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Legislation

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(Continued overleaf)

EN

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

The titles of all other acts are printed in bold type and preceded by an asterisk.

II *Acts whose publication is not obligatory*

Council

Commission

Corrigenda

EN

([1]) Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2217/2004

of 22 December 2004

amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 37(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament [1],

Whereas:

(1) Due to the geographic location of the Kleinwalsertal (Community of Mittelberg) and the Community of Jungholz, which are situated within the Austrian territory and only accessible by road from Germany, the milk of their producers has been delivered to German buyers.

(2) Since Regulation (EEC) No 804/68 of the Council of 27 June 1968 on the common organisation of the market in milk and milk products [2], as amended by Regulation (EEC) No 856/84 [3], has introduced the Community milk quota system, the milk marketed by these producers has been taken into account in the establishment of the German milk reference quantities.

(3) Council Regulation (EC) No 1782/2003 [4] has introduced direct payment for the dairy sector starting from the calendar year 2004. These payments are based on the individual reference quantities of producers concerned which are administered by Germany whilst, under that Regulation, the payment of the dairy premium should be carried out by the Austrian authorities within the limit of their national reference quantity for the 12-month period of 1999/2000 set out in Annex I to Council Regulation (EEC) No 3950/92 of 28 September 1992 establishing an additional levy in the milk and milk products sector [5] and a budgetary ceiling provided for in Article 96(2) of Regulation (EC) No 1782/2003. Both the reference quantity and the ceiling have been calculated for Austria without taking into account the individual reference quantities for the Kleinwalsertal (Community of Mittelberg) and the Community of Jungholz.

(4) Article 47(2) of Regulation (EC) No 1782/2003 provides for the inclusion of dairy payments in the single payment scheme provided for by that Regulation in 2007. However, Article 62 of the same Regulation authorises the Member States to anticipate the inclusion of such payments from 2005. The inclusion of the dairy premium is foreseen in Germany as from 2005, while in Austria it will take place at a later stage.

(5) To permit a practical and correct administration of the dairy premium and its inclusion in the Single Payment Scheme, Regulation (EC) No 1782/2003 should be amended in such a way that, for Germany and Austria, the reference quantities and the budgetary ceiling, referred to in Articles 95(4) and 96(2), take into account the milk reference quantities of the producers of the regions concerned. Consequently, it is also appropriate to modify Annex I to Regulation (EC) No 1788/2003 of 29 September 2003 establishing a levy in the milk and milk products sector in order to convert the reference quantities of producers concerned into Austrian reference quantities as from milk quota year 2004/05.

(6) For the payments due in 2004, taking into account that the date for application has already expired, it is however appropriate to provide for a derogation to Article 2(b) of Regulation (EC) No 1782/2003 allowing Germany to pay the premium to farmers situated in the Austrian Kleinwalsertal (Community of Mittelberg) and the Community of Jungholz,

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[1] Opinion of 14.12.2004 (not yet published in the Official Journal).
[2] OJ L 148, 28.6.1968, p. 13. Regulation repealed by Regulation (EC) No 1255/1999 (OJ L 160, 26.6.1999, p. 48).
[3] OJ L 90, 1.4.1984, p. 10.
[4] OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 864/2004 (OJ L 161, 30.4.2004, p. 48).
[5] OJ L 405, 31.12.1992, p. 1. Regulation repealed by Regulation (EC) No 1788/2003 (OJ L 270, 21.10.2003, p. 123) and last amended by Commission Regulation (EC) No 739/2004 (OJ L 116, 22.4.2004, p. 7).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1782/2003 is hereby amended as follows:

1. In Article 95(4), the following second subparagraph shall be added:

   'However, for Germany and Austria the ceiling fixed on the basis of the reference quantities for the 12-month period of 1999/2000, shall be, respectively, 27 863 827,288 and 2 750 389,712 tonnes.'

2. Article 96(2) is hereby amended as follows:

   (a) the row for Germany shall be replaced by the following:

'Germany	101,99	204,52	306,78';

   (b) the row for Austria shall be replaced by the following:

'Austria	10,06	20,19	30,28'.

Article 2

Annex I to Regulation (EC) No 1788/2003 is amended in accordance with the Annex to this Regulation.

Article 3

By way of derogation from Article 2(b) of Regulation (EC) No 1782/2003, Germany shall pay the dairy premium and additional payments for 2004 to farmers situated in the Austrian Kleinwalsertal (Community of Mittelberg) and the Community of Jungholz.

Article 4

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

It shall apply as follows:

(a) Article 1 shall apply from 1 January 2005;

(b) Article 2 shall apply from 1 April 2004;

(c) Article 3 shall apply from 1 January 2004.

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

Done at Brussels, 22 December 2004.

For the Council
The President
C. VEERMAN

ANNEX

Annex I to Regulation (EC) No 1788/2003 is hereby amended as follows:

1. Point (a) is amended as follows:

   (a) the row for Germany shall be replaced by the following:

   'Germany 27 863 827,288';

   (b) the row for Austria shall be replaced by the following:

   'Austria 2 750 389,712'.

2. Point (b) is amended as follows:

   (a) the row for Germany shall be replaced by the following:

   'Germany 27 863 827,288';

   (b) the row for Austria shall be replaced by the following:

   'Austria 2 750 389,712'.

3. Point (c) is amended as follows:

   (a) the row for Germany shall be replaced by the following:

   'Germany 28 003 146,424';

   (b) the row for Austria shall be replaced by the following:

   'Austria 2 764 141,661'.

4. Point (d) is amended as follows:

   (a) the row for Germany shall be replaced by the following:

   'Germany 28 142 465,561';

   (b) the row for Austria shall be replaced by the following:

   'Austria 2 777 893,609'.

5. Point (e) is amended as follows:

   (a) the row for Germany shall be replaced by the following:

   'Germany 28 281 784,697';

   (b) the row for Austria shall be replaced by the following:

   'Austria 2 791 645,558'.

COMMISSION REGULATION (EC) No 2218/2004

of 22 December 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], 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 23 December 2004.

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

Done at Brussels, 22 December 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

[1] OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 1947/2002 (OJ L 299, 1.11.2002, p. 17).

ANNEX

to Commission Regulation of 22 December 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	94,4
	204	75,8
	999	85,1
0707 00 05	052	97,7
	999	97,7
0709 90 70	052	103,1
	204	74,1
	999	88,6
0805 10 10, 0805 10 30, 0805 10 50	052	49,7
	204	47,3
	220	45,0
	388	50,7
	448	34,4
	999	45,4
0805 20 10	204	56,2
	999	56,2
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	72,9
	204	47,0
	400	86,0
	624	80,4
	999	71,6
0805 50 10	052	47,9
	528	38,8
	999	43,4
0808 10 20, 0808 10 50, 0808 10 90	388	149,8
	400	80,2
	404	105,4
	720	63,7
	999	99,8
0808 20 50	400	102,5
	528	47,6
	720	50,6
	999	66,9

[1] Country nomenclature as fixed by Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 2219/2004

of 22 December 2004

concerning tenders submitted under tendering procedure for the refund on consignment of husked long grain B rice to the island of Réunion referred to in Regulation (EC) No 2033/2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice [1], and in particular Article 5(3) thereof,

Having regard to Commission Regulation (EEC) No 2692/89 of 6 September 1989 laying down detailed rules for exports of rice to Réunion [2], and in particular Article 9(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 2033/2004 [3] 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 2b(2) of Regulation (EC) No 1785/2003 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 13 to 16 December 2004 in response to the invitation to tender referred to in Regulation (EC) No 2033/2004 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 23 December 2004.

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

Done at Brussels, 22 December 2004.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 270, 21.10.2003, p. 96.
[2] OJ L 261, 7.9.1989, p. 8. Regulation as last amended by Regulation (EC) No 1275/2004 (OJ L 241, 13.7.2004, p. 8).
[3] OJ L 353, 27.11.2004, p. 9.

COMMISSION REGULATION (EC) No 2220/2004

of 22 December 2004

on granting of import licences for cane sugar for the purposes of certain tariff quotas and preferential agreements

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

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

Whereas:

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

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

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

(4) In the week of 13 to 17 December 2004 applications were presented to the competent authorities in line with Article 5(1) of Regulation (EC) No 1159/2003 for import licences for a total quantity exceeding a country's delivery obligation quantity of ACP-India preferential sugar determined pursuant to Article 9 of that Regulation.

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

HAS ADOPTED THIS REGULATION:

Article 1

In the case of import licence applications presented from 13 to 17 December 2004 in line with Article 5(1) of Regulation (EC) No 1159/2003 licences shall be issued for the quantities indicated in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 23 December 2004.

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

Done at Brussels, 22 December 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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

[2] OJ L 146, 20.6.1996, p. 1.

[3] OJ L 162, 1.7.2003, p. 25. Regulation as amended by Regulation (EC) No 1409/2004 (OJ L 256, 3.8.2004, p. 11).

ANNEX

ACP—INDIA preferential sugar

Title II of Regulation (EC) No 1159/2003

2004/05 marketing year

Country	Week of 13.-17.12.2004: percentage of requested quantity to be granted	Limit
Barbados	100	
Belize	100	
Congo	84,8727	reached
Fiji	100	
Guyana	100	
India	0	reached
Côte d'Ivoire	100	
Jamaica	100	
Kenya	100	
Madagascar	100	
Malawi	100	
Mauritius	100	
Mozambique	100	reached
Saint Kitts and Nevis	100	
Swaziland	100	
Tanzania	100	
Trinidad and Tobago	100	
Zambia	100	
Zimbabwe	0	reached

Special preferential sugar

Title III of Regulation (EC) No 1159/2003

2004/05 marketing year

Country	Week of 13.-17.12.2004: percentage of requested quantity to be granted	Limit
India	100	
ACP	100	

CXL concessions sugar

Title IV of Regulation (EC) No 1159/2003

2004/05 marketing year

Country	Week of 13.-17.12.2004: percentage of requested quantity to be granted	Limit
Brazil	0	reached
Cuba	100	
Other third countries	0	reached

COMMISSION REGULATION (EC) No 2221/2004

of 22 December 2004

establishing the allocation of export licences for cheese to be exported to the United States of America in 2005 under certain GATT quotas

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], and in particular Article 30 thereof,

Whereas:

(1) Commission Regulation (EC) No 1847/2004 [2] opens the procedure for the allocation of export licences for cheese to be exported to the United States of America in 2005 under certain GATT quotas.

(2) Article 20(3) of Commission Regulation (EC) No 174/1999 of 26 January 1999 laying down special detailed rules for the application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case of milk and milk products [3] lays down the criteria to be applied for allocating provisional licences where applications for those licences are submitted in respect of a quantity of products in excess of one of the relevant quotas for the year in question. Following the enlargement of the Community on 1 May 2004, Article 20(3) of Regulation (EC) No 174/1999 also provides for transitional measures in respect of those criteria for the year 2005.

(3) The demand for export licences for some quotas and product groups has shown a significant increase and exceeds, sometimes by far, the quantities available. This may lead to a substantial reduction in the quantities allocated per applicant, thereby reducing the efficiency and effectiveness of the scheme. In addition, where the quantities allocated to each operator are very small, experience has shown that there is a risk of an operator being unable in such circumstances to fulfil his obligation to export with the consequent loss of the security.

(4) In order to deal with that situation, it is appropriate to apply a combination of the three criteria referred to in the first subparagraph of Article 20(3) of Regulation (EC) No 174/1999, taking into account the transitional measures provided for. In accordance with points (a) and (b) of that subparagraph, licences should be allocated in preference to applicants who have already been engaged in the United States of America, whose designated importers are subsidiaries and who have exported a quantity of the products concerned to that destination in the past. In addition, a reduction coefficient should be applied pursuant to point (c) of that subparagraph.

(5) In the case of product groups and quotas for which the applications lodged are for quantities less than those available, it is appropriate, in accordance with Article 20(5) of Regulation (EC) No 174/1999, to provide for the allocation of the remaining quantities to the applicants in proportion to the quantities applied for. The allocation of such further quantities should be conditional upon the interested operator making a request and lodging a security.

(6) Given the time limit for the implementation of this procedure, as provided for in Regulation (EC) No 1847/2004, this Regulation should apply as soon as possible.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for provisional export licences lodged pursuant to Regulation (EC) No 1847/2004 in respect of the product groups and quotas identified by 16-Tokyo, 16-, 17-, 18-, 20- and 21-Uruguay, 25-Tokyo and 25-Uruguay in column 3 of the Annex to this Regulation shall be accepted, subject to the application of the allocation coefficients laid down in column 5 of that Annex, when they are submitted by:

— applicants who show an export to the United States of America of the products in question during at least one of the preceding three years and whose designated importers are subsidiaries, or

[1] OJ L 160, 26.6.1999, p. 48. Regulation last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).
[2] OJ L 322, 23.10.2004, p. 19.
[3] OJ L 20, 27.1.1999, p. 8. Regulation last amended by Commission Regulation (EC) No 1846/2004 (OJ L 322, 23.10.2004, p. 16).

— applicants whose designated importers are deemed to be subsidiaries pursuant to point (b) of the second subparagraph of Article 20(3) of Regulation (EC) No 174/1999.

Applications referred to in the first subparagraph shall be accepted, subject to the application of the allocation coefficients laid down in column 6 of the Annex, when they are submitted by:

— applicants other than those referred to in the first subparagraph who show an export to the United States of America of the products in question during each of the preceding three years, or

— applicants in respect of whom an historical performance is not required pursuant to point (a) of the second subparagraph of Article 20(3) of Regulation (EC) No 174/1999.

Applications referred to in the first subparagraph shall be rejected when they are submitted by applicants other than those referred to in the first and second subparagraphs.

2. If the allocated quantity resulting from the application of paragraph 1 is less than 2 tonnes, applicants may withdrawn their application. In such cases, they shall notify the competent authorities within five working days of the entry into force of this Regulation whereupon their security shall be immediately released.

The competent authority shall notify the Commission within eight working days of the entry into force of this Regulation, of the quantity for which applications have been withdrawn and for which the security has been released.

Article 2

Applications for provisional export licences lodged pursuant to Regulation (EC) No 1847/2004 in respect of the product group and quotas identified by 22-Tokyo and 22-Uruguay in column 3 of the Annex to this Regulation shall be accepted for the quantities requested.

On further application of the trader within 10 working days of the entry into force of this Regulation and subject to the lodging of the security applicable, provisional export licences may be issued for further quantities subject to the application of the allocation coefficient laid down in column 7 of the Annex.

Article 3

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

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

Done at Brussels, 22 December 2004.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

Identification of group in accordance with additional notes in Chapter 4 of the Harmonised Tariff Schedule of the United States of America		Identification of group and quota	Quantity available for 2005 (t)	Allocation coefficient provided for under Article 1(1)		Allocation coefficient provided for under Article 2
Note No	Group			First subparagraph	Second subparagraph	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
16	Not specifically provided for (NSPF)	16-Tokyo	908,877	0,1328738	0,0442913	—
		16-Uruguay	3 446,000	0,1194816	0,0398272	—
17	Blue Mould	17-Uruguay	350,000	0,1534639	0,0511546	—
18	Cheddar	18-Uruguay	1 050,000	0,8344371	0,2781457	—
20	Edam/Gouda	20-Uruguay	1 100,000	0,1843369	0,0614456	—
21	Italian type	21-Uruguay	2 025,000	0,1447704	0,0482568	—
22	Swiss or Emmenthaler cheese other than with eye formation	22-Tokyo	393,006			1,1930821
		22-Uruguay	380,000			1,2500000
25	Swiss or Emmenthaler cheese with eye formation	25-Tokyo	4 003,172	0,3713669	0,1237890	
		25-Uruguay	2 420,000	0,3198238	0,1066079	—

COUNCIL DIRECTIVE 2004/114/EC

of 13 december 2004

on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular points (3)(a) and (4) of the first subparagraph of Article 63 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament [1],

Having regard to the Opinion of the European Economic and Social Committee [2],

Having regard to the Opinion of the Committee of the Regions [3],

Whereas:

(1) For the gradual establishment of an area of freedom, security and justice, the Treaty provides for measures to be adopted in the fields of asylum, immigration and the protection of the rights of third-country nationals.

(2) The Treaty provides that the Council is to adopt measures on immigration policy relating to conditions of entry and residence, and standards on procedures for the issue by Member States of long-term visas and residence permits.

(3) At its special meeting at Tampere on 15 and 16 October 1999, the European Council acknowledged the need for approximation of national legislation on the conditions for admission and residence of third-country nationals and asked the Council to rapidly adopt decisions on the basis of proposals by the Commission.

(4) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union.

(5) The Member States should give effect to the provisions of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinions, membership of a national minority, property, birth, disability, age or sexual orientation.

(6) One of the objectives of Community action in the field of education is to promote Europe as a whole as a world centre of excellence for studies and vocational training. Promoting the mobility of third-country nationals to the Community for the purpose of studies is a key factor in that strategy. The approximation of the Member States' national legislation on conditions of entry and residence is part of this.

(7) Migration for the purposes set out in this Directive, which is by definition temporary and does not depend on the labour-market situation in the host country, constitutes a form of mutual enrichment for the migrants concerned, their country of origin and the host Member State and helps to promote better familiarity among cultures.

(8) The term admission covers the entry and residence of third-country nationals for the purposes set out in this Directive.

(9) The new Community rules are based on definitions of student, trainee, educational establishment and volunteer already in use in Community law, in particular in the various Community programmes to promote the mobility of the relevant persons (Socrates, European Voluntary Service etc.).

(10) The duration and other conditions of preparatory courses for students covered by the present Directive should be determined by Member States in accordance with their national legislation.

(11) Third-country nationals who fall into the categories of unremunerated trainees and volunteers and who are considered, by virtue of their activities or the kind of compensation or remuneration received, as workers under national legislation are not covered by this Directive. The admission of third-country nationals who intend to carry out specialisation studies in the field of medicine should be determined by the Member States.

(12) Evidence of acceptance of a student by an establishment of higher education could include, among other possibilities, a letter or certificate confirming his/her enrolment.

(13) Fellowships may be taken into account in assessing the availability of sufficient resources.

[1] OJ C 68 E, 18.3.2004, p. 107.
[2] OJ C 133, 6.6.2003, p. 29.
[3] OJ C 244, 10.10.2003, p. 5.

(14) Admission for the purposes set out in this Directive may be refused on duly justified grounds. In particular, admission could be refused if a Member State considers, based on an assessment of the facts, that the third-country national concerned is a potential threat to public policy or public security. The notion of public policy may cover a conviction for committing a serious crime. In this context it has to be noted that the notions of public policy and public security also cover cases in which a third-country national belongs or has belonged to an association which supports terrorism, supports or has supported such an association, or has or has had extremist aspirations.

(15) In case of doubts concerning the grounds of the application of admission, Member States should be able to require all the evidence necessary to assess its coherence, in particular on the basis of the applicant's proposed studies, in order to fight against abuse and misuse of the procedure set out in this Directive.

(16) The mobility of students who are third-country nationals studying in several Member States must be facilitated, as must the admission of third-country nationals participating in Community programmes to promote mobility within and towards the Community for the purposes set out in this Directive.

(17) In order to allow initial entry into their territory, Member States should be able to issue in a timely manner a residence permit or, if they issue residence permits exclusively on their territory, a visa.

(18) In order to allow students who are third-country nationals to cover part of the cost of their studies, they should be given access to the labour market under the conditions set out in this Directive. The principle of access for students to the labour market under the conditions set out in this Directive should be a general rule; however, in exceptional circumstances Member States should be able to take into account the situation of their national labour markets.

(19) The notion of prior authorisation includes the granting of work permits to students who wish to exercise an economic activity.

(20) This Directive does not affect national legislation in the area of part-time work.

(21) Provision should be made for fast-track admission procedures for study purposes or for pupil exchange schemes operated by recognised organisations in the Member States.

(22) Each Member State should ensure that the fullest possible set of regularly updated information is made available to the general public, notably on the Internet, as regards the establishments defined in this Directive, courses of study to which third-country nationals may be admitted and the conditions and procedures for entry and residence in its territory for those purposes.

(23) This Directive should not in any circumstances affect the application of Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals [1].

(24) Since the objective of this Directive, namely to determine the conditions of admission of third-country nationals for the purposes of study, pupil exchange, unremunerated training or voluntary service, cannot be sufficiently achieved by the Member States and can, by reason of its scale or effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.

(25) In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, and without prejudice to Article 4 of the said Protocol, these Member States are not taking part in the adoption of this Directive and are not bound by it or subject to its application.

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

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

The purpose of this Directive is to determine:

(a) the conditions for admission of third-country nationals to the territory of the Member States for a period exceeding three months for the purposes of studies, pupil exchange, unremunerated training or voluntary service;

(b) the rules concerning the procedures for admitting third-country nationals to the territory of the Member States for those purposes.

[1] OJ L 157, 15.6.2002, p. 1.

Article 2

Definitions

For the purposes of this Directive:

(a) 'third-country national' means any person who is not a citizen of the European Union within the meaning of Article 17(1) of the Treaty;

(b) 'student' means a third-country national accepted by an establishment of higher education and admitted to the territory of a Member State to pursue as his/her main activity a full-time course of study leading to a higher education qualification recognised by the Member State, including diplomas, certificates or doctoral degrees in an establishment of higher education, which may cover a preparatory course prior to such education according to its national legislation;

(c) 'school pupil' means a third-country national admitted to the territory of a Member State to follow a recognised programme of secondary education in the context of an exchange scheme operated by an organisation recognised for that purpose by the Member State in accordance with its national legislation or administrative practice;

(d) 'unremunerated trainee' means a third-country national who has been admitted to the territory of a Member State for a training period without remuneration in accordance with its national legislation;

(e) 'establishment' means a public or private establishment recognised by the host Member State and/or whose courses of study are recognised in accordance with its national legislation or administrative practice for the purposes set out in this Directive;

(f) 'voluntary service scheme' means a programme of activities of practical solidarity, based on a State or a Community scheme, pursuing objectives of general interest;

(g) 'residence permit' means any authorisation issued by the authorities of a Member State allowing a third-country national to stay legally in its territory, in accordance with Article 1(2)(a) of Regulation (EC) No 1030/2002.

Article 3

Scope

1. This Directive shall apply to third-country nationals who apply to be admitted to the territory of a Member State for the purpose of studies.

Member States may also decide to apply this Directive to third-country nationals who apply to be admitted for the purposes of pupil exchange, unremunerated training or voluntary service.

2. This Directive shall not apply to:

(a) third-country nationals residing in a Member State as asylum-seekers, or under subsidiary forms of protection, or under temporary protection schemes;

(b) third-country nationals whose expulsion has been suspended for reasons of fact or of law;

(c) third-country nationals who are family members of Union citizens who have exercised their right to free movement within the Community;

(d) third-country nationals who enjoy long-term resident status in a Member State in accordance with Council Directive 2003/109/EC of 25 November 2003 on the status of third-country nationals who are long-term residents [1] and exercise their right to reside in another Member State in order to study or receive vocational training;

(e) third-country nationals considered under the national legislation of the Member State concerned as workers or self-employed persons.

Article 4

More favourable provisions

1. This Directive shall be without prejudice to more favourable provisions of:

(a) bilateral or multilateral agreements between the Community or the Community and its Member States and one or more third countries; or

(b) bilateral or multilateral agreements between one or more Member States and one or more third countries.

2. This Directive shall be without prejudice to the right of Member States to adopt or maintain provisions that are more favourable to the persons to whom it applies.

CHAPTER II

CONDITIONS OF ADMISSION

Article 5

Principle

The admission of a third-country national under this Directive shall be subject to the verification of documentary evidence showing that he/she meets the conditions laid down in Article 6 and in whichever of Articles 7 to 11 applies to the relevant category.

[1] OJ L 16, 23.1.2004, p. 44.

Article 6

General conditions

1. A third-country national who applies to be admitted for the purposes set out in Articles 7 to 11 shall:

(a) present a valid travel document as determined by national legislation. Member States may require the period of validity of the travel document to cover at least the duration of the planned stay;

(b) if he/she is a minor under the national legislation of the host Member State, present a parental authorisation for the planned stay;

(c) have sickness insurance in respect of all risks normally covered for its own nationals in the Member State concerned;

(d) not be regarded as a threat to public policy, public security or public health;

(e) provide proof, if the Member State so requests, that he/she has paid the fee for processing the application on the basis of Article 20.

2. Member States shall facilitate the admission procedure for the third-country nationals covered by Articles 7 to 11 who participate in Community programmes enhancing mobility towards or within the Community.

Article 7

Specific conditions for students

1. In addition to the general conditions stipulated in Article 6, a third-country national who applies to be admitted for the purpose of study shall:

(a) have been accepted by an establishment of higher education to follow a course of study;

(b) provide the evidence requested by a Member State that during his/her stay he/she will have sufficient resources to cover his/her subsistence, study and return travel costs. Member States shall make public the minimum monthly resources required for the purpose of this provision, without prejudice to individual examination of each case;

(c) provide evidence, if the Member State so requires, of sufficient knowledge of the language of the course to be followed by him/her;

(d) provide evidence, if the Member State so requires, that he/she has paid the fees charged by the establishment.

2. Students who automatically qualify for sickness insurance in respect of all risks normally covered for the nationals of the Member State concerned as a result of enrolment at an establishment shall be presumed to meet the condition of Article 6(1)(c).

Article 8

Mobility of students

1. Without prejudice to Articles 12(2), 16 and 18(2), a third-country national who has already been admitted as a student and applies to follow in another Member State part of the studies already commenced, or to complement them with a related course of study in another Member State, shall be admitted by the latter Member State within a period that does not hamper the pursuit of the relevant studies, whilst leaving the competent authorities sufficient time to process the application, if he/she:

(a) meets the conditions laid down by Articles 6 and 7 in relation to that Member State; and

(b) has sent, with his/her application for admission, full documentary evidence of his/her academic record and evidence that the course he/she wishes to follow genuinely complements the one he/she has completed; and

(c) participates in a Community or bilateral exchange programme or has been admitted as a student in a Member State for no less than two years.

2. The requirements referred to in paragraph 1(c), shall not apply in the case where the student, in the framework of his/her programme of studies, is obliged to attend a part of his/her courses in an establishment of another Member State.

3. The competent authorities of the first Member State shall, at the request of the competent authorities of the second Member State, provide the appropriate information in relation to the stay of the student in the territory of the first Member State.

Article 9

Specific conditions for school pupils

1. Subject to Article 3, a third-country national who applies to be admitted in a pupil exchange scheme shall, in addition to the general conditions stipulated in Article 6:

(a) not be below the minimum age nor above the maximum age set by the Member State concerned;

(b) provide evidence of acceptance by a secondary education establishment;

(c) provides evidence of participation in a recognised pupil exchange scheme programme operated by an organisation recognised for that purpose by the Member State concerned in accordance with its national legislation or administrative practice;

(d) provides evidence that the pupil exchange organisation accepts responsibility for him/her throughout his/her period of presence in the territory of the Member State concerned, in particular as regards subsistence, study, healthcare and return travel costs;

(e) be accommodated throughout his/her stay by a family meeting the conditions set by the Member State concerned and selected in accordance with the rules of the pupil exchange scheme in which he/she is participating.

2. Member States may confine the admission of school pupils participating in an exchange scheme to nationals of third countries which offer the same possibility for their own nationals.

Article 10

Specific conditions for unremunerated trainees

Subject to Article 3, a third-country national who applies to be admitted as an unremunerated trainee shall, in addition to the general conditions stipulated in Article 6:

(a) have signed a training agreement, approved if need be by the relevant authority in the Member State concerned in accordance with its national legislation or administrative practice, for an unremunerated placement with a public- or private-sector enterprise or vocational training establishment recognised by the Member State in accordance with its national legislation or administrative practice;

(b) provide the evidence requested by a Member State that during his/her stay he/she will have sufficient resources to cover his/her subsistence, training and return travel costs. The Member States shall make public the minimum monthly resources required for the purpose of this provision, without prejudice to individual examination of each case;

(c) receive, if the Member State so requires, basic language training so as to acquire the knowledge needed for the purposes of the placement.

Article 11

Specific conditions for volunteers

Subject to Article 3, a third-country national who applies to be admitted to a voluntary service scheme shall, in addition to the general conditions stipulated in Article 6:

(a) not be below the minimum age nor above the maximum age set by the Member State concerned;

(b) produce an agreement with the organisation responsible in the Member State concerned for the voluntary service scheme in which he/she is participating, giving a description of tasks, the conditions in which he/she is supervised in the performance of those tasks, his/her working hours, the resources available to cover his travel, subsistence, accommodation costs and pocket money throughout his/her stay and, if appropriate, the training he will receive to help him/her perform his/her service;

(c) provide evidence that the organisation responsible for the voluntary service scheme in which he/she is participating has subscribed a third-party insurance policy and accepts full responsibility for him/her throughout his/her stay, in particular as regards his/her subsistence, healthcare and return travel costs;

(d) and, if the host Member State specifically requires it, receive a basic introduction to the language, history and political and social structures of that Member State.

CHAPTER III

RESIDENCE PERMITS

Article 12

Residence permit issued to students

1. A residence permit shall be issued to the student for a period of at least one year and renewable if the holder continues to meet the conditions of Articles 6 and 7. Where the duration of the course of study is less than one year, the permit shall be valid for the duration of the course.

2. Without prejudice to Article 16, renewal of a residence permit may be refused or the permit may be withdrawn if the holder:

(a) does not respect the limits imposed on access to economic activities under Article 17;

(b) does not make acceptable progress in his/her studies in accordance with national legislation or administrative practice.

Article 13

Residence permit issued to school pupils

A residence permit issued to school pupils shall be issued for a period of no more than one year.

Article 14

Residence permit issued to unremunerated trainees

The period of validity of a residence permit issued to unremunerated trainees shall correspond to the duration of the placement or shall be for a maximum of one year. In exceptional cases, it may be renewed, once only and exclusively for such time as is needed to acquire a vocational qualification recognised by a Member State in accordance with its national legislation or administrative practice, provided the holder still meets the conditions laid down in Articles 6 and 10.

Article 15

Residence permit issued to volunteers

A residence permit issued to volunteers shall be issued for a period of no more than one year. In exceptional cases, if the duration of the relevant programme is longer than one year, the duration of the validity of the residence permit may correspond to the period concerned.

Article 16

Withdrawal or non-renewal of residence permits

1. Member States may withdraw or refuse to renew a residence permit issued on the basis of this Directive when it has been fraudulently acquired or wherever it appears that the holder did not meet or no longer meets the conditions for entry and residence laid down in Article 6 and in whichever of Articles 7 to 11 applies to the relevant category.

2. Member States may withdraw or refuse to renew a residence permit on grounds of public policy, public security or public health.

CHAPTER IV

TREATMENT OF THE THIRD-COUNTRY NATIONALS CONCERNED

Article 17

Economic activities by students

1. Outside their study time and subject to the rules and conditions applicable to the relevant activity in the host Member State, students shall be entitled to be employed and may be entitled to exercise self-employed economic activity. The situation of the labour market in the host Member State may be taken into account.

Where necessary, Member States shall grant students and/or employers prior authorisation in accordance with national legislation.

2. Each Member State shall determine the maximum number of hours per week or days or months per year allowed for such an activity, which shall not be less than 10 hours per week, or the equivalent in days or months per year.

3. Access to economic activities for the first year of residence may be restricted by the host Member State.

4. Member States may require students to report, in advance or otherwise, to an authority designated by the Member State concerned, that they are engaging in an economic activity. Their employers may also be subject to a reporting obligation, in advance or otherwise.

CHAPTER V

PROCEDURE AND TRANSPARENCY

Article 18

Procedural guarantees and transparency

1. A decision on an application to obtain or renew a residence permit shall be adopted, and the applicant shall be notified of it, within a period that does not hamper the pursuit of the relevant studies, whilst leaving the competent authorities sufficient time to process the application.

2. If the information supplied in support of the application is inadequate, processing of the application may be suspended and the competent authorities shall inform the applicant of any further information they need.

3. Any decision rejecting an application for a residence permit shall be notified to the third-country national concerned in accordance with the notification procedures provided for under the relevant national legislation. The notification shall specify the possible redress procedures available and the time limit for taking action.

4. Where an application is rejected or a residence permit issued in accordance with this Directive is withdrawn, the person concerned shall have the right to mount a legal challenge before the authorities of the Member State concerned.

Article 19

Fast-track procedure for issuing residence permits or visas to students and school pupils

An agreement on the establishment of a fast-track admission procedure allowing residence permits or visas to be issued in the name of the third-country national concerned may be concluded between the authority of a Member State with responsibility for the entry and residence of students or school pupils who are third-country nationals and an establishment of higher education or an organisation operating pupil exchange schemes which has been recognised for this purpose by the Member State concerned in accordance with its national legislation or administrative practice.

Article 20

Fees

Member States may require applicants to pay fees for the processing of applications in accordance with this Directive.

CHAPTER VI

FINAL PROVISIONS

Article 21

Reporting

Periodically, and for the first time by 12 January 2010, the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States and propose amendments if appropriate.

Article 22

Transposition

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 12 January 2007. They shall forthwith inform the Commission thereof.

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

Article 23

Transitional provision

By way of derogation from the provisions set out in Chapter III and for a period of up to two years after the date set out in Article 22, Member States are not obliged to issue permits in accordance with this Directive in the form of a residence permit.

Article 24

Time limits

Without prejudice to the second subparagraph of Article 4(2) of Directive 2003/109/EC, Member States shall not be obliged to take into account the time during which the student, exchange pupil, unremunerated trainee or volunteer has resided as such in their territory for the purpose of granting further rights under national law to the third-country nationals concerned.

Article 25

Entry into force

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

Article 26

Addressees

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

Done at Brussels, 13 December 2004.

For the Council

The President

B. R. BOT

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 16 November 2004

on the conclusion of an Agreement between the European Community and the Government of the People's Republic of China on cooperation and mutual administrative assistance in customs matters

(2004/889/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 read in conjunction with Article 300(2), subparagraph (1), first sentence, thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) In April 1993 the Council adopted a Decision authorising the Commission to negotiate a customs cooperation agreement on behalf of the Community with Canada, Hong Kong, Japan, Korea and the United States which was extended in May 1997 with regard to the ASEAN countries and China.

(2) The Agreement between the European Community and the Government of the People's Republic of China on cooperation and mutual administrative assistance in customs matters should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the Government of the People's Republic of China on cooperation and mutual administrative assistance in customs matters is hereby approved on behalf of the European Community.

The text of the Agreement is attached to this Decision.

Article 2

The Commission, assisted by representatives of the Member States, shall represent the Community on the Joint Customs Cooperation Committee set up under Article 21 of the Agreement.

Article 3

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Community, thereby expressing the consent of the Community to be bound.

Article 4

The President of the Council shall effect the notification provided for in Article 22 of the Agreement on behalf of the Community [1].

Done at Brussels, 16 November 2004.

For the Council

The President

G. ZALM

[1] The date of the entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

AGREEMENT

between the European Community and the Government of the People's Republic of China on cooperation and mutual administrative assistance in customs matters

THE EUROPEAN COMMUNITY,

and

THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

hereinafter referred to as the 'Contracting Parties',

CONSIDERING the importance of the commercial links between the European Community and the People's Republic of China, and desirous of contributing to the benefit of both Contracting Parties, to the harmonious development of those links;

BELIEVING THAT, in order to attain this objective, there should be an undertaking to develop customs cooperation;

TAKING into account the development of customs cooperation between the Contracting Parties, concerning customs procedures;

CONSIDERING that operations in breach of customs legislation including infringements of intellectual property rights, are prejudicial to the economic, fiscal and commercial interests of both Contracting Parties, and recognising the importance of ensuring the accurate assessment of customs duties and other taxes, in particular, by a correct application of the rules on customs valuation, origin and tariff classification;

CONVINCED that action against such operations can be made more effective through cooperation between competent administrative authorities;

HAVING regard to obligations imposed under international conventions already accepted by, or applied to the Contracting Parties; as well as customs related activities undertaken by the World Trade Organisation;

HAVING regard to the Agreement on Trade and Economic Cooperation between the European Economic Community and the People's Republic of China signed in 1985,

HAVE AGREED AS FOLLOWS:

TITLE I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of the Agreement:

(a) 'customs legislation' shall mean any laws, provisions or other legally binding instruments of the European Community or the People's Republic of China, governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures of prohibitions, restrictions and control;

(b) 'customs authority' shall mean, in the European Community, the competent services responsible for customs matters of the Commission of the European Communities and the customs authorities of the Member States of the European Community and in the People's Republic of China, the General Administration of Customs of the People's Republic of China;

(c) 'applicant authority' shall mean a competent customs authority which is designated by a Contracting Party for this purpose and which makes a request for administrative assistance, on the basis of this Agreement;

(d) 'requested authority' shall mean a competent customs authority which is designated by a Contracting Party for this purpose and which receives a request for administrative assistance, on the basis of this Agreement;

(e) 'personal data' shall mean all information relating to an identified or identifiable individual;

(f) 'operation in breach of customs legislation' shall mean any violation or attempted violation of the customs legislation;

(g) 'person' shall mean either a human being or a legal entity;

(h) 'information' shall mean data, whether or not processed or analysed, and documents, reports, and other communications in any format, including electronic, or certified or authenticated copies thereof.

Article 2

Territorial application

This Agreement shall apply on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the customs territory of the People's Republic of China.

Article 3

Future developments

The Contracting Parties may by mutual consent expand this Agreement with a view to increasing the levels of customs cooperation and supplementing them, in accordance with their respective customs legislation, by means of agreements on specific sectors or matters.

TITLE II

SCOPE OF THE AGREEMENT

Article 4

Performance of cooperation and assistance

All cooperation and assistance under this Agreement shall be performed by the Contracting Parties in accordance with their relevant laws, provisions, and other legal instruments. In addition, all cooperation and assistance under this Agreement by either Contracting Party shall be performed within the limits of its competence and available resources.

Article 5

Obligations imposed under other agreements

1. Taking into account the respective competencies of the European Community and the Member States, the provisions of this Agreement shall:

(a) not affect the obligations of the Contracting Parties under any other international agreement or convention,

(b) be deemed complementary to agreements on customs cooperation and mutual administrative assistance which have been or may be concluded between individual Member States and the People's Republic of China,

(c) not affect the Community provisions governing the communication between the competent services of the Commission and the customs authorities of the Member States of any information obtained under this Agreement which could be of interest to the Community;

2. Notwithstanding the provisions of paragraph 1, the provisions of this Agreement shall take precedence over the provisions of any bilateral agreement on customs cooperation and mutual administrative assistance which has been or may be concluded between individual Member States and the People's Republic of China, insofar as the provisions of the latter are incompatible with those of this Agreement.

3. In respect of questions relating to the applicability of this Agreement, the Contracting Parties shall consult each other to resolve the matter in the framework of the Joint Customs Cooperation Committee set up under Article 21 of this Agreement.

TITLE III

CUSTOMS COOPERATION

Article 6

Scope of the cooperation

1. The Contracting Parties shall undertake to develop customs cooperation. In particular, the Contracting Parties shall seek to cooperate in:

(a) establishing and maintaining channels of communication between their customs authorities to facilitate and secure the rapid exchange of information;

(b) facilitating effective coordination between their customs authorities;

(c) any other administrative matters related to this Agreement that may from time to time require their joint action.

2. The Contracting Parties undertake to develop trade facilitation actions in customs matters taking account of the work done in this connection by international organisations.

3. Under this Agreement, customs cooperation shall cover all matters relating to the application of customs legislation.

Article 7

Cooperation in customs procedures

The Contracting Parties affirm their commitment to the facilitation of the legitimate movement of goods and shall exchange information and expertise on measures to improve customs techniques and procedures and on computerised systems with a view towards implementing that commitment in accordance with the provisions of this Agreement.

Article 8

Technical cooperation

The customs authorities of the Contracting Parties may provide each other with technical assistance when mutually beneficial in customs matters including:

(a) the exchange of personnel and experts, for the purposes of promoting the mutual understanding of each other's customs law, procedures and techniques;

(b) the training, particularly developing specialised skills of their customs officials;

(c) the exchange of professional, scientific and technical data relating to customs law and procedures.

(d) techniques and improved methods of processing passengers and cargo.

(e) any other general administrative matters that may from time to time require joint actions by their customs administrations.

Article 9

Coordination in international organisations

The customs authorities shall seek to develop and strengthen their cooperation on topics of common interest in order to seek a coordinated position when those topics are discussed in the framework of international organisations.

TITLE IV

MUTUAL ADMINISTRATIVE ASSISTANCE

Article 10

Scope

1. The customs authorities shall assist each other by providing appropriate information which helps to ensure the proper application of customs legislation and the prevention, investigation and combating of any breach of customs legislation.

2. Assistance in customs matters, as provided for in this Agreement, shall apply to any administrative authority of the Contracting Parties which is competent for the application of this Agreement. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of a judicial authority;

3. Assistance to recover duties, taxes or fines, or the arrest or detention of any person or seizure or detention of property is not covered by this Agreement.

Article 11

Assistance on request

1. At the request of the applicant authority, the requested authority shall provide it with all relevant information which may enable it to ensure that customs legislation is correctly applied, including information regarding activities detected or planned which are or could be operations in breach of customs legislation. In particular, upon request, the customs authorities shall furnish to each other information regarding activities that may result in offences within the territory of the other Party, for example, incorrect customs declarations and certificates of origin, invoices or other documents known to be, or suspected of being, incorrect or falsified.

2. At the request of the applicant authority, the requested authority shall inform it of:

(a) the authenticity of official documents produced in support of a goods declaration made to the customs authority of the requesting Party;

(b) whether goods exported from the territory of one of the Contracting Parties have been legally imported into the territory of the other Contracting Party, specifying, where appropriate, the customs procedure applied to the goods;

(c) whether goods imported into the territory of one of the Contracting Parties have been legally exported from the territory of the other Contracting Party, specifying, where appropriate, the customs procedure applied to the goods.

3. At the request of the applicant authority, the requested authority shall, within the framework of its laws, provisions or other legally binding instruments, take the necessary steps to ensure special surveillance of:

(a) persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;

(b) places where stocks of goods have been or may be stored or assembled in such a way that there are reasonable grounds for believing that these goods are intended to be used in operations in breach of customs legislation;

(c) goods that are or may be transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation;

(d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.

Article 12

Spontaneous assistance

The Contracting Parties shall assist each other, at their own initiative and in accordance with their laws, provisions or other legally binding instruments if they consider that to be necessary for the correct application of customs legislation, in particular in situations that could involve substantial damage to the economy, public health, public security or similar vital interest of the other Contracting Party pertaining to:

(a) activities which are or appear to be operations in breach of customs legislation and which may be of interest to the other Contracting Party;

(b) new means or methods employed in carrying out operations in breach of customs legislation;

(c) goods known to be subject to operations in breach of customs legislation;

(d) persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;

(e) means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation.

Article 13

Form and substance of requests for assistance

1. Requests pursuant to this Agreement shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, oral requests may be accepted, but shall be confirmed promptly in writing.

2. Requests pursuant to paragraph 1 shall include the following information:

(a) the formal endorsement of the applicant authority;

(b) the action requested;

(c) the object of and the reason for the request;

(d) the laws, regulations or other legally binding instruments involved;

(e) indications as exact and comprehensive as possible on the persons who are the target of the investigations;

(f) a summary of the relevant facts and of the enquiries already carried out.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority. This requirement shall not apply to any documents that accompany the request under paragraph 1.

4. If a request does not meet the formal requirements set out above, its correction or completion may be requested; precautionary measures may be ordered in the meantime.

Article 14

Execution of requests

1. In order to comply with a request for assistance, the requested authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Contracting Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out.

2. Requests for assistance shall be executed in accordance with the laws, regulations or other legally binding instruments of the requested authority.

3. Duly authorised officials of a Contracting Party may, with the agreement of the other Contracting Party and subject to the conditions laid down by the latter, be present at enquiries carried out in the latter's jurisdiction into specific cases.

4. In the event that the request cannot be complied with, the applicant authority shall be notified promptly of that fact, with a statement of the reasons and of any other information that the requested authority considers may be of assistance to the applicant authority.

Article 15

Form in which information is to be communicated

1. The requested authority shall communicate results of enquiries to the applicant authority in writing together with relevant documents, certified copies or other items.

2. This information may be in computerised form which shall where necessary be confirmed in writing immediately afterwards.

Article 16

Exceptions to the obligation to provide assistance

1. Assistance may be refused or may be subject to the satisfaction of certain conditions or requirements in cases where a Contracting Party is of the opinion that assistance under this Agreement would:

(a) be likely to prejudice the sovereignty of a Member State of the European Community which has been requested to provide assistance under this Agreement or that of the People's Republic of China; or

(b) be likely to prejudice public order, security or other essential interests, in particular in the cases referred to under Article 17(2) or

(c) violate an industrial, commercial or professional secret.

2. Assistance may be postponed by the requested authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested authority shall consult with the applicant authority to determine if assistance can be given subject to such terms or conditions as the requested authority may require.

3. Where the applicant authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.

4. For the cases referred to in paragraphs 1 and 2, the decision of the requested authority and the reasons therefor must be communicated to the applicant authority without undue delay.

Article 17

Information exchange and confidentiality

1. Any information communicated in whatsoever form pursuant to this Agreement shall be of a confidential or restricted nature, depending on the rules applicable in each of the Contracting Parties. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws of the Contracting Party that received it and the corresponding provisions applying to the Community authorities.

2. Personal data may be exchanged only where the Contracting Party which may receive it undertakes to protect such data in at least an equivalent way to the one applicable to that particular case in the Contracting Party that may supply it. The Contracting Party that may supply the information shall not stipulate any requirements that are more onerous than those applicable to it in its own jurisdiction. The Contracting Parties shall communicate to each other information on their applicable rules, including where appropriate, legal provisions in force in the Member States of the Community.

3. Nothing in this Agreement shall preclude the use of information or documents obtained in accordance with this Agreement as evidence in administrative proceedings subsequently instituted in respect of operations in breach of customs legislation. Therefore, the Contracting Parties may, in their records of evidence, reports and testimonies and in administrative proceedings use as evidence information obtained and documents consulted in accordance with the provisions of this Agreement. The competent authority which supplied that information or gave access to those documents shall be notified of such use.

4. Information obtained shall be used solely for the purposes of this Agreement. Where one of the Contracting Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the authority which provided the information. Such use shall then be subject to any restrictions laid down by that authority.

5. Practical arrangements for the implementation of this Article shall be determined by the Joint Customs Cooperation Committee established under Article 21.

Article 18

Experts and witnesses

An official of a requested authority may be authorised to appear, within the limitations of authorisation granted, as an expert or witness in administrative proceedings regarding the matters covered by this Agreement in the territory of the other Contracting Party, and produce such objects, documents or certified copies thereof, as may be needed for the proceedings. The request for appearance must indicate specifically before which administrative authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

Article 19

Assistance expenses

1. The Contracting Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Agreement, except, as appropriate, for expenses to experts and witnesses, and those to interpreters and translators who are not public service employees.

2. If expenses of a substantial or extraordinary nature are, or will be, required to execute the request, the Contracting Parties shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

TITLE V

FINAL PROVISIONS

Article 20

Implementation

1. The implementation of this Agreement shall be entrusted to the customs authorities of the Commission of the European Communities and, where appropriate, of the Member States of the European Community on the one hand, and to the customs authority of the People's Republic of China, on the other. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration the rules in force in particular in the field of data protection. They may recommend to the competent bodies amendments which they consider should be made to this Agreement.

2. The Contracting Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Agreement.

Article 21

Joint Customs Cooperation Committee

1. A Joint Customs Cooperation Committee is hereby established, consisting of representatives of the customs authorities of the European Community and the People's Republic of China. It shall meet at a place, on a date and with an agenda, fixed by mutual agreement.

2. The Joint Customs Cooperation Committee shall, *inter alia:*

(a) see to the proper functioning of the Agreement;

(b) examine all issues arising from its application;

(c) take measures necessary for customs cooperation in accordance with the objectives of this Agreement;

(d) exchange views on any points of common interest regarding customs cooperation, including future measures and the resources for them;

(e) recommend solutions aimed at helping to attain the objectives of this Agreement.

3. The Joint Customs Cooperation Committee shall adopt its internal rules of procedure.

4. The Joint Customs Cooperation Committee will where appropriate, keep informed the Joint Commission set up under Article 15 of the Agreement on Trade and Economic Cooperation between the European Economic Community and the People's Republic of China of activities going on under this Agreement.

Article 22

Entry into force and duration

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

2. Each Contracting Party may terminate this Agreement by giving notice to the other in writing. The termination shall take effect three months from the day of notification to the other Contracting Party. Requests for assistance which have been received prior to the termination of the Agreement shall be completed in accordance with the provisions of this Agreement.

Article 23

Authentic texts

This Agreement shall be drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish, Swedish and Chinese languages, each text being equally authentic.

In witness whereof, the undersigned, being duly authorised to do so, have signed this Agreement.

Done at The Hague, 8 December 2004.

Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
az Európai Közösség részéről
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Za Európske spoločenstvo
za Evropsko skupnost
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar
欧洲共同体代表

Por el Gobierno de la República Popular China
Za vládu Čínské lidové republiky
For Folkerepublikken Kinas regering
Im Namen der Regierung der Volksrepublik China
Hiina Rahvavabariigi valitsuse nimel
Για την κυβέρνηση της Λαϊκής Δημοκρατίας της Κίνας
For the Government of the People's Republic of China
Pour le gouvernement de la République populaire de Chine
Per il Governo della Repubblica popolare cinese
Kīnas Tautas Republikas vārdā
Kinijos Liaudies Respublikos Vyriausybės vardu
A Kínai Népköztársaság kormánya részéről
Voor de Regering van de Volksrepubliek China
W imieniu rządu Chińskiej Republiki Ludowej
Pelo Governo da República Popular da China
Za vládu Čínskey ľudovej republiky
Za Vlado Ljudske republike Kitajske
Kiinan kansantasavallan hallituksen puolesta
På Folkrepubliken Kinas regerings vägnar
中华人民共和国政府代表

COUNCIL DECISION

of 20 December 2004

on the withdrawal by the European Community from the Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and Belts

(2004/890/EC)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament [1],

Whereas:

(1) The Community is a Contracting Party to the Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and Belts [2] ('the Gdansk Convention').

(2) Article XIX of the Gdansk Convention provides for the withdrawal from the Convention by a Contracting Party.

(3) Estonia, Latvia, Lithuania and Poland have an obligation to take the necessary steps to withdraw from the Gdansk Convention on 1 May 2004 or at the earliest possible date thereafter in accordance with Article 6(12) of the 2003 Act of Accession.

(4) Following the withdrawal of those new Member States, the Community and the Russian Federation will be the only remaining Contracting Parties to the Gdansk Convention and approximately 95 % of the Convention area will be Community waters.

(5) The maintenance of an international fisheries organisation for the purpose of managing fisheries in waters that fall entirely under the jurisdiction of only two Parties would be disproportionate and inefficient. The Community should therefore withdraw from the Gdansk Convention,

HAS DECIDED AS FOLLOWS:

Article 1

The European Community shall withdraw from the Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and the Belts.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to notify the Depositary of the Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and the Belts of the withdrawal of the Community from the Convention.

Done at Brussels, 20 December 2004.

For the Council

The President

P. VAN GEEL

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[1] Opinion delivered on 14 December 2004 (not yet published in the Official Journal).

[2] OJ L 237, 26.8.1983, p. 4.

COMMISSION

COMMISSION DECISION

of 19 November 2004

terminating the examination procedure concerning obstacles to trade consisting of trade practices maintained by Canada in relation to certain geographical indications for wines (*)

(notified under document number C(2004) 4388)

(2004/891/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organisation [1], and in particular Article 11(1) thereof,

After consulting the Advisory Committee,

Whereas:

(1) On 6 December 2001, the *Conseil interprofessionnel du vin de Bordeaux* (CIVB) lodged a complaint pursuant to Article 4 of Regulation (EC) No 3286/94 (hereinafter 'the Regulation').

(2) CIVB claimed that Community sales of Bordeaux and Médoc in Canada are hindered by a number of obstacles to trade within the meaning of Article 2(1) of the Regulation, i.e. 'a practice adopted or maintained by a third country and in respect of which international trade rules establish a right of action'.

(3) The alleged obstacle to trade resulted from the C-57 Amendment to the Canadian Trademarks Act, which deprived the geographical indications Bordeaux and Médoc of a standard protection in compliance with the protection requirements laid down by the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) for geographical indications for wines.

(4) The Commission decided that the complaint contained sufficient evidence to justify the initiation of an examination procedure. A corresponding notice was published in the *Official Journal of the European Communities* [2].

(5) The investigation confirmed the complainant's legal claim that the C-57 Amendment to the Canadian Trademarks Act violated Article 23.1 and 2 as well as Article 24.3 (the standstill clause) of TRIPS and that such infringements could not be justified on the basis of the exception under Article 24.6 of TRIPS.

(6) The examination procedure also concluded that the C-57 Amendment threatens to cause adverse trade effects to the complainant, within the meaning of Article 2(4) and 10(4) of the Regulation.

(7) On 12 February 2003, the Advisory Committee established by the Regulation considered the final report on the examination procedure.

(8) On 24 April 2003, the Commission initialled a Bilateral Agreement with Canada on trade in wine and spirits, which provided for the definitive elimination of the names listed as 'generic' in Canada, including 'Bordeaux', 'Médoc' and 'Medoc' by the entry into force of the agreement.

(*) Annuls and replaces Commission Decision 2004/806/EC (OJ L 354, 30.11.2004, p. 30).

[1] OJ L 349, 31.12.1994, p. 71. Regulation as amended by Regulation (EC) No 356/95 (OJ L 41, 23.2.1995, p. 3).

[2] OJ C 124, 25.5.2002, p. 6.

(9) On 9 July 2003, the Commission decided to suspend [1] the examination procedure with a view to terminate it as soon as Canada effectively eliminated these names from the list of generic names provided by the C-57 Amendment.

(10) On 30 July 2003, the Council approved the conclusion, on behalf of the European Community, of the Bilateral Agreement with Canada on trade in wine and spirits [2]. On 1 June 2004, the Bilateral Agreement entered into force [3].

(11) By the Order Amending Subsections 11.18(3) and (4) of the Trade-marks Act [4], Canada eliminated Bordeaux, Médoc and Medoc from the list of generic names provided by the C-57 Amendment.

(12) Accordingly, it is appropriate to terminate the examination procedure,

HAS DECIDED AS FOLLOWS:

Sole Article

The examination procedure concerning obstacles to trade, consisting of trade practices maintained by Canada in relation to certain geographical indications for wines, is hereby terminated.

Done at Brussels, 19 November 2004.

For the Commission
Pascal LAMY
Member of the Commission

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[1] OJ L 170, 9.7.2003, p. 29.
[2] OJ L 35, 6.2.2004, p. 1.
[3] Article 41 of the Bilateral Agreement provided that: 'This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties have exchanged diplomatic notes confirming the completion of their respective procedures for the entry into force of this Agreement'. The EC note was delivered on 16 September 2003 and Canada's response was delivered on 26 April 2004.
[4] The Department of Industry published the *Order Amending Subsections 11.18(3) and (4) of the Trade-marks Act* in the Part II of the *Canada Gazette* of 5 May 2004. The Order is effective as of the date of registration, which is 22 April 2004.

COMMISSION DECISION

of 20 December 2004

amending Decision 2004/614/EC as regards the period of application of protection measures relating to avian influenza in South Africa

(notified under document number C(2004) 5011)

(Text with EEA relevance)

(2004/892/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC [1], and in particular Article 18(7) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries [2], and in particular Article 22(6) thereof,

Whereas:

(1) By Commission Decision 2004/614/EC of 24 August 2004 concerning protection measures in relation to highly pathogenic avian influenza in the Republic of South Africa [3], the Commission adopted protection measures in relation to avian influenza in ratite flocks in South Africa.

(2) At least six months should pass after destruction of the ratites and disinfection of the infected holdings before imports of meat of ratites and their eggs from South Africa may be allowed into the Community again. In view of the situation the protection measures already adopted should be prolonged.

(3) 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

In Article 7 of Decision 2004/614/EC, the date '1 January 2005' is replaced by the date '31 March 2005'.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 20 December 2004.

For the Commission

Markos KYPRIANOU

Member of the Commission

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[1] OJ L 268, 24.9.1991, p. 56. Directive as last amended by the 2003 Act of Accession.

[2] OJ L 24, 30.1.1998, p. 9. Directive as last amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council (OJ L 165, 30.4.2004, p. 1).

[3] OJ L 275, 25.8.2004, p. 20.

COMMISSION DECISION

of 20 December 2004

providing for the temporary marketing of certain seed of the species *Secale cereale*, not satisfying the requirements of Council Directive 66/402/EEC

(notified under document number C(2004) 5027)

(Text with EEA relevance)

(2004/893/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed [1], and in particular Article 17 thereof,

Whereas:

(1) In Latvia the quantity of available seed of winter varieties of rye (*Secale cereale*) suitable to the national climatic conditions and which satisfies the requirements of Directive 66/402/EEC in respect of the presence of the harmful organism *Claviceps purpurea* is insufficient and therefore not adequate to meet the needs of the Member State.

(2) It is not possible to meet the demand for seed of that species satisfactorily with seed from other Member States or from third countries, which satisfies all the requirements laid down in Directive 66/402/EEC.

(3) Accordingly, Latvia should be authorised to permit the marketing of seed of that species subject to less stringent requirements for a period expiring on 30 November 2004.

(4) In addition, other Member States irrespective of whether the seed was harvested in a Member State or in a third country covered by Council Decision 2003/17/EC of 16 December 2002 on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries [2] which are in a position to supply Latvia with seed of that species, should be authorised to permit the marketing of such seed.

(5) It is appropriate that Latvia acts as coordinator in order to ensure that the total amount of seed authorised pursuant to this Decision does not exceed the maximum quantity covered by this Decision.

(6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

The marketing in the Community of seed of winter rye which does not satisfy the requirements laid down in Directive 66/402/EEC in respect of the presence of the harmful organism *Claviceps purpurea* shall be permitted, for a period expiring on 30 November 2004, in accordance with the terms set out in the Annex to this Decision and subject to the following conditions:

(a) the maximum number of *sclerotia* or fragments of *sclerotia* of *Claviceps purpurea* present in a sample of 500 grams of seed of the category 'basic seed' or 'certified seed' is 15;

(b) the official label states the number of *sclerotia* or fragments of *sclerotia* of *Claviceps purpurea* as ascertained in the official examination carried out pursuant to Article 2(1)(E)(d) of Directive 66/402/EEC;

(c) the seed must have been first placed on the market in accordance with Article 2 of this Decision.

Article 2

Any seed supplier wishing to place on the market the seeds referred to in Article 1 shall apply to the Member State in which he is established.

[1] OJ 125, 11.7.1966, p. 2309/66. Directive as last amended by Directive 2003/61/EC (OJ L 165, 3.7.2003, p. 23).

[2] OJ L 8, 14.1.2003, p. 10. Decision as last amended by Decision 2003/403/EC (OJ L 141, 7.6.2003, p. 23).

The Member State concerned shall authorise the supplier to place that seed on the market, unless:

(a) there is sufficient evidence to doubt as to whether the supplier is able to place on the market the amount of seed for which he has applied for authorisation; or

(b) the total quantity authorised to be marketed pursuant to the derogation concerned would exceed the maximum quantity specified in the Annex.

Article 3

The Member States shall assist each other administratively in the application of this Decision.

Latvia shall act as coordinating Member State in order to ensure that the total amount authorised does not exceed the maximum quantity specified in the Annex.

Any Member State receiving an application under Article 2 shall immediately notify the coordinating Member State of the amount covered by the application. The coordinating Member State shall immediately inform the notifying Member State as to whether authorisation would result in the maximum quantity being exceeded.

Article 4

Member States shall immediately notify the Commission and the other Member States of the quantities in respect of which they have granted marketing authorisation pursuant to this Decision.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 20 December 2004.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

Species	Variety	Maximum quantity (tonnes)
Secale cereale	Kaupo, Puhovčanka, Valdai	800

COMMISSION DECISION

of 20 December 2004

providing for the temporary marketing of certain seed of the species *Triticum aestivum*, not satisfying the requirements of Council Directive 66/402/EEC

(notified under document number C(2004) 5028)

(Text with EEA relevance)

(2004/894/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed [1], and in particular Article 17 thereof,

Whereas:

(1) In Denmark the quantity of available seed of winter varieties of wheat (*Triticum aestivum*) suitable to the national climatic conditions and which satisfies the germination capacity requirements of Directive 66/402/EEC is insufficient and is therefore not adequate to meet the needs of the Member State.

(2) It is not possible to meet the demand for seed of that species satisfactorily with seed from other Member States or from third countries, which satisfies all the requirements laid down in Directive 66/402/EEC.

(3) Accordingly, Denmark should be authorised to permit the marketing of seed of that species subject to less stringent requirements for a period expiring on 30 November 2004.

(4) In addition, other Member States irrespective of whether the seed was harvested in a Member State or in a third country covered by Council Decision 2003/17/EC of 16 December 2002 on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries [2] which are in a position to supply Denmark with seed of that species, should be authorised to permit the marketing of such seed.

(5) It is appropriate that Denmark act as coordinator in order to ensure that the total amount of seed authorised pursuant to this Decision does not exceed the maximum quantity covered by this Decision.

(6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

The marketing in the Community of seed of winter wheat which does not satisfy the minimum germination capacity requirements laid down in Directive 66/402/EEC shall be permitted, for a period expiring on 30 November 2004, in accordance with the terms set out in the Annex to this Decision and subject to the following conditions:

(a) the germination capacity is at least 75 % of pure seed;

(b) the official label states the germination ascertained in the official examination carried out pursuant to Articles 2(1)(F)(d) and 2(1)(G)(d) of Directive 66/402/EEC;

(c) the seed must have been first placed on the market in accordance with Article 2 of this Decision.

Article 2

Any seed supplier wishing to place on the market the seeds referred to in Articles 1 shall apply to the Member State in which he is established.

The Member State concerned shall authorise the supplier to place that seed on the market, unless:

(a) there is sufficient evidence to doubt as to whether the supplier is able to place on the market the amount of seed for which he has applied for authorisation; or

(b) the total quantity authorised to be marketed pursuant to the derogation concerned would exceed the maximum quantity specified in the Annex.

[1] OJ 125, 11.7.1966, p. 2309/66. Directive as last amended by Directive 2003/61/EC (OJ L 165, 3.7.2003, p. 23).

[2] OJ L 8, 14.1.2003, p. 10. Decision as last amended by Decision 2003/403/EC (OJ L 141, 7.6.2003, p. 23).

Article 3

The Member States shall assist each other administratively in the application of this Decision.

Denmark shall act as coordinating Member State in order to ensure that the total amount authorised does not exceed the maximum quantity specified in the Annex.

Any Member State receiving an application under Article 2 shall immediately notify the coordinating Member State of the amount covered by the application. The coordinating Member State shall immediately inform the notifying Member State as to whether authorisation would result in the maximum quantity being exceeded.

Article 4

Member States shall immediately notify the Commission and the other Member States of the quantities in respect of which they have granted marketing authorisation pursuant to this Decision.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 20 December 2004.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

Species	Variety	Maximum quantity (tonnes)
Triticum aestivum	Abika, Bill, Elvis, Globus, Grommit, Hattrick, Opus, Robigus, Senat, Smuggler, Solist, Tulsa, Tritex	45 000

CORRIGENDA

Corrigendum to Council Regulation (EC) No 226/2004 of 10 February 2004 amending Regulation (EC) No 2505/96 opening and providing for the administration of autonomous Community tariff quotas for certain agricultural and industrial products

(Official Journal of the European Union L 39 of 11 February 2004)

On Page 5 in Annex I, third column, 'TARIC code' opposite Order No 09.2945 relating to 'D-Xylose':

for: '10',

read: '20'.

Corrigendum to Corrigendum to Commission Regulation (EC) No 2187/2004 of 20 December 2004 amending Regulation (EC) No 1614/2000 derogating from Regulation (EEC) No 2454/93 in respect of the definition of the concept of originating products used for the purposes of the scheme of generalised preferences to take account of the special situation of Cambodia regarding certain exports of textiles to the Community

(Official Journal of the European Union L 374 of 22 December 2004)

On page 76, in Article 1:

for: 'Regulation (EC) No 1615/2000 is amended as follows:',

read: 'Regulation (EC) No 1614/2000 is amended as follows:'.
