be able to serve its customers, the Community industry had to temporarily increase its stocks. However, in the course of the following years, the level of stocks again reached the initial levels, at around 10-20 % of production volumes.

(d) *Profitability, return on investments and cash flow*

	2003	2004	2005	2006	RIP
Profitability on Community sales	100	383	337	200	226
Return on investments	100	1 051	692	215	348
Cash flow (in % of Community Sales)	100	143	119	100	128

- (60) These three indicators followed a similar pattern (albeit to a different degree) during the period considered, namely a sharp increase between 2003 and 2004 followed by a gradual decrease up to the end of the RIP.
- (61) The evolution of profitability, return on investment and cash flow between 2003 and 2004 should be seen in the light of the fact that, in 2003, the Community industry's financial performance was particularly poor, with its profitability on sales slightly above the break-even level. The poor performance of the Community industry in 2003 was due to the hardship faced by one of the Community producers in that year.
- (62) The decrease in profit between 2005 and 2006 is partly due to the costs that the Community industry incurred to meet certain environmental requirements (see recital 55).
- (63) The other cooperating producer of PAC, which mills imported GAC into PAC (see recital 39), alleged that the Community industry, in view of the increase in its profit levels of PAC between 2003 and 2006 as shown in the complaint, was able to cross-subsidise its sales of GAC. In other words it alleged that since PAC has been protected, the Community industry has been able to charge higher prices for PAC and, thus, allegedly charge less for its sales of GAC. For this reason, this party opposed the continuation of measures.

- (64) Concerning the alleged cross-subsidisation between GAC and PAC produced by the Community industry, it is noted that this is partly outside the scope of this review since the profitability of sales of GAC was not analysed in the framework of this investigation. As regards the profit levels, it is noted that while the Community industry marked a sharp increase in profitability between 2003 and 2004, this development was followed by a period of decline in 2006 and the RIP. As noted in recital 61, the sharp increase between 2003 and 2004 should be seen in relation to the poor financial performance of the Community industry in 2003 rather than with the good financial performance in 2004. Moreover, over the period considered, the Community industry's profitability never exceeded 5,5 % in relation to its sales of PAC on the Community market. Thus, the alleged possibility that the increase in profitability during the period considered was at levels that would have allowed the Community industry to subsidise its sales of other products had to be dismissed, as the profitability of sales of PAC during the period considered was too low to substantiate any cross-subsidisation allegations.

(e) *Employment, wages and productivity*

	2003	2004	2005	2006	RIP
Number of employees	100	97	88	90	90
Wages/employee	100	100	99	100	97
Productivity (tonne/employee)	100	108	108	111	111

- (65) As shown in the table above, the Community industry has reduced the number of employees over the period considered by around 10 %. As the actual production has remained stable during the same period (see recital 54), the increase in productivity is mirroring these two developments.
- (66) Moreover, wages have been rather stable during the period considered.

(f) *Investments*

	2003	2004	2005	2006	RIP
Investments (EUR)	100	70	71	135	135

- (67) The table above shows that during 2006 and the RIP, the Community industry made significant investments. For reasons explained in recital 55, these investments were triggered by environment requirements.

(g) *Ability to raise capital*

- (68) The Community industry did not report any difficulties in raising capital over the period considered.

(h) *Magnitude of dumping*

- (69) As seen above, the facts available show that the dumping margin can be considered to be significant.

(i) *Recovery from past dumping*

- (70) As already concluded in the previous expiry review, due to the anti-dumping measures in force, the Community industry has to a certain extent been able to recover from past dumping, but is still in a vulnerable situation.

5.5. Export activity of the Community industry

	2003	2004	2005	2006	RIP
Sales volumes (tonnes) for export	100	108	114	122	121
Average sales price (export)	100	94	96	99	101

- (71) Sales volumes for exports have increased throughout the period considered, by around 21 % between 2003 and the RIP.
- (72) Average sales prices of exports sales have remained stable when comparing export sales prices in 2003 with those during the RIP. Whereas prices dropped somewhat in 2004, the Community industry was able to increase its prices as from 2005.

5.6. Conclusion on the situation on the Community market

- (73) Between 2003 and the RIP, the following indicators concerning the Community industry developed positively: profitability, return on investments, cash-flow and capacity utilisation and closing stocks. The unit sales prices and the production remained virtually stable. In addition, productivity increased and the Community industry was able to invest in order to meet certain environmental requirements.
- (74) Conversely, the following indicators developed negatively: sales volumes, market share and employment. Moreover, production capacity declined due to the aforementioned environmental requirements.
- (75) Overall, although the situation is mixed, positive developments appear to outweigh negative developments. In addition, when one compares the above trends with the ones found in the original investigation, it is clear that the anti-dumping measures in place had a positive impact on the economic situation of the Community industry. Nevertheless, it should be stressed that even indicators showing positive developments, such as, in particular, profitability and return on investment, are still far from reaching levels that could be expected if the Community industry had fully recovered from the past injurious dumping.
- (76) It is therefore concluded that, although the situation of the Community industry has improved, as compared to the period preceding the imposition of measures, the Community industry is still fragile.

6. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

- (77) The investigation has shown that the spare capacities in the PRC are significant, exceeding the Community consumption in the RIP. In addition, given the imposition of anti-dumping measures against imports of (steam-activated) PAC originating in the PRC by the USA, there is an imminent risk of trade diversion of the volumes previously exported to the USA should measures be allowed to lapse. This is an even greater risk since the prices at which PAC has been imported into the USA are even lower than those at which they are imported into the Community market.
- (78) Furthermore, the prices at which PAC is currently being imported have been established to be dumped and lie far below the average sales prices (and costs) of the Community industry.
- (79) Therefore, the combined effect of factors such as:
- the significant spare capacities found in the PRC,
 - the imminent risk of trade diversion due to the imposition of measures by the USA, and,
 - the prevailing low level of the prices at which PAC originating in the PRC is being imported into the Community as well as into the USA,
- all point towards a serious risk of recurrence of injury should measures be allowed to lapse.
- (80) As shown above, although the situation of the Community industry has improved as compared to the one prevailing before the imposition of existing anti-dumping measures, it remains fragile. It is likely that if the Community industry were exposed to increased volumes of imports from the PRC at dumped prices it would result in a deterioration of its financial situation as found in the original investigation. On this basis, it is therefore concluded, that the repeal of the measures would in all likelihood result in the recurrence of injury to the Community industry.

7. COMMUNITY INTEREST

7.1. Preliminary remarks

- (81) In accordance with Article 21 of the basic Regulation, it was examined whether the continuation of the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an appreciation of all the various interests involved. The present investigation analysed a situation in which anti-dumping measures have already been in place and allowed for assessment of any undue negative impact on the parties concerned due to the current anti-dumping measures.
- (82) On this basis, it was examined whether, despite the conclusions on the likelihood of a continuation or recurrence of injurious dumping, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.
- (83) For this reason, questionnaires were sent out to, in addition to the three producers mentioned in recital 11, other producers (including those producers which are milling imported GAC into PAC), four Community suppliers, the three Community importers that agreed to cooperate (see recital 9) and 37 users mentioned in the application and/or known to the Commission.

7.2. Interest of the Community industry

- (84) It can reasonably be expected that the Community industry will continue to benefit from the measures currently imposed and further recover by regaining market share and improving its profitability. Should the measures not be maintained, it is likely that the Community industry will start again to suffer injury from increased imports at dumped prices from the country concerned and that its currently fragile financial situation will deteriorate.
- (85) On this basis, given that the Community industry represents more than a majority of Community production and that the two Community producers constituting the Community industry both have expressed support of continuation of measures, it can be concluded that the continuation of measures would be in the interest of the Community industry.

7.3. Interest of Community suppliers

- (86) The Commission received replies to the questionnaire from three Community suppliers of raw materials (lignite, peat and sawdust) to the Community industry. All three supported the continuation of measures and

stated that a significant part of their sales would be at risk if measures would be allowed to lapse, putting in danger their financial stability.

- (87) It could therefore be concluded that the continuation of measures would be in the interest of the Community suppliers of the Community industry.

7.4. Interest of Community importers

- (88) As mentioned in recital 8, the Commission contacted 33 importers that were listed in the request to this review. Only three importers agreed to cooperate in the investigation. However, none of these three importers replied to the questionnaire sent by the Commission.
- (89) Thus, the lack of interest in cooperating with the investigation can indeed be considered as an indication that the importing activities of any importers of PAC would not be seriously affected by the continuation of measures.

7.5. Interest of Community users

- (90) As mentioned in recital 83 above, 37 users were contacted, many of whom were customers of the Community industry. In the end, only three replies to the questionnaire were received.
- (91) None of these three users accepted on-the-spot verification of their replies to the questionnaire. Nevertheless, from the examination of the unverified data it was found that PAC, on a weighted average, represents a very small proportion of the operation costs of the users concerned.
- (92) On this basis, it was concluded that activities of any users of PAC would not be seriously affected by the continuation of measures.

7.6. Conclusion on Community interest

- (93) Taking into account the interests of all parties that made themselves known during the investigation, it appears that there are no compelling reasons on the grounds of Community interest against the prolongation of the anti-dumping measures.

8. FINAL PROVISIONS

- (94) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures on imports of PAC would be maintained. They were also granted a period to make representations subsequent to disclosure.

- (95) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of PAC originating in the PRC should be maintained.

9. DUTIES

- (96) In view of the conclusions reached with regard to continuation of dumping, likelihood of recurrence of injury and Community interest, the anti-dumping measures on imports of PAC originating in the PRC should be maintained in order to prevent a recurrence of injury to the Community industry being caused by dumped imports.
- (97) The present level of anti-dumping duty, based on an injury elimination level of 38,6 %, is set to EUR 323/tonne (fixed duty).
- (98) With regards to the level of the duty, one interested party argued that, since the abolition of the VAT-rebate that Chinese exporting producers obtain when exporting goods derived from domestically purchased raw materials, the dumping margins must be lower.
- (99) However, in the complete absence of any form of cooperation by the Chinese exporting producers and the absence of a request for an interim review pursuant to Article 11(3) of the basic Regulation, this alleged change of the cost of production for exported goods could not be substantiated, and consequently was dismissed,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports on powdered activated carbon falling within CN code ex 3802 10 00 (TARIC code 3802 10 00 20) originating in the People's Republic of China.
2. The amount of the definitive anti-dumping duty shall be EUR 323 per tonne (net weight).
3. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 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 ⁽¹⁾, the amount of anti-dumping duty, calculated on the basis of the amounts set above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

Article 2

Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 3

This Regulation shall enter into force on the 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, 8 July 2008.

For the Council
The President
C. LAGARDE

⁽¹⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 214/2007 (OJ L 62, 1.3.2007, p. 6).

COMMISSION REGULATION (EC) No 650/2008**of 9 July 2008****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 Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 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 Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 10 July 2008.

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

Done at Brussels, 9 July 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Commission Regulation (EC) No 510/2008 (OJ L 149, 7.6.2008, p. 61).

⁽²⁾ OJ L 350, 31.12.2007, p. 1. Regulation as last amended by Regulation (EC) No 590/2008 (OJ L 163, 24.6.2008, p. 24).

ANNEX

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	MA	33,6
	MK	22,0
	TR	69,0
	ZZ	41,5
0707 00 05	TR	74,8
	ZZ	74,8
0709 90 70	TR	92,6
	ZZ	92,6
0805 50 10	AR	104,2
	US	96,6
	UY	75,5
	ZA	112,5
	ZZ	97,2
0808 10 80	AR	99,8
	BR	96,4
	CL	105,9
	CN	70,5
	NZ	112,2
	US	88,2
	UY	93,6
	ZA	95,9
	ZZ	95,3
0808 20 50	AR	94,9
	CL	103,2
	CN	113,9
	NZ	142,1
	ZA	107,3
	ZZ	112,3
0809 10 00	TR	174,9
	US	284,0
	XS	130,8
	ZZ	196,6
0809 20 95	TR	365,6
	US	179,9
	ZZ	272,8
0809 30	TR	313,4
	ZZ	313,4
0809 40 05	IL	191,3
	ZZ	191,3

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 651/2008

of 9 July 2008

amending Regulation (EC) No 1653/2004 on a standard financial regulation for the executive agencies pursuant to Council Regulation (EC) No 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes ⁽¹⁾, and in particular Article 15 thereof,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Council of the European Union,

Having regard to the opinion of the Court of Auditors ⁽²⁾,

Whereas:

- (1) Following the adoption of Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006 amending Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽³⁾, it is necessary to adapt Commission Regulation (EC) No 1653/2004 ⁽⁴⁾ in order to align it with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (hereinafter: general Financial Regulation) ⁽⁵⁾.
- (2) Other amendments became necessary in the light of experience gathered by the existing agencies.
- (3) It should be clarified that sound financial management requires effective and efficient internal control. The main features and objectives of internal control systems should be defined.
- (4) The publication of the administrative budget of agencies should be simplified while preserving the prerogatives of the budgetary authority and of the Court of Auditors.
- (5) The procedure regarding transfers to be adopted by the directors of agencies has proved to be unclear and time consuming in practice. It should therefore be streamlined and accelerated.
- (6) Clarification regarding conflict of interest situations, new provisions regarding *ex ante* verification of similar individual transactions relating to certain routine expenditure items, provisions on the liability of authorising officers and the use of a direct debit system should also be introduced into the standard financial regulation.
- (7) Accrued transparency vis-à-vis the budgetary authority should be ensured through new information requirements incumbent on the agencies in the budget procedure in particular as regards the number of contract staff and waivers to recovery of established amounts receivable.
- (8) In order to ensure the transparency of the use of funds deriving from the budget, it is necessary to make available information on the beneficiaries of these funds within certain limits necessary to protect legitimate public and private interests.
- (9) In order to strengthen the protection of the financial interest of the Communities, agencies should participate in fraud prevention activities of the European Anti-fraud Office.
- (10) In order to ensure that personal data is kept for no longer than is necessary for the purposes for which the data were collected or for which they are further processed, specific requirement should be laid down as regards supporting documents.

⁽¹⁾ OJ L 11, 16.1.2003, p. 1.

⁽²⁾ OJ C 216, 14.9.2007, p. 1.

⁽³⁾ OJ L 390, 30.12.2006, p. 1.

⁽⁴⁾ OJ L 297, 22.9.2004, p. 6. Regulation as amended by Regulation (EC) No 1821/2005 (OJ L 293, 9.11.2005, p. 10).

⁽⁵⁾ OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).

- (11) In order to strengthen the protection of the financial interests of the Communities, agencies should establish a list of amounts receivable, stating the names of the debtors and the amount of the debt where the debtor has been ordered to pay by a Court decision that has the force of *res judicata* and where no or no significant payment has been made for one year after its pronouncement. This list should be published, taking into account the legislation applicable to data protection.
- (12) The accounting officers' responsibility for certifying the accounts on the basis of the financial information supplied to them by the authorising officers should be clarified. To this end, the accounting officer should be empowered to check the information received by the authorising officer by delegation and to enter reservations, if necessary.
- (13) Given that agencies are authorising officers by delegation of the Commission, internal control issues regarding the implementation of the operational appropriations by their directors are part of the reports established pursuant to Article 86(3) and (4) of the general Financial Regulation. In order to streamline reporting mechanisms and avoid diffuse information flows, the report of the internal auditor regarding the administrative appropriations of executive agencies should become part of the internal auditor's report pursuant to Article 86(3) of the general Financial Regulation. For the same reason, the Commission should include the reports established by the agencies in accordance with the fourth paragraph of Article 49 of Regulation (EC) No 1653/2004 in its report pursuant to Article 86(4) of the general Financial Regulation which it forwards to the discharge authority.
- (14) The conditions for the use, by the agencies, of Commission services and offices, interinstitutional European offices and the Translation Centre for bodies of the European Union established by Council Regulation (EC) No 2965/94 setting up a Translation Centre for bodies of the European Union⁽¹⁾ should be clarified. A provision for the selection of experts, corresponding to the one introduced in the general Financial Regulation, should be inserted.
- (15) In order to strengthen the protection of the financial interests of the Communities and given that agencies cannot exercise certain prerogatives exclusively assigned to the Community institutions, they should be required to insert specific contractual clauses in their contracts concluded with third parties enabling them to exercise certain rights, including the suspension and termination of contracts and tender procedures and the establishment of a limitation period.
- (16) For reasons of transparency vis-à-vis the budgetary authority, an information procedure for projects with significant impact on the administrative budget of the agency should be introduced.
- (17) Article 14(3) of Regulation (EC) No 58/2003 provides for discharge no later than 29 April of year N+2 while explicitly stating that the discharge shall be granted together with that relating to implementation of the general budget of the European Union. Following the revision of the general Financial Regulation, which provides for discharge for the implementation of the general budget of the European Union before 15 May of year N+2, the content of Article 14(3) of Regulation (EC) No 58/2003 became inconsistent. The discharge date for the operating budget of the executive agencies should therefore be harmonised with the one for the general budget.
- (18) Regulation (EC) No 1653/2004 should therefore be amended accordingly,
- HAS ADOPTED THIS REGULATION:
- Article 1*
- Regulation (EC) No 1653/2004 is amended as follows:
1. Article 3 is replaced by the following:
- 'Article 3*
- The budget shall be established and implemented in compliance with the principles of unity and budget accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management which requires effective and efficient internal control, and transparency as set out in this Regulation.'
2. In the fourth paragraph of Article 9, the following sentence is added:
- 'By 1 June of the year N+1 at the latest, the agency shall inform the Commission of the implementation of the assigned revenues carried over.';

⁽¹⁾ OJ L 314, 7.12.1994, p. 1. Regulation as last amended by Regulation (EC) No 1645/2003 (OJ L 245, 29.9.2003, p. 13).

3. In Article 10, the second paragraph is replaced by the following:

‘However, as from 15 November of each year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year. Such commitments may not exceed one quarter of the appropriations decided by the management board on the corresponding budget line for the current financial year. They may not relate to new expenditure whose principle has not yet been acknowledged in the last budget duly adopted.’;

4. In Article 18, the first paragraph is replaced by the following:

‘The director shall take decisions on transfers of appropriations within the operating budget. He shall inform the management board beforehand, which may oppose such transfers. After approval by the management board or in the absence of a reply within three weeks from the information being provided, the director may proceed with the planned transfers.’;

5. In Title II, Chapter 7, the following Article 19a is inserted:

‘Article 19a

1. The budget shall be implemented in compliance with effective and efficient internal control.

2. For the purpose of the implementation of the budget, internal control is defined as a process applicable at all levels of the management and designed to provide reasonable assurance of achieving the following objectives:

(a) effectiveness, efficiency and economy of operations;

(b) reliability of reporting;

(c) safeguarding of assets and information;

(d) prevention and detection of fraud and irregularities;

(e) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned.’;

6. Article 20 is amended as follows:

- (a) the second paragraph is replaced by the following:

‘The budget and amending budgets, as finally adopted, shall be transmitted for information to the budgetary authority, the Court of Auditors and the Commission and published on the Internet site of the agency concerned. A summary of the budgets and amending budgets shall be published in the *Official Journal of the European Union* within three months of their adoption.

The summary shall show the five main revenue and the five main expenditure budget lines, the establishment plan and an estimate of the number of contract staff, expressed in full-time equivalents for which appropriations are budgeted, and seconded national experts. It shall also indicate the figures for the previous year.’;

- (b) the following paragraphs are added:

‘The agency shall make available on its Internet site information on the beneficiaries of funds deriving from its budget, including experts contracted pursuant to Article 50b. The publication shall be easily accessible, transparent and comprehensive. This information shall be made available with due observance of the requirements of confidentiality, in particular the protection of personal data as laid down in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (*) and of the requirements of security.

Where information is published only in anonymous form, the agency shall, upon request, provide information on the beneficiaries concerned to the European Parliament in an appropriate manner.

(*) OJ L 8, 12.1.2001, p. 1.’;

7. Article 21 is replaced by the following:

‘Article 21

The agency shall send the Commission, by 5 March of each year at the latest, an estimate of its revenue and expenditure for the year N+1 drawn up by its director and adopted by the management board and the general guidelines underlying that estimate, together with its draft work programme.

The agency's estimate of revenue and expenditure shall include:

- (a) an establishment plan setting the number of temporary posts authorised within the limits of the budget appropriations, by grade and by category;
- (b) where there is a change in the number of persons in post, a statement justifying the request for new posts;
- (c) a quarterly estimate of cash payments and receipts;
- (d) the number of contract staff and seconded national experts working in the agency and the estimated number for the year N+1;
- (e) an estimation of assigned revenue;
- (f) information on the achievement of all previously set objectives of the various activities as well as new objectives measured by indicators;

Evaluation results shall be consulted and referred to as evidence for the likely merits of an increase or decrease of the agency's proposed operating budget in comparison with its operating budget for year N.;

8. Article 22 is amended as follows:

- (a) the first paragraph is replaced by the following:

'The Commission, as part of the procedure for adopting the general budget, shall send the agency's statement of estimates to the budgetary authority and propose the amount of the subsidy for the agency and the number of staff it considers that the agency needs. The Commission shall provide the draft establishment plan of the agency and an estimate of the number of contract staff expressed in full-time equivalent for which appropriations are proposed.'

- (b) in the third paragraph of Article 22, the following sentence is added: 'The establishment plan shall be published in an Annex to Section III — Commission — of the general budget.';

- 9. In point 1 of Article 23, point (b) is replaced by the following:

- '(b) the revenue for the preceding financial year and the revenue for year N-2, including assigned revenue.';

- 10. In the second subparagraph of Article 24(1), the words 'below grade A3' are replaced by 'below grade AD13';

- 11. In Article 25, the following subparagraph is added:

'Without prejudice to the responsibilities of the authorising officer as regards prevention and detection of fraud and irregularities, the agencies shall participate in fraud prevention activities of the European Anti-fraud Office.';

- 12. In Article 27, the first paragraph is replaced by the following:

'All financial actors within the meaning of Chapter 2 of this Title and any other person involved in budget implementation, management, audit or control shall be prohibited from taking any measures which may bring their own interests into conflict with those of the agency or of the Communities. Should such a case arise, the person in question must refrain from such measures and refer the matter to his superior. The director must refer it to the management board.';

- 13. Article 29 and 30 are replaced by the following:

'Article 29

- 1. The authorising officer shall be responsible for implementing revenue and expenditure in accordance with the principles of sound financial management and for ensuring that the requirements of legality and regularity are complied with. He shall conserve the supporting documents relating to operations carried out for a period of five years from the date of the decision granting discharge in respect of implementation of the budget. Personal data contained in supporting documents shall be deleted where possible when those data are not necessary for budgetary discharge, control and audit purposes. In any event, as concerns the conservation of traffic data, Article 37(2) of Regulation (EC) No 45/2001 shall apply.

2. The authorising officer shall put in place, in compliance with the minimum standards adopted by the Commission for its own departments and having due regard to the specific risks associated with his management environment and the nature of the action financed, the organisational structure and the internal management and control procedures suited to the performance of his duties, including where appropriate *ex post* verifications.

Depending on the nature and scope of the duties, the authorising officer may establish within his departments an expertise and advice function designed to help him control the risks involved in his activities.

Before an operation is authorised, the operational and financial aspects shall be verified by members of staff other than the one who initiated the operation.

For the purpose of *ex ante* verification, a series of similar individual transactions relating to routine expenditure on salaries, pensions, reimbursement of mission expenses and medical expenses may be considered by the authorising officer responsible to constitute a single operation. In this case the authorising officer responsible shall, depending on his risk assessment, carry out appropriate *ex post* verification.

Initiation and the *ex ante* and *ex post* verification of an operation shall be separate functions.

3. In accordance with Article 9(7) of Regulation (EC) No 58/2003, the authorising officer shall report, by 15 March each year, to the management board on the performance of his duties in the form of an annual activity report together with financial and management information confirming that the information contained in the report presents a true and fair view except as otherwise specified in any reservations related to defined areas of revenue and expenditure.

Article 30

1. The management board shall appoint an accounting officer, who shall be a seconded official or a member of the temporary staff directly recruited by the agency and who shall be responsible for the following:

- (a) proper implementation of payments, collection of revenue and recovery of amounts established as being receivable;
- (b) drawing up the agency's accounts in accordance with Title VI;
- (c) keeping the accounts in accordance with Title VI;

(d) implementing the accounting rules and methods and the chart of accounts in accordance with the provisions adopted by the Commission's accounting officer;

(e) laying down and validating the accounting system and, where appropriate, validating systems laid down by the authorising officer to supply or justify accounting information; the accounting officer shall be empowered to verify that validation criteria are respected;

(f) treasury management.

2. Before the approval of the accounts by the management board, the accounting officer shall sign them off, thereby certifying that he has a reasonable assurance that the accounts present a true and fair view of the financial situation of the agency.

For that purpose, the accounting officer shall satisfy himself that the accounts have been prepared in accordance with the accounting rules, methods and accounting systems established, and that all revenue and expenditure is entered in the accounts.

The authorising officer shall forward all information that the accounting officer needs in order to fulfil his duties.

The authorising officer shall remain fully responsible for the proper use of the funds he manages as well as the legality and regularity of the expenditure under his control.

The accounting officer shall be empowered to check the information received as well as to carry out any further checks he deems necessary in order to sign off the accounts.

The accounting officer shall make reservations, if necessary, explaining exactly the nature and scope of such reservations.

The accounting officer shall obtain from the authorising officer, who shall guarantee its reliability, all the information necessary for the production of accounts which give a true image of the agency's assets and of budget implementation.

3. Save as otherwise provided in this Regulation, only the accounting officer is empowered to manage cash and cash equivalents. He shall be responsible for their safe-keeping;'

14. In Title IV, Chapter 2, the following Article 30a is inserted:

'Article 30a

The accounting officer may, in the performance of his duties, delegate certain tasks to his subordinates who are temporary staff members.;

15. Article 34 is amended as follows:

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

'1. The authorising officer shall be liable to payment of compensation as laid down in the Staff Regulations.;

- (b) the following paragraph 1a is inserted:

'1a. The obligation to pay compensation shall apply in particular if:

- (a) the authorising officer, whether intentionally or through gross negligence on his part, determines entitlements to be recovered or issues recovery orders, commits expenditure or signs a payment order without complying with this Regulation;

- (b) the authorising officer, whether intentionally or through gross negligence on his part, omits to draw up a document establishing an amount receivable, neglects to issue a recovery order or is late in issuing it or is late in issuing a payment order, thereby rendering the agency liable to civil action by third parties.;

16. In Article 35(1), the following paragraph is added:

'The director shall refer, in anonymous form, to opinions of the panel in his annual activity report and indicate the follow-up measures taken.;

17. In Article 38, the third paragraph is replaced by the following:

'The contracts concluded by the agency with economic operators shall provide that any debt not repaid on the due date laid down in the debit note shall bear interest in accordance with Commission Regulation (EC, Euratom) No 2342/2002 (*). The condition whereby interest on late payment is due to the agency, including the rate for default interest, shall be explicitly referred to in the contracts.

(*) OJ L 357, 31.12.2002, p. 1.'

18. In Article 40, the first paragraph is replaced by the following:

'Where the authorising officer responsible is planning to waive or partially waive recovery of an established amount receivable, he shall ensure that the waiver is in order and complies with the principle of sound financial management and proportionality. He shall report his intention to waive an established amount receivable to the management board. Such a waiver shall be by decision of the authorising officer, which must be substantiated. The authorising officer may delegate this decision only for amounts receivable of less than EUR 5 000. The waiver decision shall state what action has been taken to secure recovery and the points of law and fact on which it is based.;

19. Article 42 is replaced by the following:

'Article 42

Further time for payment may be granted by the accounting officer, in liaison with the authorising officer responsible, only on written request, with due indication of the reasons, provided that the debtor undertakes to pay interest for the entire period of time allowed, starting from the date set in the debit note and that, in order to safeguard the rights of the agency, he provides a financial guarantee covering both the principal sum and the interest.'

20. In Title IV, Chapter 4, the following Articles 42a and 42b are inserted:

'Article 42a

The accounting officer shall keep a list of amounts due to be recovered. Entitlements of the agency shall be grouped in the list according to the date of issue of the recovery order. He shall also indicate decisions to waive or partially waive recovery of established amounts receivable. The list shall be added to the report on budgetary and financial management of the agency. The agency shall establish a list of the entitlements of the agency relating to its administrative budget, stating the names of the debtors and the amount of the debt, where the debtor has been ordered to pay by a Court decision that has the force of *res judicata* and where no or no significant payment has been made for one year following its pronouncement. The list shall be published, taking account of the relevant legislation on data protection.

Article 42b

Entitlements of the agency in respect of third parties and entitlements of third parties in respect of the agency shall be subject to a limitation period of five years. The limitation period shall be laid down in the contracts concluded by the agency.;

21. In Article 47, the following paragraph is inserted after the first paragraph:

'Where periodic payments are made with regard to services rendered or goods delivered, and subject to his risk analysis, the authorising officer may order the application of a direct debit system.';

22. Article 49 is amended as follows:

- (a) in the second paragraph, the fourth sentence is replaced by the following:

'The internal auditor shall indicate, in his annual report submitted to the Commission pursuant to Article 86(3) of the general Financial Regulation, the number and type of audits carried out relating to agencies, the recommendations made and the action taken pursuant to these recommendations. That information shall also be submitted to the agency concerned.'

- (b) the fourth paragraph is replaced by the following:

'Every year the director shall draw up a report summarising the number and type of internal audits carried out by the internal auditor, the recommendations made and the follow-up given to those recommendations. He shall transmit the report to the Commission after prior information of the management board. The Commission shall include this report in its report pursuant to Article 86(4) of the general Financial Regulation.';

23. Article 50 is replaced by the following:

'Article 50

1. As regards procurement for the operation of the agency, the provisions of the general Financial Regulation and Regulation (EC, Euratom) No 2342/2002 shall apply subject to paragraphs 3 to 5 of this Article.

2. Agencies may ask to be associated, as contracting authority, with the award of Commission or interinstitutional contracts.

3. Where the Commission, interinstitutional offices or the Translation Centre are able to supply goods, provide services or perform work, the agencies shall first have recourse to such bodies. The same shall apply where such bodies are able to carry out these tasks via contracts with economic operators, and deliver significant additional services going beyond those of a simple intermediary or consultant. The agency shall conclude agreements with such bodies.

4. For the application of Article 101 of the general Financial Regulation, the call for tender shall provide that the agency may, before the contract is signed, either abandon the procurement or cancel the award procedure without the candidates or tenderers being entitled to claim any compensation.

5. For the application of Article 103 of the general Financial Regulation, calls for tender launched by the agency shall provide that it may suspend the procedure and may take whatever measures are necessary, including cancellation of the procedure under the conditions laid down in that Article.

For the application of Article 103 of the general Financial Regulation, the contracts concluded by the agency shall stipulate that it may take the measures specified in that Article under the conditions laid down therein.';

24. The following Titles VA and VB are inserted:

TITLE VA

PROJECTS WITH SIGNIFICANT BUDGET IMPLICATIONS

Article 50a

The management board shall, as soon as possible, inform the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of its operating budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

If either branch of the budgetary authority intends to issue an opinion, it shall within two weeks after receipt of the information on the project notify the agency concerned of its intention to issue such an opinion. Failing a reply, the agency may proceed with the planned operation.

This opinion shall be forwarded to the agency concerned and the Commission within two weeks of the notification pursuant to the second paragraph.

TITLE VB

EXPERTS

Article 50b

Article 265a of Regulation (EC, Euratom) No 2342/2002 shall apply *mutatis mutandis* for the selection of experts, to be paid on the basis of a fixed amount, for assisting the agency, in particular in evaluating proposals and grant applications or tenders for procurement, and for providing technical assistance in the follow-up to, and final evaluation of projects. The agencies may also use the lists of experts drawn up by the Commission.';

25. Article 51 is replaced by the following:

'Article 51

The accounts of the agency shall comprise the financial statements and the reports on budget implementation. They shall be accompanied by a report on budgetary and financial management during the year, which shall give an account, *inter alia*, of the rate of implementation of the appropriations together with summary information on the transfers of appropriations among the various budget items.'

26. Article 57 is amended as follows:

(a) point (a) is replaced by the following:

'(a) the management board shall notify, by 1 March following the end of the financial year, the accounting officer of the Commission and the Court of Auditors of the provisional accounts accompanied by the report on the budgetary and financial management during the year and shall send the report on budgetary and financial

management to the European Parliament and the Council by the same date.'

(b) in point (c), the words 'on 31 October' are replaced by 'by 15 November';

27. In Article 66, the first paragraph is replaced by the following:

'The European Parliament, upon recommendation from the Council, which shall decide by qualified majority, shall give a discharge to the director in respect of the implementation of the administrative budget for year N before 15 May of year N+2. The director shall inform the management board of the observations of the European Parliament contained in the resolution accompanying the discharge procedure.'

28. Article 68 is deleted.

Article 2

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

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

Done at Brussels, 9 July 2008.

For the Commission
Dalia GRYBAUSKAITĖ
Member of the Commission

COMMISSION REGULATION (EC, EURATOM) No 652/2008**of 9 July 2008****amending Regulation (EC, Euratom) No 2343/2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾, and in particular Article 185(1) thereof,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Council,

Having regard to the opinion of the Court of Auditors ⁽²⁾,

Whereas:

- (1) Following the amendment of Regulation (EC, Euratom) No 1605/2002 (hereinafter: 'general Financial Regulation') by Council Regulation (EC, Euratom) No 1995/2006 ⁽³⁾, it is necessary to adapt Commission Regulation (EC, Euratom) No 2343/2002 ⁽⁴⁾ in order to align it with the general Financial Regulation. Some amendments have become necessary in the light of experience gathered by the existing Community bodies.
- (2) As regards the difference of the deadline for the discharge decisions concerning the Community bodies and that provided for the general budget in the general Financial Regulation, this Regulation has to follow the deadline set in the basic acts establishing the Community bodies, from which it cannot deviate. The institution concerned and, where appropriate, the Community bodies should therefore try to avoid difficulties in practice and strive for a harmonisation of these basic acts in the future.
- (3) It should be made clear that sound financial management requires effective and efficient internal control. The main features and objectives of internal control systems should be defined.
- (4) Accrued transparency vis-à-vis the budgetary authority should be ensured through new information requirements incumbent on the Community bodies in the budget procedure particularly as regards estimations of the number of contract staff, surpluses, assigned revenue and waivers to recovery of established amounts receivable.
- (5) In order to ensure that personal data is kept for no longer than is necessary for the purposes for which the data were collected or for which they are further processed, specific requirements should be laid down as regards supporting documents.
- (6) In order to strengthen the protection of the financial interests of the Communities, each Community body should establish a list of amounts receivable, stating the names of the debtors and the amount of the debt where the debtor has been ordered to pay by a Court decision that has the force of *res judicata* and where no or no significant payment has been made for one year after its pronouncement. This list should be published, taking into account the legislation applicable to data protection.
- (7) In order to ensure the transparency of the use of funds deriving from their budgets, it is appropriate to provide for a general obligation of the Community bodies to make available information on the beneficiaries of those funds.
- (8) The list of assigned items of revenue proved to be incomplete and should therefore be completed in accordance with Article 18(1) of the general Financial Regulation.
- (9) The publication of the budget of Community bodies should be simplified, while preserving the prerogatives of the budgetary authority and of the Court of Auditors.
- (10) The procedure regarding transfers to be adopted by the directors of Community bodies has been applied inconsistently and should therefore be clarified. In particular, the budgetary authority should be kept informed of important transfers.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).

⁽²⁾ OJ C 23, 28.1.2008, p. 1.

⁽³⁾ OJ L 390, 30.12.2006, p. 1.

⁽⁴⁾ OJ L 357, 31.12.2002, p. 72.

- (11) Payment requests to the Commission should be substantiated and based on rigorous cash management in order to avoid surpluses at the end of the year.
- (12) The effects of part-time work on the establishment plan should be specified to facilitate its use especially in small Community bodies.
- (13) In order to strengthen the protection of the financial interest of the Communities, Community bodies should participate in fraud prevention activities of the European Anti-fraud Office.
- (14) In order to cover all persons involved in procurement and grant procedures, it is appropriate to provide for particulars regarding conflict of interest situations.
- (15) Treatment of similar individual transactions relating to certain routine expenditure items should be simplified with regard to *ex ante* verification obligations.
- (16) Financial liability of authorising officers should be expressly limited to cases of gross negligence and intentional misconduct.
- (17) In order to facilitate transactions in certain cases, Community bodies should be enabled to use a direct debit system.
- (18) Given that the director of the Community body, who is authorising officer, is the hierarchical superior of the accounting officer, the functional independence of the accounting officer in the performance of his duties should be explicitly referred to.
- (19) Accounting officers' responsibility for certifying the accounts on the basis of the financial information supplied to them by authorising officers should be clarified. To this end, the accounting officer should be empowered to check the information received from the authorising officer by delegation and to enter reservations, if necessary.
- (20) It is necessary to define a set of rules for fees and charges collected by the Community bodies in order to meet the needs of certain Community bodies financed from such revenue.
- (21) Community bodies should be able to draw on the expertise of the specialised Financial Irregularities Panel of the Commission established pursuant to Article 66(4) of the general Financial Regulation, which should become, by default, competent for Community bodies unless the latter decide to set up a panel or to participate in a joint panel established by several Community bodies.
- (22) The conditions for the use, by Community bodies, of Commission services and offices, interinstitutional European offices and the Translation Centre for bodies of the European Union established by Council Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for bodies of the European Union⁽¹⁾ and joint procurement procedures with host Member States should be specified in order to reinforce interinstitutional cooperation and cooperation between Community bodies and with host Member States.
- (23) In order to strengthen the protection of the financial interests of the Communities and given that Community bodies cannot exercise certain prerogatives exclusively assigned to the Community institutions, they should be required to insert specific contractual clauses in their contracts and grant agreements concluded with third parties enabling them to exercise certain rights, including the suspension and termination of contracts and tender procedures and the establishment of a limitation period.
- (24) For reasons of transparency vis-à-vis the budgetary authority, an information procedure for projects with significant impact on the administrative budget of the Community body should be introduced.
- (25) It is necessary to provide for a specific procedure for the selection of experts, corresponding to that laid down in the general Financial Regulation.
- (26) Communication and cooperation between the director of the Community body and the management board in the framework of the discharge procedure should be enhanced.
- (27) In line with Article 185(1) of the general Financial Regulation, it should be provided that where the Community body will adopt rules to implement its financial regulation, the adoption of these rules is subject to the prior agreement of the Commission.
- (28) Regulation (EC, Euratom) No 2343/2002 should therefore be amended accordingly,
- ⁽¹⁾ OJ L 314, 7.12.1994, p. 1. Regulation as last amended by Regulation (EC) No 1645/2003 (OJ L 245, 29.9.2003, p. 13).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC, Euratom) No 2343/2002 is amended as follows:

1. Article 3 is replaced by the following:

'Article 3

The establishment and implementation of the budget of the Community body (hereinafter referred to as "the budget") shall comply with the principles of unity and budget accuracy, annuality, equilibrium, unit of account, universality, specification, and sound financial management, which requires effective and efficient internal control and transparency as provided for in this Regulation.'

2. In Article 8, paragraph 1 is replaced by the following:

'1. The budget shall contain non-differentiated appropriations and, where justified by operational needs, differentiated appropriations. The latter shall consist of commitment appropriations and payment appropriations.;

3. Article 10 is amended as follows:

(a) In the second subparagraph of paragraph 1, the words 'paragraphs 2 to 8' are replaced by 'paragraphs 2 to 7';

(b) Paragraph 3 is replaced by the following:

'3. Commitment appropriations and non-differentiated appropriations not yet committed at the close of the financial year may be carried over in respect of amounts corresponding to commitment appropriations for which most of the preparatory stages of the commitment procedure, to be defined in the rules implementing the financial regulation of each Community body, have been completed by 31 December; these amounts may then be committed up to 31 March of the following year.'

(c) In paragraph 4, the first sentence is replaced by the following:

'Payment appropriations may be carried over in respect of amounts needed to cover existing commitments or commitments linked to commitment appropriations carried over, when the appropriations provided for the relevant lines in the budget for the following financial year do not cover requirements.;

(d) In paragraph 7, the following subparagraph is added:

'By 1 June of the year N+1 at the latest, the Community body shall inform the Commission about the implementation of the assigned revenue carried over.;

4. Article 13 is replaced by the following:

'Article 13

1. As from 15 November of each year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year. Such commitments may not, however, exceed one quarter of the appropriations decided by the management board on the corresponding budget line for the current financial year. They may not apply to new expenditure of a kind not yet approved in principle in the last budget duly adopted.

2. Expenditure which must be paid in advance, for example rents, may give rise to payments from 1 December onwards to be charged to the appropriations for the following financial year. In this case, the limit referred to in paragraph 1 shall not apply.;

5. Article 15 is amended as follows:

(a) Paragraph 4 is replaced by the following:

'4. Community funds paid to the Community body shall constitute for its budget a balancing subsidy which shall count as pre-financing within the meaning of Article 81(1)(b)(i) of the general Financial Regulation.'

(b) The following paragraph 5 is added:

'5. The Community body shall implement rigorous cash management, taking due account of assigned revenue, in order to ensure that its cash balances are limited to duly justified requirements. With its payment requests it shall submit detailed and updated forecasts on its real cash requirements throughout the year, including information on assigned revenue.;

6. In Article 16(1), the following subparagraph is added:

'The Community bodies shall provide, by 31 March of the year n at the latest, an estimate of the operating surplus from the year N-1, which is to be returned to the Community budget later in year N, in order to complete the information already available concerning the surplus of the year N-2. This information shall be duly taken into account by the Commission when assessing the financial needs of Community bodies for the year N+1.;

7. Article 19 is replaced by the following:

'Article 19

1. The following items of revenue shall be used to finance specific items of expenditure:

- (a) revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests;
- (b) contributions to the Community body's activities from Member States, non-member countries or miscellaneous bodies, insofar as this is provided for in the agreement concluded between the Community body and the Member States, non-member countries or bodies in question;
- (c) revenue from third parties in respect of goods, services or work supplied at their request, with the exception of fees and charges referred to in Article 5(a);
- (d) proceeds from the supply of goods, services and works for Community institutions or other Community bodies;
- (e) revenue arising from the repayment of amounts wrongly paid;
- (f) proceeds from the sale of vehicles, equipment, installations, materials, and scientific and technical apparatus, which are being replaced or scrapped when the book value is fully depreciated;
- (g) insurance payments received;
- (h) revenue from payments connected with lettings;
- (i) revenue from the sale of publications and films, including those on an electronic medium.

1a. The basic act applicable may also assign the revenue for which it provides to specific items of expenditure.

2. All items of revenue within the meaning of points (a) to (d) of paragraph 1 shall cover all direct or indirect expenditure incurred by the activity or purpose in question.

3. The budget shall carry lines to accommodate the categories of assigned revenue referred to in paragraphs 1 and 1a and wherever possible shall indicate the amount.;

8. Article 21(1) is replaced by the following:

'1. The following deductions may be made from payment requests, invoices or statements, which shall then be passed for payment of the net amount:

- (a) penalties imposed on parties to procurement contracts or beneficiaries of a grant;
- (b) discounts, refunds and rebates on individual invoices and payment requests;
- (c) interest generated by pre-financing payments.;

9. Article 23 is replaced by the following:

'Article 23

1. The Director may make transfers from one chapter to another and from one article to another without limit and from one title to another up to a maximum of 10 % of the appropriations for the financial year shown on the line from which the transfer is made.

2. Beyond the limit referred in paragraph 1, the director may propose to the management board transfers of appropriations from one title to another. The management board shall have three weeks in which to oppose such transfers. After this time-limit they shall be deemed to be adopted.

3. Proposals for transfers and transfers carried out under paragraphs 1 and 2 shall be accompanied by appropriate and detailed supporting documents showing the implementation of appropriations and estimates of requirements up to the end of the financial year, both for the headings to be credited and for those from which the appropriations are drawn.

4. The Director shall inform the management board as soon as possible of all transfers made. He shall inform the budgetary authority of all transfers carried out under paragraph 2.;

10. In Title II, Chapter 7, the following Article 25a is inserted:

'Article 25a

1. The budget shall be implemented in compliance with effective and efficient internal control.

2. For the purposes of the implementation of the budget, internal control is defined as a process applicable at all levels of the management and designed to provide reasonable assurance of achieving the following objectives:

- (a) effectiveness, efficiency and economy of operations;
- (b) reliability of reporting;
- (c) safeguarding of assets and information;
- (d) prevention and detection of fraud and irregularities;
- (e) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned.;

11. Article 26 is amended as follows:

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

‘2. A summary of the budget and amending budgets, as finally adopted, shall be published in the *Official Journal of the European Union* within three months of their adoption.

The summary shall show the five main revenue budget lines, the five main expenditure budget lines for the administrative and operational budget, the establishment plan and an estimate of the number of contract staff expressed in full-time equivalents for which appropriations are budgeted, and seconded national experts. It shall also indicate the figures for the previous year.’

- (b) The following paragraphs 3 and 4 are added:

‘3. The budget including the establishment plan and amending budgets, as finally adopted, as well as an indication of the number of contract staff expressed in full-time equivalents for which appropriations are budgeted, and seconded national experts, shall be transmitted for information to the budgetary authority, the Court of Auditors and the Commission, and shall be published on the Internet site of the Community body concerned within four weeks of their adoption.

4. The Community body shall make available on its Internet site information on the beneficiaries of funds

deriving from its budget, including experts contracted pursuant to Article 74b. The published information shall be easily accessible, transparent and comprehensive. The information shall be made available with due observance of the requirements of confidentiality and security, in particular the protection of personal data laid down in Regulation (EC) No 45/2001 of the European Parliament and of the Council (*).

Where information is published only in anonymous form, the Community body shall, upon request, provide information on the beneficiaries concerned to the European Parliament in an appropriate manner.

(*) OJ L 8, 12.1.2001, p. 1.;

12. Article 27 is replaced by the following:

‘Article 27

1. The budget shall be established in accordance with the provisions of the constituent instrument of that Community body.

2. The Community body shall send the Commission a provisional draft estimate of its revenue and expenditure and the general guidelines underlying that estimate by 10 February each year and the final draft estimate by the date specified in the constituent instrument.

3. The estimate of revenue and expenditure of the Community body shall include:

- (a) an establishment plan setting the number of permanent and temporary posts authorised within the limits of the budget appropriations, by grade and by category;
- (b) where there is a change in the number of persons in post, a statement justifying the request for new posts;
- (c) a quarterly estimate of cash payments and receipts;
- (d) information on the achievement of all previously set objectives for the various activities as well as new objectives measured by indicators.

Evaluation results shall be consulted and referred to as evidence of the likely merits of an increase or decrease of the Community body’s proposed budget in comparison with its budget for year N.

4. The Community body shall send to the Commission and the budgetary authority by 31 March each year at the latest the following:

- (a) its draft work programme;
- (b) its updated multi-annual staff policy plan, established in line with the guidelines set by the Commission;
- (c) information on the number of officials, temporary and contract staff as defined in the Staff Regulations and the Conditions of Employment of Other Servants (hereinafter "the Staff Regulations") for the years n-1 and n as well as an estimate for the year N+1;
- (d) information on contributions in kind granted by the host Member State to the Community body.
- (e) an estimate of the balance of the outturn account within the meaning of Article 81 for the year N-1.

5. As part of the procedure for adoption of the general budget, the Commission shall send the Community body's statement of estimates to the budgetary authority and propose the amount of the subsidy for the Community body and the number of staff it considers that the body needs. The Commission shall provide the draft establishment plan of the Community bodies and for an estimate of the number of contract staff expressed in full-time equivalents for which appropriations are proposed.

6. The budgetary authority shall adopt the establishment plan of the Community body and any subsequent amendment thereto in accordance with Article 32(1). The establishment plan shall be published in an Annex to Section III – Commission – of the general budget.

7. The budget and the establishment plan shall be adopted by the management board. They become definitive after final adoption of the general budget setting the amount of the subsidy and the establishment plan and if necessary the budget and the establishment plan shall be adjusted accordingly.;

13. Article 32 is amended as follows:

- (a) In the third subparagraph of paragraph 1, the words 'A1 and A2 and A3' are replaced by 'AD 16, AD 15, AD 14 and AD 13';
- (b) In paragraph 2, the following sentence is added:

'Where a staff member requests the withdrawal of the authorisation before expiry of the granted period, the Community body shall take appropriate measures to respect the limit referred to in point (b) of paragraph 1 as soon as possible.;

14. In Article 33, the following subparagraph is added:

'Without prejudice to the responsibilities of the authorising officer as regards prevention and detection of fraud and irregularities, the Community body shall participate in fraud prevention activities of the European Anti-fraud Office.;

15. In Article 34(1), the words 'the regulations and rules applicable to officials and other servants of the European Communities' (hereinafter referred to as the 'Staff Regulations') are replaced by 'the Staff Regulations';

16. In Article 35, paragraphs 1 and 2 are replaced by the following:

'1. All financial actors within the meaning of Chapter 2 of this Title and any other person involved in budget implementation, management, audit or control shall be prohibited from taking any measures which may bring their own interests into conflict with those of the Community body. Should such a case arise, the person in question must refrain from such measures and refer the matter to the competent authority.

2. There is a conflict of interests where the impartial and objective exercise of the functions of a person referred to in paragraph 1 is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with the beneficiary.;

17. In Article 38(6), the following sentences are added:

'Personal data contained in supporting documents shall be deleted where possible when those data are not necessary for budgetary discharge, control and audit purposes. In any event, as concerns the conservation of traffic data, Article 37(2) of Regulation (EC) No 45/2001 shall apply.;

18. In Article 39(3), the following subparagraphs are added:

'For the purpose of *ex ante* verification, a series of similar individual transactions relating to routine expenditure on salaries, pensions, reimbursement of mission expenses and medical expenses may be considered by the authorising officer responsible to constitute a single operation.

In the case referred to in the second subparagraph, the authorising officer responsible shall, depending on his risk assessment, carry out an appropriate *ex post* verification, in accordance with paragraph 4.;

19. In Article 40, paragraph 1 is replaced by the following:

'1. The authorising officer shall report to the management board on the performance of his duties in the form of an annual activity report, together with financial and management information confirming that the information contained in the report presents a true and fair view except as otherwise specified in any reservations related to defined areas of revenue and expenditure.

The annual activity report shall indicate the results of his operations by reference to the objectives set, the risks associated with these operations, the use made of the resources provided and the efficiency and effectiveness of the internal control system. The internal auditor within the meaning of Article 71 shall take note of the annual activity report and any other pieces of information identified.;

20. Article 43 is replaced by the following:

'Article 43

1. The management board shall appoint an accounting officer, covered by the Staff Regulations, who shall be functionally independent in the performance of his duties. He shall be responsible in the Community body for:

- (a) proper implementation of payments, collection of revenue and recovery of amounts established as being receivable;
- (b) preparing and presenting the accounts in accordance with Title VII;
- (c) keeping the accounts in accordance with Title VII;
- (d) implementing, in accordance with Title VII, the accounting rules and methods and the chart of accounts in accordance with the provisions adopted by the Commission's accounting officer;
- (e) laying down and validating the accounting systems and, where appropriate, validating systems laid down by the authorising officer to supply or justify accounting information; the accounting officer shall be empowered to verify the respect of validation criteria;
- (f) treasury management.

2. The accounting officer shall obtain from the authorising officer, who shall guarantee its reliability, all the information necessary for the production of accounts which give a true image of the Community body's assets and of budget implementation.

2a. Before the adoption of the accounts by the Director, the accounting officer shall sign them off, thereby certifying that he has a reasonable assurance that the accounts present a true and fair view of the financial situation of the Community body.

For that purpose the accounting officer shall satisfy himself that the accounts have been prepared in accordance with the accounting rules, methods and accounting systems established, and that all revenue and expenditure is entered in the accounts.

The authorising officer shall forward all information that the accounting officer needs in order to fulfil his duties.

The authorising officer shall remain fully responsible for the proper use of the funds they manage as well as the legality and regularity of the expenditure under their control.

2b. The accounting officer shall be empowered to check the information received as well as to carry out any further checks he deems necessary in order to sign off the accounts.

The accounting officer shall make reservations, if necessary, explaining exactly the nature and scope of such reservations.

2c. The accounting officer of the Community body shall sign off its annual accounts and send them to the Commission's accounting officer.

3. Subject to paragraph 4 of this Article and Article 44, only the accounting officer shall be empowered to manage cash and cash equivalents. He shall be responsible for their safekeeping.

4. The accounting officer may, in the performance of his duties, delegate certain tasks to subordinate staff subject to the Staff Regulations, where this is indispensable for the performance of his duties.

5. The instrument of delegation shall lay down the tasks entrusted to the delegates and their rights and obligations.'

21. In Article 44, the following paragraph is added:

‘Payments from imprest accounts may be made by bank credit transfer, including the direct debit system referred to in Article 66(1a), cheque or other means of payment, in accordance with the instructions laid down by the accounting officer.’

22. In title IV, Chapter 3, the title of Section 2 is replaced by the following:

Section 2

Rules applicable to the authorising officer and authorising officers by delegation or subdelegation

23. Article 47 is replaced by the following:

Article 47

1. The authorising officer shall be liable to payment of compensation as laid down in the Staff Regulations.

1a. The obligation to pay compensation shall apply in particular if:

(a) the authorising officer, whether intentionally or through gross negligence on his part, determines entitlements to be recovered or issues recovery orders, commits expenditure or signs a payment order without complying with this Regulation and its implementing rules;

(b) the authorising officer, whether intentionally or through gross negligence on his part, omits to draw up a document establishing an amount receivable, neglects to issue a recovery order or is late in issuing it, or is late in issuing a payment order, thereby rendering the Community body liable to civil action by third parties.

2. An authorising officer by delegation or subdelegation who considers that a decision falling under his responsibility is irregular or contrary to the principles of sound financial management shall inform the delegating authority in writing. If the delegating authority then gives a reasoned instruction in writing to the authorising officer by delegation or subdelegation to implement the decision in question, the latter must implement it and may not be held liable.

3. In the event of delegation, the authorising officer shall continue to be responsible for the efficiency and effectiveness of the internal management and control systems put in place and for the choice of the authorising officer by delegation.

4. The specialised financial irregularities panel set up by the Commission in accordance with Article 66(4) of the general Financial Regulation, shall exercise the same powers in respect of the Community body as it does in respect of Commission departments, unless the management board decides to set up a functionally independent panel, or to participate in a joint panel established by several Community bodies. For cases submitted by Community bodies, the specialised financial irregularities panel set up by the Commission shall include one staff member of a Community body.

On the basis of the opinion of this panel, the Director shall decide whether to initiate disciplinary proceedings or proceedings for the payment of compensation. If the panel detects systemic problems, it shall send a report with recommendations to the authorising officer and to the Commission's internal auditor. If the opinion implicates the Director, the panel shall send it to the management board and the Commission's internal auditor. The Director shall refer, in anonymous form, to opinions of the panel in his annual activity report and indicate the follow-up measures taken.

5. Any member of staff may be required to compensate, in whole or in part, any damage suffered by the Community body as a result of serious misconduct on his part in the course of or in connection with the performance of his duties.

The appointing authority shall take a reasoned decision, after completing the formalities laid down by the Staff Regulations with regard to disciplinary matters.’

24. Article 50 is replaced by the following:

Article 50

The Community body shall present to the Commission requests for payment of all or part of the Community subsidy pursuant to Article 15(5) under terms and at intervals agreed with the Commission.’

25. In Article 53, paragraph 3 is replaced by the following:

‘3. The contracts and grant agreements concluded by the Community body shall provide that any debt not repaid on the due date laid down in the debit note shall bear interest in accordance with Commission Regulation (EC, Euratom) No 2342/2002 (*). The condition whereby interest on late payment is due to the Community body, including the rate for default interest, shall be explicitly referred to in the contracts and grant agreements.

(*) OJ L 357, 31.12.2002, p. 1.’

26. In Article 55(3), the first and second subparagraphs are replaced by the following:

‘Where the authorising officer responsible is planning to waive or partially waive recovery of an established amount receivable, he shall ensure that the waiver is in order and complies with the principle of sound financial management and proportionality.

Such a waiver shall be made by a duly substantiated decision of the authorising officer. The authorising officer may delegate such a decision only for amounts receivable of less than EUR 5 000.’;

27. In Article 58, point (a) is replaced by the following:

‘(a) the debtor undertakes to pay interest at the rate specified in Article 86 of Regulation (EC, Euratom) No 2342/2002 for the entire additional period allowed, starting from the date set in the debit note.’;

28. In Title IV, Chapter 4, Section 5, the following Articles 58a and 58b are inserted:

‘Article 58a

The accounting officer shall keep a list of amounts due to be recovered, in which the Community body’s entitlements are grouped according to the date of issue of the recovery order. He shall also indicate decisions to waive or partially waive recovery of established amounts. The list shall be added to the Community body’s report on budgetary and financial management.

The Community body shall establish a list of the body’s entitlements stating the names of the debtors and the amount of the debt, where the debtor has been ordered to pay by a Court decision that has the force of *res judicata* and where no or no significant payment has been made for one year following its pronouncement. The list shall be published, taking account of the relevant legislation on data protection.

Article 58b

Entitlements of the Community body in respect of third parties and entitlements of third parties in respect of the Community body shall be subject to a limitation period of five years, which shall be laid down in the contracts and grant agreements concluded by the Community body.’;

29. Article 59 is replaced by the following:

‘Article 59

Where the Community body collects fees and charges referred to in Article 5(a), an overall provisional estimate

of such fees and charges shall be made at the beginning of each financial year.

Where fees and charges are entirely determined by legislation or decisions of the management board, the authorising officer may abstain from issuing recovery orders and directly draw up debit notes after having established the amount receivable. In this case all details of the Community body’s entitlement shall be registered. The accounting officer shall keep a list of all debit notes and provide the number of the debit notes and the global amount in the Community body’s report on budgetary and financial management.

Where the Community body uses a separate invoicing system, the accounting officer shall regularly, and at least on a monthly basis, enter the accumulated sum of fees and charges received into the accounts.

As a general rule the Community body shall provide services by virtue of the tasks entrusted to it only after the corresponding fee or charge has been paid in its entirety. If by way of exception, a service has been provided without prior payment of the corresponding charge or fee, Sections 3, 4, and 5 of this Chapter shall apply.’;

30. In Article 60(3), the following sentence is added: ‘The work programme shall comprise detailed objectives and performance indicators.’

31. Article 62 is replaced by the following:

‘Article 62

1. In respect of any measure which may give rise to expenditure chargeable to the budget, the authorising officer responsible must first make a budget commitment before entering into a legal obligation with third parties.

2. Global budget commitments shall cover the total cost of the corresponding individual legal commitments concluded up to 31 December of year N+1.

Individual legal commitments relating to individual or provisional budget commitments shall be concluded by 31 December of year N.

At the end of the periods referred to in the first and second subparagraphs, the unused balance of these budget commitments shall be decommitted by the authorising officer responsible.

3. The legal commitments entered into for actions extending over more than one financial year and the corresponding budget commitments shall, save in the case of staff expenditure, have a final date for implementation set in compliance with the principle of sound financial management.

Any parts of such commitments which have not been executed six months after that final date shall be decommitted in accordance with Article 11.

The amount of a budget commitment corresponding to a legal commitment for which no payment within the meaning of Article 67 has been made in a period of three years following the signing of the legal commitment shall be decommitted.;

32. In Article 66, the following paragraph 1a is inserted:

‘1a. Where periodic payments are made with regard to services rendered, including rental services, or goods delivered, and subject to his risk analysis, the authorising officer may order the application of a direct debit system.;

33. In Article 72(1), point (b) is replaced by the following:

‘(b) for assessing the efficiency and effectiveness of the internal control and audit systems applicable to every budget implementation operation.;

34. Article 74 is replaced by the following:

‘Article 74

1. As regards procurement, the relevant provisions of the general Financial Regulation and Regulation (EC, Euratom) No 2342/2002 shall apply subject to paragraphs 4 to 7 of this Article.

2. The Community body may be associated, at its request, as contracting authority, in the award of Commission or interinstitutional contracts and with the award of contracts of other Community bodies.

3. The Community body shall participate in the common central database set up and operated by the Commission pursuant to Article 95 of the general Financial Regulation.

4. The Community body may conclude a contract, without having recourse to a public procurement procedure, with the Commission, the interinstitutional offices and the Translation Centre for bodies of the European Union established by Council Regulation (EC)

No 2965/94 (*) for the supply of goods, provision of services or performance of work that the latter provide.

5. The Community body may use joint procurement procedures with contracting authorities of the host Member State to cover its administrative needs. In such case, Article 125c of Regulation (EC, Euratom) No 2342/2002 shall apply *mutatis mutandis*.

6. For the application of Article 101 of the general Financial Regulation, the call for tender shall provide that the Community body may, before the contract is signed, either abandon the procurement or cancel the award procedure without the candidates or tenderers being entitled to claim any compensation.

7. For the application of Article 103 of the general Financial Regulation, calls for tender launched by the Community body shall provide that it may suspend the procedure and may take whatever measures are necessary, including the cancellation of the procedure under the conditions laid down in that Article.

For the application of Article 103 of the general Financial Regulation, the contracts concluded by the Community body with economic operators shall stipulate that it may take the measures specified in that Article under the conditions laid down therein.

(*) OJ L 314, 7.12.1994, p. 1.’

35. The following Titles VA and VB are inserted:

‘TITLE VA

PROJECTS WITH SIGNIFICANT BUDGET IMPLICATIONS

Article 74a

The management board shall, as soon as possible, notify the budgetary authority of its intention to implement any project, which may have significant financial implications for the funding of its administrative budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

If either branch of the budgetary authority intends to issue an opinion, it shall within two weeks after receipt of the information on the project notify the Community body concerned of its intention to issue such an opinion. Failing a reply, the Community body may proceed with the planned operation.

This opinion shall be forwarded to the Community body within four weeks of the notification pursuant to the second paragraph.

TITLE VB

EXPERTS

Article 74b

Article 265a of the Regulation (EC, Euratom) No 2342/2002 shall apply *mutatis mutandis* for the selection of experts. Such experts shall be paid on the basis of a fixed amount, for assisting the Community body, in particular in evaluating proposals and grant applications or tenders for procurement, and for providing technical assistance in the follow-up to, and final evaluation of projects. The Community body may use the lists drawn up by the Commission or other Community bodies.’;

36. Article 75 is replaced by the following:

‘Article 75

1. Where the Community body may award grants in accordance with its constituent instrument or by delegation of the Commission pursuant to Article 54(2)(b) of the general Financial Regulation, the relevant provisions of the general Financial Regulation and Regulation (EC, Euratom) No 2342/2002 shall apply subject to paragraphs 2 and 3 of this Article.

2. Grants shall be covered by written agreements between the Community body and the beneficiary.

3. For the application of Article 119(2) of the general Financial Regulation, grant agreements concluded by the Community body shall stipulate that it may suspend, reduce or terminate the grant in the cases provided for by Article 183 of Regulation (EC, Euratom) No 2342/2002 after the beneficiary has been given the opportunity to make his observations.’

37. In Article 76, the second paragraph is replaced by the following:

‘The accounts of the Community body shall be accompanied by a report on budgetary and financial management during the year. The report shall give an account, *inter alia*, of the rate of implementation of the appropriations together with summary information on the transfers of appropriations among the various budget items.’;

38. Articles 82 and 83 are replaced by the following:

‘Article 82

The accounting officer shall send to the Commission’s accounting officer and the Court of Auditors by no later

than 1 March of the following year its provisional accounts, together with the report on budgetary and financial management during the year, referred to in Article 76 of this Regulation, so that the Commission’s accounting officer can consolidate the accounts as provided for in Article 128 of the general Financial Regulation.

The accounting officer shall also send the report on budgetary and financial management to the European Parliament and the Council by 31 March of the following year at the latest.

Article 83

1. In accordance with Article 129(1) of the general Financial Regulation, the Court of Auditors shall, by 15 June of the following year at the latest, make its observations on the provisional accounts of the Community body.

2. On receiving the Court of Auditors’ observations on the provisional accounts of the Community body, the Director shall draw up the final accounts of the Community body in accordance with Article 43, under his own responsibility, and send them to the management board, which shall give an opinion on these accounts.

3. The Director shall send the final accounts, together with the opinion of the management board, to the Commission’s accounting officer, the Court of Auditors, the European Parliament and the Council, by 1 July of the following year at the latest.

4. The final accounts of the Community body, consolidated with those of the Commission, shall be published in the *Official Journal of the European Union* by 15 November of the following year.

5. The Director shall send the Court of Auditors a reply to the observations made in its annual report by 30 September of the following year at the latest. The replies of the Community body shall be sent to the Commission at the same time.’;

39. Article 94 is replaced by the following:

‘Article 94

1. The European Parliament, upon a recommendation from the Council, shall, before 15 May of year N+2 save where otherwise provided in the constituent instrument, give a discharge to the director in respect of the implementation of the budget for year N. The director shall inform the management board of the observations of the European Parliament contained in the resolution accompanying the discharge decision.

2. If the date provided for in paragraph 1 cannot be met, the European Parliament or the Council shall inform the director of the reasons for the postponement.

3. If the European Parliament postpones the decision giving a discharge, the director, in cooperation with the management board, shall make every effort to take measures as soon as possible to remove or facilitate removal of the obstacles to that decision.'

40. Article 97 is deleted;

41. Article 99 is replaced by the following:

'Article 99

The management board shall, as far as is necessary and with the Commission's prior consent, adopt detailed rules for implementing the financial regulation of the Community body, on a proposal from its Director.'

Article 2

Each body referred to in Article 185 of the general Financial Regulation shall amend its financial regulation by 10 January 2009 at the latest.

Article 3

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

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

Done at Brussels, 9 July 2008.

For the Commission

Dalia GRYBAUSKAITĖ

Member of the Commission

COMMISSION REGULATION (EC) No 653/2008**of 9 July 2008****setting the allocation coefficient for issuing of licences applied for from 30 June to 4 July 2008 to import sugar products under tariff quotas and preferential agreements**

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 markets in the sugar sector ⁽¹⁾,

Having regard to Commission Regulation (EC) No 950/2006 of 28 June 2006 laying down detailed rules for the 2006/07, 2007/08 and 2008/09 marketing years for importing and refining of sugar products under certain tariff quotas and preferential agreements ⁽²⁾, and in particular Article 5(3) thereof,

Whereas:

- (1) Applications for import licences were submitted to the competent authority during the period from 30 June to 4 July 2008, in accordance with Regulation (EC) No 950/2006 or Commission Regulation (EC) No 1832/2006 of 13 December 2006 laying down transitional measures in the sugar sector by reason of the

accession of Bulgaria and Romania ⁽³⁾ for a total quantity equal to or exceeding the quantity available for serial number 09.4340 (2007 to 2008).

- (2) In these circumstances, the Commission should fix an allocation coefficient in order to issue licences in proportion to the quantity available and inform the Member States that the set limit has been reached,

HAS ADOPTED THIS REGULATION:

Article 1

Licences shall be issued within the quantitative limits set in the Annex to this Regulation in respect of applications for import licences submitted from 30 June to 4 July 2008, in accordance with Article 4(2) of Regulation (EC) No 950/2006 or Article 5 of Regulation (EC) No 1832/2006.

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, 9 July 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 1260/2007 (OJ L 283, 27.10.2007, p. 1). Regulation (EC) No 318/2006 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 October 2008.

⁽²⁾ OJ L 178, 1.7.2006, p. 1. Regulation as last amended by Regulation (EC) No 371/2007 (OJ L 92, 3.4.2007, p. 6).

⁽³⁾ OJ L 354, 14.12.2006, p. 8.

ANNEX

ACP-India Preferential Sugar
Title IV of Regulation (EC) No 950/2006
2007/2008 marketing year

Serial No	Country	Week of 30.6.2008-4.7.2008: % of requested quantity to be granted	Limit
09.4331	Barbados	100	Reached
09.4332	Belize	100	
09.4333	Côte d'Ivoire	100	
09.4334	Republic of the Congo	—	
09.4335	Fiji	100	
09.4336	Guyana	100	
09.4337	India	0	
09.4338	Jamaica	100	
09.4339	Kenya	100	
09.4340	Madagascar	24,6827	Reached
09.4341	Malawi	100	Reached
09.4342	Mauritius	100	
09.4343	Mozambique	0	
09.4344	Saint Kitts and Nevis	—	
09.4345	Suriname	—	
09.4346	Swaziland	100	
09.4347	Tanzania	100	
09.4348	Trinidad and Tobago	—	
09.4349	Uganda	—	
09.4350	Zambia	100	
09.4351	Zimbabwe	0	Reached

ACP-India Preferential Sugar
Title IV of Regulation (EC) No 950/2006
2008/2009 marketing year

Serial No	Country	Week of 30.6.2008-4.7.2008: % of requested quantity to be granted	Limit
09.4331	Barbados	100	Reached
09.4332	Belize	100	
09.4333	Côte d'Ivoire	100	
09.4334	Republic of the Congo	100	
09.4335	Fiji	100	
09.4336	Guyana	100	
09.4337	India	0	
09.4338	Jamaica	100	
09.4339	Kenya	100	
09.4340	Madagascar	100	
09.4341	Malawi	100	
09.4342	Mauritius	100	
09.4343	Mozambique	100	
09.4344	Saint Kitts and Nevis	—	
09.4345	Suriname	—	
09.4346	Swaziland	100	
09.4347	Tanzania	100	
09.4348	Trinidad and Tobago	100	
09.4349	Uganda	—	
09.4350	Zambia	100	
09.4351	Zimbabwe	100	

Complementary Sugar
Title V of Regulation (EC) No 950/2006
2007/2008 marketing year

Serial No	Country	Week of 30.6.2008-4.7.2008: % of requested quantity to be granted	Limit
09.4315	India	100	
09.4316	ACP Protocol signatory countries	100	

CXL Concessions Sugar**Title VI of Regulation (EC) No 950/2006****2007/2008 marketing year**

Serial No	Country	Week of 30.6.2008-4.7.2008: % of requested quantity to be granted	Limit
09.4317	Australia	0	Reached
09.4318	Brazil	0	Reached
09.4319	Cuba	0	Reached
09.4320	Other third countries	0	Reached

Balkans sugar**Title VII of Regulation (EC) No 950/2006****2007/2008 marketing year**

Serial No	Country	Week of 30.6.2008-4.7.2008: % of requested quantity to be granted	Limit
09.4324	Albania	100	Reached
09.4325	Bosnia and Herzegovina	0	
09.4326	Serbia, Montenegro and Kosovo	100	
09.4327	Former Yugoslav Republic of Macedonia	100	
09.4328	Croatia	100	

Exceptional import sugar and industrial import sugar**Title VIII of Regulation (EC) No 950/2006****2007/2008 marketing year**

Serial No	Type	Week of 30.6.2008-4.7.2008: % of requested quantity to be granted	Limit
09.4380	Exceptional	—	
09.4390	Industrial	—	

Import of sugar under the transitional tariff quotas opened for Bulgaria and Romania**Chapter 1 Section 2 of Regulation (EC) No 1832/2006****2007/2008 marketing year**

Order No	Type	Week of 30.6.2008-4.7.2008: % of requested quantity to be granted	Limit
09.4365	Bulgaria	0	Reached
09.4366	Romania	0	Reached

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 3 June 2008

abrogating Decision 2005/694/EC on the existence of an excessive deficit in Italy

(2008/560/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(12) thereof,

Having regard to the recommendation from the Commission,

Whereas:

(1) By Council Decision 2005/694/EC ⁽¹⁾, following a recommendation from the Commission in accordance with Article 104(6) of the Treaty, it was decided that an excessive deficit existed in Italy. The Council noted that the general government deficit was above but close to the 3 % of GDP reference value in both 2003 and 2004, while general government gross debt stood at around 106-107 % of GDP in both years, clearly above the 60 % of GDP Treaty reference value, and it had not declined at a satisfactory pace over recent years.

(2) On 28 July 2005, in accordance with Article 104(7) of the Treaty and Article 3(4) of Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure ⁽²⁾, the Council made, based on a recommendation from the Commission, a recommendation addressed to Italy with a view to bringing the excessive deficit situation to an end by 2007 at the latest. The recommendation was made public.

(3) In accordance with Article 104(12) of the Treaty, a Council Decision on the existence of an excessive deficit is to be abrogated when the excessive deficit in the Member State concerned has, in the view of the Council, been corrected.

(4) In accordance with the Protocol on the excessive deficit procedure annexed to the Treaty, the Commission provides the data for the implementation of the procedure. As part of the application of the Protocol, Member States are to notify data on government deficits and debt and other associated variables twice a year, namely before 1 April and before 1 October, in accordance with Article 4 of Council Regulation (EC) No 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community ⁽³⁾.

(5) Based on data provided by the Commission (Eurostat) in accordance with Article 8g(1) of Regulation (EC) No 3605/93 following the notification by Italy before 1 April 2008 and on the Commission services' spring 2008 forecast, the following conclusions are warranted:

— the general government deficit, after rising from 3,5 % of GDP in 2004 to 4,2 % of GDP in 2005, was reduced to 3,4 % of GDP in 2006 and finally to 1,9 % of GDP in 2007, which is below the 3 % of GDP deficit reference value. Net of the budgetary impact of one-off measures, the deficit would be 1,7 % of GDP in 2007. This compares with a target of 2,8 % of GDP set in the December 2006 update of the stability programme,

⁽¹⁾ OJ L 266, 11.10.2005, p. 57.

⁽²⁾ OJ L 209, 2.8.1997, p. 6. Regulation as amended by Regulation (EC) No 1056/2005 (OJ L 174, 7.7.2005, p. 5).

⁽³⁾ OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Regulation (EC) No 2103/2005 (OJ L 337, 22.12.2005, p. 1).

- the adjustment was driven by an increase in permanent tax revenues over the 2006-2007 period, which largely exceeded expectations. This was mostly thanks to a higher-than-expected effectiveness of the adopted measures and somewhat higher-than-projected economic growth. After an estimated worsening by $\frac{1}{4}$ of a percentage point of GDP in 2005, the structural balance (i.e. the cyclically-adjusted balance net of one-off and other temporary measures) is estimated to have improved by $1\frac{3}{4}$ and $1\frac{1}{4}$ percentage points of GDP in 2006 and 2007, respectively,
- for 2008, the spring 2008 forecast projects an increase in the deficit to 2,3 % of GDP, including 0,1 % of GDP one-offs proceeds from the sale of real estate. The envisaged worsening of the budgetary balance will be driven by both a rise in the ratio of current primary expenditure to GDP and lower current taxes. This is partly offset by an anticipated decline of capital expenditure, which reflects the substantial one-off expenditure accrued in 2007. Although the 2,3 % of GDP deficit projection is only slightly above the official deficit target of 2,2 % of GDP set in the November 2007 update of the stability programme, the latter was projected using an estimated deficit outturn in 2007 significantly higher than the reported outcome. For 2009, the spring forecast projects, on a no-policy change basis, a deficit of 2,4 % of GDP. This implies that the deficit has been brought below the 3 % of GDP reference value in a credible and sustainable manner,
- nevertheless, the structural balance is projected to worsen by more than $\frac{1}{4}$ of a percentage point of GDP in 2008 and, on a no-policy change basis, to improve by $\frac{1}{4}$ of a percentage point in 2009. This has to be seen against the need to make progress towards the medium-term objective (MTO) for the budgetary position, which for Italy is a balanced position in structural terms,
- after decreasing for a decade to just below 104 % of GDP in 2004 (from more than 121 % of GDP in 1994), the government debt ratio increased by two

percentage points of GDP in 2005 and by further 0,6 of a percentage point in 2006, to 106,5 % of GDP. The debt ratio fell again to 104 % of GDP in 2007. The development of the debt ratio was significantly affected by a temporary debt-increasing financial operation, i.e. the accumulation of liquid assets, in 2006 and its reversal in 2007. Without this operation the debt ratio would have remained broadly stable in 2006, reflecting the improvement in the primary surplus in line with the Council recommendation. According to the Commission's spring 2008 forecast, under the assumption of unchanged policies the debt ratio is projected to fall to around 102½ % by 2009. While the debt ratio in Italy remains high and clearly above the reference value, it can be considered to have diminished in line with the correction of the excessive deficit in 2007.

- (6) In the view of the Council, the excessive deficit in Italy has been corrected and Decision 2005/694/EC should therefore be abrogated,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that the excessive deficit situation in Italy has been corrected.

Article 2

Decision 2005/694/EC is hereby abrogated.

Article 3

This Decision is addressed to the Italian Republic.

Done at Luxembourg, 3 June 2008.

For the Council
The President
A. BAJUK

COUNCIL DECISION

of 3 June 2008

abrogating Decision 2005/730/EC on the existence of an excessive deficit in Portugal

(2008/561/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(12) thereof,

Having regard to the recommendation from the Commission,

Whereas:

- (1) By Council Decision 2005/730/EC ⁽¹⁾, following a recommendation from the Commission in accordance with Article 104(6) of the Treaty, it was decided that an excessive deficit existed in Portugal. The Council noted that the planned general government deficit for the year 2005 was 6,2 % of GDP, above the 3 % of GDP Treaty reference value, while general government gross debt was expected to reach 66,5 % of GDP, above the 60 % of GDP Treaty reference value.
- (2) On 20 September 2005, in accordance with Article 104(7) of the Treaty and Article 3(4) of Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure ⁽²⁾, the Council made, based on a recommendation from the Commission, a recommendation addressed to Portugal with a view to bringing the excessive deficit situation to an end by 2008 at the latest. The recommendation was made public.
- (3) In accordance with Article 104(12) of the Treaty, a Council Decision on the existence of an excessive deficit is to be abrogated when the excessive deficit in the Member State concerned has, in the view of the Council, been corrected.
- (4) In accordance with the Protocol on the excessive deficit procedure annexed to the Treaty, the Commission

provides the data for the implementation of the procedure. As part of the application of the Protocol, Member States are to notify data on government deficits and debt and other associated variables twice a year, namely before 1 April and before 1 October, in accordance with Article 4 of Council Regulation (EC) No 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community ⁽³⁾.

- (5) Based on data provided by the Commission (Eurostat) in accordance with Article 8g(1) of Regulation (EC) No 3605/93 following the notification by Portugal before 1 April 2008 and on the Commission services' spring 2008 forecasts, the following conclusions are warranted:

- the general government deficit was reduced from 6,1 % of GDP in 2005 to 3,9 % of GDP in 2006 and to 2,6 % of GDP in 2007, which brings it below the 3 % of GDP deficit reference value one year before the deadline set by the Council. The latter compares with a target of 3 % of GDP set in the December 2007 update of the stability programme of Portugal,
- both a falling government expenditure-to-GDP ratio and a rising revenue-to-GDP ratio contributed to the improvement in the government balance. The expenditure ratio declined by 1¼ percentage points of GDP in 2006 and almost ½ of a percentage point of GDP in 2007. In parallel, the government revenue ratio increased by some ¾ of a percentage point of GDP in both 2006 and 2007. Fiscal consolidation hinged mainly upon structural measures, with a marginal contribution from a one-off operation worth 0,1 % of GDP in 2007. The improvement in the structural balance (i.e. the cyclically-adjusted balance net of one-off and other temporary measures) is estimated at two percentage points of GDP in 2006 and one percentage point of GDP in 2007, which is in line with the Council recommendation under Article 104(7) for a reduction of the structural balance by 1,5 % of GDP in 2006 and, at least, ¾ % of GDP in 2007,

⁽¹⁾ OJ L 274, 20.10.2005, p. 91.

⁽²⁾ OJ L 209, 2.8.1997, p. 6. Regulation as amended by Regulation (EC) No 1056/2005 (OJ L 174, 7.7.2005, p. 5).

⁽³⁾ OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Regulation (EC) No 2103/2005 (OJ L 337, 22.12.2005, p. 1).

— for 2008, the Commission services' spring 2008 forecasts project a further reduction in the deficit, to 2,2 % of GDP, mainly driven by some additional revenue, with the budgetary execution benefiting from a 0,2 % of GDP one-off deficit-reducing operation. This is broadly in line with the official deficit targets of 2,4 % of GDP set in the December 2007 update of the stability programme of Portugal and the revised target of 2,2 % of GDP announced by the Portuguese authorities in late March 2008. For 2009, the spring forecasts project, on a no-policy change basis, a government deficit at 2,6 % of GDP. This indicates that the deficit has been brought below the 3 % of GDP reference value in a credible and sustainable manner,

— nevertheless, the structural balance is projected to improve by about $\frac{1}{4}$ percentage point of GDP in 2008 and, on a no-policy change basis, to worsen by $\frac{1}{4}$ percentage point of GDP in 2009. This has to be seen against the need to make progress towards the medium-term objective (MTO) for the budgetary position, which for Portugal is a structural deficit of 0,5 % of GDP,

— government debt declined from 64,7 % of GDP in 2006 to 63,6 % of GDP in 2007. The low GDP growth and still relatively high government deficits projected in the Commission services' spring 2008 economic forecasts are expected to yield a government debt at some 64 $\frac{1}{4}$ % of GDP in 2009.

(6) In the view of the Council, the excessive deficit in Portugal has been corrected and Decision 2005/730/EC should therefore be abrogated,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that the excessive deficit situation in Portugal has been corrected.

Article 2

Decision 2005/730/EC is hereby abrogated.

Article 3

This Decision is addressed to the Portuguese Republic.

Done at Luxembourg, 3 June 2008.

For the Council
The President
A. BAJUK

COUNCIL DECISION

of 3 June 2008

abrogating Decision 2005/182/EC on the existence of an excessive deficit in Slovakia

(2008/562/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(12) thereof,

Having regard to the recommendation from the Commission,

Whereas:

- (1) By Council Decision 2005/182/EC ⁽¹⁾, following a recommendation from the Commission in accordance with Article 104(6) of the Treaty, it was decided that an excessive deficit existed in Slovakia. The Council noted that the general government deficit was 3,6 % of GDP in 2003, above the 3 % of GDP Treaty reference value.
- (2) On 5 July 2004, in accordance with Article 104(7) of the Treaty and Article 3(4) of Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure ⁽²⁾, the Council made, based on a recommendation from the Commission, a recommendation addressed to Slovakia with a view to bringing the excessive deficit situation to an end by 2007 at the latest. The recommendation was made public.
- (3) In accordance with Article 104(12) of the Treaty, a Council Decision on the existence of an excessive deficit is to be abrogated when the excessive deficit in the Member State concerned has, in the view of the Council, been corrected.
- (4) In accordance with the Protocol on the excessive deficit procedure annexed to the Treaty, the Commission provides the data for the implementation of the procedure. As part of the application of the Protocol, Member States are to notify data on government deficits and debt and other associated variables twice a year, namely before 1 April and before 1 October, in

accordance with Article 4 of Council Regulation (EC) No 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community ⁽³⁾.

- (5) Based on data provided by the Commission (Eurostat) in accordance with Article 8g(1) of Regulation (EC) No 3605/93 following the notification by Slovakia before 1 April 2008 and on the Commission services' spring 2008 forecast, the following conclusions are warranted:

- due to data revisions after the 2004 Council Decision on the existence of an excessive deficit, the general government deficit remained below 3 % of GDP in the years 2003-2005. After increasing to 3,6 % of GDP in 2006 it was reduced to 2,2 % of GDP in 2007, which is below the 3 % of GDP deficit reference value. This compares with a target of 2,9 % of GDP set in the December 2006 update of the convergence programme,
- the fiscal consolidation has benefited from buoyant GDP, employment and revenue growth, allowing the expenditure-to-GDP ratio to fall faster than the revenue-to-GDP ratio. The falling expenditure-to-GDP ratio was also induced by expenditure restraint and expenditure reforms such as substantial restrictions on social benefits. Nevertheless, the cyclical upswing and growth dividends from structural reforms were not fully exploited for fiscal consolidation. As a result, the structural deficit (i.e. the cyclically adjusted balance net of one-off and other temporary measures) is estimated to have deteriorated from some 1½ % of GDP in 2003 to around 3 % of GDP in 2006 before improving to around 2½ % of GDP by 2007. However, part of the structural deterioration can be attributed to the introduction of the second funded pension pillar in 2005 with transfers to this pillar estimated to have increased from 0,8 % of GDP in 2005 to 1,2 % and 1,3 % of GDP in 2006 and 2007 respectively. In addition, increases in taxes on cigarettes preceded by sizeable pre-stocking with cigarettes at various stages of the distribution chain led to sizeable shifts in tax revenue resulting in extra tax revenue in 2003, 2005 and 2007 followed by equivalent revenue shortfalls in the subsequent years,

⁽¹⁾ OJ L 62, 9.3.2005, p. 16.

⁽²⁾ OJ L 209, 2.8.1997, p. 6. Regulation as amended by Regulation (EC) No 1056/2005 (OJ L 174, 7.7.2005, p. 5).

⁽³⁾ OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Regulation (EC) No 2103/2005 (OJ L 337, 22.12.2005, p. 1).

- for 2008, the Commission services' spring 2008 forecast projects the headline deficit to be reduced further, to 2,0 % of GDP, driven mainly by continued strong growth prospects and some revenue-increasing measures such as a broadening of the corporate and personal income tax base and an increase in the maximum ceiling on social contributions. This is in line with the official deficit target of 2,0 % of GDP set in February 2008. For 2009, the spring forecast projects, on a no-policy change basis, an increase in the deficit to 2,3 % of GDP. This indicates that the deficit has been brought below the 3 % of GDP reference value in a credible and sustainable manner,
- nevertheless, the structural balance is projected to deteriorate by some one quarter of a percentage point of GDP in 2008 and, on a no-policy change basis, by around one quarter of a percentage point in 2009. This has to be seen against the need to make progress towards the medium-term objective (MTO) for the budgetary position, which for Slovakia is a structural deficit of just below 1 % of GDP,
- government debt remains well below the 60 % of GDP reference value. It declined from 42,4 % of GDP in 2003 to 29,4 % in 2007. According to the spring 2008 forecast, the debt ratio is projected to remain broadly stable over the forecast horizon (on a no-policy change basis).

- (6) In the view of the Council, the excessive deficit in Slovakia has been corrected and Decision 2005/182/EC should therefore be abrogated,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that the excessive deficit situation in Slovakia has been corrected.

Article 2

Decision 2005/182/EC is hereby abrogated.

Article 3

This Decision is addressed to the Slovak Republic.

Done at Luxembourg, 3 June 2008.

For the Council
The President
A. BAJUK

COUNCIL DECISION

of 3 June 2008

abrogating Decision 2005/185/EC on the existence of an excessive deficit in the Czech Republic

(2008/563/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(12) thereof,

Having regard to the recommendation from the Commission,

Whereas:

(1) By Council Decision 2005/185/EC ⁽¹⁾, following a recommendation from the Commission in accordance with Article 104(6) of the Treaty, it was decided that an excessive deficit existed in the Czech Republic. The Council noted that the general government deficit was 12,9 % of GDP in 2003 (5,9 % of GDP excluding a major one-off operation related to imputed state guarantees), well above the 3 % of GDP Treaty reference value.

(2) On 5 July 2004, in accordance with Article 104(7) of the Treaty and Article 3(4) of Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure ⁽²⁾, the Council made, based on a recommendation from the Commission, a recommendation addressed to the Czech Republic with a view to bringing the excessive deficit situation to an end by 2008 at the latest. The recommendation was made public.

(3) In view of the forecast of a marked budgetary slippage in 2007 and a continuing excess of the deficit over the reference value in 2008, the Council adopted a Decision under Article 104(8) on 10 July 2007, based on a recommendation from the Commission, stating that the action being taken by the Czech Republic did not appear to be adequate to correct the excessive deficit by the deadline of 2008 ⁽³⁾. On 10 October 2007, the Council issued a new recommendation under Article 104(7), based on a recommendation from the Commission, recommending the Czech Republic to further contain the budgetary deterioration in 2007 and reconfirming that the excessive deficit must be put to an end by 2008 at the latest, with a deadline of 9 April 2008 for the Czech authorities to take effective action. On the basis of the then available projections the Council invited the Czech authorities to ensure an

improvement in the structural balance (i.e. the cyclically-adjusted balance net of one-off and other temporary measures) of at least 0,75 % of GDP in 2008 compared to 2007.

(4) In accordance with Article 104(12) of the Treaty, a Council Decision on the existence of an excessive deficit is to be abrogated when the excessive deficit in the Member State concerned has, in the view of the Council, been corrected.

(5) In accordance with the Protocol on the excessive deficit procedure annexed to the Treaty, the Commission provides the data for the implementation of the procedure. As part of the application of the Protocol, Member States are to notify data on government deficits and debt and other associated variables twice a year, namely before 1 April and before 1 October, in accordance with Article 4 of Council Regulation (EC) No 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community ⁽⁴⁾.

(6) Based on data provided by the Commission (Eurostat) in accordance with Article 8g(1) of Regulation (EC) No 3605/93 following the notification by the Czech Republic before 1 April 2008 and on the Commission services spring 2008 forecast, the following conclusions are warranted:

— the general government deficit was reduced from 2,7 % of GDP in 2006 to 1,6 % of GDP in 2007, which brings it below the 3 % of GDP deficit reference value before the deadline set by the Council. This compares with a target of 4 % of GDP in the March 2007 convergence programme,

— while tax revenues exceeded expectations due to higher-than-projected economic growth, the deficit reduction in 2007 was also the consequence of expenditure restraint, in particular with respect to the compensation of public sector employees and intermediate consumption. Most of the expenditure savings are of a permanent nature. The improvement in the structural balance (i.e. the cyclically-adjusted balance net of one-off and other temporary measures) is estimated at just above 0,5 % of GDP in 2007,

⁽¹⁾ OJ L 62, 9.3.2005, p. 20.

⁽²⁾ OJ L 209, 2.8.1997, p. 6. Regulation as amended by Regulation (EC) No 1056/2005 (OJ L 174, 7.7.2005, p. 5).

⁽³⁾ Decision 2007/640/EC (OJ L 260, 5.10.2007, p. 13).

⁽⁴⁾ OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Regulation (EC) No 2103/2005 (OJ L 337, 22.12.2005, p. 1).

- for 2008, the spring 2008 forecast projects the deficit to be reduced further, to 1,4 % of GDP, driven by additional expenditure savings measures, legislative measures to reduce social expenditure and the introduction of partial health charges. Revenue as a percentage of GDP is expected to remain broadly constant as a result of a wide range of tax measures implemented in 2008. The spring forecast is in line with the deficit target of 1,5 % of GDP in the April fiscal notification. For 2009, the spring forecast projects, on a no-policy change assumption based on continued expenditure restraint, a further decline in the deficit to 1,1 % of GDP. This indicates that the deficit has been brought below the 3 % of GDP reference value in a credible and sustainable manner,
- the structural balance is projected to improve by about half of a percentage point of GDP in 2008 and again, on a no-policy-change assumption based on continued expenditure restraint, in 2009. This has to be seen against the need to speed up the achievement of the medium-term objective (MTO) for the budgetary position, which for the Czech Republic is a structural deficit of 1 % of GDP, as recommended in the March 2008 Council Opinion on the November 2007 update of the convergence programme,
- government debt remains well below the 60 % of GDP reference value. It declined from 29,4 % of GDP in 2006 to 28,7 % in 2007. According to the

spring 2008 forecast, the debt ratio is projected to fall further to below 28 % by the end of 2009 (on a no-policy-change basis).

- (7) In the view of the Council, the excessive deficit in the Czech Republic has been corrected and Decision 2005/185/EC should therefore be abrogated,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that the excessive deficit situation in the Czech Republic has been corrected.

Article 2

Decision 2005/185/EC is hereby abrogated.

Article 3

This Decision is addressed to the Czech Republic.

Done at Luxembourg, 3 June 2008.

For the Council

The President

A. BAJUK

COMMISSION

COMMISSION DECISION

of 30 June 2008

allowing Member States to extend provisional authorisations granted for the new active substance profoxydim

(notified under document number C(2008) 3080)

(Text with EEA relevance)

(2008/564/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

plant protection product in the light of the requirements laid down by that Directive.

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, and in particular the fourth subparagraph of Article 8(1) thereof,

Whereas:

(1) In accordance with Article 6(2) of Directive 91/414/EEC, in March 1998 the Spain received an application from BASF AG, for the inclusion of the active substance profoxydim in Annex I to Directive 91/414/EEC. Commission Decision 1999/43/EC ⁽²⁾ confirmed that the dossier was complete and could be considered as satisfying, in principle, the data and information requirements of Annex II and Annex III to that Directive.

(2) Confirmation of the completeness of the dossiers was necessary in order to allow them to be examined in detail and to allow Member States the possibility of granting provisional authorisations, for periods of up to three years, for plant protection products containing the active substances concerned, while complying with the conditions laid down in Article 8(1) of Directive 91/414/EEC and, in particular, the condition relating to the detailed assessment of the active substances and the

(3) For this active substance, the effects on human health and the environment have been assessed, in accordance with the provisions of Article 6(2) and (4) of Directive 91/414/EEC, for the uses proposed by the applicants. The rapporteur Member State submitted the draft assessment report to the Commission on 28 March 2001.

(4) Following submission of the draft assessment report by the rapporteur Member State, it has been found to be necessary to request further information from the applicant and to have the rapporteur Member State examine that information and submit its assessment. Therefore, the examination of the dossier is still ongoing and it will not be possible to complete the evaluation within the timeframe provided for in Directive 91/414/EEC.

(5) As the evaluation so far has not identified any reason for immediate concern, Member States should be given the possibility of prolonging provisional authorisations granted for plant protection products containing the active substance concerned for a period of 24 months in accordance with the provisions of Article 8 of Directive 91/414/EEC so as to enable the examination of the dossiers to continue. It is expected that the evaluation and decision-making process with respect to a decision on possible Annex I inclusion for profoxydim will have been completed within 24 months.

(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,

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2008/45/EC (OJ L 94, 5.4.2008, p. 21).

⁽²⁾ OJ L 14, 19.1.1999, p. 30.

HAS ADOPTED THIS DECISION:

Article 1

Member States may extend provisional authorisations for plant protection products containing profoxydim for a period not exceeding 24 months from the date of adoption of this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 30 June 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

COMMISSION DECISION

of 30 June 2008

recognising in principle the completeness of the dossiers submitted for detailed examination in view of the possible inclusion of *Paecilomyces fumosoroseus* strain Fe 9901 and *Trichoderma atroviride* strain I-1237 in Annex I to Council Directive 91/414/EEC

*(notified under document number C(2008) 3114)***(Text with EEA relevance)**

(2008/565/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, and in particular Article 6(3) thereof,

Whereas:

- (1) Directive 91/414/EEC provides for the development of a Community list of active substances authorised for incorporation in plant protection products.
- (2) A dossier for the active substance *Paecilomyces fumosoroseus* strain Fe 9901 was submitted by FuturEco to the Belgian authorities on 4 February 2005 with an application to obtain its inclusion in Annex I to Directive 91/414/EEC. For *Trichoderma atroviride* strain I-1237 a dossier was submitted by Agrauxine to the French authorities on 28 August 2007 with an application to obtain its inclusion in Annex I to Directive 91/414/EEC.
- (3) The authorities in Belgium and France have indicated to the Commission that, on preliminary examination, the dossiers for the active substances concerned appear to satisfy the data and information requirements set out in Annex II to Directive 91/414/EEC. The dossiers submitted appear also to satisfy the data and information requirements set out in Annex III to Directive 91/414/EEC in respect of one plant protection product containing the active substance concerned. In accordance with Article 6(2) of Directive 91/414/EEC, the dossiers were subsequently forwarded by the applicant to the Commission and other Member States, and were referred to the Standing Committee on the Food Chain and Animal Health.
- (4) By this Decision it should be formally confirmed at Community level that the dossiers are considered as satisfying in principle the data and information

requirements set out in Annex II and, for at least one plant protection product containing the active substance concerned, the requirements set out in Annex III to Directive 91/414/EEC.

- (5) This Decision should not prejudice the right of the Commission to request the applicant to submit further data or information in order to clarify certain points in the dossier.

- (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

Without prejudice to Article 6(4) of Directive 91/414/EEC, the dossiers concerning the active substances identified in the Annex to this Decision, which were submitted to the Commission and the Member States with a view to obtaining the inclusion of those substances in Annex I to that Directive, satisfy in principle the data and information requirements set out in Annex II to that Directive.

The dossiers also satisfy the data and information requirements set out in Annex III to that Directive in respect of one plant protection product containing the active substance, taking into account the uses proposed.

Article 2

The rapporteur Member State shall pursue the detailed examination for the dossiers referred to in Article 1 and shall communicate to the Commission the conclusions of its examination accompanied by a recommendation on the inclusion or non-inclusion in Annex I to Directive 91/414/EEC of the active substances referred to in Article 1 and any conditions for those inclusions as soon as possible and at the latest within a period of one year from the date of publication of this Decision in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2008/45/EC (OJ L 94, 5.4.2008, p. 21).

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 30 June 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

Active substance concerned by this Decision

Common name, CIPAC identification number	Applicant	Date of application	Rapporteur Member State
<i>Paecilomyces fumosoroseus</i> strain Fe 9901 CIPAC-No: not relevant	FuturEco	4 February 2005	BE
<i>Trichoderma atroviride</i> strain I-1237 CIPAC-No: not relevant	Agrauxine	28 August 2007	FR

COMMISSION DECISION

of 1 July 2008

recognising in principle the completeness of the dossiers submitted for detailed examination in view of the possible inclusion of phosphane and thien carbazon e in Annex I to Council Directive 91/414/EEC

*(notified under document number C(2008) 3216)***(Text with EEA relevance)**

(2008/566/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant-protection on the market ⁽¹⁾, and in particular Article 6(3) thereof,

Whereas:

- (1) Directive 91/414/EEC provides for the development of a Community list of active substances authorised for incorporation in plant protection products.
- (2) A dossier for the active substance phosphane was submitted by S&A Service und Anwendungstechnik GmbH to the authorities of the Germany on 11 October 2007 with an application to obtain its inclusion in Annex I to Directive 91/414/EEC. For thien carbazon e a dossier was submitted by Bayer Crop Science to the authorities of the United Kingdom on 13 April 2007 with an application to obtain its inclusion in Annex I to Directive 91/414/EEC.
- (3) The authorities of the Germany and the United Kingdom have indicated to the Commission that, on preliminary examination, the dossiers for the active substances concerned appear to satisfy the data and information requirements set out in Annex II to Directive 91/414/EEC. The dossiers submitted appear also to satisfy the data and information requirements set out in Annex III to Directive 91/414/EEC in respect of one plant protection product containing the active substance concerned. In accordance with Article 6(2) of Directive 91/414/EEC, the dossiers were subsequently forwarded by the applicant to the Commission and other Member States, and were referred to the Standing Committee on the Food Chain and Animal Health.
- (4) By this Decision it should be formally confirmed at Community level that the dossiers are considered as

satisfying in principle the data and information requirements set out in Annex II and, for at least one plant protection product containing the active substance concerned, the requirements set out in Annex III to Directive 91/414/EEC.

- (5) This Decision should not prejudice the right of the Commission to request the applicant to submit further data or information in order to clarify certain points in the dossier.

- (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

Without prejudice to Article 6(4) of Directive 91/414/EEC, the dossiers concerning the active substances identified in the Annex to this Decision, which were submitted to the Commission and the Member States with a view to obtaining the inclusion of those substances in Annex I to that Directive, satisfy in principle the data and information requirements set out in Annex II to that Directive.

The dossiers also satisfy the data and information requirements set out in Annex III to that Directive in respect of one plant protection product containing the active substance, taking into account the uses proposed.

Article 2

The rapporteur Member State shall pursue the detailed examination for the dossiers referred to in Article 1 and shall communicate to the Commission the conclusions of its examination accompanied by a recommendation on the inclusion or non-inclusion in Annex I to Directive 91/414/EEC of the active substances referred to in Article 1 and any conditions for those inclusions as soon as possible and at the latest within a period of one year from the date of publication of this Decision in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2008/45/EC (OJ L 94, 5.4.2008, p. 21).

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 1 July 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

Active substance concerned by this Decision

Common name, CIPAC identification number	Applicant	Date of application	Rapporteur Member State
Phosphane CIPAC-No: 127	S&A Service und Anwendungstechnik GmbH	11 October 2007	DE
Thiencarbazone CIPAC-No: 797	Bayer Crop Science AG	13 April 2007	UK

COMMISSION DECISION

of 4 July 2008

concerning the financial contribution by the Community, for the year 2008, towards actions of the OIE in the area of animal welfare and animal disease surveillance and categorisation

(2008/567/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Article 20 thereof,

Whereas:

- (1) Pursuant to Decision 90/424/EEC, the Community may undertake, or assist the Member States or international organisations in undertaking, the technical and scientific measures necessary for the development of Community veterinary legislation and for the development of veterinary education or training.
- (2) The Community Action Plan on the Protection and Welfare of Animals 2006-2010 identified the need for continuing the support and initiating further international activities in order to raise awareness and to create a greater consensus on animal welfare as one of the five main areas of action.
- (3) The World Organisation for Animal Health (OIE) is the intergovernmental organisation responsible for improving animal health worldwide. In 2005, the OIE adopted guidelines on animal welfare concerning the transport of animals by land and sea, the slaughter of animals for human consumption and the humane killing of animals for disease control. The OIE intends to further develop those guidelines, to adopt new guidelines and to support the implementation of the guidelines already adopted by OIE member countries, in particular by providing training and guidance.
- (4) The planned training and communication events of the OIE are necessary for the development of veterinary legislation in force, and also the development of veterinary education and training, in all the participating countries. The improvements in third countries are strictly linked to the development of Community veterinary legislation and to the need for such legislation to be effective in

reaching its aims. Furthermore, the planned trainings and communication events respond to the wish of the majority of European citizens ⁽²⁾ that the animal welfare conditions in countries exporting to the Community are equivalent to those applied in the Community. The Community should therefore contribute towards the financing of these events.

- (5) The Second OIE Global Conference on Animal Welfare 'Putting the OIE standards to work' aims at supporting the worldwide implementation of OIE guidelines for sea and land transport of livestock, livestock slaughter for human consumption and killing for disease control. The conference also intends to raise the profile of animal welfare and to encourage veterinarians and veterinary services to take greater responsibility for animal welfare.
- (6) The Second OIE Global Conference on Animal Welfare might have a considerable influence on the development of Community veterinary legislation. Its aims are in line with the aims laid down in the Community Action Plan on the Protection and Welfare of Animals 2006-2010. It is therefore appropriate to make a Community financial contribution to the OIE conference.
- (7) The Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on a new Animal Health Strategy for the EU (2007 to 2013) describes prioritisation of EU intervention as one of the pillars of the new animal health strategy. In this context a study on the cost of surveillance and categorisation of animal diseases in the framework of the OIE follow-up of the Global Animal Health Initiative, would provide with information to help to categorise animal diseases and prioritise surveillance measures.
- (8) The OIE has a de facto monopoly in its sector, as mentioned in Article 168(1)(c) of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽³⁾; hence a call for proposals is not required.

⁽¹⁾ OJ L 224, 18.8.1990, p. 19. Decision as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽²⁾ Special Eurobarometer 270: Attitudes of EU citizens towards Animal Welfare, http://ec.europa.eu/food/animal/welfare/survey/sp_barometer_aw_en.pdf, p. 32.

⁽³⁾ OJ L 357, 31.12.2002, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 478/2007 (OJ L 111, 28.4.2007, p. 13).

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

diseases by the OIE in 2008, of EUR 200 000 constituting a Community co-financing of at maximum 67 % of the total eligible costs is approved.

HAS DECIDED AS FOLLOWS:

Article 1

A Community financial contribution, for the financing of a training seminar on the implementation of the OIE guidelines on animal welfare, organised by the World Organisation for Animal Health (OIE), of EUR 100 000 constituting a Community co-financing of at maximum 65 % of the total eligible costs is approved.

Article 2

A Community financial contribution, for the financing of the Second OIE Global Conference on Animal Welfare 'Putting the OIE standards to work', organised by the OIE in 2008, of EUR 200 000 constituting a Community co-financing of at maximum 50 % of the total eligible costs is approved.

Article 3

A Community financial contribution, for the financing of a study on the cost of surveillance and categorisation of animal

Article 4

The financial contributions provided for in Articles 1, 2 and 3 shall be financed through the budget line 17 04 02 01 of the budget of the European Communities for 2008.

A grant agreement for the financial contributions provided for in Articles 1, 2 and 3 will be awarded to the OIE without a call for proposals as the OIE is the intergovernmental organisation for improving animal health worldwide and has a de facto monopoly.

Done at Brussels, 4 July 2008.

For the Commission

Androulla VASSILIOU

Member of the Commission

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

COUNCIL DECISION

of 24 June 2005

concerning the conclusion of the Agreement between the European Union and the Swiss Confederation on security procedures for the exchange of classified information

(2008/568/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Article 1

Having regard to the Treaty on European Union, and in particular Articles 24 and 38 thereof,

The Agreement between the European Union and the Swiss Confederation on security procedures for the exchange of classified information is hereby approved on behalf of the European Union.

Having regard to the recommendation from the Presidency,

The text of the Agreement is attached to this Decision.

Whereas:

Article 2

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

- (1) At its meeting on 27 and 28 November 2003, the Council decided to authorise the Presidency, assisted by the SG/HR, to open negotiations in accordance with Articles 24 and 38 of the Treaty on European Union with certain third States, in order for the European Union to conclude with each of them an Agreement on security procedures for the exchange of classified information.

Article 3

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

- (2) Following this authorisation to open negotiations, the Presidency, assisted by the SG/HR, negotiated an Agreement with the Swiss Confederation on security procedures for the exchange of classified information.

Article 4

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

- (3) The Agreement should be approved,

Done at Luxembourg, 24 June 2005.

For the Council

The President

L. LUX

AGREEMENT**between the Swiss Confederation and the European Union on the security procedures for the exchange of classified information**

THE SWISS CONFEDERATION, and

THE EUROPEAN UNION, hereinafter 'the EU', represented by the Presidency of the Council of the European Union,

hereinafter referred to as 'the Parties',

CONSIDERING THAT the Swiss Confederation and the EU share the objectives to strengthen their own security in all ways and to provide their citizens with a high level of safety within an area of security;

CONSIDERING THAT the Swiss Confederation and the EU agree that consultations and cooperation should be developed between them on questions of common interest relating to security;

CONSIDERING THAT, in this context, a permanent need therefore exists to exchange classified information between the Swiss Confederation and the EU;

RECOGNISING THAT full and effective consultation and cooperation may require access to Swiss and EU classified information and material, as well as the exchange of classified information and related material between the Swiss Confederation and the EU;

CONSCIOUS THAT such access to and exchange of classified information and related material requires appropriate security measures,

HAVE AGREED AS FOLLOWS:

Article 1

In order to fulfill the objective of strengthening the security of each of the Parties in all ways, this Agreement applies to classified information or material in any form either provided or exchanged between the Parties.

Article 2

For the purposes of this Agreement, classified information shall mean any information (namely, knowledge that can be communicated in any form) or material determined to require protection against unauthorised disclosure and which has been so designated by a security classification (hereinafter classified information).

Article 3

For the purposes of this Agreement, 'EU' shall mean the Council of the European Union (hereinafter the Council), the Secretary General/High Representative and the General Secretariat of the Council, and the Commission of the European Communities (hereinafter the European Commission).

Article 4

Each Party shall:

- (a) protect and safeguard classified information subject to this Agreement provided or exchanged by the other Party;
- (b) ensure that classified information subject to this Agreement provided or exchanged keeps the security classification given to it by the providing Party. The receiving Party shall protect and safeguard the classified information according to the provisions set out in its own security regulations for information or material holding an equivalent security classification, as specified in the Security Arrangements to be established pursuant to Articles 11 and 12;
- (c) not use such classified information subject to this Agreement for purposes other than those established by the originator and those for which the information is provided or exchanged;
- (d) not disclose such classified information subject to this Agreement to third parties, or to any EU institution or entity not mentioned in Article 3, without the prior consent of the originator.

Article 5

1. Classified information may be disclosed or released, in accordance with the principle of originator control, by one Party, 'the providing Party', to the other Party, 'the receiving Party'.

2. For release to recipients other than the Parties to this Agreement, a decision on disclosure or release of classified information shall be made by the receiving Party following the consent of the providing Party, in accordance with the principle of originator control as defined in its security regulations.

3. In implementing paragraphs 1 and 2, no generic release shall be possible unless procedures are established and agreed between the Parties regarding certain categories of information, relevant to their operational requirements.

Article 6

Each of the Parties, and entities thereof as defined in Article 3, shall have a security organisation and security programmes, based upon such basic principles and minimum standards of security which shall be implemented in the security systems of the Parties to be established pursuant to Articles 11 and 12, to ensure that an equivalent level of protection is applied to classified information subject to this Agreement.

Article 7

1. The Parties shall ensure that all persons who, in the conduct of their official duties require access, or whose duties or functions may afford access, to classified information provided or exchanged under this Agreement are appropriately security cleared before they are granted access to such information.

2. The security clearance procedures shall be designed to determine whether an individual may, taking into account his or her loyalty, trustworthiness and reliability, have access to classified information.

Article 8

The Parties shall provide mutual assistance with regard to security of classified information subject to this Agreement and matters of common security interest. Mutually agreed and reciprocal security consultations and inspections shall be conducted by the authorities as defined in Article 11 to assess the effectiveness of the Security Arrangements within their

respective responsibility to be established pursuant to Articles 11 and 12.

Article 9

1. For the purpose of this Agreement:

(a) As regards the EU:

all correspondence shall be sent to the Council at the following address:

Council of the European Union
Chief Registry Officer
Rue de la Loi/Wetstraat, 175
B-1048 Brussels;

All correspondence shall be forwarded by the Chief Registry Officer of the Council to the Member States and to the European Commission subject to paragraph 2.

(b) As regards the Swiss Confederation,

all correspondence shall be addressed to the Chief Registry Officer of the Ministry of Foreign Affairs of Switzerland and forwarded, where appropriate, via the Mission of Switzerland to the European Union, at the following address:

Mission of Switzerland to the European Union
Registry Officer
Place du Luxembourg, 1
B-1050 Brussels.

2. If necessary, correspondence from one Party which is only accessible to specific competent officials, organs or services of that Party may, for operational reasons, be addressed and only be accessible to specific competent officials, organs or services of the other Party specifically designated as recipients, taking into account their competencies and according to the need to know principle. As far as the EU is concerned, this correspondence shall be transmitted through the Chief Registry Officer of the Council. As far as the Swiss Confederation is concerned, this correspondence may be transmitted via the Mission of Switzerland to the European Union.

Article 10

The State Secretary of the Federal Department of Foreign Affairs of the Swiss Confederation, and the Secretaries-General of the Council and of the European Commission shall oversee the implementation of this Agreement.

Article 11

In order to implement this Agreement:

1. The national security authorities of the Swiss Confederation (Federal Department of Justice and Police, Federal Office of Police and Federal Department of Defence, Civil Protection and Sports, Defence – Staff of the Chief of the Armed Forces, Information Security and Facility Protection), acting in the name of the Government of the Swiss Confederation and under its authority, shall be responsible for developing security arrangements for the protection and safeguarding of classified information provided to the Swiss Confederation under this Agreement.
2. The General Secretariat of the Council Security Office (hereinafter GSC Security Office), under the direction and on behalf of the Secretary-General of the Council, acting in the name of the Council and under its authority shall be responsible for developing Security Arrangements for the protection and safeguarding of classified information provided to the EU under this Agreement.
3. The European Commission Security Directorate, acting in the name of the European Commission and under its authority, shall be responsible for developing security arrangements for the protection of classified information provided or exchanged under this Agreement within the European Commission and its premises.

Article 12

The Security Arrangements to be established pursuant to Article 11 in agreement between the four offices concerned will lay down the standards of the reciprocal security protection for classified information subject to this Agreement. For the EU, these standards shall be subject to approval by the Council Security Committee.

Article 13

The Authorities defined in Article 11 shall establish procedures to be followed in the case of proven or suspected compromise of classified information subject to this Agreement.

Article 14

Prior to the provision of classified information subject to this Agreement between the Parties, the responsible security auth-

orities defined in Article 11 must agree that the receiving Party is able to protect and safeguard the information subject to this Agreement in a way consistent with the arrangements to be established pursuant to Articles 11 and 12.

Article 15

This Agreement in no way prevents the Parties from concluding other Agreements relating to the provision or exchange of classified information subject to this Agreement provided that they do not conflict with the provisions of this Agreement.

Article 16

All differences between the Parties arising out of the interpretation or application of this Agreement shall be dealt with by negotiation between them.

Article 17

1. This Agreement shall enter into force on the first day of the first month after the Parties have notified each other of the completion of the internal procedures necessary for this purpose.

2. This Agreement may be reviewed for consideration of possible amendments at the request of either Party.

3. Any amendment to this Agreement shall only be made in writing and by common agreement of the Parties. It shall enter into force upon mutual notification as provided under paragraph 1.

Article 18

This Agreement may be denounced by one Party by written notice of denunciation given to the other Party. Such denunciation shall take effect six months after receipt of notification by the other Party, but shall not affect obligations already contracted under the provisions of this Agreement. In particular, all classified information provided or exchanged pursuant to this Agreement shall continue to be protected in accordance with the provisions set forth herein.

IN WITNESS WHEREOF the undersigned, respectively duly authorised, have signed the present Agreement.

Done at Brussels, **28 -04- 2008**, in two copies each in the English language.

For the Swiss Confederation

Handwritten signature in black ink, appearing to read 'Jean-Marc Waeber'.

For the European Union

Handwritten signature in black ink, appearing to read 'Jean-Pierre Man'.

Information on the date of entry into force of the Agreement between the European Union and the Swiss Confederation on security procedures for the exchange of classified information

On 28 April 2008 and 7 May 2008 respectively, the European Union and the Swiss Confederation notified each other that the procedures necessary for entry into force of the Agreement had been completed ⁽¹⁾.

The Agreement accordingly entered into force on 1 June 2008, in accordance with Article 17 thereof.

⁽¹⁾ See page 57 of this Official Journal.