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## Legislation

### Contents

#### I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 154/2004 of 26 January 2004 on the conclusion of an Agreement in the form of an Exchange of Letters extending for the period 1 July 2003 to 30 June 2004 the validity of the Protocol setting fishing opportunities and a financial contribution as provided for in the Agreement between the European Economic Community and the Republic of Côte d'Ivoire on fishing off the coast of Côte d'Ivoire** ..... 1
- Commission Regulation (EC) No 155/2004 of 29 January 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables ..... 3
- ★ **Commission Regulation (EC) No 156/2004 of 29 January 2004 on the Community's financial assistance to the Community reference laboratories pursuant to Article 28 of Decision 90/424/EEC** ..... 5
- Commission Regulation (EC) No 157/2004 of 29 January 2004 fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty ..... 15
- Commission Regulation (EC) No 158/2004 of 29 January 2004 fixing the export refunds on products processed from cereals and rice ..... 18
- Commission Regulation (EC) No 159/2004 of 29 January 2004 fixing the export refunds on cereal-based compound feedingstuffs ..... 21
- Commission Regulation (EC) No 160/2004 of 29 January 2004 fixing the rates of the refunds applicable to certain cereal and rice-products exported in the form of goods not covered by Annex I to the Treaty ..... 23
- Commission Regulation (EC) No 161/2004 of 29 January 2004 fixing the production refund on white sugar used in the chemical industry ..... 27
- Commission Regulation (EC) No 162/2004 of 29 January 2004 on granting of import licences for cane sugar for the purposes of certain tariff quotas and preferential agreements ..... 28

Commission Regulation (EC) No 163/2004 of 29 January 2004 fixing the export refunds on rice and broken rice and suspending the issue of export licences .....	30
Commission Regulation (EC) No 164/2004 of 29 January 2004 fixing the export refunds on cereals and on wheat or rye flour, groats and meal .....	33
Commission Regulation (EC) No 165/2004 of 29 January 2004 fixing the corrective amount applicable to the refund on cereals .....	35
Commission Regulation (EC) No 166/2004 of 29 January 2004 fixing the export refunds on malt .....	37
Commission Regulation (EC) No 167/2004 of 29 January 2004 fixing the corrective amount applicable to the refund on malt .....	39
Commission Regulation (EC) No 168/2004 of 29 January 2004 concerning applications for export licences for rice and broken rice with advance fixing of the refund .....	41
Commission Regulation (EC) No 169/2004 of 29 January 2004 concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 1814/2003 .....	42
Commission Regulation (EC) No 170/2004 of 29 January 2004 concerning tenders notified in response to the invitation to tender for the import of maize issued in Regulation (EC) No 2315/2003 .....	43
★ <b>Council Directive 2004/7/EC of 20 January 2004 amending Directive 77/388/EEC concerning the common system of value added tax, as regards conferment of implementing powers and the procedure for adopting derogations .....</b>	<b>44</b>
★ <b>Commission Directive 2004/13/EC of 29 January 2004 amending Directive 2002/16/EC on the use of certain epoxy derivatives in materials and articles intended to come into contact with foodstuffs <sup>(1)</sup> .....</b>	<b>46</b>
★ <b>Commission Directive 2004/14/EC of 29 January 2004 amending Directive 93/10/EEC relating to materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs <sup>(1)</sup> .....</b>	<b>48</b>

---

## II Acts whose publication is not obligatory

### Commission

2004/92/EC:

- ★ **Commission Decision of 21 January 2004 on emergency measures regarding chilli and chilli products <sup>(1)</sup> (notified under document number C(2004) 68) .....**

2004/93/EC:

- ★ **Commission Decision of 29 January 2004 concerning protective measures in relation to avian influenza in certain Asian countries as regards the importation of birds other than poultry <sup>(1)</sup> (notified under document number C(2004) 257) .....**

## I

(Acts whose publication is obligatory)

# COUNCIL REGULATION (EC) No 154/2004

of 26 January 2004

**on the conclusion of an Agreement in the form of an Exchange of Letters extending for the period 1 July 2003 to 30 June 2004 the validity of the Protocol setting fishing opportunities and a financial contribution as provided for in the Agreement between the European Economic Community and the Republic of Côte d'Ivoire on fishing off the coast of Côte d'Ivoire**

THE COUNCIL OF THE EUROPEAN UNION,

HAD ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community, and in particular Article 37 in conjunction with Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Whereas:

- (1) Under the Agreement between the European Economic Community and the Republic of Côte d'Ivoire on fishing off the coast of Côte d'Ivoire <sup>(2)</sup>, before the period of validity of the Protocol annexed to the Agreement expires, the contracting parties are to negotiate in order to agree the content of the Protocol for the following period and any changes or additions to be made to the Annex.
- (2) Pending negotiations on changes to be made to the existing Protocol approved by Regulation (EC) No 722/2001 <sup>(3)</sup>, the two parties have decided to extend its validity for one year by means of an Agreement in the form of an Exchange of Letters.
- (3) It is in the Community's interest to approve this extension.
- (4) The allocation of fishing opportunities to the Member States should be confirmed,

## Article 1

The Agreement in the form of an Exchange of Letters extending for the period from 1 July 2003 to 30 June 2004 the validity of the Protocol setting fishing opportunities and a financial contribution as provided for in the Agreement between the European Economic Community and the Republic of Côte d'Ivoire on fishing off the coast of Côte d'Ivoire is hereby approved on behalf of the European Community.

The text of the Agreement in the form of an Exchange of Letters is attached to this Regulation <sup>(4)</sup>.

## Article 2

The fishing opportunities set out in the Protocol shall be allocated to Member States as follows:

- (a) demersal fishing:
  - Spain: 600 GRT per month (annual average);
- (b) tuna fishing:
  - (i) tuna seiners
    - France: 18 vessels,
    - Spain: 21 vessels;
  - (ii) surface longliners
    - Spain: 15 vessels,
    - Portugal: 5 vessels;
  - (iii) pole-and-line tuna vessels
    - France: 7 vessels,
    - Spain: 5 vessels.

If licence applications from these Member States do not exhaust the fishing opportunities set by the Protocol, the Commission may consider licence applications from any other Member State.

<sup>(1)</sup> Opinion delivered on 18 December 2003 (not yet published in Official Journal).

<sup>(2)</sup> OJ L 379, 31.12.1990, p. 3.

<sup>(3)</sup> OJ L 102, 12.4.2001, p. 1.

<sup>(4)</sup> OJ L 319, 4.12.2003, p. 19.

*Article 3*

Member States which have vessels fishing under the Agreement in the form of an Exchange of Letters shall notify the Commission, in the manner specified by Commission Regulation (EC) No 500/2001 <sup>(1)</sup>, of the quantities of each stock taken in the Côte d'Ivoire fishing zone.

*Article 4*

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

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

Done at Brussels, 26 January 2004.

*For the Council*

*The President*

B. COWEN

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<sup>(1)</sup> OJ L 73, 15.3.2001, p. 8.

**COMMISSION REGULATION (EC) No 155/2004**  
**of 29 January 2004**  
**establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables <sup>(1)</sup>, as last amended by Regulation (EC) No 1947/2002 <sup>(2)</sup>, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 30 January 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*  
J. M. SILVA RODRÍGUEZ  
*Agriculture Director-General*

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<sup>(1)</sup> OJ L 337, 24.12.1994, p. 66.

<sup>(2)</sup> OJ L 299, 1.11.2002, p. 17.

## ANNEX

**to the Commission Regulation of 29 January 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	052	87,7
	204	37,2
	212	127,9
	999	84,3
0707 00 05	052	138,3
	204	45,2
	999	91,8
0709 90 70	052	80,5
	204	54,7
	999	67,6
0805 10 10, 0805 10 30, 0805 10 50	052	47,1
	204	54,5
	212	48,2
	220	44,1
	448	32,8
	624	84,2
	999	51,8
0805 20 10	052	74,2
	204	89,3
	999	81,8
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	76,0
	204	74,2
	220	82,7
	464	82,6
	624	78,7
	662	38,0
	999	72,0
0805 50 10	052	73,0
	600	62,0
	999	67,5
0808 10 20, 0808 10 50, 0808 10 90	052	73,2
	060	55,3
	400	96,5
	404	87,2
	720	86,9
	999	79,8
0808 20 50	060	61,1
	388	108,6
	400	88,0
	528	81,9
	720	45,5
	999	77,0

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 156/2004****of 29 January 2004****on the Community's financial assistance to the Community reference laboratories pursuant to Article 28 of Decision 90/424/EEC**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field <sup>(1)</sup>, and in particular Article 28(2) thereof,

Whereas:

(1) The eligibility criteria for the expenditure of the Community reference laboratories receiving financial assistance pursuant to Article 28 of Decision 90/424/EEC and the procedures for the submission of expenditure and the conduct of audits were set out in Commission Regulation (EC) No 324/2003 <sup>(2)</sup>.

(2) Community reference laboratories (laboratories) carry out duties and requirements laid down in Community veterinary legislation in order to assist the Community

(3) The level of the annual Community financial assistance (financial assistance) for the operation of certain laboratories is decided upon each year by specific decisions in the field of veterinary public health, animal health and residues.

(4) The costs related to missions carried out by staff of the laboratories has currently to be financed by the laboratories from the beneficiary's overheads up to 7 % of total eligible costs for the action.

(5) Since those missions account for a growing proportion of the beneficiary's overheads and since certain mission expenses may be covered on the basis of a standard rate per day, a separate chapter should be created within the annual eligible expenditure of each laboratory.

(6) The costs and benefits of the workshops being considered, it is appropriate to restrict the number of eligible participants in workshops, of which only one should be invited per Member State. Derogations from that rule should be decided in duly justified cases and within the financial assistance granted for the organisation of the workshop.

(7) There is a need to clarify the rate to be used for the conversion of the payment applications submitted in national currency as defined in Council Regulation (EC) No 2799/98 establishing agrimonetary arrangements for the euro <sup>(3)</sup>.

(8) Rules should be laid down to harmonise the presentation of the provisional budget for laboratory expenditure in respect of activities carried out pursuant to Community veterinary legislation.

(9) Since a number of changes are to be made to Regulation (EC) No 324/2003, that Regulation should be replaced in the interest of clarity.

(10) A sound financial management justifies the application of the eligibility rules from the beginning of 2004 for the establishment of the eligible expenditures incurred during that year.

(11) For financial control purposes, Articles 8 and 9 of Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy are applicable <sup>(4)</sup>.

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

HAS ADOPTED THIS REGULATION:

*Article 1***Provisional budget**

The Community reference laboratories (laboratories) shall present before 1 October of each calendar year 'n' the provisional budget for laboratory expenditure in respect of Community activities for the calendar year 'n+1'.

The laboratories shall provide the provisional budget in computerised form in accordance with Annex I.

<sup>(1)</sup> OJ L 224, 18.8.1990, p. 19. Decision as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

<sup>(2)</sup> OJ L 47, 21.2.2003, p. 14.

<sup>(3)</sup> OJ L 349, 24.12.1998, p. 1.

<sup>(4)</sup> OJ L 160, 26.6.1999, p. 103.

*Article 2***Eligibility rules**

Within the limits of the annual Community financial assistance granted to the laboratories, the eligibility rules set out in Annex II shall apply to expenditure linked to staff, capital equipment, consumables, shipment of samples for the comparative tests, missions and overheads.

*Article 3***Payment of financial assistance for the operation of laboratories**

Provided that the approved work programmes are efficiently carried out and that the beneficiaries supply all the necessary information to the Commission within the time limits laid down in this Article, the financial assistance for the operation of the laboratory shall be paid as follows:

- (a) a pre-financing of 70 % of the total amount may be paid at the request of the beneficiary;
- (b) the balance shall be paid following presentation by the beneficiary of
  - (i) a financial report certified by the director of the laboratory,
  - (ii) supporting documents for the comparative tests, and
  - (iii) a technical report;
- (c) the certified financial report shall be submitted in accordance with Annex III and no later than 31 March of the year following the end of the period for which the financial assistance was granted;
- (d) when the time limit set out in point (c) is not respected, the financial assistance shall be reduced by 25 % on 1 May, 50 % on 1 June, 75 % on 1 July and 100 % on 1 September.

*Article 4***Eligibility rules for workshops**

1. Within the limits of the financial assistance granted for the organisation of a workshop, the eligibility rules set out in Annex IV shall apply to expenditure for travel and daily allowances for a maximum of 30 participants in workshops, of which at least one shall be invited per Member State.
2. Derogations from paragraph 1 may be decided in duly justified cases under the Decision on the annual Community financial assistance for the operation of certain laboratories.

*Article 5***Payment of Community financial assistance for the organisation of workshops**

Provided that the workshop has been efficiently organised and that all the necessary information is supplied to the Commission by the beneficiary within the time limits laid down in this Article, the financial assistance for the organisation of workshops shall be paid as follows:

- (a) a pre-financing of 70 % at the request of the beneficiary within 60 days before the fixed date of the workshop;
- (b) the balance shall be paid after acceptance by the Commission of the supporting documents and of a technical report on the use of the financial assistance;
- (c) the supporting documents shall be submitted in accordance with Annex V and no later than three months after the workshop took place;
- (d) when the time limit set out in point (c) is not respected, the financial assistance shall be reduced by 25 % for a delay of one month in relation to the scheduled date of submission of the documents, 50 % for two months, 75 % for three months and 100 % for four months.

*Article 6***Supporting documents**

1. The technical director of the laboratory shall keep a certified copy of the supporting documents, such as invoices, salary statements and attendance sheets, shipment of samples, missions.
2. The beneficiary shall record the expenditure submitted to the Commission in its cost accounting system and keep all supporting documents for five years for audit purposes.

The supporting documents, testifying to all the costs and hours spent as shown in the application for reimbursement, shall be sent to the Commission on request.

*Article 7***Conversion rate for applications in national currency**

The conversion rate for applications submitted in national currency in month 'n' shall be that of the 10th day of month 'n+1' or for the first preceding day for which a rate is quoted.

*Article 8***Audits**

The Commission may carry out audits in accordance with Article 9 of Regulation (EC) No 1258/1999.

*Article 9***Repeal**

Regulation (EC) No 324/2003 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.



*Article 10***Entry into force and applicability**

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

It shall apply from 1 January 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*

David BYRNE

*Member of the Commission*

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## ANNEX I

## (Article 1)

**PROVISIONAL BUDGET FOR LABORATORY EXPENDITURE IN RESPECT OF COMMUNITY  
ACTIVITIES FROM  
1 JANUARY TO 31 DECEMBER ...**

**Name and address of the Community reference laboratory:**

**Bank account to which the grant should be transferred:**

*Important:* All costs to be expressed in national currency exclusive of VAT

**1. STAFF**

CATEGORY <sup>(1)</sup>	STATUS <sup>(2)</sup>	GROSS MONTHLY SALARY <sup>(3)</sup>	TIME SPENT ON PROJECT <sup>(4)</sup>	TOTAL ELIGIBLE COSTS

*Percentage of the laboratory's overall budget: ...*

**2. CONSUMABLES**

DESCRIPTION BY TYPE <sup>(5)</sup>	COST

*Percentage of laboratory's overall budget: ...*

**3. CAPITAL EQUIPMENT**

	DESCRIPTION	COST/ VALUE	DATE OF PURCHASE OR RENTAL	% USE FOR PROJECT	ANNUAL DEPRECIATION COST
2.1	Equipment to be acquired and paid for during the period in question				
2.2	Equipment acquired before the period in question				

*Percentage of laboratory's overall budget: ...*

**4. COMPARATIVE TESTS**

DESCRIPTION	COST

<sup>(1)</sup> To be stated for each person allocated to the project: senior scientist, junior scientist, technician, etc.

<sup>(2)</sup> Official, contract staff, etc. – For contract staff state the dates on which the contract starts and ends.

<sup>(3)</sup> Actual gross monthly salary (do not use pay scales) including social and other charges appearing on the salary statement.

<sup>(4)</sup> Calculated on the minimum basis of 12 months or 1 600 hours/year.

<sup>(5)</sup> Examples: reagents, test animals, small laboratory supplies, etc.

**5. MISSIONS**

DESCRIPTION	TRAVEL	HOTEL	SUBSISTENCE	TOTAL

**6. OVERHEADS**

TOTAL EXPENDITURE (total items 1-5):	
OVERHEADS: 7 %:	
TOTAL OPERATING EXPENDITURE:	

**7. WORKSHOP**

	COST
PARTICIPANTS' TRAVEL EXPENSES:	
PARTICIPANTS' DAILY ALLOWANCES:	
TOTAL EXPENDITURE FOR WORKSHOP:	

**8. GRAND TOTAL**

OPERATING EXPENDITURE:	
EXPENDITURE FOR WORKSHOP:	
TOTAL EXPENDITURE OF THE LABORATORY:	

## ANNEX II

## (Article 2)

**Eligibility rules applicable to expenditure linked to staff, capital equipment, consumables, shipment of samples for the comparative tests, missions and to overheads**

## 1. Staff

Costs for staff, irrespective of status, are limited to actual wage costs effectively paid (remuneration, wages, social charges and pension costs) for scientific staff, post-graduates, technicians and administrative staff specifically allocated, entirely or in part, to Community tasks, as set out in the approved work programme.

All staff working time dedicated to Community tasks must be recorded and certified on a basis of minimum 12 months and 1 600 hours/year. This must be done at least once a month by the appointed project leader or a duly authorised senior member of the beneficiary's staff.

## 2. Capital equipment

Equipment purchased, leased or rented may be charged as a direct cost. The reimbursable amount for leased or rented equipment may not exceed the amount at which the equipment could have been purchased for the duration of the test. Reimbursable costs are to be calculated as follows:

$$\frac{A \times C \times D}{B}$$

A = period in months for which the equipment is to be used for the project, from the date of delivery. Eligibility shall be restricted to equipment actually paid for during the period covered by financial assistance.

B = depreciation period of 60 months (36 months in the case of computer equipment costing less than EUR 25 000).

C = cost of equipment without VAT.

D = percentage use of the equipment for the project.

Non-recoverable VAT paid by the beneficiary is to be regarded as eligible expenditure.

## 3. Consumables

Reimbursement is to be based on actual costs without VAT incurred during the period in question. The beneficiary must also indicate the percentage of the laboratory's total consumables budget accounted for by the different items.

All other expenditure on administration, business travel other than missions under point 5 and secretarial services are considered to be covered by 'overheads'.

## 4. Shipment of samples for comparative tests

On presentation of supporting documents, reimbursement is to be based on the actual costs without VAT of shipment of samples in connection with comparative tests.

## 5. Missions

Travel and subsistence costs incurred by the staff of the laboratories for missions integrated in the approved work programme are to be reimbursed up to a maximum of EUR 5 000. Subsistence and hotel costs shall not exceed the daily allowances and the ceilings for hotel costs applicable to Community staff.

## 6. Overheads

A flat-rate contribution of 7 % of actual reimbursable costs based on all the direct costs listed above (items 1 to 5) is to be made automatically.

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## ANNEX III

**CERTIFIED FINANCIAL REPORT (Article 3(c))**

From: .../.../... to .../.../...

Reference No of Decision:

Name and address of beneficiary:

Maximum annual Community financial assistance:

CATEGORY OF COSTS	AMOUNT FOR THE PERIOD (national currency)
1. STAFF	
2. CAPITAL EQUIPMENT	
3. CONSUMABLES	
4. COMPARATIVE TESTS	
5. MISSIONS	
Subtotal:	
6. OVERHEADS 7 %	
Total:	

*Certificate by the beneficiary*

We certify that

- the above costs were incurred in connection with the tasks defined in the Decision and were essential to the sound performance of those tasks,
- they are genuine costs falling within the reimbursable costs as defined in Regulation (EC) No 156/2004;
- all the documents supporting the costs are available for audit purposes.

Date:

Date:

Name of technical director:

Person financially responsible:

Signature:

Signature:

## BREAKDOWN BY CATEGORY (national currency)

## STAFF

Category	Monthly salary	Number of hours worked	Amount paid for staff

TOTAL:

## CAPITAL EQUIPMENT

Type	Date of delivery on rental	Cost or value	Date of payment	Depreciation over 36 or 60 months	Use in the project	Amount of depreciation

TOTAL:

## CONSUMABLES

Description	Date of payment	Amount

TOTAL:

Percentage of laboratory's total budget for consumable goods accounted for by these items:

## COMPARATIVE TESTS

Description	Date of payment	Amount

TOTAL:

## MISSIONS

DESCRIPTION	TRAVEL	HOTEL	SUBSISTENCE	TOTAL

## ANNEX IV

## (Article 4)

**ELIGIBILITY RULES WORKSHOP****1. Travel to the workshop venue**

Eligible expenses for travel by train are those corresponding to a first-class ticket by the shortest route.

Air travel reimbursement is based on economy class at the cheapest possible fare, taking account of the constraints of the journey. When the conditions of travel allow, reduced-rate fares (APEX, PEX, Excursion, etc.) are to be applied. However, if the journey is separated from a weekend by no more than 24 hours, additional daily subsistence allowances may be granted in order to qualify for a reduced-rate fare, provided this results in an overall saving (travel expenses + allowances).

If participants use their private car instead of travelling by air and/or train, travel expenses are to be reimbursed on the basis of the first-class rail fare by the shortest route, excluding any supplements and applying the cheapest fare. If two or more persons use the same car, only the owner of the car is to be entitled to reimbursement of travel expenses. Parking costs or tolls incurred in using a private car are not to be refunded. Participants using their private car remain fully liable for any accidents to their car or caused by their car to third parties. The workshop organiser cannot under any circumstances accept any requests for compensation, irrespective of the reasons for which participants used their private car.

Any negligence on the part of a participant (e.g. loss of vouchers), and its financial consequences, remains the participant's own responsibility.

**2. Allowances**

The following allowances applicable from 24 March 1999 (date of publication of Regulation (EC, ECSC, Euratom) No 620/1999, OJ L 78, 24.3.1999) are to be adjusted in line with the allowances in force on the date of the workshop. In justified cases, the daily allowance can be increased with the difference between the room cost (breakfast excluded) and 50 % of this daily allowance.

Country in which the workshop is organised	Daily allowance (in EUR)
Belgium	149,63
Denmark	179,28
Germany	127,10
Greece	113,19
Spain	141,30
France	130,29
Ireland	165,20
Italy	129,82
Luxembourg	143,48
Netherlands	147,69
Austria	121,81
Portugal	142,98
Finland	155,60
Sweden	156,54
United Kingdom	199,21

## ANNEX V

**SUPPORTING DOCUMENTS FOR WORKSHOPS (Article 5(c))**

Workshop on: .....

Date: .../.../200...

Reference No of Decision:

Name and address of beneficiary:

Maximum financial assistance:

PARTICIPANTS	TRAVEL			ALLOWANCES			TOTAL TRAVEL + ALLOWANCES
NAME	Rail, air or car	In national currency	Converted into EUR	Number of days	Daily allow- ance	Total in EUR	
<b>Total</b>							



## COMMISSION REGULATION (EC) No 157/2004

of 29 January 2004

## fixing the rates of the refunds applicable to certain 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 1255/1999 of 15 May 1999 on the common organisation of the market in milk and milk products <sup>(1)</sup>, as last amended by Regulation (EC) No 1787/2003 <sup>(2)</sup>, and in particular Article 31(3) thereof,

Whereas:

(1) Article 31(1) of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1(a), (b), (c), (d), (e), and (g) of that Regulation and prices within the Community may be covered by an export refund. Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and criteria for fixing the amount of such refunds <sup>(3)</sup>, as last amended by Regulation (EC) No 740/2003 <sup>(4)</sup>, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex II to Regulation (EC) No 1255/1999.

(2) In accordance with the first subparagraph of Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month.

(3) 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.

(4) Article 4(3) of Regulation (EC) No 1520/2000 provides that, when the rate of the refund is being fixed, account should be taken, where necessary, 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 market in the product in question to the basic products listed in Annex A to that Regulation or to assimilated products.

(5) Article 12(1) of Regulation (EC) No 1255/1999 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.

(6) Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice cream and other foodstuffs <sup>(5)</sup>, as last amended by Regulation (EC) No 635/2000 <sup>(6)</sup>, lays down that butter and cream at reduced prices should be made available to industries which manufacture certain goods.

(7) In accordance with Council Regulation (EC) No 1039/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Estonia and the exportation of certain agricultural products to Estonia <sup>(7)</sup>, Council Regulation (EC) No 1086/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Slovenia and the exportation of certain processed agricultural products to Slovenia <sup>(8)</sup>, Council Regulation (EC) No 1087/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Latvia and the exportation of certain processed agricultural products to Latvia <sup>(9)</sup>, Council Regulation (EC) No 1088/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Lithuania and the exportation of certain processed agricultural products to Lithuania <sup>(10)</sup>, Council Regulation (EC) No 1089/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Slovak Republic and the exportation of certain processed agricultural products to the Slovak Republic <sup>(11)</sup> and Council Regulation (EC) No 1090/2003

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 48.

<sup>(2)</sup> OJ L 270, 21.10.2003, p. 121.

<sup>(3)</sup> OJ L 177, 15.7.2000, p. 1.

<sup>(4)</sup> OJ L 106, 29.4.2003, p. 12.

<sup>(5)</sup> OJ L 350, 20.12.1997, p. 3.

<sup>(6)</sup> OJ L 76, 25.3.2000, p. 9.

<sup>(7)</sup> OJ L 151, 19.6.2003, p. 1.

<sup>(8)</sup> OJ L 163, 1.7.2003, p. 1.

<sup>(9)</sup> OJ L 163, 1.7.2003, p. 19.

<sup>(10)</sup> OJ L 163, 1.7.2003, p. 38.

<sup>(11)</sup> OJ L 163, 1.7.2003, p. 56.

of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Czech Republic and the exportation of certain processed agricultural products to the Czech Republic <sup>(1)</sup> with effect from 1 July 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Estonia, Slovenia, Latvia, Lithuania, Slovakia or Czech Republic are not eligible for export refunds.

(8) In accordance with Council Regulation (EC) No 999/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the import of certain processed agricultural products originating in Hungary and the export of certain processed agricultural products to Hungary <sup>(2)</sup>, with effect from 1 July 2003, the goods referred to in its Article 1(2) which are exported to Hungary shall not be eligible for export refunds.

(9) In accordance with Council Regulation (EC) No 1890/2003 of 27 October 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Malta and the exportation of certain processed agricultural products to Malta <sup>(3)</sup>, with effect from 1 November 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Malta, shall not be eligible for export refunds.

(10) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1520/2000 and listed in Article 1 of Regulation (EC) No 1255/1999, and exported in the form of goods listed in Annex II to Regulation (EC) No 1255/1999 shall, in respect of the products listed in the Annex to this Regulation, be fixed in accordance with that Annex.

#### *Article 2*

This Regulation shall enter into force on 30 January 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*

Erkki LIIKANEN

*Member of the Commission*

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<sup>(1)</sup> OJ L 163, 1.7.2003, p. 73.

<sup>(2)</sup> OJ L 146, 13.6.2003, p. 10.

<sup>(3)</sup> OJ L 278, 29.10.2003, p. 1.

## ANNEX

**Rates of the refunds applicable from 30 January 2004 to certain milk products exported in the form of goods not covered by Annex I to the Treaty**

(EUR/100 kg)

CN code	Description	Rate of refund <sup>(1)</sup>	
		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	45,15	64,50
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 2571/97 are exported	54,05	77,22
	(b) on exportation of other goods	72,45	103,50
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 2571/97 are exported	65,10	93,00
	(b) on exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	129,68	185,25
	(c) on exportation of other goods	124,60	178,00

<sup>(1)</sup> With effect from 1 July 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to the Czech Republic, Estonia, Latvia, Lithuania, Slovakia or Slovenia, and to the goods referred to in Article 1(2) of Regulation (EC) No 999/2003 when exported to Hungary. With effect from 1 November 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to Malta.

**COMMISSION REGULATION (EC) No 158/2004**  
**of 29 January 2004**  
**fixing the export refunds on products processed from cereals and rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1104/2003 <sup>(2)</sup>, and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice <sup>(3)</sup>, as last amended by Commission Regulation (EC) No 411/2002 <sup>(4)</sup>, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13 of Regulation (EEC) No 1766/92 and Article 13 of Regulation (EC) No 3072/95 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund.
- (2) Article 13 of Regulation (EC) No 3072/95 provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other. The same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market.
- (3) Article 4 of Commission Regulation (EC) No 1518/95 <sup>(5)</sup>, as amended by Regulation (EC) No 2993/95 <sup>(6)</sup>, on the import and export system for products processed from cereals and from rice defines the specific criteria to be taken into account when the refund on these products is being calculated.
- (4) The refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tégument, protein, fat and starch content of

the individual product concerned, this content being a particularly good indicator of the quantity of basic product actually incorporated in the processed product.

- (5) There is no need at present to fix an export refund for manioc, other tropical roots and tubers or flours obtained therefrom, given the economic aspect of potential exports and in particular the nature and origin of these products. For certain products processed from cereals, the insignificance of Community participation in world trade makes it unnecessary to fix an export refund at the present time.
- (6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.
- (7) The refund must be fixed once a month. It may be altered in the intervening period.
- (8) Certain processed maize products may undergo a heat treatment following which a refund might be granted that does not correspond to the quality of the product; whereas it should therefore be specified that on these products, containing pregelatinized starch, no export refund is to be granted.
- (9) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1(1)(d) of Regulation (EEC) No 1766/92 and in Article 1(1)(c) of Regulation (EC) No 3072/95 and subject to Regulation (EC) No 1518/95 are hereby fixed as shown in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 30 January 2004.

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 158, 27.6.2003, p. 1.

<sup>(3)</sup> OJ L 329, 30.12.1995, p. 18.

<sup>(4)</sup> OJ L 62, 5.3.2002, p. 27.

<sup>(5)</sup> OJ L 147, 30.6.1995, p. 55.

<sup>(6)</sup> OJ L 312, 23.12.1995, p. 25.

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

Done at Brussels, 29 January 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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## ANNEX

**to the Commission Regulation of 29 January 2004 fixing the export refunds on products processed from cereals and rice**

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
1102 20 10 9200 <sup>(1)</sup>	C10	EUR/t	41,15	1104 23 10 9300	C10	EUR/t	33,80
1102 20 10 9400 <sup>(1)</sup>	C10	EUR/t	35,27	1104 29 11 9000	C10	EUR/t	0,00
1102 20 90 9200 <sup>(1)</sup>	C10	EUR/t	35,27	1104 29 51 9000	C10	EUR/t	0,00
1102 90 10 9100	C11	EUR/t	0,00	1104 29 55 9000	C10	EUR/t	0,00
1102 90 10 9900	C11	EUR/t	0,00	1104 30 10 9000	C10	EUR/t	0,00
1102 90 30 9100	C11	EUR/t	0,00	1104 30 90 9000	C10	EUR/t	7,35
1103 19 40 9100	C10	EUR/t	0,00	1107 10 11 9000	C13	EUR/t	0,00
1103 13 10 9100 <sup>(1)</sup>	C10	EUR/t	52,90	1107 10 91 9000	C13	EUR/t	0,00
1103 13 10 9300 <sup>(1)</sup>	C10	EUR/t	41,15	1108 11 00 9200	C10	EUR/t	0,00
1103 13 10 9500 <sup>(1)</sup>	C10	EUR/t	35,27	1108 11 00 9300	C10	EUR/t	0,00
1103 13 90 9100 <sup>(1)</sup>	C10	EUR/t	35,27	1108 12 00 9200	C10	EUR/t	47,02
1103 19 10 9000	C10	EUR/t	0,00	1108 12 00 9300	C10	EUR/t	47,02
1103 19 30 9100	C10	EUR/t	0,00	1108 13 00 9200	C10	EUR/t	47,02
1103 20 60 9000	C12	EUR/t	0,00	1108 13 00 9300	C10	EUR/t	47,02
1103 20 20 9000	C11	EUR/t	0,00	1108 19 10 9200	C10	EUR/t	45,60
1104 19 69 9100	C10	EUR/t	0,00	1108 19 10 9300	C10	EUR/t	45,60
1104 12 90 9100	C10	EUR/t	0,00	1109 00 00 9100	C10	EUR/t	0,00
1104 12 90 9300	C10	EUR/t	0,00	1702 30 51 9000 <sup>(2)</sup>	C10	EUR/t	46,07
1104 19 10 9000	C10	EUR/t	0,00	1702 30 59 9000 <sup>(2)</sup>	C10	EUR/t	35,27
1104 19 50 9110	C10	EUR/t	47,02	1702 30 91 9000	C10	EUR/t	46,07
1104 19 50 9130	C10	EUR/t	38,21	1702 30 99 9000	C10	EUR/t	35,27
1104 29 01 9100	C10	EUR/t	0,00	1702 40 90 9000	C10	EUR/t	35,27
1104 29 03 9100	C10	EUR/t	0,00	1702 90 50 9100	C10	EUR/t	46,07
1104 29 05 9100	C10	EUR/t	0,00	1702 90 50 9900	C10	EUR/t	35,27
1104 29 05 9300	C10	EUR/t	0,00	1702 90 75 9000	C10	EUR/t	48,27
1104 22 20 9100	C10	EUR/t	0,00	1702 90 79 9000	C10	EUR/t	33,50
1104 22 30 9100	C10	EUR/t	0,00	2106 90 55 9000	C10	EUR/t	35,27
1104 23 10 9100	C10	EUR/t	44,09				

<sup>(1)</sup> No refund shall be granted on products given a heat treatment resulting in pregelatinisation of the starch.

<sup>(2)</sup> Refunds are granted in accordance with Council Regulation (EEC) No 2730/75 (OJ L 281, 1.11.1975, p. 20), as amended.

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

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

The other destinations are as follows:

C10 All destinations except for Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Slovenia and Slovakia.

C11 All destinations except for Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Slovenia and Slovakia.

C12 All destinations except for Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Romania, Slovenia and Slovakia.

C13 All destinations except for Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Romania, Slovenia and Slovakia.

**COMMISSION REGULATION (EC) No 159/2004**  
**of 29 January 2004**  
**fixing the export refunds on cereal-based compound feedingstuffs**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1104/2003 <sup>(2)</sup>, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1517/95 of 29 June 1995 laying down detailed rules for the application of Regulation (EEC) No 1766/92 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice <sup>(3)</sup> in Article 2 lays down general rules for fixing the amount of such refunds.
- (3) That calculation must also take account of the cereal products content. In the interest of simplification, the refund should be paid in respect of two categories of 'cereal products', namely for maize, the most commonly used cereal in exported compound feeds and maize

products, and for 'other cereals', these being eligible cereal products excluding maize and maize products. A refund should be granted in respect of the quantity of cereal products present in the compound feedingstuff.

- (4) Furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export.
- (5) The current situation on the cereals market and, in particular, the supply prospects mean that the export refunds should be abolished.
- (6) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the compound feedingstuffs covered by Regulation (EEC) No 1766/92 and subject to Regulation (EC) No 1517/95 are hereby fixed as shown in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 30 January 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 158, 27.6.2003, p. 1.

<sup>(3)</sup> OJ L 147, 30.6.1995, p. 51.

## ANNEX

**to the Commission Regulation of 29 January 2004 fixing the export refunds on cereal-based compound feedingstuffs**

Product codes benefiting from export refund:

2309 10 11 9000, 2309 10 13 9000, 2309 10 31 9000,  
2309 10 33 9000, 2309 10 51 9000, 2309 10 53 9000,  
2309 90 31 9000, 2309 90 33 9000, 2309 90 41 9000,  
2309 90 43 9000, 2309 90 51 9000, 2309 90 53 9000

Cereal products	Destination	Unit of measurement	Amount of refunds
Maize and maize products: CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10	C10	EUR/t	0,00
Cereal products excluding maize and maize products	C10	EUR/t	0,00

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

C10 All destinations except for Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Slovenia and Slovakia.



## COMMISSION REGULATION (EC) No 160/2004

of 29 January 2004

## fixing the rates of the refunds applicable to certain cereal and rice-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 (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals<sup>(1)</sup>, as last amended by Regulation (EC) No 1784/2003<sup>(2)</sup>, and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice<sup>(3)</sup>, as last amended by Commission Regulation (EC) No 411/2002<sup>(4)</sup>, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13(1) of Regulation (EEC) No 1766/92 and Article 13(1) of Regulation (EC) No 3072/95 provide that the difference between quotations of prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for 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<sup>(5)</sup>, as last amended by Regulation (EC) No 740/2003<sup>(6)</sup>, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 as appropriate.
- (3) In accordance with the first subparagraph of Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month.
- (4) The commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex I to the Treaty may be jeopardised by the fixing in advance of high refund rates. It is therefore necessary to take precautionary measures in such situations without, however, preventing the conclusion of long-term contracts. The fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met.

(5) Taking into account the settlement between the European Community and the United States of America on Community exports of pasta products to the United States, approved by Council Decision 87/482/EEC<sup>(7)</sup>, it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination.

(6) Pursuant to Article 4(3) and (5) of Regulation (EC) No 1520/2000, a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Council Regulation (EEC) No 1722/93<sup>(8)</sup>, as last amended by Commission Regulation (EC) No 1786/2001<sup>(9)</sup>, for the basic product in question, used during the assumed period of manufacture of the goods.

(7) Spirituous beverages are considered less sensitive to the price of the cereals used in their manufacture. However, Protocol 19 to the Act of Accession of the United Kingdom, Ireland and Denmark provides that the necessary measures must be decided to facilitate the use of Community cereals in the manufacture of spirituous beverages obtained from cereals. Accordingly, it is necessary to adapt the refund rate applying to cereals exported in the form of spirituous beverages.

(8) In accordance with Council Regulation (EC) No 1039/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Estonia and the exportation of certain agricultural products to Estonia<sup>(10)</sup>, Council Regulation (EC) No 1086/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Slovenia and the exportation of certain processed agricultural products to Slovenia<sup>(11)</sup>, Council Regulation (EC) No 1087/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Latvia and the exportation of certain processed agricultural products to Latvia<sup>(12)</sup>, Council Regulation (EC) No 1088/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Lithuania and the exportation of certain processed agricultural products to Lithuania<sup>(13)</sup>, Council Regulation (EC) No 1089/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Slovak Republic and the exportation of certain processed agricultural products to the Slovak

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 270, 21.10.2003, p. 78.

<sup>(3)</sup> OJ L 329, 30.12.1995, p. 18.

<sup>(4)</sup> OJ L 62, 5.3.2002, p. 27.

<sup>(5)</sup> OJ L 117, 15.7.2000, p. 1.

<sup>(6)</sup> OJ L 106, 29.4.2003, p. 12.

<sup>(7)</sup> OJ L 275, 29.9.1987, p. 36.

<sup>(8)</sup> OJ L 159, 1.7.1993, p. 112.

<sup>(9)</sup> OJ L 242, 12.9.2001, p. 3.

<sup>(10)</sup> OJ L 151, 19.6.2003, p. 1.

<sup>(11)</sup> OJ L 163, 1.7.2003, p. 1.

<sup>(12)</sup> OJ L 163, 1.7.2003, p. 19.

<sup>(13)</sup> OJ L 163, 1.7.2003, p. 38.

Republic <sup>(1)</sup> and Council Regulation (EC) No 1090/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Czech Republic and the exportation of certain processed agricultural products to the Czech Republic <sup>(2)</sup> with effect from 1 July 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Estonia, Slovenia, Latvia, Lithuania, Slovakia or the Czech Republic are not eligible for export refunds.

- (9) In accordance with Council Regulation (EC) No 999/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the import of certain processed agricultural products originating in Hungary and the export of certain processed agricultural products to Hungary <sup>(3)</sup>, with effect from 1 July 2003, the goods referred to in its Article 1(2) which are exported to Hungary are not eligible for export refunds.
- (10) In accordance with Council Regulation (EC) No 1890/2003 of 27 October 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Malta and the exportation of certain processed agricultural products to Malta <sup>(4)</sup>, with effect from 1

November 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Malta, are not eligible for export refunds.

- (11) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.
- (12) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

The rates of the refunds applicable to the basic products listed in Annex A to Regulation (EC) No 1520/2000 and listed either in Article 1 of Regulation (EEC) No 1766/92 or in Article 1(1) of Regulation (EC) No 3072/95, exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 respectively, are fixed as shown in the Annex to this Regulation.

#### *Article 2*

This Regulation shall enter into force on 30 January 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*

Erkki LIIKANEN

*Member of the Commission*

<sup>(1)</sup> OJ L 163, 1.7.2003, p. 56.

<sup>(2)</sup> OJ L 163, 1.7.2003, p. 73.

<sup>(3)</sup> OJ L 146, 13.6.2003, p. 10.

<sup>(4)</sup> OJ L 278, 29.10.2003, p. 1.

## ANNEX

**Rates of the refunds applicable from 30 January 2004 to certain cereals and rice products exported in the form of goods not covered by Annex I to the Treaty**

(EUR/100 kg)

CN code	Description of products <sup>(1)</sup>	Rate of refund per 100 kg of basic product <sup>(2)</sup>	
		In case of advance fixing of refunds	Other
1001 10 00	Durum wheat:		
	– on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	—	—
	– in other cases	—	—
1001 90 99	Common wheat and meslin:		
	– on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	—	—
	– in other cases:		
	– – where Article 4(5) of Regulation (EC) No 1520/2000 applies <sup>(3)</sup>	—	—
	– – where goods falling within subheading 2208 <sup>(4)</sup> are exported	—	—
	– – in other cases	—	—
1002 00 00	Rye	—	—
1003 00 90	Barley		
	– where goods falling within subheading 2208 <sup>(4)</sup> are exported	—	—
	– in other cases	—	—
1004 00 00	Oats	—	—
1005 90 00	Maize (corn) used in the form of:		
	– starch:		
	– – where Article 4(5) of Regulation (EC) No 1520/2000 applies <sup>(3)</sup>	2,939	2,939
	– – where goods falling within subheading 2208 <sup>(4)</sup> are exported	—	—
	– – in other cases	2,939	2,939
	– glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 <sup>(5)</sup> :		
	– – where Article 4(5) of Regulation (EC) No 1520/2000 applies <sup>(3)</sup>	2,204	2,204
	– – where goods falling within subheading 2208 <sup>(4)</sup> are exported	—	—
	– – in other cases	2,204	2,204
	– where goods falling within subheading 2208 <sup>(4)</sup> are exported	—	—
	– other (including unprocessed)	2,939	2,939
	Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize:		
	– where Article 4(5) of Regulation (EC) No 1520/2000 applies <sup>(3)</sup>	2,939	2,939
	– – where goods falling within subheading 2208 <sup>(4)</sup> are exported	—	—
	– in other cases	2,939	2,939

(EUR/100 kg)

CN code	Description of products <sup>(1)</sup>	Rate of refund per 100 kg of basic product <sup>(2)</sup>	
		In case of advance fixing of refunds	Other
ex 1006 30	Wholly milled rice:		
	– round grain	11,500	11,500
	– medium grain	11,500	11,500
	– long grain	11,500	11,500
1006 40 00	Broken rice	3,000	3,000
1007 00 90	Grain sorghum, other than hybrid for sowing	—	—

<sup>(1)</sup> As far as agricultural products obtained from the processing of a basic product or/and assimilated products are concerned, the coefficients shown in Annex E to Commission Regulation (EC) No 1520/2000 shall be applied (OJ L 177, 15.7.2000, p. 1).

<sup>(2)</sup> With effect from 1 July 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to the Czech Republic, Estonia, Latvia, Lithuania, Slovakia or Slovenia, and to the goods referred to in Article 1(2) of Regulation (EC) No 999/2003 when exported to Hungary. With effect from 1 November 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to Malta.

<sup>(3)</sup> The goods concerned fall under CN code 3505 10 50.

<sup>(4)</sup> Goods listed in Annex B to Regulation (EEC) No 1766/92 or referred to in Article 2 of Regulation (EEC) No 2825/93.

<sup>(5)</sup> For syrups of CN codes NC 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund may be granted only for the glucose syrup.

**COMMISSION REGULATION (EC) No 161/2004****of 29 January 2004****fixing the production refund on white sugar used in the chemical industry**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector <sup>(1)</sup>, as last amended by Commission Regulation (EC) No 39/2004 <sup>(2)</sup>, and in particular Article 7(5) thereof,

Whereas:

- (1) Pursuant to Article 7(3) of Regulation (EC) No 1260/2001, production refunds may be granted on the products listed in Article 1(1)(a) and (f) of that Regulation, on syrups listed in Article 1(1)(d) thereof and on chemically pure fructose covered by CN code 1702 50 00 as an intermediate product, that are in one of the situations referred to in Article 23(2) of the Treaty and are used in the manufacture of certain products of the chemical industry.
- (2) Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry <sup>(3)</sup> lays down the rules for determining the production refunds and specifies the chemical products the basic products used in the manufacture of which attract a production refund. Articles 5, 6 and 7 of Regulation (EC) No 1265/2001 provide that the production refund applying to raw sugar, sucrose syrups and unprocessed isoglucose is to be derived from the refund fixed for white sugar in accordance with a method of calculation specific to each basic product.
- (3) Article 9 of Regulation (EC) No 1265/2001 provides that the production refund on white sugar is to be fixed at monthly intervals commencing on the first day of

each month. It may be adjusted in the intervening period where there is a significant change in the prices for sugar on the Community and/or world markets. The application of those provisions results in the production refund fixed in Article 1 of this Regulation for the period shown.

- (4) As a result of the amendment to the definition of white sugar and raw sugar in Article 1(2)(a) and (b) of Regulation (EC) No 1260/2001, flavoured or coloured sugars or sugars containing any other added substances are no longer deemed to meet those definitions and should thus be regarded as 'other sugar'. However, in accordance with Article 1 of Regulation (EC) No 1265/2001, they attract the production refund as basic products. A method should accordingly be laid down for calculating the production refund on these products by reference to their sucrose content.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

*Article 1*

The production refund on white sugar referred to in Article 4 of Regulation (EC) No 1265/2001 shall be equal to 46,618 EUR/100 kg net.

*Article 2*

This Regulation shall enter into force on 1 February 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 178, 30.6.2001, p. 1.

<sup>(2)</sup> OJ L 6, 10.1.2004, p. 16.

<sup>(3)</sup> OJ L 178, 30.6.2001, p. 63.

**COMMISSION REGULATION (EC) No 162/2004****of 29 January 2004****on granting of import licences for cane sugar for the purposes of certain tariff quotas and preferential agreements**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1159/2003 of 30 June 2003 laying down detailed rules of application for the 2003/04, 2004/05 and 2005/06 marketing years for the import of cane sugar under certain tariff quotas and preferential agreements and amending Regulations (EC) No 1464/95 and (EC) No 779/96 <sup>(3)</sup>, and in particular Article 5(3) thereof,

Whereas:

- (1) Article 9 of Regulation (EC) No 1159/2003 stipulates how the delivery obligations at zero duty of products of CN code 1701, expressed in white sugar equivalent, are to be determined for imports originating in signatory countries to the ACP Protocol and the Agreement with India.
- (2) Article 16 of Regulation (EC) No 1159/2003 stipulates how the zero duty tariff quotas for products of CN code 1701 11 10, expressed in white sugar equivalent, are to be determined for imports originating in signatory countries to the ACP Protocol and the Agreement with India.

(3) Article 22 of Regulation (EC) No 1159/2003 opens tariff quotas at a duty of EUR 98 per tonne for products of CN code 1701 11 10 for imports originating in Brazil, Cuba and other third countries.

(4) In the week of 19 to 23 January 2004 applications were presented to the competent authorities in line with Article 5(1) of Regulation (EC) No 1159/2003 for import licences for a total quantity exceeding a country's delivery obligation quantity of ACP-India preferential sugar determined under Article 9 of that Regulation.

(5) In these circumstances the Commission must set reduction coefficients to be used so that licences are issued for quantities scaled down in proportion to the total available and must indicate that the limit in question has been reached,

HAS ADOPTED THIS REGULATION:

*Article 1*

In the case of import licence applications presented from 19 to 23 January 2004 in line with Article 5(1) of Regulation (EC) No 1159/2003 licences shall be issued for the quantities indicated in the Annex to this Regulation.

*Article 2*

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

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

Done at Brussels, 29 January 2004.

*For the Commission*

J. M. SILVA RODRÍGUEZ

*Agriculture Director-General*

<sup>(1)</sup> OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 2).

<sup>(2)</sup> OJ L 146, 20.6.1996, p. 1.

<sup>(3)</sup> OJ L 162, 1.7.2003, p. 25.

## ANNEX

## ACP-India Preferential Sugar

## Title II of Regulation (EC) No 1159/2003

## 2003/04 marketing year

Country	Week of 19 to 23 January 2004: percentage of requested quantity to be granted	Limit
Barbados	100	reached
Belize	100	
Congo	99,5656	
Fiji	100	
Guyana	100	reached
India	0	
Côte d'Ivoire	100	
Jamaica	100	
Kenya	100	reached
Madagascar	100	
Malawi	100	
Mauritius	100	
Saint Kitts and Nevis	100	reached
Swaziland	100	
Tanzania	0	
Trinidad and Tobago	100	
Zambia	100	
Zimbabwe	100	

## Special Preferential Sugar

## Title III of Regulation (EC) No 1159/2003

## 2003/04 marketing year

Country	Week of 19 to 23 January 2004: percentage of requested quantity to be granted	Limit
India	0	reached
Other countries	100	

## CXL concessions sugar

## Title IV of Regulation (EC) No 1159/2003

## 2003/04 marketing year

Country	Week of 19 to 23 January 2004: percentage of requested quantity to be granted	Limit
Brazil	100	
Cuba	100	
Other third countries	100	



**COMMISSION REGULATION (EC) No 163/2004****of 29 January 2004****fixing the export refunds on rice and broken rice and suspending the issue of export licences**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice <sup>(1)</sup>, as last amended by Commission Regulation (EC) No 411/2002 <sup>(2)</sup>, and in particular the second subparagraph of Article 13(3) and (15) thereof,

Whereas:

(1) Article 13 of Regulation (EC) No 3072/95 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Article 13(4) of Regulation (EC) No 3072/95, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other. The same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market with limits resulting from agreements concluded in accordance with Article 300 of the Treaty.

(3) Commission Regulation (EEC) No 1361/76 <sup>(3)</sup> lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum.

(4) Export possibilities exist for a quantity of 8 800 tonnes of rice to certain destinations. The procedure laid down in Article 8(3) of Commission Regulation (EC) No 1342/2003 <sup>(4)</sup> should be used. Account should be taken of this when the refunds are fixed.

(5) Article 13(5) of Regulation (EC) No 3072/95 defines the specific criteria to be taken into account when the export refund on rice and broken rice is being calculated.

(6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.

(7) A separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets.

(8) The refund must be fixed at least once a month; whereas it may be altered in the intervening period.

(9) It follows from applying these rules and criteria to the present situation on the market in rice and in particular to quotations or prices for rice and broken rice within the Community and on the world market, that the refund should be fixed as set out in the Annex hereto.

(10) For the purposes of administering the volume restrictions resulting from Community commitments in the context of the WTO, the issue of export licences with advance fixing of the refund should be restricted.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1 of Regulation (EC) No 3072/95 with the exception of those listed in paragraph 1(c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

*Article 2*

With the exception of the quantity of 8 800 tonnes provided for in the Annex, the issue of export licences with advance fixing of the refund is suspended.

*Article 3*

This Regulation shall enter into force on 30 January 2004.

<sup>(1)</sup> OJ L 329, 30.12.1995, p. 18.

<sup>(2)</sup> OJ L 62, 5.3.2002, p. 27.

<sup>(3)</sup> OJ L 154, 15.6.1976, p. 11.

<sup>(4)</sup> OJ L 189, 29.7.2003, p. 12.



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

Done at Brussels, 29 January 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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## ANNEX

**to the Commission Regulation of 29 January 2004 fixing the export refunds on rice and broken rice and suspending the issue of export licences**

Product code	Destination	Unit of measurement	Amount of refunds <sup>(1)</sup>	Product code	Destination	Unit of measurement	Amount of refunds <sup>(1)</sup>
1006 20 11 9000	R01	EUR/t	87	1006 30 65 9900	R01	EUR/t	109
1006 20 13 9000	R01	EUR/t	87		064 and 066	EUR/t	135
1006 20 15 9000	R01	EUR/t	87		A97	EUR/t	115
1006 20 17 9000	—	EUR/t	—	1006 30 67 9100	021 and 023	EUR/t	115
1006 20 92 9000	R01	EUR/t	87		064 and 066	EUR/t	135
1006 20 94 9000	R01	EUR/t	87	1006 30 67 9900	064 and 066	EUR/t	135
1006 20 96 9000	R01	EUR/t	87	1006 30 92 9100	R01	EUR/t	109
1006 20 98 9000	—	EUR/t	—		R02	EUR/t	115
1006 30 21 9000	R01	EUR/t	87		R03	EUR/t	120
1006 30 23 9000	R01	EUR/t	87		064 and 066	EUR/t	135
1006 30 25 9000	R01	EUR/t	87		A97	EUR/t	115
1006 30 27 9000	—	EUR/t	—		021 and 023	EUR/t	115
1006 30 42 9000	R01	EUR/t	87	1006 30 92 9900	R01	EUR/t	109
1006 30 44 9000	R01	EUR/t	87		A97	EUR/t	115
1006 30 46 9000	R01	EUR/t	87		064 and 066	EUR/t	135
1006 30 48 9000	—	EUR/t	—	1006 30 94 9100	R01	EUR/t	109
1006 30 61 9100	R01	EUR/t	109		R02	EUR/t	115
	R02	EUR/t	115		R03	EUR/t	120
	R03	EUR/t	120		064 and 066	EUR/t	135
	064 and 066	EUR/t	135		A97	EUR/t	115
	A97	EUR/t	115		021 and 023	EUR/t	115
1006 30 61 9900	021 and 023	EUR/t	115	1006 30 94 9900	R01	EUR/t	109
	R01	EUR/t	109		A97	EUR/t	115
	A97	EUR/t	115		064 and 066	EUR/t	135
1006 30 63 9100	064 and 066	EUR/t	135	1006 30 96 9100	R01	EUR/t	109
	R01	EUR/t	109		R02	EUR/t	115
	R02	EUR/t	115		R03	EUR/t	120
	R03	EUR/t	120		064 and 066	EUR/t	135
	064 and 066	EUR/t	135		A97	EUR/t	115
	A97	EUR/t	115		021 and 023	EUR/t	115
1006 30 63 9900	021 and 023	EUR/t	115	1006 30 96 9900	R01	EUR/t	109
	R01	EUR/t	109		A97	EUR/t	115
	064 and 066	EUR/t	135		064 and 066	EUR/t	135
	A97	EUR/t	115		021 and 023	EUR/t	115
1006 30 65 9100	R01	EUR/t	109	1006 30 98 9100	—	EUR/t	—
	R02	EUR/t	115	1006 40 00 9000	—	EUR/t	—
	R03	EUR/t	120				
	064 and 066	EUR/t	135				
	A97	EUR/t	115				
	021 and 023	EUR/t	115				

<sup>(1)</sup> The procedure laid down in Article 8(3) of Regulation (EC) No 1342/2003 applies to licences applied for under that Regulation for quantities according to the destination:

destination R01: 4 000 t,  
all destinations R02 and R03: 3 000 t,  
destinations 021 and 023: 500 t,  
destinations 064 and 066: 1 000 t,  
destination A97: 300 t.

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11) as amended.

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

The other destinations are defined as follows:

R01 Switzerland, Liechtenstein, communes of Livigno and Campione d'Italia.

R02 Morocco, Algeria, Tunisia, Malta, Egypt, Israel, Lebanon, Libya, Syria, Ex-Spanish Sahara, Cyprus, Jordan, Iraq, Iran, Yemen, Kuwait, United Arab Emirates, Oman, Bahrain, Qatar, Saudi Arabia, Eritrea, West Bank/Gaza Strip, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovenia, Slovakia, Norway, Faroe Islands, Iceland, Russia, Belarus, Bosnia and Herzegovina, Croatia, Serbia and Montenegro, Former Yugoslav Republic of Macedonia, Albania, Bulgaria, Georgia, Armenia, Azerbaijan, Moldova, Ukraine, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan.

R03 Colombia, Ecuador, Peru, Bolivia, Chile, Argentina, Uruguay, Paraguay, Brazil, Venezuela, Canada, Mexico, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, Cuba, Bermuda, South Africa, Australia, New Zealand, Hong Kong SAR, Singapore, A40 except the Netherlands Antilles, Aruba, Turks and Caicos Islands, A11 except Suriname, Guyana, Madagascar.

**COMMISSION REGULATION (EC) No 164/2004****of 29 January 2004****fixing the export refunds on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1104/2003 <sup>(2)</sup>, and in particular Article 13(2) thereof,

Whereas:

- (1) Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund.
- (2) The refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals <sup>(3)</sup>, as last amended by Regulation (EC) No 1431/2003 <sup>(4)</sup>.
- (3) As far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture. These quantities were fixed in Regulation (EC) No 1501/95.
- (4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.
- (5) The refund must be fixed once a month. It may be altered in the intervening period.
- (6) It follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1(a), (b) and (c) of Regulation (EEC) No 1766/92, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 1 February 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 158, 27.6.2003, p. 1.

<sup>(3)</sup> OJ L 147, 30.6.1995, p. 7.

<sup>(4)</sup> OJ L 203, 12.8.2003, p. 16.

## ANNEX

**to the Commission Regulation of 29 January 2004 fixing the export refunds on cereals and on wheat or rye  
flour, groats and meal**

Product code	Destination	Unit of measurement	Amount of refunds	Product code	Destination	Unit of measurement	Amount of refunds
1001 10 00 9200	—	EUR/t	—	1101 00 15 9130	A00	EUR/t	0
1001 10 00 9400	—	EUR/t	—	1101 00 15 9150	A00	EUR/t	0
1001 90 91 9000	—	EUR/t	—	1101 00 15 9170	A00	EUR/t	0
1001 90 99 9000	—	EUR/t	—	1101 00 15 9180	A00	EUR/t	0
1002 00 00 9000	—	EUR/t	—	1101 00 15 9190	—	EUR/t	—
1003 00 10 9000	—	EUR/t	—	1101 00 90 9000	—	EUR/t	—
1003 00 90 9000	—	EUR/t	—	1102 10 00 9500	A00	EUR/t	0
1004 00 00 9200	—	EUR/t	—	1102 10 00 9700	A00	EUR/t	0
1004 00 00 9400	A00	EUR/t	0	1102 10 00 9900	—	EUR/t	—
1005 10 90 9000	—	EUR/t	—	1103 11 10 9200	A00	EUR/t	0 <sup>(1)</sup>
1005 90 00 9000	—	EUR/t	—	1103 11 10 9400	A00	EUR/t	0 <sup>(1)</sup>
1007 00 90 9000	—	EUR/t	—	1103 11 10 9900	—	EUR/t	—
1008 20 00 9000	—	EUR/t	—	1103 11 90 9200	A00	EUR/t	0 <sup>(1)</sup>
1101 00 11 9000	—	EUR/t	—	1103 11 90 9800	—	EUR/t	—
1101 00 15 9100	A00	EUR/t	0				

<sup>(1)</sup> No refund is granted when this product contains compressed meal.

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

**COMMISSION REGULATION (EC) No 165/2004**  
**of 29 January 2004**  
**fixing the corrective amount applicable to the refund on cereals**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1104/2003 <sup>(2)</sup>, and in particular Article 13(8) thereof,

Whereas:

- (1) Article 13(8) of Regulation (EEC) No 1766/92 provides that the export refund applicable to cereals on the day on which application for an export licence is made must be applied on request to exports to be effected during the period of validity of the export licence. In this case, a corrective amount may be applied to the refund.
- (2) Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the cereals and the measures to be taken in the event of disturbance on the market for cereals <sup>(3)</sup>, as last amended by Regulation (EC) No 1431/2003 <sup>(4)</sup>, allows for the fixing of a corrective amount for the products listed in Article 1(1)(c) of Regulation (EEC) No 1766/92. That corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95.

- (3) The world market situation or the specific requirements of certain markets may make it necessary to vary the corrective amount according to destination.
- (4) The corrective amount must be fixed at the same time as the refund and according to the same procedure; it may be altered in the period between fixings.
- (5) It follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

The corrective amount referred to in Article 1(1)(a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to export refunds fixed in advance except for malt shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 1 February 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 158, 27.6.2003, p. 1.

<sup>(3)</sup> OJ L 147, 30.6.1995, p. 7.

<sup>(4)</sup> OJ L 203, 12.8.2003, p. 16.

## ANNEX

**to the Commission Regulation of 29 January 2004 fixing the corrective amount applicable to the refund on cereals**

(EUR/t)

Product code	Destination	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6	5th period 7	6th period 8
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	—	—	—	—	—	—	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	—	—	—	—	—	—	—	—
1002 00 00 9000	—	—	—	—	—	—	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	—	—	—	—	—	—	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	A00	0	0	0	0	0	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	—	—	—	—	—	—	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	A00	0	0	0	0	0	—	—
1101 00 15 9130	A00	0	0	0	0	0	—	—
1101 00 15 9150	A00	0	0	0	0	0	—	—
1101 00 15 9170	A00	0	0	0	0	0	—	—
1101 00 15 9180	A00	0	0	0	0	0	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	A00	0	0	0	0	0	—	—
1102 10 00 9700	A00	0	0	0	0	0	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	A00	0	0	0	0	0	—	—
1103 11 10 9400	A00	0	0	0	0	0	—	—
1103 11 10 9900	—	—	—	—	—	—	—	—
1103 11 90 9200	A00	0	0	0	0	0	—	—
1103 11 90 9800	—	—	—	—	—	—	—	—

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.  
The numeric destination codes are set out in Commission Regulation (EC) No 1779/2002 (OJ L 269, 5.10.2002, p. 6).

**COMMISSION REGULATION (EC) No 166/2004**  
**of 29 January 2004**  
**fixing the export refunds on malt**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1104/2003 <sup>(2)</sup>, and in particular the third subparagraph of Article 13(2) thereof,

Whereas:

- (1) Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) The refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals <sup>(3)</sup>, as last amended by Regulation (EC) No 1431/2003 <sup>(4)</sup>.
- (3) The refund applicable in the case of malts must be calculated with amount taken of the quantity of cereals required to manufacture the products in question. The said quantities are laid down in Regulation (EC) No 1501/95.

- (4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.
- (5) The refund must be fixed once a month. It may be altered in the intervening period.
- (6) It follows from applying these rules to the present situation on markets in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on malt listed in Article 1(1)(c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 1 February 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 158, 27.6.2003, p. 1.

<sup>(3)</sup> OJ L 147, 30.6.1995, p. 7.

<sup>(4)</sup> OJ L 203, 12.8.2003, p. 16.

## ANNEX

**to the Commission Regulation of 29 January 2004 fixing the export refunds on malt**

Product code	Destination	Unit of measurement	Amount of refunds
1107 10 19 9000	A00	EUR/t	0,00
1107 10 99 9000	A00	EUR/t	0,00
1107 20 00 9000	A00	EUR/t	0,00

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

The numeric destination codes are set out in Commission Regulation (EC) No 1779/2002 (OJ L 269, 5.10.2002, p. 6).



**COMMISSION REGULATION (EC) No 167/2004**  
**of 29 January 2004**  
**fixing the corrective amount applicable to the refund on malt**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1104/2003 <sup>(2)</sup>, and in particular Article 13(8),

Whereas:

- (1) Article 13(8) of Regulation (EEC) No 1766/92 provides that the export refund applicable to cereals on the day on which application for an export licence is made, adjusted for the threshold price in force during the month of exportation, must be applied on request to exports to be effected during the period of validity of the export licence. In this case, a corrective amount may be applied to the refund.
- (2) Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals <sup>(3)</sup>, as last amended by Regulation (EC) No 1431/2003 <sup>(4)</sup>, allows for the fixing of a corrective amount for the malt

referred to in Article 1(1)(c) of Regulation (EEC) No 1766/92. That corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95.

- (3) It follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

The corrective amount referred to in Article 13(4) of Regulation (EEC) No 1766/92 which is applicable to export refunds fixed in advance in respect of malt shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 1 February 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 158, 28.6.2003, p. 1.

<sup>(3)</sup> OJ L 147, 30.6.1995, p. 7.

<sup>(4)</sup> OJ L 203, 12.8.2003, p. 16.

## ANNEX

**to the Commission Regulation of 29 January 2004 fixing the corrective amount applicable to the refund on malt**

(EUR/t)

Product code	Destination	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6	5th period 7
1107 10 11 9000	A00	0	0	0	0	0	0
1107 10 19 9000	A00	0	0	0	0	0	0
1107 10 91 9000	A00	0	0	0	0	0	0
1107 10 99 9000	A00	0	0	0	0	0	0
1107 20 00 9000	A00	0	0	0	0	0	0

(EUR/t)

Product code	Destination	6th period 8	7th period 9	8th period 10	9th period 11	10th period 12	11th period 1
1107 10 11 9000	A00	0	0	0	0	0	0
1107 10 19 9000	A00	0	0	0	0	0	0
1107 10 91 9000	A00	0	0	0	0	0	0
1107 10 99 9000	A00	0	0	0	0	0	0
1107 20 00 9000	A00	0	0	0	0	0	0

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

The numeric destination codes are set out in Regulation (EC) No 1779/2002 (OJ L 269, 5.10.2002, p. 6).

**COMMISSION REGULATION (EC) No 168/2004**  
**of 29 January 2004**  
**concerning applications for export licences for rice and broken rice with advance fixing of the refund**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice <sup>(1)</sup>, as last amended by Commission Regulation (EC) No 411/2002 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1342/2003 of 28 July 2003, laying down special detailed rules for the application of the system of import and export licences for cereals and rice <sup>(3)</sup>, and in particular the second subparagraph of Article 8(3) thereof,

Whereas:

- (1) Article 8(3) of Regulation (EC) No 1342/2003 provides, where this paragraph is specifically referred to when an export refund is fixed, for an interval of three working days between the day of submission of applications and the granting of export licences with advance fixing of the refund and provides that the Commission is to fix a uniform percentage reduction in the quantities if applications for export licences exceed the quantities which may be exported. Commission Regulation (EC) No 33/2004 <sup>(4)</sup> fixes refunds under the procedure provided for in the abovementioned paragraph for 2 000 tonnes for all the destinations R02 and R03 defined in the Annex to that Regulation.

- (2) For all the destinations R02 and R03, quantities applied for on 28 January 2004 are in excess of the available quantity. A percentage reduction should therefore be fixed for export licence applications submitted on 28 January 2004.
- (3) In view of its purpose, this Regulation should take effect from the day of its publication in the Official Journal,

HAS ADOPTED THIS REGULATION:

*Article 1*

For all the destinations R02 and R03 defined in the Annex to Regulation (EC) No 33/2004, applications for export licences for rice and broken rice with advance fixing of the refund submitted pursuant to that Regulation on 28 January 2004 shall give rise to the issue of licences for the quantities applied for to which a percentage reduction of 5,24 % has been applied.

*Article 2*

For all the destinations R02 and R03 defined in the Annex to Regulation (EC) No 33/2004, applications for export licences for rice and broken rice submitted from 29 January 2004 shall not give rise to the issue of export licences pursuant to that Regulation.

*Article 3*

This Regulation shall enter into force on 30 January 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*

J. M. SILVA RODRÍGUEZ  
*Agriculture Director-General*

<sup>(1)</sup> OJ L 329, 30.12.1995, p. 18.

<sup>(2)</sup> OJ L 62, 5.3.2002, p. 27.

<sup>(3)</sup> OJ L 189, 29.7.2003, p. 12.

<sup>(4)</sup> OJ L 5, 9.1.2004, p. 69.

**COMMISSION REGULATION (EC) No 169/2004**  
**of 29 January 2004**  
**concerning tenders notified in response to the invitation to tender for the export of oats issued in**  
**Regulation (EC) No 1814/2003**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1104/2003 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals <sup>(3)</sup>, as last amended by Regulation (EC) No 1431/2003 <sup>(4)</sup>, and in particular Article 4 thereof,

Having regard to Commission Regulation (EC) No 1814/2003 of 15 October 2003 on a special intervention measure for cereals in Finland and Sweden for the marketing year 2003/04 <sup>(5)</sup>, and in particular Article 9 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland and Sweden to all third countries, with the exception of Bulgaria, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Czech Republic, Romania, Slovakia and Slovenia was opened pursuant to Regulation (EC) No 1814/2003.

(2) According to Article 9 of Regulation (EC) No 1814/2003 the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to make no award.

(3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95, a maximum refund should not be fixed.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

No action shall be taken on the tenders notified from 23 to 29 January 2004 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 1814/2003.

*Article 2*

This Regulation shall enter into force on 30 January 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 158, 27.6.2003, p. 1.

<sup>(3)</sup> OJ L 147, 30.6.1995, p. 7.

<sup>(4)</sup> OJ L 203, 12.8.2003, p. 16.

<sup>(5)</sup> OJ L 265, 16.10.2003, p. 25.

**COMMISSION REGULATION (EC) No 170/2004**  
**of 29 January 2004**  
**concerning tenders notified in response to the invitation to tender for the import of maize issued**  
**in Regulation (EC) No 2315/2003**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 1666/2000 <sup>(2)</sup>, and in particular Article 12(1) thereof,

Whereas:

- (1) An invitation to tender for the maximum reduction in the duty on maize imported into Portugal from third countries was opened pursuant to Commission Regulation (EC) No 2315/2003 <sup>(3)</sup>.
- (2) Article 5 of Commission Regulation (EC) No 1839/95 <sup>(4)</sup>, as last amended by Regulation (EC) No 2235/2000 <sup>(5)</sup>, allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and on the basis of the tenders notified, to make no award.

(3) On the basis of the criteria laid down in Articles 6 and 7 of Regulation (EC) No 1839/95 a maximum reduction in the duty should not be fixed.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

No action shall be taken on the tenders notified from 23 to 29 January 2004 in response to the invitation to tender for the reduction in the duty on imported maize issued in Regulation (EC) No 2315/2003.

*Article 2*

This Regulation shall enter into force on 30 January 2004.

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

Done at Brussels, 29 January 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 193, 29.7.2000, p. 1.

<sup>(3)</sup> OJ L 342, 30.12.2003, p. 34.

<sup>(4)</sup> OJ L 177, 28.7.1995, p. 4.

<sup>(5)</sup> OJ L 256, 10.10.2000, p. 13.

**COUNCIL DIRECTIVE 2004/7/EC**  
**of 20 January 2004**

**amending Directive 77/388/EEC concerning the common system of value added tax, as regards  
conferment of implementing powers and the procedure for adopting derogations**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee <sup>(2)</sup>,

Whereas:

- (1) Articles 27 and 30 of Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment <sup>(3)</sup>, lay down procedures that may result in the tacit approval of derogations by the Council.
- (2) In the interests of transparency and legal certainty, it is preferable to ensure that every derogation authorised under Article 27 or Article 30 of Directive 77/388/EEC takes the form of an explicit decision adopted by the Council acting on a proposal from the Commission.
- (3) The possibility of tacit approval by the Council on the expiry of a given period should therefore be removed.
- (4) In order to ensure that a Member State which has submitted a request for derogation is not left in doubt as to what action the Commission plans to take in response, time limits should be laid down within which the Commission must present to the Council either a proposal for authorisation or a communication setting out its objections.
- (5) In order to enable Member States to follow more closely the processing of their requests, the Commission should be required, once it has all the information it considers necessary for appraising a request, to notify the requesting Member State accordingly and transmit the request, in its original language, to the other Member States.
- (6) In the second sentence of paragraph 1 of Article 27 of Directive 77/388/EEC it is emphasised that the assessment of the negligible extent of the effect of the simplification measure on the amount of tax due at the final consumption stage is made in a global manner by reference to macroeconomic forecasts relating to the likely impact of the measure on the Community's own resources provided from VAT.
- (7) In the absence of any mechanism for the adoption of binding measures to govern the implementation of Directive 77/388/EEC, the application of rules laid down in that Directive varies from one Member State to another.
- (8) In order to improve the functioning of the internal market, it is essential to ensure more uniform application of the current VAT system. The introduction of a procedure for the adoption of measures to ensure the correct implementation of existing rules would represent a major step forward in that respect.
- (9) Those measures should, in particular, address the problem of double taxation of cross-border transactions which can occur as the result of divergences between Member States in the application of the provisions of Directive 77/388/EEC governing the place of supply.
- (10) However, the scope of each implementing measure should remain limited since, albeit designed to clarify a provision laid down in Directive 77/388/EEC, it could never derogate from such a provision.
- (11) Although the scope of the implementing measures would be limited, those measures would have a budgetary impact which for one or more Member States could be significant.
- (12) The impact of such measures on the budgets of Member States justifies the Council reserving the right to exercise powers for the implementation of Directive 77/388/EEC itself.
- (13) Given the restricted scope of the measures envisaged, measures implementing Directive 77/388/EEC should be adopted by the Council acting unanimously on a proposal from the Commission.
- (14) Since, for those reasons, the objectives of this Directive cannot be sufficiently achieved by the Member States acting alone and can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

<sup>(1)</sup> Opinion delivered on 16 December 2003 (not yet published in the Official Journal).

<sup>(2)</sup> Opinion delivered on 30 October 2003 (not yet published in the Official Journal).

<sup>(3)</sup> OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2003/92/EC (OJ L 260, 11.10.2003, p. 8).

- (15) Directive 77/388/EEC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

Directive 77/388/EEC is amended as follows:

1. In Article 27, paragraphs 1, 2, 3 and 4 shall be replaced by the following:

'1. The Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce special measures for derogation from the provisions of this Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance. Measures intended to simplify the procedure for charging the tax, except to a negligible extent, may not affect the overall amount of the tax revenue of the Member State collected at the stage of final consumption.

2. A Member State wishing to introduce the measure referred to in paragraph 1 shall send an application to the Commission and provide it with all the necessary information. If the Commission considers that it does not have all the necessary information, it shall contact the Member State concerned within two months of receipt of the application and specify what additional information is required. Once the Commission has all the information it considers necessary for appraisal of the request it shall within one month notify the requesting Member State accordingly and it shall transmit the request, in its original language, to the other Member States.

3. Within three months of giving the notification referred to in the last sentence of paragraph 2, the Commission shall present to the Council either an appropriate proposal or, should it object to the derogation requested, a communication setting out its objections.

4. In any event, the procedure set out in paragraphs 2 and 3 shall be completed within eight months of receipt of the application by the Commission.'

2. In Title XVII, the following Article 29a shall be inserted:

*'Article 29a*

#### **Implementing measures**

The Council, acting unanimously on a proposal from the Commission, shall adopt the measures necessary to implement this Directive.'

3. Article 30 shall be replaced by the following:

*'Article 30*

#### **International agreements**

1. The Council, acting unanimously on a proposal from the Commission, may authorise any Member State to conclude with a third country or an international organisation an agreement which may contain derogations from this Directive.

2. A Member State wishing to conclude such an agreement shall send an application to the Commission and provide it with all the necessary information. If the Commission considers that it does not have all the necessary information, it shall contact the Member State concerned within two months of receipt of the application and specify what additional information is required. Once the Commission has all the information it considers necessary for appraisal of the request it shall within one month notify the requesting Member State accordingly and it shall transmit the request, in its original language, to the other Member States.

3. Within three months of giving the notification referred to in the last sentence of paragraph 2, the Commission shall present to the Council either an appropriate proposal or, should it object to the derogation requested, a communication setting out its objections.

4. In any event, the procedure set out in paragraphs 2 and 3 shall be completed within eight months of receipt of the application by the Commission.'

#### *Article 2*

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

#### *Article 3*

This Directive is addressed to the Member States.

Done at Brussels, 20 January 2004.

*For the Council*

*The President*

C. McCREEVY



**COMMISSION DIRECTIVE 2004/13/EC**  
**of 29 January 2004**  
**amending Directive 2002/16/EC on the use of certain epoxy derivatives in materials and articles**  
**intended to come into contact with foodstuffs**  
**(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/109/EEC of 21 December 1988 on the approximation of the laws of the Member States relating to materials and articles intended to come into contact with foodstuffs<sup>(1)</sup>, and in particular Article 3 thereof,

After consulting the European Food Safety Authority,

Whereas:

- (1) Commission Directive 2002/16/EC of 20 February 2002 on the use of certain epoxy derivatives in materials and articles intended to come into contact with foodstuffs<sup>(2)</sup> lays down certain rules applicable to the use/presence of 2,2-bis(4-hydroxyphenyl)propane bis(2,3-epoxypropyl) ether ('BADGE'), bis(hydroxyphenyl) methane bis(2,3-epoxypropyl) ethers ('BFDGE'), novolac glycidyl ethers ('NOGE'), and some of their derivatives, in materials and articles intended to come into contact with foodstuffs.
- (2) That Directive provides that the use and/or presence of BADGE in the manufacture of those materials and articles may only be continued until 31 December 2004.
- (3) The Scientific Committee on Food (SCF) requested toxicological data to permit the evaluation of BADGE within certain deadlines. The SCF also requested that new toxicological data be supplied to evaluate the potential carcinogenicity of chlorinated derivatives which were included in the quantitative restriction to be applied to the migration of BADGE provided for in Annex I to Directive 2002/16/EC.
- (4) On 4 December 2002, the SCF noted the negative results on the potential carcinogenicity of the chlorinated derivatives of BADGE and the low exposure of the European consumer to BADGE as a consequence of the considerable reduction of the content of BADGE found in canned food in the recent enquiries carried out by the Member States and by the Joint Research Centre of the European Commission. Therefore, it is considered admissible to extend the provisional authorisation of BADGE

for one year, pending the submission of the new toxicological data and their evaluation by the European Food Safety Authority.

- (5) Directive 2002/16/EC provides that the requirements of that Directive concerning BADGE, BFDGE and NOGE do not apply to materials and articles covered by surface coatings, and adhesives, which are brought into contact with foodstuffs before 1 March 2003. Those materials and articles may continue to be placed on the market provided that the date of filling appears on the materials and articles. In the interest of an unequivocal interpretation of how the date of filling should be applied on materials and articles, it is appropriate to provide that this date may be replaced by the 'best before' date as provided for by Directive 2000/13/EC of the European Parliament and of the Council<sup>(3)</sup>, or another indication such as the lot number required by Council Directive 89/396/EEC<sup>(4)</sup> for the foodstuffs packed in such materials and articles. It is, though, necessary that a link is established between such indication and the date of filling so that the latter can be always identified.
- (6) Directive 2002/16/EC should therefore be amended accordingly.
- (7) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 2002/16/EC is amended as follows:

1. in Article 2, second paragraph, the date '31 December 2004' is replaced by the date '31 December 2005';
2. Article 5 is replaced by the following:

*'Article 5*

1. Articles 2, 3 and 4 shall not apply to the materials and articles referred to in points (b) and (c) of the second subparagraph of Article 1(1) which are brought into contact with foodstuffs before 1 March 2003.

<sup>(1)</sup> OJ L 40, 11.2.1989, p. 38.

<sup>(2)</sup> OJ L 51, 22.2.2002, p. 27.

<sup>(3)</sup> OJ L 109, 6.5.2000, p. 29.

<sup>(4)</sup> OJ L 186, 30.6.1989, p. 21.



Those materials and articles may be placed on the market provided that the date of filling appears on the materials and articles. However, the date of filling may be replaced by another indication, provided that this indication permits the identification of the date of filling. Upon request, the date of filling shall be made available to the competent authorities and any person enforcing the requirements of this Directive.

2. Paragraph 1 shall apply without prejudice to the requirements of Directive 2000/13/EC.'.

#### *Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 29 January 2005 at latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

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

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

#### *Article 3*

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

#### *Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 29 January 2004.

*For the Commission*

David BYRNE

*Member of the Commission*

**COMMISSION DIRECTIVE 2004/14/EC**  
**of 29 January 2004**  
**amending Directive 93/10/EEC relating to materials and articles made of regenerated cellulose film**  
**intended to come into contact with foodstuffs**  
**(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/109/EEC of 21 December 1988 on the approximation of the laws of the Member States relating to materials and articles intended to come into contact with foodstuffs<sup>(1)</sup>, as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council<sup>(2)</sup>, and in particular Article 3 thereof,

After consulting the Scientific Committee on Food,

Whereas:

(1) Commission Directive 93/10/EEC of 15 March 1993 relating to materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs<sup>(3)</sup>, as amended by Directive 93/111/EC<sup>(4)</sup>, applies to regenerated cellulose film and establishes a list of authorised substances together with restrictions on their use. That Directive covers regenerated cellulose films uncoated or coated with coatings manufactured only with substances listed therein.

(2) Further to technological developments, it is necessary to authorise a new type of regenerated cellulose film with a coating consisting of plastics, which is compostable and biodegradable. This new type of regenerated cellulose film is consistent with the environmental requirements of Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste<sup>(5)</sup>, as amended by Regulation (EC) No 1882/2003. Accordingly, such authorisation is in the interest of consistency of Community legislation.

(3) The rules to be applied to the regenerated cellulose films should be specific to the nature of the layer in contact with the foodstuff. Accordingly, the requirements for regenerated cellulose films coated with coatings consisting of plastics should be different from those provided for regenerated cellulose films uncoated or coated with coatings derived from cellulose.

(4) Only authorised substances should be used in the manufacture of all the types of regenerated cellulose films, including regenerated cellulose films coated with plastics.

(5) In the case of regenerated cellulose films coated with coatings consisting of plastics, the layer in contact with foodstuffs consists of a material similar to plastic materials and articles intended to come into contact with foodstuffs. Therefore it is appropriate that the rules provided for in Commission Directive 2002/72/EC of 6 August 2002 relating to plastic materials and articles intended to come into contact with foodstuffs<sup>(6)</sup> should be applicable also to such films.

(6) In the interest of consistency of Community legislation, the verification of compliance of plastic-coated regenerated cellulose films with the migration limits set by Directive 2002/72/EC should be carried out according to the rules laid down in Council Directive 82/711/EEC of 18 October 1982 laying down the basic rules necessary for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs<sup>(7)</sup>, as last amended by Commission Directive 97/48/EC<sup>(8)</sup>, and Council Directive 85/572/EEC of 19 December 1985 laying down the list of simulants to be used for testing migration of constituents of plastic materials and articles intended to come into contact with foodstuffs<sup>(9)</sup>.

(7) A number of polymers used as coatings should be deleted from the list of authorised substances set out in Directive 93/10/EEC as they are covered by the rules set out in Directive 2002/72/EC which apply to plastic-coated regenerated cellulose films.

(8) Four solvents should also be deleted from the list of authorised substances set out in Directive 93/10/EEC as new data are available showing a risk for reproduction and because they are no longer used in the manufacture of regenerated cellulose films. In addition, some plasticisers, which are no longer used, should also be deleted from that list.

<sup>(1)</sup> OJ L 40, 11.2.1989, p. 38.

<sup>(2)</sup> OJ L 284, 31.10.2003, p. 1.

<sup>(3)</sup> OJ L 93, 17.4.1993, p. 27.

<sup>(4)</sup> OJ L 310, 14.12.1993, p. 41.

<sup>(5)</sup> OJ L 365, 31.12.1994, p. 10.

<sup>(6)</sup> OJ L 220, 15.8.2002, p. 18.

<sup>(7)</sup> OJ L 297, 23.10.1982, p. 26.

<sup>(8)</sup> OJ L 222, 12.8.1997, p. 10.

<sup>(9)</sup> OJ L 372, 31.12.1985, p. 14.

- (9) In addition, the restriction on the use of 2-ethylhexyl diphenyl phosphate (synonym: phosphoric acid diphenyl 2-ethylhexyl ester) set out in Directive 93/10/EEC should be amended to take into account the opinion of the Scientific Committee on Food of 19 March 1998.
- (10) Directive 93/10/EEC should therefore be amended accordingly.
- (11) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

Directive 93/10/EEC is amended as follows:

1. In Article 1(3), point (a) is deleted.

2. The following Article 1a is inserted:

##### *'Article 1a*

The regenerated cellulose films referred to in Article 1(2) shall belong to one of the following types:

- (a) uncoated regenerated cellulose film;
- (b) coated regenerated cellulose film with coating derived from cellulose;
- or
- (c) coated regenerated cellulose film with coating consisting of plastics.'

3. Article 2(1) is replaced by the following:

'1. Regenerated cellulose films referred to in points (a) and (b) of Article 1a shall be manufactured using only substances or groups of substances listed in Annex II subject to the restrictions set out therein.'

4. The following Article 2a is inserted:

##### *'Article 2a*

1. Regenerated cellulose film referred to in Article 1a(c) shall be manufactured, prior to coating, using only substances or groups of substances listed in the first part of Annex II, subject to the restrictions set out therein.

2. The coating to be applied to the regenerated cellulose film referred to in paragraph 1 shall be manufactured using only substances or groups of substances listed in Annexes II to VI to Directive 2002/72/EC, subject to the restrictions set out therein.

3. Without prejudice to paragraph 1, materials and articles made of regenerated cellulose film referred to in Article 1a(c) shall comply with Articles 2, 7 and 8 of Directive 2002/72/EC.'

5. Annex II is amended in accordance with the Annex to this Directive.

#### Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 29 July 2005 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

Member States shall apply those provisions in such a way as to:

- (a) permit the trade in and use of regenerated cellulose film which is intended to come into contact with foodstuffs complying with this Directive, from 29 July 2005;
- (b) prohibit the manufacture and importation into the Community of regenerated cellulose film which is intended to come into contact with foodstuffs and which does not comply with the provisions of this Directive as from 29 January 2006. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

#### Article 3

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

#### Article 4

This Directive is addressed to the Member States.

Done at Brussels, 29 January 2004.

*For the Commission*

David BYRNE

*Member of the Commission*

## ANNEX

The second part of Annex II to Directive 93/10/EEC is amended as follows:

1. In the third line (C. Coating) of the second column (Restrictions) of the table: 'Not more than 50 mg of coating/dm<sup>2</sup> of film on the side in contact with foodstuffs' is deleted.
2. The following polymers and their restrictions are deleted from the table:

Denominations	Restrictions
<p>— Polymers, copolymers and their mixtures made with the following monomers:</p> <p>vinyl acetals derived from saturated aldehydes (C<sub>1</sub> to C<sub>6</sub>)</p> <p>vinyl acetate</p> <p>alkyl (C<sub>1</sub> to C<sub>4</sub>) vinyl ethers</p> <p>acrylic, crotonic, itaconic, maleic, methacrylic acids and their esters</p> <p>butadiene</p> <p>styrene</p> <p>methylstyrene</p> <p>vinylidene chloride</p> <p>acrylonitrile</p> <p>methacrylonitrile</p> <p>ethylene, propylene, 1- and 2-butylene</p> <p>vinyl chloride</p>	<p>In accordance with Community directives, and, in their absence, with national legislation pending the adoption of Community directives</p> <p>According to Directive 78/142/EEC (OJ L 44, 15.2.1978, p. 15)</p>

3. For resins, the content of the column 'Restrictions' of the table is replaced by the following:

'2. Resins	The total quantity of substances may not exceed 12,5 mg/dm <sup>2</sup> of the coating on the side in contact with foodstuffs and solely for the preparation of regenerated cellulose films with cellulose nitrate based coatings'
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4. The following plasticisers and their restrictions are deleted from the table:

Denominations	Restrictions
— Butylbenzylphthalate	Not more than 2,0 mg/dm <sup>2</sup> of the coating on the side in contact with foodstuffs
— Di-n-butyl phthalate	Not more than 3,0 mg/dm <sup>2</sup> of the coating on the side in contact with foodstuffs
— Di(2-ethylhexyl) sebacate [= dioctylsebacate]'	

5. For the following plasticiser, the content of the column 'Restrictions' of the table is replaced by the following:

Denominations	Restrictions
— 2-ethylhexyl diphenyl phosphate (synonym: phosphoric acid diphenyl 2-ethylhexyl ester)	<p>The amount of 2-ethylhexyl diphenyl phosphate shall not exceed:</p> <p>(a) 2,4 mg/kg of the foodstuff in contact with this type of film, or</p> <p>(b) 0.4 mg/dm<sup>2</sup> in the coating on the side in contact with foodstuffs'</p>

6. The following solvents are deleted from the table:

Denominations	Restrictions
— Ethyleneglycol monoethyl ether — Ethyleneglycol monoethyl ether acetate — Ethyleneglycol monomethyl ether — Ethyleneglycol monomethyl ether acetate'	

## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 21 January 2004

on emergency measures regarding chilli and chilli products

(notified under document number C(2004) 68)

(Text with EEA relevance)

(2004/92/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety <sup>(1)</sup>, and in particular Articles 53 and 54 thereof,

Whereas:

- (1) According to Regulation (EC) No 178/2002 the Commission is to suspend the placing on the market or use of a food or feed that is likely to constitute a serious risk to human health, or take any other appropriate interim measure when such risk cannot be contained satisfactorily by means of measures taken by the Member States concerned.
- (2) On 9 May 2003, France sent initial information through the rapid alert system for food and feed relating to discovery of the dye Sudan I in hot chilli products originating from India. There is no evidence that products of Community origin are concerned by such findings.
- (3) Decision 2003/460/EC <sup>(2)</sup> on emergency measures regarding hot chilli and hot chilli products was adopted by the Commission on 20 June 2003.
- (4) In implementation of Decision 2003/460/EC, Member States have carried out checks on the presence of the substance concerned and related substances in chilli and

chilli products. There have been findings of Sudan I in chilli and chilli products. Other substances such as Sudan II, Sudan III and Scarlet Red (Sudan IV) have also been found in chilli and chilli products. A number of chilli products such as curry powders are concerned. All findings were notified through the rapid alert system for food and feed in compliance with Article 50 of Regulation (EC) No 178/2002.

- (5) Sudan I, Sudan II, Sudan III and Scarlet Red (Sudan IV) have been classified as category 3 carcinogens by the International Agency for Research on Cancer (IARC).
- (6) The findings initially reported by France and confirmed by other findings in the European Union point to an adulteration constituting a serious health risk.
- (7) Given the seriousness of the health threat and the positive findings, it is necessary to maintain and extend the measures established by Decision 2003/460/EC. Moreover, account should be taken of potential triangular trade, especially for products for which there is no official certification of origin. In order to protect public health, it is appropriate to require that consignments of chilli and chilli products imported into the Community in whatever form, intended for human consumption, should be accompanied by an analytical report provided by the importer or food business operator concerned demonstrating that the consignment does not contain Sudan I, Sudan II, Sudan III or Scarlet Red (Sudan IV). For the same reason, Member States should carry out random sampling and analysis of chilli and chilli products which are being imported or are already on the market.

<sup>(1)</sup> OJ L 31, 1.2.2002, p. 1. Regulation as amended by Regulation (EC) No 1642/2003 (OJ L 245, 29.9.2003, p. 4).

<sup>(2)</sup> OJ L 154, 21.6.2003, p. 114.

(8) It is appropriate to order the destruction of adulterated chilli and chilli products to avoid their introduction into the food chain.

(9) Since the measures provided for in this Decision have an impact on the control resources of the Member States, the results of these measures should be evaluated at the latest after 12 months in order to assess whether they are still necessary for the protection of public health.

(10) That evaluation should take account of the results of all analyses carried out by the competent authorities.

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

HAS ADOPTED THIS DECISION:

#### Article 1

##### Definitions

For the purposes of this Decision 'chilli and chilli products' means

- (a) fruits of the genus *Capsicum*, dried and crushed or ground within CN code 0904 20 90, in whatever form, intended for human consumption, and
- (b) curry powder within CN code 0910 50, in whatever form, intended for human consumption

#### Article 2

##### Conditions for import of chilli and chilli products

1. Member States shall prohibit the import of chilli and chilli products unless an analytical report accompanying the consignment demonstrates that the product does not contain any of the following chemical substances:

- (a) Sudan I (CAS number 842-07-9);
- (b) Sudan II (CAS number 3118-97-6);
- (c) Sudan III (CAS number 85-86-9);
- (d) Scarlet Red or Sudan IV (CAS number 85-83-6).

2. The competent authorities in the Member States shall check that each consignment of chilli and chilli products presented for importation is accompanied by an analytical report as provided for in paragraph 1.

3. In the absence of such an analytical report as provided for in paragraph 1, the importer established in the Community shall have the product tested to demonstrate that it does not contain one or more of the chemical substances referred to in paragraph 1. Pending availability of the analytical report, the product shall be detained under official supervision.

#### Article 3

##### Sampling and analysis

1. Member States shall take appropriate measures, including random sampling and analysis of chilli and chilli products presented for importation or already on the market in order to verify the absence of the chemical substances referred to in Article 2(1).

Member States shall inform the Commission through the rapid alert system for food and feed of all consignments which are found to contain those substances.

Member States shall report to the Commission on a quarterly basis on the consignments which were found not to contain those substances. These reports shall be submitted before the end of the month following each quarter.

2. Any consignment subjected to official sampling and analysis may be detained before release onto the market for a maximum period of 15 working days.

#### Article 4

##### Splitting of a consignment

If a consignment is split, a certified copy of the analytical report provided for in Article 2(1) shall accompany each part of the split consignment.

#### Article 5

##### Adulterated consignments

Chilli and chilli products that are found to contain one or more of the chemical substances referred to in Article 2(1) shall be destroyed.

#### Article 6

##### Recovery of costs

All costs resulting from analysis, storage or destruction pursuant to Article 2(1) or (3) and Article 5 shall be borne by the importers or food business operators concerned.

#### Article 7

##### Review of the measures

This Decision shall be reviewed by 31 January 2005 at the latest.

#### Article 8

##### Repealing

Decision 2003/460/EC is repealed.

*Article 9***Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 21 January 2004.

*For the Commission*

David BYRNE

*Member of the Commission*

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**COMMISSION DECISION**  
**of 29 January 2004**  
**concerning protective measures in relation to avian influenza in certain Asian countries as regards**  
**the importation of birds other than poultry**

(notified under document number C(2004) 257)

(Text with EEA relevance)

(2004/93/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC <sup>(1)</sup>, as last amended by Directive 96/43/EC <sup>(2)</sup>, and in particular Article 18(1) thereof,

Whereas:

- (1) Avian influenza is an infectious viral disease in poultry and birds, causing mortality and disturbances which can quickly take epizootic proportions liable to present a serious threat to animal and public health and to reduce sharply the profitability of poultry farming.
- (2) Avian influenza has been confirmed in several Asian countries including Cambodia, Japan, Laos, Pakistan, the People's Republic of China, including the territory of Hong Kong, South Korea, Thailand and Vietnam.
- (3) In Indonesia the disease situation in relation to avian influenza is unclear.
- (4) The importation of live poultry and hatching eggs from any of these countries is not authorised.
- (5) Imports of fresh meat of poultry, ratites, wild and farmed feathered game, poultrymeat preparations and poultrymeat products, meat preparations and raw material for pet food production consisting of or containing meat of the beforementioned species, and of eggs for human consumption from Thailand to the Community have been suspended by Commission Decision 2004/84/EC <sup>(3)</sup> and imports of these goods are not authorised from any of the other abovementioned countries.

- (6) In accordance to Commission Decision 2000/666/EC <sup>(4)</sup> importation of birds other than poultry is authorised from all member countries of the OIE (World Organisation for Animal Health) and subject to animal health guarantees provided by the country of origin and to strict post-import quarantine measures in the Member States, thus preventing the possible introduction of poultry diseases into Community poultry flocks.
- (7) However, given the exceptional disease situation in several Asian countries and the potential serious consequences related to the specific avian influenza virus strains involved, as an additional precautionary measure, the importation of birds other than poultry, and also of pet birds accompanying their owner into the European Union from Cambodia, Indonesia, Japan, Laos, Pakistan, the People's Republic of China including the territory of Hong Kong, South Korea, Thailand and Vietnam should be suspended in order to exclude any possible risk for disease occurrence in quarantine stations under the authority of the Member States.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

*Article 1*

Member States shall immediately suspend the importation of 'live birds other than poultry' as defined in Commission Decision 2000/666/EC from Cambodia, Indonesia, Japan, Laos, Pakistan, the People's Republic of China including the territory of Hong Kong, South Korea, Thailand and Vietnam, including birds accompanying their owners (pet birds).

<sup>(1)</sup> OJ L 268, 24.9.1991, p. 56.

<sup>(2)</sup> OJ L 162, 1.7.1996, p. 1.

<sup>(3)</sup> OJ L 17, 24.1.2004, p. 57.

<sup>(4)</sup> OJ L 278, 31.10.2000, p. 26, as last amended by Decision 2002/279/EC (OJ L 99, 16.4.2002, p. 17).

*Article 2*

Member States shall amend the measures they apply to trade in order to bring them into line with this Decision and shall give immediate appropriate publicity to the measures adopted. They shall immediately inform the Commission thereof.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 29 January 2004.

*For the Commission*

David BYRNE

*Member of the Commission*

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