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([1]) Text with EEA relevance

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EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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EN

[1] Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 161/2003

of 30 January 2003

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables [1], as last amended by Regulation (EC) No 1947/2002 [2], 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 31 January 2003.

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

Done at Brussels, 30 January 2003.

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

[1] OJ L 337, 24.12.1994, p. 66.
[2] OJ L 299, 1.11.2002, p. 17.

ANNEX

to the Commission Regulation of 30 January 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	052	91,0
	204	70,9
	212	111,3
	999	91,1
0707 00 05	052	120,0
	204	114,7
	999	117,3
0709 10 00	220	55,7
	999	55,7
0709 90 70	052	139,5
	204	164,3
	999	151,9
0805 10 10, 0805 10 30, 0805 10 50	052	48,5
	204	51,7
	212	40,0
	220	50,2
	624	86,1
	999	55,3
0805 20 10	204	71,1
	999	71,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	60,4
	204	51,2
	220	73,2
	600	76,1
	624	80,4
	999	68,3
0805 50 10	052	63,1
	220	94,9
	600	61,2
	999	73,1
0808 10 20, 0808 10 50, 0808 10 90	060	43,3
	400	106,4
	404	105,3
	720	93,6
	999	87,2
0808 20 50	388	96,1
	400	102,8
	524	115,5
	528	125,5
	720	41,0
	999	96,2

(1) 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 162/2003
of 30 January 2003
concerning the authorisation of an additive in feedingstuffs
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs [1], as last amended by Council Regulation No 1756/2002 [2], and in particular Article 9 thereof,

Whereas:

(1) Under Article 2(aaa) of Directive 70/524/EEC authorisations for putting coccidiostats into circulation are to be linked to the person responsible for putting them into circulation. Such authorisations may be given for a period of 10 years provided all the conditions laid down in Article 3a of that Directive are met.

(2) The assessment of the request for authorisation submitted in respect of the coccidiostat preparation specified in the Annex to this Regulation, shows that the conditions referred to in Article 3a of Directive 70/524/EEC are satisfied. The coccidiostat preparation may therefore be authorised and included in Chapter I of the list of authorised additives in feedingstuffs referred to in Article 9t(b) of that Directive.

(3) The Scientific Committee for Animal Nutrition has delivered a favourable opinion with regard to the safety and the favourable effects on animal productions of the coccidiostat preparation under the conditions set out in the Annex to this Regulation.

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

HAS ADOPTED THIS REGULATION:

Article 1

The additive belonging to the group 'Coccidiostats and other medicinal substances' listed in the Annex to this Regulation is authorised for use as additive in animal nutrition under the conditions laid down in the Annex.

Article 2

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

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

Done at Brussels, 30 January 2003.

For the Commission
David BYRNE
Member of the Commission

[1] OJ L 270, 14.12.1970, p. 1.
[2] OJ L 265, 3.10.2002, p. 1.

ANNEX

Registration number of additive	Name and registration number of person responsible for putting additive into circulation	Additive (trade name)	Composition, chemical formula, description	Species or category of animal	Maximum age	mg of active substance/kg of complete feedingstuff		Other provisions	End of period of authorisation
						Minimum content	Maximum content		
Coccidiostats and other medicinal substances									
E 771	Janssen Animal Health BVBA	Diclazuril 0,5 g/100 g (Clinacox 0,5 % Premix)	**Additive composition:** Diclazuril: 0,5 g/100 g Soybean meal: 99,25 g/100 g Polyvidone K 30: 0,2 g/100 g Sodium hydroxide: 0,0538 g/100 g	Chickens reared for laying	16 weeks	1	1	—	20.1.2013
		Diclazuril 0,2 g/100 g (Clinacox 0,2 % Premix)	Diclazuril: 0,2 g/100 g Soybean meal: 39,7 g/100 g Polyvidone K 30: 0,08 g/100 g Sodium hydroxide: 0,0215 g/100 g Wheat middlings: 60 g/100 g **Active substance:** Diclazuril, $C_{17}H_9Cl_3N_4O_2$ (±)4-chlorophenyl[2,6-dichloro-4-(2,3,4,5-tetrahydro-3,5-dioxo-1,2,4-triazin-2-yl)phenyl]acetonitrile CAS number: 101831-37-2 **Related impurities:** degradation compound (RO64318): ≤ 0,2 % other related impurities (RO66891, RO66896, (RO68610, RO70156, RO68584, RO70016): ≤ 0,5 % individually Total impurities: ≤ 1,5 %						

COMMISSION REGULATION (EC) No 163/2003
of 30 January 2003
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 [1], as last amended by Regulation (EC) No 1666/2000 [2], 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 [3], as last amended by Commission Regulation (EC) No 411/2002 [4], 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 [5], as amended by Regulation (EC) No 2993/95 [6], 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, tegument, 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 31 January 2003.

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 329, 30.12.1995, p. 18.
[4] OJ L 62, 5.3.2002, p. 27.
[5] OJ L 147, 30.6.1995, p. 55.
[6] 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, 30 January 2003.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 30 January 2003 fixing the export refunds on products processed from cereals and rice

Product code	Destination	Unit of measurement	Refunds
1102 20 10 9200 (1)	C11	EUR/t	30,98
1102 20 10 9400 (1)	C11	EUR/t	26,56
1102 20 90 9200 (1)	C11	EUR/t	26,56
1102 90 10 9100	C17	EUR/t	0,00
1102 90 10 9900	C17	EUR/t	0,00
1102 90 30 9100	C18	EUR/t	0,00
1103 19 40 9100	C16	EUR/t	0,00
1103 13 10 9100 (1)	C19	EUR/t	39,83
1103 13 10 9300 (1)	C19	EUR/t	30,98
1103 13 10 9500 (1)	C19	EUR/t	26,56
1103 13 90 9100 (1)	C14	EUR/t	26,56
1103 19 10 9000	C16	EUR/t	26,47
1103 19 30 9100	C14	EUR/t	0,00
1103 20 60 9000	C20	EUR/t	0,00
1103 20 20 9000	C17	EUR/t	0,00
1104 19 69 9100	C14	EUR/t	0,00
1104 12 90 9100	C13	EUR/t	0,00
1104 12 90 9300	C13	EUR/t	0,00
1104 19 10 9000	C13	EUR/t	0,00
1104 19 50 9110	C14	EUR/t	35,41
1104 19 50 9130	C14	EUR/t	28,77
1104 29 01 9100	C14	EUR/t	0,00
1104 29 03 9100	C14	EUR/t	0,00
1104 29 05 9100	C14	EUR/t	0,00
1104 29 05 9300	C14	EUR/t	0,00
1104 22 20 9100	C13	EUR/t	0,00
1104 22 30 9100	C13	EUR/t	0,00
1104 23 10 9100	C14	EUR/t	33,20
1104 23 10 9300	C14	EUR/t	25,45
1104 29 11 9000	C13	EUR/t	0,00
1104 29 51 9000	C13	EUR/t	0,00
1104 29 55 9000	C13	EUR/t	0,00
1104 30 10 9000	C13	EUR/t	0,00
1104 30 90 9000	C14	EUR/t	5,53
1107 10 11 9000	C21	EUR/t	0,00
1107 10 91 9000	C21	EUR/t	0,00
1108 11 00 9200	C10	EUR/t	0,00
1108 11 00 9300	C10	EUR/t	0,00
1108 12 00 9200	C10	EUR/t	35,41
1108 12 00 9300	C10	EUR/t	35,41
1108 13 00 9200	C10	EUR/t	35,41
1108 13 00 9300	C10	EUR/t	35,41
1108 19 10 9200	C10	EUR/t	54,72
1108 19 10 9300	C10	EUR/t	54,72
1109 00 00 9100	C10	EUR/t	0,00
1702 30 51 9000 (2)	C10	EUR/t	34,69
1702 30 59 9000 (2)	C10	EUR/t	26,56
1702 30 91 9000	C10	EUR/t	34,69
1702 30 99 9000	C10	EUR/t	26,56
1702 40 90 9000	C10	EUR/t	26,56
1702 90 50 9100	C10	EUR/t	34,69
1702 90 50 9900	C10	EUR/t	26,56
1702 90 75 9000	C10	EUR/t	36,35
1702 90 79 9000	C10	EUR/t	25,23
2106 90 55 9000	C10	EUR/t	26,56

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

(2) 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 2020/2001 (OJ L 273, 16.10.2001, p. 6).

The other destinations are as follows:

C10: All destinations except for Estonia,

C11: All destinations except for Estonia, Hungary, Poland and Slovenia,

C12: All destinations except for Estonia, Hungary, Latvia and Poland,

C13: All destinations except for Estonia, Hungary and Lithuania,

C14: All destinations except for Estonia and Hungary,

C15: All destinations except for Estonia, Hungary, Latvia, Lithuania and Poland,

C16: All destinations except for Estonia, Hungary, Latvia and Lithuania,

C17: All destinations except for Bulgaria, Estonia, Hungary, Poland and Slovenia.

C18: All destinations except for Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland and Slovenia.

C19: All destinations except for Estonia, Hungary and Slovenia.

C20: All destinations except for Estonia, Hungary, Latvia, Lithuania and Romania.

C21: All destinations except for Bulgaria, Estonia, Hungary, Lithuania, Romania and Slovenia.

COMMISSION REGULATION (EC) No 164/2003
of 30 January 2003
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 organization of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2], 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) 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 [3] 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) However, in fixing the rate of refund it would seem advisable to base it at this time on the difference in the cost of raw inputs widely used in compound feedingstuffs as the Community and world markets, allowing more accurate account to be taken of the commercial conditions under which such products are exported.

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

(7) 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 31 January 2003.

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

Done at Brussels, 30 January 2003.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 147, 30.6.1995, p. 51.

ANNEX

to the Commission Regulation of 30 January 2003 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	22,13
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.

The other destinations are as follows:

C10 All destinations except for Estonia.

COMMISSION REGULATION (EC) No 165/2003

of 30 January 2003

on the second publication of the quantities of certain basic products which may be placed under inward processing arrangements without prior examination of the economic conditions

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products [1], as last amended by Regulation (EC) No 2580/2000 [2],

Having regard to Commission Regulation (EC) No 1488/2001 of 19 July 2001 laying down rules for the application of Council Regulation (EC) No 3448/93 as regards the placement of certain quantities of certain basic products listed in Annex I to the Treaty establishing the European Community under the inward processing arrangements without prior examination of the economic conditions [3], and in particular Article 22 thereof,

Whereas:

(1) In accordance with Article 21(1) of Regulation (EC) No 1488/2001, 60 % of the quantities of certain basic products published in Regulation (EC) No 1739/2002 of 30 September 2002 on the initial publication of the quantities of certain basic products which may be placed under inward processing arrangements without prior examination of the economic conditions [4] were made available by way of the first tranche of certificates issued.

(2) In accordance with Regulation (EC) No 1488/2001 the supply balance described in Article 11 of Regulation (EC) No 3448/93 has been the subject of regular review by the Commission and examination by the Group of Experts. The Commission has determined that it is appropriate to make a second publication of the quantities available.

(3) The remaining quantities of certain basic products as identified by their eight digit Combined Nomenclature code, which may be placed under the inward processing arrangements for use in the manufacture of goods without prior examination of the economic conditions should therefore be the subject of a second publication,

HAS ADOPTED THIS REGULATION:

Article 1

The remaining quantities of certain basic products listed in Annex I to the Treaty which may be placed under inward processing arrangements without prior examination of the economic conditions are set out in the Annex to this Regulation pursuant to Article 22 of Regulation (EC) No 1488/2001.

Article 2

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

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

Done at Brussels, 30 January 2003.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 318, 20.12.1993, p. 18.
[2] OJ L 298, 25.11.2000, p. 5.
[3] OJ L 196, 19.7.2001, p. 9.
[4] OJ L 263, 1.10.2002, p. 20.

ANNEX

CN code	Description	Quantity (tonnes)
ex 0402 10 19	Milk in powder, granules or other solid forms, not containing added sugar or other sweetening matter, of a fat content by weight, not exceeding 1,5 % (PG 2)	11 900
ex 0405 10 19	Butter, of a fat content by weight of 82 % (PG 6)	6 520
1701 99 10	White sugar	42 720

COMMISSION REGULATION (EC) No 166/2003

of 30 January 2003

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 ([1]), as last amended by Regulation (EC) No 1666/2000 ([2]), 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 ([3]), as last amended by Commission Regulation (EC) No 411/2002 ([4]), 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 ([5]), as last amended by Regulation (EC) No 1052/2002 ([6]), 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) Now that a settlement has been reached between the European Community and the United States of America on Community exports of pasta products to the United States and has been approved by Council Decision 87/482/EEC ([7]), 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 provides that 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 ([8]), as last amended by Commission Regulation (EC) No 1786/2001 ([9]), 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 of the Act of Accession of the United Kingdom, Ireland and Denmark stipulates 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) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.

(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 rates of the refunds applicable to the basic products appearing 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 amended Regulation (EC) No 3072/95 respectively, are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 31 January 2003.

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 193, 29.7.2000, p. 1.
([3]) OJ L 329, 30.12.1995, p. 18.
([4]) OJ L 62, 5.3.2002, p. 27.
([5]) OJ L 117, 15.7.2000, p. 1.
([6]) OJ L 160, 18.6.2002, p. 16.
([7]) OJ L 275, 29.9.1987, p. 36.
([8]) OJ L 159, 1.7.1993, p. 112.
([9]) OJ L 242, 12.9.2001, p. 3.

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

Done at Brussels, 30 January 2003.

For the Commission
Erkki LIIKANEN
Member of the Commission

ANNEX

to the Commission Regulation of 30 January 2003 fixing the rates of the refunds applicable 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 (1)	Rate of refund per 100 kg of basic product	
		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 (2)	—	—
	– – where goods falling within subheading 2208 (3) are exported	—	—
	– – in other cases	—	—
1002 00 00	Rye	2,647	2,647
1003 00 90	Barley		
	– where goods falling within subheading 2208 (3) 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 (2)	2,213	2,213
	– – where goods falling within subheading 2208 (3) are exported	0,784	0,784
	– – in other cases	2,213	2,213
	– 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 (4):		
	– – where Article 4(5) of Regulation (EC) No 1520/2000 applies (2)	1,660	1,660
	– – where goods falling within subheading 2208 (3) are exported	0,588	0,588
	– – in other cases	1,660	1,660
	– where goods falling within subheading 2208 (3) are exported	0,784	0,784
	– other (including unprocessed)	2,213	2,213
	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 (2)	2,213	2,213
	– – where goods falling within subheading 2208 (3) are exported	0,784	0,784
	– in other cases	2,213	2,213

(EUR/100 kg)

CN code	Description of products (1)	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
ex 1006 30	Wholly-milled rice:		
	– round grain	14,500	14,500
	– medium grain	14,500	14,500
	– long grain	14,500	14,500
1006 40 00	Broken rice	3,600	3,600
1007 00 90	Sorghum	—	—

(1) 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 of amended Commission Regulation (EC) No 1520/2000 shall be applied (OJ L 177, 15.7.2000, p. 1).
(2) The goods concerned fall under CN code 3505 10 50.
(3) Goods listed in Annex B of Council Regulation (EEC) No 1766/92 or referred to in Article 2 of Regulation (EEC) No 2825/93.
(4) 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 167/2003
of 30 January 2003
fixing the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], as last amended by Commission Regulation (EC) No 509/2002 [2], and in particular Article 31(3) thereof,

Whereas:

(1) Article 31 of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade 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 within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty.

(2) Regulation (EC) No 1255/1999 provides that when the refunds on the products listed in Article 1 of the abovementioned Regulation, exported in the natural state, are being fixed, account must be taken of:

— the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,

— marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,

— the aims of the common organisation of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,

— the limits resulting from agreements concluded in accordance with Article 300 of the Treaty, and

— the need to avoid disturbances on the Community market, and

— the economic aspect of the proposed exports.

(3) Article 31(5) of Regulation (EC) No 1255/1999 provides that when prices within the Community are being determined account should be taken of the ruling prices which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of:

(a) prices ruling on third country markets;

(b) the most favourable prices in third countries of destination for third country imports;

(c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and

(d) free-at-Community-frontier offer prices.

(4) Article 31(3) of Regulation (EC) No 1255/1999 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of the abovementioned Regulation according to destination.

(5) Article 31(3) of Regulation (EC) No 1255/1999 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; the amount of the refund may, however, remain at the same level for more than four weeks.

(6) In accordance with Article 16 of Commission Regulation (EC) No 174/1999 of 26 January 1999 on specific detailed rules for the application of Council Regulation (EC) No 804/68 as regards export licences and export refunds on milk and milk products [3], as last amended by Regulation (EC) No 2279/2002 [4], the refund granted for milk products containing added sugar is equal to the sum of the two components; one is intended to take account of the quantity of milk products and is calculated by multiplying the basic amount by the milk products content in the product concerned; the other is intended to take account of the quantity of added sucrose and is calculated by multiplying the sucrose content of the entire product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1(1)(d) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [5], as amended by Commission Regulation (EC) No 680/2002 [6], however, this second component is applied only if the added sucrose has been produced using sugar beet or cane harvested in the Community.

[1] OJ L 160, 26.6.1999, p. 48.
[2] OJ L 79, 22.3.2002, p. 15.
[3] OJ L 20, 27.1.1999, p. 8.
[4] OJ L 347, 20.12.2002, p. 31.
[5] OJ L 178, 30.6.2001, p. 1.
[6] OJ L 104, 20.4.2002, p. 26.

(7) Commission Regulation (EEC) No 896/84 [1], as last amended by Regulation (EEC) No 222/88 [2], laid down additional provisions concerning the granting of refunds on the change from one milk year to another; those provisions provide for the possibility of varying refunds according to the date of manufacture of the products.

(8) For the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account.

(9) It follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation.

(10) 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 export refunds referred to in Article 31 of Regulation (EC) No 1255/1999 on products exported in the natural state shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 31 January 2003.

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

Done at Brussels, 30 January 2003.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 91, 1.4.1984, p. 71.
[2] OJ L 28, 1.2.1988, p. 1.

ANNEX

to the Commission Regulation of 30 January 2003 fixing the export refunds on milk and milk products

Product code	Destination	Unit of measurement	Amount of refund
0401 10 10 9000	970	EUR/100 kg	2,212
0401 10 90 9000	970	EUR/100 kg	2,212
0401 20 11 9100	970	EUR/100 kg	2,212
0401 20 11 9500	970	EUR/100 kg	3,418
0401 20 19 9100	970	EUR/100 kg	2,212
0401 20 19 9500	970	EUR/100 kg	3,418
0401 20 91 9000	970	EUR/100 kg	4,325
0401 20 99 9000	970	EUR/100 kg	4,325
0401 30 11 9400	970	EUR/100 kg	9,981
0401 30 11 9700	970	EUR/100 kg	14,99
0401 30 19 9700	970	EUR/100 kg	14,99
0401 30 31 9100	L06	EUR/100 kg	36,41
0401 30 31 9400	L06	EUR/100 kg	56,88
0401 30 31 9700	L06	EUR/100 kg	62,73
0401 30 39 9100	L06	EUR/100 kg	36,41
0401 30 39 9400	L06	EUR/100 kg	56,88
0401 30 39 9700	L06	EUR/100 kg	62,73
0401 30 91 9100	L06	EUR/100 kg	71,49
0401 30 91 9500	L06	EUR/100 kg	105,07
0401 30 99 9100	L06	EUR/100 kg	71,49
0401 30 99 9500	L06	EUR/100 kg	105,07
0402 10 11 9000	L06	EUR/100 kg	44,00
0402 10 19 9000	L06	EUR/100 kg	44,00
0402 10 91 9000	L06	EUR/kg	0,4400
0402 10 99 9000	L06	EUR/kg	0,4400
0402 21 11 9200	L06	EUR/100 kg	44,00
0402 21 11 9300	L06	EUR/100 kg	83,62
0402 21 11 9500	L06	EUR/100 kg	87,27
0402 21 11 9900	L06	EUR/100 kg	93,00
0402 21 17 9000	L06	EUR/100 kg	44,00
0402 21 19 9300	L06	EUR/100 kg	83,62
0402 21 19 9500	L06	EUR/100 kg	87,27
0402 21 19 9900	L06	EUR/100 kg	93,00
0402 21 91 9100	L06	EUR/100 kg	93,58
0402 21 91 9200	L06	EUR/100 kg	94,13
0402 21 91 9350	L06	EUR/100 kg	95,10
0402 21 91 9500	L06	EUR/100 kg	102,21
0402 21 99 9100	L06	EUR/100 kg	93,58
0402 21 99 9200	L06	EUR/100 kg	94,13
0402 21 99 9300	L06	EUR/100 kg	95,10
0402 21 99 9400	L06	EUR/100 kg	100,37
0402 21 99 9500	L06	EUR/100 kg	102,21
0402 21 99 9600	L06	EUR/100 kg	109,41
0402 21 99 9700	L06	EUR/100 kg	113,49
0402 21 99 9900	L06	EUR/100 kg	118,21
0402 29 15 9200	L06	EUR/kg	0,4400
0402 29 15 9300	L06	EUR/kg	0,8362
0402 29 15 9500	L06	EUR/kg	0,8727
0402 29 15 9900	L06	EUR/kg	0,9300
0402 29 19 9300	L06	EUR/kg	0,8362
0402 29 19 9500	L06	EUR/kg	0,8727
0402 29 19 9900	L06	EUR/kg	0,9300
0402 29 91 9000	L06	EUR/kg	0,9358
0402 29 99 9100	L06	EUR/kg	0,9358
0402 29 99 9500	L06	EUR/kg	1,0037
0402 91 11 9370	L06	EUR/100 kg	6,804
0402 91 19 9370	L06	EUR/100 kg	6,804
0402 91 31 9300	L06	EUR/100 kg	8,058
0402 91 39 9300	L06	EUR/100 kg	8,058
0402 91 99 9000	L06	EUR/100 kg	43,93
0402 99 11 9350	L06	EUR/kg	0,1734
0402 99 19 9350	L06	EUR/kg	0,1734
0402 99 31 9150	L06	EUR/kg	0,1816
0402 99 31 9300	L06	EUR/kg	0,2629
0402 99 31 9500	L06	EUR/kg	0,4530
0402 99 39 9150	L06	EUR/kg	0,1816
0403 90 11 9000	L06	EUR/100 kg	43,390
0403 90 13 9200	L06	EUR/100 kg	43,39
0403 90 13 9300	L06	EUR/100 kg	82,87
0403 90 13 9500	L06	EUR/100 kg	86,49
0403 90 13 9900	L06	EUR/100 kg	92,17
0403 90 19 9000	L06	EUR/100 kg	92,74
0403 90 33 9400	L06	EUR/kg	0,8287
0403 90 33 9900	L06	EUR/kg	0,9217
0403 90 51 9100	970	EUR/100 kg	2,212
0403 90 59 9170	970	EUR/100 kg	14,99
0403 90 59 9310	L06	EUR/100 kg	36,41
0403 90 59 9340	L06	EUR/100 kg	53,28
0403 90 59 9370	L06	EUR/100 kg	53,28
0403 90 59 9510	L06	EUR/100 kg	53,28
0404 90 21 9120	L06	EUR/100 kg	37,53
0404 90 21 9160	L06	EUR/100 kg	44,00
0404 90 23 9120	L06	EUR/100 kg	44,00
0404 90 23 9130	L06	EUR/100 kg	83,62
0404 90 23 9140	L06	EUR/100 kg	87,27
0404 90 23 9150	L06	EUR/100 kg	93,00
0404 90 29 9110	L06	EUR/100 kg	93,58
0404 90 29 9115	L06	EUR/100 kg	94,13
0404 90 29 9125	L06	EUR/100 kg	95,10
0404 90 29 9140	L06	EUR/100 kg	102,21
0404 90 81 9100	L06	EUR/kg	0,4400
0404 90 83 9110	L06	EUR/kg	0,4400
0404 90 83 9130	L06	EUR/kg	0,8362
0404 90 83 9150	L06	EUR/kg	0,8727
0404 90 83 9170	L06	EUR/kg	0,9300
0404 90 83 9936	L06	EUR/kg	0,1734
0405 10 11 9500	L05	EUR/100 kg	180,49
0405 10 11 9700	L05	EUR/100 kg	185,00
0405 10 19 9500	L05	EUR/100 kg	180,49
0405 10 19 9700	L05	EUR/100 kg	185,00
0405 10 30 9100	L05	EUR/100 kg	180,49
0405 10 30 9300	L05	EUR/100 kg	185,00
0405 10 30 9700	L05	EUR/100 kg	185,00
0405 10 50 9300	L05	EUR/100 kg	185,00
0405 10 50 9500	L05	EUR/100 kg	180,49
0405 10 50 9700	L05	EUR/100 kg	185,00
0405 10 90 9000	L05	EUR/100 kg	191,78
0405 20 90 9500	L05	EUR/100 kg	169,22
0405 20 90 9700	L05	EUR/100 kg	175,98
0405 90 10 9000	L05	EUR/100 kg	235,07
0405 90 90 9000	L05	EUR/100 kg	185,00
0406 10 20 9100	A00	EUR/100 kg	—
0406 10 20 9230	L03	EUR/100 kg	—
	L04	EUR/100 kg	39,41
	400	EUR/100 kg	—
	A01	EUR/100 kg	39,41

Product code	Destination	Unit of measurement	Amount of refund
0406 10 20 9290	L03	EUR/100 kg	—
	L04	EUR/100 kg	36,66
	400	EUR/100 kg	—
	A01	EUR/100 kg	36,66
0406 10 20 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	16,09
	400	EUR/100 kg	—
	A01	EUR/100 kg	16,09
0406 10 20 9610	L03	EUR/100 kg	—
	L04	EUR/100 kg	53,46
	400	EUR/100 kg	—
	A01	EUR/100 kg	53,46
0406 10 20 9620	L03	EUR/100 kg	—
	L04	EUR/100 kg	54,22
	400	EUR/100 kg	—
	A01	EUR/100 kg	54,22
0406 10 20 9630	L03	EUR/100 kg	—
	L04	EUR/100 kg	60,52
	400	EUR/100 kg	—
	A01	EUR/100 kg	60,52
0406 10 20 9640	L03	EUR/100 kg	—
	L04	EUR/100 kg	88,94
	400	EUR/100 kg	—
	A01	EUR/100 kg	88,94
0406 10 20 9650	L03	EUR/100 kg	—
	L04	EUR/100 kg	74,11
	400	EUR/100 kg	—
	A01	EUR/100 kg	74,11
0406 10 20 9660	A00	EUR/100 kg	—
0406 10 20 9830	L03	EUR/100 kg	—
	L04	EUR/100 kg	27,49
	400	EUR/100 kg	—
	A01	EUR/100 kg	27,49
0406 10 20 9850	L03	EUR/100 kg	—
	L04	EUR/100 kg	33,33
	400	EUR/100 kg	—
	A01	EUR/100 kg	33,33
0406 10 20 9870	A00	EUR/100 kg	—
0406 10 20 9900	A00	EUR/100 kg	—
0406 20 90 9100	A00	EUR/100 kg	—
0406 20 90 9913	L03	EUR/100 kg	—
	L04	EUR/100 kg	61,46
	400	EUR/100 kg	17,96
	A01	EUR/100 kg	61,46
0406 20 90 9915	L03	EUR/100 kg	—
	L04	EUR/100 kg	81,13
	400	EUR/100 kg	23,93
	A01	EUR/100 kg	81,13
0406 20 90 9917	L03	EUR/100 kg	—
	L04	EUR/100 kg	86,20
	400	EUR/100 kg	25,44
	A01	EUR/100 kg	86,20
0406 20 90 9919	L03	EUR/100 kg	—
	L04	EUR/100 kg	96,33
	400	EUR/100 kg	28,38
	A01	EUR/100 kg	96,33
0406 20 90 9990	A00	EUR/100 kg	—
0406 30 31 9710	L03	EUR/100 kg	—
	L04	EUR/100 kg	8,10
	400	EUR/100 kg	—
	A01	EUR/100 kg	15,17
0406 30 31 9730	L03	EUR/100 kg	—
	L04	EUR/100 kg	11,87
	400	EUR/100 kg	—
	A01	EUR/100 kg	22,26
0406 30 31 9910	L03	EUR/100 kg	—
	L04	EUR/100 kg	8,10
	400	EUR/100 kg	—
	A01	EUR/100 kg	15,17
0406 30 31 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	11,87
	400	EUR/100 kg	—
	A01	EUR/100 kg	22,26
0406 30 31 9950	L03	EUR/100 kg	—
	L04	EUR/100 kg	17,26
	400	EUR/100 kg	—
	A01	EUR/100 kg	32,38
0406 30 39 9500	L03	EUR/100 kg	—
	L04	EUR/100 kg	11,87
	400	EUR/100 kg	—
	A01	EUR/100 kg	22,26
0406 30 39 9700	L03	EUR/100 kg	—
	L04	EUR/100 kg	17,26
	400	EUR/100 kg	—
	A01	EUR/100 kg	32,38
0406 30 39 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	17,26
	400	EUR/100 kg	—
	A01	EUR/100 kg	32,38
0406 30 39 9950	L03	EUR/100 kg	—
	L04	EUR/100 kg	19,53
	400	EUR/100 kg	—
	A01	EUR/100 kg	36,60
0406 30 90 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	20,48
	400	EUR/100 kg	—
	A01	EUR/100 kg	38,40
0406 40 50 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	94,14
	400	EUR/100 kg	—
	A01	EUR/100 kg	94,14
0406 40 90 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	96,66
	400	EUR/100 kg	—
	A01	EUR/100 kg	96,66
0406 90 13 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	106,29
	400	EUR/100 kg	34,20
	A01	EUR/100 kg	121,71
0406 90 15 9100	L03	EUR/100 kg	—
	L04	EUR/100 kg	109,84
	400	EUR/100 kg	35,25
	A01	EUR/100 kg	125,77
0406 90 17 9100	L03	EUR/100 kg	—
	L04	EUR/100 kg	109,84
	400	EUR/100 kg	35,25
	A01	EUR/100 kg	125,77
0406 90 21 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	107,63
	400	EUR/100 kg	25,29
	A01	EUR/100 kg	122,94
0406 90 23 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	94,51
	400	EUR/100 kg	—
	A01	EUR/100 kg	108,69
0406 90 25 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	93,89
	400	EUR/100 kg	—
	A01	EUR/100 kg	107,52

Product code	Destination	Unit of measurement	Amount of refund
0406 90 27 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	85,04
	400	EUR/100 kg	—
	A01	EUR/100 kg	97,38
0406 90 31 9119	L03	EUR/100 kg	—
	L04	EUR/100 kg	78,15
	400	EUR/100 kg	14,50
	A01	EUR/100 kg	89,64
0406 90 33 9119	L03	EUR/100 kg	—
	L04	EUR/100 kg	78,15
	400	EUR/100 kg	14,50
	A01	EUR/100 kg	89,64
0406 90 33 9919	L03	EUR/100 kg	—
	L04	EUR/100 kg	71,43
	400	EUR/100 kg	—
	A01	EUR/100 kg	82,21
0406 90 33 9951	L03	EUR/100 kg	—
	L04	EUR/100 kg	72,14
	400	EUR/100 kg	—
	A01	EUR/100 kg	82,27
0406 90 35 9190	L03	EUR/100 kg	—
	L04	EUR/100 kg	110,56
	400	EUR/100 kg	34,88
	A01	EUR/100 kg	127,15
0406 90 35 9990	L03	EUR/100 kg	—
	L04	EUR/100 kg	110,56
	400	EUR/100 kg	22,80
	A01	EUR/100 kg	127,15
0406 90 37 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	106,29
	400	EUR/100 kg	34,20
	A01	EUR/100 kg	121,71
0406 90 61 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	117,14
	400	EUR/100 kg	32,46
	A01	EUR/100 kg	135,59
0406 90 63 9100	L03	EUR/100 kg	—
	L04	EUR/100 kg	116,53
	400	EUR/100 kg	36,31
	A01	EUR/100 kg	134,46
0406 90 63 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	112,03
	400	EUR/100 kg	27,77
	A01	EUR/100 kg	129,88
0406 90 69 9100	A00	EUR/100 kg	—
0406 90 69 9910	L03	EUR/100 kg	—
	L04	EUR/100 kg	112,03
	400	EUR/100 kg	27,77
	A01	EUR/100 kg	129,88
0406 90 73 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	97,56
	400	EUR/100 kg	29,89
	A01	EUR/100 kg	111,82
0406 90 75 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	98,22
	400	EUR/100 kg	12,61
	A01	EUR/100 kg	113,03
0406 90 76 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	88,57
	400	EUR/100 kg	—
	A01	EUR/100 kg	101,43
0406 90 76 9400	L03	EUR/100 kg	—
	L04	EUR/100 kg	99,20
	400	EUR/100 kg	13,13
	A01	EUR/100 kg	113,61
0406 90 76 9500	L03	EUR/100 kg	—
	L04	EUR/100 kg	94,38
	400	EUR/100 kg	13,13
	A01	EUR/100 kg	107,15
0406 90 78 9100	L03	EUR/100 kg	—
	L04	EUR/100 kg	91,53
	400	EUR/100 kg	—
	A01	EUR/100 kg	106,96
0406 90 78 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	97,04
	400	EUR/100 kg	—
	A01	EUR/100 kg	110,84
0406 90 78 9500	L03	EUR/100 kg	—
	L04	EUR/100 kg	96,13
	400	EUR/100 kg	—
	A01	EUR/100 kg	109,15
0406 90 79 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	78,47
	400	EUR/100 kg	—
	A01	EUR/100 kg	90,23
0406 90 81 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	99,20
	400	EUR/100 kg	27,02
	A01	EUR/100 kg	113,61
0406 90 85 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	107,14
	400	EUR/100 kg	33,67
	A01	EUR/100 kg	123,32
0406 90 85 9970	L03	EUR/100 kg	—
	L04	EUR/100 kg	98,22
	400	EUR/100 kg	29,46
	A01	EUR/100 kg	113,03
0406 90 85 9999	A00	EUR/100 kg	—
0406 90 86 9100	A00	EUR/100 kg	—
0406 90 86 9200	L03	EUR/100 kg	—
	L04	EUR/100 kg	90,13
	400	EUR/100 kg	17,68
	A01	EUR/100 kg	106,94
0406 90 86 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	91,43
	400	EUR/100 kg	19,38
	A01	EUR/100 kg	108,06
0406 90 86 9400	L03	EUR/100 kg	—
	L04	EUR/100 kg	97,13
	400	EUR/100 kg	21,93
	A01	EUR/100 kg	113,61
0406 90 86 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	107,14
	400	EUR/100 kg	25,67
	A01	EUR/100 kg	123,32
0406 90 87 9100	A00	EUR/100 kg	—
0406 90 87 9200	L03	EUR/100 kg	—
	L04	EUR/100 kg	75,11
	400	EUR/100 kg	15,81
	A01	EUR/100 kg	89,10
0406 90 87 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	83,95
	400	EUR/100 kg	17,85
	A01	EUR/100 kg	99,25
0406 90 87 9400	L03	EUR/100 kg	—
	L04	EUR/100 kg	86,15
	400	EUR/100 kg	19,55
	A01	EUR/100 kg	100,75
0406 90 87 9951	L03	EUR/100 kg	—
	L04	EUR/100 kg	97,43
	400	EUR/100 kg	27,03
	A01	EUR/100 kg	111,58

Product code	Destination	Unit of measurement	Amount of refund
0406 90 87 9971	L03	EUR/100 kg	—
	L04	EUR/100 kg	97,43
	400	EUR/100 kg	21,93
	A01	EUR/100 kg	111,58
0406 90 87 9972	L03	EUR/100 kg	—
	L04	EUR/100 kg	41,51
	400	EUR/100 kg	—
	A01	EUR/100 kg	47,73
0406 90 87 9973	L03	EUR/100 kg	—
	L04	EUR/100 kg	95,66
	400	EUR/100 kg	15,39
	A01	EUR/100 kg	109,55
0406 90 87 9974	L03	EUR/100 kg	—
	L04	EUR/100 kg	103,82
	400	EUR/100 kg	15,39
	A01	EUR/100 kg	118,38
0406 90 87 9975	L03	EUR/100 kg	—
	L04	EUR/100 kg	105,90
	400	EUR/100 kg	20,40
	A01	EUR/100 kg	119,70
0406 90 87 9979	L03	EUR/100 kg	—
	L04	EUR/100 kg	94,51
	400	EUR/100 kg	15,39
	A01	EUR/100 kg	108,69
0406 90 88 9100	A00	EUR/100 kg	—
0406 90 88 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	74,16
	400	EUR/100 kg	19,38
	A01	EUR/100 kg	87,34

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).

The other destinations are defined as follows:

L03 Ceuta, Melilla, Iceland, Norway, Switzerland, Liechtenstein, Andorra, Gibraltar, Holy See (often referred to as Vatican City), Malta, Turkey, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Canada, Cyprus, Australia and New Zealand,

L04 Albania, Slovenia, Croatia, Bosnia and Herzegovina, Yugoslavia and the Former Yugoslav Republic of Macedonia,

L05 all destinations except Poland, Estonia, Latvia, Lithuania, Hungary and the United States of America.

L06 all destinations except Estonia, Latvia, Lithuania, Hungary and the United States of America.

970 includes the exports referred to in Articles 36(1)(a) and (c) and 44(1)(a) and (b) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11) and exports under contracts with armed forces stationed on the territory of a Member State which do not come under its flag.

COMMISSION REGULATION (EC) No 168/2003
of 30 January 2003
fixing the representative prices and the additional import duties for molasses in the sugar sector

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 market in sugar [1], as amended by Commission Regulation (EC) No 680/2002 [2],

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 [3], as amended by Regulation (EC) No 79/2003 [4], and in particular Article 1(2) and Article 3(1) thereof,

Whereas:

(1) Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 [5]. That price should be fixed for the standard quality defined in Article 1 of the above Regulation.

(2) The representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality. The standard quality for molasses is defined in Regulation (EEC) No 785/68.

(3) When the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States. Under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends.

(4) The information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small quantity that is not representative of the market. Offer prices which can be regarded as not representative of actual market trends must also be disregarded.

(5) If information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68.

(6) A representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price.

(7) Where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95. Should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed.

(8) Application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation.

(9) 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 representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 31 January 2003.

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 104, 20.4.2002, p. 26.
[3] OJ L 141, 24.6.1995, p. 12.
[4] OJ L 13, 18.1.2003, p. 4.
[5] OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 30 January 2003.

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

ANNEX

to the Commission Regulation of 30 January 2003 fixing the representative prices and additional import duties to imports of molasses in the sugar sector

(in EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 (2)
1703 10 00 (1)	8,14	—	0,07
1703 90 00 (1)	10,31	—	0

(1) For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.
(2) This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 169/2003
of 30 January 2003
fixing the export refunds on white sugar and raw sugar exported in its unaltered state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], amended by Commission Regulation (EC) No 680/2002 [2], and in particular the second subparagraph of Article 27(5) thereof,

Whereas:

(1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(a) of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Regulation (EC) No 1260/2001 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 28 of that Regulation. The same Article provides that the economic aspect of the proposed exports should also be taken into account.

(3) The refund on raw sugar must be fixed in respect of the standard quality. The latter is defined in Annex I, point II, to Regulation (EC) No 1260/2001. Furthermore, this refund should be fixed in accordance with Article 28(4) of Regulation (EC) No 1260/2001. Candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector [3]. The refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content.

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

(5) In special cases, the amount of the refund may be fixed by other legal instruments.

(6) The refund must be fixed every two weeks. It may be altered in the intervening period.

(7) It follows from applying the rules set out above to the present situation on the market in sugar and in particular to quotations or prices for sugar within the Community and on the world market that the refund should be as set out in the Annex hereto.

(8) Regulation (EC) No 1260/2001 does not make provision to continue the compensation system for storage costs from 1 July 2001. This should accordingly be taken into account when fixing the refunds granted when the export occurs after 30 September 2001.

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

Article 2

This Regulation shall enter into force on 31 January 2003.

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

Done at Brussels, 30 January 2003.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 104, 20.4.2002, p. 26.
[3] OJ L 214, 8.9.1995, p. 16.

ANNEX

to the Commission Regulation of 30 January 2003 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	A00	EUR/100 kg	38,85 (1)
1701 11 90 9910	A00	EUR/100 kg	38,85 (1)
1701 12 90 9100	A00	EUR/100 kg	38,85 (1)
1701 12 90 9910	A00	EUR/100 kg	38,85 (1)
1701 91 00 9000	A00	EUR/1 % of sucrose × net 100 kg of product	0,4223
1701 99 10 9100	A00	EUR/100 kg	42,23
1701 99 10 9910	A00	EUR/100 kg	42,23
1701 99 10 9950	A00	EUR/100 kg	42,23
1701 99 90 9100	A00	EUR/1 % of sucrose × net 100 kg of product	0,4223

(1) Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 28(4) of Council Regulation (EC) No 1260/2001.

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 2020/2001 (OJ L 273, 16.10.2001, p. 6).

COMMISSION REGULATION (EC) No 170/2003

of 30 January 2003

amending the export refunds on syrups and certain other sugar sector products exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], as amended by Commission Regulation (EC) No 680/2002 [2], and in particular the third indent of Article 27(5) thereof,

Whereas:

(1) The refunds on syrups and certain other sugar products were fixed by Commission Regulation (EC) No 2390/2002 [3].

(2) It follows from applying the rules, criteria and other provisions contained in Regulation (EC) No 2390/2002 to the information at present available to the Commission that the export refunds at present in force should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The refunds to be granted on the products listed in Article 1(1)(d), (f) and (g) of Regulation (EC) No 1260/2001, exported in the natural state, as fixed in the Annex to Regulation (EC) No 2390/2002 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 31 January 2003.

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

Done at Brussels, 30 January 2003.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 104, 20.4.2002, p. 26.
[3] OJ L 358, 31.12.2002, p. 136.

ANNEX

to the Commission Regulation of 30 January 2003 altering the export refunds on syrups and certain other sugar products exported in the natural state

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	A00	EUR/100 kg dry matter	42,23 (2)
1702 60 10 9000	A00	EUR/100 kg dry matter	42,23 (2)
1702 60 80 9100	A00	EUR/100 kg dry matter	80,24 (4)
1702 60 95 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,4223 (1)
1702 90 30 9000	A00	EUR/100 kg dry matter	42,23 (2)
1702 90 60 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,4223 (1)
1702 90 71 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,4223 (1)
1702 90 99 9900	A00	EUR/1 % sucrose × net 100 kg of product	0,4223 (1) (3)
2106 90 30 9000	A00	EUR/100 kg dry matter	42,23 (2)
2106 90 59 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,4223 (1)

(1) The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EC) No 2135/95). Sucrose content is determined in accordance with Article 3 of Regulation (EC) No 2135/95.

(2) Applicable only to products referred to in Article 5 of Regulation (EC) No 2135/95.

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

(4) Applicable only to products defined under Article 6 of Regulation (EC) No 2135/95.

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 2020/2001 (OJ L 273, 16.10.2001, p. 6).

COMMISSION REGULATION (EC) No 171/2003

of 30 January 2003

fixing the maximum export refund for white sugar for the 22nd partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1331/2002

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], as amended by Commission Regulation (EC) No 680/2002 [2], and in particular Article 27(5) thereof,

Whereas:

(1) Commission Regulation (EC) No 1331/2002 of 23 July 2002 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar [3], for the 2002/2003 marketing year, requires partial invitations to tender to be issued for the export of this sugar.

(2) Pursuant to Article 9(1) of Regulation (EC) No 1331/2002 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question.

(3) Following an examination of the tenders submitted in response to the 22nd partial invitation to tender, the provisions set out in Article 1 should be adopted.

(4) 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

For the 22nd partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1331/2002 the maximum amount of the export refund is fixed at 45,360 EUR/100 kg.

Article 2

This Regulation shall enter into force on 31 January 2003.

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

Done at Brussels, 30 January 2003.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 104, 20.4.2002, p. 26.
[3] OJ L 195, 24.7.2002, p. 6.

COMMISSION REGULATION (EC) No 172/2003

of 30 January 2003

concerning tenders notified in response to the invitation to tender for the export of barley issued in Regulation (EC) No 901/2002

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 [1], as last amended by Regulation (EC) No 1666/2000 [2],

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 [3], as last amended by Regulation (EC) No 1163/2002 [4], as amended by Regulation (EC) No 1324/2002 [5], and in particular Article 4 thereof,

Whereas:

(1) An invitation to tender for the refund for the export of barley to all third countries except the United States of America, Canada, Estonia and Latvia was opened pursuant to Commission Regulation (EC) No 901/2002 [6], as amended by Regulation (EC) No 1230/2002 [7].

(2) Article 7 of Regulation (EC) No 1501/95, 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 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 24 to 30 January 2003 in response to the invitation to tender for the refund for the export of barley issued in Regulation (EC) No 901/2002.

Article 2

This Regulation shall enter into force on 31 January 2003.

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

Done at Brussels, 30 January 2003.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 147, 30.6.1995, p. 7.
[4] OJ L 170, 29.6.2002, p. 46.
[5] OJ L 194, 23.7.2002, p. 26.
[6] OJ L 127, 9.5.2002, p. 11.
[7] OJ L 180, 10.7.2002, p. 3.

COMMISSION REGULATION (EC) No 173/2003

of 30 January 2003

concerning tenders notified in response to the invitation to tender for the export of rye issued in Regulation (EC) No 900/2002

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 [1], as last amended by Regulation (EC) No 1666/2000 [2],

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 [3], as last amended by Regulation (EC) No 1163/2002 [4], as amended by Regulation (EC) No 1324/2002 [5], and in particular Article 7 thereof,

Whereas:

(1) An invitation to tender for the refund for the export of rye to all third countries excluding Hungary, Estonia, Lithuania and Latvia was opened pursuant to Commission Regulation (EC) No 900/2002 [6], as last amended by Regulation (EC) No 2330/2002 [7].

(2) Article 7 of Regulation (EC) No 1501/95 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 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 24 to 30 January 2003 in response to the invitation to tender for the refund for the export of rye issued in Regulation (EC) No 900/2002.

Article 2

This Regulation shall enter into force on 31 January 2003.

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

Done at Brussels, 30 January 2003.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 147, 30.6.1995, p. 7.
[4] OJ L 170, 29.6.2002, p. 46.
[5] OJ L 194, 23.7.2002, p. 26.
[6] OJ L 142, 31.5.2002, p. 14.
[7] OJ L 349, 24.12.2002, p. 18.

COMMISSION REGULATION (EC) No 174/2003

of 30 January 2003

fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 899/2002

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 ([1]), as last amended by Regulation (EC) No 1666/2000 ([2]),

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 ([3]), as last amended by Regulation (EC) No 1163/2002 ([4]), as amended by Regulation (EC) No 1324/2002 ([5]), and in particular Article 4 thereof,

Whereas:

(1) An invitation to tender for the refund on exportation of common wheat to all third countries with the exclusion of Poland, Estonia, Lithuania and Latvia was opened pursuant to Commission Regulation (EC) No 899/2002 ([6]), as last amended by Regulation (EC) No 2331/2002 ([7]).

(2) Article 7 of Regulation (EC) No 1501/95 provides that 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 fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.

(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

For tenders notified from 24 to 30 January 2003, pursuant to the invitation to tender issued in Regulation (EC) No 899/2002, the maximum refund on exportation of common wheat shall be EUR 12,90/t.

Article 2

This Regulation shall enter into force on 31 January 2003.

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

Done at Brussels, 30 January 2003.

For the Commission

Franz FISCHLER

Member of the Commission

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 193, 29.7.2000, p. 1.
([3]) OJ L 147, 30.6.1995, p. 7.
([4]) OJ L 170, 29.6.2002, p. 46.
([5]) OJ L 194, 23.7.2002, p. 26.
([6]) OJ L 142, 31.5.2002, p. 11.
([7]) OJ L 349, 24.12.2002, p. 19.

COMMISSION REGULATION (EC) No 175/2003

of 30 January 2003

fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 60/2003

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 ([1]), as last amended by Regulation (EC) No 1666/2000 ([2]), 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 60/2003 ([3]).

(2) Pursuant to Article 5 of Commission Regulation (EC) No 1839/95 ([4]), as last amended by Regulation (EC) No 2235/2000 ([5]), the Commission, acting under the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1.

(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

For tenders notified from 24 to 30 January 2003, pursuant to the invitation to tender issued in Regulation (EC) No 60/2003, the maximum reduction in the duty on maize imported shall be 36,95 EUR/t and be valid for a total maximum quantity of 101 512 t.

Article 2

This Regulation shall enter into force on 31 January 2003.

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

Done at Brussels, 30 January 2003.

For the Commission
Franz FISCHLER
Member of the Commission

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 193, 29.7.2000, p. 1.
([3]) OJ L 11, 16.1.2003, p. 11.
([4]) OJ L 177, 28.7.1995, p. 4.
([5]) OJ L 256, 10.10.2000, p. 13.

COMMISSION REGULATION (EC) No 176/2003
of 30 January 2003
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 ([1]), as last amended by Regulation (EC) No 1666/2000 ([2]), 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 ([3]), as last amended by Regulation (EC) No 1163/2002 ([4]), as amended by Regulation (EC) No 1324/2002 ([5]).

(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 31 January 2003.

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

Done at Brussels, 30 January 2003.

For the Commission
Franz FISCHLER
Member of the Commission

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 193, 29.7.2000, p. 1.
([3]) OJ L 147, 30.6.1995, p. 7.
([4]) OJ L 170, 29.6.2002, p. 46.
([5]) OJ L 194, 23.7.2002, p. 26.

ANNEX

to the Commission Regulation of 30 January 2003 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

Product code	Destination	Unit of measurement	Amount of refunds
1001 10 00 9200	—	EUR/t	—
1001 10 00 9400	—	EUR/t	—
1001 90 91 9000	—	EUR/t	—
1001 90 99 9000	C05	EUR/t	0
1002 00 00 9000	C06	EUR/t	0
1003 00 10 9000	—	EUR/t	—
1003 00 90 9000	C07	EUR/t	0
1004 00 00 9200	—	EUR/t	—
1004 00 00 9400	C06	EUR/t	0
1005 10 90 9000	—	EUR/t	—
1005 90 00 9000	C08	EUR/t	0
1007 00 90 9000	—	EUR/t	—
1008 20 00 9000	—	EUR/t	—
1101 00 11 9000	—	EUR/t	—
1101 00 15 9100	C09	EUR/t	14,50
1101 00 15 9130	C09	EUR/t	13,50
1101 00 15 9150	C09	EUR/t	12,25
1101 00 15 9170	C09	EUR/t	11,25
1101 00 15 9180	C09	EUR/t	10,75
1101 00 15 9190	—	EUR/t	—
1101 00 90 9000	—	EUR/t	—
1102 10 00 9500	C10	EUR/t	28,75
1102 10 00 9700	C10	EUR/t	22,75
1102 10 00 9900	—	EUR/t	—
1103 11 10 9200	C11	EUR/t	0 (1)
1103 11 10 9400	C11	EUR/t	0 (1)
1103 11 10 9900	—	EUR/t	—
1103 11 90 9200	C11	EUR/t	0 (1)
1103 11 90 9800	—	EUR/t	—

(1) 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.

The other destinations are as follows:

C05 All destinations except for Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland, the Czech Republic, Romania, Slovakia and Slovenia.

C06 All destinations except for Bulgaria, Estonia, Hungary, Latvia, Lithuania, the Czech Republic, Slovakia and Slovenia.

C07 All destinations except for Bulgaria, Estonia, Hungary, Latvia, the Czech Republic, Slovakia and Slovenia.

C08 All destinations except for Bulgaria, Estonia, Hungary, the Czech Republic, Romania, Slovakia and Slovenia.

C09 All destinations except for Estonia, Hungary, Latvia, Lithuania, Poland and Romania.

C10 All destinations except for Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland and Slovenia.

C11 All destinations except for Estonia, Hungary, Latvia, Lithuania and Romania.

COMMISSION REGULATION (EC) No 177/2003
of 30 January 2003
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 [1], as last amended by Commission Regulation (EC) No 411/2002 [2], 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 [3] 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 3 850 tonnes of rice to certain destinations. The procedure laid down in Article 7(4) of Commission Regulation (EC) No 1162/95 [4], as last amended by Regulation (EC) No 1322/2002 [5], 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 3 850 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 31 January 2003.

[1] OJ L 329, 30.12.1995, p. 18.
[2] OJ L 62, 5.3.2002, p. 27.
[3] OJ L 154, 15.6.1976, p. 11.
[4] OJ L 117, 24.5.1995, p. 2.
[5] OJ L 194, 23.7.2002, p. 22.

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

Done at Brussels, 30 January 2003.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 30 January 2003 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 (1)
1006 20 11 9000	R01	EUR/t	111
1006 20 13 9000	R01	EUR/t	111
1006 20 15 9000	R01	EUR/t	111
1006 20 17 9000	—	EUR/t	—
1006 20 92 9000	R01	EUR/t	111
1006 20 94 9000	R01	EUR/t	111
1006 20 96 9000	R01	EUR/t	111
1006 20 98 9000	—	EUR/t	—
1006 30 21 9000	R01	EUR/t	111
1006 30 23 9000	R01	EUR/t	111
1006 30 25 9000	R01	EUR/t	111
1006 30 27 9000	—	EUR/t	—
1006 30 42 9000	R01	EUR/t	111
1006 30 44 9000	R01	EUR/t	111
1006 30 46 9000	R01	EUR/t	111
1006 30 48 9000	—	EUR/t	—
1006 30 61 9100	R01	EUR/t	139
	R02	EUR/t	145
	R03	EUR/t	150
	064 and 066	EUR/t	165
	A97	EUR/t	145
	021 and 023	EUR/t	145
1006 30 61 9900	R01	EUR/t	139
	A97	EUR/t	145
	064 and 066	EUR/t	165
1006 30 63 9100	R01	EUR/t	139
	R02	EUR/t	145
	R03	EUR/t	150
	064 and 066	EUR/t	165
	A97	EUR/t	145
	021 and 023	EUR/t	145
1006 30 63 9900	R01	EUR/t	139
	064 and 066	EUR/t	165
	A97	EUR/t	145
1006 30 65 9100	R01	EUR/t	139
	R02	EUR/t	145
	R03	EUR/t	150
	064 and 066	EUR/t	165
	A97	EUR/t	145
	021 and 023	EUR/t	145
1006 30 65 9900	R01	EUR/t	139
	064 and 066	EUR/t	165
	A97	EUR/t	145
1006 30 67 9100	021 and 023	EUR/t	145
	064 and 066	EUR/t	165
1006 30 67 9900	064 and 066	EUR/t	165
1006 30 92 9100	R01	EUR/t	139
	R02	EUR/t	145
	R03	EUR/t	150
	064 and 066	EUR/t	165
	A97	EUR/t	145
	021 and 023	EUR/t	145
1006 30 92 9900	R01	EUR/t	139
	A97	EUR/t	145
	064 and 066	EUR/t	165
1006 30 94 9100	R01	EUR/t	139
	R02	EUR/t	145
	R03	EUR/t	150
	064 and 066	EUR/t	165
	A97	EUR/t	145
	021 and 023	EUR/t	145
1006 30 94 9900	R01	EUR/t	139
	A97	EUR/t	145
	064 and 066	EUR/t	165
1006 30 96 9100	R01	EUR/t	139
	R02	EUR/t	145
	R03	EUR/t	150
	064 and 066	EUR/t	165
	A97	EUR/t	145
	021 and 023	EUR/t	145
1006 30 96 9900	R01	EUR/t	139
	A97	EUR/t	145
	064 and 066	EUR/t	165
1006 30 98 9100	021 and 023	EUR/t	145
1006 30 98 9900	—	EUR/t	—
1006 40 00 9000	—	EUR/t	—

(1) The procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 applies to licences applied for under that Regulation for quantities according to the destination:
destination R01: 1 000 t,
all destinations R02 and R03: 1 000 t,
destinations 021 and 023: 574 t,
destinations 064 and 066: 1 000 t,
destination A97: 276 t.

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 2020/2001 (OJ L 273, 16.10.2001, p. 6).

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, Yugoslavia, Former Yugoslav Republic of Macedonia, Albania, Bulgaria, Georgia, Armenia, Azerbaijan, Moldova, Ukraine, Kazakstan, 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 178/2003
of 30 January 2003
on the issuing of system B export licences for 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 1961/2001 of 8 October 2001 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables [1], as amended by Regulation (EC) No 1176/2002 [2], and in particular Article 6(7) thereof,

Whereas:

(1) Commission Regulation (EC) No 1886/2002 [3] fixed the indicative quantities laid down for the issue of export licences in the fruit and vegetable sector other than those requested in the context of food aid.

(2) The rate of refund for table grapes covered by licences applied for under system B between 16 November 2002 and 14 January 2003 should be the indicative rate,

HAS ADOPTED THIS REGULATION:

Article 1

1. The percentages for the issuing of system B export licences, as referred to in Article 6 of Regulation (EC) No 1961/2001, and applied for between 16 November 2002 and 14 January 2003, by which the quantities applied for and the rates of refund applicable must be multiplied, are as fixed in the Annex hereto.

2. Paragraph 1 does not apply to licences applied for in connection with food-aid operations as provided for in Article 10(4) of the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations.

Article 2

This Regulation shall enter into force on 31 January 2003.

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

Done at Brussels, 30 January 2003.

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

[1] OJ L 268, 9.10.2001, p. 8.
[2] OJ L 170, 29.6.2002, p. 69.
[3] OJ L 286, 24.10.2002, p. 3.

ANNEX

Percentages for the issuing of licences and rates of refund applicable to system B licences applied for between 16 November 2002 and 14 January 2003

Product	Percentage for the issuing of licences	Rate of refund (EUR/t net)
Table grapes	100 %	14,0

COMMISSION REGULATION (EC) No 179/2003
of 30 January 2003
on the issue of system B export licences in the fruit and vegetables sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1961/2001 of 8 October 2001 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables [1], as last amended by Regulation (EC) No 1176/2002 [2], and in particular Article 6(6) thereof,

Whereas:

(1) Commission Regulation (EC) No 2201/2002 [3] fixes the indicative quantities for system B export licences other than those sought in the context of food aid.

(2) In the light of the information available to the Commission today, there is a risk that the indicative quantities laid down for the current export period for apples will shortly be exceeded. This overrun will prejudice the proper working of the export refund scheme in the fruit and vegetables sector.

(3) To avoid this situation, applications for system B licences for apples after 30 January 2003 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for system B export licences for apples submitted pursuant to Article 1 of Regulation (EC) No 2201/2002, export declarations for which are accepted after 30 January 2003 and before 16 March 2003, are hereby rejected.

Article 2

This Regulation shall enter into force on 31 January 2003.

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

Done at Brussels, 30 January 2003.

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

[1] OJ L 268, 9.10.2001, p. 8.
[2] OJ L 170, 29.6.2002, p. 69.
[3] OJ L 286, 24.10.2002, p. 3.

COUNCIL DIRECTIVE 2002/8/EC

of 27 January 2003

to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 61(c) and 67 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Having regard to the opinion of the Economic and Social Committee [3],

Whereas:

(1) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice in which the free movement of persons is ensured. For the gradual establishment of such an area, the Community is to adopt, among others, the measures relating to judicial cooperation in civil matters having cross-border implications and needed for the proper functioning of the internal market.

(2) According to Article 65(c) of the Treaty, these measures are to include measures eliminating obstacles to the good functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States.

(3) The Tampere European Council on 15 and 16 October 1999 called on the Council to establish minimum standards ensuring an adequate level of legal aid in cross-border cases throughout the Union.

(4) All Member States are contracting parties to the European Convention for the Protection of Human Rights and Fundamental Freedom of 4 November 1950. The matters referred to in this Directive shall be dealt with in compliance with that Convention and in particular the respect of the principle of equality of both parties in a dispute.

(5) This Directive seeks to promote the application of legal aid in cross-border disputes for persons who lack sufficient resources where aid is necessary to secure effective access to justice. The generally recognised right to access to justice is also reaffirmed by Article 47 of the Charter of Fundamental Rights of the European Union.

(6) Neither the lack of resources of a litigant, whether acting as claimant or as defendant, nor the difficulties flowing from a dispute's cross-border dimension should be allowed to hamper effective access to justice.

(7) Since 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.

(8) The main purpose of this Directive is to guarantee an adequate level of legal aid in cross-border disputes by laying down certain minimum common standards relating to legal aid in such disputes. A Council directive is the most suitable legislative instrument for this purpose.

(9) This Directive applies in cross-border disputes, to civil and commercial matters.

(10) All persons involved in a civil or commercial dispute within the scope of this Directive must be able to assert their rights in the courts even if their personal financial situation makes it impossible for them to bear the costs of the proceedings. Legal aid is regarded as appropriate when it allows the recipient effective access to justice under the conditions laid down in this Directive.

(11) Legal aid should cover pre-litigation advice with a view to reaching a settlement prior to bringing legal proceedings, legal assistance in bringing a case before a court and representation in court and assistance with or exemption from the cost of proceedings.

(12) It shall be left to the law of the Member State in which the court is sitting or where enforcement is sought whether the costs of proceedings may include the costs of the opponent imposed on the recipient of legal aid.

(13) All Union citizens, wherever they are domiciled or habitually resident in the territory of a Member State, must be eligible for legal aid in cross-border disputes if they meet the conditions provided for by this Directive. The same applies to third-country nationals who habitually and lawfully reside in a Member State.

[1] OJ C 103 E, 30.4.2002, p. 368.
[2] Opinion delivered on 25 September 2002 (not yet published in the Official Journal).
[3] OJ C 221, 17.9.2002, p. 64.

(14) Member States should be left free to define the threshold above which a person would be presumed able to bear the costs of proceedings, in the conditions defined in this Directive. Such thresholds are to be defined in the light of various objective factors such as income, capital or family situation.

(15) The objective of this Directive could not, however, be attained if legal aid applicants did not have the possibility of proving that they cannot bear the costs of proceedings even if their resources exceed the threshold defined by the Member State where the court is sitting. When making the assessment of whether legal aid is to be granted on this basis, the authorities in the Member State where the court is sitting may take into account information as to the fact that the applicant satisfies criteria in respect of financial eligibility in the Member State of domicile or habitual residence.

(16) The possibility in the instant case of resorting to other mechanisms to ensure effective access to justice is not a form of legal aid. But it can warrant a presumption that the person concerned can bear the costs of the procedure despite his/her unfavourable financial situation.

(17) Member States should be allowed to reject applications for legal aid in respect of manifestly unfounded actions or on grounds related to the merits of the case in so far as pre-litigation advice is offered and access to justice is guaranteed. When taking a decision on the merits of an application, Member States may reject legal aid applications when the applicant is claiming damage to his or her reputation, but has suffered no material or financial loss or the application concerns a claim arising directly out of the applicant's trade or self-employed profession.

(18) The complexity of and differences between the legal systems of the Member States and the costs inherent in the cross-border dimension of a dispute should not preclude access to justice. Legal aid should accordingly cover costs directly connected with the cross-border dimension of a dispute.

(19) When considering if the physical presence of a person in court is required, the courts of a Member State should take into consideration the full advantage of the possibilities offered by Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters [1].

(20) If legal aid is granted, it must cover the entire proceeding, including expenses incurred in having a judgment enforced; the recipient should continue receiving this aid if an appeal is brought either against or by the recipient in so far as the conditions relating to the financial resources and the substance of the dispute remain fulfilled.

(21) Legal aid is to be granted on the same terms both for conventional legal proceedings and for out-of-court procedures such as mediation, where recourse to them is required by the law, or ordered by the court.

(22) Legal aid should also be granted for the enforcement of authentic instruments in another Member State under the conditions defined in this Directive.

(23) Since legal aid is given by the Member State in which the court is sitting or where enforcement is sought, except pre-litigation assistance if the legal aid applicant is not domiciled or habitually resident in the Member State where the court is sitting, that Member State must apply its own legislation, in compliance with the principles of this Directive.

(24) It is appropriate that legal aid is granted or refused by the competent authority of the Member State in which the court is sitting or where a judgment is to be enforced. This is the case both when that court is trying the case in substance and when it first has to decide whether it has jurisdiction.

(25) Judicial cooperation in civil matters should be organised between Member States to encourage information for the public and professional circles and to simplify and accelerate the transmission of legal aid applications between Member States.

(26) The notification and transmission mechanisms provided for by this Directive are inspired directly by those of the European Agreement on the transmission of applications for legal aid, signed in Strasbourg on 27 January 1977, hereinafter referred to as '1977 Agreement'. A time limit, not provided for by the 1977 Agreement, is set for the transmission of legal aid applications. A relatively short time limit contributes to the smooth operation of justice.

(27) The information transmitted pursuant to this Directive should enjoy protection. Since Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [2], and Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector [3], are applicable, there is no need for specific provisions on data protection in this Directive.

[1] OJ L 174, 27.6.2001, p. 1.

[2] OJ L 281, 23.11.1995, p. 31.

[3] OJ L 24, 30.1.1998, p. 1.

(28) The establishment of a standard form for legal aid applications and for the transmission of legal aid applications in the event of cross-border litigation will make the procedures easier and faster.

(29) Moreover, these application forms, as well as national application forms, should be made available on a European level through the information system of the European Judicial Network, established in accordance with Decision 2001/470/EC [1].

(30) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [2].

(31) It should be specified that the establishment of minimum standards in cross-border disputes does not prevent Member States from making provision for more favourable arrangements for legal aid applicants and recipients.

(32) The 1977 Agreement and the additional Protocol to the European Agreement on the transmission of applications for legal aid, signed in Moscow in 2001, remain applicable to relations between Member States and third countries that are parties to the 1977 Agreement or the Protocol. But this Directive takes precedence over provisions contained in the 1977 Agreement and the Protocol in relations between Member States.

(33) The United Kingdom and Ireland have given notice of their wish to participate in the adoption of this Directive in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and to the Treaty establishing the European Community.

(34) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

SCOPE AND DEFINITIONS

Article 1

Aims and scope

1. The purpose of this Directive is to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid in such disputes.

2. It shall apply, in cross-border disputes, to civil and commercial matters whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters.

3. In this Directive, 'Member State' shall mean Member States with the exception of Denmark.

Article 2

Cross-border disputes

1. For the purposes of this Directive, a cross-border dispute is one where the party applying for legal aid in the context of this Directive is domiciled or habitually resident in a Member State other than the Member State where the court is sitting or where the decision is to be enforced.

2. The Member State in which a party is domiciled shall be determined in accordance with Article 59 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters [3].

3. The relevant moment to determine if there is a cross-border dispute is the time when the application is submitted, in accordance with this Directive.

CHAPTER II

RIGHT TO LEGAL AID

Article 3

Right to legal aid

1. Natural persons involved in a dispute covered by this Directive shall be entitled to receive appropriate legal aid in order to ensure their effective access to justice in accordance with the conditions laid down in this Directive.

2. Legal aid is considered to be appropriate when it guarantees:

(a) pre-litigation advice with a view to reaching a settlement prior to bringing legal proceedings;

(b) legal assistance and representation in court, and exemption from, or assistance with, the cost of proceedings of the recipient, including the costs referred to in Article 7 and the fees to persons mandated by the court to perform acts during the proceedings.

In Member States in which a losing party is liable for the costs of the opposing party, if the recipient loses the case, the legal aid shall cover the costs incurred by the opposing party, if it would have covered such costs had the recipient been domiciled or habitually resident in the Member State in which the court is sitting.

[1] OJ L 174, 27.6.2001, p. 25.
[2] OJ L 184, 17.7.1999, p. 23.
[3] OJ L 12, 16.1.2001, p. 1; Regulation as amended by Commission Regulation (EC) No 1496/2002 (OJ L 225, 22.8.2002, p. 13).

3. Member States need not provide legal assistance or representation in the courts or tribunals in proceedings especially designed to enable litigants to make their case in person, except when the courts or any other competent authority otherwise decide in order to ensure equality of parties or in view of the complexity of the case.

4. Member States may request that legal aid recipients pay reasonable contributions towards the costs of proceedings taking into account the conditions referred to in Article 5.

5. Member States may provide that the competent authority may decide that recipients of legal aid must refund it in whole or in part if their financial situation has substantially improved or if the decision to grant legal aid had been taken on the basis of inaccurate information given by the recipient.

Article 4

Non-discrimination

Member States shall grant legal aid without discrimination to Union citizens and third-country nationals residing lawfully in a Member State.

CHAPTER III

CONDITIONS AND EXTENT OF LEGAL AID

Article 5

Conditions relating to financial resources

1. Member States shall grant legal aid to persons referred to in Article 3(1) who are partly or totally unable to meet the costs of proceedings referred to in Article 3(2) as a result of their economic situation, in order to ensure their effective access to justice.

2. The economic situation of a person shall be assessed by the competent authority of the Member State in which the court is sitting, in the light of various objective factors such as income, capital or family situation, including an assessment of the resources of persons who are financially dependant on the applicant.

3. Member States may define thresholds above which legal aid applicants are deemed partly or totally able to bear the costs of proceedings set out in Article 3(2). These thresholds shall be defined on the basis of the criteria defined in paragraph 2 of this Article.

4. Thresholds defined according to paragraph 3 of this Article may not prevent legal aid applicants who are above the thresholds from being granted legal aid if they prove that they are unable to pay the cost of the proceedings referred to in Article 3(2) as a result of differences in the cost of living between the Member States of domicile or habitual residence and of the forum.

5. Legal aid does not need to be granted to applicants in so far as they enjoy, in the instant case, effective access to other mechanisms that cover the cost of proceedings referred to in Article 3(2).

Article 6

Conditions relating to the substance of disputes

1. Member States may provide that legal aid applications for actions which appear to be manifestly unfounded may be rejected by the competent authorities.

2. If pre-litigation advice is offered, the benefit of further legal aid may be refused or cancelled on grounds related to the merits of the case in so far as access to justice is guaranteed.

3. When taking a decision on the merits of an application and without prejudice to Article 5, Member States shall consider the importance of the individual case to the applicant but may also take into account the nature of the case when the applicant is claiming damage to his or her reputation but has suffered no material or financial loss or when the application concerns a claim arising directly out of the applicant's trade or self-employed profession.

Article 7

Costs related to the cross-border nature of the dispute

Legal aid granted in the Member State in which the court is sitting shall cover the following costs directly related to the cross-border nature of the dispute:

(a) interpretation;

(b) translation of the documents required by the court or by the competent authority and presented by the recipient which are necessary for the resolution of the case; and

(c) travel costs to be borne by the applicant where the physical presence of the persons concerned with the presentation of the applicant's case is required in court by the law or by the court of that Member State and the court decides that the persons concerned cannot be heard to the satisfaction of the court by any other means.

Article 8

Costs covered by the Member State of the domicile or habitual residence

The Member State in which the legal aid applicant is domiciled or habitually resident shall provide legal aid, as referred to in Article 3(2), necessary to cover:

(a) costs relating to the assistance of a local lawyer or any other person entitled by the law to give legal advice, incurred in that Member State until the application for legal aid has been received, in accordance with this Directive, in the Member State where the court is sitting;

(b) the translation of the application and of the necessary supporting documents when the application is submitted to the authorities in that Member State.

Article 9

Continuity of legal aid

1. Legal aid shall continue to be granted totally or partially to recipients to cover expenses incurred in having a judgment enforced in the Member State where the court is sitting.

2. A recipient who in the Member State where the court is sitting has received legal aid shall receive legal aid provided for by the law of the Member State where recognition or enforcement is sought.

3. Legal aid shall continue to be available if an appeal is brought either against or by the recipient, subject to Articles 5 and 6.

4. Member States may make provision for the re-examination of the application at any stage in the proceedings on the grounds set out in Articles 3(3) and (5), 5 and 6, including proceedings referred to in paragraphs 1 to 3 of this Article.

Article 10

Extrajudicial procedures

Legal aid shall also be extended to extrajudicial procedures, under the conditions defined in this Directive, if the law requires the parties to use them, or if the parties to the dispute are ordered by the court to have recourse to them.

Article 11

Authentic instruments

Legal aid shall be granted for the enforcement of authentic instruments in another Member State under the conditions defined in this Directive.

CHAPTER IV

PROCEDURE

Article 12

Authority granting legal aid

Legal aid shall be granted or refused by the competent authority of the Member State in which the court is sitting, without prejudice to Article 8.

Article 13

Introduction and transmission of legal aid applications

1. Legal aid applications may be submitted to either:

(a) the competent authority of the Member State in which the applicant is domiciled or habitually resident (transmitting authority); or

(b) the competent authority of the Member State in which the court is sitting or where the decision is to be enforced (receiving authority).

2. Legal aid applications shall be completed in, and supporting documents translated into:

(a) the official language or one of the languages of the Member State of the competent receiving authority which corresponds to one of the languages of the Community institutions; or

(b) another language which that Member State has indicated it can accept in accordance with Article 14(3).

3. The competent transmitting authorities may decide to refuse to transmit an application if it is manifestly:

(a) unfounded; or

(b) outside the scope of this Directive.

The conditions referred to in Article 15(2) and (3) apply to such decisions.

4. The competent transmitting authority shall assist the applicant in ensuring that the application is accompanied by all the supporting documents known by it to be required to enable the application to be determined. It shall also assist the applicant in providing any necessary translation of the supporting documents, in accordance with Article 8(b).

The competent transmitting authority shall transmit the application to the competent receiving authority in the other Member State within 15 days of the receipt of the application duly completed in one of the languages referred to in paragraph 2, and the supporting documents, translated, where necessary, into one of those languages.

5. Documents transmitted under this Directive shall be exempt from legalisation or any equivalent formality.

6. The Member States may not charge for services rendered in accordance with paragraph 4. Member States in which the legal aid applicant is domiciled or habitually resident may lay down that the applicant must repay the costs of translation borne by the competent transmitting authority if the application for legal aid is rejected by the competent authority.

Article 14

Competent authorities and language

1. Member States shall designate the authority or authorities competent to send (transmitting authorities) and receive (receiving authorities) the application.

2. Each Member State shall provide the Commission with the following information:

— the names and addresses of the competent receiving or transmitting authorities referred to in paragraph 1,

— the geographical areas in which they have jurisdiction,

— the means by which they are available to receive applications, and

— the languages that may be used for the completion of the application.

3. Member States shall notify the Commission of the official language or languages of the Community institutions other than their own which is or are acceptable to the competent receiving authority for completion of the legal aid applications to be received, in accordance with this Directive.

4. Member States shall communicate to the Commission the information referred to in paragraphs 2 and 3 before 30 November 2004. Any subsequent modification of such information shall be notified to the Commission no later than two months before the modification enters into force in that Member State.

5. The information referred to in paragraphs 2 and 3 shall be published in the *Official Journal of the European Communities*.

Article 15

Processing of applications

1. The national authorities empowered to rule on legal aid applications shall ensure that the applicant is fully informed of the processing of the application.

2. Where applications are totally or partially rejected, the reasons for rejection shall be given.

3. Member States shall make provision for review of or appeals against decisions rejecting legal aid applications. Member States may exempt cases where the request for legal aid is rejected by a court or tribunal against whose decision on the subject of the case there is no judicial remedy under national law or by a court of appeal.

4. When the appeals against a decision refusing or cancelling legal aid by virtue of Article 6 are of an administrative nature, they shall always be ultimately subject to judicial review.

Article 16

Standard form

1. To facilitate transmission, a standard form for legal aid applications and for the transmission of such applications shall be established in accordance with the procedure set out in Article 17(2).

2. The standard form for the transmission of legal aid applications shall be established at the latest by 30 May 2003.

The standard form for legal aid applications shall be established at the latest by 30 November 2004.

CHAPTER V

FINAL PROVISIONS

Article 17

Committee

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.

3. The Committee shall adopt its Rules of Procedure.

Article 18

Information

The competent national authorities shall cooperate to provide the general public and professional circles with information on the various systems of legal aid, in particular via the European Judicial Network, established in accordance with Decision 2001/470/EC.

Article 19

More favourable provisions

This Directive shall not prevent the Member States from making provision for more favourable arrangements for legal aid applicants and recipients.

Article 20

Relation with other instruments

This Directive shall, as between the Member States, and in relation to matters to which it applies, take precedence over provisions contained in bilateral and multilateral agreements concluded by Member States including:

(a) the European Agreement on the transmission of applications for legal aid, signed in Strasbourg on 27 January 1977, as amended by the additional Protocol to the European Agreement on the transmission of applications for legal aid, signed in Moscow in 2001;

(b) the Hague Convention of 25 October 1980 on International Access to Justice.

Article 21

Transposition into national law

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 30 November 2004 with the exception of Article 3(2)(a) where the transposition of this Directive into national law shall take place no later than 30 May 2006. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by Member States.

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 22

Entry into force

This Directive shall enter into force on the date of its publication in the *Official Journal of the European Communities*.

Article 23

Addressees

This Directive is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 27 January 2003.

For the Council

The President

G. PAPANDREOU

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 28 January 2003

concerning protection measures relating to Newcastle disease in the United States of America and derogating from Commission Decisions 94/984/EC, 96/482/EC, 97/221/EC, 2000/572/EC, 2000/585/EC, 2000/609/EC and 2001/751/EC

(2003/67/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries [1], and in particular Article 22(1) thereof,

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 [2], and in particular Article 18(1) thereof,

Having regard to Council Directive 91/494/EEC of 26 June 1991 on animal health conditions governing intra-Community trade in and imports from third countries of fresh poultrymeat [3], and in particular Article 11(1), Article 12(2), Article 14(1) and Article 14a thereof,

Having regard to Council Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A(1) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC [4], and in particular Article 10(3) thereof,

Having regard to the proposal of the Commission [5],

Whereas:

(1) The veterinary authorities of the United States of America confirmed outbreaks of Newcastle disease since 1 October 2002 in poultry flocks in the State of California and in Nevada on 17 January 2003.

(2) Council Directive 82/894/EEC of 21 December 1982 on the notification of animal diseases within the Community [6] lists certain contagious animal diseases, such as Newcastle disease, which may endanger the Community animal health status, notably by their spread as a result of trade and imports.

(3) According to the provisions of Directives 97/78/EC and 91/496/EEC, measures shall be taken if, in the territory of a third country, a disease referred to in Directive 82/894/EEC or other diseases or any other phenomenon or circumstance liable to present a serious threat to animal or public health manifests itself or spreads.

[1] OJ L 24, 30.1.1998, p. 9.
[2] OJ L 268, 24.9.1991, p. 56. Directive as last amended by Directive 96/43/EC (OJ L 162, 1.7.1996, p. 1).
[3] OJ L 268, 24.9.1991, p. 35. Directive as last amended by Directive 1999/89/EC (OJ L 300, 23.11.1999, p. 17).
[4] OJ L 62, 15.3.1993, p. 49. Directive as last amended by Directive 2002/33/EC of the European Parliament and of the Council (OJ L 315, 19.11.2002, p. 14).
[5] Proposal of 17.1.2003 (not yet published in the Official Journal).
[6] OJ L 378, 31.12.1982, p. 58. Directive as last amended by Commission Decision 2002/788/EC (OJ L 274, 11.10.2002, p. 33).

(4) Commission Decision 94/984/EC of 20 December 1994 laying down animal health conditions and veterinary certificates for the importation of fresh poultrymeat from certain third countries [1], Commission Decision 96/482/EC of 12 July 1996 laying down animal health conditions and veterinary certificates for the importation of poultry and hatching eggs other than ratites and eggs thereof from third countries including animal health measures to be applied after such importation [2], Commission Decision 2000/585/EC of 7 September 2000 laying down animal and public health conditions and veterinary certifications for import of wild and farmed game meat and rabbit meat from third countries [3], Commission Decision 2000/609/EC of 29 September 2000 laying down animal and public health conditions and veterinary certification for imports of farmed ratite meat [4] and Commission Decision 2001/751/EC of 16 October 2001 laying down animal health conditions and veterinary certification for imports of live ratites and hatching eggs thereof from third countries including animal health measures to be applied after such importation [5] respectively require that the veterinary authorities of the United States of America, before dispatching live poultry and hatching eggs, live ratites and hatching eggs, fresh meat of poultry, ratites, farmed and wild feathered game certify that the United States of America are free from Newcastle disease. The veterinary authorities of the United States of America had therefore to suspend all certification following that outbreak.

(5) The certificates for meat products and meat preparations consisting of or containing poultry meat are laid down in Commission Decision 97/221/EC of 28 February 1997 laying down the animal health conditions and model veterinary certificates in respect of imports of meat products from third countries [6] and Commission Decision 2000/572/EC of 8 September 2000 laying down animal and public health conditions and veterinary certification for imports of minced meat and meat preparations from third countries [7] and make reference to the animal health requirements set out in Decision 94/984/EC for fresh poultry meat.

(6) The veterinary authorities of the United States of America have communicated their regionalisation measures to the Commission in accordance with the Agreement between the European Community and the United States of America on sanitary measures to protect public and animal health in trade in live animals and animal products [8].

(7) It is possible to regionalise the territory of the United States of America for live poultry and poultry meat exports to the Community.

(8) Commission Decision 97/222/EC of 28 February 1997 laying down the list of third countries from which the Member States authorise the importation of meat products [9] lays down the list of third countries from which Member States may authorise the importation of meat products and establishes treatment regimes in order to lower the risk of disease transmission via such products. The treatment that has to be applied to such products depends on the health status of the country of origin in relation to the species the meat is obtained from; therefore it is necessary to restrict imports of poultrymeat products originating in the restricted parts of the United States of America to those treated by a temperature of at least 70 ° Celsius throughout the product.

(9) Sanitary control measures applicable to such products allow the exclusion from the scope of this Decision of channelled imports of raw material for the manufacture of animal feedingstuffs and pharmaceutical or technical products.

(10) The provisions of this Decision will be reviewed in the light of the disease evolution and further information received from the authorities of the United States of America.

(11) The Standing Committee on the Food Chain and Animal Health has not given a favourable opinion,

HAS ADOPTED THIS DECISION:

Article 1

1. Member States shall only authorise the importation from the United States of America of live poultry and hatching eggs thereof, live ratites and hatching eggs thereof, fresh meat of poultry, ratites, farmed and wild feathered game, meat products and meat preparations consisting of or containing meat of any of those species, if they originate in, or come from, the region of the United States of America as described in the Annex.

2. Imports of the products referred to in paragraph 1 originating in, or coming from, other parts of the United States of America shall be prohibited.

[1] OJ L 378, 31.12.1994, p. 11. Decision as last amended by Decision 2002/477/EC (OJ L 164, 22.6.2002, p. 39).
[2] OJ L 196, 7.8.1996, p. 13. Decision as last amended by Decision 2002/542/EC (OJ L 176, 5.7.2002, p. 43).
[3] OJ L 251, 6.10.2000, p. 1. Decision as last amended by Decision 2002/646/EC (OJ L 211, 7.8.2002, p. 23).
[4] OJ L 258, 12.10.2000, p. 49. Decision as last amended by Decision 2000/782/EC (OJ L 309, 9.12.2000, p. 37).
[5] OJ L 281, 25.10.2001, p. 24. Decision as last amended by Decision 2002/789/EC (OJ L 274, 11.10.2002, p. 36).
[6] OJ L 89, 4.4.1997, p. 32.
[7] OJ L 240, 23.9.2000, p. 19.
[8] OJ L 118, 21.4.1998, p. 3.
[9] OJ L 89, 4.4.1997, p. 39. Decision as last amended by Decision 2002/464/EC (OJ L 161, 19.6.2002, p. 16).

Article 2

By way of derogation from Article 1(2), Member States shall authorise the importation of the following:

(a) meat products, where the meat of poultry, ratites, farmed and wild feathered game contained in the meat product has undergone one of the specific treatments referred to in B, C or D of Part IV of the Annex to Decision 97/222/EC;

(b) fresh meat of poultry, ratites, farmed and wild feathered game intended as raw material for the manufacture of animal feedingstuffs, and pharmaceutical or technical products, where such raw materials meet the requirements of Chapter 10 of Annex I to Directive 92/118/EEC;

(c) fresh meat of poultry, ratites, farmed and wild feathered game, meat products and meat preparations consisting of or containing meat of these species provided that the meat was obtained from birds slaughtered before 1 October 2002.

Article 3

1. By way of derogation from Commission Decisions 94/984/EC, 96/482/EC, 97/221/EC, 2000/572/EC, 2000/585/EC, 2000/609/EC and 2001/751/EC in the health certificate provided by:

(a) Commission Decision 94/984/EC for fresh poultrymeat originating in the United States of America,

(b) Commission Decision 96/482/EC for live poultry or hatching eggs originating in the United States of America,

(c) Commission Decision 97/221/EC for meat products consisting of or containing meat of poultry, ratites and farmed or wild feathered game originating in the United States of America,

(d) Commission Decision 2000/572/EC for meat preparations consisting of or containing meat of poultry, ratites and farmed and wild feathered game originating in the United States of America,

(e) Commission Decision 2000/585/EC for fresh meat of farmed and wild feathered game originating in the United States of America,

(f) Commission Decision 2000/609/EC for fresh ratite meat originating in the United States of America,

(g) Commission Decision 2001/751/EC for live ratites or their hatching eggs originating in the United States of America,

the following terms shall be inserted respectively:

(a) 'Fresh poultrymeat in accordance with Council Decision 2003/67/EC';

(b) 'Live poultry or hatching eggs in accordance with Council Decision 2003/67/EC';

(c) 'Meat products in accordance with Council Decision 2003/67/EC';

(d) 'Meat preparation in accordance with Council Decision 2003/67/EC';

(e) 'Fresh meat of farmed/wild (delete as appropriate) feathered game in accordance with Council Decision 2003/67/EC';

(f) 'Fresh ratite meat in accordance with Council Decision 2003/67/EC';

(g) 'Live ratites or hatching eggs in accordance with Council Decision 2003/67/EC'.

2. Member States must verify that in those animal health certificates where freedom from Newcastle disease must be attested the regional code 'US-1' has been inserted.

Article 4

Member States shall amend the measures they apply to imports to make them comply with this Decision. They shall give immediate appropriate publicity to the measures adopted.

They shall immediately inform the Commission thereof.

Article 5

This Decision shall be reviewed in the light of the evolution of the Newcastle disease situation in the United States of America.

Article 6

This Decision shall enter into force on the third day following that of its publication in the Official Journal of the European Communities.

It shall apply from the date of its entry into force until 1 June 2003.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 28 January 2003.

For the Council

The President

G. DRYS

ANNEX

US-1:

The territory of the United States of America except for the States of California, Nevada and Arizona.

Notice concerning the application of some articles of the Agreement establishing as association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part

With the two sides having notified each other of the completion of the procedures necessary for the purpose on 28 January 2003, some articles of the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part (OJ L 352, 30 12. 2002), will apply provisionally as from 1 February 2003, in accordance with Article 198(3) of that Agreement.

COMMISSION

COMMISSION DECISION

of 14 November 2002

relating to a proceeding pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement

(Case COMP/37.396/D2 — Revised TACA)

(notified under document number C(2002) 4349)

(Only the English text is authentic)

(Text with EEA relevance)

(2003/68/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty [1], as last amended by Regulation (EC) No 1216/1999 [2], and in particular Article 4(1) thereof,

Having regard to Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport [3], as amended by the Act of Accession of Austria, Finland and Sweden, and in particular the second subparagraph of Article 12(4) thereof,

Having regard to the summary of the application [4] published pursuant to Article 12(2) of Regulation (EEC) No 4056/86 and Article 12(2) of Council Regulation (EEC) No 1017/68 of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway [5], as amended by the Act of Accession of Austria, Finland and Sweden,

Having regard to the Commission's letter of 4 August 1999 notifying the parties in accordance with Article 12(3) of Regulation (EEC) No 4056/86 that there were serious doubts as to the applicability of Article 81(3) to the notified agreement,

Having regard to the summary of the notified agreement [6] published pursuant to Article 23(3) of Regulation (EEC) No 4056/86 and Article 19(3) of Regulation No 17,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions and the Advisory Committee on Restrictive Practices and Dominant Positions in Maritime Transport,

Whereas:

[1] OJ 13, 21.2.1962, p. 204/62.
[2] OJ L 148, 15.6.1999, p. 5.
[3] OJ L 378, 31.12.1986, p. 4.
[4] OJ C 125, 6.5.1999, p. 6.
[5] OJ L 175, 23.7.1968, p. 1.
[6] OJ C 335, 29.11.2001, p. 12.

1. INTRODUCTION

1.1. Background

(1) On 16 September 1998 the Commission adopted Decision 1999/243/EC ([7]) (the TACA Decision), holding that a number of arrangements entered into within the framework of the Trans-Atlantic Conference Agreement (TACA) were contrary to Article 85(1) of the Treaty and did not fall within the scope of the block exemption contained in Article 3 of Regulation (EEC) No 4056/86. Nor did the arrangements in question qualify for individual exemption under Article 85(3). The arrangements to which the Decision related included inland price-fixing within the territory of the Community, the collective fixing of brokerage and freight-forwarder remuneration and the fixing of the terms and conditions on which conference members might enter into service contracts with shippers.

(2) The Commission also found that the members of the TACA had abused their collective dominant position, contrary to Article 86 of the Treaty, by altering the competitive structure of the market and placing restrictions on the availability and contents of service contracts. Fines in an aggregate amount of ECU 273 million were imposed for these abuses.

(3) The TACA parties' application for the annulment of that decision is now before the Court of First Instance of the European Communities ([8]).

1.2. Chronology

(4) On 29 January 1999, the members of TACA (the Parties) notified the agreement which is the subject-matter of this decision (hereinafter referred to as the Revised TACA or the Agreement).

(5) On 6 May 1999, pursuant to Article 12(2) of Regulation (EEC) No 4056/86 and to Article 12(2) of Regulation (EEC) No 1017/68, the Commission published a summary of the application in the *Official Journal of the European Communities* (the Article 12(2) Notice) inviting interested parties to comment within 30 days from the date of publication of the Notice.

(6) On 4 June 1999, in response to the publication, the European Shippers' Council (ESC) submitted comments in the form of what it claimed to be a formal complaint pursuant to Article 10 of Regulation (EEC) No 4056/86 ([9]). Comments were also received from the European Liaison Committee of Freight Forwarders (Clecat), from Fédération des Entreprises de Transport et Logistique France (TLF) ([10]), (which represents transport and logistics companies), and from the Federation of Swedish Industries/Swedish Shippers' Council. On 15 July 1999, the Swedish Competition Authority sent a letter supporting some of the views expressed by the Swedish Shippers' Council, in particular in relation to the confidentiality of individual service contracts. No other Member State commented.

(7) On 7 July 1999, the Director-General of the Directorate-General for Competition sent the Parties a letter inviting them to amend the provisions of their agreement concerning the exchange of statistical information. The letter further informed the Parties that certain types of agreements and conduct in relation to the negotiation of service contracts which might restrict competition to a material degree could not be considered to be covered by the notification ([11]).

([7]) Case No IV/35.134 — Trans-Atlantic Conference Agreement (OJ L 95, 9.4.1999, p. 1).
([8]) Joined Cases T-191/98, T-212/98, T-213/98 and T-214/98 *Atlantic Container Line and Others* v *Commission*.
([9]) Case COMP/37.527/D2 — ESC v Revised TACA.
([10]) The TLF's comments were also re-submitted by Clecat under Clecat's name by letter of 5 June.
([11]) This concerned any agreement, understanding or concerted practice between the parties that they would when agreeing individual service contracts follow the standard form, content or price of agreement service contracts or use voluntarily service contracts guidelines in such a way that competition could be restricted to a material degree.

(8) On the same date, the Director-General informed the ESC that, apart from the provisions of the agreement concerning the exchange of statistical information, there were insufficient grounds to raise serious doubts as to the applicability of Article 81(3). That letter also informed the ESC that there was no scope for a complaint pursuant to Article 10 of Regulation (EEC) No 4056/86 in the context of an objections procedure opened by a Commission notice published pursuant to Article 12(2) of that Regulation.

(9) On 14 July 1999, the ESC replied to the Commission's letter of 7 July 1999, stating, *inter alia*, that its comments against the 'not-below-cost' rule (see recital 27) should also be considered a formal complaint under Article 10 of Regulation (EEC) No 1017/68.

(10) On 13 and 23 July 1999, the Parties informed the Commission that they were willing to amend the provisions referred to in the Commission's letter of 7 July and would each provide the Commission, every six months, with information relating to their service contract activity. The letter did not however contain any specific information on how or when the agreements would be amended in order to remove the identified competition concerns.

(11) On 4 August 1999, within the period of 90 days provided for by Article 12(3) of Regulation (EEC) No 4056/86 ([12]) the Commission sent a letter to the Parties stating that there were serious doubts as to the applicability of Article 85(3) of the Treaty. In accordance with Article 12(3) of Regulation 4056/86 the Commission was then entitled to continue its investigations into the maritime aspects of the Revised TACA. The fact that no serious doubts were raised with regard to the inland transport aspect of the Revised TACA meant that — on the assumption that it was severable from the aspects in respect of which the Commission did raise serious doubts — this aspect was deemed to be exempted for a period of three years from 6 May 1999.

(12) By letter dated 6 August 1999, the ESC was informed that the Commission had not raised serious doubts with respect to the inland transport aspects of the Revised TACA. By letter of 27 September 1999, the ESC asked to be apprised of the reasons for that decision.

(13) On 12 October 1999, the Director-General of the Directorate General for Competition replied to the ESC, summarising the reasons for not raising serious doubts as regards the inland transport aspects of the Revised TACA. He also reiterated the Commission's view on the procedural status of comments made under the objections procedure (see recital 8).

(14) Subsequently, the European Council of Transport Users (ECTU), which incorporates the ESC and certain other associations, submitted an application to the Court of First Instance seeking annulment of an act described as the Commission's decision communicated in the form of the letter to the ESC of 6 August 1999 ([13]).

(15) On 1 December 2000, the Parties submitted a supplementary notification, informing the Commission that they had amended the Revised TACA to include a specific authority to make a coordinated temporary capacity withdrawal limited to the Christmas and New Year period 2000/2001 ([14]).

([12]) Under Regulation (EEC) No 4056/86 (the main maritime transport regulation), the Commission has 90 days from the date of publication of the summary of the application to raise serious doubts and so continue its investigation into the case. The inland transport regulation, Regulation (EEC) No 1017/68, contains a nearly identical provision. If the Commission takes no action within the 90-day period, an agreement is automatically exempted for six years in relation to maritime transport and three years in relation to inland transport.

([13]) Case T-224/99, *ECTU and Others* v *Commission*.

([14]) The original version of the notified agreement contained a general authority according to which the parties could 'regulate the carrying capacity offered by each of them' — see the Article 12(2) Notice. Although the Parties considered that the 2000/2001 capacity regulation programme fell within the scope of the liner conference block exemption contained in Article 3 of Regulation (EEC) No 4056/86, they nevertheless thought prudent to notify that programme to the Commission. The general capacity regulation authority contained in the Agreement was subsequently modified at the Commission's request (see recital 81 et seq.).

(16) On 29 November 2001, following further correspondence with the Parties, the Commission published a notice in the Official Journal indicating its intention to grant exemption to the remaining aspects of the Revised TACA pursuant to Article 23(3) of Regulation (EEC) No 4056/86 and to Article 19(3) of Regulation No 17 (the Article 23(3) Notice). It invited interested parties to comment within 30 days from the date of publication of the Notice.

(17) On 12 December 2001, the ESC asked the Commission to provide further information about certain provisions of the Revised TACA and about the Commission's reasons for proposing to grant exemption. Following a further exchange of correspondence and several meetings, the ESC submitted comments on 8 March 2002. Further comments were submitted on 24 April 2002.

(18) By letter dated 3 May 2002, the Parties requested a renewal of the exemption for all aspects of the Revised TACA falling within the scope of Regulation (EEC) No 1017/68. As that request will be the subject of a separate procedure, the inland transport aspects of the Revised TACA are described below only insofar as may be necessary for a full understanding of the Agreement.

2. **THE PARTIES**

(19) Since the adoption of the TACA decision, six shipping lines have left the TACA, originally leaving eight parties to the Revised TACA. Since the date of notification, A.P. Møller Maersk has merged with Sea-Land Service, reducing the number of parties to seven:

1. Atlantic Container Line AB, established in Gothenburg, Sweden;
2. Hapag-Lloyd Container Line GmbH, established in Hamburg, Germany;
3. Mediterranean Shipping Company SA, established in Geneva, Switzerland;
4. A.P. Møller-Maersk Sealand, established in Copenhagen, Denmark;
5. Nippon Yusen Kaisha, established in Tokyo, Japan;
6. Orient Overseas Container Line Ltd, established in Wanchai, Hong Kong;
7. P&O Nedlloyd Limited, established in London, United Kingdom.

3. **THE AGREEMENT**

3.1. **Purpose and scope**

(20) The purpose of the Revised TACA is stated to be to afford the Parties the opportunity to cooperate, as authorised by the Agreement, with respect to the provision of efficient and stable international liner shipping services for the carriage of cargo on routes within the geographic scope of the trade as defined below.

(21) The Agreement covers eastbound and westbound shipping routes between (i) ports in the 48 contiguous States of the United States of America, and interior and coastal points in the United States of America via said ports and (ii) ports in Europe situated in latitudes from Bayonne, France, to the North Cape, Norway (excluding non-Baltic ports in Russia, Mediterranean ports and ports in Spain and Portugal) and, except for inland transport services within the EEA as summarised in recital 26, points in Europe via said non-excluded European ports, other than points in Spain or Portugal. Those routes are referred to as 'the trade'.

3.2. **Tariff rates**

(22) The Revised TACA authorises the Parties to engage in the establishment, revision, maintenance and cancellation of (except for inland transport services within the EEA) rates (including charges and surcharges) and conditions, except for inland transport services with the EEA. Those rates and conditions agreed within the framework of the Revised TACA are referred to as 'the Tariff'.

3.3. **Service contracts**

(23) The TACA decision concluded that the members of the TACA at that time infringed Article 85 of the Treaty 'by agreeing the terms and conditions on and under which they may enter into service contracts with shippers'. This concerned two main types of restriction: (i) where the agreement prevented the TACA members from entering into individual service contracts (ISCs) with shippers or restricted their freedom to do so, and (ii) where the agreement restricted the terms which could be included in ISCs.

(24) The Revised TACA does not contain such restrictions; no restrictions are placed on the availability of ISCs. The provisions of the Revised TACA relating to service contracts may be summarised as follows:

1. The Parties are authorised to negotiate and enter into service contracts ([15]) with any one or more shippers (conference service contracts, or 'agreement service contracts' (ASCs)) relating to services provided between ports within the EEA and ports and inland points outside the EEA. Such contracts may include a price for all services closely related to the activity of maritime transport, provided between the vessel and the port gate ([16]). Such contracts are to include certain essential terms including, amongst others, the minimum volume or portion, the line-haul rate, the duration, service commitments and the liquidated damages in respect of non-performance, if any.

2. There are no restrictions on the Parties as regards their freedom to negotiate and enter into ISCs with any shipper on such terms as the parties to the contract may freely agree.

3. Two or more Parties (but not all of the Parties) are free to negotiate and enter into multi-carrier service contracts (MSCs) with any shipper relating to services provided between ports within the EEA and ports and inland points outside the EEA ([17]), and to engage in related activities including, amongst others, discussions and communications concerning MSCs.

4. When a shipper makes a request to one or more of the carrier parties to an MSC to provide services relating to inland transport within the EEA, the terms of the contract must be bilaterally negotiated between the shipper and each involved MSC carrier party individually. The terms must be recorded in a confidential annex to the MSC and must not be disclosed to any other carrier party to the MSC. Similar provisions apply in relation to shipper requests for inland transport within the EEA under ASCs.

5. ASCs and MSCs must not include carriers other than the Parties to the Agreement, and must not contain rate structures differentiated on the basis of which carrier party transports the cargo.

([15]) As defined under Article 3(21) of the US Shipping Act of 1984 and, as from 1 May 1999, Article 3(19) of US Ocean Shipping Reform Act of 1998.

([16]) The Revised TACA thus provides that an ASC may include a price for services covered by the following: maritime freight rate; terminal handling charge (THC), container service charge (CSC) and less than container load service charge (LCLSC) at origin/destination; demurrage; multiple bill of lading charges; outport additionals or arbitraries; currency adjustment factor (CAF) and bunker adjustment factor (BAF); emergency surcharges; International Maritime Organisation (IMO) additionals; special equipment surcharges; oversize additionals; fitting additionals; change of destination fee; optimal stowage fee; heating fee; and port additionals such as customs inspection on terminal in Canada. An ASC may not include a price for any other services provided within the EEA, nor give any indication as to any terms for inland haulage or other inland services agreed between the shipper and individual carrier parties.

([17]) The principles set out above with respect to ASCs apply also to MSCs.

6. Under ASCs and MSCs, the shipper must have the right to choose which participating carrier parties transport shipments of cargo and in what proportions, unless otherwise agreed by the shipper.

7. The Parties may adopt a standard ASC form from which the parties to any service contract may agree to deviate. Those engaged in ISC and MSC activities may refer to and adopt the standard ASC form, and refer to and adopt published ASC rates and/or Tariff terms.

8. Except in relation to those parties participating in an MSC or where the shipper party so consents, the parties are not entitled to disclose information regarding which ASC form, rates and/or Tariff terms have or have not been included in any ISC or MSC.

9. The Parties are authorised to agree to voluntary service contract guidelines which relate solely to technical, non-commercial matters or to the disclosure of the existence, but not the terms, of an ISC with a shipper when that shipper subsequently requests an ASC or MSC.

10. ISCs and MSCs must expressly state that, subject to United States law, the terms are to remain confidential except (a) where the shipper has consented to the disclosure, or (b) where a shipper requests an ASC, in which case any member of the Revised TACA which is a party to an ISC and/or MSC with that shipper may disclose the existence, but not the terms, of such contract.

3.4. **Through intermodal freight rates — 'not below cost' rule**

(25) The TACA decision found that the members of the TACA had infringed Article 85 of the Treaty by agreeing the price of inland transport provided within the Community as part of a multimodal transport operation.

(26) In the Revised TACA, the Parties have abandoned inland price fixing, subject to the 'not below cost' rule described in recital 27. Under the Agreement, the Parties are not authorised to discuss or agree prices with each other for inland transport services supplied wholly or partly within the EEA to shippers in combination with other services as part of a multimodal transport operation for the carriage of containerised cargo in the trade or any tariff or other matter pertaining to inland transport within the EEA.

(27) The Parties are authorised to agree that, where they provide maritime transport services pursuant to the Tariff, no member of the Revised TACA may charge a price less than the direct out-of-pocket cost incurred by it for inland transport services supplied within the EEA in combination with those maritime transport services (not-below-cost rule). For the purposes of this rule, 'cost' does not include empty equipment positioning or repositioning costs in Europe or overhead and/or administration costs. An independent, neutral body may be appointed to monitor compliance with such a rule.

(28) The Parties have not actually introduced such a rule.

3.5. **Technical Agreements**

(29) The Revised TACA provides that the Parties may voluntarily endeavour to achieve technical improvements through cooperation by means of ([18]):

(i) the introduction or uniform application of standards or types in respect of vessels and other means of transport, equipment, supplies or fixed installations;

([18]) The wording of (i) to (vi) follows the wording of Article 2(1)(a) to (f) of Regulation (EEC) No 4056/86.

(ii) the exchange or pooling, for the purpose of operating transport services, of vessels, space in vessels or slots and other means of transport, staff, equipment or fixed installations;

(iii) the organisation and execution of successive or supplementary maritime transport operations and the establishment or application of inclusive rates and conditions for such operations;

(iv) the coordination of transport timetables for connecting routes;

(v) the consolidation of individual consignments; and

(vi) the establishment or application of uniform rules concerning the structure and the conditions governing the application of transport tariffs.

(30) The Parties have agreed to cooperate only with respect to heading (ii) above. The Revised TACA stipulates that should the Parties agree to cooperate with respect to any other matter described in that recital, the agreement must not be implemented (to the extent that any such cooperation falls within the prohibition of Article 81(1) of the Treaty) until such cooperation is notified under Regulation (EC) No 4056/86 or other applicable Community legislation.

3.6. **Operation of scheduled maritime transport services**

(31) The Parties may ([19]):

(i) coordinate their shipping timetables, sailing dates or dates of call;

(ii) determinate the frequency of their respective sailings or calls;

(iii) coordinate or allocate their respective sailings or calls;

(iv) regulate the carrying capacity offered by each of them ([20]); and

(v) allocate cargo or revenue among them.

3.7. **Consultation with shippers**

(32) The Parties may enter into and implement consultation agreements with transport users concerning the rates, charges, conditions and quality of scheduled maritime transport services and negotiate with shippers and groups of shippers with regard to rates, charges, classifications, rules and regulations.

3.8. **Administration**

(33) The Parties may meet or otherwise communicate, discuss and act on any matter falling within the scope of Article 2 (technical agreements) and Article 3 (liner conference block exemption) of Regulation 4056/86. They are further authorised to negotiate and enter into agreement service contracts. Two or more Parties (but not all of the Parties) are free to negotiate and enter into multi-carrier service contracts. The Parties may not discuss or exchange any confidential information relating to individual service contracts. Nor may they adopt any form of guidelines for individual service contracts, save purely technical, non-commercial, guidelines. The Parties are further precluded from any form of collective price-fixing for inland transport within the European Economic Area.

(34) A secretariat is established to administer the Agreement.

([19]) The wording of (i) to (v) follows the wording of Article 3(a) to (e) of Regulation (EEC) No 4056/86.
([20]) See further recital 81.

(35) The Parties may appoint an independent neutral body to monitor their compliance with their obligations under the Agreement, including the obligations arising under any 'not-below-cost' rule. According to the Parties, no such body has yet been appointed.

4. **THE MARKET**

(36) The Revised TACA covers, *inter alia*, the following relevant service markets ([21]):

(a) in relation to maritime transport services, the market for containerised liner shipping between Northern Europe and the United States using the sea routes between ports in Northern Europe and the ports in the United States and Canada ([22]). The geographic market for these services is the area in which the services are marketed. As the Commission found in the TAA Decision ([23]) and subsequently confirmed in the TACA Decision ([24]), this area consists, as far as the European geographic market is concerned, of the catchment areas of the Northern European ports;

(b) in relation to land transport services, the market for inland transport services undertaken within the territory of the Community which shippers acquire together with other services as part of a multimodal transport operation for the carriage of containerised cargo between Northern Europe and the United States ([25]).

(37) Of the above markets, only that relating to maritime transport needs to be considered in this decision, as the inland transport aspects of the Revised TACA will be dealt with under a separate procedure.

(38) The above (see recital 36(a)) maritime transport market definition has been endorsed by the Court of First Instance in its recent TAA judgment ([26]). The Court agreed in particular that air transport was not substitutable for sea transport as the evidence clearly showed that the demand for air transport, unlike that for sea transport, involved limited quantities of high value-added goods. The Court also confirmed that the Commission was correct to consider that containerised liner shipping services formed a separate market distinct from that or those for other maritime transport services.

(39) With regard to the geographic dimension of the relevant maritime transport market, the Court held that the available evidence showed that liner shipping services from Mediterranean ports were only marginally substitutable for those from Northern European ports. In this context, it should be noted that in its recent decision in Hutchison/RCPM/ECT ([27]), the Commission found that the available evidence showed that there was still only marginal competition between Northern European and Mediterranean ports ([28]). Nothing has emerged in this case that might call into question the continuing validity of this conclusion.

(40) The Revised TACA also authorises its members to agree on rates and charges for the services provided between the vessel and the port gate (see recital 24(1)). In this regard, a distinction must be made between those Revised TACA services for which there is specific supply and demand distinct from that for either sea or inland transport and those services for which no such specific supply and demand exists. The former constitute a separate market or markets while the latter do not ([29]).

([21]) Revised TACA Articles 2 (Purpose of agreement), 4 (Geographic scope of agreement) and 5 (Overview of Agreement authority).
([22]) See TACA Decision, recital 84.
([23]) Commission Decision 94/980/EC in Case No IV/34.446 — *Trans-Atlantic Agreement* (OJ L 376, 31.12.1994, p.1), recitals 67 and 68.
([24]) Paragraphs 76-83.
([25]) TACA Decision, recital 91.
([26]) Judgment of the Court of First Instance of 28 February 2002 in Case T-395/94 *Atlantic Container Line and others* v *Commission* [2002] ECR II-875, paragraphs 269 to 298.
([27]) Commission Decision of 3 July 2001 in Case COMP/JV.55 — Hutchison/RCPM/ECT, available at http://europa.eu.int/comm/competition/mergers/cases/decisions/jv55_en.pdf. See recital 37 et seq.
([28]) Paragraphs 41 and 46.
([29]) See in this respect the judgment in Case T-86/95 *Compagnie Générale Maritime and others* v *Commission* (FEFC) ([2002] ECR II-1011, paragraphs 128 and 129.

(41) The services covered by the Revised TACA for which there is typically no specific supply and demand are those services that are indivisible from the sea transport or inland transport service in the sense that it would be physically or economically impossible for a third-party service provider (for example a container terminal operator) independent of the sea or inland transport operator to provide these services separately and directly to the transport user.

(42) The other Revised TACA services, the services for which there is specific supply and demand, consist of those cargo-handling services within the port in respect of the provision of which to transport users the members of the Revised TACA are in actual or potential competition not only with each other and with other non-TACA lines but also with third-party service providers.

(43) The relevant market for cargo-handling services in the instant case is accordingly that for the provision of these services in Northern European ports serving the sea routes covered by the Revised TACA.

5. THE STRUCTURE OF THE MARKETS

(44) As compared with the period covered by the finding of Article 86 infringements in the TACA decision (part of 1994, 1995 and 1996), the competitive conditions on the transatlantic routes have changed materially. Table 1 shows the development of market shares over the period 1994-2001:

Table 1

Market shares of container shipping lines on the direct north transatlantic trade and via the Canadian gateway, 1994 to 2001 (first quarter) ([30])

(%)

Carrier	1994	1995	1996	1997	1998	1999	2000	2001 (First quarter)
TACA parties/Revised TACA parties (from 1999 onwards)	60,65	61,55	59,83	58,3	59,5	49	48,5	47,7
Others	39,35	38,45	40,17	41,7	40,5	51	51,5	52,3
Total	100	100	100	100	100	100	100	100

(45) The above picture of a steady decline in the market share of the TACA conference is confirmed by the findings of the United States Federal Maritime Commission (FMC) in the final report on the impact of the 1998 Ocean Shipping Reform Act (OSRA) ([31]). The FMC estimates that the market share of the TACA conference has declined from a high of some 80 % in 1992 (when the TACA was first formed) to approximately 50 % in 2001. The members of the Revised TACA are therefore now faced with significantly more external competition than was the case during the period covered by the TACA decision.

(46) The advent of confidential individual service contracts also means that there is significantly more internal competition than was the case at the time of the TACA decision. The TACA parties have thus reported to the FMC that only about 10 % of the cargo carried by the conference members is moved under the conference tariff. Further, by the end of 1999, 80 % of the cargo carried by the TACA parties was carried under non-conference service contracts. Finally, the number of conference service contracts (also referred to as ASCs) declined from thirty in 1999 to only three in the year 2000 ([32]).

([30]) *Sources:* TACA Decision; Revised TACA parties (based on PIERS Global Container Reports).
([31]) *The Impact of the Ocean Shipping Reform Act of 1998*, Federal Maritime Commission, September 2001.
([32]) *The Impact of the Ocean Shipping Reform Act of 1998*, page 12.

(47) The FMC findings are consistent with the information contained in the six-monthly reports provided to the Commission by the individual Parties ([33]). The reports provided by the Parties also confirm that an overwhelming proportion of the cargo carried by the Parties is moved under individual service contracts. It is clear from this information that the individual service contract has become the norm on the trade covered by the Revised TACA and that each member of the conference is therefore now faced with substantial competition from other TACA members.

(48) The above conclusions concerning the sea transport market are equally valid for the market for cargo-handling services. Here too, the members of the Revised TACA face external competition from independent carriers operating on the transatlantic trade. They also face potential competition from independent cargo-handling operators. Internally, the Parties are faced with strong competition from each other on the terms (including price) and conditions of port-to-port and door-to-door ISCs and MSCs.

(49) In conclusion, the available evidence suggests that the members of the TACA are now subject to an unprecedented degree of both external and internal competition.

6. THIRD-PARTY OBSERVATIONS

6.1. Comments in response to the Article 12(2) Notice

(50) Comments were received from the third parties mentioned in recital 6. A number of these comments concerned the inland transport aspects of the Revised TACA and need not be described further here. Other comments — mainly hostile to exemption — appear no longer to reflect the views of the third party in question ([34]). A number of the comments submitted in response to the Article 12(2) Notice are however still relevant for an assessment of whether the provisions of the Agreement qualify for block or individual exemption and will therefore be dealt with in sections 9 and 10.

6.2. Comments in response to the Article 23(3) Notice

(51) Comments have been received from CLECAT and the ESC. CLECAT now raises no fundamental objection to the exemption of the Revised TACA. It does however urge the Commission to set up 'an appropriate and stringent control mechanism' to ensure compliance with the Parties' undertaking not to increase any tariff rate in conjunction with any capacity regulation programme or create an artificial peak season.

(52) The Commission is confident that the arrangements put in place are sufficient to ensure compliance with the Parties' undertakings on capacity regulation. Those arrangements are described further in recital 81.

(53) The ESC's comments on the Article 23(3) Notice can be summarised as follows:

1. the Commission needs to assess the Revised TACA in a legal and economic context consisting of, in particular, the OECD final report on liner shipping competition policy ([35]), the judgments of the Court of First Instance in the TAA and FEFC cases, and the Commission's intention to examine the liner conference block exemption in the light of the OECD report and other developments;

([33]) The individual six-monthly report contains information on the number of contracts to which the line is a party, broken down between ISC, MSC, ASC and tariff, as well as information concerning the number of TEUs (the industry standard abbreviation for '20-foot equivalent unit' — it refers to the size of the containers) and the percentage of total TEU carried by the line under each of these contracts.

([34]) Clecat thus no longer opposes exemption, while neither TLF nor the Federation of Swedish Industries have commented on the Notice of 29 November 2001.

([35]) Available on the OECD website at: http://www.oecd.org/EN/home/0,,EN-home-25-nodirectorate-no-no–25,00.html.

2. there is no need for the Commission to take a decision on individual exemption, as the notification has been submitted on a precautionary basis only, the Parties taking the view that all of the provisions of the Revised TACA fall within the scope of the liner conference block exemption. The Commission should therefore not waste its scarce resources on dealing with the Parties' application;

3. the Commission should give further consideration to the relevance of the TAA judgment for an assessment of the capacity regulation provisions of the Agreement;

4. the provisions of the Revised TACA on information exchange are such as to give the conference as a whole insight into the terms of confidential service contracts entered into between individual conference members and individual shippers.

(54) Neither the OECD report nor the fact that the Commission has begun a review of Regulation (EEC) No 4056/86 has any direct relevance to the matter at hand. Both concern a possible reform of existing competition legislation, while what is in issue in this decision is the application of that legislation to a specific case. Nor is it necessary to make express provision in this decision for the possibility that the applicable legislation may be substantially amended before the expiry of an individual Revised TACA exemption, as any such amendment would be accompanied by appropriate transitional arrangements.

(55) Regarding the contention that there is no need for the Commission to take a decision on individual exemption, it is sufficient to note that the Parties have expressly requested the Commission to take a decision ([36]) and that the Commission must therefore adopt a formal decision ([37]).

(56) The possible relevance of the TAA judgment for an assessment of the capacity regulation provisions of the Agreement is dealt with in recitals 85 and 86. The ESC's remarks on information exchange are addressed in recitals 70 and 71.

7. **APPLICABLE REGULATIONS**

(57) As a result of there being specific sectorial Council Regulations applying Articles 81 and 82 of the Treaty to transport services, the activities of the Revised TACA parties may fall under three different Regulations: Regulation (EEC) No 4056/86, Regulation (EEC) No 1017/68 and Regulation No 17.

(58) Regulation (EEC) No 4056/86 applies to international maritime transport services ([38]). In its FEFC judgment, the Court of First Instance concluded that the scope of the Regulation was limited to:

> 'maritime transport services properly so called, that is, to transport by sea from port to port, and does not cover the inland on- or off-carriage of cargo supplied in combination with other services as part of an intermodal transport operation' (paragraph 241).

(59) The following provisions of the Agreement therefore clearly fall within the scope of Regulation (EEC) No 4056/86:

1. the provisions relating to the operation of scheduled maritime transport services; and

2. the relevant parts of the provisions relating to the Tariff and service contracts, that is to say, those parts that concern maritime transport.

(60) Equally clearly, the inland transport aspects of the Agreement fall outside the scope of Regulation (EEC) No 4056/86 ([39]). In particular, the provisions of the Agreement relating to the 'not-below-cost' rule fall under Regulation (EEC) No 1017/68.

([36]) Confirmed by letter of 20 March 2002.
([37]) Article 12(4) of Regulation (EEC) No 4056/86.
([38]) Article 1.
([39]) See, for example, paragraph 261 of the FEFC judgment.

(61) The provisions of the notified agreement that fall neither under Regulation (EEC) No 4056/86 nor under Regulation (EEC) No 1017/68 fall under Regulation No 17. The provisions relating to cargo handling within a port under the Tariff or service contracts fall at least in part within Regulation No 17 ([40]). This is in particular the case for those cargo-handling services for which there is specific supply and demand distinct from that for maritime or inland transport (see recital 42).

8. **ARTICLE 81(1) OF THE TREATY (AND ARTICLE 53(1) OF THE EEA AGREEMENT)**

8.1. **Agreement between undertakings**

(62) The Parties are engaged in the commercial activity of providing maritime transport and related services. They are therefore undertakings within the meaning of Article 81(1) of the Treaty and Article 53(1) of the EEA Agreement. The Revised TACA is a formal agreement between these undertakings.

8.2. **Restriction of competition**

(63) The following provisions of the agreement restrict or may restrict competition appreciably within the meaning of Article 81(1) of the Treaty:

1. the agreement between the parties by which they agree the prices and conditions that constitute the Tariff;

2. the operation of scheduled maritime transport services;

3. provisions relating to agreement service contracts (ASCs) and to multicarrier service contracts (MSCs) ([41]).

8.2.1. *Individual service contracts (ISCs)*

(64) The Revised TACA contains no restriction on the terms and conditions under which the parties might enter into ISCs with shippers. The ESC and the Federation of Swedish Industry have previously argued that three aspects in particular of the Revised TACA would in practice restrict the free availability of ISCs.

8.2.1.1. Effect of agreement service contracts

(65) The two shipper groups were concerned that allowing the lines to enter into ASCs and MSCs would result in restrictions as regards the lines' freedom to negotiate and enter into ISCs.

(66) Individual TACA lines are entering into ISCs, and there is no evidence that allowing ASCs and MSCs is restricting the availability of ISCs. On the contrary, the most recent reports submitted to the Commission by the Parties (individually) indicate that the overwhelming majority of cargoes continue to be carried under ISCs, with a very modest proportion being accounted for by MSCs and ASCs. The position of the individual service contract as the preferred form of agreement between carrier and shipper is therefore unchallenged.

(67) The provision that lines offering ISCs and MSCs can refer to the standard form of ASC is no more than a statement of what in practice is likely to be an obvious starting point for many such negotiations. However, any agreement, understanding or concerted practice between the parties that they will, when agreeing ISCs, follow in whole or in part the standard form, content or price of ASCs could not be considered to be covered by any exemption. Any such agreement could furthermore be a reason for the Commission to revoke the exemption, in accordance with Article 13(3) of Regulation (EEC) No 4056/86.

([40]) Commission Decision 2000/627/EC in Case IV/34.018 — *Far East Trade Tariff Charges and Surcharges Agreement (FETTCSA)* (OJ L 268, 20.10.2000, p. 1), recital 128.
([41]) See TACA Decision, recitals 454 to 462.

8.2.1.2. Voluntary service contract guidelines

(68) The ESC claimed that the voluntary guidelines published by the Transpacific Stabilisation Agreement (TSA) and arguments made by the Parties in the United States of America were evidence that any voluntary guidelines would be likely to relate to commercial matters, including the prices of individual confidential contracts, in breach of Article 81(1) of the Treaty.

(69) The nature of guidelines and discussion agreements permitted (but not required) under the United States regulatory regime is not directly relevant to the application for exemption under the Community competition rules. The Parties have notified an agreement under which they may agree voluntary guidelines (although they have not in fact done so) which relate solely to 'technical, non-commercial matters'. Guidelines on such matters can be considered not to raise competition concerns. The type of detailed price recommendations contained in the TSA guidelines cannot legitimately be described as either 'technical' or 'non-commercial'. If the Parties were to agree 'voluntary service contract guidelines' that might restrict competition to a material degree (for example replicating those adopted by the TSA) such an agreement would not fall within the limits of the activity described in the notification. Any such agreement could furthermore be a reason for the Commission to revoke the exemption.

8.2.1.3. Exchange of information

(70) The ESC contended that the parties would exchange information to the maximum extent permitted under United States law, and that this would include discussing the terms and conditions of individual service contracts including, as lines operating on transpacific trades have done within the TSA, jointly agreeing recommended general rate increases applicable to ISCs. This is, however, a scenario based on what lines may do under United States law, and have done on the transpacific; the scenario is inconsistent with what the Parties have notified. Jointly agreed recommended rate increases would not be covered by an exemption.

(71) Contrary to what has been argued by the ESC, it is appropriate that the tariff is set by reference to the prevailing prices on the market, including service contract prices. The concern is to ensure in such circumstances that there is a sufficient degree of aggregation to protect the confidentiality of information relating to individual and multicarrier service contracts. Following amendments made by the Parties to their proposed arrangements for the exchange of information ([42]), neither the TACA secretariat nor the Parties will have access to non-aggregated carrier-specific information relating to cargoes travelling under ISCs and MSCs. The Parties will exchange information relating to such cargoes only on an aggregated conference-wide basis.

(72) It is concluded that the provisions of the Revised TACA relating to individual service contracts are not such as to lead to an appreciable restriction of competition.

8.3. **Effect on trade between Member States**

(73) In its TAA judgment, the Court of First Instance confirmed that intra-Community trade may be appreciably affected by a restriction of competition between members of an international liner conference ([43]). That finding, concerning as it does the predecessor of the TACA, is of direct relevance to the instant case.

([42]) The Parties have, *inter alia*, appointed an independent third party to collect, aggregate and disseminate commercially sensitive data and adopted a resolution setting out the categories of information that may and may not be exchanged.

([43]) Paragraphs 71 to 74. See also the Judgment of the Court of First Instance of 8 October 1996 in Joined Cases T-24/93, T-25/93, T-26/93 and T-28/93 *Compagnie Maritime Belge and others* v *Commission* [1996] ECR II-1201, paragraphs 202 and 203.

(74) As was the case with the TAA, the Revised TACA covers shipping lines established in several Member States and engaged, *inter alia*, in the provision of scheduled maritime transport services between ports in Northern Europe and ports in the United States and Canada. The elimination or diminution of competition between the parties on price or service may therefore have the effect of distorting trade flows through and between the Northern European ports and their respective catchment areas. Furthermore, as the maritime transport service usually constitutes only one link in a supply chain encompassing, *inter alia*, cargo handling services and inland haulage, a restriction of competition on the maritime transport link would inevitably have a collateral effect on these other activities and on trade outside the immediate hinterland of the port. This would be all the more likely when, as in the instant case, the Agreement itself provides for the fixing of a common price for cargo-handling services.

(75) An agreement to fix prices or to limit supply is a serious restriction of competition. Given the market share of the Revised TACA parties, this restriction is liable to have an appreciable effect on trade between Member States.

9. **BLOCK EXEMPTION: ARTICLE 3 OF REGULATION (EEC) No 4056/86**

9.1. **Scope of the block exemption**

(76) Article 3 of Regulation (EEC) No 4056/86 grants exemption from the prohibition under now Article 81(1) of the Treaty to the members of a liner conference in respect of the fixing of uniform or common freight rates and any other agreed conditions with respect to the provision of scheduled maritime transport services. It also grants exemption to a limited number of other activities if one or more of them is carried on by the members of a liner conference in addition to fixing prices and conditions of carriage for maritime transport services. The reasons for which exemption is granted include the benefits to shippers described in the recitals to Regulation (EEC) No 4056/86 ([44]) and in particular the stabilising effect of conferences, which assures shippers of reliable services.

(77) In the TAA Judgment, the Court of First Instance recalled that provisions derogating from Article 81(1) must be interpreted strictly and that this conclusion must apply, *a fortiori*, to the block exemption provisions of Regulation (EEC) No 4056/86:

> '…by virtue of its unlimited duration and the exceptional nature of restrictions on competition authorised (horizontal agreement having as its object the fixing of prices). It follows that the block exemption provided for by Article 3 of Regulation No 4056/86 cannot be interpreted broadly and progressively so as to cover all the agreements which shipping companies deem it useful, or even necessary, to adopt in order to adapt to market conditions.' ([45]).

(78) Accordingly, the block exemption must be interpreted as covering only those provisions of a conference agreement that relate to the operation of, and the fixing of a Tariff for, scheduled maritime transport services.

9.2. **Application of the block exemption to the Revised TACA**

(79) The ESC has submitted that the Commission is precluded from applying Article 3 of Regulation (EEC) No 4056/86, and from granting an individual exemption, since the main cause of commercial stability arising on the TACA trades is said by the lines themselves to be confidential contracts.

([44]) 'Whereas provision should be made for block exemption of liner conferences; whereas liner conferences have a stabilising effect, assuring shippers of reliable services; whereas they contribute generally to providing adequate efficient scheduled maritime transport services…' (eighth recital in the preamble to Regulation (EEC) No 4056/86).

([45]) Paragraph 146, emphasis added.

(80) Article 3 of Regulation (EEC) No 4056/86 exempts certain conduct of carriers, whether or not associated with other conduct, subject to the possibility for the Commission to take action under Article 7. Thus, the tariff of a liner conference exempted by Article 3 does not cease to be exempted merely because the members of the conference also enter into service contracts.

9.3. **Capacity regulation**

(81) Article 5(3)(iv) of the Revised TACA, as originally notified, authorised the Parties to cooperate with the objective of '…regulation of the carrying capacity offered by each of them'. The wording of this provision mirrored that of Article 3(d) of Regulation (EEC) No 4056/86. In response to the Commission's concerns, the wording has been amended to:

> '…**subject to the provision to the European Commission and FMC of such reports and forecasts as may be agreed between the Parties and the European Commission and the Parties and the FMC respectively**, regulation of the carrying capacity offered by each of them (as may more fully be authorised by Annex B), **always provided that the Parties shall not increase any tariff rates in conjunction with any capacity regulation program on any trade covered by such program or create an artificial peak season**' (emphasis added).

(82) As agreed between the Parties and the Commission, the reports and forecasts to be provided to the latter ([46]) will include:

1. an ex-ante report, submitted before the implementation of any capacity programme, describing the parties' weekly projected cargo liftings and total weekly available capacity for the programme as a whole;

2. a weekly report, submitted for each of the weeks during which the proposed programme will operate, containing the same information as the *ex-ante* report and describing any new revised projection for the week in question;

3. a weekly report, submitted for each of the weeks during which the proposed programme will operate, containing data on each vessel's unused slots and cargo left behind and/or rolled to another vessel during the previous week; and

4. an ex-post report, submitted after the end of the programme, showing the parties' total weekly actual cargo liftings and total weekly actual capacity.

(83) The Parties will also provide a report covering the 18-month period preceding the programme, as a reference period for the assessment of the capacity regulation.

(84) Subject to the Parties' continued compliance with the conditions set out in Article 5(3)(iv), the capacity regulation provisions of the Revised TACA fall within the scope of the liner conference block exemption. This is consistent with the position taken by the Commission in the TAA ([47]) and EATA ([48]) Decisions.

([46]) These reports have already been provided in respect of the Revised TACA 2001/2002 Christmas/New Year capacity regulation programme.
([47]) Recitals 359 to 370.
([48]) Commission Decision 1999/485/EC in Case IV/34.250 — *Europe Asia Trades Agreement* (OJ L 193, 26.7.1999, p. 23), recital 177 et seq.

(85) As regards the ESC's suggestion that the Commission should in this context give further consideration to the TAA judgment, the latter is silent on the issue of whether the TAA capacity management programme would have been covered by the liner conference block exemption had the TAA been a conference. The Court did however uphold the Commission's finding that the TAA, including the provisions relating to capacity management, afforded its members the possibility of eliminating competition in respect of a substantial part of the services in question, and could not therefore qualify for individual exemption under Article 81(3) of the Treaty.

(86) The above finding is not applicable to the Revised TACA capacity regulation provisions, irrespective of whether or not they can be considered to be covered by the block exemption. The TAA parties had a market share of roughly 75 %, while the Revised TACA parties have a combined market share of no more than approximately 50 %. Further, the TAA programme did not involve the actual withdrawal of capacity, and therefore did not result in any significant cost savings that could be passed on to transport users. By contrast, the Revised TACA capacity arrangements, as implemented over the 2000/2001 and 2001/2002 Christmas and New Year low seasons, have involved the withdrawal of vessels and have resulted in significant cost savings. The Revised TACA arrangements, unlike those of the TAA, are also surrounded by safeguards to ward against abuse.

9.4. **Provisions not covered by the block exemption**

(87) To the extent that they may be considered to be restrictive of competition, the block exemption does not cover provisions relating to agreement service contracts and to multicarrier service contracts ([49]).

(88) Further provisions falling outside the scope of Regulation (EEC) No 4056/86, and therefore outside the scope of the block exemption are:

1. those provisions of the Revised TACA which fall within the scope of Regulation (EEC) No 1017/68 (and are therefore outside the scope of this procedure); and

2. the provisions authorising the Parties to agree prices and conditions for those cargo handling services in a port which are not indivisible from the sea voyage.

10. **INDIVIDUAL EXEMPTION: ARTICLE 81(3) OF THE TREATY (AND ARTICLE 53(3) OF THE EEA AGREEMENT)**

10.1. **Service contracts**

(89) In the TACA Decision, the Commission found, *inter alia*, that the TACA parties had infringed Articles 85 of the Treaty by agreeing the terms and conditions on and under which they might enter into service contracts with shippers ([50]). The Commission also found that the TACA parties had infringed Article 82 of the Treaty by placing restrictions on the availability and contents of these contracts ([51]). Both types of conduct were prohibited ([52]). The TACA Decision did not prohibit the parties from offering joint service contracts (that is to say, agreement service contracts or multicarrier service contracts) ([53]).

([49]) See TACA Decision, recitals 454 to 462.
([50]) Article 3.
([51]) Article 6.
([52]) Articles 4 and 7.
([53]) Article 3 of the Decision contains no such prohibition. Instead, it concerns two main types of restriction: (i) where the agreement prevented TACA members from entering into individual service contracts with shippers or restricts their freedom to do so, and (ii) where the agreement restricted the terms which could be included in ISCs. The Revised TACA does not contain such restrictions; no restrictions are placed on the availability of ISCs.

10.1.1. *Agreement service contracts (ASCs) and multicarrier service contracts (MSCs)*

(90) The Agreement provides that the lines may enter into ASCs or MSCs, and adopt a standard form of ASC, relating to services provided between ports within the EEA and ports and inland points outside the EEA. As indicated (recital 40), such contracts may include a price for all services, closely related to the activity of maritime transport, provided between the vessel and the port gate ([54]). To the extent that those provisions may be considered to be restrictive of competition, they do not fall under the liner conference block exemption contained in Regulation (EEC) No 4056/86 ([55]), but they do qualify for individual exemption under Article 81(3). Two main benefits of service contracts were identified in the TACA decision ([56]): the provision of special services which improve the supply chain, and the contribution they make to price stability. Service contracts can also reduce search costs and administrative costs. The provision by the Revised TACA lines of ASCs and MSCs to shippers who want such contracts will contribute to stability, may make provision for special services, and will help reduce search, negotiation and monitoring costs ([57]).

(91) Now that the availability of ISCs is not restricted, and indeed ISCs now constitute the preferred form of arrangement on the trade covered by the Revised TACA, it is sufficient that there are at least some cases where joint service contracts bring additional benefits for shippers as compared to ISCs. As the periodic reports supplied by the Parties show, some shippers have continued to opt for joint service contracts in an environment where ISCs are freely and widely available; this is in itself sufficient evidence that there are circumstances where joint service contracts bring benefits for shippers. The setting of a joint contract price is an essential and non-severable element of a joint service contract and is hence indispensable to the achievement of those benefits.

(92) Competition is unlikely to be eliminated within the meaning of Article 81(3). In addition to competition from outside the conference altogether, there is considerable internal competition from individual service contracts (see recital 46).

10.2. **Cargo-handling services in a port**

(93) Conferences, including the TACA, had the practice of dividing their tariffs into five parts showing rates for each of the following services: inland transport to the port; cargo handling in the port (transfer from the mode of inland transport to the vessel); sea transport; cargo handling in the port of destination (transfer from the vessel to the mode of inland transport), and inland transport to the place of final destination ([58]). The Parties no longer agree prices for inland transport in the EEA. Thus, as far as the EEA is concerned, the Tariff sets prices only for cargo-handling in the port of departure or destination.

(94) While the Court of First Instance has not ruled on the precise dividing line between cargo handling services and maritime transport services, it has made clear that Regulation (EEC) No 4056/86 must be understood as applying only to transport by sea from port to port and that the maritime transport service ceases on arrival at the port ([59]). It follows that Tariff charges for cargo handling operations within the port can fall within the scope of the liner conference block exemption contained in that Regulation only to the extent that these operations are indivisible from the sea voyage (see recital 41).

(95) It is not, however, necessary in this procedure to identify with precision which operations fall into which category, because to the extent that the Revised TACA Tariff covers cargo handling services

([54]) For the list of charges that relate to such services, see footnote above.
([55]) See TACA Decision, at recitals 454 to 462. See also TAA Judgment, at paragraph 164.
([56]) See recitals 472 to 476.
([57]) It should be noted that the Commission has already accepted joint service contracting by deciding not to raise serious doubts against such arrangements in the Polfin Liner Conference case (OJ C 396, 19.12.1998, p. 10; IP/99/193).
([58]) TACA Decision, recital 96.
([59]) FEFC Judgment, at paragraphs 239-241.

which fall outside the scope of Regulation (EEC) No 4056/86 but within that of Regulation No 17, it can be considered exemptable ([60]).

(96) The cargo-handling services in question, provided within the port, are economically and physically closely connected to the maritime transport as such. These services have, at least since the advent of containerisation, generally been contracted for by carriers and invoiced directly to the latter by the cargo-handler (the terminal operator or stevedoring company). Transport users, particularly those with only small volumes to be shipped, may benefit from this situation as carriers will generally have greater bargaining power *vis-à-vis* terminal operators and will be able to negotiate a price that is substantially lower than that which might have been obtained by the shipper ([61]). Against that background, and in the very special circumstances of this case, the Commission will not object to the fixing of charges for these services by the Parties to the Revised TACA. The very special circumstances of this case include the fact that only a fraction of Revised TACA cargoes are carried under the conference Tariff, while by far the greatest part are carried under individual service contracts. The Commission has also taken account of the fact that the Revised TACA parties have a combined market share of no more than approximately 50 %. As a result, the Revised TACA Parties are subject to an unprecedented degree of internal and external competition and shippers have a plethora of alternatives to carriage under the conference Tariff.

10.3. **Conclusion**

(97) For all of the above reasons, it is concluded that the aspects of the notified agreement referred to in recitals 89 to 96, falling outside the scope of Article 3 of Regulation (EEC) No 4056/86 but within the scope of that Regulation or of Regulation No 17, may infringe Article 81(1) of the Treaty but meet the criteria for exemption under Article 81(3).

11. **DURATION OF EXEMPTION, CONDITIONS AND OBLIGATIONS**

(98) Pursuant to Article 13 of Regulation (EEC) No 4056/86 and Article 8 of Regulation No 17, a decision applying Article 81(3) of the Treaty is to indicate the period for which it is to be valid; normally such period should not be less than six years. The exemption in this case should take effect, for those elements of the Revised TACA falling within the scope of Regulation (EEC) No 4056/86, from the date of implementation of the Agreement (31 December 1998), and for those elements falling within the scope of Regulation No 17, from the date of notification (29 January 1999), and should terminate six years from the date of publication in the *Official Journal of the European Communities* of the Commission Notice pursuant to Article 12(2) of Regulation (EEC) No 4056/86,

([60]) To the extent that cargo handling services fall within the scope of Regulation (EEC) No 1017/68, they fall outside the scope of this procedure.

([61]) See for instance Lloyd's List of 12.6.2002, page 5: 'Speaking at the same conference [TOC 2002] P&O Ports' chief operating officer Alistair Baillie urged terminal operators to have a complete re-think about pricing. Hard-pressed carriers are driving down terminal handling charges, "reducing the whole industry to sub-economic returns". Furthermore, carriers are never able to retain any savings they obtain for themselves, instead passing them straight on to the customer rather than improving their own bottom lines, said Mr Baillie. For that reason he believes terminal operators should split their charges between shipping lines and shippers, the former paying for ship to shore cargo services and consignees billed for yard to gate moves. […] Dividing services between cargo interests and carriers could form the basis of future pricing policies, Mr Baillie proposed, so reducing terminal operators' exposure to weak ocean freight rates'.

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to Article 81(3) of the Treaty, the provisions of Article 81(1) of the Treaty are hereby declared inapplicable to those aspects of the Revised Trans-Atlantic Conference Agreement (TACA) concerning joint service contracts and port handling, falling within the scope of Regulation (EEC) No 4056/86 and Regulation No 17, from 31 December 1998 in the case of Regulation (EEC) No 4056/86, and from 29 January 1999 in the case of Regulation No 17, and for a further period of six years from 6 May 1999.

Article 2

This Decision is addressed to:

A.P. Møller-Maersk Sealand
50 Esplanaden
DK-1098 Copenhagen K

Atlantic Container Line AB
Sydatlanten
Skandiahamnen
S-403 36 Gothenburg

Hapag-Lloyd Container Linie GmbH
Ballindamm 25
D-20095 Hamburg

Mediterranean Shipping Co SA
40 Av Eugene Pittard
CH-1206 Geneva

Nippon Yusen Kaisha
CPO Box 1250
Tokyo 100-91
Japan

Orient Overseas Container Line Limited
Harbour Centre
25 Harbour Road
Wanchai
Hong Kong

P&O Nedlloyd Limited
Beagle House
Braham Street
London E1 8EP
United Kingdom

Done at Brussels, 14 November 2002.

For the Commission
Mario MONTI
Member of the Commission

COMMISSION DECISION

of 28 January 2003

authorising the Member States to provide for temporary derogations from certain provisions of Council Directive 2000/29/EC in respect of plants of *Vitis* L., other than fruits, originating in Switzerland

(notified under document number C(2003) 340)

(2003/69/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community [1], as last amended by Directive 2002/89/EC [2], and in particular Article 15(1) thereof,

Having regard to the request made by France,

Whereas:

(1) Under Directive 2000/29/EC, plants of *Vitis* L., other than fruits, originating in third countries must not in principle be introduced into the Community. However, that Directive permits derogations from that rule, provided that there is no risk of spreading harmful organisms.

(2) By Commission Decisions 97/159/EC [3], 1999/166/EC [4], 2000/189/EC [5], 2001/5/EC [6] and 2001/836/EC [7], derogations from certain provisions of Directive 2000/29/EC in respect of plants of *Vitis* L., other than fruits, originating in Switzerland have been authorised for limited periods and subject to specific conditions.

(3) The circumstances justifying those derogations are still valid. There is no new information giving cause for revision of the specific conditions.

(4) The Member States should therefore be authorised to provide for derogations for a limited period and subject to specific conditions.

(5) That authorisation to provide for derogations should be terminated if it is established that the specific conditions laid down in this Decision are not sufficient to prevent the introduction of harmful organisms into the Community or have not been complied with.

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

HAS ADOPTED THIS DECISION:

Article 1

The Member States are authorised to provide for derogations from Article 4(1) of Directive 2000/29/EC, with regard to the prohibitions referred to in point 15 of Part A of Annex III to that Directive for plants of *Vitis* L., other than fruits, originating in Switzerland.

In order to qualify for the derogation provided for in the first paragraph, plants of *Vitis* L., other than fruits, shall satisfy, in addition to the requirements laid down in Annexes I and II to Directive 2000/29/EC, the conditions set out in the Annex to this Decision.

Article 2

Member States shall provide the Commission and the other Member States, before 30 November 2003, with the information on quantities imported pursuant to this Decision and with a detailed technical report of the official examination referred to in point 6 of the Annex.

Any Member State in which buds from the plants are grafted on to rootstocks and in which the grafted plants are planted after the import, shall also provide the Commission and the other Member States, before 30 November 2003, with a detailed technical report of the official examination referred to in point 9(b) of the Annex.

Article 3

Member States shall immediately notify the Commission and the other Member States of all cases of consignments introduced into their territory pursuant to this Decision which were subsequently found not to comply with this Decision.

Article 4

Article 1 shall apply for the period from 1 February to 30 March 2003.

[1] OJ L 169, 10.7.2000, p. 1.
[2] OJ L 355, 30.12.2002, p. 45.
[3] OJ L 62, 4.3.1997, p. 36.
[4] OJ L 55, 3.3.1999, p. 16.
[5] OJ L 59, 4.3.2000, p. 18.
[6] OJ L 2, 5.1.2001, p. 22.
[7] OJ L 312, 29.11.2001, p. 27.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 28 January 2003.

For the Commission
David BYRNE
Member of the Commission

ANNEX

Specific conditions applying to plants of *Vitis* L., other than fruits, originating in Switzerland benefiting from derogations provided for in Article 1 of this Decision

1. The plants shall be propagating material in the form of dormant buds that shall be:

   (a) of the following varieties:
   - — Amigne,
   - — Carminoir,
   - — Chasselas blanc,
   - — Cornalin,
   - — Diolinoir,
   - — Gamaret,
   - — Garanoir,
   - — Humagne rouge,
   - — Humagne,
   - — Paien jaune,
   - — Petite Arvine,
   - — Pinot noir Valais,
   - — Sylvaner;

   (b) harvested in stock nurseries, which are officially registered. The lists of the registered nurseries shall be made available to the Member States making use of the derogation and to the Commission, at the latest by 1 February 2003. These lists shall include the name(s) of the varieties, the number of rows planted with these varieties, the number of plants per row for each of these nurseries, as far as they are deemed suitable for dispatch to the Community in 2003, under the conditions laid down in this Decision;

   (c) properly packed and the packaging made recognisable with a marking, enabling the identification of the registered nursery and the variety;

   (d) intended to be grafted in the Community, at premises referred to in point 7, on to rootstocks produced in the Community.

2. The plants shall be accompanied by a phytosanitary certificate issued in Switzerland in accordance with Articles 7 and 13 of Directive 2000/29/EC, on the basis of the examination laid down therein, stating, in particular, freedom from the following harmful organisms:

   (a) *Daktulosphaira vitifoliae* (Fitch),

   (b) *Xylophilus ampelinus* (Panagopoulos) Willems et al.,

   (c) Grapevine Flavescence dorée MLO.

   The certificate shall state under 'Additional declaration', the indication 'This consignment meets the conditions laid down in Decision 2003/69/EC'.

3. The official plant protection organisation of Switzerland shall ensure the identity of the buds from the time of harvesting as referred to in point 1(b) until the time of loading for export to the Community.

4. The plants shall be introduced through points of entry situated within the territory of a Member State and designated for the purpose of this derogation by that Member State; these points of entry and the name and address of the responsible official body referred to in Directive 2000/29/EC in charge of each point shall be notified sufficiently in advance by the Member States to the Commission and shall be made available on request to other Member States. In those cases where the introduction into the Community takes place in a Member State other than the Member State making use of this derogation, the said responsible official bodies of the Member State of introduction shall inform and cooperate with the said responsible official bodies of the Member States making use of this derogation to ensure that the provisions of this Decision are complied with.

5. Prior to introduction into the Community, the importer shall be officially informed of the conditions laid down in points 1 to 10; the said importer shall notify details of each introduction sufficiently in advance to the responsible official bodies in the Member State of introduction and that Member State, without delay, shall convey the details of the notification to the Commission, indicating:

   (a) the type of material;

   (b) the variety and the quantity;

(c) the declared date of introduction and confirmation of the point of entry;

(d) the names, addresses and the locations of the premises referred to in point 7 where the buds will be grafted and/or where the grafted plants will subsequently be planted.

The importer shall inform the official bodies concerned of any changes to the above details as soon as they are known.

The Member State concerned shall inform the Commission of the above details, and details of any change to them without delay.

6. The inspections including testing, as appropriate, required pursuant to Article 13 of Directive 2000/29/EC and in accordance with provisions laid down in this Decision shall be made by the responsible official bodies, referred to in the said Directive; of these inspections, the plant health checks shall be carried out by the Member State making use of this derogation and where appropriate, in cooperation with the said bodies of the Member State in which the buds will be grafted. Furthermore, during the said plant health check Member State(s) shall also inspect for all other harmful organisms. Subsamples shall be kept available for subsequent examination by other Member States.

Without prejudice to the monitoring referred to in Article 21(3), second indent, first possibility of the said Directive, the Commission shall determine to which extent the inspections referred to in Article 21(3), second indent, second possibility, of the said Directive shall be integrated into the inspection programme in accordance with the fifth subparagraph of Article 21(5) of that Directive.

7. The buds shall be grafted on to rootstocks and the grafted plants subsequently planted only at premises:

(a) for which the names, addresses and the locations have been notified by the person who intends to use the buds imported pursuant to this Decision, to the said responsible official bodies of the Member State in which the premises are situated; and

(b) officially registered and approved for the purposes of this derogation.

In those cases where the place of grafting or planting is situated in a Member State other than the Member State making use of this derogation, the said responsible official bodies of the Member State making use of this derogation, at the moment of receipt of the aforementioned advance notification from the importer, shall inform the said responsible official bodies of the Member State in which the buds will be grafted or planted giving the names, addresses and the locations of the premises where the plants will be grafted or planted.

8. The said responsible official bodies shall ensure that any bud not used in accordance with point 7 shall be destroyed under their control. Records shall be kept available to the Commission on the numbers of plants destroyed.

9. At the premises referred to in point 7:

(a) the buds which have been found free from the harmful organisms referred to in point 6 may then be used for grafting and the grafted plants shall be planted and grown in fields belonging to the premises referred to in point 7 and shall remain on the premises, until they are moved to the destination outside the Community as referred to in point 10;

(b) the grafted plants shall be, in the growing period following importation, visually inspected by the said responsible official bodies of the Member State in which the grafted plants are planted, at appropriate times, for the presence of any harmful organism or for signs or symptoms caused by any harmful organism including those of *Daktulosphaira vitifoliae* (Fitch); as a result of such visual inspection any harmful organism having caused such signs or symptoms shall be identified by an appropriate testing procedure;

(c) any grafted plant which has not been found free during the said inspections or testing, referred to in the previous indents, from the harmful organisms listed under point 2, or otherwise of quarantine concern, shall be immediately destroyed under control of the said responsible bodies. The Commission shall be immediately notified thereof.

10. Any grafted plant resulting from a successful grafting using the buds referred to in point 1 shall be only released in 2003 or 2004 as grafted plants to a destination outside the Community. The said responsible official bodies shall ensure that any plant not so moved shall be officially destroyed. Records shall be kept available to the Commission on the amounts of successfully grafted plants, of officially destroyed plants and of plants sold as well as on the country of destination of the plants sold.

COMMISSION DECISION

of 29 January 2003

on certain protective measures in respect of infectious salmon anaemia in Norway

(notified under document number C(2003) 362)

(Text with EEA relevance)

(2003/70/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 [1], as last amended by Directive 96/43/EC [2], and in particular Article 18(7) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries [3], and in particular Article 22(6) thereof,

Whereas:

(1) The occurrence of infectious salmon anaemia (ISA) in Norway, led to the adoption of Commission Decision 1999/766/EC of 28 July 1999 on certain protective measures in respect of infectious salmon anaemia (ISA) in salmonids in Norway [4], as last amended by Decision 2002/109/EC [5]. The measures include a ban on imports into the Community of live salmon and stringent conditions for the importation of certain products for human consumption. Those measures apply until 1 February 2003.

(2) Despite the measures undertaken by Norway, further outbreaks of ISA were notified by that state in 2002, and a rapid eradication of that disease cannot therefore be envisaged.

(3) The International Office of Epizootic Diseases (IOE), has given an opinion stating that there is no evidence of vertical transmission of ISA virus.

(4) On the basis of the opinion of the IOE, and the experience and practice of Member States and third countries affected by ISA, it has not been demonstrated that it is necessary to retain the protective measures provided for in Decision 1999/766/EC relating to eggs and gametes of the family *Salmonidae* coming from a farm in Norway that is not under animal health restrictions due to a suspicion or an outbreak of infectious salmon anaemia, and it is thus appropriate to replace the measures by those contained in this Decision and Decision 1999/766/EC should accordingly be repealed.

(5) In light of the disease situation in Norway, the protective measures contained in this Decision should remain applicable until February 2004.

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

HAS ADOPTED THIS DECISION:

Article 1

Live fish, eggs and gametes belonging to the family *Salmonidae*

1. Member States shall prohibit imports of live fish belonging to the family *Salmonidae* originating in Norway.

2. Member States shall prohibit imports of live eggs of fish belonging to the family *Salmonidae* originating in Norway, unless they have been disinfected twice, both at the green egg stage and the eyed egg stage, and subject to the consignments being accompanied by a certificate in accordance with the model laid down in Annex I of this Decision.

3. Member States shall authorise the import of live gametes of fish belonging to the family *Salmonidae* originating in Norway.

Article 2

Conditions for the import of non-processed slaughtered fish belonging to the family *Salmonidae* for human consumption

Member States shall authorise import of slaughtered Atlantic salmon *(Salmo salar)*, sea trout *(Salmo trutta)* and rainbow trout *(Oncorhynchus mykiss)* originating in Norway provided that they are eviscerated, or when they are non-eviscerated, provided that the consignments are accompanied by a certificate in accordance with the model laid down in Annex II of this Decision.

[1] OJ L 268, 24.9.1991, p. 56.
[2] OJ L 162, 1.7.1996, p. 1.
[3] OJ L 24, 30.1.1998, p. 9.
[4] OJ L 302, 25.11.1999, p. 23.
[5] OJ L 40, 12.2.2002, p. 12.

Article 3

Derogation for scientific purposes

By way of derogation, Member States may allow the importation into their territory of samples of the animals and products covered by the present Decision for scientific purposes.

Article 4

Decision 1999/766/EC is repealed.

Article 5

The Member States shall amend the measures they apply in trade in order to bring them into conformity with this Decision. They shall forthwith inform the Commission thereof.

Article 6

This Decision shall apply from 3 February 2003 until 1 February 2004.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 29 January 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX I

Model health certificate regarding ISA for salmonid EGGS originating in Norway

Reference code No ORIGINAL

1. **Authorities involved**

1.1. Competent authority: .....

.....

1.2. Competent issuing authority: .....

.....

2. **Place of origin of the consignment**

2.1. Farm of origin: .....

.....

2.2. Address or location of farm: .....

.....

.....

2.3. Name, address and phone number of the consignor:

.....

.....

.....

.....

.....

3. **Destination of the consignment**

3.1. Member State: .....

.....

3.2. Farm name: .....

.....

3.3. Address: .....

.....

3.4. Name, adress and phone number of the consignee:

.....

.....

.....

4. **Means of transport and consignment identification**

4.1. Lorry, rail wagon, ship, or aircraft: .....

.....

4.2. Registration number(s), ship name or flight number: ..

.....

4.3. Consignment identification details: .....

.....

5. **Description of the consignment**

Fertilised eggs of the fish specie(s)		
Scientific name:	Common name:	Total volume of eggs
☐ *Salmo salar*	☐ Atlantic salmon	
☐ *Salmo trutta*	☐ Sea trout	
☐ *Oncorhynchus mykiss*	☐ Rainbow trout	

6. **Animal health attestation for salmonid eggs originating in Norway for farming in the EC**

I, the undersigned official inspector, hereby certify that the eggs referred to at point 5 of this certificate have been disinfected twice, both at the green egg stage and the eyed egg stage, in accordance with Section 5.2, Appendix 5.2.1 of the International Aquatic Animal Health Code of the International Office of Epizootic Diseases, Third edition 2000, and that they come from a farm that is not under animal health restrictions due to a suspicion or an outbreak of infectious salmon anaemia.

Done at ....., on .....
(Place) (Date)

Official stamp
([1])

.....
(Signature of official inspector) ([1])

.....
(Name in capital letters, qualifications and title)

([1]) The signature and seal must be in a colour different of that of the printing

ANNEX II

Model health certificate regarding ISA for non-eviscerated salmonids originating in Norway

Reference code No: ORIGINAL

1. **Authorities involved**

1.1. Competent authority: .....

.....

1.2. Competent issuing authority: .....

.....

2. **Place of origin of the consignment**

2.1. Establishment of origin where the fish were slaughtered and packed: .....

.....

2.2. Address or location of establishment: .....

.....

.....

2.3. Farm of origin: .....

.....

2.4. Address or location of farm: .....

.....

.....

2.5. Name, address and phone number of the consignor:

.....

.....

3. **Destination of the consignment**

3.1. Member State: .....

.....

3.2. Name, address and phone number of the consignee:

.....

.....

.....

4. **Means of transport and consignment identification**

4.1. Lorry, rail-wagon, ship, or aircraft: .....

.....

4.2. Registration number(s), ship name or flight number: ..

.....

4.3. Consignment identification details: .....

.....

.....

5. **Description of the consignment**

Fish specie(s)		
Scientific name:	Common name:	Total weight of fish
☐ *Salmo salar*	☐ Atlantic salmon	
☐ *Salmo trutta*	☐ Sea trout	
☐ *Oncorhynchus mykiss*	☐ Rainbow trout	

6. **Animal health attestation for salmonid products originating in Norway**

I, the undersigned official inspector, hereby certify that the products referred to at point 5 of this certificate come from a farm and an establishment located in a region of Norway that is not under animal health restrictions due to a suspicion or an outbreak of infectious salmon anaemia.

Done at ....., on .....
(Place) (Date)

Official stamp [1]

.....
(Signature of official inspector) [1]

.....
(Name in capital letters, qualifications and title)

[1] The signature and seal must be in a colour different to that of the printing.

COMMISSION DECISION

of 29 January 2003

on certain protective measures in respect of infectious salmon anaemia in the Faroe Islands

(notified under document number C(2003) 363)

(Text with EEA relevance)

(2003/71/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 [1], as last amended by Directive 96/43/EC [2], and in particular Article 18(7) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries [3], and in particular Article 22(6) thereof,

Whereas:

(1) The occurrence of infectious salmon anaemia (ISA) in the Faroe Islands, led to the adoption of Commission Decision 2000/574/EC of 14 September 2000 on certain protective measures in respect of infectious salmon anaemia (ISA) in salmonids in the Faroe Islands [4], as last amended by Decision 2002/110/EC [5]. The measures include a ban on imports into the Community of live salmon and stringent conditions for the importation of certain products for human consumption. Those measures apply until 1 February 2003.

(2) Despite the measures undertaken by the Faroe Islands, further outbreaks of ISA were notified by that state in 2002, and a rapid eradication of that disease cannot therefore be envisaged.

(3) The International Office of Epizootic Diseases (IOE), has given an opinion stating that there is no evidence of vertical transmission of ISA virus.

(4) On the basis of the opinion of the IOE, and the experience and practice of Member States and third countries affected by ISA, it has not been demonstrated that it is necessary to retain the protective measures provided for in Decision 2000/574/EC relating to eggs and gametes of the family *Salmonidae* coming from a farm in the Faroe Islands that is not under animal health restrictions due to a suspicion or an outbreak of infectious salmon anaemia, and it is thus appropriate to replace the measures by those contained in this Decision and Decision 2000/574/EC should accordingly be repealed.

(5) In light of the disease situation in the Faroe Islands, the protective measures contained in this Decision should remain applicable until February 2004.

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

HAS ADOPTED THIS DECISION:

Article 1

Live fish, eggs and gametes belonging to the family *Salmonidae*

1. Member States shall prohibit imports of live fish belonging to the family *Salmonidae* originating in the Faroe Islands.

2. Member States shall prohibit imports of live eggs of fish belonging to the family *Salmonidae* originating in the Faroe Islands, unless they have been disinfected twice, both at the green egg stage and the eyed egg stage, and subject to the consignments being accompanied by a certificate in accordance with the model laid down in Annex I of this Decision.

3. Member States shall authorise the import of live gametes of fish belonging to the family *Salmonidae* originating in the Faroe Islands.

[1] OJ L 268, 24.9.1991, p. 56.
[2] OJ L 162, 1.7.1996, p. 1.
[3] OJ L 24, 30.1.1998, p. 9.
[4] OJ L 240, 23.9.2000, p. 26.
[5] OJ L 40, 12.2.2002, p. 13.

Article 2

Conditions for the import of non-processed slaughtered fish belonging to the family *Salmonidae* for human consumption

Member States shall authorise import of slaughtered Atlantic salmon *(Salmo salar)*, sea trout *(Salmo trutta)* and rainbow trout *(Oncorhynchus mykiss)* originating in the Faroe Islands provided that they are eviscerated, or when they are non-eviscerated, provided that the consignments are accompanied by a certificate in accordance with the model laid down in Annex II of this Decision.

Article 3

Derogation for scientific purposes

By way of derogation, Member States may allow the importation into their territory of samples of the animals and products covered by the present Decision for scientific purposes.

Article 4

Decision 2000/574/EC is repealed.

Article 5

The Member States shall amend the measures they apply in trade in order to bring them into conformity with this Decision. They shall forthwith inform the Commission thereof.

Article 6

This Decision shall apply from 3 February 2003 until 1 February 2004.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 29 January 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX I

Model health certificate regarding ISA for salmonid eggs originating in the Faroe Islands

Reference code No: ORIGINAL

1. **Authorities involved**

1.1. Competent authority: .....

.....

1.2. Competent issuing authority: .....

.....

2. **Place of origin of the consignment**

2.1. Farm of origin: .....

.....

2.2. Address or location of farm: .....

.....

.....

2.3. Name, address and phone number of the consignor:

.....

.....

.....

.....

.....

3. **Destination of the consignment**

3.1. Member State: .....

.....

3.2. Farm name: .....

.....

3.3. Address: .....

.....

3.4. Name, address and phone number of the consignee:

.....

.....

.....

4. **Means of transport and consignment identification**

4.1. Lorry, ship, or aircraft: .....

.....

4.2. Registration number(s), ship name or flight number: ..

.....

4.3. Consignment identification details: .....

.....

5. **Description of the consignment**

Fertilised eggs of the fish specie(s)		
Scientific name	Common name	Total volume of eggs
☐ *Salmo salar*	☐ Atlantic salmon	
☐ *Salmo trutta*	☐ Sea trout	
☐ *Oncorhynchus mykiss*	☐ Rainbow trout	

6. **Animal health attestation for salmonid eggs originating in the Faroe Islands for farming in the EC**

I, the undersigned official inspector, hereby certify that the eggs referred to at point 5 of this certificate have been disinfected twice, both at the green egg stage and the eyed egg stage, in accordance with Section 5.2, Appendix 5.2.1 of the International Aquatic Animal Health Code of the International Office of Epizootic Diseases, Third edition 2000, and that they come from a farm that is not under animal health restrictions due to a suspicion or an outbreak of infectious salmon anaemia.

Done at ....., on .....
(Place) (Date)

Official stamp [1]

.....
(Signature of official inspector) [1]

.....
(Name in capital letters, qualifications and title)

[1] The signature and seal must be in a colour different of that of the printing.

ANNEX II

Model health certificate regarding ISA for non-eviscerated salmonids originating in the Faroe Islands

Reference code No: ORIGINAL

1. **Authorities involved**

1.1. Competent authority: .....

.....

1.2. Competent issuing authority: .....

.....

2. **Place of origin of the consignment**

2.1. Establishment of origin where the fish were slaughtered and packed: .....

.....

2.2. Address or location of establishment: .....

.....

.....

2.3. Farm of origin: .....

.....

2.4. Address of location of farm: .....

.....

.....

2.5. Name, address and phone number of the consignor:

.....

.....

3. **Destination of the consignment**

3.1. Member State: .....

.....

3.2. Name, address and phone number of the consignee:

.....

.....

.....

4. **Means of transport and consignment identification**

4.1. Lorry, ship, or aircraft: .....

.....

4.2. Registration number(s), ship name or flight number: ..

.....

4.3. Consignment identification details: .....

.....

5. **Description of the consignment**

Fish specie(s)		
Scientific name	Common name	Total weight of fish
☐ *Salmo salar*	☐ Atlantic salmon	
☐ *Salmo trutta*	☐ Sea trout	
☐ *Oncorhynchus mykiss*	☐ Rainbow trout	

6. **Animal health attestation for salmonid products originating in the Faroe Islands**

I, the undersigned official inspector, hereby certify that the products referred to at point 5 of this certificate come from a farm or an establishment located in a region of the Faroe Islands that is not under animal health restrictions due to a suspicion or an outbreak of infectious salmon anaemia.

Done at ....., on .....
(Place) (Date)

Official stamp [1]

.....
(Signature of official inspector) [1]

.....
(Name in capital letters, qualifications and title)

[1] The signature and seal must be in a colour different to that of the printing.

COMMISSION DECISION

of 30 January 2003

amending Decision 2002/994/EC concerning certain protective measures with regard to the products of animal origin imported from China

(notified under document number C(2003) 426)

(Text with EEA relevance)

(2003/72/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries [1], and in particular Article 22(1) thereof,

Whereas:

(1) Following the detection of residues of veterinary medicines in certain products of animal origin imported from China, and the shortcomings identified during an inspection visit to this country as regards the veterinary medicines regulation and the residue control system in live animals and animal products, the Commission adopted Decision 2002/69/EC 30 January 2002 concerning certain protective measures with regard to the products of animal origin imported from China [2].

(2) The information provided by Chinese authority and the favourable results of the checks carried out by Member States have allowed authorisation of importation of certain products of animal origin from China by means of several modifications of Decision 2002/69/EC. These modifications were consolidated in the Commission Decision 2002/994/EC [3].

(3) Decision 2002/69/EC, as amended by Decision 2002/933/EC [4], included the fillets of Salmon (*Salmo salar*) of both wild and aquaculture origin as a product authorised to be imported from China. However, this product was maintained in the Annex to Decision 2002/994/EC without specifying that both origins were authorised. Therefore, the Annex to Decision 2002/994/EC should be accordingly amended.

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

HAS ADOPTED THIS DECISION:

Article 1

Annex to Decision 2002/994/EC is replaced by the text in the Annex to this Decision.

Article 2

This Decision shall apply from 3 February 2003.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 30 January 2003.

For the Commission

David BYRNE

Member of the Commission

[1] OJ L 24, 30.1.1998, p. 9.
[2] OJ L 30, 31.1.2002, p. 50.
[3] OJ L 348, 21.12.2002, p. 154.
[4] OJ L 324, 29.11.2002, p. 71.

ANNEX

'ANNEX

Part I List of products of animal origin intended for human consumption or animal feed use authorised to be imported into the Community without testing:

— fishery products, except:
  — those obtained by aquaculture, other than the fillets of salmon of the specie *Salmo salar* referred below,
  — eels,
  — shrimps other than those caught in the Atlantic Ocean as referred to below,
— fillets of salmon of the species *Salmo salar,*
— entire shrimps caught in the Atlantic Ocean, which have not undergone any preparation or processing operation other than freezing and packaging in their final package at sea and landed directly on Community territory,
— gelatine.

Part II List of products of animal origin intended for human consumption or animal feed use authorised to be imported into the Community, subject to a chemical test under the conditions of Article 3(2):

— casings,
— crayfish of the species *Procambrus clarkii* caught in natural fresh waters by fishing operations,
— Surimi obtained from the fishery products authorised in part I.

Part III List of products of animal origin intended for human consumption or animal feed use authorised to be imported into the Community, subject to a chemical test under the conditions of Article 3(2):'.

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 1488/2001 of 19 July 2001 laying down rules for the application of Council Regulation (EC) No 3448/93 as regards the placement of certain quantities of certain basic products listed in Annex I to the Treaty establishing the European Community under the inward processing arrangements without prior examination of the economic conditions

(Official Journal of the European Communities L 196 of 20 July 2001)

On page 15, in Article 23(4):

for: '… Article 21, …',

read: '… Article 22, …'.

NOTE TO READERS

In accordance with point 38 of Article 2 of the Treaty of Nice which amends Article 254 of the Treaty establishing the European Community, the *Official Journal of the European Communities* will be known, as from the entry into force of the Treaty of Nice, namely 1 February 2003, as the *Official Journal of the European Union*.