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I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 36/2004
of 9 January 2004
establishing the standard import values for determining the entry price of certain fruit and
vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽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 10 January 2004.

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

Done at Brussels, 9 January 2004.

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 9 January 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	102,9
	204	43,7
	624	193,8
	999	113,5
0707 00 05	052	127,9
	204	122,9
	220	255,9
	999	168,9
0709 90 70	052	107,3
	204	89,7
	999	98,5
0805 10 10, 0805 10 30, 0805 10 50	052	56,2
	204	55,7
	220	35,5
	388	23,8
	999	42,8
0805 20 10	052	77,9
	204	91,2
	999	84,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	88,3
	624	68,3
	999	78,3
0805 50 10	052	72,5
	400	38,7
	600	57,1
	999	56,1
0808 10 20, 0808 10 50, 0808 10 90	060	43,1
	400	93,0
	404	95,7
	720	84,1
	800	131,2
	999	89,4
0808 20 50	052	51,1
	060	57,4
	064	61,0
	400	87,6
	528	96,9
	720	62,4
	999	69,4

⁽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 37/2004**of 9 January 2004****amending Council Regulation (EC) No 747/2001 as regards the Community tariff quotas and reference quantities for certain agricultural products originating in Morocco**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 747/2001 of 9 April 2001 providing for the management of Community tariff quotas and of reference quantities for products eligible for preferences by virtue of agreements with certain Mediterranean countries and repealing Regulations (EC) No 1981/94 and (EC) No 934/95 ⁽¹⁾, and in particular Article 5(1)(b) thereof,

Whereas:

- (1) An Agreement in the form of an Exchange of Letters has been concluded on 22 December 2003 between the European Community and the Kingdom of Morocco concerning reciprocal liberalisation measures and the replacement of Protocols 1 and 3 to the EC-Morocco Association Agreement. That new Agreement applies from 1 January 2004, with the exception of the Articles 2, 4 and 5 of the new agricultural Protocol 1, hereinafter 'the new Protocol 1', concerning the arrangements applicable to imports into the Community of agricultural products originating in Morocco. Those articles apply from 1 October 2003 in relation to the concessions provided for tomatoes.
- (2) The new Protocol 1 provides for new tariff concessions and for changes to the existing concessions laid down in Annex II to Regulation (EC) No 747/2001, some of which fall within Community tariff quotas and reference quantities.
- (3) For certain agricultural products for which the existing tariff concessions apply within reference quantities, the new Protocol 1 provides for the exemption of customs duties within tariff quotas or for the exemption of customs duties for unlimited volumes.
- (4) To implement the tariff concessions provided for in the new Protocol 1, it is necessary to amend Regulation (EC) No 747/2001.
- (5) For the purpose of calculating tariff quotas for the first year of application, it should be provided that, except for tomatoes of CN code 0702 00 00, where the quota period starts before the date on which the new Agreement enters into force, the tariff quota volumes are to be reduced in proportion to that part of the period which has already elapsed before that date.
- (6) In order to facilitate the management of certain existing tariff quotas provided for in Regulation (EC) No 747/2001, the quantities imported within the framework of those quotas should be taken into account for charging on the tariff quotas opened in accordance with Regulation (EC) No 747/2001, as amended by this Regulation.
- (7) The new Agreement provides that tariff quotas for fresh or chilled tomatoes are to be applied from 1 October 2003. The quantities which have been put into free circulation in the Community from 1 October 2003 with the benefit of the existing tariff quotas for fresh or chilled tomatoes by virtue of Regulation (EC) No 747/2001, should therefore be taken into account for charging on the tariff quotas opened in accordance with Regulation (EC) No 747/2001, as amended by this Regulation.
- (8) Under the new Protocol 1, the volume of the additional tariff quota for fresh and chilled tomatoes applicable from 1 November to 31 May is to depend each year on the total volume of tomatoes originating in Morocco put into free circulation in the Community during the preceding period from 1 October to 31 May. Consequently, the Commission should, before 1 November each year, review the volumes put into free circulation during the preceding period from 1 October to 31 May, and should adopt provisions to implement any necessary adjustment of the volume of the additional tariff quota.
- (9) For the tariff quotas for fresh or chilled tomatoes, it should be provided in accordance with the new Protocol 1 that, during each import season from 1 October to 31 May, unused quantities of the monthly tariff quotas may be transferred on two specific dates to the additional tariff quota applicable for that import season.
- (10) In accordance with the new Protocol 1, the volumes of the tariff quotas for certain products should be increased from 1 January 2004 to 1 January 2007, on the basis of four annual and equal instalments, each corresponding to 3 % of those volumes.
- (11) Since the provisions provided for in this Regulation should apply from the date of application of the new Agreement, it is appropriate for this Regulation to enter into force as soon as possible.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

⁽¹⁾ OJ L 109, 19.4.2001, p. 2. Regulation as last amended by Commission Regulation (EC) No 209/2003 (OJ L 28, 4.2.2003, p. 30).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 747/2001 is amended as follows:

1. The following *Article 3a* is inserted:

Article 3a

Special provisions for the tariff quotas for tomatoes originating in Morocco

For tomatoes of CN code 0702 00 00 put into free circulation in every period from 1 October to 31 May (hereinafter "import season") drawings on the monthly tariff quotas applicable under order No 09.1104 from 1 October to 31 December and from 1 January to 31 March respectively, shall be stopped each year on 15 January and on the second working day in the Commission following 1 April. On the following working day in the Commission, Commission services shall determine the unused balance of each of these tariff quotas and shall make it available within the additional tariff quota applicable for that import season under the order number 09.1112.

From the dates onwards on which the monthly tariff quotas are stopped, any retroactive drawings from any of the stopped monthly tariff quotas and any subsequent returns of unused volumes to any of the stopped monthly tariff quotas shall be made on the additional tariff quota applicable for that import season.'

2. Annex II is replaced by the text set out in the Annex to this Regulation.

Article 2

1. For the quota period still open on 1 January 2004, the quantities which pursuant to Regulation (EC) No 747/2001 have been put into free circulation in the Community within the tariff quotas with order numbers 09.1115, 09.1122, 09.1130, 09.1133, 09.1135, 09.1136 and 09.1137, shall be taken into account for charging on the respective tariff quotas laid down in Annex II to Regulation (EC) No 747/2001, as amended by this Regulation.

2. The quantities of tomatoes of CN code 0702 00 00 which pursuant to Regulation (EC) No 747/2001 have been put into free circulation in the Community from 1 October 2003 within the tariff quotas with order numbers 09.1116, 09.1189 and 09.1190, shall be taken into account for charging on the tariff quotas opened for those products from that date in accordance with Annex II to Regulation (EC) No 747/2001, as amended by this Regulation.

Article 3

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

It shall apply from 1 January 2004, with exception of the tariff quotas indicated in the third and fourth paragraph.

The tariff quotas under order No 09.1104 for tomatoes of CN code 0702 00 00 shall apply from 1 October 2003.

The tariff quota under order No 09.1112 for tomatoes of CN code 0702 00 00 shall apply from 1 November 2003.

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

Done at Brussels, 9 January 2004.

For the Commission

Frederik BOLKESTEIN

Member of the Commission

ANNEX

‘ANNEX II

MOROCCO

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes as they exist at the time of adoption of the current regulation. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

Tariff quotas

Order No	CN code	TARIC subdi- vision	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.1135	0603 10 10 0603 10 20 0603 10 40 0603 10 50		Fresh cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes: — Roses — Carnations — Gladioli — Chrysanthemums	from 15.10.2003 to 31.5.2004	3 000	Exemption
				from 15.10.2004 to 31.5.2005	3 090	
				from 15.10.2005 to 31.5.2006	3 180	
				from 15.10.2006 to 31.5.2007	3 270	
				from 15.10.2007 to 31.5.2008 and for each period thereafter from 15.10 to 31.5	3 360	
09.1136	0603 10 30 0603 10 80		Fresh cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes: — Orchids — Other	from 15.10.2003 to 14.5.2004	2 000	Exemption
				from 15.10.2004 to 14.5.2005	2 060	
				from 15.10.2005 to 14.5.2006	2 120	
				from 15.10.2006 to 14.5.2007	2 180	
				from 15.10.2007 to 14.5.2008 and for each period thereafter from 15.10 to 14.5	2 240	
09.1115	ex 0701 90 50	10	New potatoes and so-called “new potatoes”, fresh or chilled	from 1.12.2003 to 30.4.2004	120 000	Exemption
	ex 0701 90 90			from 1.12.2004 to 30.4.2005	123 600	
	from 1.12.2005 to 30.4.2006			127 200		
	from 1.12.2006 to 30.4.2007			130 800		
	from 1.12.2007 to 30.4.2008 and for each period thereafter from 1.12 to 30.4			134 400		

Order No	CN code	TARIC subdi- vision	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.10 to 31.10	10 000	Exemption ⁽¹⁾ ⁽²⁾
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.11 to 30.11	26 000	Exemption ⁽¹⁾ ⁽²⁾
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.12 to 31.12	30 000	Exemption ⁽¹⁾ ⁽²⁾
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.1 to 31.1	30 000	Exemption ⁽¹⁾ ⁽²⁾
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.2 to 28/29.2	30 000	Exemption ⁽¹⁾ ⁽²⁾
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.3 to 31.3	30 000	Exemption ⁽¹⁾ ⁽²⁾
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.4 to 30.4	15 000	Exemption ⁽¹⁾ ⁽²⁾
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.5 to 31.5	4 000	Exemption ⁽¹⁾ ⁽²⁾
09.1112	0702 00 00		Tomatoes, fresh or chilled	from 1.11.2003 to 31.5.2004	15 000	Exemption ⁽¹⁾ ⁽²⁾
				from 1.11.2004 to 31.5.2005	25 000 ⁽³⁾	Exemption ⁽¹⁾ ⁽²⁾
				from 1.11.2005 to 31.5.2006	35 000 ⁽⁴⁾	Exemption ⁽¹⁾ ⁽²⁾
				from 1.11.2006 to 31.5.2007 and for each period thereafter from 1.11 to 31.5	45 000 ⁽⁵⁾	Exemption ⁽¹⁾ ⁽²⁾
09.1127	0703 10 11 0703 10 19 ex 0709 90 90	50	Onions, including wild onions of the species <i>Muscari comosum</i> , fresh or chilled	from 15.2 to 15.5.2004	8 240	Exemption
				from 15.2 to 15.5.2005	8 480	
				from 15.2 to 15.5.2006	8 720	
				from 15.2 to 15.5.2007 and for each period thereafter from 15.2 to 15.5	8 960	
09.1102	0703 10 90 0703 20 00 0703 90 00		Shallots, garlic, leeks and other alliacious vegetables, fresh or chilled	from 1.1. to 31.12.2004	1 030	Exemption
				from 1.1. to 31.12.2005	1 060	
				from 1.1. to 31.12.2006	1 090	
				from 1.1. to 31.12.2007 and for each year thereafter	1 120	

Order No	CN code	TARIC subdi- vision	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.1106	ex 0704		Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled, excluding Chinese cabbage	from 1.1. 31.12.2004 to from 1.1. 31.12.2005 to from 1.1. 31.12.2006 to from 1.1. 31.12.2007 and for each year thereafter	515 530 545 560	Exemption
09.1109	ex 0704 90 90	20	Chinese cabbage, fresh or chilled	from 1.1. 31.12.2004 to from 1.1. 31.12.2005 to from 1.1. 31.12.2006 to from 1.1. 31.12.2007 and for each year thereafter	206 212 218 224	Exemption
09.1108	0705 11 00		Cabbage lettuce (head lettuce), fresh or chilled	from 1.1. 31.12.2004 to from 1.1. 31.12.2005 to from 1.1. 31.12.2006 to from 1.1. 31.12.2007 and for each year thereafter	206 212 218 224	Exemption
09.1110	0705 19 00 0705 29 00 0706		— Lettuce (<i>Lactuca sativa</i>), fresh or chilled, other than cabbage lettuce — Chicory (<i>Cichorium</i> spp.), fresh or chilled, other than witloof chicory — Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled	from 1.1. 31.12.2004 to from 1.1. 31.12.2005 to from 1.1. 31.12.2006 to from 1.1. 31.12.2007 and for each year thereafter	618 636 654 672	Exemption
09.1137	0707 00 05		Cucumbers, fresh or chilled	from 1.11.2003 to 31.5.2004 for each period thereafter from 1.11 to 31.5	5 429 5 600	Exemption ⁽¹⁾ ⁽⁶⁾
09.1113	0707 00 90		Gherkins, fresh or chilled	from 1.1. 31.12.2004 to from 1.1. 31.12.2005 to from 1.1. 31.12.2006 to from 1.1. 31.12.2007 and for each year thereafter	103 106 109 112	Exemption
09.1138	0709 10 00		Globe artichokes, fresh or chilled	from 1.11 to 31.12	500	Exemption ⁽¹⁾ ⁽⁷⁾

Order No	CN code	TARIC subdi- vision	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.1120	0709 40 00 ex 0709 51 00 0709 59 10 0709 59 30 ex 0709 59 90 0709 70 00	90 90	Other vegetables, fresh or chilled: — Celery other than celeriac — Mushrooms of the genus <i>Agaricus</i> , other than cultivated mushrooms — Chanterelles — Flap mushrooms — Other mushrooms, other than cultivated mushrooms — Spinach, New Zealand spinach and orache spinach (garden spinach)	from 1.1. to 31.12.2004 from 1.1. to 31.12.2005 from 1.1. to 31.12.2006 from 1.1. to 31.12.2007 and for each year thereafter	9 270 9 540 9 810 10 080	Exemption
09.1133	0709 90 70		Courgettes, fresh or chilled	from 1.10.2003 to 20.4.2004 for each period there- after from 1.10 to 20.4	13 276 20 000	Exemption ⁽¹⁾ ⁽⁸⁾
09.1143	ex 0710		Vegetables (uncooked or cooked by steaming or boiling in water), frozen, excluding peas of subheadings 0710 21 00 and ex 0710 29 00 and excluding other fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> of subheading 0710 80 59	from 1.1. to 31.12.2004 from 1.1. to 31.12.2005 from 1.1. to 31.12.2006 from 1.1. to 31.12.2007 and for each year thereafter	10 300 10 600 10 900 11 200	Exemption
09.1125	0711 40 00 0711 51 00 0711 59 00 0711 90 30 0711 90 50 0711 90 80 0711 90 90		Cucumbers and gherkins, mushrooms, truffles, sweet corn, onions, other vegetables (excluding fruits of the genus <i>Capsicum</i> or <i>Pimenta</i>) and mixtures of vegetables, provisionally preserved but unsuitable in that state for immediate consumption	from 1.1. to 31.12.2004 from 1.1. to 31.12.2005 from 1.1. to 31.12.2006 from 1.1. to 31.12.2007 and for each year thereafter	618 636 654 672	Exemption
09.1126	ex 0712		Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared, excluding onions of subheading 0712 20 00 and excluding olives of ex 0712 90 90	from 1.1. to 31.12.2004 from 1.1. to 31.12.2005 from 1.1. to 31.12.2006 from 1.1. to 31.12.2007 and for each year thereafter	2 060 2 120 2 180 2 240	Exemption
09.1122	0805 10 10 0805 10 30 0805 10 50 ex 0805 10 80	10	Fresh oranges	from 1.12 to 31.5	300 000	Exemption ⁽¹⁾ ⁽⁹⁾
09.1130	ex 0805 20 10	05	Fresh clementines	from 1.11.2003 to 29.2.2004 for each period there- after from 1.11 to 28/ 29.2	120 000 130 000	Exemption ⁽¹⁾ ⁽¹⁰⁾
09.1145	0808 20 90		Fresh quinces	from 1.1 to 31.12	1 000	Exemption

Order No	CN code	TARIC sub-division	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.1128	0809 10 00		— Fresh apricots	from 1.1. 31.12.2004 to	3 605	Exemption ⁽¹¹⁾
	0809 20		— Fresh cherries			
	0809 30		— Fresh peaches, including nectarines	from 1.1. 31.12.2005 to	3 710	
				from 1.1. 31.12.2006 to	3 815	
			from 1.1. 31.12.2007 and for each year thereafter	3 920		
09.1134	0810 50 00		Fresh kiwifruit	from 1.1 to 30.4.2004	257,5	Exemption
				from 1.1 to 30.4.2005	265	
				from 1.1 to 30.4.2006	272,5	
				from 1.1 to 30.4.2007 and for each period thereafter from 1.1 to 30.4	280	
09.1140	1509		— Olive oil and its fractions, whether or not refined, but not chemically modified	from 1.1. 31.12.2004 to	3 605	Exemption
	1510 00		— Other oils and their fractions, obtained solely from olives, whether or not refined, but not chemically modified, including blends of these oils or fractions with oils or fractions of heading 1509	from 1.1. 31.12.2005 to	3 710	
				from 1.1. 31.12.2006 to	3 815	
				from 1.1. 31.12.2007 and for each year thereafter	3 920	
09.1147	ex 2001 10 00	90	Gherkins, prepared or preserved by vinegar or acetic acid	from 1.1. 31.12.2004 to	10 300 tonnes drained net weight	Exemption
				from 1.1. 31.12.2005 to	10 600 tonnes drained net weight	
				from 1.1. 31.12.2006 to	10 900 tonnes drained net weight	
				from 1.1. 31.12.2007 and for each year thereafter	11 200 tonnes drained net weight	
09.1142	2002 90		Tomatoes prepared or preserved otherwise than by vinegar or acetic acid, other than whole or in pieces	from 1.1. 31.12.2004 to	2 060	Exemption
				from 1.1. 31.12.2005 to	2 120	
				from 1.1. 31.12.2006 to	2 180	
				from 1.1. 31.12.2007 and for each year thereafter	2 240	

Order No	CN code	TARIC subdi- vision	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.1119	2004 90 50 2005 40 00 2005 59 00		Peas (<i>Pisum sativum</i>) and immature beans in pod prepared or preserved otherwise than by vinegar or acetic acid, whether or not frozen	from 1.1. 31.12.2004 to from 1.1. 31.12.2005 to from 1.1. 31.12.2006 to from 1.1. 31.12.2007 to and for each year thereafter	10 815 11 130 11 445 11 760	Exemption
09.1144	2008 50 61 2008 50 69		Apricots, otherwise prepared or preserved, not containing added spirit, containing added sugar and in immediate packings of a net content exceeding 1 kg	from 1.1. 31.12.2004 to from 1.1. 31.12.2005 to from 1.1. 31.12.2006 to from 1.1. 31.12.2007 to and for each year thereafter	10 300 10 600 10 900 11 200	Exemption
09.1146	2008 50 71 2008 50 79		Apricots, otherwise prepared or preserved, not containing added spirit, containing added sugar and in immediate packings of a net content not exceeding 1 kg	from 1.1. 31.12.2004 to from 1.1. 31.12.2005 to from 1.1. 31.12.2006 to from 1.1. 31.12.2007 to and for each year thereafter	5 150 5 300 5 450 5 600	Exemption
09.1105	ex 2008 50 92 ex 2008 50 94	20 20	Apricot pulp, not containing added spirit or sugar, in immediate packings of a net content of 4,5 kg or more	from 1.1. 31.12.2004 to from 1.1. 31.12.2005 to from 1.1. 31.12.2006 to from 1.1. 31.12.2007 to and for each year thereafter	10 300 10 600 10 900 11 200	Exemption
09.1148	2008 50 99 ex 2008 70 98	 21	Apricots, otherwise prepared or preserved, not containing added spirit or sugar, in immediate packings of a net content of less than 4,5 kg Peach halves (including nectarines), otherwise prepared or preserved, not containing added spirit or sugar, in immediate packings of a net content of less than 4,5 kg	from 1.1. 31.12.2004 to from 1.1. 31.12.2005 to from 1.1. 31.12.2006 to from 1.1. 31.12.2007 to and for each year thereafter	7 416 7 632 7 848 8 064	Exemption

Order No	CN code	TARIC subdi- vision	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.1149	2008 92 51 2008 92 59 2008 92 72 2008 92 74 2008 92 76 2008 92 78		Mixtures of fruit, containing added sugar, but not containing added spirit	from 1.1. to 31.12.2004	103	Exemption
				from 1.1. to 31.12.2005	106	
				from 1.1. to 31.12.2006	109	
				from 1.1. to 31.12.2007 and for each year thereafter	112	
09.1123	2009 11 2009 12 00 2009 19		Orange juice	from 1.1. to 31.12.2004	51 500	Exemption ⁽¹⁾
				from 1.1. to 31.12.2005	53 000	
				from 1.1. to 31.12.2006	54 500	
				from 1.1. to 31.12.2007 and for each year thereafter	56 000	
09.1192	2009 21 00 2009 29		Grapefruit juice	from 1.1. to 31.12.2004	1 030	Exemption ⁽¹⁾
				from 1.1. to 31.12.2005	1 060	
				from 1.1. to 31.12.2006	1 090	
				from 1.1. to 31.12.2007 and for each year thereafter	1 120	
09.1131	2204 10 19		Other sparkling wine	from 1.1. to 31.12.2004	98 056 hl	Exemption
	2204 10 99					
	2204 21 10		Other wine of fresh grapes	from 1.1. to 31.12.2005	100 912 hl	
	2204 21 79			from 1.1. to 31.12.2006	103 768 hl	
	ex 2204 21 80			from 1.1. to 31.12.2007 and for each year thereafter	106 624 hl	
	2204 21 83					
	ex 2204 21 84					
	2204 21 94					
	ex 2204 21 98					
	ex 2204 21 99					
	2204 29 10					
	2204 29 65					
	ex 2204 29 75					
	2204 29 83					
	ex 2204 29 84					
	ex 2204 29 94					
	ex 2204 29 98					
	ex 2204 29 99					

Order No	CN code	TARIC subdi- vision	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.1107	ex 2204 21 79	72	Wines entitled to one of the following designations of origin: Berkane, Saïs, Beni M'Tir, Guerrouane, Zemmour and Zennata, of an actual alcoholic strength by volume not exceeding 15 % vol and in containers holding 2 l or less	from 1.1. 31.12.2004 to	57 680 hl	Exemption
	ex 2204 21 80	72				
	ex 2204 21 83	72		from 1.1. 31.12.2005 to	59 360 hl	
	ex 2204 21 84	72		from 1.1. 31.12.2006 to from 1.1. 31.12.2007 and for each year thereafter	61 040 hl 62 720 hl	

⁽¹⁾ The exemption applies only to the *ad valorem* duty.

⁽²⁾ Within this tariff quota the specific duty provided in the Community's list of concessions to the WTO is reduced to zero if the entry price is not less than EUR 461/tonne, being the entry price agreed between the European Community and Morocco. If the entry price of a consignment is 2, 4, 6 or 8 % lower than the agreed entry price, the specific customs quota duty shall be equal respectively to 2, 4, 6 or 8 % of this agreed entry price. If the entry price of a consignment is less than 92 % of the agreed entry price, the specific customs duty bound within the WTO shall apply.

⁽³⁾ This quota volume shall be reduced to 5 000 tonnes net weight if the total volume of tomatoes originating in Morocco put into free circulation in the Community during the period of 1 October 2003 to 31 May 2004 exceeds the volume of 191 900 tonnes net weight.

⁽⁴⁾ This quota volume shall be reduced to 15 000 tonnes net weight if the total volume of tomatoes originating in Morocco put into free circulation in the Community during the period of 1 October 2004 to 31 May 2005 exceeds the sum of the volumes of the monthly tariff quotas with order number 09.1104 applicable during the period of 1 October 2004 to 31 May 2005 and the volume of the additional tariff quota with order number 09.1112 applicable during the period of 1 November 2004 to 31 May 2005. For the determination of the total imported volume a maximum tolerance of 1 % shall be allowed.

⁽⁵⁾ This quota volume shall be reduced to 25 000 tonnes net weight if the total volume of tomatoes originating in Morocco put into free circulation in the Community during the period of 1 October 2005 to 31 May 2006 exceeds the sum of the volumes of the monthly tariff quotas with order number 09.1104 applicable during the period of 1 October 2005 to 31 May 2006 and the volume of the additional tariff quota with order number 09.1112 applicable during the period of 1 November 2005 to 31 May 2006. For the determination of the total imported volume a maximum tolerance of 1 % shall be allowed. These provisions will apply to the volume of each thereafter provided additional tariff quota that will apply from 1.11 to 31.5.

⁽⁶⁾ Within this tariff quota the specific duty provided in the Community's list of concessions to the WTO is reduced to zero if the entry price is not less than EUR 449/tonne, being the entry price agreed between the European Community and Morocco. If the entry price of a consignment is 2, 4, 6 or 8 % lower than the agreed entry price, the specific customs quota duty shall be equal respectively to 2, 4, 6 or 8 % of this agreed entry price. If the entry price of a consignment is less than 92 % of the agreed entry price, the specific customs duty bound within the WTO shall apply.

⁽⁷⁾ Within this tariff quota the specific duty provided in the Community's list of concessions to the WTO is reduced to zero if the entry price is not less than EUR 571/tonne, being the entry price agreed between the European Community and Morocco. If the entry price of a consignment is 2, 4, 6 or 8 % lower than the agreed entry price, the specific customs quota duty shall be equal respectively to 2, 4, 6 or 8 % of this agreed entry price. If the entry price of a consignment is less than 92 % of the agreed entry price, the specific customs duty bound within the WTO shall apply.

⁽⁸⁾ Within this tariff quota the specific duty provided in the Community's list of concessions to the WTO is reduced to zero if the entry price is not less than:

— EUR 424/tonne from 1 October to 31 January and from 1 to 20 April, being the entry price agreed between the European Community and Morocco,

— during the period from 1 February to 31 March the WTO entry price of EUR 413/tonne which is more favourable than the agreed entry price shall apply.

If the entry price of a consignment is 2, 4, 6 or 8 % lower than the agreed entry price, the specific customs quota duty shall be equal respectively to 2, 4, 6 or 8 % of this agreed entry price. If the entry price of a consignment is less than 92 % of the agreed entry price, the specific customs duty bound within the WTO shall apply.

⁽⁹⁾ Within this tariff quota the specific duty provided in the Community's list of concessions to the WTO is reduced to zero if the entry price is not less than EUR 264/tonne, being the entry price agreed between the European Community and Morocco. If the entry price of a consignment is 2, 4, 6 or 8 % lower than the agreed entry price, the specific customs quota duty shall be equal respectively to 2, 4, 6 or 8 % of this agreed entry price. If the entry price of a consignment is less than 92 % of the agreed entry price, the specific customs duty bound within the WTO shall apply.

⁽¹⁰⁾ Within this tariff quota the specific duty provided in the Community's list of concessions to the WTO is reduced to zero if the entry price is not less than EUR 484/tonne, being the entry price agreed between the European Community and Morocco. If the entry price of a consignment is 2, 4, 6 or 8 % lower than the agreed entry price, the specific customs quota duty shall be equal respectively to 2, 4, 6 or 8 % of this agreed entry price. If the entry price of a consignment is less than 92 % of the agreed entry price, the specific customs duty bound within the WTO shall apply.

⁽¹¹⁾ The exemption applies only to the *ad valorem* duty, except for fresh cherries for which from 1 to 20 May the exemption also applies to the specific minimum duty.'

COMMISSION REGULATION (EC) No 38/2004**of 9 January 2004****amending Regulation (EC) No 314/2002 laying down detailed rules for the application of the quota system 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 on the common organisation of the markets in the sugar sector ⁽¹⁾, and in particular Articles 13(3), 14(4), 15(8), 16(5), 18(5) and 20(2) and the second paragraph of Article 41 thereof,

Whereas:

- (1) Both yeast and alcohol production use sugar industry products and by-products that do not form part of the finished product but are needed for the fermentation process by which it is made.
- (2) The recently increasing demand from alcohol producers for molasses has meant that less high quality beet molasses has been available to yeast producers and that it is of increasing interest to them to use sugar syrups. Use of these in turn means a marked reduction in environmental pollution caused by using molasses in making yeast.
- (3) Commission Regulation (EC) No 314/2002 ⁽²⁾ stipulates that invert sugar and syrups processed into alcohol or rum are excluded from calculation of sugar production for the purposes of Articles 13 to 18 of Regulation (EC) No 1260/2001.
- (4) In order to treat yeast producers fairly the above provision should be extended to cover syrups processed into live yeast.
- (5) To prevent any misuse of the production quota system, arrangements should be introduced for supervising both enterprises allocated sugar production quotas and those processing sugar into alcohol, rum or yeast. Official approval of processing enterprises should be required and prior declaration of deliveries from enterprises assigned quotas should be required so that the authorities of the Member States can check on quantities. These arrangements should also apply to syrups for spreading and syrups to be processed into 'Rinse appelstroop',

which, under Article 1(2)(h) of Regulation (EC) No 314/2002, are excluded from calculation of sugar production for the purposes of Articles 13 to 18 of Regulation (EC) No 1260/2001. To give the authorities time to introduce management and inspection measures, the new provisions should apply from 1 February 2004.

- (6) To allow monitoring of use of invert sugar and syrups and of the corresponding production of alcohol, rum, yeast, syrups for spreading and 'Rinse appelstroop', Member States should notify the Commission of the quantities used and produced.
- (7) In the third subparagraph of Article 4b(3) of Regulation (EC) No 314/2002 a distinction should be made between quantities of isoglucose expressed as dry matter and quantities of inulin syrup expressed as white sugar equivalent.
- (8) In Article 6(5)(c) of Regulation (EC) No 314/2002 concerning export obligations to be fulfilled during the current marketing year (within the meaning of Article 15(1)(d) of Regulation (EC) No 1260/2001) the words 'such quantities being spread evenly over the marketing year' are unnecessary and should for clarity be removed.
- (9) Regulation (EC) No 314/2002 should be amended accordingly.
- (10) The Management Committee for Sugar has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 314/2002 is amended as follows:

1. in Article 1(2) point (f) is replaced by:

'(f) quantities of invert sugar and syrups processed into alcohol or rum and quantities of syrups used in making live yeast;'

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 2196/2003 (OJ L 328, 17.12.2003, p. 26).

⁽²⁾ OJ L 50, 21.2.2002, p. 40. Regulation as amended by Regulation (EC) No 1140/2003 (OJ L 160, 28.6.2003, p. 33).

2. the following Article 1a is added:

'Article 1a

1. Only quantities used by undertakings approved by the competent authorities of the Member States shall count for the purposes of Article 1(2)(f) and (h).

These authorities shall grant approval on request to undertakings producing alcohol, rum, yeast, syrups for spreading and "Rinse appelstroop" which agree to:

- (a) keep separate daily stock records for the raw materials and processed products indicated at Article 1(2)(f) and (h);
- (b) provide on request by these authorities any information or supporting documents needed for checking the origin and use made of the raw materials indicated at (a);
- (c) allow these authorities to make appropriate administrative and physical checks.

2. For the purposes of application of Article 1(2)(f) and (h) undertakings assigned quotas shall before making deliveries declare to the competent authorities of the Member States concerned:

- (a) the nature and quantity of the products to be delivered, in both net weight and in white sugar equivalent;
- (b) particulars of the approved processor and the location at which the products delivered are to be processed
- (c) the timetable of deliveries to the processing location.

3. The competent authorities of the Member States shall if necessary set additional requirements for granting approval as indicated in the second subparagraph of paragraph 1 and additional requirements in connection with the declarations indicated in paragraph 2 such as the date by which they are to be made and their period of validity. They shall make administrative and physical checks on the origin and processing of these deliveries.

Using risk analysis they shall each marketing year make unannounced physical on-the-spot checks.

The risk analysis shall use, *inter alia*:

- (a) findings from checks made in previous years;
- (b) changes from the previous year;
- (c) processed product yield from the raw material.

The checks shall cover at least 10 % of the invert sugar and syrups. Should irregularities or anomalies be found, the Member States shall increase the check percentage according to the gravity of the findings.

4. At the end of each marketing year Member States shall determine for each undertaking assigned quotas and each approved undertaking the relevant quantities of syrup and invert sugar and the corresponding production of alcohol, rum, yeast, syrups for spreading and "Rinse appelstroop".

5. Approval shall be withdrawn, for the marketing year in progress and the following one, from any enterprise failing to observe the terms of approval. A fresh application for approval must subsequently be made.

6. Before 5 September each year Member States shall notify to the Commission for the previous marketing year:

- (a) the total quantities, expressed as white sugar equivalent, of invert sugar and syrups and the corresponding production of:
 - alcohol, expressed as pure alcohol, broken down by fuel alcohol, rum and other alcohol,
 - live yeasts, expressed as pressed yeasts, and
 - syrups for spreading and "Rinse appelstroop".
- (b) the findings from checks made under paragraph 3 and the action taken on these;
- (c) cases of withdrawal of approval under paragraph 5.;

3. in the first subparagraph of Article 4b(3) the opening words are replaced by:

'Each undertaking to which a production quota has been granted for isoglucose or inulin syrup shall notify to the competent authority of the Member State in which production took place, before 1 August, the quantities of isoglucose (expressed as dry matter) and of inulin syrup (expressed as white sugar equivalent) owned by it and stored in free circulation on Community territory at the end of the previous marketing year, broken down as follows:'

4. in the first paragraph of Article 6(5), point (c) is replaced by:

'(c) all foreseeable exports of sugar, isoglucose and inulin syrup in the form of processed products with export refunds or export levies fixed for that purpose during that marketing year.'

Article 2

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

Points 1 and 2 in Article 1 shall apply from 1 February 2004.

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

Done at Brussels, 9 January 2004.

For the Commission

Franz FISCHLER

Member of the Commission

**COMMISSION REGULATION (EC) No 39/2004
of 9 January 2004**

**amending Annex V to Council Regulation (EC) No 1260/2001 on the common organisation of the
markets 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 markets in the sugar sector ⁽¹⁾, and in particular Article 27(15) thereof,

Whereas:

- (1) Article 27 of Regulation (EC) No 1260/2001 provides for export refunds to be granted on certain products referred to in that Regulation when exported in the form of goods listed in Annex V thereto, in particular live yeast falling within CN codes 2102 10 31 and 2102 10 39.
- (2) Under Article 1(2)(f) of Commission Regulation (EC) No 314/2002 of 20 February 2002 laying down detailed rules for the application of the quota system in the sugar sector ⁽²⁾ from 1 February 2004 quantities of syrups used in making live yeast are excluded from the calculation of sugar production for the purposes of Articles 13 to 18 of Regulation (EC) No 1260/2001. In the interests of

consistency, the possibility of granting export refunds for quantities of sugar used for the production of live yeast should be abolished from the same date.

- (3) Annex V to Regulation (EC) No 1260/2001 should therefore be amended accordingly.
- (4) The Management Committee for Sugar has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

In Annex V to Regulation (EC) No 1260/2001, the lines corresponding to CN codes ex 2102, 2102 10, 2102 10 31 and 2102 10 39 are deleted.

Article 2

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

It shall apply from 1 February 2004.

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

Done at Brussels, 9 January 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 2196/2003 (OJ L 328, 17.11.2003, p. 17).

⁽²⁾ OJ L 50, 21.2.2002, p. 40. Regulation as last amended by Regulation (EC) No 38/2004 (see p. 13 of this Official Journal).

COMMISSION REGULATION (EC) No 40/2004**of 9 January 2004****on proof of completion of customs formalities for the import of sugar into third countries as provided for in Article 16 of Regulation (EC) No 800/1999**

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⁾, and in particular the second sentence of the second indent of the first subparagraph of Article 27(11) thereof,

Whereas:

- (1) Article 27(5) of Regulation (EC) No 1260/2001 provides that export refunds in the sugar sector may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.
- (2) Article 1 of Commission Regulation (EC) No 1290/2003 of 18 July 2003 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar for the 2003/04 marketing year ⁽²⁾ provides for that differentiation by excluding certain destinations. Moreover, the bi-monthly or monthly setting, as the case may be, of export refunds for white sugar, raw sugar without further processing, syrups and other sugar sector products as provided for in Articles 28 and 30 of Regulation (EC) No 1260/2001 excludes those destinations.
- (3) The first subparagraph of Article 27(11) of Regulation (EC) No 1260/2001 provides that the refund is to be paid upon proof that the products have been exported from the Community and, in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a refund has been fixed.
- (4) Article 16 of Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products ⁽³⁾ lists the various documents that may constitute proof of the completion of customs formalities in a third country where the refund rate is differentiated according to destination. Under that Article the Commission may decide, in certain specific cases to be determined, that the proof referred to in that Article may be deemed to be furnished by a specific document or in any other way.

- (5) In the sugar sector export operations are normally governed by contracts defined as fob on the London futures market. As a result, purchasers accept at that fob stage all the contractual obligations, including proof of completion of customs formalities, without being the direct beneficiaries of the refund to which that proof confers the right. Obtaining that proof for all quantities exported may entail considerable administrative difficulties in certain countries, and this may substantially delay or prevent payment of the refund for all the quantities actually exported.
- (6) In view of the impact on the market equilibrium which those administrative difficulties may cause, alternative proofs of destination offering the necessary guarantees should be established.
- (7) This being a derogation, its period of application should be restricted.
- (8) The difficulties encountered have arisen as a result of the suspension of refunds for exports to western Balkan countries as from 8 March 2003. Under those circumstances, in order to respect the principle of non-discrimination between Community operators and to protect the principle of equal treatment, this Regulation should apply to all the situations which have arisen since 8 March 2003.
- (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

1. In the case of exports effected in accordance with Article 27 of Regulation (EC) No 1260/2001 for which the exporter is unable to provide the proof referred to in Article 16(1) and (2) of Regulation (EC) No 800/1999, products shall, by derogation from that Article, be deemed to have been imported into a third country on presentation of the following three documents:

- (a) a copy of the transport document;

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as amended by Commission Regulation (EC) No 2196/2003 (OJ L 328, 17.12.2003, p. 17).

⁽²⁾ OJ L 181, 19.7.2003, p. 7. Regulation as amended by Regulation (EC) No 2126/2003 (OJ L 319, 4.12.2003, p. 4).

⁽³⁾ OJ L 102, 17.4.1999, p. 11. Regulation as last amended by Regulation (EC) No 2083/2003 (OJ L 313, 28.11.2003, p. 23).

- (b) a declaration that the product has been unloaded, drawn up either by an official authority of the third country in question, by the official authorities of one of the Member States established in the destination country, or by an international supervisory agency approved under Article 16(5) of Regulation (EC) No 800/1999, certifying that the product has left the unloading site or at least that, to the knowledge of the authority or agency issuing the declaration, the product has not subsequently been reloaded with a view to being re-exported;
- (c) a bank document issued by approved intermediaries established in the Community certifying that payment corresponding to the export in question has been credited to the account of the exporter opened with them, or proof of payment.

2. Member States shall verify the correct application of Article 20 of Regulation (EC) No 800/1999 in the light of the provisions of paragraph 1.

Article 2

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

It shall apply to exports effected after 8 March 2003 and shall be applicable until 31 December 2004.

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

Done at Brussels, 9 January 2004.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 41/2004**of 9 January 2004****amending and correcting the Annex to Council Regulation (EC) No 1259/1999 establishing common rules for direct support schemes under the common agricultural policy**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1259/1999 of 17 May 1999 establishing common rules for direct support schemes under the common agricultural policy ⁽¹⁾, and in particular the second indent of Article 11(4) thereof,

Whereas:

- (1) According to Article 1 of Regulation (EC) No 1259/1999, that Regulation applies to payments granted directly to farmers under the support schemes listed in its Annex.
- (2) Regulation (EC) No 1259/1999 will be replaced, as from 1 May 2004, by Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 ⁽²⁾. However, Articles 2a and 11 of Regulation (EC) No 1259/1999 will continue to apply until 31 December 2005 and Articles 3, 4 and 5 of that Regulation will continue to apply until 31 December 2004. For the purpose of the application of those Articles, the Annex to Regulation (EC) No 1259/1999 will continue to apply accordingly.
- (3) The list of support schemes set out in the Annex to Regulation (EC) No 1259/1999 indicates the relevant product sectors, the provisions on the basis of which the

support is paid under the different schemes and the type of payment concerned. These indications are however no longer up-to-date, as several of the provisions or acts referred to have been either amended or repealed and replaced.

- (4) Certain direct aid payments that fall under the scope of Regulation (EC) No 1259/1999 are not mentioned in its Annex, either because of omission or because they were introduced after the adoption of that Regulation.
- (5) The errors in the reference to the legal basis for beef and veal as well as in the notes concerning sheep and goat should be corrected.
- (6) The Annex to Regulation (EC) 1259/1999 should therefore be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1259/1999 is replaced by the text in the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2004.

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

Done at Brussels, 9 January 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 113. Regulation as amended by Regulation (EC) No 1244/2001 (OJ L 173, 27.6.2001, p. 1).

⁽²⁾ OJ L 270, 21.10.2003, p. 53.

ANNEX

‘ANNEX

LIST OF SUPPORT SCHEMES FULFILLING THE CRITERIA SET OUT IN ARTICLE 1

Sector	Legal base	Notes
Arable crops	Articles 2, 4 and 5 of Regulation (EC) No 1251/1999	Area payments, including set-aside payments, grass silage payments, supplementary amounts, durum wheat supplement and special aid
Durum wheat	Title IV, Chapter 1 of Regulation (EC) No 1782/2003	Area aid
Protein crop	Title IV, Chapter 2 of Regulation (EC) No 1782/2003	Area aid
Potato starch	Article 8(2) of Regulation (EEC) No 1766/92 Title IV, Chapter 6 of Regulation (EC) No 1782/2003	Payment for farmers producing potatoes intended for the manufacture of potato starch
Grain legumes	Article 1 of Regulation (EC) No 1577/96	Area aid
Rice	Article 6 of Regulation (EC) No 3072/95 Title IV, Chapter 3 of Regulation (EC) No 1782/2003	Area aid
Nuts	Title IV, Chapter 4 of Regulation (EC) No 1782/2003	Area aid
Energy crops	Title IV, Chapter 5 of Regulation (EC) No 1782/2003	Area aid
Olive oil	Article 5(1) of Regulation 136/66/EEC	Production aid
Silkworms	Article 2 of Regulation (EEC) No 845/72	Aid to encourage rearing
Bananas	Article 12 of Regulation (EEC) No 404/93	Production aid
Dried grapes	Article 7(1) of Regulation (EC) No 2201/96	Area aid
Tobacco	Article 3 of Regulation (EEC) No 2075/92	Production aid
Seeds	Article 3 of Regulation (EEC) No 2358/71	Production aid
Hops	Article 12 of Regulation (EEC) No 1696/71	Area aid
	Article 3 of Regulation (EC) No 1098/98	Area payments for temporary resting only

Sector	Legal base	Notes
Beef and veal	Articles 4, 5, 6, 10, 11, 13 and 14 of Regulation (EC) No 1254/1999	Special premium, deseasonalisation premium, suckler cow premium (including when paid for heifers and including the additional national suckler cow premium when co-financed), slaughter premium, extensification payment, additional payments
Milk and dairy products	Title IV, Chapter 7 of Regulation (EC) No 1782/2003	Dairy premium and additional payments
Sheep and goats	Articles 4, 5 and 11(1) and (2), 1st, 2nd and 4th indent of Regulation (EC) No 2529/2001	Ewe and she-goat premium, supplementary premium and certain additional payments
Agri-money	Articles 4 and 5 of Regulation (EC) No 2799/98 Articles 2 and 3 of Regulation (EC) No 2800/98	Payments to producers (including those under the transitional Regulation)
Poseidom	Articles 9, 12(2) and 16 of Regulation (EC) No 1452/2001	Sectors: beef and veal; green vanilla; sugar
Poseima	Articles 13 and 22(2) to (7), Articles 16, 17 and 28(1), Articles 21, 27, 29 and Article 30(1), (2) and (4) of Regulation (EC) No 1453/2001	Sectors: beef and veal and milk; potatoes; sugar; wicker; pineapples; tobacco; seed potatoes, chicory and tea
Poseican	Articles 5, 6 and 14 of Regulation (EC) No 1454/2001	Sectors: beef and veal; sheep and goats; potatoes
Aegean Islands	Articles 6, 8, 11 and 12 of Regulation (EEC) No 2019/93	Sectors: beef and veal; potatoes; olives; honey'

COMMISSION REGULATION (EC) No 42/2004
of 9 January 2004
on the issue of licences for the import of garlic in the quarter from 1 December 2003 to
29 February 2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 47/2003 ⁽²⁾,

Having regard to Commission Regulation (EC) No 565/2002 of 2 April 2002 establishing the method for managing the tariff quotas and introducing a system of certificates of origin for garlic imported from third countries ⁽³⁾, and in particular Article 8(2) thereof,

Whereas:

- (1) The quantities for which licence applications have been lodged by traditional importers and by new importers on 5 and 6 January 2004, under Article 5(2) of Regulation (EC) No 565/2002 exceed the quantities available for products originating in Argentina.
- (2) It is now necessary to establish the extent to which the licence applications sent to the Commission on 8 January 2004 can be met and to fix, for each category of importer and product origin, the dates until which the issue of certificates must be suspended,

Article 1

Applications for import licences lodged under Article 3(1) of Regulation (EC) No 565/2002 on 5 and 6 January 2004 and sent to the Commission on 8 January 2004, shall be met at a percentage rate of the quantities applied for as set out in Annex I hereto.

Article 2

For each category of importer and the origin involved, applications for import licences under Article 3(1) of Regulation (EC) No 565/2002 relating to the quarter from 1 December 2003 to 29 February 2004 and lodged after 6 January 2004 but before the date in Annex II hereto, shall be rejected.

Article 3

This Regulation shall enter into force on 10 January 2004.

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

Done at Brussels, 9 January 2004.

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

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.

⁽²⁾ OJ L 7, 11.1.2003, p. 64.

⁽³⁾ OJ L 86, 3.4.2002, p. 11.

ANNEX I

Origin of the products	Percentage allocations		
	China	Third countries other than China or Argentina	Argentina
— traditional importers (Article 2(c) of Regulation (EC) No 565/2002)	—	—	15,666 %
— new importers (Article 2(e) of Regulation (EC) No 565/2002)	—	—	15,666 %

X: No quota for this origin for the quarter in question.

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

ANNEX II

Origin of the products	Dates		
	China	Third countries other than China or Argentina	Argentina
— traditional importers (Article 2(c) of Regulation (EC) No 565/2002)	29.2.2004	—	29.2.2004
— new importers (Article 2(e) of Regulation (EC) No 565/2002)	29.2.2004	29.2.2004	29.2.2004

COMMISSION REGULATION (EC) No 43/2004**of 9 January 2004****fixing the maximum export refund on wholly milled and parboiled long-grain B rice destined for certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1877/2003**

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 Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 1877/2003 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 1948/2002 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.
- (3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

- (4) To ensure the more balanced management of quantities exported with a refund, an allocation coefficient should be set for tenders presented at the level of the maximum refund.

- (5) 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 maximum export refund on wholly milled and parboiled long-grain B rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 1877/2003 is hereby fixed on the basis of the tenders submitted from 5 to 8 January 2004 at 285,00 EUR/t.

Article 2

For tenders presented at the level of the maximum refund, an allocation coefficient is set at 50 %.

Article 3

This Regulation shall enter into force on 10 January 2004.

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

Done at Brussels, 9 January 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 275, 25.10.2003, p. 20.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

COMMISSION REGULATION (EC) No 44/2004
of 9 January 2004
concerning tenders submitted in response to the invitation to tender for the export of husked long
grain B rice to the island of Réunion referred to in Regulation (EC) No 1878/2003

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 Article 10(1) thereof,

Having regard to Commission Regulation (EEC) No 2692/89 of 6 September 1989 laying down detailed rules for exports of rice to Réunion ⁽³⁾, as amended by Regulation (EC) No 1453/1999 ⁽⁴⁾, and in particular Article 9(1) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1878/2003 ⁽⁵⁾ opens an invitation to tender for the subsidy on rice exported to Réunion.
- (2) Article 9 of Regulation (EEC) No 2692/89 allows the Commission to decide, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, to make no award.

(3) On the basis of the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2692/89, a maximum subsidy 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 submitted from 5 to 8 January 2004 in response to the invitation to tender referred to in Regulation (EC) No 1878/2003 for the subsidy on exports to Réunion of husked long grain B rice falling within CN code 1006 20 98.

Article 2

This Regulation shall enter into force on 10 January 2004.

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

Done at Brussels, 9 January 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 261, 7.9.1989, p. 8.

⁽⁴⁾ OJ L 167, 2.7.1999, p. 19.

⁽⁵⁾ OJ L 275, 25.10.2003, p. 23.

COMMISSION REGULATION (EC) No 45/2004**of 9 January 2004****concerning tenders submitted in response to the invitation to tender for the export to certain third countries of wholly milled round grain A rice issued in Regulation (EC) No 1875/2003**

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 Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued under Commission Regulation (EC) No 1875/2003 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 1948/2002 ⁽⁵⁾, allows the Commission to decide, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, to make no award.

(3) On the basis of the criteria laid down in Article 13 of Regulation (EC) No 3072/95 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 submitted from 5 to 8 January 2004 in response to the invitation to tender for the export refund on wholly milled round grain A rice to certain third countries issued in Regulation (EC) No 1875/2003.

Article 2

This Regulation shall enter into force on 10 January 2004.

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

Done at Brussels, 9 January 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 275, 25.10.2003, p. 14.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

COMMISSION REGULATION (EC) No 46/2004**of 9 January 2004****fixing the maximum export refund on wholly milled round grain, medium grain and long grain A rice to be exported to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1876/2003**

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 Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 1876/2003 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 1948/2002 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice 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

The maximum export refund on wholly milled grain, medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 1876/2003 is hereby fixed on the basis of the tenders submitted from 5 to 8 January 2004 at 143,75 EUR/t.

Article 2

This Regulation shall enter into force on 10 January 2004.

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

Done at Brussels, 9 January 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 275, 25.10.2003, p. 17.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

COMMISSION REGULATION (EC) No 47/2004
of 9 January 2004
determining the world market price for unginned cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Protocol 4 on cotton, annexed to the Act of Accession of Greece, as last amended by Council Regulation (EC) No 1050/2001 ⁽¹⁾,

Having regard to Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton ⁽²⁾, and in particular Article 4 thereof,

Whereas:

- (1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for unginned cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for unginned cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 ⁽³⁾, as amended by Regulation (EC) No 1486/2002 ⁽⁴⁾. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.
- (2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginned cotton is to be determined in respect of a product of specific characteristics and by reference to the most favourable

offers and quotations on the world market among those considered representative of the real market trend. To that end, an average is to be calculated of offers and quotations recorded on one or more European exchanges for a product delivered cif to a port in the Community and coming from the various supplier countries considered the most representative in terms of international trade. However, there is provision for adjusting the criteria for determining the world market price for ginned cotton to reflect differences justified by the quality of the product delivered and the offers and quotations concerned. Those adjustments are specified in Article 3(2) of Regulation (EC) No 1591/2001.

- (3) The application of the above criteria gives the world market price for unginned cotton determined herein-after,

HAS ADOPTED THIS REGULATION:

Article 1

The world price for unginned cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling EUR 32,444/100 kg.

Article 2

This Regulation shall enter into force on 10 January 2004.

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

Done at Brussels, 9 January 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 148, 1.6.2001, p. 1.

⁽²⁾ OJ L 148, 1.6.2001, p. 3.

⁽³⁾ OJ L 210, 3.8.2001, p. 10.

⁽⁴⁾ OJ L 223, 20.8.2002, p. 3.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION RECOMMENDATION

of 19 December 2003

concerning a coordinated programme for the official control of foodstuffs for 2004

(notified under document number C(2003) 4878)

(Text with EEA relevance)

(2004/24/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/397/EEC of 14 June 1989 on the official control of foodstuffs⁽¹⁾, and in particular Article 14 (3) thereof,

After consulting the Standing Committee on the Food Chain and Animal Health,

Whereas:

- (1) It is necessary, with a view to the sound operation of the internal market, to arrange for coordinated food inspection programmes at Community level designed to improve the harmonised implementation of the official controls by the Member States.
- (2) Such programmes should place emphasis on compliance with Community legislation on foodstuffs, which is particularly designed to protect public health and consumer interests, and to ensure fair trade practices.
- (3) Article 3 of Council Directive 93/99/EEC of 29 October 1993 on the subject of additional measures concerning the official control of foodstuffs⁽²⁾, as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council⁽³⁾, requires the laboratories referred to in Article 7 of Directive 89/397/EEC to comply with the criteria set out in European Standard EN 45000 series, now replaced by EN ISO 17025:2000.

- (4) The results from the simultaneous implementation of national programmes and coordinated programmes may provide information and experience on which to base future control activities and legislation,

HEREBY RECOMMENDS:

1. During 2004 Member States should carry out inspections and controls including, where indicated, taking samples and analysing such samples in laboratories, with the aim of:
 - assessing the bacteriological safety of cheeses made from raw or thermised milk;
 - assessing the bacteriological safety of fresh refrigerated poultrymeat as regards thermophilic *Campylobacter*;
 - assessing the bacteriological and toxicological safety of spices.
2. Although sampling and/or inspection rates are not set out in this Recommendation, Member States should ensure that those rates are sufficient to provide an overview of the subject under consideration in each Member State.
3. Member States should provide information as requested following the format of the record sheets set out in the Annex to help enhance the comparability of results. This information should be sent to the Commission at the latest by 1 May 2005 accompanied by an explanatory report which should include comments on the results and on the enforcement measures taken.

⁽¹⁾ OJ L 186, 30.6.1989, p. 23.

⁽²⁾ OJ L 290, 24.11.1993, p. 14.

⁽³⁾ OJ L 284, 31.10.2003, p. 1.

4. Foodstuffs to be analysed under this programme should be submitted to laboratories complying with Article 3 of Directive 93/99/EEC. However, if such laboratories do not exist in Member States for certain analysis included in this Recommendation, Member States may nominate other laboratories providing the capacity to carry out these analyses.

5. Bacteriological safety of cheeses made from raw or thermised milk

5.1. Scope of the programme

Contaminated cheeses made from raw or thermised milk have been responsible for outbreaks of food poisoning in humans by several types of bacteria such as *Salmonella*, *Listeria monocytogenes*, verotoxigenic *Escherichia coli* and *Staphylococcal enterotoxins*.

A long tradition of production and consumption of raw milk cheeses exists in the Community. In order to continue this tradition while ensuring food safety, considerable improvements have been made in the system of production, collection and storage of raw milk used for the production of cheeses. Particular attention is paid by the concerned food operators in terms of hygiene and control along the entire process of production.

The aim of this element of the programme is to investigate the microbiological safety of cheeses made from raw or thermised milk, in order to promote a high level of consumer protection and to collect information on the prevalence of pathogenic and indicator microorganisms in those products. This investigation concerns a one year programme and will be followed up, during its second year, by a wider programme on the bacteriological safety of cheeses. The purpose of this wider programme is to establish the baseline contamination in other categories of cheeses in order to be able to draw meaningful conclusions on the specific risk of raw or thermised milk cheeses. The results of the investigations of this first part on raw and thermised milk cheeses will be analysed and provided taking account of the results of the general overview in this sector becoming available after the second year.

5.2. Sampling and method of analysis

The investigations should concern fresh, soft and semi-hard cheeses made from raw or thermised milk. The competent authorities of the Member States should take representative samples of these products, both at the production level and the retail level, including imported products, with a view to testing for the presence of *Salmonella*, *Listeria monocytogenes* and thermophilic *Campylobacter* and enumeration of *Staphylococcus aureus* and *Escherichia coli*. If *Listeria monocytogenes* is detected, the number of these bacteria should be

enumerated. When samples are taken at retail level, tests may be limited to the presence of *Salmonella* and thermophilic *Campylobacter* and enumeration of *Listeria monocytogenes*. The samples, of one hundred grams minimum each or of one cheese if less than one hundred grams, should be handled hygienically, placed in refrigerated containers and sent immediately to the laboratory for analysis.

Laboratories should be allowed to use a method of their choice provided that its level of performance matches the aim to be achieved. However, the most recent version of standard ISO 6785 or EN/ISO 6579 is recommended for the detection of *Salmonella*, the most recent versions of standards EN/ISO 11290-1 and 2 are recommended for detection of *Listeria monocytogenes*, the most recent version of ISO 10272:1995 is recommended for the detection of thermophilic *Campylobacter*, the most recent version of EN/ISO 6888-1 or 2 is recommended for the enumeration of *Staphylococcus aureus* and the most recent version of standard ISO 11866-2,3 or ISO 16649-1,2 is recommended for the enumeration of *Escherichia coli*. Additional equivalent methods recognised by competent authorities may also be used.

The overall level of sampling should be left to the judgement of the competent authorities of Member States.

The results of the controls should be recorded on the model record sheet set out in Annex I.

6. Bacteriological safety of fresh refrigerated poultrymeat as regards thermophilic *Campylobacter*

6.1. Scope of the programme

Thermophilic *Campylobacter* are a leading bacterial cause of food-related illness in humans. The number of reported human cases have been rising during recent years and epidemiological studies show that poultry meat is an important source of infection and that a significant proportion of fresh poultry meat for human consumption is contaminated with these bacteria.

There is currently not enough scientific information to set a criterion in Community legislation for *Campylobacter* and further studies are under development to further understand the epidemiology of this pathogen and the role played by other animal products and other food in general.

The aim of this element of the programme is to assess the microbiological safety of fresh poultry meat for *Campylobacter* in order to promote a high level of consumer protection and to collect information on the prevalence of these bacteria in such products.

6.2. Sampling and method of analysis

The investigations should concern fresh refrigerated poultry meat, in particular chicken and turkey. The competent authorities of the Member States should take representative samples of these products, both at the slaughterhouse level and the retail level, including imported products, with a view to testing for the presence of thermophilic *Campylobacter*. The samples, of 10 g each taken from neck skin before carcasses are chilled or, when samples are taken at retail level, 25 g or 25 cm² from breast meat, should be handled hygienically, placed in refrigerated containers and sent immediately to the laboratory for analysis. In addition, for a better comparability of results, it is recommended to carry out the sampling during the period from May to October.

Laboratories should be allowed to use a method of their choice provided that its level of performance matches the aim to be achieved. However, the most recent version of standard ISO 10272:1995 is recommended for the detection of thermophilic *Campylobacter*. Additional equivalent methods recognised by competent authorities may also be used.

The overall level of sampling should be left to the judgement of the competent authorities of Member States.

The results of these controls should be recorded on the model record sheet set out in Annex II.

7. Bacteriological and toxicological safety of spices

7.1. Scope of the programme

Spices, herbs and vegetables seasonings (spices) are valued for their distinctive flavours, colour and aromas. However, spices may contain high numbers of microorganisms, including pathogenic bacteria, moulds and yeasts. If not properly treated, they can result in rapid deterioration of food they are supposed to enhance. Spices have been reported to be the primary sources of food borne outbreaks when added to food where further growth of the pathogens was possible. This possibility is greater when spices are used in food which may not be thoroughly heat treated. The contamination with certain strains of moulds can also result in the production of toxins, such as aflatoxins which, if they exceed the levels laid down in Commission Regulation (EC) No 466/2001 of 8 March 2001 setting maximum levels for certain contaminants in foodstuffs⁽¹⁾, can provoke serious risks for consumers' health.

The aims of this element of the programme are to assess the bacteriological and toxicological safety of spices, to collect information on the prevalence of pathogenic microorganisms and to verify that spices placed on the market do not exceed the limits of aflatoxins established in Community law, in order to ensure a high level of consumer protection.

7.2. Sampling and method of analysis

The competent authorities of the Member States should take representative samples of spices at import level, at production level/packing establishments, at wholesale level, in establishments using spices in the preparation of food and at retail level, with a view to testing for:

- (a) the count of *Enterobacteriaceae*, the presence of *Salmonella* and enumeration of *Bacillus cereus* and *Clostridium perfringens*.

Enterobacteriaceae count is used as an indicator for possible irradiation or other similar treatments of spices. The samples, of 100 g minimum each or one package if less than 100 g, should be handled hygienically and sent immediately to the laboratory for analysis. Laboratories are allowed to use a method of their choice provided that its level of performance matches the aim to be achieved. However, the most recent version of standard ISO 6579:2002 is recommended for the detection of *Salmonella*, the most recent version of standard EN ISO 5552:1997 is recommended for the enumeration of *Enterobacteriaceae*, the most recent version of standard ISO 7932:1993 is recommended for the enumeration of *Bacillus cereus* and the most recent version of standard ISO 7937:1997 is recommended for the enumeration of *Clostridium perfringens*. Additional equivalent methods recognised by competent authorities may also be used.

The overall level of sampling should be left to the judgement of the competent authorities of Member States.

The results of the following controls should be recorded on the model record sheet set out in Annex III, Section 1 and 2.

- (b) Aflatoxins: the levels do not exceed the maximum limit laid down in Community law

The sampling and analysis should be performed in accordance with Commission Directive 98/53/EC of 16 July 1998 laying down the sampling methods and the methods of analysis for the official control of the levels for certain contaminants in foodstuffs⁽²⁾. Pursuant to that Directive, the sample size must be between 1 and 10 kg, depending on the size of the lot to be controlled.

⁽¹⁾ OJ L 77, 16.3.2001, p. 1.

⁽²⁾ OJ L 201, 17.7.1998, p. 93.

The overall level of sampling should be left to the judgement of the competent authorities of Member States.

The results of the following controls should be recorded on the model record sheet set out in the Annex IV to this Recommendation.

Done at Brussels, 19 December 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX I

Bacteriological safety of cheeses made from raw or thermised milk

Member State: _____

Bacterial groups/ criteria ⁽¹⁾	Sampling stage	Product identification	Number of samples	Analysis results ⁽²⁾			Measures taken (number and kind) ⁽³⁾	
				S	A	U		
<i>Salmonella</i> spp. n = 5 c = 0 Absent in 25 g	Production	unripened soft (fresh) cheese						
		ripened soft cheese						
		semi-hard cheese						
	Retail	unripened soft (fresh) cheese						
		ripened soft cheese						
		semi-hard cheese						
Thermophilic <i>Campylobacter</i> n = 5 c = 0 Absent in 25 g	Production	unripened soft (fresh) cheese						
		ripened soft cheese						
		semi-hard cheese						
	Retail	unripened soft (fresh) cheese						
		ripened soft cheese						
		semi-hard cheese						
<i>Staphylococcus aureus</i> n = 5 c = 2 m = 1 000 cfu/g M = 10 000 cfu/g	Production	unripened soft (fresh) cheese						
		ripened soft cheese						
		semi-hard cheese						
	Retail	unripened soft (fresh) cheese						
		ripened soft cheese						
		semi-hard cheese						
<i>Escherichia coli</i> n=5 c=2 m=10 000 cfu/g M=100 000 cfu/g	Production	unripened soft (fresh) cheese						
		ripened soft cheese						
		semi-hard cheese						
	Retail	unripened soft (fresh) cheese						
		ripened soft cheese						
		semi-hard cheese						
				A	P	≤ 100 cfu/g	> 100 cfu/g	
<i>Listeria monocytogenes</i> n=5 c=0 Absent in 25 g	Production	unripened soft (fresh) cheese						
		ripened soft cheese						
		semi-hard cheese						
	Retail	unripened soft (fresh) cheese						
		ripened soft cheese						
		semi-hard cheese						

⁽¹⁾ The number of samples to be taken may be reduced when sampling at retail level. When a reduced sampling is made this should be indicated in the report.

⁽²⁾ S=Satisfactory, A=Acceptable, U=Unsatisfactory, A=Absent, P=Present. As regards *Staphylococcus aureus* and *Escherichia coli*, the result is satisfactory if all the values observed are <m, acceptable if maximum of c values are between m and M, and unsatisfactory if one or more values are > M or more than c values are between m and M.

⁽³⁾ For reporting enforcement measures it is recommended to use the following categories: verbal warning, written warning, improved in house control required, recall of product required, administrative penalty, court action, other.

ANNEX II

Microbiological safety of fresh poultrymeat
(as regards thermophilic *Campylobacter*)

Member State: _____

Bacterial pathogens/ criteria ⁽¹⁾	Sampling stage	Product identification	Number of samples	Analysis results		Measures taken (number and kind) ⁽²⁾
				Absent	Present	
Thermophilic <i>Campylobacter</i> n=5 c=0 Absent in 25 g	Production	Fowl/chicken				
		Turkey				
	Retail	Fowl/chicken				
		Turkey				

⁽¹⁾ The number of samples to be taken may be reduced when sampling at retail level. When a reduced sampling is made this should be indicated in the report.

⁽²⁾ For reporting enforcement measures it is recommended to use the following categories: verbal warning, written warning, improved in house control required, recall of product required, administrative penalty, court action, other.

ANNEX III

SECTION 1

Bacteriological safety of spices

Member State: _____

Bacterial groups/ criteria ⁽¹⁾	Sampling stage	Product identification	Number of samples	Analysis results ⁽²⁾			Measures taken (number and kind) ⁽³⁾
				S	A	U	
<i>Salmonella</i> spp. n = 5 c = 0 Absent in 25 g	Import or production/ packaging or wholesale	<i>Capsicum</i> spp.					
		<i>Piper</i> spp.					
		Nutmeg/ginger/curcuma					
		Other spices and herbs					
	Establishment (using large amount of spices for food preparation)	<i>Capsicum</i> spp.					
		<i>Piper</i> spp.					
		Nutmeg/ginger/curcuma					
		Other spices and herbs					
	Retail	<i>Capsicum</i> spp.					
		<i>Piper</i> spp.					
		Nutmeg/ginger/curcuma					
		Other spices and herbs					
<i>Bacillus cereus</i> n = 5 c = 1 m = 1 000 cfu/g M = 10 000 cfu/g	Import or production/ packaging or wholesale	<i>Capsicum</i> spp.					
		<i>Piper</i> spp.					
		Nutmeg/ginger/curcuma					
		Other spices and herbs					
	Establishment (using large amount of spices for food preparation)	<i>Capsicum</i> spp.					
		<i>Piper</i> spp.					
		Nutmeg/ginger/curcuma					
		Other spices and herbs					
	Retail	<i>Capsicum</i> spp.					
		<i>Piper</i> spp.					
		Nutmeg/ginger/curcuma					
		Other spices and herbs					

⁽¹⁾ The number of samples to be taken may be reduced when sampling at retail level. When a reduced sampling is made this should be indicated in the report.

⁽²⁾ S = Satisfactory, A = Acceptable, U = Unsatisfactory. As regards *Bacillus cereus* and *Clostridium perfringens* the result is satisfactory if all the values observed are < m, acceptable if maximum of c values are between m and M, and unsatisfactory if one or more values are > M or more than c values are between m and M.

⁽³⁾ For reporting enforcement measures it is recommended to use the following categories: verbal warning, written warning, improved in house control required, recall of product required, administrative penalty, court action, other.

SECTION 2

Bacteriological safety of spices

Member State: _____

Bacterial groups/ criteria ⁽¹⁾	Sampling stage	Product identification	Number of samples	Analysis results ⁽²⁾			Measures taken (number and kind) ⁽³⁾
				S	A	U	
<i>Clostridium perfringens</i> n = 5 c = 1 m = 100 cfu/g M = 1 000 cfu/g	Import or production/ packaging or wholesale	<i>Capsicum</i> spp.					
		<i>Piper</i> spp.					
		Nutmeg/ginger/curcuma					
		Other spices and herbs					
	Establishment (using large amount of spices for food preparation)	<i>Capsicum</i> spp.					
		<i>Piper</i> spp.					
		Nutmeg/ginger/curcuma					
		Other spices and herbs					
	Retail	<i>Capsicum</i> spp.					
		<i>Piper</i> spp.					
		Nutmeg/ginger/curcuma					
		Other spices and herbs					
<i>Enterobacteriaceae</i> n = 5 c = 1 m = 10 cfu/g M = 100 cfu/g	Import or production/ packaging or wholesale	<i>Capsicum</i> spp.					
		<i>Piper</i> spp.					
		Nutmeg/ginger/curcuma					
		Other spices and herbs					
	Establishment (using large amount of spices for food preparation)	<i>Capsicum</i> spp.					
		<i>Piper</i> spp.					
		Nutmeg/ginger/curcuma					
		Other spices and herbs					
	Retail	<i>Capsicum</i> spp.					
		<i>Piper</i> spp.					
		Nutmeg/ginger/curcuma					
		Other spices and herbs					

⁽¹⁾ The number of samples to be taken may be reduced when sampling at retail level. When a reduced sampling is made this should be indicated in the report.

⁽²⁾ S = Satisfactory, A = Acceptable, U = Unsatisfactory. As regards *Bacillus cereus* and *Clostridium perfringens* the result is satisfactory if all the values observed are < m, acceptable if maximum of c values are between m and M, and unsatisfactory if one or more values are > M or more than c values are between m and M.

⁽³⁾ For reporting enforcement measures it is recommended to use the following categories: verbal warning, written warning, improved in house control required, recall of product required, administrative penalty, court action, other.

ANNEX IV

Toxicological safety of spices

Member State: _____

Sampling stage	Product identification	Number of samples	Analysis results						Measures taken (number and kind) ⁽¹⁾
			Aflatoxin B1 (µg/kg)			Aflatoxin total (µg/kg)			
			< 2	2-5	> 5	< 4	4-10	> 10	
Import or Establishment for packaging or Wholesaler	<i>Capsicum</i> spp.								
	<i>Piper</i> spp.								
	Nutmeg/ginger/curcuma								
	Other spices and herbs								
Establishment (using large amount of spices for food preparation)	<i>Capsicum</i> spp.								
	<i>Piper</i> spp.								
	Nutmeg/ginger/curcuma								
	Other spices and herbs								
Retail	<i>Capsicum</i> spp.								
	<i>Piper</i> spp.								
	Nutmeg/ginger/curcuma								
	Other spices and herbs								

⁽¹⁾ For reporting enforcement measures it is recommended to use the following categories: verbal warning, written warning, improved in house control required, recall of product required, administrative penalty, court action, other.

COMMISSION DECISION
of 22 December 2003
amending Decision 2002/657/EC as regards the setting of minimum required performance limits
(MRPLs) for certain residues in food of animal origin

(notified under document number C(2003) 4961)

(Text with EEA relevance)

(2004/25/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC ⁽¹⁾, as last amended by Regulation (EC) No 806/2003 ⁽²⁾, and in particular the second subparagraph of Article 15(1) thereof,

Whereas:

- (1) The presence of residues in products of animal origin is a matter of concern for public health. Commission Decision 2002/657/EC of 12 August 2002 implementing Council Directive 96/23/EC concerning the performance of analytical methods and the interpretation of results ⁽³⁾, as amended by Decision 2003/181/EC ⁽⁴⁾, provides for a procedure to progressively establish minimum required performance limits (MRPLs) of analytical methods employed to detect substances whose use is not authorised or is specifically prohibited in the Community.
- (2) As a result of the detection of residues from the pharmacologically active substance malachite green whose use in veterinary medicinal products for food producing animals is not authorised in the Community, and its metabolite leucomalachite green in aquaculture products, the level to be set for harmonised MRPL for that substance has been agreed in consultation with the Community Reference Laboratories, the National Reference Laboratories and the Member States.
- (3) It is necessary to provide harmonised levels for the control of that substance to ensure the same level of consumer protection in the Community.

(4) Decision 2002/657/EC should therefore be amended accordingly.

(5) 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

Decision 2002/657/EC is amended as follows:

1. Article 4 is replaced by the following:

'Article 4

Member States shall ensure that the analytical methods used for detecting the following substances meet the minimum required performance limits (MRPLs) set out in Annex II, against the matrixes referred to in that Annex:

- (a) chloramphenicol;
- (b) nitrofurans metabolites;
- (c) medroxyprogesterone;
- (d) malachite green.'

2. Annex II to Decision 2002/657/EC, is amended as set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 22 December 2003.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 125, 23.5.1996, p. 10.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

⁽³⁾ OJ L 221, 17.8.2002, p. 8.

⁽⁴⁾ OJ L 71, 15.3.2003, p. 17.

ANNEX

Commission Decision 2002/657/EC is amended as follows:

In Annex II, the following row is added:

'Substance and/or metabolite	Matrixes	MRPL
Sum of malachite green and leucomalachite green	Meat of aquaculture products	2 µg/kg'

COMMISSION DECISION

of 22 December 2003

on the Community's financial contribution to a programme for the control of organisms harmful to plants and plant products in the French overseas departments for 2003*(notified under document number C(2003) 4974)***(Only the French text is authentic)**

(2004/26/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1452/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the French overseas departments ⁽¹⁾, amending Directive 72/462/EEC and repealing Regulations (EEC) No 525/77 and (EEC) No 3763/91 (Poseidom), as amended by Regulation (EC) No 1782/2003 ⁽²⁾, and in particular Article 20(3),

Having regard to the programmes submitted by France for the control of organisms harmful to plants or plant products in the French overseas departments,

Whereas:

(1) Commission Decision 93/522/EEC of 30 September 1993 on the definition of the measures eligible for Community financing in the programmes for the control of organisms harmful to plants or plant products in the French overseas departments, in the Azores and in Madeira ⁽³⁾, as last amended by the Commission Decision 96/633/EC ⁽⁴⁾, defines the measures eligible for Community financing under programmes for the control of organisms harmful to plants and plant products in the French overseas departments, the Azores and Madeira.

(2) Specific growing conditions in the French overseas departments call for particular attention; whereas measures concerning crop production, in particular plant health measures, must be adopted or strengthened in those regions.

(3) The plant health measures to be adopted or strengthened are particularly costly.

(4) A programme of measures has been presented to the Commission by the competent French authorities; this programme specifies the objectives to be achieved, the operations to be carried out, their duration and their cost with a view to a possible Community financial contribution.

(5) According to Article 20(4) of Regulation (EC) No 1452/2001 the Community's financial contribution may cover up to 60 % of eligible expenditure, protective measures for bananas being excluded.

(6) In accordance with Article 3(2) of Council Regulation (EC) No 1258/1999 ⁽⁵⁾, veterinary and plant health measures undertaken in accordance with Community rules shall be financed under the Guarantee section of the European Agricultural Guidance and Guarantee Fund. Financial control of these measures comes under Articles 8 and 9 of the above Regulation.

(7) The technical information provided by France has enabled the Standing Committee on Plant Health to analyse the situation accurately and comprehensively.

(8) 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

A Community financial contribution to the official programme for the control of organisms harmful to plants and plant products in the French overseas departments presented by France for 2003 is hereby approved.

Article 2

The official programme shall consist of four subprogrammes:

1. a subprogramme of pest risk analysis for harmful organisms relevant to the French overseas departments (Martinique, Guadeloupe, Guyana, La Réunion);

⁽¹⁾ OJ L 198, 21.7.2001, p. 11.

⁽²⁾ OJ L 270, 21.10.2003, p. 1.

⁽³⁾ OJ L 251, 8.10.1993, p. 35.

⁽⁴⁾ OJ L 283, 5.11.1996, p. 58.

⁽⁵⁾ OJ L 160, 26.6.1999, p. 103.

2. a subprogramme drawn up for the department of Martinique in three parts:
 - plant health evaluation and diagnostics,
 - control of organisms harmful to the tomato crop,
 - set up of a database on phytosanitary practices;
3. a subprogramme drawn up for the department of Guadeloupe in three parts:
 - plant health evaluation and diagnostics,
 - set up of a database on harmful organisms,
 - rearing of entomophagous organisms;
4. a subprogramme drawn up for the department of Guyana in two parts:
 - plant health evaluation and diagnostics, good agricultural practices,
 - improvement of the knowledge required for the revision of the legal framework in the phytosanitary field.

Article 3

The Community's financial contribution to the programme presented by the French Republic in 2003 shall be 60 % of expenditure related to eligible measures as defined by Commission Decision 93/522/EEC, with a maximum of EUR 227 400 (VAT excluded).

The schedule of programme costs and their financing is set out as Annex I to this Decision.

Article 4

An advance of EUR 100 000 shall be paid to the French Republic within 60 days of the publication of the present Decision.

Article 5

1. The eligibility period for the costs related to this project shall start on 1 October 2003 and end on 30 September 2004.
2. By derogation from paragraph 1, Community financing shall be provided in respect of costs for which a duly justified request for an extension of the deadline for payment is submitted by the competent official authorities to the Commission before 30 September 2004.
3. The period of execution of the actions may exceptionally be extended only with the express written agreement of the parties before the tasks have been completed.

Article 6

The financial contribution by the Community shall be granted provided that the implementation of the programme shall be in conformity with the relevant provisions of Community law, including rules of competition and on the award of public contracts, and that no other Community contribution was or will be asked for for these measures.

Article 7

1. The actual expenditure incurred shall be notified to the Commission broken down by type of action or subprogramme in a way demonstrating the link between the indicative financial plan and expenditure actually incurred. Such notifications may be in electronic form.

2. The Commission may, on duly justified request of France, adjust the financing plans within a limit of 15 % of the Community contribution to a subprogramme or measure for the entire period, provided that the total amount of eligible costs scheduled in the programme is not exceeded and that the main objectives of the programme are not thereby compromised.

3. All payments of aid granted by the Community under this Decision shall be made to France, which will also be responsible for repayment to the Community of any excess amount.

Article 8

France shall ensure compliance with the financial provisions, with Community policies and the information to be supplied to the Commission set out in Annex II.

Article 9

This Decision is addressed to the French Republic.

Done at Brussels, 22 December 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX I

Financial table for 2003*(in EUR)*

	EC contribution	National contribution	Eligible expenditures 2003
Pest risk analysis	51 000	34 000	85 000
Martinique	75 000	50 000	125 000
Guadeloupe	49 200	32 800	82 000
Guyana	52 200	34 800	87 000
Total	227 400	151 600	379 000

ANNEX II

I. Provisions on the implementation of the programme — monitoring and assessment**I. Monitoring Committee****1. Establishment**

Independent of the financing of this action, a monitoring committee for the programme shall be set up, composed of representatives of France and the Commission. It shall review implementation of the programme regularly and, in appropriate cases, propose any adjustments required.

2. The Committee shall establish its own internal procedures within one month of the notification of the present decision to France.

3. Competence of Monitoring Committee

The Committee:

- shall have as its general responsibility the satisfactory progress of the programme towards attainment of the objectives set. Its competence shall embrace the programme measures within the limits of the Community aid granted. It shall keep watch with respect to the regulatory provisions, including those on eligibility of operations and projects,
- shall, on the basis of information on the selection of projects already approved and implemented, reach an opinion on application of the selection criteria set out in the programme,
- shall propose any action required to accelerate implementation of the programme should the information furnished periodically by the interim monitoring and assessment indicators reveal a delay,
- shall give its opinion on the adjustments proposed to the Commission,
- shall issue an opinion on technical assistance projects scheduled in the programme,
- shall give its opinion on the final report,
- shall report during the relevant period to the Standing Committee on Plant Health on the progress of the programme and expenditure incurred.

II. Monitoring and assessment of the programme during the implementation period (continuous monitoring and assessment)

1. The national agency responsible for implementation shall also be responsible for continuous monitoring and assessment of the programme.
2. By continuous monitoring is meant an information system on the state of progress of the programme. Continuous monitoring will cover the measures contained in the programme. It involves reference to the financial and physical indicators structured so as to permit assessment of the correspondence between expenditure on each measure and predefined physical indicators showing the degree of realisation.
3. Continuous assessment of a programme will involve analysis of the quantitative results of implementation on the basis of operational, legal and procedural considerations. The purpose is to guarantee correspondence between measures and programme objectives.

Implementation report and scrutiny of programme

4. France shall notify to the Commission, within one month of adoption of the programme, the name of the authority responsible for compilation and presentation of the final implementation report.

The final report shall contain a concise evaluation of the entire programme (degree of achievement of physical and qualitative objectives and of progress accomplished) and an assessment of the immediate phytosanitary and economic impact.

The final report on the present programme will be presented by the competent authority to the Commission on 15 October 2004 at the latest and shall thereafter be presented to the Standing Committee on Plant Health as soon as possible after that date.

5. The Commission may jointly with France call in an independent assessor who shall, on the basis of the continuous monitoring, carry out the continuous assessment referred to in point 3. He may submit proposals for adjustment of the sub-programmes and/or measures, and amending the selection criteria for projects, etc., in the light of difficulties encountered in the course of implementation. On the basis of monitoring of management he shall give an opinion on the administrative measures to be taken.

II. Compliance with Community policies

The programme shall be implemented in accordance with the provisions on coordination of and compliance with Community policies. The following information must be supplied by France in the final report.

Protection of the environment

a) General information:

- description of the main environmental features and problems of the region concerned, giving, *inter alia*, a description of the important conservation areas (sensitive zones),
- a comprehensive description of the major beneficial and harmful effects that the programme, given the investments planned, is likely to have on the environment,
- a description of the action planned to prevent, reduce or offset any serious harmful effects on the environment,
- a report on consultations with the responsible environmental authorities (opinion of the Ministry for the Environment or its equivalent) and, if there were any such consultations, with the public concerned.

b) Description of planned activities

For programme measures liable to have a significantly harmful effect on the environment:

- the procedures which will be applied for assessing individual projects during implementation of the programme,
 - the mechanisms planned for monitoring environmental impact during implementation, assessing results and eliminating, reducing or offsetting harmful effects.
-

COMMISSION DECISION

of 23 December 2003

amending Decision 2003/678/EC on a first financial contribution from the Community towards the eligible costs of the eradication of avian influenza in the Netherlands in 2003*(notified under document number C(2003) 4980)***(Only the Dutch text is authentic)****(Text with EEA relevance)**

(2004/27/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Articles 3(3) and 5(3) thereof,

Whereas:

(1) Since March 2003, a number of measures have been taken to prevent the spread of avian influenza in the Netherlands by a series of decisions, the most recent being Commission Decision 2003/290/EC of 25 April 2003 concerning protective measures in relation to avian influenza in the Netherlands ⁽²⁾.

(2) In Decision 2003/290/EC, and in the two decisions preceding that Decision, namely Commission Decisions 2003/214/EC ⁽³⁾ and 2003/258/EC ⁽⁴⁾, the Netherlands was required to ensure the preventive depopulation of poultry holdings at risk and the culling of other poultry and birds which are considered to be at risk within the restricted zones and in fixed delimited zones.

(3) The Netherlands took the necessary precautionary measures in order to avoid the spread of avian influenza.

(4) Avian influenza represents a serious danger to Community stocks. Accordingly, to prevent the spread of that disease and contribute to its eradication, the Community should contribute to eligible expenditures incurred by the Netherlands. It is therefore appropriate that a financial contribution from the Community should be granted to the Netherlands in accordance with Decision 90/424/EEC to cover the costs related to the precautionary measures taken in 2003.

(5) Commission Decision 2003/678/EC of 24 September 2003 on a first financial contribution from the Community towards the eligible costs of the eradication of avian influenza in the Netherlands in 2003 ⁽⁵⁾ provided for an advance of EUR 10 million for the compulsory culling of the animals and the compulsory destruction of the eggs in 2003. However, it is now possible to estimate with a greater degree of certainty how much compensation will be payable.

(6) The Netherlands provided also data on the costs incurred for the execution of the measures imposed by Decisions 2003/214/EC, 2003/258/EC and 2003/290/EC.

(7) According to that information, the total estimated cost for the compensation of the owners of the animals and the eggs is, without prejudice to the outcome of the legal procedures, EUR 82,6 million.

(8) On condition that the necessary credits are made available in 2003, it is appropriate for the Community to contribute to the costs incurred by the Netherlands and to increase the advance payment to EUR 40 million.

(9) The Netherlands introduced on 21 October 2003 a justified request for the extension of the deadline for the presentation of the claim for the compensations granted for the destroyed hatching eggs and culled one-day-old chickens following the restrictions imposed to the transport decided pursuant to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽⁶⁾; the provisions of Article 3(3) should be updated accordingly.

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

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

⁽²⁾ OJ L 105, 26.4.2003, p. 28. Decision as last amended by Decision 2003/443/EC (OJ L 150, 18.6.2003, p. 64).

⁽³⁾ OJ L 81, 28.3.2003, p. 48.

⁽⁴⁾ OJ L 95, 11.4.2003, p. 65.

⁽⁵⁾ OJ L 249, 1.10.2003, p. 53.

⁽⁶⁾ OJ L 224, 18.8.1990, p. 29. 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).

HAS ADOPTED THIS DECISION:

Article 1

Decision 2003/678/EC is amended as follows:

1. The title of Decision 2003/678/EC is replaced by the following:

'Decision 2003/678/EC on the financial contribution from the Community towards the eligible costs of the eradication of avian influenza in the Netherlands in 2003'.

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

'(a) the swift and adequate compensation of the owners for their animals killed and their eggs destroyed pursuant to:

- Article 10 of Directive 90/425/EEC,
- Article 5 of Directive 92/40/EEC and
- Article 3 of Decisions 2003/214/EC, 2003/258/EC and 2003/290/EC under compulsory eradication measures mentioned under the first and seventh indents of Article 3(2) of Decision 90/424/EEC, related to outbreaks of avian influenza which occurred in 2003, taken pursuant to the above provisions, and in accordance with the present Decision.'

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

'3. When the compensation payments made by the Netherlands pursuant to Article 5 of Directive 92/40/EEC and Article 3 of Decisions 2003/214/EC, 2003/258/EC and 2003/290/EC are effected after the 90 days deadline laid down in Article 2(a), the eligible amounts shall be reduced for expenditure effected after the deadline in accordance with the following:

- 25 % for payments made between 91 and 105 days after the culling of the animals or the destruction of the eggs,
- 50 % for payments made between 106 and 120 days after the culling of the animals or the destruction of the eggs,
- 75 % for payments made between 121 and 135 days after the culling of the animals or the destruction of the eggs,
- 100 % for payments beyond 136 days after the culling of the animals or the destruction of the eggs.

When the compensation payments made by the Netherlands pursuant to Article 10 of Directive 90/425/EEC are effected more than 60 days after the notification of this Decision, the eligible amounts shall be reduced for expenditure effected after the deadline in accordance with the following:

- 25 % for payments made between 61 and 75 days,

- 50 % for payments made between 76 and 90 days,
- 75 % for payments made between 91 and 105 days,
- 100 % for payments beyond 106 days.'

4. Article 4 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Subject to the results of the eventual checks referred to in Article 5 and provided that the necessary credits are made available, an advance of EUR 40 million shall be paid on the basis of supporting documents submitted by the Netherlands concerning the swift and adequate compensation of owners for the compulsory culling of the animals and compulsory destruction of the eggs in 2003 pursuant to Article 10 of Directive 90/425/EEC, Article 5 of Directive 92/40/EEC, and Article 3 of Decisions 2003/214/EC, 2003/258/EC and 2003/290/EC.'

(b) paragraph 3 is replaced by the following:

'3. The claim referred to in paragraph 2(a) shall be provided in computerised form in accordance with:

- Annexes IA and IB, within 60 calendar days for the compensations referred to in the second indent of Article 1(a) after the lifting of the restrictions as provided for by Commission Decision 2003/428/EC (*), and within 90 days for the compensations referred to in the first and third indents of Article 1(a) after notification of this Decision,
- Annex II within six months after the lifting of the restrictions referred to in the first indent.

When these deadlines are not observed, the financial contribution from the Community shall be reduced by 25 % for each month of delay. However, at the justified request of the Netherlands, the Commission may extend the deadlines.

(*) OJ L 144, 12.6.2003, p. 15.'

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 23 December 2003.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION

of 23 December 2003

amending Decisions 2002/799/EC and 2002/943/EC as regards the reallocation of the Community's financial contribution to Member States' programmes for the eradication and monitoring of animal diseases and of checks aimed at the prevention of zoonoses for 2003

(notified under document number C(2003) 5014)

(Text with EEA relevance)

(2004/28/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Article 24(5) and Articles 29 and 32 thereof,

Whereas:

- (1) Decision 90/424/EEC provides for the possibility of financial participation by the Community in the eradication and monitoring of animal diseases and for checks aimed at the prevention of zoonoses.
- (2) Commission Decision 2002/799/EC ⁽²⁾ lists the programmes for the eradication and monitoring of certain animal diseases and the programmes of checks aimed at the prevention of zoonoses qualifying for a financial contribution from the Community in 2003. That Decision also sets out the proposed rate and maximum amount of the contribution for each programme.
- (3) Commission Decision 2002/943/EC ⁽³⁾ approves the programmes listed in Decision 2002/799/EC and lays down the maximum amounts of the Community's financial contribution.
- (4) The Commission has analysed the reports forwarded by the Member States on the expenditures of the programmes. The results of that analysis show that certain Member States will not utilise their full allocation for 2003 while others will spend in excess of the allocated amount.
- (5) The Community's financial contribution to certain of those programmes therefore needs to be adjusted. It is appropriate to reallocate funding from programmes of Member States which are not using their full allocation to those that are exceeding it. The reallocation should be based on the most recent information on the expenditure actually incurred by the concerned Member States.
- (6) Decisions 2002/799/EC and 2002/943/EC should be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

Annexes I and II to Decision 2002/799/EC are amended in accordance with the Annex to this Decision.

Article 2

Decision 2002/943/EC is amended as follows:

1. in Article 6(2), 'EUR 70 000' is replaced by 'EUR 0';
2. in Article 7(2), 'EUR 225 000' is replaced by 'EUR 0';
3. in Article 9(2), 'EUR 5 000 000' is replaced by 'EUR 5 200 000';
4. in Article 14(2), 'EUR 1 800 000' is replaced by 'EUR 2 250 000';
5. in Article 20(2), 'EUR 250 000' is replaced by 'EUR 70 000';
6. in Article 21(2), 'EUR 600 000' is replaced by 'EUR 700 000';
7. in Article 23(2), 'EUR 1 800 000' is replaced by 'EUR 1 600 000';
8. in Article 26(2), 'EUR 800 000' is replaced by 'EUR 1 050 000';
9. in Article 30(2), 'EUR 600 000' is replaced by 'EUR 350 000';
10. in Article 36(2), 'EUR 150 000' is replaced by 'EUR 30 000';
11. in Article 37(2), 'EUR 5 000' is replaced by 'EUR 15 000';
12. in Article 38(2), 'EUR 150 000' is replaced by 'EUR 250 000';

⁽¹⁾ OJ L 224, 18.9.1990, p. 19. Decision as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽²⁾ OJ L 277, 15.10.2002, p. 27.

⁽³⁾ OJ L 326, 3.12.2002, p. 12.

13. in Article 39(2), 'EUR 700 000' is replaced by
'EUR 650 000';

Article 3

This Decision is addressed to the Member States.

14. in Article 40(2), 'EUR 5 000' is replaced by 'EUR 0';

15. in Article 41(2), 'EUR 300 000' is replaced by
'EUR 250 000';

Done at Brussels, 23 December 2003.

16. in Article 45(2), 'EUR 1 000 000' is replaced by
'EUR 1 040 000'.

For the Commission

David BYRNE

Member of the Commission

ANNEX

Annexes I and II to Decision 2002/799/EC are amended as follows:

1. Annex I is replaced by the following:

'ANNEX I

List of programmes for the eradication and monitoring of animal diseases

Proposed rate and amount of the Community financial contribution

Disease	Member State	Rate	Proposed amount (EUR)
African/classical swine fever	Italy (Sardinia)	50 %	225 000
Aujeszky's disease	Belgium	50 %	500 000
	Ireland	50 %	50 000
	Spain	50 %	100 000
	Portugal	50 %	100 000
Bluetongue	Spain	50 %	30 000
	France	50 %	200 000
	Italy	50 %	600 000
Bovine brucellosis	Greece	50 %	150 000
	Spain	50 %	2 800 000
	France		0
	Ireland	50 %	5 200 000
	Italy	50 %	750 000
	Portugal	50 %	1 500 000
Bovine tuberculosis	Greece	50 %	100 000
	Spain	50 %	5 000 000
	Ireland	50 %	2 250 000
	Italy	50 %	800 000
	Portugal	50 %	150 000
Classical swine fever	Belgium	50 %	100 000
	Germany	50 %	1 040 000
	Luxembourg	50 %	80 000
Enzootic bovine leucosis	Italy	50 %	50 000
	Portugal	50 %	400 000
Ovine and caprine brucellosis (<i>B. melitensis</i>)	Greece	50 %	700 000
	Spain	50 %	6 000 000
	France	50 %	70 000
	Italy	50 %	1 800 000
	Portugal	50 %	1 600 000
Poseidon ⁽¹⁾	France	50 %	250 000

Disease	Member State	Rate	Proposed amount (EUR)
Rabies	Belgium	50 %	50 000
	Germany	50 %	950 000
	France	50 %	130 000
	Luxembourg		0
	Austria	50 %	175 000
	Finland	50 %	35 000
Swine vesicular disease Classical swine fever	Italy	50 %	400 000
Scrapie	Spain	50 %	150 000
	Germany	50 %	140 000
	Greece	50 %	320 000
	France	50 %	1 050 000
	Italy	50 %	300 000
	Netherlands	50 %	350 000
	Austria	50 %	35 000
	Sweden	50 %	5 000
TOTAL			36 685 000

(¹) Heartwater, babesiosis and anaplasmosis transmitted by vector insects in the French overseas departments.'

2. Annex II is replaced by the following:

'ANNEX II

List of programmes of checks aimed at the prevention of zoonoses

Proposed rate and amount of the Community financial contribution

Zoonosis	Member State	Rate	Proposed amount (EUR)
Salmonella	Denmark	50 %	250 000
	France	50 %	650 000
	Ireland		0
	Netherlands	50 %	250 000
	Austria	50 %	15 000
TOTAL			1 165 000'

COMMISSION DECISION

of 23 December 2003

amending Decisions 2002/798/EC and 2002/934/EC as regards the reallocation of the Community's financial contribution to Member States' TSE monitoring programmes for 2003

(notified under document number C(2003) 5026)

(2004/29/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Article 24(5) and (6) thereof,

Whereas:

- (1) Commission Decision 2002/798/EC of 14 October 2001 on the list of programmes for the monitoring of TSE qualifying for a financial contribution from the Community in 2003 ⁽²⁾ lists the programmes submitted to the Commission by the Member States for the monitoring of transmissible spongiform encephalopathies (TSE) qualifying for a Community financial contribution in 2003. That Decision also sets out the proposed rate and maximum amount of the contribution for each programme.
- (2) Commission Decision 2002/934/EC of 28 November 2002 approving the TSE monitoring programmes of certain Member States for 2003 and fixing the level of the Community's financial contribution ⁽³⁾, approves the programmes listed in Decision 2002/798/EC and lays down the maximum amounts of the Community's financial contribution.
- (3) Decision 2002/934/EC provides for progress reports to be forwarded by the Member States to the Commission every month. An analysis of those reports indicates that certain Member States will not utilise their full allocation for 2003, while others will carry out monitoring in excess of the number of tests funded. It is therefore appropriate to reallocate funding from Member States which are not using their full allocation to those that are exceeding it.
- (4) Decisions 2002/798/EC and 2002/934/EC should be amended accordingly.

- (5) 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

The Annex to Decision 2002/798/EC is amended in accordance with the Annex to this Decision.

Article 2

Decision 2002/934/EC is amended as follows:

1. in Article 1(2), 'EUR 4 719 000' is replaced by 'EUR 4 430 730';
2. in Article 2(2), 'EUR 2 977 000' is replaced by 'EUR 2 906 920';
3. in Article 3(2), 'EUR 20 723 000' is replaced by 'EUR 19 527 350';
4. in Article 4(2), 'EUR 975 000' is replaced by 'EUR 753 570';
5. in Article 5(2), 'EUR 5 984 000' is replaced by 'EUR 6 442 930';
6. in Article 6(2), 'EUR 30 554 000' is replaced by 'EUR 33 461 590';
7. in Article 7(2), 'EUR 9 577 000' is replaced by 'EUR 7 996 480';
8. in Article 8(2), 'EUR 6 952 000' is replaced by 'EUR 7 374 940';
9. in Article 9(2), 'EUR 198 000' is replaced by 'EUR 230 690';
10. in Article 10(2), 'EUR 6 312 000' is replaced by 'EUR 5 650 110';
11. in Article 11(2), 'EUR 2 455 000' is replaced by 'EUR 2 401 430';
12. in Article 12(2), 'EUR 1 059 000' is replaced by 'EUR 1 250 030';
13. in Article 13(2), 'EUR 1 402 000' is replaced by 'EUR 1 438 450';
14. in Article 14(2), 'EUR 440 000' is replaced by 'EUR 461 780'.

⁽¹⁾ OJ L 224, 18.9.1990, p. 19. Decision as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽²⁾ OJ L 277, 15.10.2002, p. 25.

⁽³⁾ OJ L 324, 29.11.2002, p. 73.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 23 December 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX

The Annex to Decision 2002/798/EC is replaced by the following:

'ANNEX

List of programmes for the monitoring of TSE

Maximum amount of the Community financial contribution

(EUR)

Disease	Member State	Rate of purchase of test kits	Maximum amount
TSE	Belgium	100 %	4 430 730
	Denmark	100 %	2 906 920
	Germany	100 %	19 527 350
	Greece	100 %	753 570
	Spain	100 %	6 442 930
	France	100 %	33 461 590
	Ireland	100 %	7 996 480
	Italy	100 %	7 374 940
	Luxembourg	100 %	230 690
	Netherlands	100 %	5 650 110
	Austria	100 %	2 401 430
	Portugal	100 %	1 250 030
	Finland	100 %	1 438 450
	Sweden	100 %	461 780
Total			94 327 000'

COMMISSION DECISION

of 23 December 2003

laying down specific conditions for the import of processed and frozen bivalve molluscs, echinoderms, tunicates and marine gastropods from Peru and repealing Decisions 2001/338/EC and 95/174/EC

(notified under document number C(2003) 5053)

(Text with EEA relevance)

(2004/30/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/492/EEC of 15 July 1991 laying down the health conditions for the production and the placing on the market of bivalve molluscs⁽¹⁾, and in particular Article 9(3)(b) thereof,

Having regard to Council Directive 91/493/EEC of 22 July 1991 laying down the health conditions for the production and the placing on the market of fishery products⁽²⁾, and in particular Article 11 (1) thereof,

Whereas:

- (1) Commission Decision 95/174/EC of 7 March 1995 laying down special conditions for the import of live bivalve molluscs, echinoderms, tunicates and marine gastropods originating in Peru⁽³⁾, provides for the sanitary conditions to fulfill when importing live bivalve molluscs from Peru.
- (2) Following the deficiencies observed during an inspection visit to Peru in April 2001 Commission adopted Decision 2001/338/EC of 27 April 2001 concerning certain protective measures with regard to bivalve molluscs from or originating in Peru⁽⁴⁾. The mission also identified that no live molluscs were exported from Peru and that no control measures for molluscs disease were enacted by the Peruvian competent authority.
- (3) A new inspection visit to Peru carried out in May 2002 revealed satisfactory improvements in the sanitary conditions and the rectification of some of the shortcomings related to the sanitary control applied by the Peruvian authorities. These findings allowed the Commission to adopt Commission Decision 2003/509/EC of 10 July 2003 amending Decision 2001/338/EC concerning certain protective measures with regard to bivalve molluscs originating in Peru⁽⁵⁾.

(4) The guarantees now provided by the competent authorities, supported by documental evidence, show that they have rectified the shortcomings found during the inspection mission. Therefore, since the protective measures provided by Commission Decision 2001/338/EC are no longer necessary, that Decision should be repealed.

(5) Furthermore, Peru wishes to export to the Community only frozen or processed bivalve molluscs, echinoderms, tunicates and marine gastropods which have been sterilised or heat-treated in accordance with the requirements of Commission Decision 2003/774/EC of 30 October 2003 approving certain treatments to inhibit the development of pathogenic micro-organisms in bivalve molluscs and marine gastropods⁽⁶⁾. Consequently, the specific import conditions should concern frozen and processed bivalve molluscs only, and production areas should be designated from which bivalve molluscs, echinoderms, tunicates and marine gastropods may be harvested, in accordance with Article 3(4)(b) of Directive 91/493/EEC. Therefore new specific import conditions should be established and Decision 95/174/EC repealed accordingly.

(6) The other import conditions should be those already laid down in Commission Decision 95/173/EC laying down special conditions governing imports of fishery and aquaculture products originating in Peru⁽⁷⁾.

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

HAS ADOPTED THIS DECISION:

Article 1

The 'Ministerio de la Salud, Direccion General de Salud Ambiental (DIGESA)' shall be the competent authority in Peru for verifying and certifying that bivalve molluscs, echinoderms, tunicates and marine gastropods fulfil the requirements of Directive 91/492/EEC.

⁽¹⁾ OJ L 268, 24.9.1991, p. 1, as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽²⁾ OJ L 268, 24.9.1991, p. 15, as last amended by Regulation (EC) No 806/2003.

⁽³⁾ OJ L 116, 23.5.1995, p. 47.

⁽⁴⁾ OJ L 120, 28.4.2001, p. 45.

⁽⁵⁾ OJ L 174, 12.7.2003, p. 40.

⁽⁶⁾ OJ L 283, 31.10.2003, p. 78.

⁽⁷⁾ OJ L 116, 23.5.1995, p. 41, as amended by Decision 95/311/EC (OJ L 186, 5.8.1995, p. 78).

Article 2

1. Processed or frozen bivalve molluscs, echinoderms, tunicates and marine gastropods originating in Peru and intended for human consumption must originate in the authorised production areas listed in the Annex to this Decision.

2. Consignments shall fulfil the conditions laid down in Decision 95/173/EC.

Article 3

Decisions 95/174/EEC and 2001/338/EC are repealed.

Article 4

This Decision shall apply from 13 January 2004.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 23 December 2003.

For the Commission

David BYRNE

Member of the Commission

*ANNEX***PRODUCTION AREAS IN COMPLIANCE WITH THE PROVISIONS OF THE DIRECTIVE 91/492/EEC**

Number	Name	Location	Category ⁽¹⁾
001	Pucusana	Pucusana-Lima	a
002	Guaynuna	Casma-Ancash	a
003	La Mina/Bahía de Lagunillas	Pisco-Ica	a
004	Isla Tortuga	Casma-Ancash	a
005	Bahía de Independencia	Pisco-Ica	a
006	Bahía de Paracas	Pisco-Ica	a
007	Playa Jaguay	Chincha-Ica	a
008	Playa La Antena	Chincha-Ica	a

⁽¹⁾ Classification corresponding to criteria laid down in point 1 of Chapter I of the Annex to Directive 91/492/EEC.

(Acts adopted pursuant to Title V of the Treaty on European Union)

**COUNCIL COMMON POSITION 2004/31/CFSP
of 9 January 2004
concerning the imposition of an embargo on arms, munitions and military equipment on Sudan**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

- (1) By Decision 94/165/CFSP⁽¹⁾ of 15 March 1994, the Council imposed an embargo on arms, munitions and military equipment, including the transfer of military technology, on Sudan.
- (2) Given the ongoing civil war in the country, the Council deems it appropriate to maintain the EU arms embargo against Sudan. The policy objective of the European Union is to promote lasting peace and reconciliation within Sudan.
- (3) The embargo should allow for humanitarian exemptions to the current arms embargo and permit de-mining operations to be undertaken in Sudan.
- (4) The arms embargo should also be strengthened to cover related technical advice and assistance, and financial assistance for arms supplies and related technical assistance, but should also allow for certain humanitarian exemptions to such assistance, including with regard to equipment and materiel for de-mining operations, to be authorised by Member States.
- (5) It is appropriate to consolidate these measures in a single instrument and repeal Decision 94/165/CFSP.
- (6) Action by the Community is needed in order to implement certain measures,

HAS ADOPTED THIS COMMON POSITION:

Article 1

1. The sale, supply, transfer or export of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare

parts for the aforementioned to Sudan by nationals of Member States or from the territories of Member States, or using their flag vessels or aircraft, shall be prohibited whether originating or not in their territories.

2. It shall also be prohibited to:

- (a) grant, sell, supply or transfer technical assistance, brokering services and other services related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, directly or indirectly to any person, entity or body in, or for use in Sudan;
- (b) provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of arms and related materiel, or for any grant, sale, supply, or transfer of related technical assistance, brokering services and other services, directly or indirectly to any person, entity or body in, or for use in Sudan.

Article 2

1. Article 1 shall not apply to:

- (a) the sale, supply, transfer or export of non-lethal military equipment intended solely for humanitarian or protective use, or for institution building programmes of the UN, the EU and the Community, or of materiel intended for EU and UN crisis management operations;
- (b) the sale, supply, transfer or export of de-mining equipment and materiel for use in de-mining operations;
- (c) the provision of financing and financial assistance related to such equipment;
- (d) the provision of technical assistance related to such equipment,

on condition that such exports have been approved in advance by the competent authority of the Member State in question.

⁽¹⁾ OJ L 75, 17.3.1994, p. 1.

2. Article 1 shall also not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Sudan by United Nations personnel, personnel of the EU, the Community or its Member States, representatives of the media and humanitarian and development workers and associated personnel for their personal use only.

3. Member States shall consider deliveries under this Article on a case-by-case basis, taking full account of the criteria set out in the European Union code of conduct on arms exports adopted on 8 June 1998. Member States shall require adequate safeguards against misuse of authorisations granted under this Article and, where appropriate, make provisions for repatriation of the equipment.

Article 3

For the purposes of this Common Position, the term 'technical assistance' shall mean any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services. Technical assistance includes verbal forms of assistance.

Article 4

Member States shall immediately inform each other and the Commission of the measures taken under this Common Position and shall supply each other with any other relevant information at their disposal in connection with this Common Position.

Article 5

In order to maximise the impact of the above measures, the European Union shall encourage non-member countries to adopt measures similar to those contained in this Common Position.

Article 6

This Common Position shall be reviewed 12 months after its adoption and every 12 months thereafter. It shall be repealed if the Council deems that its objectives have been met.

Article 7

Decision 94/165/CFSP is hereby repealed.

Article 8

This Common Position shall take effect on the date of its adoption.

Article 9

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

Done at Brussels, 9 January 2004.

For the Council

The President

B. COWEN

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 1789/2003 of 11 September 2003 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff*(Official Journal of the European Union L 281 of 30 October 2003)*

On page 1, footnote 3, fifth indent, second line:

for: '..., p. 4),'

read: '..., p. 4).'

On page 6, for the page-number for Chapter 50:

for: '331',

read: '336'.

On page 7:

for the page-number for Chapter 72:

for: '436',

read: '437';

for the page-number for Chapter 84:

for: '502',

read: '503';

for the page-number for Chapter 86:

for: '585',

read: '586'.

On page 8, for the page-number for Annex 1:

for: '651',

read: '653'.

On page 86, CN-code 0805 10 50, in the third column:

for: '(4)',

read: '(2)'.

On page 87:

CN code 0808 10 10, in the third column:

for: '(2)',

read: '(1)';

CN code 0808 10 20, in the third column:

for: '(2)',

read: '(1)'.

On page 191, additional note 5, third line:

for: '... 2712 90 99, 2713 90 and 2901 10 10 ...',

read: '... 2712 90 99, and 2713 90 ...'.

On page 204:

CN code 2825 90 60, in the third column:

for: '1,1',

read: 'Free';

CN code 2825 90 80, in the third column:

for: '6,1',

read: '5,5'.

On page 206, CN code 2834 21 00, in the third column:

for: '6',

read: '5,5'.

On page 210, CN code 2849 10 00, in the third column:

for: '7,2',
read: '5,5'.

On page 317, note 2(g), second line:

for: '... wall coverings ...',
read: '... wallcoverings ...'.

On page 364, in the title:

for: '... CABLESAND ...',
read: '... CABLES AND ...'.

On page 456, CN code 7302 30 00, in the third column:

for: 'Free',
read: '2,7'.

On page 479:

CN code 7603 10 00, in the third column:

for: '5,1',
read: '5';

CN code 7603 20 00, in the third column:

for: '5,3',
read: '5'.

On page 481, CN code 7610 10 00, in the third column:

for: '6,2',
read: '6'.

On page 578, in the second column, in the text below CN code 8539 10 90:

for: '... infrared ...',
read: '... infra-red ...'.

On page 727, in the title:

for: '... PHARMACEUTICALSUBSTANCES ...',
read: '... PHARMACEUTICAL SUBSTANCES ...'.

On page 731, in the first column:

for: '2902 19 99',
read: '2902 19 80';
for: '2902 90 80',
read: '2902 90 90';
for: '2905 49 90',
read: '2905 49 80'.

On page 734, in the first column:

for: '2914 70 90',
read: '2914 70 00'.

On page 735, in the first column:

for: '2918 29 90',
read: '2918 29 80'.

On page 753, in the first column:

for: '2930 90 12',
read: '2930 90 13'.

On pages 757, 758 and 759, in the first column:

for: '2932 99 95',

read: '2932 99 85'.

On page 814, in the first column:

for: '2939 99 90',

read: '2939 99 00'.

On page 815, in the first column:

for: '2939 99 90',

read: '2939 99 00';

for: '2940 00 90',

read: '2940 00 00'.

On page 823, in the first column:

for: '3203 00 19',

read: '3203 00 10'.

On page 825, in the first column:

for: '3913 90 80',

read: '3913 90 00'.

On page 837, in the first column:

for: '2914 70 90',

read: '2914 70 00'.

On page 838, in the first column:

for: '2918 29 90',

read: '2918 29 80'.

On page 842, in the first column:

for: '2932 99 95',

read: '2932 99 85'.

On page 850, in the first column:

for: '2939 99 90',

read: '2939 99 00';

for: '2940 00 90',

read: '2940 00 00'.

On pages 879, 880 and 881, in the heading in the fifth column:

for: '... (in g per 100 kg) of denatured product',

read: '... (in g per 100 kg of denatured product)'.
