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⁽¹⁾ Text with EEA relevance

NOTE TO THE READER

The institutions have decided no longer to quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.

I

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

REGULATIONS

COMMISSION REGULATION (EC) No 139/2009**of 19 February 2009****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 20 February 2009.

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

Done at Brussels, 19 February 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

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	IL	129,4
	JO	62,0
	MA	46,5
	TN	132,6
	TR	75,4
	ZZ	89,2
0707 00 05	JO	161,3
	MA	88,2
	TR	177,4
	ZZ	142,3
0709 90 70	JO	239,8
	MA	69,2
	TR	119,2
	ZZ	142,7
0709 90 80	EG	94,1
	ZZ	94,1
0805 10 20	EG	41,1
	IL	53,2
	MA	53,4
	TN	44,6
	TR	65,3
	ZZ	51,5
0805 20 10	IL	145,4
	MA	99,4
	TR	73,0
	ZZ	105,9
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	EG	75,3
	IL	82,3
	JM	119,0
	MA	112,2
	PK	52,7
	TR	62,2
	ZZ	84,0
0805 50 10	EG	81,5
	MA	44,0
	TR	60,2
	ZZ	61,9
0808 10 80	CA	89,7
	CL	67,7
	CN	93,5
	MK	25,2
	US	118,0
	ZZ	78,8
0808 20 50	AR	112,5
	CL	73,7
	CN	75,9
	US	119,1
	ZA	109,2
	ZZ	98,1

⁽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 140/2009
of 19 February 2009
fixing the export refunds on milk and milk products

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⁾, and in particular Article 164(2), in conjunction with Article 4, thereof,

Whereas:

- (1) Article 162(1) of Regulation (EC) No 1234/2007 provides that the difference between prices on the world market for the products listed in Part XVI of Annex I to that Regulation and prices for those products on the Community market may be covered by an export refund.
- (2) Given the present situation on the market in milk and milk products, export refunds should be fixed in accordance with the rules and certain criteria provided for in Articles 162, 163, 164, 167, 169 and 170 of Regulation (EC) No 1234/2007.
- (3) Article 164(1) of Regulation (EC) No 1234/2007 provides that export refunds may vary according to destination, especially where the world market situation, the

specific requirements of certain markets or obligations resulting from agreements concluded in accordance with Article 300 of the Treaty make this necessary.

- (4) In accordance with the Memorandum of Understanding between the European Community and the Dominican Republic on import protection for milk powder in the Dominican Republic ⁽²⁾ approved by Council Decision 98/486/EC ⁽³⁾, a certain amount of Community milk products exported to the Dominican Republic can benefit from reduced customs duties. For this reason, export refunds granted to products exported under this scheme should be reduced by a certain percentage.
- (5) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

Export refunds as provided for in Article 164 of Regulation (EC) No 1234/2007 shall be granted on the products and for the amounts set out in the Annex to this Regulation, subject to the conditions provided for in Article 3(2) of Commission Regulation (EC) No 1282/2006 ⁽⁴⁾.

Article 2

This Regulation shall enter into force on 20 February 2009.

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

Done at Brussels, 19 February 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 218, 6.8.1998, p. 46.

⁽³⁾ OJ L 218, 6.8.1998, p. 45.

⁽⁴⁾ OJ L 234, 29.8.2006, p. 4.

ANNEX

Export refunds on milk and milk products applicable from 20 February 2009

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
0401 30 31 9100	L20	EUR/100 kg	10,43	0402 29 19 9900	L20	EUR/100 kg	29,00
0401 30 31 9400	L20	EUR/100 kg	16,34	0402 29 99 9100	L20	EUR/100 kg	29,16
0401 30 31 9700	L20	EUR/100 kg	18,02	0402 29 99 9500	L20	EUR/100 kg	30,99
0401 30 39 9100	L20	EUR/100 kg	10,43	0402 91 10 9370	L20	EUR/100 kg	2,88
0401 30 39 9400	L20	EUR/100 kg	16,34	0402 91 30 9300	L20	EUR/100 kg	3,41
0401 30 39 9700	L20	EUR/100 kg	18,02	0402 91 99 9000	L20	EUR/100 kg	20,56
0401 30 91 9100	L20	EUR/100 kg	20,56	0402 99 10 9350	L20	EUR/100 kg	7,41
0401 30 99 9100	L20	EUR/100 kg	20,56	0402 99 31 9300	L20	EUR/100 kg	10,43
0401 30 99 9500	L20	EUR/100 kg	30,26	0403 90 11 9000	L20	EUR/100 kg	19,00
0402 10 11 9000	L20 ⁽¹⁾	EUR/100 kg	19,00	0403 90 13 9200	L20	EUR/100 kg	19,00
0402 10 19 9000	L20 ⁽¹⁾	EUR/100 kg	19,00	0403 90 13 9300	L20	EUR/100 kg	26,35
0402 10 99 9000	L20	EUR/100 kg	19,00	0403 90 13 9500	L20	EUR/100 kg	27,36
0402 21 11 9200	L20	EUR/100 kg	19,00	0403 90 13 9900	L20	EUR/100 kg	29,00
0402 21 11 9300	L20	EUR/100 kg	26,35	0403 90 33 9400	L20	EUR/100 kg	26,35
0402 21 11 9500	L20	EUR/100 kg	27,36	0403 90 59 9310	L20	EUR/100 kg	10,43
0402 21 11 9900	L20 ⁽¹⁾	EUR/100 kg	29,00	0403 90 59 9340	L20	EUR/100 kg	16,34
0402 21 17 9000	L20	EUR/100 kg	19,00	0403 90 59 9370	L20	EUR/100 kg	18,02
0402 21 19 9300	L20	EUR/100 kg	26,35	0404 90 21 9120	L20	EUR/100 kg	16,21
0402 21 19 9500	L20	EUR/100 kg	27,36	0404 90 21 9160	L20	EUR/100 kg	19,00
0402 21 19 9900	L20 ⁽¹⁾	EUR/100 kg	29,00	0404 90 23 9120	L20	EUR/100 kg	19,00
0402 21 91 9100	L20	EUR/100 kg	29,16	0404 90 23 9130	L20	EUR/100 kg	26,35
0402 21 91 9200	L20 ⁽¹⁾	EUR/100 kg	29,32	0404 90 23 9140	L20	EUR/100 kg	27,36
0402 21 91 9350	L20	EUR/100 kg	29,59	0404 90 23 9150	L20	EUR/100 kg	29,00
0402 21 99 9100	L20	EUR/100 kg	29,16	0404 90 81 9100	L20	EUR/100 kg	19,00
0402 21 99 9200	L20 ⁽¹⁾	EUR/100 kg	29,32	0404 90 83 9110	L20	EUR/100 kg	19,00
0402 21 99 9300	L20	EUR/100 kg	29,59	0404 90 83 9130	L20	EUR/100 kg	26,35
0402 21 99 9400	L20	EUR/100 kg	30,99	0404 90 83 9150	L20	EUR/100 kg	27,36
0402 21 99 9500	L20	EUR/100 kg	31,49	0404 90 83 9170	L20	EUR/100 kg	29,00
0402 21 99 9600	L20	EUR/100 kg	33,46	0405 10 11 9500	L20	EUR/100 kg	53,66
0402 21 99 9700	L20	EUR/100 kg	34,55	0405 10 11 9700	L20	EUR/100 kg	55,00
0402 29 15 9200	L20	EUR/100 kg	19,00				
0402 29 15 9300	L20	EUR/100 kg	26,35				
0402 29 15 9500	L20	EUR/100 kg	27,36				
0402 29 19 9300	L20	EUR/100 kg	26,35				
0402 29 19 9500	L20	EUR/100 kg	27,36				

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
0405 10 19 9500	L20	EUR/100 kg	53,66	0406 30 39 9500	L04	EUR/100 kg	4,62
0405 10 19 9700	L20	EUR/100 kg	55,00		L40	EUR/100 kg	5,77
0405 10 30 9100	L20	EUR/100 kg	53,66	0406 30 39 9700	L04	EUR/100 kg	4,96
0405 10 30 9300	L20	EUR/100 kg	55,00		L40	EUR/100 kg	6,20
0405 10 30 9700	L20	EUR/100 kg	55,00	0406 30 39 9930	L04	EUR/100 kg	5,31
0405 10 50 9500	L20	EUR/100 kg	53,66		L40	EUR/100 kg	6,64
0405 10 50 9700	L20	EUR/100 kg	55,00	0406 30 39 9950	L04	EUR/100 kg	5,11
0405 10 90 9000	L20	EUR/100 kg	57,01		L40	EUR/100 kg	6,39
0405 20 90 9500	L20	EUR/100 kg	50,30	0406 40 50 9000	L04	EUR/100 kg	12,47
0405 20 90 9700	L20	EUR/100 kg	52,32		L40	EUR/100 kg	15,59
0405 90 10 9000	L20	EUR/100 kg	66,60	0406 40 90 9000	L04	EUR/100 kg	13,82
0405 90 90 9000	L20	EUR/100 kg	55,00		L40	EUR/100 kg	17,28
0406 10 20 9640	L04	EUR/100 kg	11,78	0406 90 13 9000	L04	EUR/100 kg	17,58
	L40	EUR/100 kg	14,72		L40	EUR/100 kg	21,98
0406 10 20 9650	L04	EUR/100 kg	9,82	0406 90 15 9100	L04	EUR/100 kg	18,17
	L40	EUR/100 kg	12,27		L40	EUR/100 kg	22,71
0406 10 20 9830	L04	EUR/100 kg	7,03	0406 90 17 9100	L04	EUR/100 kg	18,17
	L40	EUR/100 kg	8,79		L40	EUR/100 kg	22,71
0406 10 20 9850	L04	EUR/100 kg	6,85	0406 90 21 9900	L04	EUR/100 kg	17,60
	L40	EUR/100 kg	8,56		L40	EUR/100 kg	22,00
0406 20 90 9913	L04	EUR/100 kg	8,54	0406 90 23 9900	L04	EUR/100 kg	15,93
	L40	EUR/100 kg	10,68		L40	EUR/100 kg	19,91
0406 20 90 9915	L04	EUR/100 kg	11,61	0406 90 25 9900	L04	EUR/100 kg	15,53
	L40	EUR/100 kg	14,51		L40	EUR/100 kg	19,41
0406 20 90 9917	L04	EUR/100 kg	12,34	0406 90 27 9900	L04	EUR/100 kg	14,06
	L40	EUR/100 kg	15,42		L40	EUR/100 kg	17,58
0406 20 90 9919	L04	EUR/100 kg	13,79	0406 90 32 9119	L04	EUR/100 kg	13,02
	L40	EUR/100 kg	17,24		L40	EUR/100 kg	16,28
0406 30 31 9730	L04	EUR/100 kg	5,29	0406 90 35 9190	L04	EUR/100 kg	18,63
	L40	EUR/100 kg	6,61		L40	EUR/100 kg	23,29
0406 30 31 9930	L04	EUR/100 kg	5,69	0406 90 35 9990	L04	EUR/100 kg	18,63
	L40	EUR/100 kg	7,11		L40	EUR/100 kg	23,29
0406 30 31 9950	L04	EUR/100 kg	5,17	0406 90 37 9000	L04	EUR/100 kg	17,58
	L40	EUR/100 kg	6,46		L40	EUR/100 kg	21,98
				0406 90 61 9000	L04	EUR/100 kg	20,31
					L40	EUR/100 kg	25,39

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
0406 90 63 9100	L04	EUR/100 kg	19,93	0406 90 86 9200	L04	EUR/100 kg	17,30
	L40	EUR/100 kg	24,91		L40	EUR/100 kg	21,63
0406 90 63 9900	L04	EUR/100 kg	19,93	0406 90 86 9400	L04	EUR/100 kg	17,60
	L40	EUR/100 kg	24,91		L40	EUR/100 kg	22,00
0406 90 69 9910	L04	EUR/100 kg	19,56	0406 90 86 9900	L04	EUR/100 kg	18,12
	L40	EUR/100 kg	24,45		L40	EUR/100 kg	22,65
0406 90 73 9900	L04	EUR/100 kg	16,20	0406 90 87 9300	L04	EUR/100 kg	15,89
	L40	EUR/100 kg	20,25		L40	EUR/100 kg	19,86
0406 90 75 9900	L04	EUR/100 kg	16,61	0406 90 87 9400	L04	EUR/100 kg	15,61
	L40	EUR/100 kg	20,76		L40	EUR/100 kg	19,51
0406 90 76 9300	L04	EUR/100 kg	14,65	0406 90 87 9951	L04	EUR/100 kg	16,12
	L40	EUR/100 kg	18,31		L40	EUR/100 kg	20,15
0406 90 76 9400	L04	EUR/100 kg	16,41	0406 90 87 9971	L04	EUR/100 kg	16,12
	L40	EUR/100 kg	20,51		L40	EUR/100 kg	20,15
0406 90 76 9500	L04	EUR/100 kg	15,02	0406 90 87 9973	L04	EUR/100 kg	15,82
	L40	EUR/100 kg	18,77		L40	EUR/100 kg	19,78
0406 90 78 9100	L04	EUR/100 kg	16,53	0406 90 87 9974	L04	EUR/100 kg	16,85
	L40	EUR/100 kg	20,66		L40	EUR/100 kg	21,06
0406 90 78 9300	L04	EUR/100 kg	15,87	0406 90 87 9975	L04	EUR/100 kg	16,50
	L40	EUR/100 kg	19,84		L40	EUR/100 kg	20,63
0406 90 79 9900	L04	EUR/100 kg	13,22	0406 90 87 9979	L04	EUR/100 kg	15,93
	L40	EUR/100 kg	16,53		L40	EUR/100 kg	19,91
0406 90 81 9900	L04	EUR/100 kg	16,41	0406 90 88 9300	L04	EUR/100 kg	13,82
	L40	EUR/100 kg	20,51		L40	EUR/100 kg	17,28
0406 90 85 9930	L04	EUR/100 kg	18,12	0406 90 88 9500	L04	EUR/100 kg	13,52
	L40	EUR/100 kg	22,65		L40	EUR/100 kg	16,90
0406 90 85 9970	L04	EUR/100 kg	16,61				
	L40	EUR/100 kg	20,76				

(¹) As for the relevant products intended for exports to Dominican Republic under the quota 2008/2009 referred to in the Decision 98/486/EC, and complying with the conditions laid down in Chapter III, Section 3 of Regulation (EC) No 1282/2006, the following rates should apply:

- (a) products falling within CN codes 0402 10 11 9000 and 0402 10 19 9000 0,00 EUR/100 kg
- (b) products falling within CN codes 0402 21 11 9900, 0402 21 19 9900, 0402 21 91 9200 and 0402 21 99 9200 0,00 EUR/100 kg

The destinations are defined as follows:

L20: All destinations with the exception of:

- (a) third countries: Andorra, Holy See (Vatican City State), Liechtenstein and the United States of America;
- (b) territories of the EU Member States not forming part of the customs territory of the Community: the Faeroe Islands, Greenland, Heligoland, Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control;
- (c) European territories for whose external relations a Member State is responsible and not forming part of the customs territory of the Community: Gibraltar
- (d) the destinations referred to in Article 36(1), Article 44(1) and Article 45(1) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).

L04: Albania, Bosnia and Herzegovina, Serbia, Kosovo (*), Montenegro and the former Yugoslav Republic of Macedonia.

L40: All destinations with the exception of:

- (a) third countries: L04, Andorra, Iceland, Liechtenstein, Norway, Switzerland, Holy See (Vatican City State), the United States of America, Croatia, Turkey, Australia, Canada, New Zealand and South Africa;
- (b) territories of the EU Member States not forming part of the customs territory of the Community: the Faeroe Islands, Greenland, Heligoland, Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control;
- (c) European territories for whose external relations a Member State is responsible and not forming part of the customs territory of the Community: Gibraltar.
- (d) the destinations referred to in Article 36(1), Article 44(1) and Article 45(1) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).

(*) As defined by United Nations Security Council Resolution 1244 of 10 June 1999.

COMMISSION REGULATION (EC) No 141/2009**of 19 February 2009****fixing the maximum export refund for butter in the framework of the standing invitation to tender provided for in Regulation (EC) No 619/2008**

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⁾, and in particular Article 164(2), in conjunction with Article 4, thereof,

Whereas:

- (1) Commission Regulation (EC) No 619/2008 of 27 June 2008 opening a standing invitation to tender for export refunds concerning certain milk products ⁽²⁾ provides for a standing invitation to tender procedure.
- (2) Pursuant to Article 6 of Commission Regulation (EC) No 1454/2007 of 10 December 2007 laying down common rules for establishing a tender procedure for fixing export refunds for certain agricultural products ⁽³⁾, and following

an examination of the tenders submitted in response to the invitation to tender, it is appropriate to fix a maximum export refund for the tendering period ending on 17 February 2009.

- (3) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

For the standing invitation to tender opened by Regulation (EC) No 619/2008, for the tendering period ending on 17 February 2009, the maximum amount of refund for the products and destinations referred to in Article 1(a) and (b) and in Article 2 respectively of that Regulation shall be as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 20 February 2009.

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

Done at Brussels, 19 February 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 168, 28.6.2008, p. 20.

⁽³⁾ OJ L 325, 11.12.2007, p. 69.

ANNEX

(EUR/100 kg)

Product	Export refund Code	Maximum amount of export refund for exports to the destinations referred to in Article 2 of Regulation (EC) No 619/2008
Butter	ex 0405 10 19 9700	60,00
Butteroil	ex 0405 90 10 9000	73,00

COMMISSION REGULATION (EC) No 142/2009**of 19 February 2009****fixing the maximum export refund for skimmed milk powder in the framework of the standing invitation to tender provided for in Regulation (EC) No 619/2008**

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⁾, and in particular Article 164(2), in conjunction with Article 4, thereof,

Whereas:

(1) Commission Regulation (EC) No 619/2008 of 27 June 2008 opening a standing invitation to tender for export refunds concerning certain milk products ⁽²⁾ provides for a standing invitation to tender procedure.

(2) Pursuant to Article 6 of Commission Regulation (EC) No 1454/2007 of 10 December 2007 laying down common rules for establishing a tender procedure for fixing export

refunds for certain agricultural products ⁽³⁾ and following an examination of the tenders submitted in response to the invitation to tender, it is appropriate to fix a maximum export refund for the tendering period ending on 17 February 2009.

(3) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

For the standing invitation to tender opened by Regulation (EC) No 619/2008, for the tendering period ending on 17 February 2009, the maximum amount of refund for the products and destinations referred to in Article 1(c) and in Article 2 of that Regulation shall be EUR 21,98/100 kg.

Article 2

This Regulation shall enter into force on 20 February 2009.

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

Done at Brussels, 19 February 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 168, 28.6.2008, p. 20.

⁽³⁾ OJ L 325, 11.12.2007, p. 69.

COMMISSION REGULATION (EC) No 143/2009**of 19 February 2009****fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95**

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⁾, and in particular Article 143 thereof,

Having regard to Regulation (EEC) No 2783/75 of the Council of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin, and in particular Article 3(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 ⁽²⁾ lays down detailed rules for implementing the system of additional import duties and fixes representative prices for poultrymeat and egg products and for egg albumin.
- (2) Regular monitoring of the data used to determine representative prices for poultrymeat and egg products and

for egg albumin shows that the representative import prices for certain products should be amended to take account of variations in price according to origin. The representative prices should therefore be published.

- (3) In view of the situation on the market, this amendment should be applied as soon as possible.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is replaced by the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 19 February 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 145, 29.6.1995, p. 47.

ANNEX

to the Commission Regulation of 19 February 2009 fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

‘ANNEX I

CN code	Description of goods	Representative price (EUR/100 kg)	Security under Article 3(3) (EUR/100 kg)	Origin ⁽¹⁾
0207 12 10	Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “70 % chickens”, frozen	114,6	0	BR
		116,4	0	AR
0207 12 90	Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “65 % chickens”, frozen	129,4	0	BR
		124,6	0	AR
0207 14 10	Fowls of the species <i>Gallus domesticus</i> , boneless cuts, frozen	213,4	26	BR
		252,7	14	AR
		282,7	5	CL
0207 14 50	Fowls of the species <i>Gallus domesticus</i> , breasts, frozen	192,0	6	BR
0207 14 60	Fowl of the species <i>Gallus domesticus</i> , legs, frozen	125,5	5	BR
0207 25 10	Turkeys, not cut in pieces, presented as “80 % turkeys”, frozen	213,5	0	BR
0207 27 10	Turkeys, boneless cuts, frozen	194,6	31	BR
		251,3	14	CL
0408 11 80	Egg yolks	422,1	0	AR
0408 91 80	Eggs, not in shell, dried	426,2	0	AR
1602 32 11	Preparations of fowls of the species <i>Gallus domesticus</i> , uncooked	234,8	16	BR
3502 11 90	Egg albumin, dried	602,4	0	AR

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). The code “ZZ” represents “other origins”.

COMMISSION REGULATION (EC) No 144/2009**of 19 February 2009****fixing the rates of the refunds applicable to milk and milk products exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 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⁾, and in particular Article 164(2) thereof,

Whereas:

(4) Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lays down that the export refund for a product contained in a good may not exceed the refund applicable to that product when exported without further processing.

(5) However, in the case of certain milk products exported in the form of goods not covered by Annex I to the Treaty, there is a danger that, if high refund rates are fixed in advance, the commitments entered into in relation to those refunds may be jeopardised. In order to avert that danger, it is therefore necessary to take appropriate precautionary measures, but without precluding the conclusion of long-term contracts. The fixing of specific refund rates for the advance fixing of refunds in respect of those products should enable those two objectives to be met.

(1) Article 162(1)b of Regulation (EC) No 1234/2007 provides that the difference between prices in international trade for the products referred to in Article 1(1)(p) and listed in Part XVI of Annex I to that Regulation and prices within the Community may be covered by an export refund where these goods are exported in the form of goods listed in Part IV of Annex XX to that Regulation.

(6) Article 15(2) of Regulation (EC) No 1043/2005 provides that, when the rate of the refund is being fixed, account is to be taken, where appropriate, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organisation of the agricultural markets to the basic products listed in Annex I to Regulation (EC) No 1043/2005 or to assimilated products.

(2) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽²⁾, specifies the products for which a rate of refund is to be fixed, to be applied where these products are exported in the form of goods listed in Part IV of Annex XX to Regulation (EC) No 1234/2007.

(7) Article 100(1) of Regulation (EC) No 1234/2007 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions.

(3) In accordance with the second paragraph, subparagraph (a) of Article 14 of Regulation (EC) No 1043/2005, the rate of the refund per 100 kilograms for each of the basic products in question is to be fixed for a period of the same duration as that for which refunds are fixed for the same products exported unprocessed.

(8) Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/1999 as regards measures for the disposal of cream, butter and concentrated butter ⁽³⁾, lays down that butter and cream at reduced prices should be made available to industries which manufacture certain goods.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 172, 5.7.2005, p. 24.

⁽³⁾ OJ L 308, 25.11.2005, p. 1.

- (9) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Part XVI of Annex I to Regulation (EC) No 1234/2007, and exported in the form of goods listed in Part IV of Annex XX to Regulation (EC) No 1234/2007, shall be fixed as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 20 February 2009.

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

Done at Brussels, 19 February 2009.

For the Commission

Heinz ZOUREK

Director-General Enterprise and Industry

ANNEX

Rates of the refunds applicable from 20 February 2009 to certain milk products exported in the form of goods not covered by Annex I to the Treaty ⁽¹⁾

(EUR/100 kg)

CN code	Description	Rate of refund	
		In case of advance fixing of refunds	Other
ex 0402 10 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2):		
	(a) on exportation of goods of CN code 3501	—	—
	(b) on exportation of other goods	19,00	19,00
ex 0402 21 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3):		
	(a) where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EC) No 1898/2005 are exported	31,50	31,50
	(b) on exportation of other goods	29,00	29,00
ex 0405 10	Butter, with a fat content by weight of 82 % (PG 6):		
	(a) where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EC) No 1898/2005 are exported	55,00	55,00
	(b) on exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	56,28	56,28
	(c) on exportation of other goods	55,00	55,00

⁽¹⁾ The rates set out in this Annex are not applicable to exports to

- (a) third countries: Andorra, the Holy See (Vatican City State), Liechtenstein, the United States of America and the goods listed in Tables I and II of Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation.
- (b) territories of EU Member States not forming part of the customs territory of the Community: Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, Heligoland, Greenland, the Faeroe Islands and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.
- (c) European territories for whose external relations a Member State is responsible and not forming part of the customs territory of the Community: Gibraltar.
- (d) the destinations referred to in Article 36(1), Article 44(1) and Article 45(1) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 19 February 2009

extending the period of application of the measures in Decision 2002/148/EC concluding consultations with Zimbabwe under Article 96 of the ACP-EC Partnership Agreement

(2009/144/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 300(2) thereof,

Having regard to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000 ⁽¹⁾ and revised in Luxembourg on 25 June 2005 ⁽²⁾,

Having regard to the Internal Agreement between the representatives of the governments of the Member States, meeting within the Council, on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement ⁽³⁾, and in particular Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) By Council Decision 2002/148/EC ⁽⁴⁾, the consultations with the Republic of Zimbabwe under Article 96(2)(c) of the ACP-EC Partnership Agreement were concluded and appropriate measures, as specified in the Annex to that Decision, were taken.
- (2) By Decision 2008/158/EC ⁽⁵⁾, the application of the measures referred to in Article 2 of Decision 2002/148/EC,

which had been extended until 20 February 2004 by Article 1 of Decision 2003/112/EC ⁽⁶⁾, until 20 February 2005 by Article 1 of Decision 2004/157/EC ⁽⁷⁾, until 20 February 2006 by Article 1 of Decision 2005/139/EC ⁽⁸⁾, until 20 February 2007 by Article 1 of Decision 2006/114/EC ⁽⁹⁾ and until 18 February 2008 by Article 1 of Decision 2007/127/EC ⁽¹⁰⁾, was extended for a further period of 12 months until 20 February 2009.

- (3) The essential elements cited in Article 9 of the ACP-EC Partnership Agreement continue to be violated by the Government of Zimbabwe, and the current conditions in Zimbabwe do not ensure respect for human rights, democratic principles and the rule of law.
- (4) The period of application of the measures should therefore be extended,

HAS DECIDED AS FOLLOWS:

Article 1

The period of application of the measures referred to in Article 2 of Decision 2002/148/EC shall be extended until 20 February 2010. The measures shall be kept under constant review.

⁽¹⁾ OJ L 317, 15.12.2000, p. 3.

⁽²⁾ OJ L 209, 11.8.2005, p. 26.

⁽³⁾ OJ L 317, 15.12.2000, p. 376.

⁽⁴⁾ OJ L 50, 21.2.2002, p. 64.

⁽⁵⁾ OJ L 51, 26.2.2008, p. 19.

⁽⁶⁾ OJ L 46, 20.2.2003, p. 25.

⁽⁷⁾ OJ L 50, 20.2.2004, p. 60.

⁽⁸⁾ OJ L 48, 19.2.2005, p. 28.

⁽⁹⁾ OJ L 48, 18.2.2006, p. 26.

⁽¹⁰⁾ OJ L 53, 22.2.2007, p. 23.

The letter in the Annex to this Decision shall be addressed to the President of Zimbabwe.

Article 2

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

Done at Brussels, 19 February 2009.

For the Council

The President

M. ŘÍMAN

ANNEX

LETTER TO THE PRESIDENT OF ZIMBABWE

Brussels,

The European Union attaches the utmost importance to the provisions of Article 9 of the ACP-EC Partnership Agreement. As essential elements of the Partnership Agreement, respect for human rights, democratic institutions and the rule of law form the basis of our relations.

By letter of 19 February 2002, the European Union informed you of its decision to conclude the consultations held under Article 96 of the ACP-EC Partnership Agreement and to take certain 'appropriate measures' within the meaning of Article 96(2)(c) of that Agreement.

By letters of 19 February 2003, 19 February 2004, 18 February 2005, 15 February 2006, 21 February 2007 and 19 February 2008, the European Union informed you of its decisions not to revoke the 'appropriate measures' and to extend the period of application until 20 February 2004, 20 February 2005, 20 February 2006, 20 February 2007, 20 February 2008 and 20 February 2009 respectively.

The European Union welcomes that, under the guidance of SADC, an agreement has been reached in Zimbabwe between the parties. It hopes that the new government will demonstrate its commitment to reform, including with respect to the rule of law, human rights and democratisation.

Nevertheless 12 months after the adoption of the latest decision on appropriate measures, the European Union considers that no significant progress has been made in the five areas referred to in the Council Decision of 18 February 2002.

In the light of the above, the European Union does not consider that the appropriate measures can yet be revoked and has decided to extend their period of application until 20 February 2010 pending reopening of consultations.

The European Union would once again emphasise that it is not penalising the Zimbabwean people and that it will continue its contribution to operations of a humanitarian nature and projects in direct support of the population, in particular projects in the social sectors, democratisation, respect for human rights and the rule of law, which are not affected by these measures.

The European Union wishes to reiterate that the application of appropriate measures within the meaning of Article 96 of the ACP-EC Partnership Agreement is no obstacle to political dialogue as provided for in Article 8 of that Agreement.

With this in mind, the European Union wishes to underline once again the importance that it attaches to future EC-Zimbabwe cooperation and to confirm its willingness to carry on the dialogue and make progress in the near future towards a situation where the resumption of full cooperation becomes possible.

Yours faithfully,

For the Commission

For the Council

COMMISSION

COMMISSION DECISION

of 10 December 2008

concerning State aid C 15/06 (ex N 291/2000) which France plans to implement in favour of Pilkington/Interpane

(notified under document number C(2008) 7799)

(Only the French text is authentic)

(Text with EEA relevance)

(2009/145/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁾ (hereinafter called 'the Procedural Regulation'), and in particular Article 9 thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽²⁾ and having regard to their comments,

Whereas:

submitted additional information by letters dated 13 June 2000, registered as received on 14 June 2000 (A/34798), 30 June 2000, registered as received on 3 July 2000 (A/35410), and 30 June 2000, registered as received on 3 July 2000 (A/35411).

(2) By Decision of 17 August 2000 ⁽⁴⁾, reference SG(2000) D/106264 (hereinafter called 'the 2000 Decision'), the Commission approved the intensity of the aid for Pilkington/Interpane notified under the 1998 MSF.

(3) Annual reports were provided by France, in cooperation with the aid recipients, on 17 October 2002, 18 August 2003 and 31 August 2004 as part of the ex-post monitoring of the proper implementation of the decisions taken under the 1998 MSF (point 6.4) and in accordance with the 2000 Decision.

(4) By letter dated 13 January 2005, registered as received on the same day (A/30447), and by letter dated 13 June 2005, registered as received on 14 June 2005 (A/34734), the French authorities informed the Commission that the information furnished in the notification which had resulted in the 2000 Decision was incorrect, notably as regards the calculation of the amount of the business tax exemption, and asked the Commission to amend the 2000 Decision.

(5) By letter dated 6 March 2006 (D/57979), the Commission, in accordance with Article 9 of the Procedural Regulation, invited the French authorities to submit their comments on its intention to revoke the 2000 Decision. The French authorities submitted their comments by e-mail dated 16 March 2006, registered as received on 17 March 2006 (A/32057).

1. PROCEDURE

(1) By letter dated 22 May 2000, registered as received on 25 May 2000 (A/34298), France notified, in accordance with the provisions of the Multisectoral Framework on regional aid for large investment projects ⁽³⁾ (hereinafter called 'the 1998 MSF'), aid to two public limited companies incorporated under French law, Pilkington France SAS and Interpane Glass Coating France SAS, jointly owned by the two international glassmaking groups Interpane and Pilkington. On 7 June 2000, the Commission requested additional information. France

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

⁽²⁾ OJ C 196, 19.8.2006, p. 3.

⁽³⁾ OJ C 107, 7.4.1998, p. 7.

⁽⁴⁾ OJ C 293, 14.10.2000, p. 7.

- (6) By letter dated 26 April 2006, the Commission informed France of its decision to open the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid at issue with a view to revoking its Decision of 17 August 2000 and adopting a new Decision. The Commission's Decision to open the procedure was published in the *Official Journal of the European Union* ⁽¹⁾. The Commission called on interested parties to submit their comments on the aid.
- (7) France submitted its comments by e-mail dated 2 June 2006.
- (8) The Commission received no comments on the matter from interested parties.
- (9) By letter dated 12 September 2007 (D/53668), the Commission requested additional information. France submitted a partial answer by letter dated 21 December 2007 (A/40607) and supplemented that answer by e-mail dated 30 May 2008 (A/10204).
- (10) By e-mails dated 16 September and 19 September 2008 (A/19328 and A/19263), France submitted new information, which was supplemented by e-mail dated 24 October 2008 (A/22746).

2. DESCRIPTION OF THE AID

2.1. The aid recipients

- (11) The following description of the recipients reflects the situation as it existed in 2000.

2.1.1. The companies concerned

- (12) In its 2000 notification, France informed the Commission of its intention to grant regional investment aid to two French public limited companies (incorporated in the form of *sociétés par actions simplifiées*) jointly owned by two glassmaking groups, Interpane and Pilkington, and named Pilkington Glass France SAS and Interpane Glass Coating France SAS (PGF/IGCF).

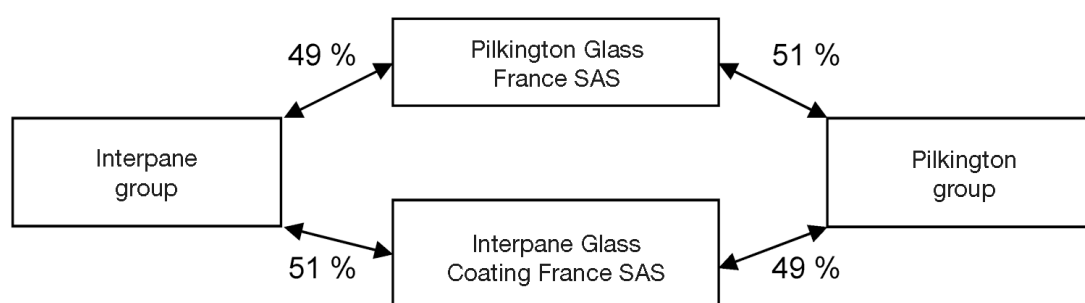
- (13) Ownership of the joint ventures is shared unequally between the parent companies as follows (see also figure 1):

— PGF is owned 51 % by Pilkington and 49 % by Interpane,

— IGCF is owned 51 % by Interpane and 49 % by Pilkington.

Figure 1

Legal structure of the companies



- (14) The two new State-aided companies are production joint ventures. They will not operate autonomously in the market. Their sole object will be to supply the parent companies with first-stage-processed raw flat float glass either for their own use or for on-selling.

2.1.2. The formation of the joint ventures

- (15) The formation of the joint ventures was notified, by letter dated 7 April 2000, under Article 81 of the EC Treaty ⁽²⁾ with a view to obtaining individual exemption under Article 81(3) of the Treaty.

⁽¹⁾ OJ C 196, 19.8.2006, p. 3.

⁽²⁾ On the basis of Article 4 of Council Regulation No 17 (OJ 13, 21.2.1962, p. 204/62).

- (16) The notifying parties agreed to the notification being dealt with by comfort letter.
- (17) On 29 June 2000, two comfort letters were sent by the Commission to each of the notifying parties, informing them that:
- the agreements contained restrictions of competition caught by the prohibition in Article 81(1) of the EC Treaty,
 - the Directorate-General for Competition considered that the notifying parties had furnished sufficient justification for its concluding that the criteria of Article 81(3) of the EC Treaty were met,
 - consequently, the Directorate-General for Competition considered that it was unnecessary to close the procedure by proposing that the Commission adopt an exemption decision under Article 81(3) of the EC Treaty in accordance with the procedure laid down by the old Regulation No 17 ⁽¹⁾.
- (18) The comfort letters were sent following an economic analysis of the situation, which can be summed up as follows:
- the notified operation consisted in the formation of two cooperative joint ventures,
 - the notified agreements concerned:
 - (a) the production by the joint ventures of unprocessed or intermediate products intended for further processing into finished products by the founders or for sale by their own distribution networks;
 - (b) the exclusive supplying of the founders by the joint ventures; this agreement was ancillary to the formation of the joint ventures in so far as it could not be dissociated from the joint ventures without calling their existence into question;
- there was a strong presumption that the joint ventures were caught by Article 81(1) of the EC Treaty inasmuch as:
- (a) there was a likelihood of sensitive information being exchanged between them;
 - (b) the cooperation between two major competitors could lead to coordination of the parties' conduct in the highly concentrated market for coated glass;
- the Directorate-General for Competition analysed the agreements in the light of Article 81(3) of the EC Treaty and, following confirmation by the parties that clause 2 of the exclusive supply agreement had been deleted, concluded that the criteria of Article 81(3) were satisfied. Clause 2, the ancillary nature of which was open to question, provided that Pilkington and Interpane could at any time obtain supplies according to their requirements from different plants of the two joint ventures.

2.1.3. *The partners*

- (19) The recipient companies are co-owned by the two international glassmaking groups Interpane and Pilkington.
- (20) Interpane was set up in 1971 by Mr Georg Hesselbach, the current majority owner and chairman of the management board of the Interpane group. The group is presently active worldwide in the sector of glass for the building industry and in related fields (manufacture of windows in Germany and the United States, manufacture of equipment for the glass industry in Germany).
- (21) In Europe, the activities of the group (15 companies in 1999) are centred on the treatment and processing of glass for the building industry. Interpane has been present in France since 1998 following its acquisition of two glass processors (at Hoerdts in Alsace and Mitry-Mory in the Paris area). The European subsidiaries are headed by the holding company Interpane Glas Industrie AG, the registered office of which is in Lauenförde, Germany. This holding company is owned 88 % by the Hesselbach family and 12 % by the German publicly owned bank Nord/LB.

⁽¹⁾ First Regulation implementing Articles 81 and 82 (formerly Articles 85 and 86) of the Treaty.

- (22) The holding company holds, in partnership with the Dutch holding company Interpane NV, via the holding company Interpane Glass Manufacturing BV, the Interpane group's shares in the joint ventures receiving the aid. Interpane NV and Interpane Glass Manufacturing BV were specially created for the purposes of this transaction. They are owned by the Hesselbach family either alone or jointly with Nord/LB.
- (23) The Pilkington group is a world leader in the glass sector. Its activities cover all industrial areas of the sector: the manufacture, treatment and processing of glass for the building industry (49 % of activities) and the automotive industry (44 %), and the production of special glasses. The group's headquarters are in the United Kingdom. The group has 24 manufacturing subsidiaries worldwide (Europe, North and South America, Asia/Pacific).
- (24) The group's shareholdings in the joint ventures situated in Freyming-Merlebach are held by the Dutch holding company Pilkington BV.

Table 1

Turnover

(EUR million)

Interpane group		
	World/Europe ⁽¹⁾	France ⁽²⁾
1996	107	0
1997	114	0
1998	118	0

Pilkington group			
	World	Europe	France
1996/1997	4 380	2 730	69,5
1997/1998	4 830	2 500	75,0
1998/1999	5 000	2 410	73,0

NB: The figures for Interpane are based on an exchange rate of FF 3,35 to one DM (1999 rate). The figures for Pilkington are based on an exchange rate of FF 10,60 to one GBP (January 2000 rate).

⁽¹⁾ Holding company Interpane Glas Industrie AG.

⁽²⁾ Two subsidiaries of the Interpane group have been active since 1998 in the insulating glass sector in France: Interpane Hoerd SA (67) and Interpane Ile-de-France at Mitry-Mory (77). These subsidiaries employed 97 people in 1999.

Table 2

The groups' workforces

(EUR million)

Interpane group			
	World	Europe ⁽¹⁾	France ⁽²⁾
1996	na	703	0
1997	na	721	0
1998	1 748	732	65
Pilkington group			
	World	Europe	France
1996/1997	39 100	24 200	537
1997/1998	37 800	23 500	524
1998/1999	32 300	20 500	497

⁽¹⁾ Holding company Interpane Glas Industrie AG.

⁽²⁾ Two subsidiaries of the Interpane group have been active since 1998 in the insulating glass sector in France: Interpane Hoerd SA (67) and Interpane Ile-de-France at Mitry-Mory (77). These subsidiaries employed 97 people in 1999.

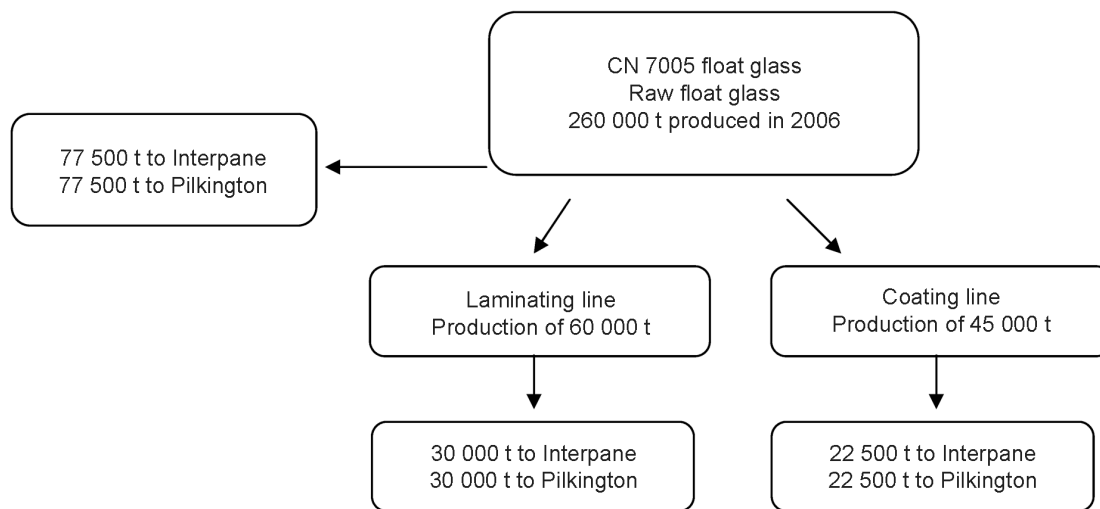
2.2. The investment project

- (25) The joint ventures are situated in the Freyming-Merlebach employment area, which was an assisted area within the meaning of Article 87(3)(c) of the EC Treaty for the period 2000-2006 ⁽¹⁾ in which the intensity of public investment aid may be as high as 15 % NGE.
- (26) According to the information furnished by France, the investment project is being carried out by two separate joint ventures owing to the dual ownership of the production facilities. The investment project is nevertheless fully integrated and self-contained: the float glass production unit was designed from the outset to part supply a joint glass-treatment unit, and the latter unit is present on the site only because its float glass supplier is adjacent to it. According to the same information, the integrated nature of the project is attested by the siting of the float, laminating and coating lines in the same building. France accordingly considers the joint investment project on the site in Lorraine to be an 'initial investment in fixed assets in the creation of a new establishment' within the meaning of point 7.2 of the 1998 MSF. There are two aid recipients, but a single investment project is being aided.

⁽¹⁾ Commission Decision of 15 March 2000 defining the regional aid map for France 2000-2006 (N 45/2000).

- (27) Production was set to start at the end of the first half of 2001 and reach its maximum after five years in 2006-07. Float glass production was to amount to 147 000 tonnes during the first full year of operation in 2001-02, increasing gradually to 260 000 tonnes of usable product per year when operating at full capacity as from 2006.
- (28) The purpose of the project is to construct an integrated float glass production unit for the building, comprising the activities of raw float glass manufacture, cutting, treatment (coating) and processing by laminating. The planned glass manufacturing cycle is as follows:

Figure 2



- (29) By letter dated 13 January 2005, the French authorities informed the Commission that the project had been amended. Eligible expenditure now came to EUR 158,5 million in nominal terms. The number of direct jobs created was 176 and the number of indirect jobs created was 150 (see also point 5.2).
- (31) The PAT scheme was approved by Commission Decision of 28 June 2000 (N 782/1999). The Sofirem loans scheme was approved by Commission Decision of 15 June 1989 (NN 2/89), as amended following the taking of appropriate measures to bring the scheme into line with the 1998 Guidelines on national regional aid ⁽¹⁾.

2.3. The aid measures

- (30) The planned State aid consists of several measures which either come under various authorised aid schemes or are individual ad hoc aid measures:
- regional planning grant (*prime à l'aménagement du territoire* — PAT) for industrial projects,
 - European Regional Development Fund (ERDF),
 - ad hoc aid for purchasing the land (discount on the selling price),
 - ad hoc aid for real estate development,
 - exemption from business tax,
 - soft loan from the Société Financière pour favoriser l'industrialisation des Régions Minières (Sofirem).
- (32) The five-year exemption from business tax is based on Articles 1464 B and 1465 of the General Tax Code (*Code Général des Impôts* — CGI), the Order of 16 December 1993, the Order of 24 November 1980 and Decrees 86/225, 80/921 and 80/922.
- (33) The current aid total is EUR 17 106 280 in nominal terms (see also point 5.2).
- 3. OPENING OF THE PROCEDURE**
- 3.1. The new information communicated by the French authorities**
- (34) By letter dated 13 January 2005, the French authorities informed the Commission firstly that the project had been amended and secondly that the amount of aid linked to the business tax exemption had been underestimated by France.

⁽¹⁾ OJ C 74, 10.3.1998, p. 9.

- (35) Total eligible expenditure now came to EUR 158,5 million in nominal terms (EUR 164,7 million in the 2000 Decision). The net present value of the eligible expenditure came to EUR 149,97 million. The project ended in March 2005 and the investment was carried out in full. In March 2005, the number of direct jobs created was 176 and the number of indirect jobs created was 150 (245 and 260 respectively in the 2000 Decision).
- (36) In their letter of 13 January 2005, the French authorities explained that the business tax exemption had originally been underestimated. It now came to EUR 6,28 million, of which EUR 2,14 million had already been paid by the French State (being part of the EUR 17,89 million in State aid already disbursed). This sum corresponded to the amount of aid before tax and was therefore expressed as gross grant equivalent (GGE).
- (37) The outstanding EUR 4,14 million business tax exemption forms part of the EUR 5,19 million still remaining to be paid to the project by the French State, this being the last instalment for which prior Commission authorisation is needed in accordance with point 6.2 of the 1998 MSF and the 2000 Decision, which provide that the final significant payment of the aid (e.g. 25 %) may be made only when the French authorities are satisfied that execution of the investment project by the companies is in compliance with the Commission Decision.
- (38) France has explained that the difference compared with the aid amount notified in 2000 is due to an upward adjustment to the original estimate of the business tax exemption.
- (39) The aid total is now said to come to EUR 23,09 million in nominal terms (EUR 14,65 million at net present value). The intensity of the aid to the Pilkington/Interpane project is therefore said to be $14,65/149,97 = 9,77\%$ net grant equivalent (NGE). According to France, this aid intensity is lower than the maximum allowable intensity recalculated to take account of the changes in the project's parameters (9,82 % on the basis of the 1998 MSF).

3.2. Grounds for opening the procedure

- (40) The new information furnished by the French authorities gives rise to a new maximum allowable aid intensity⁽¹⁾. The Commission is of the opinion, therefore, that it is not sufficient to amend the 2000 Decision by way of a

corrigendum as in the case of typographical errors. In reality, the 2000 Decision was based on incorrect information provided by the French authorities.

- (41) Consequently, the Commission must revoke the 2000 Decision in accordance with Article 9 of the Procedural Regulation, which states that 'the Commission may revoke a decision ..., after having given the Member State concerned the opportunity to submit its comments, where the decision was based on incorrect information provided during the procedure which was a determining factor for the decision. Before revoking a decision and taking a new decision, the Commission shall open the formal investigation procedure pursuant to Article 4(4)'.
- (42) In their e-mail of 16 March 2006, the French authorities argued that the elements to be taken into account from both an industrial and an aid standpoint did not entail any substantial overturning of the broad logic of the 2000 Decision and that a new decision on the matter would have a limited impact on how it turned out. In the same e-mail, they stated that they accepted the procedure as set out in Article 9 of the Procedural Regulation, which requires the Commission, after opening the formal investigation procedure provided for in Article 88(2) of the EC Treaty, to first revoke the 2000 Decision and then take a new decision replacing it in the light of the corrected information provided.

4. COMMENTS FROM INTERESTED PARTIES

- (43) The Commission did not receive any comments from interested parties.

5. COMMENTS FROM FRANCE

5.1. E-mail of 2 June 2006

- (44) France submitted comments on the decision to open the procedure by e-mail dated 2 June 2006.
- (45) It explained that the Commission had been informed of changes to the industrial project in the light of altered market conditions, and also of changes in the original aid estimate. The data relating to the industrial project itself, on the one hand, and those relating to the aid, on the other, had been set out in a letter from France dated 13 January 2005. France argued, however, that none of these changes altered the general thrust of the 2000 Decision, and the aid granted to the two companies complied with the maximum intensity authorised by the 1998 MSF.

⁽¹⁾ Calculated on the basis of point 3.10 of the 1998 MSF.

- (46) When the 2000 Decision monitoring reports were being drawn up, the French authorities had taken the opportunity to review all the information on which the decision was based. During that review, the French authorities had discovered that two elements in relation to the aid affected the information originally transmitted to the Commission, namely:

— the estimate of the business tax exemption needed to be revised,

— the method of calculating the net grant equivalent also needed revising to take account of the actual investment allocation (land, buildings and equipment) and of the impact of taxation on all the aid — something which had not been done when the aid was notified.

- (47) There was no particular connection between the two changes. Taken together, though, they altered both the nominal amount of the aid and its net grant equivalent.

- (48) In 2000, when the project support file was being compiled, the business tax exemption scheme applied to a basis consisting of the rental value of any tangible fixed assets (land, buildings, fixtures and fittings, physical equipment, furniture, etc.) and a portion of the amount of any wages and fees paid. As from 2003, a reform of the business tax arrangements meant that wages were no longer included in the tax basis. Since then, the business tax has been based solely on fixed assets.

- (49) France explained that the business tax exemption had originally been the subject of a clerical error following the calculation of the various hypotheses as to the timetable for implementing the industrial project. The original estimate had not been corrected until 2005 owing, firstly, to the fact that various departments were involved in compiling and administering the file and, secondly, to the time delay in the effect of the exemption. The checks carried out had induced the French authorities to inform the Commission of the re-evaluation of the original estimate in 2005.

5.2. Subsequent information

- (50) By letter dated 12 September 2007, the Commission requested additional information in order to clarify the details of the project and of the calculation of the aid granted. After several requests for extension of the time limit for submitting the information requested, France submitted a partial reply by letter dated 21 December 2007. In this letter, France confirmed that the project completed in March 2005 was indeed the project originally planned at the time of the notification.

- (51) The missing information was submitted, after further extensions of the time limit, by e-mail dated 30 May 2008. Other additional information was submitted by e-mails dated 16 and 19 September and 24 October 2008. This information was derived from calculations based on final project data on investments and jobs created. The aid linked to job creation had been recalculated from 2006 to allow for fewer jobs being created than planned.

- (52) In the light of all these new elements, the level of aid granted is lower than what was planned in 2000 and in 2005. The eligible costs of the project come to EUR 158,5 million (EUR 150,165 million at net present value). The total amount of aid granted is EUR 17 106 280 (EUR 12 985 610 at net present value), corresponding to an aid intensity of 8,65 % NGE.

- (53) The (nominal) amount of the final aid instalment, which ought not to be paid until after the Commission has given its authorisation⁽¹⁾, comes to EUR 4 276 570. France has informed the Commission, however, that 4/5 of this amount has already been disbursed and that the balance comes to EUR 727 389 (in nominal terms). France thus acknowledges having anticipated payment of the final instalment of 25 % of the aid, but this was due to errors in calculating the business tax exemption. The French authorities assert that at no time have they sought to usurp the Commission's prerogatives.

⁽¹⁾ In accordance with point 6 of the 1998 MSF.

- (54) In view of the changes (fewer jobs created than planned), some of the planned aid has had to be revised downwards. Pilkington even had to repay in September 2007 an overpayment under the PAT of EUR 146 430. The revised aid granted under the three measures at issue now comes to: EUR 993 968 under the PAT (of which EUR 34 561 still has to be paid), EUR 1 532 765 under the FIL ⁽¹⁾ (aid linked to the PAT, of which EUR 399 851 still has to be paid) and EUR 694 426 under the FIBM ⁽²⁾ (part of the aid for real estate development, of which EUR 64 304 still has to be paid). To the total of EUR 498 716 still to be paid, there must be added EUR 228 673 of aid from the Conseil Général, which brings to EUR 727 389 the amount to be taken into account pending the Commission's Decision authorising payment of the final instalment.
- (55) France explains that only PGF enjoyed business tax exemption in respect of its Seingbouse establishment during the period 2001-05 (IGCF did not enjoy such exemption during that period).
- (56) The aid which PGF received by way of the exemption provided for in Article 1465 of the General Tax Code is equal to the difference between the tax actually paid by the company and the tax it would have paid had there been no exemption, the amounts taken into account being the net amounts after application, where appropriate, of the value-added ceiling ⁽³⁾. The amount in question comes to EUR 986 170 (business tax exemption granted to PGF's Seingbouse establishment for the years 2001 to 2005).
- (57) The French authorities state that they cannot explain the error made in 2005 in respect of the amount then over-estimated otherwise than by the existence of a misunderstanding between two government departments over the nature of the information to be produced within the framework of the annual report and, it would appear, of confusion between the relief stemming from the ceiling (general measure) and the exemption (aid measure).
- (58) France has recalculated the net grant equivalent for the aid elements taken both together and separately, using the current discount rate of 5,70 %. Each of the aid elements (apart from the aid for the land, which is not subject to tax) has been apportioned between buildings (19,24 %) and equipment (78,82 %). This apportionment is based once more on the reality of the investment on the ground, whereas at the time of the notification the calculation was made using a standard distribution of the aid basis (5 % land, 50 % buildings, 45 % equipment). Next, the annual integrated share of the aid is calculated, for each of the aid elements, on the basis of the depreciation period (20 years for the building and seven years for the equipment). The results of these calculations are set out in the table below:

Table 3

Aid measure	Aid amount (in EUR, nominal value)	Aid amount (in EUR, NGE)
PAT (and FIL)	2 526 740	1 623 160
ERDF	2 667 570	1 761 250
Aid for land purchase	2 816 000	2 816 000
Real estate development	7 974 690	6 100 300
— of which Conseil régional	2 988 100	1 983 190
— of which Conseil général	1 753 160	1 126 820
— of which District	2 539 000	2 539 000
— of which State (FIBM)	694 430	451 290
Business tax exemption	986 170	593 730
SOFIREM	135 110	91 170
Total	17 106 280	12 985 610
Aid intensity	10,79 %	8,65 %

⁽¹⁾ Fonds d'Industrialisation de la Lorraine.

⁽²⁾ Fonds d'Industrialisation des Bassins Miniers.

⁽³⁾ The General Tax Code provides for a ceiling on business tax on the basis of value added. The provision is a general one and cannot be considered State aid (Article 1 647 B *sexies* of the General Tax Code).

6. ASSESSMENT

6.1. Preliminary remarks

(59) On 17 August 2000, the Commission approved the intensity of the aid for Pilkington/Interpane as notified by France on 22 May 2000. Subsequently, France pointed out to the Commission that incorrect information had been furnished in the original notification and, insofar as that information constituted a decisive factor for the decision, the Commission decided on 26 April 2006 to open the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid at issue with a view to revoking the 2000 Decision and adopting a new decision.

(60) The 2000 Decision contains a full assessment of the notification. The assessment in the 2000 Decision is reproduced in the present Decision with the exception of the elements that must be corrected in the light of the information submitted by France on 13 January 2005, which formed the subject matter of the opening decision of 26 April 2006, and of the information subsequently submitted to the Commission.

6.1.1. Applicable guidelines

(61) France notified the aid for PGF/IGCF by letter dated 22 May 2000, registered as received on 25 May 2000. Footnote 58 of the Guidelines on national regional aid for 2007-2013 ⁽¹⁾ states that 'Individually notifiable investment projects will be assessed in accordance with the rules in force at the time of notification'. Consequently, the Commission considers that the present project falls within the scope of the 1998 MSF and must be examined in the light of that framework.

6.1.2. Relevant facts

(62) The present assessment reflects the facts and situations as they existed at the time of notification, i.e. 22 May 2000.

(63) The Commission must adopt a decision on the basis of *ex-ante* estimates of future prospects and market shares. Aid intensities are not adjusted subsequently if several years later — *ex post* — the figures show that the

market, for example, has evolved differently from what was originally expected. Although in the present case the Commission is having to take a decision eight years after the original notification, it must nevertheless base its assessment on the facts and situations as they existed at the time of notification.

(64) In calculating the maximum aid intensity, the Commission will take account, however, of the new information submitted by France. France has reduced the aid granted to take account of the actual number of jobs created by the investment (revised downwards compared with the data contained in the notification) and to rectify an error in the calculation of the amount of the business tax exemption as notified in 2000.

6.2. The formation of joint ventures considered in the light of Article 81(3) of the EC Treaty

(65) First of all it should be observed that, whilst the procedure laid down in Articles 87 and 88 leaves a wide discretion to the Commission and, in certain conditions, to the Council to come to a decision regarding the compatibility of a system of aids granted by States with the requirements of the common market, it is clear from the general plan of the Treaty that that procedure must never produce a result which is contrary to the specific provisions of the Treaty ⁽²⁾.

(66) The Court of Justice has also held that those aspects of aid which contravene specific provisions of the Treaty other than Articles 87 and 88 may be so indissolubly linked to the object of the aid that it is impossible to evaluate them separately ⁽³⁾.

(67) This obligation on the part of the Commission to ensure that Articles 87 and 88 are applied consistently with other provisions of the Treaty is all the more necessary where those other provisions also pursue, as in the present case, the objective of undistorted competition in the common market. When adopting a decision on the compatibility of aid with the common market, the Commission must be aware of the risk of individual traders undermining competition in the common market.

⁽¹⁾ OJ C 54, 4.3.2006, p. 13.

⁽²⁾ Case 73/79 *Commission v Italy* [1980] ECR 1533, paragraph 11.

⁽³⁾ Case 74/76 *Iannelli & Volpi v Meroni* [1977] ECR 557, paragraph 14.

(68) Nevertheless, the procedure under Articles 81 *et seq.* and that under Articles 87 *et seq.* of the Treaty are independent procedures governed by specific rules.

(69) Consequently, when taking a decision on the compatibility of State aid with the common market, the Commission is not obliged to await the outcome of a parallel procedure initiated under Regulation No 17, once, in the exercise of its discretion, it has reached the conclusion, based on an economic analysis of the situation, that the recipient of the aid is not in breach of Articles 81 and 82 of the Treaty.

(70) In the light of the facts described in point 3.1.2 above, and having regard to the abovementioned case law of the Court of Justice, the Commission considers that there is no obstacle to authorising the aid planned for PGF/IGCF.

6.3. Existence of aid within the meaning of Article 87(1) of the EC Treaty

(71) The aid at issue has been granted by a Member State through State resources within the meaning of Article 87(1) of the EC Treaty (see point 2.3 of this Decision). The aid confers an advantage on PGF/IGCF without which the companies would have had to bear all the investment costs on their own. Insofar as a substantial volume of raw glass is transported across national borders, international trade takes place in the raw glass market. Consequently, the financial advantages conferred on the companies may distort competition and affect trade between Member States. In its assessment, the Commission therefore considers that the notified measure constitutes State aid within the meaning of Article 87(1) of the EC Treaty.

6.4. Notification requirement

(72) Since the three cumulative conditions laid down in point 2.1(i) of the 1998 MSF are met, the aid proposal must be notified and the maximum allowable aid intensity must be determined in accordance with the 1998 MSF. Ad hoc aid must, moreover, be notified to the Commission under Article 88(3) of the EC Treaty.

6.5. Legal basis of certain aid measures

(73) Part of the aid is being granted on the basis of regional investment aid schemes approved by the Commission and in force at the time the aid was notified (see point 2.3 of this Decision), while another part is being granted as ad hoc aid.

(74) As regards aid granted under the ERDF, Article 25 of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds ⁽¹⁾ provides that those Funds may finance expenditure in respect of major economic projects the cost of which exceeds EUR 50 million. The ERDF can thus supplement national measures such as the PAT and assistance towards business premises where the single programming documents (DOCUP) of the region concerned so provide. The Freyming-Merlebach area is included in the French map for Objective 2 'Economic and social conversion of areas facing structural difficulties' approved by the Commission on 16 January 2000.

(75) The possibility of ad hoc aid for purchasing land and buildings is open by law to regional and local authorities in regionally aided areas.

(76) By letter dated 30 June 2000 (A/35411), the French authorities provided a breakdown of the calculation of the amount of business tax exemption showing that, in the present case, the cost of the investments and the cost of the permanent jobs created had been taken as a basis for calculating the exemption. However, in 2003, a reform of business tax law led to wages being removed from the tax basis. Since then, business tax has been based solely on fixed assets. Consequently, the aid can be considered investment aid within the meaning of the 1998 Guidelines on national regional aid.

(77) The award of ad hoc aid to businesses is conditional on their committing themselves to maintaining the aided jobs and investment in the area for at least five years.

(78) The Commission's examination in the present proceeding is limited to assessing the compatibility of the notified aid intensity of 8,65 % according to the criteria of the 1998 MSF.

⁽¹⁾ OJ L 161, 26.6.1999, p. 1.

6.6. Assessment under the 1998 MSF

(79) The maximum allowable aid intensity for projects under the 1998 MSF must be determined on the basis of the maximum intensity rate applicable to regional aid in the assisted area in question at the time the aid was notified.

(80) The Commission considers that the new elements do not call into question its overall assessment of the market and its evolution as set out in its 2000 Decision.

(81) The Commission would recall that none of the companies taking part in the project at issue held, at the time the project was notified, a high market share within the meaning of point 3.6 of the 1998 MSF.

6.6.1. The relevant product and market

(82) Float glass can be used to make windows for buildings and for motor vehicles. The plant forming the subject-matter of the notification is configured to produce glass for the building industry. The product and market definitions contained in the 2000 Decision have been neither called into question nor modified and did not form part of the decision of 26 April 2006 to open the procedure. The assessment that follows is therefore reproduced from the 2000 Decision.

The product

(83) Raw float glass is produced by floating a continuous stream of molten glass onto a bath of molten tin in an atmosphere of nitrogen (so-called float glass process developed by Pilkington in the 1960s).

(84) Coated glass is a basic glass which has undergone a surface treatment or coating (applied under vacuum using an electromagnetic process⁽¹⁾) designed to eliminate reflections or ensure thermal insulation. It is thus possible to obtain a thermo-regulating glass (low-emission, or 'low-E', glass: Iplus brand for Interpane) or a solar control glass (sunlight-reflective glass: Iplusol brand

for Interpane). It is planned to produce 90 % of low-emission glass and 10 % of sunlight-reflective glass of a thickness of either 4,6 mm or 8 mm.

(85) Laminated glass is a type of safety glass composed of two or more panes of glass with PVB (polyvinyl butyral) or resin film in between⁽²⁾.

(86) First-stage-processed raw float glass and coated glass are listed together in the statistical nomenclature under codes:

— CN 7005: Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked,

— NACE 26.1.A: Manufacture of flat glass.

(87) Unworked float glass is used in the building and automotive industries. According to the GEPVP, 80 % of European float glass production is intended for the building industry. The investors will manufacture only glass for buildings at the Freyming-Merlebach site. A special feature of this type of production is that the manufacturing plant works to order (for batch sizes and the thickness and other specifications of the glass) on small production runs.

(88) The products resulting from the first-stage processing of raw float glass are intermediate goods used in the manufacture of safety glass (statistical code CN 7007 — consisting of toughened (tempered) or laminated glass) and of multiple-walled insulating units of glass for the building industry (statistical code CN 7008 — consisting of at least two panes of glass separated by one or more hermetically sealed spaces enclosing dehydrated air and/or other gases). Glass insulating units are made mostly from coated glass.

⁽¹⁾ The process used is the 'magnetron' process whereby the raw glass is treated on a separate production line. There exists another process, the pyrolytic treatment process (pulverisation), which makes it possible to treat the glass directly on the float line.

⁽²⁾ All definitions have been taken from the work *L'industrie du verre* by the Secrétariat d'Etat à l'industrie, Service des Etudes et des Statistiques Industrielles (SESSI), 1999.

(89) The companies will also produce laminated glass for the building industry at the Lorraine plant. This product is listed for statistical purposes under CN heading 7007 29 00 — Laminated safety glass — Other. The other types of laminated glass included under this heading are used in the automotive industry, which is the leading consumer of laminated glass manufactured in Europe (windscreens).

(90) Float glass can be used to make windows for buildings and for motor vehicles. The Commission notes that, in keeping with the investors' wishes to satisfy the increasing demand for glass for building construction, the Freyming-Merlebach plant is configured to produce glass for the building industry. This speciality now represents the totality of Interpane's business. The group has no capacity for processing primary glass into car windows, nor has it any commercial relations with motor manufacturers. The coated glass produced at the new plant will have properties that are useful for buildings only⁽¹⁾. The laminated glass will likewise be used to make safety glass for buildings. Consequently, the investors' decision to manufacture only glass for the building industry at Freyming-Merlebach would appear to be irreversible.

(91) In the light of the above, and with a view to comparing market trends, the Commission considers that a distinction must be drawn between the trend in raw float glass and the trend in intermediate products such as laminated glass or coated glass which undergo subsequent treatment for final use as architectural or building glass. This distinction is consistent with the Commission's analysis of the relevant market in the context of the abovementioned agreements on the formation of two joint ventures, where a distinction is made between the raw float glass market as such and the final use of the various types of glass (including laminated and coated glasses) as architectural or building glass.

Geographic scope

(92) The geographic market comprises in principle the EEA or, where appropriate, any substantial part of the territory of the EEA if the conditions of competition are appreciably different there from those prevailing in the rest of the EEA.

⁽¹⁾ Standards and requirements in terms of solar and thermal reflectivity are different in the automotive industry.

(93) In the present case, no evidence to show that the relevant geographic market is different from the EEA emerged during the investigation. The relevant geographic market must therefore be defined as the EEA.

Market trends

(94) The Commission is not disposed to accept the data enclosed with the notification showing a high rate of utilisation of production capacity. The data were supplied by the glass industry (GEPVP)⁽²⁾ and correspond to what the industry calls 'saleable capacities'⁽³⁾. This calculation method may be useful to the industry, but it makes it hard to compare the capacity utilisation data with those available for other industrial sectors.

(95) Consequently, the Commission based its analysis in its 2000 Decision on the evolution of apparent consumption.

(96) The notification included volume data on the evolution of apparent consumption of float glass (CN 7005) during the period 1993-98.

(97) The results show a fall in price levels⁽⁴⁾. Such a fall, together with a volume growth rate of 4,89 %, points to average growth being below the annual average of 5,78 % for EEA manufacturing industry as a whole, which suggests that the market is in decline within the meaning of the 1998 MSF.

(98) The Commission considers however — as indicated above — that a distinction must be drawn between the trend in raw float glass and the trend in intermediate products such as laminated glass or coated glass which undergo subsequent treatment for final use as architectural or building glass.

⁽²⁾ European Flat-Glass Producers Association.

⁽³⁾ Saleable capacities are calculated from the nominal melt capacity corrected for losses (approximately 15 % of the float glass produced is lost during the manufacturing process) and for furnace stoppages to change the glass colour and thickness and to carry out major periodic repairs.

⁽⁴⁾ EUR 366,9/t in 1993 and EUR 338,19/t in 1995, peaking in 1995.

(99) The Commission notes in particular that prices of sealed units (CN 7008) ⁽¹⁾ increased substantially during the period 1993-98. The increases were due to the introduction of new European standards concerning the use of insulating materials in building and to the long-term trend in the industry towards using insulating products and materials.

(100) The Commission notes also that the average growth in consumption of insulating products (including insulating glass for building) will experience a strong upward trend owing to the stricter carbon emission controls following the adoption of the Kyoto Protocol to the 1997 United Nations Framework Convention on Climate Change. In the residential and building sector, thermal insulation is an effective technology in terms of energy saving and hence in terms of carbon emissions reduction. Implementation of the new standards for insulation types (ISO 10456) and for heat loss (ISO 832) will entail higher heat loss values which will lead to an increased need for energy savings.

(101) Consequently, in line with the analysis in the Commission Decision in the *Rockwool* case ⁽²⁾, the strong upward trend shown by intermediate glass products which undergo subsequent treatment for final use as architectural or building glass points to the conclusion that the market is not in decline ⁽³⁾.

(102) To conclude, a different trend is found to exist in the case of (i) raw float glass and (ii) intermediate glass products which undergo subsequent treatment for final use as architectural or building glass (such as laminated glass or coated glass): as regards (i), the Commission considers that the market is in decline within the meaning of the multisectoral framework; as regards (ii), the market is not in decline.

Market shares

(103) Where a project results in a capacity expansion in a sector facing structural overcapacity and/or a declining market and is likely to reinforce high market share ⁽⁴⁾, there is a risk that the award of the maximum levels of

aid normally allowed in the region concerned will unduly distort competition. In such cases, the 1998 MSF provides for the application of an adjustment factor of 0,50.

(104) In the present case, the Commission has identified the raw float glass market as being a market in decline. None of the founders of the two joint ventures has a share of 40 % or more of this market.

6.6.2. Determination of the maximum allowable aid intensity

(105) In accordance with the provisions of the 1998 MSF, the Commission determines the maximum allowable intensity for a notified aid measure according to a formula which takes into account various factors. The calculation begins by identifying the maximum aid intensity (regional ceiling) which a large company may obtain in the assisted area concerned within the context of the authorised regional aid system valid at the moment of notification. In order to calculate the maximum allowable aid intensity for the project in question, a range of adjustment factors are then applied to the percentage obtained in accordance with three specific assessment criteria, namely: competition, the capital-labour ratio and regional impact.

Maximum aid intensity in the assisted area concerned (R)

(106) According to the applicable French regional aid map for the period 2000-06, the Freyming-Merlebach employment area is an assisted area within the meaning of Article 87(3)(c) of the EC Treaty in which the intensity of public investment aid can be as high as 15 % NGE.

The competition factor (T)

(107) The competition factor (points 3.2 to 3.6 of the 1998 MSF), as determined in the 2000 Decision, has been neither challenged nor amended and did not form part of the decision of 26 April 2006 to open the procedure. The assessment that follows is therefore reproduced from the 2000 Decision.

(108) The competition factor involves an analysis of whether the notified project will be implemented in a sector or subsector suffering from structural overcapacity.

⁽¹⁾ Multiple-walled insulating units of glass, consisting of one or more hermetically sealed spaces enclosing dehydrated air and/or other gases.

⁽²⁾ Commission Decision of 21 April 1999 in Case N 94/99 *Rockwool Peninsular SA*.

⁽³⁾ See point 7.8 of the 1998 MSF.

⁽⁴⁾ Put, for the purposes of the 1998 MSF, at least 40 %.

(109) In accordance with the provisions of the 1998 MSF (point 3.3), the potential existence of structural overcapacity is evaluated by considering the difference between the average capacity utilisation rate for manufacturing industry as a whole and the capacity utilisation rate of the relevant sector or subsector. In the absence of sufficient data on capacity utilisation, the Commission considers whether the investment is taking place in a declining market. For this purpose, it compares the evolution of apparent consumption of the product(s) in question with the growth rate of EEA manufacturing industry as a whole.

(110) As indicated above, the Commission is faced with an absence of reliable data on the sector concerned. It is therefore impossible to calculate capacity utilisation, or even apparent consumption, for this sector.

(111) On the basis of the market trend analysis, a factor of 0,75 must be applied to the part of the investment that is devoted to the production of raw float glass (CN 7005). For the part of the investment that relates to laminated or coated building glass falling under CN headings 7007 and 7008, a competition factor of 1 should be applied.

(112) The 1998 MSF does not envisage a situation in which two or more competition factors might be applied to a single investment for which a different market trend has been assessed for each relevant product. Insofar as, in the present case, the application of only one of the two factors to the whole investment would be not only disproportionate but also inaccurate, the Commission considers that the competition factor should be weighted so as to reflect the market trend for each relevant product.

(113) Inasmuch as the project consists in a fully integrated plant, it would be artificial to establish an adjustment factor calculated on the basis of the relative value of the investment in relation to each of the relevant products. The Commission has therefore used an adjustment factor (40/60) which is based on the respective capacities placed on the market by the aid recipient.

(114) This results in a factor T of 0,85 ⁽¹⁾, which represents the competition factor (1 and 0,75) in the two markets.

The capital-labour factor (I)

(115) The new information furnished by the French authorities gives rise to a new capital-labour coefficient. The amount of eligible investment is EUR 158,5 million. France has indicated that the number of direct jobs created will ultimately be 176. The capital-labour ratio is therefore 900. As this ratio is between 701 and 1 000, a factor I of 0,7 should be applied instead of 0,8 as originally provided (point 3.10(2) of the 1998 MSF).

The regional impact factor (M)

(116) The new information furnished by the French authorities gives rise to a new indirect jobs-direct jobs coefficient. France has indicated that the number of indirect jobs created is 150, equivalent to 85 % of the number of direct jobs. As this percentage is between 50 % and 100 %, a factor M of 1,1 should be applied instead of 1,2 as originally provided (point 3.10(3) of the 1998 MSF).

Calculation of the maximum allowable aid intensity

(117) In the light of the above, the revised maximum allowable intensity of the aid in the present case is therefore: $R \times T \times I \times M = 15 \% \times 0,85 \times 0,7 \times 1,1 = 9,82 \%$ (whereas it was 12,24 % in the 2000 Decision).

6.7. Conclusion on the compatibility of the aid granted

(118) In the light of all these new elements, the level of aid granted is lower than what was planned in 2000. The eligible costs of the project come to EUR 158,5 million (EUR 150,165 million at net present value).

(119) Basing themselves on the method described in Annex I to the 1998 Guidelines on national regional aid, the French authorities state that the result is an NGE of EUR 12 985 610 for a nominal aid amount of EUR 17 106 280.

⁽¹⁾ $(0,4 \times 1) + (0,6 \times 0,75)$.

(120) According to the French authorities, the intensity of the aid to the PGF/IGCF project therefore comes to 8,65 % NGE (12 985 610/150 165 000), which is lower than the maximum allowable intensity recalculated to take account of the changes in the project's parameters (9,82 % NGE).

(121) The notified aid intensity of 8,65 % NGE which France proposes to grant to PGF/IGCF fulfils the conditions for its being considered compatible with the 1998 MSF.

(122) Given that the investment project has been completed, there can be no application of the *ex-post* monitoring conditions provided for in point 6 of the 1998 MSF. France can therefore be authorised to pay the balance of the final aid instalment, namely EUR 727 389 (in nominal terms), to PGF/IGCF,

HAS ADOPTED THIS DECISION:

Article 1

The Decision adopted on 17 August 2000 in Case N 291/2000 is hereby revoked.

Article 2

The State aid which France plans to implement in favour of PGF/IGCF of an intensity of 8,65 % NGE is compatible with the common market within the meaning of Article 87(3)(c) of the EC Treaty.

Implementation of the aid is accordingly authorised.

France is authorised to pay the balance of the aid, namely EUR 727 389 (in nominal terms), to PGF/IGCF.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 10 December 2008.

For the Commission

Neelie KROES

Member of the Commission

COMMISSION DECISION**of 19 February 2009****on the appointment of the members and advisors of the Scientific Committees and the Pool set up
by Decision 2008/721/EC**

(2009/146/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Decision 2008/721/EC of 5 September 2008 setting up an advisory structure of Scientific Committees and experts in the field of consumer safety, public health and the environment and repealing Decision 2004/210/EC ⁽¹⁾, and in particular Articles 3 and 4 thereof,

Whereas:

- (1) By Decision 2008/721/EC the Commission has set up three scientific committees, on consumer safety (SCCS), on health and environmental risks (SCHER) and on emerging and newly identified health risks (SCENIHR) and a pool of scientific advisors on risk assessment (hereinafter the Pool), in the field of consumer safety, public health and the environment.
- (2) The SCCS, SCHER and SCENIHR shall each consist of a maximum of 17 members and the number of scientific advisors in the Pool at any time is decided by the Commission based on its need for scientific advice. In order to adequately cover the wide range of scientific issues on which it is planned to consult the scientific committees during their term of office, it is appropriate to fix at 17 the number of members of each scientific committee and to fix at 189 the number of scientific advisors of the Pool.
- (3) In accordance with Articles 3(4) and 4(2) of Decision 2008/721/EC a call for expression of interest was published which also set the selection criteria and the evaluation procedure, which led to lists of suitable

candidates from which the Commission appoints the members of the scientific committees and the scientific advisors of the Pool.

- (4) In accordance with Article 3(2) of Decision 2008/721/EC, the selection of the members of the Committees has been made on the basis of their expertise and consistent with this a geographical distribution that reflects the diversity of scientific problems and approaches, notably in Europe, and, in accordance with Article 4(1) of the same Decision, the selection of the advisors has been made taking into account the objective to cover the widest possible range of disciplines,

HAS DECIDED AS FOLLOWS:

Sole Article

The number of members of each of the three scientific committees set up by Decision 2008/721/EC is fixed at 17. The experts listed in Annex I to this Decision are appointed as members of those Committees.

The number of scientific advisors in the Pool is fixed at 189 and the experts listed in Annex II to this Decision are appointed as scientific advisors on risk assessment to the Pool set up by Decision 2008/721/EC.

Done at Brussels, 19 February 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

⁽¹⁾ OJ L 241, 10.9.2008, p. 21.

ANNEX I

List of experts appointed as members of the scientific committees

List in alphabetical order of the experts appointed as members of the scientific committees set up by Decision 2008/721/EC.

Scientific Committee on Consumer Safety

Last name	First name	Institute or organisation of affiliation
Angerer	Jürgen	Institute for Occupational and Environmental Medicine, Erlangen, Germany
Bernauer	Ulrike	Federal Institute for Risk Assessment (BfR), Berlin, Germany
Chambers	Claire	Chambers Toxicological Consulting, Wicklow, Ireland
Chaudhry	Mohammad	Central Science Laboratory, Sand Hutton, York, United Kingdom
Degen	Gisela	Leibniz Research Centre for Working Environment and Human Factors (IfADo), Dortmund, Germany
Eisenbrand	Gerhard	University of Kaiserslautern, Kaiserslautern, Germany
Galli	Corrado	University of Milan, Milan, Italy
Platzek	Thomas	Federal Institute for Risk Assessment (BfR), Berlin, Germany
Rastogi	Suresh	Retired
Rogiers	Vera	Vrije Universiteit Brussel, Brussels, Belgium
Rousselle	Christophe	French Agency for Environmental and Occupational Health Safety (Afsset), Maisons-Alfort, France
Sanner	Tore	Retired
Savolainen	Kai	Finnish Institute of Occupational Health, Helsinki, Finland
Van Engelen	Jacqueline	National Institute for Public Health and the Environment (RIVM), Bilthoven, the Netherlands
Vinardell	Maria	University of Barcelona, Barcelona, Spain
Waring	Rosemary	University of Birmingham, Edgbaston Birmingham, United Kingdom
White	Ian	Guy's & St Thomas' NHS Hospitals, London, United Kingdom

Scientific Committee on Health and Environmental Risks

Last name	First name	Institute or organisation of affiliation
Ackermann-Lieblich	Ursula	Swiss School of Public Health, Zürich, Switzerland
Autrup	Herman	University of Aarhus, Aarhus, Denmark
Bard	Denis	École des Hautes Études en Santé Publique (EHESP), Rennes, France
Calow	Peter	Roskilde University, Roskilde, Denmark
Canna-Michaelidou	Stella	State General Laboratory, Nicosia, Cyprus
Davison	John	French National Institute for Agricultural Research (INRA), Paris, France
Dekant	Wolfgang	University of Würzburg, Würzburg, Germany

Last name	First name	Institute or organisation of affiliation
De Voogt	Pim	University of Amsterdam, Amsterdam, the Netherlands
Gard	Arielle	University of Montpellier, Montpellier, France
Greim	Helmut	Retired
Hirvonen	Ari	Finnish Institute of Occupational Health, Helsinki, Finland
Janssen	Colin	Ghent University, Ghent, Belgium
Linders	Jan	National Institute for Public Health and the Environment (RIVM), Bilthoven, the Netherlands
Peterlin	Borut	University Medical Center Ljubljana, Ljubljana, Slovenia
Tarazona	Jose	Spanish National Institute for Agriculture and Food Research and Technology, Madrid, Spain
Testai	Emanuela	Istituto Superiore di Sanità, Rome, Italy
Vighi	Marco	University of Milano Bicocca, Milan, Italy

Scientific Committee on Emerging and Newly Identified Health Risks

Last name	First name	Institute or organisation of affiliation
Auvinen	Anssi	University of Tampere, Tampere, Finland
Bridges	James	Retired
Dawson	Kenneth	University College Dublin, Belfield, Ireland
De Jong	Wim	National Institute for Public Health and the Environment (RIVM), Bilthoven, the Netherlands
Hartemann	Philippe	Université Henri Poincaré, Nancy, France
Hoet	Peter	Katholieke Universiteit Leuven, Leuven, Belgium
Jung	Thomas	Paul Scherrer Institute, Villigen PSI, Switzerland
Mattsson	Mats-Olof	Örebro University, Örebro, Sweden
Norppa	Hannu	Finnish Institute of Occupational Health, Helsinki, Finland
Pagès	Jean-Marie	Inserm and Université de la Méditerranée, Marseille, France
Proykova	Ana	University of Sofia, Sofia, Bulgaria
Rodríguez-Farré	Eduardo	Consejo Superior de Investigaciones Científicas (CSIC), Madrid, Spain
Schulze-Osthoff	Klaus	University Clinics Tübingen, Tübingen, Germany
Schüz	Joachim	Danish Cancer Society, Institute of Cancer Epidemiology, Copenhagen, Denmark
Stahl	Dorothea	Paracelsus Private Medical University, Salzburg, Austria
Thomsen	Mogens	Retired
Vermeire	Theodorus	National Institute of Public Health and the Environment (RIVM), the Netherlands

ANNEX II

List of experts appointed as scientific advisors on risk assessment

List in alphabetical order of the experts appointed by the Commission as scientific advisors on risk assessment to the Pool set up by Decision 2008/721/EC.

Last name	First name	Institute or organisation of affiliation
Ahlers	Jan	Retired
Algorta	Jaime	Progenika Biopharma Group, Derio, Spain
Altenburger	Rolf	Helmholtz Centre for Environmental Research, Leipzig, Germany
Ambrogio	Nicoletta	Department of pharmaceutical assistance Local Public Health Unit 4, Terni, Italy
André	Jean-Claude	Centre national de la recherche scientifique (CNRS), Paris, France
Assmuth	Timo	Finnish Environment Institute (SYKE), Helsinki, Finland
Baars	Aalbert	Retired
Bailey	Andrew	Virusure GmbH, Vienna, Austria
Balicer	Ran	Clalit Health Services, Tel-Aviv, Israel
Bell	David	University of Nottingham, Nottingham, United Kingdom
Bernard	Alfred	Université catholique de Louvain (UCL), Louvain-la-Neuve, Belgium
Berry	Bernard	Berry Environmental Ltd, Shepperton, United Kingdom
Bommelaer	Jean	Laboratoire Shadeline France, Mouans-Sartoux, France
Boogaard	Pieter	Shell, The Hague, the Netherlands
Borrego	Carlos	University of Aveiro, Aveiro, Portugal
Breckenridge	Ross	University College London, London, United Kingdom
Broschard	Thomas	Merck KGaA, Darmstadt, Germany
Brunnhuber	Stefan	University of Essen, Essen, Germany
Bubenheim	Michael	University Hospital of Rouen, Rouen, France
Cabanes	Pierre-André	Électricité de France, Paris, France
Calvo Rojas	Gonzalo	Hospital Clinic i Provincial of Barcelona, Barcelona, Spain
Carroquino	Maria	Instituto de Salud Carlos III, Madrid, Spain
Cazals	Yves	Institut national de la santé et de la recherche médicale (Inserm), Paris, France
Colbeck	Ian	University of Essex, Colchester, United Kingdom
Coleman	Michael	Aston University, Birmingham, United Kingdom
Cooke	Allan Melvin	Alchemy Compliance Ltd, Nottinghamshire, United Kingdom
Cotrim	Teresa	Technical University of Lisbon, Lisbon, Portugal
Crawford-Brown	Douglas	Pell Frischmann, London, United Kingdom

Last name	First name	Institute or organisation of affiliation
Cuypers	Ann	Hasselt University, Diepenbeek, Belgium
Dal Negro	Gianni	GlaxoSmithKline, Verona, Italy
Darbre	Philippa	University of Reading, Reading, United Kingdom
De Gaetano	Giovanni	Catholic University, Campobasso, Italy
Del Mazo	Jesus	Consejo Superior de Investigaciones Cientificas (CSIC), Madrid, Spain
De Paepe	Boel	Ghent University Hospital, Ghent, Belgium
De Sutter	Petra	Ghent University, Ghent, Belgium
Di Guardo	Antonio	University of Insubria, Varese, Italy
Dorigan	Lee	Public Health – Seattle & King County, Seattle, US
Dreher	Jean-Claude	Centre national de la recherche scientifique (CNRS), Bron, France
Duffus	John	John H Duffus, Edinburgh, United Kingdom
Ellerbrok	Heinz	Robert-Koch-Institut, Berlin, Germany
Emmanouil-Nikoloussi	Elpida-Niki	Aristotle University of Thessaloniki (AUTH), Thessaloniki, Greece
Fernandes	Teresa	Napier University, Edinburgh, United Kingdom
Figueras	Maria	University Rovira I Virgili, Tarragona, Spain
Fillet	Anne-Marie	Électricité de France, Paris, France
Floc'h	François	ITEConsult, Genay, France
Fruijtier-Pölloth	Claudia	CATS Consultants GmbH, Gräfelfing, Germany
Fustinoni	Silvia	Fondazione IRCCS Ospedale Maggiore Policlinico Mangiagalli e Regina Elena, Milan, Italy
Galley-Taylor	Magdalen	Leicestershire County and Rutland Primary Care Trust, Enderby, United Kingdom
Garrigue	Jean-Luc	ImmunoSearch, Grasse, France
Gheber	Levi	Ben-Gurion University of the Negev, Beer-Sheva, Israel
Gibb	Herman	Tetra Tech Sciences, Arlington, US
Giménez-Arnau	Ana	Hospital del Mar. IMAS., Barcelona, Spain
Gjomarkaj	Mark	Consiglio Nazionale delle Ricerche, Rome, Italy
Goldberg	Michel	Retired
Gordts	Bart	Algemeen Ziekenhuis Sint-Jan, Bruges, Belgium
Górski	Andrzej	Warsaw Medical University/Polish Academy of Sciences, Warsaw, Poland
Grandjean	Philippe	University of Southern Denmark, Odense, Denmark
Greil	Gerald	King's College London, London, United Kingdom
Griem	Peter	Clariant Produkte (Deutschland) GmbH, Sulzbach, Germany

Last name	First name	Institute or organisation of affiliation
Gushulak	Brian	Government of Canada – Citizenship and Immigration Canada, Ottawa, Canada
Håkansson	Helen	Karolinska Institutet, Stockholm, Sweden
Hanke	Wojciech	Nofer Institute of Occupational Medicine (NIOM), Lodz, Poland
Harrison	Paul	PTCH Consultancy Limited, Market Harborough, United Kingdom
Hassenzahl	David	University of Nevada, Las Vegas, US
Hauptmann	Michael	Netherlands Cancer Institute, Amsterdam, the Netherlands
Hayward	Gordon	Consumer Risk Limited, London, United Kingdom
Heederik	Dirk	Utrecht University, Utrecht, the Netherlands
Hellebek	Annemarie	Hvidovre Hospital, Hvidovre, Denmark
Hensten	Arne	University of Tromsø, Tromsø, Norway
Hurley	John Fintan	Institute of Occupational Medicine, Edinburgh, United Kingdom
Jacobsen	Hans-Jörg	Leibniz University Hannover, Hannover, Germany
Jaźwiec-Kanyion	Bożena	Medical Center OMEGA, Sosnowiec, Poland
Jensen	Allan	Force Technology, Brøndby, Denmark
Jobling	Susan	Brunel University, Uxbridge, United Kingdom
Johansen	Jeanne Duus	Gentofte Hospital, Hellerup, Denmark
Kneuer	Carsten	Federal Institute for Risk Assessment (BfR), Berlin, Germany
Koennecker	Gustav	Fraunhofer Institute of Toxicology and Experimental Medicine (ITEM), Hannover, Germany
Komulainen	Hannu	National Public Health Institute, Helsinki, Finland
Koppe	Janna	Retired
Krätke	Renate	Federal Institute for Risk Assessment (BfR), Berlin, Germany
Kreyling	Wolfgang	Helmholtz Zentrum München, German Research Center for Environmental Health, Neuherberg/München, Germany
Kruize	Hanneke	National Institute for Public Health and the Environment (RIVM), Bilthoven, the Netherlands
Lambré	Claude	Institut national de la santé et de la recherche médicale (Inserm), Paris, France
Lambrozo	Jacques	Électricité de France, Paris, France
Landsiedel	Robert	BASF, Ludwigshafen, Germany
Latini	Giuseppe	Perrino Hospital, Brindisi, Italy
Laurent	Christian	Unemployed
Lebret	Erik	National Institute for Public Health and the Environment (RIVM), Bilthoven, the Netherlands
Lens	Piet	Unesco-IHE, Delft, the Netherlands

Last name	First name	Institute or organisation of affiliation
Lichtenbeld	Hera	NanoTox BV and Biomedbooster BV, Maastricht, the Netherlands
Lilienblum	Werner	LiCoTox (Lilienblum Consulting Toxicology), Hemmingen/Hannover, Germany
Liu	Qintao	AstraZeneca UK Ltd, Brixham, United Kingdom
Lopes	Isabel	University of Aveiro, Aveiro, Portugal
Luches	Armando	University of Salento, Lecce, Italy
MacPherson	Douglas	Faculty of Health Sciences, McMaster University, Hamilton, Ontario, Canada
Maillard	Jean-Yves	Welsh School of Pharmacy, Cardiff University, Cardiff, United Kingdom
Mamo	Julian	University of Malta, Msida, Malta
Mangelsdorf	Inge	Fraunhofer Institute of Toxicology and Experimental Medicine (ITEM), Hannover, Germany
Marti	Amelia	University of Navarra, Pamplona, Spain
Marti-Mestres	Gilberte	University of Montpellier I, Montpellier, France
Martínez Serrano	Alberto	Autonomous University of Madrid (UAM), Madrid, Spain
Melhus	Äsa	Uppsala University, Uppsala University Hospital, Uppsala, Sweden
Melissos	Dimitrios	QACS Ltd, Athens, Greece
Minor	Philip	National Institute for Biological Standards and Control, Blanche Lane, South Mimms, Potters Bar, United Kingdom
Mølhave	Lars	University of Aarhus, Århus, Denmark
Montanaro	Fabio	Fabio Montanaro, Genova, Italy
Moseley	Harry	University of Dundee Ninewells Hospital & Medical School, Dundee, United Kingdom
Moulin	Gérard	National agency for veterinary medicinal products, Fougères, France
Mühlemann	Marc	Agroscope Liebefeld-Posieux Research Station ALP, Berne, Switzerland
Mulon	Laurence	Mulon Conseil, Saint-Maurice, France
Navas	José	Spanish National Institute for Agricultural and Food Research and Technology, Madrid, Spain
Nemery de Bellevaux	Benoit	Katholieke Universiteit Leuven, Leuven, Belgium
Nielsen	Elsa	Technical University of Denmark, Søborg, Denmark
Nogueira	António	University of Aveiro, Aveiro, Portugal
Nohynek	Gerhard	L'Oreal Research and Development, Asnières, France
Nordberg	Monica	Karolinska Institutet, Stockholm, Sweden
Nübling	Claudius	Paul-Ehrlich-Institut, Langen, Germany
Nychas	George-John	Agricultural University of Athens, Athens, Greece

Last name	First name	Institute or organisation of affiliation
Pallapies	Dirk	Forschungsinstitut für Arbeitsmedizin der Deutschen Gesetzlichen Unfallversicherung (BGFA), Bochum, Germany
Papadopoulou	Chrissanthy	University of Ioannina, Ioannina, Greece
Pandiella	Atanasio	Consejo Superior de Investigaciones Científicas (CSIC), Madrid, Spain
Pauwels	Marleen	Vrije Universiteit Brussel, Brussels, Belgium
Peijnenburg	Willie	National Institute for Public Health and the Environment (RIVM), Bilthoven, the Netherlands
Peltonen	Kimmo	Finnish Food Safety Authority (Evira), Helsinki, Finland
Pereira	Ruth	University of Aveiro, Aveiro, Portugal
Petrova	Rumiana	Retired
Pickup	Roger	Natural Environment Research Council, Centre for Ecology and Hydrology, Bailrigg, United Kingdom
Pirnay	Jean-Paul	Queen Astrid Military Hospital, Brussels, Belgium
Pitard	Alexandre	Fédération des réseaux de santé de Franche-Comté, Besançon, France
Polettini	Aldo	University of Verona, Verona, Italy
Popov	Todor	Retired
Porzsolt	Franz	University of Ulm, Ulm, Germany
Pratt	Iona	Food Safety Authority of Ireland, Dublin, Ireland
Pukkala	Eero	Finnish Cancer Registry, Helsinki, Finland
Quesniaux	Valérie	Centre national de la recherche scientifique (CNRS), Paris, France
Ramsden	David	Retired
Richert	Susann	Industriepark Wolfgang GmbH, Hanau, Germany
Riese	Hans	Instituto de Salud Carlos III, Madrid, Spain
Robbins	Anthony	Retired
Ryffel	Bernhard	Centre national de la recherche scientifique (CNRS), Orléans, France
Sacile	Roberto	University of Genova, Genova, Italy
Sakellaris	George	National Hellenic Research Foundation (NHRF), Athens, Greece
Salifoglou	Athanasios	Aristotle University of Thessaloniki, Thessaloniki, Greece
Salman	Mo	Colorado State University, Colorado, US
Sans Menéndez	Susana	Institute of Health Studies – Generalitat of Catalonia, Barcelona, Spain
Santos-Sanches	Ilda	Universidade Nova de Lisboa, Lisbon, Portugal
Saravanane	Raman	Pondicherry Engineering College, Pondicherry, India
Schnekenburger	Jürgen	Westfälische Wilhelms-Universität, Münster, Germany
Schowaneck	Diederik	Procter & Gamble Eurocor, Strombeek-Bever, Belgium

Last name	First name	Institute or organisation of affiliation
Schulte	Stefan	BASF, Ludwigshafen, Germany
Scialli	Anthony	Tetra Tech Sciences, Arlington, US
Sharp	Stephen	Medical Research Council, Cambridge, United Kingdom
Simms	Ian	Health Protection Agency (HPA), London, United Kingdom
Simkó	Myrtil	Austrian Academy of Sciences, Institute of Technology Assessment, Vienna, Austria
Straif	Kurt	International Agency for Research on Cancer (IARC), Lyon, France
Stück	Wolfgang	Wolfgang Stück, Koblenz, Germany
Spindler	Per	University of Copenhagen, Copenhagen, Denmark
Suh Macintosh	Helen	Harvard School of Public Health, Boston, US
Sweet	Jeremy	Sweet Environmental Consultants, Cambridge, UK
Tchepe	Oxana	University of Aveiro, Aveiro, Portugal
Torok	Andrea	National Institute for Environmental Health, Budapest, Hungary
Torrence	Mary	Department of Agriculture – Agricultural Research Service, Beltsville, US
Trevisan	Marco	Università Cattolica del Sacro Cuore, Piacenza, Italy
Tribsch	Andreas	University of Salzburg, Salzburg, Austria
Tytgat	Jan	Katholieke Universiteit Leuven, Leuven, Belgium
Uter	Wolfgang	Friedrich-Alexander University (FAU), Erlangen, Germany
Vallaëys	Tatiana	University of Montpellier II, Montpellier, France
Van Beelen	Patrick	National Institute for Public Health and the Environment (RIVM), Bilthoven, the Netherlands
Van Benthem	Jan	National Institute for Public Health and the Environment (RIVM), Bilthoven, the Netherlands
Van De Meent	Dirk	National Institute for Public Health and the Environment (RIVM), Bilthoven, the Netherlands
Van Den Hazel	Peter	Public Health Services Gelderland Midden, Arnhem, the Netherlands
Van Der Laan	Jan Willem	National Institute for Public Health and the Environment (RIVM), Bilthoven, the Netherlands
Vanhaecke	Tamara	Vrije Universiteit Brussel, Brussels, Belgium
Van Rongen	Eric	Health Council of the Netherlands, The Hague, the Netherlands
Verbeken	Gilbert	Ministry of Defence, Brussels, Belgium
Viluksela	Matti	National Public Health Institute, Kuopio, Finland
Virtanen	Jorma	University of Helsinki, Helsinki, Finland
Voncina	Ernest	Institute of Public Health, Maribor, Slovenia
Von Stackelberg	Katherine	Harvard School of Public Health, Boston, US

Last name	First name	Institute or organisation of affiliation
Wallet	France	Électricité de France, Paris, France
Walochnik	Julia	Medical University of Vienna, Vienna, Austria
Wester	Piet	National Institute for Public Health and the Environment (RIVM), Bilthoven, the Netherlands
Widén	Frederik	Statens veterinärmedicinska anstalt, Uppsala, Sweden
Willing	Andreas	Cognis GmbH, Düsseldorf, Germany
Wu	Qinglan	Det Norske Veritas As, Høvik, Norway
Yang	Hong	US Food and Drug Administration, Rockville, Maryland, US
Yu	Il Je	Korea Environment & Merchandise Testing Institute, Incheon, Korea
Zappa	Giovanna	Italian National Agency for New Technology, Energy and the Environment (ENEA), Rome, Italy
Zouali	Moncef	Institut national de la santé et de la recherche médicale (Inserm), Paris, France

COMMISSION DECISION

of 19 February 2009

on a Community financial contribution for 2008 to cover expenditure incurred by Germany, the Netherlands and Slovenia for the purpose of combating organisms harmful to plants or plant products

(notified under document number C(2009) 1013)

(Only the Dutch, German and Slovenian texts are authentic)

(2009/147/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ⁽¹⁾, and in particular Article 23 thereof,

Whereas:

(1) Pursuant to Directive 2000/29/EC, a financial contribution from the Community may be granted to Member States to cover expenditure relating directly to the necessary measures which have been taken or are planned to be taken for the purpose of combating harmful organisms introduced from third countries or from other areas in the Community, in order to eradicate or, if that is not possible, to contain them.

(2) Germany, the Netherlands and Slovenia have each established a programme of actions to eradicate organisms harmful to plants introduced in their territories. These programmes specify the objectives to be achieved, the measures carried out, their duration and their cost. Germany, the Netherlands and Slovenia have applied for the allocation of a Community financial contribution to these programmes within the time limit set out in Directive 2000/29/EC and in accordance with Commission Regulation (EC) No 1040/2002 of 14 June 2002 establishing detailed rules for the implementation of the provisions relating to the allocation of a financial contribution from the Community for plant health control and repealing Regulation (EC) No 2051/97 ⁽²⁾.

(3) The technical information provided by Germany, the Netherlands and Slovenia has enabled the Commission to analyse the situation accurately and comprehensively and to conclude that the conditions for the granting of a Community financial contribution, as laid down in particular in Article 23 of Directive 2000/29/EC, have been met. Accordingly, it is appropriate to provide a Community financial contribution to cover the expenditure on these programmes.

(4) The Community financial contribution may cover up to 50 % of eligible expenditure. However, in accordance with Article 23(5) third paragraph of Directive 2000/29/EC, the rate of the Community financial contribution for part of the programme presented by the Netherlands for the control of *Diabrotica virgifera virgifera* Le Conte should be reduced as the programme notified by this Member State has already been the subject of Community funding under Commission Decision 2007/877/EC ⁽³⁾.

(5) In accordance with Article 24 of Directive 2000/29/EC the Commission shall ascertain whether the introduction of the relevant harmful organism has been caused by inadequate examinations or inspections and adopt the measures required by the findings from its verification.

(6) In accordance with Article 3(2)(a) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽⁴⁾, plant health measures are to be financed from the European Agricultural Guarantee Fund. For the purpose of financial control of these measures Articles 9, 36 and 37 of the above Regulation shall apply.

(7) The measures provided in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

⁽²⁾ OJ L 157, 15.6.2002, p. 38.

⁽³⁾ OJ L 344, 28.12.2007, p. 51.

⁽⁴⁾ OJ L 209, 11.8.2005, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

The allocation of a Community financial contribution for 2008 to cover expenditure incurred by Germany, the Netherlands and Slovenia relating to necessary measures as specified in Article 23(2) of Directive 2000/29/EC and taken for the purpose of combating the organisms concerned by the eradication programmes listed in the Annex is hereby approved.

Article 2

1. The total amount of the financial contribution referred to in Article 1 is EUR 871 953.

2. The maximum amounts of the Community financial contribution for each of the programmes shall be as indicated in the Annex.

Article 3

The Community financial contribution as set out in the Annex shall be paid on the following conditions:

(a) evidence of the measures taken has been given in accordance with the provisions laid down in Regulation (EC) No 1040/2002.

(b) a request for payment has been submitted by the Member State concerned to the Commission, in accordance with Article 5 of Regulation (EC) No 1040/2002.

The payment of the financial contribution is without prejudice to the verifications by the Commission under Article 24 of Directive 2000/29/EC.

Article 4

This Decision is addressed to the Federal Republic of Germany, the Kingdom of the Netherlands and the Republic of Slovenia.

Done at Brussels, 19 February 2009.

For the Commission

Androulla VASSILIOU

Member of the Commission

ANNEX

ERADICATION PROGRAMMES

Section I — Programmes whose Community financial contribution corresponds to 50 % of eligible expenditure

Member State	Harmful organisms combated	Affected plants	Year	Eligible expenditure (EUR)	Maximum Community contribution per programme (EUR)
Germany, Baden-Württemberg region	<i>Diabrotica virgifera</i>	<i>Zea mays</i>	2007	481 817	240 908
Germany, Bavaria region	<i>Diabrotica virgifera</i>	<i>Zea mays</i>	2007	197 319	98 659
Netherlands	<i>Diabrotica virgifera</i>	<i>Zea mays</i>	2006	125 320	62 660
Netherlands	PSTVd	<i>Brugmansia</i> spp., <i>Solanum jasminoides</i>	2006, 2007	687 606	343 803
Netherlands	TRSV	<i>Hemerocallis</i> spp., <i>Iris</i> spp.	2006	148 589	74 294
Slovenia	<i>Dryocosmus kuriphilus</i>	<i>Castanea</i> sp.	2007	41 307	20 653

Section II — Programmes whose Community financial contribution rates differ, in application of degressivity

Member State	Harmful organisms combated	Affected plants	Year	a	Eligible expenditure (EUR)	Rate (%)	Maximum Community contribution (EUR)
Netherlands	<i>Diabrotica virgifera</i>	<i>Zea mays</i>	2007	3	68 837	45	30 976

Total Community contribution (EUR)	871 953
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Legend:

a = Year of implementation of the eradication programme.

COMMISSION DECISION

of 19 February 2009

amending Decision 2008/883/EC as regards Brazil concerning the date for which imports into the Community of certain fresh bovine meat are authorised

(notified under document number C(2009) 1040)

(Text with EEA relevance)

(2009/148/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ⁽¹⁾, and in particular the introductory phrase of Article 8, the first subparagraph of Article 8(1) and Article 8(4) thereof,

Whereas:

(1) Council Decision 79/542/EEC of 21 December 1976 drawing up a list of third countries or parts of third countries, and laying down animal and public health and veterinary certification conditions, for importation into the Community of certain live animals and their fresh meat ⁽²⁾ establishes the sanitary conditions for the importation into the Community of live animals excluding equidae, and the importation of fresh meat of such animals, including equidae, but excluding meat preparations.

(2) Decision 79/542/EEC provides that imports of fresh meat intended for human consumption are only allowed if such meat comes from a territory of a third country or a part thereof listed in Part 1 of Annex II to that Decision, and the fresh meat meets the requirements set out in the appropriate veterinary certificate for that meat in accordance with the models set out in Part 2 of that Annex, taking into account any specific conditions or supplementary guarantees required for the meat.

(3) Decision 79/542/EEC, as amended by Commission Decision 2008/642/EC ⁽³⁾, *inter alia*, reinstated the States of Paraná and São Paulo in the entry for Brazil in Part 1 of Annex II to Decision 79/542/EEC, with code of territory BR-3 for the importation into the Community of bovine de-boned and matured meat from animals slaughtered on or after 1 August 2008.

(4) Decision 79/542/EEC, as amended by Commission Decision 2008/883/EC ⁽⁴⁾, further amended that Annex as regards the entry for Brazil with code of territory BR-1 in order to re-instate Mato Grosso do Sul and include the rest of the States of Minas Gerais and Mato Grosso in order to allow the importation into the Community of bovine de-boned and matured meat from animals slaughtered on or after 1 December 2008. However, Article 2 of Decision 2008/883/EC allows the importation into the Community of consignments of fresh de-boned and matured beef from the territory with code BR-1 as defined in Decision 2008/642/EC and obtained from animals slaughtered before 1 December 2008 until 14 January 2009.

(5) More time should be given to allow stocks of bovine meat from animals slaughtered on or before 1 December 2008 from the territory of Brazil with code BR-1 as set out in the entry for that country in Part 1 of Annex II to Decision 79/542/EEC, as amended by Decision 2008/642/EC, to continue to be able to be imported into the Community as there are no animal health concerns, being those territories already authorised before that date for import of fresh meat into the Community. Accordingly, Article 2 of Decision 2008/883/EC should be amended in order to allow such imports until 30 June 2009.

(6) Decision 2008/883/EC should therefore be amended accordingly.

(7) 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 18, 23.1.2003, p. 11.

⁽²⁾ OJ L 146, 14.6.1979, p. 15.

⁽³⁾ OJ L 207, 5.8.2008, p. 36.

⁽⁴⁾ OJ L 316, 26.11.2008, p. 14.

HAS ADOPTED THIS DECISION:

Article 1

In Decision 2008/883/EC, Article 2 is replaced by the following:

'Article 2

Consignments of fresh de-boned and matured bovine meat from the territory of Brazil with code BR-1, as set out in Part 1 of Annex II to Decision 79/542/EEC, as amended by Commission Decision 2008/642/EC (*), from animals slaughtered on or before 1 December 2008 may continue to be imported into the Community until 30 June 2009.

(*) OJ L 207, 5.8.2008, p. 36.'

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 19 February 2009.

For the Commission

Androulla VASSILIOU

Member of the Commission

CORRIGENDA

Corrigendum to Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A (I) to Directive 90/425/EEC

(Official Journal of the European Communities L 268 of 14 September 1992)

On page 62, Article 17(2):

for: '2. Only animals, semen, ova and embryos referred to in Article 1 which satisfy the following requirements may be imported into the Community:'.

read: '2. Only animals and semen, ova and embryos referred to in Article 11 which satisfy the following requirements may be imported into the Community:'.

Corrigendum to Council Regulation (EC) No 1167/2008 of 24 October 2008 amending and updating Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology

(Official Journal of the European Union L 325 of 3 December 2008)

On page 88, in the Annex, Category 2, in reference 2B006, b.1.c.2.:

for: '2. maintaining for at least 12 hours at a temperature of ± 20 °C all of the following:'.

read: '2. maintaining for at least 12 hours at a temperature of 20 ± 1 °C all of the following:'.

NOTE TO THE READER

The institutions have decided no longer to quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.