ANNEX X

List referred to in Article 24 of the Act of Accession: Hungary

1. FREEDOM OF MOVEMENT FOR PERSONS

Treaty establishing the European Community;

31968 L 0360: Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families (OJ L 257, 19.10.1968, p. 13), as last amended by:

— 11994 N: Act concerning the conditions of accession and the adjustments to the Treaties — Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden (OJ C 241, 29.8.1994, p. 21);

31968 R 1612: Council Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community (OJ L 257, 19.10.1968, p. 2), as last amended by:

— 31992 R 2434: Council Regulation (EEC) No 2434/92 of 27.7.1992 (OJ L 245, 26.8.1992, p. 1);

31996 L 0071: Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

1. Article 39 and the first paragraph of Article 49 of the EC Treaty shall fully apply only, in relation to the freedom of movement of workers and the freedom to provide services involving temporary movement of workers as defined in Article 1 of Directive 96/71/EC between Hungary on the one hand, and Belgium, the Czech Republic, Denmark, Germany, Estonia, Greece, Spain, France, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Austria, Poland, Portugal, Slovenia, Slovakia, Finland, Sweden and the United Kingdom on the other hand, subject to the transitional provisions laid down in paragraphs 2 to 14.

2. By way of derogation from Articles 1 to 6 of Regulation (EEC) No 1612/68 and until the end of the two year period following the date of accession, the present Member States will apply national measures, or those resulting from bilateral agreements, regulating access to their labour markets by Hungarian nationals. The present Member States may continue to apply such measures until the end of the five year period following the date of accession.

Hungarian nationals legally working in a present Member State at the date of accession and admitted to the labour market of that Member State for an uninterrupted period of 12 months or longer will enjoy access to the labour market of that Member State but not to the labour market of other Member States applying national measures.

Hungarian nationals admitted to the labour market of a present Member State following accession for an uninterrupted period of 12 months or longer shall also enjoy the same rights.

The Hungarian nationals mentioned in the second and third subparagraphs above shall cease to enjoy the rights contained in those subparagraphs if they voluntarily leave the labour market of the present Member State in question.

Hungarian nationals legally working in a present Member State at the date of accession, or during a period when national measures are applied, and who were admitted to the labour market of that Member State for a period of less than 12 months shall not enjoy these rights.

3. Before the end of the two year period following the date of accession, the Council shall review the functioning of the transitional provisions laid down in paragraph 2, on the basis of a report from the Commission.

On completion of this review, and no later than at the end of the two year period following the date of accession, the present Member States shall notify the Commission whether they will continue applying national measures or measures resulting from bilateral agreements, or whether they will apply Articles 1 to 6 of Regulation (EEC) No 1612/68 henceforth. In the absence of such notification, Articles 1 to 6 of Regulation (EEC) No 1612/68 shall apply.

4. Upon Hungary's request, one further review may be held. The procedure referred to in paragraph 3 shall apply and shall be completed within six months of receipt of Hungary's request.

5. A Member State maintaining national measures or measures resulting from bilateral agreements at the end of the five year period indicated in paragraph 2 may, in case of serious disturbances of its labour market or threat thereof and after notifying the Commission, continue to apply these measures until the end of the seven year period following the date of accession. In the absence of such notification, Articles 1 to 6 of Regulation (EEC) No 1612/68 shall apply.

6. During the seven year period following the date of accession, those Member States in which, by virtue of paragraphs 3, 4 or 5, Articles 1 to 6 of Regulation (EEC) No 1612/68 apply as regards Hungarian nationals, and which are issuing work permits to nationals of Hungary for monitoring purposes during this period, will do so automatically.

7. Those Member States in which, by virtue of paragraphs 3, 4 or 5, Articles 1 to 6 of Regulation (EEC) No 1612/68 apply as regards Hungarian nationals, may resort to the procedures set out in the subparagraphs below until the end of the seven year period following the date of accession.

When a Member State referred to in the first subparagraph undergoes or foresees disturbances on its labour market which could seriously threaten the standard of living or level of employment in a given region or occupation, that Member State shall inform the Commission and the other Member States thereof and shall supply them with all relevant particulars. On the basis of this information, the Member State may request the Commission to state that the application of Articles 1 to 6 of Regulation (EEC) No 1612/68 be wholly or partially suspended in order to restore to normal the situation in that region or occupation. The Commission shall decide on the suspension and on the duration and scope thereof not later than two weeks after receiving such a request and shall notify the Council of such a decision. Any Member State may, within two weeks from the date of the Commission's Decision, request the Council to annul or amend the Decision. The Council shall act on such a request within two weeks, by qualified majority.

A Member State referred to in the first subparagraph may, in urgent and exceptional cases, suspend the application of Articles 1 to 6 of Regulation (EEC) No 1612/68, followed by a reasoned ex-post notification to the Commission.

8. As long as the application of Articles 1 to 6 of Regulation (EEC) No 1612/68 is suspended by virtue of paragraphs 2 to 5 and 7 above, Article 11 of the Regulation shall apply in Hungary with regard to nationals of the present Member States, and in the present Member States with regard to Hungarian nationals under the following conditions:

— the members of a worker's family referred to in Article 10(1)(a) of the Regulation, legally residing with the worker in the territory of a Member State at the date of accession, shall have, upon accession, immediate access to the labour market of that Member State. This does not apply to family members of a worker legally admitted to the labour market of that Member State for a period of less than 12 months;

— the members of a worker's family referred to in Article 10(1)(a) of the Regulation, legally residing with the worker in the territory of a Member State from a date later than the date of accession, but during the period of application of the transitional provisions laid down above, shall have access to the labour market of the Member State concerned once they have been resident in the Member State concerned for at least eighteen months or from the third year following the date of accession, whichever is the earlier.

These provisions shall be without prejudice to more favourable measures whether national or resulting from bilateral agreements.

9. Insofar as certain provisions of Directive 68/360/EEC may not be dissociated from those of Regulation (EEC) No 1612/68 whose application is deferred pursuant to paragraphs 2 to 5 and 7 and 8, Hungary and the present Member States may derogate from those provisions to the extent necessary for the application of paragraphs 2 to 5 and 7 and 8.

10. Whenever national measures, or those resulting from bilateral agreements, are applied by the present Member States by virtue of the transitional provisions laid down above, Hungary may maintain in force equivalent measures with regard to the nationals of the Member State or States in question.

11. If the application of Articles 1 to 6 of Regulation (EEC) No 1612/68 is suspended by any of the present Member States, Hungary may resort to the procedures laid down in paragraph 7 with respect to the Czech Republic, Estonia, Latvia, Lithuania, Poland, Slovenia or Slovakia. During any such period work permits issued by Hungary for monitoring purposes to nationals of the Czech Republic, Estonia, Latvia, Lithuania, Poland, Slovenia or Slovakia shall be issued automatically.

12. Any present Member State applying national measures in accordance with paragraphs 2 to 5 and 7 to 9, may introduce, under national law, greater freedom of movement than that existing at the date of accession, including full labour market access. From the third year following the date of accession, any present Member State applying national measures may at any time decide to apply Articles 1 to 6 of Regulation (EEC) No 1612/68 instead. The Commission shall be informed of any such decision.

13. In order to address serious disturbances or the threat thereof in specific sensitive service sectors on their labour markets, which could arise in certain regions from the transnational provision of services, as defined in Article 1 of Directive 96/71/EC, and as long as they apply, by virtue of the transitional provisions laid down above, national measures or those resulting from bilateral agreements to the free movement of Hungarian workers, Germany and Austria may, after notifying the Commission, derogate from the first paragraph of Article 49 of the EC Treaty with a view to limit in the context of the provision of services by companies established in Hungary, the temporary movement of workers whose right to take up work in Germany and Austria is subject to national measures.

The list of service sectors which may be covered by this derogation is as follows:

— in Germany:

Sector	NACE [1], code, unless otherwise specified
Construction, including related branches	45.1 to 4; Activities listed in the Annex to Directive 96/71/EC
Industrial cleaning	74.70 Industrial cleaning
Other Services	74.87 Only activities of interior decorators

— in Austria:

Sector	NACE [1], code, unless otherwisespecified
Horticultural service activities	01.41
Cutting, shaping and finishing of stone	26.7
Manufacture of metal structures and parts of structures	28.11
Construction, including related branches	45.1 to 4; Activities listed in the Annex to Directive 96/71/EC
Security activities	74.60
Industrial cleaning	74.70
Home nursing	85.14
Social work activities without accommodation	85.32

To the extent that Germany or Austria derogate from the first paragraph of Article 49 of the EC Treaty in accordance with the preceding subparagraphs, Hungary may, after notifying the Commission, take equivalent measures.

The effect of the application of this paragraph shall not result in conditions for the temporary movement of workers in the context of the transnational provision of services between Germany or Austria and Hungary which are more restrictive than those prevailing on the date of signature of the Treaty of Accession.

14. The effect of the application of paragraphs 2 to 5 and 7 to 12 shall not result in conditions for access of Hungarian nationals to the labour markets of the present Member States which are more restrictive than those prevailing on the date of signature of the Treaty of Accession.

Notwithstanding the application of the provisions laid down in paragraphs 1 to 13, the present Member States shall, during any period when national measures or those resulting from bilateral agreements are applied, give preference to workers who are nationals of the Member States over workers who are nationals of third countries as regards access to their labour market.

Hungarian migrant workers and their families legally resident and working in another Member State or migrant workers from other Member States and their families legally resident and working in Hungary shall not be treated in a more restrictive way than those from third countries resident and working in that Member State or Hungary respectively. Furthermore, in application of the principle of Community preference, migrant workers from third countries resident and working in Hungary shall not be treated more favourably than nationals of Hungary.

(1) NACE: see 31990 R 3037: Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1), as last amended by32002 R 0029: Commission Regulation (EC) No 29/2002 of 19.12.2001 (OJ L 6, 10.1.2002, p. 3).

2. FREEDOM TO PROVIDE SERVICES

1. 31997 L 0009: Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes (OJ L 84, 26.3.1997, p. 22).

By way of derogation from Article 4(1) of Directive 97/9/EC, the minimum level of compensation shall not apply in Hungary until 31 December 2007. Hungary shall ensure that its investor-compensation scheme provides for cover of not less than EUR 3 783 until 31 December 2004 and of not less than EUR 7 565 from 1 January 2005 until 31 December 2007.

During the transitional period the other Member States will retain the right to prevent a branch of a Hungarian investment firm established on their territories from operating unless and until such a branch has joined an officially recognised investor-compensation scheme within the territory of the Member States concerned in order to cover the difference between the Hungarian level of compensation and the minimum level referred to in Article 4(1).

Until 31 December 2007 the level of cover provided in Hungary by an investment firm from another Member State may not exceed the minimum level of compensation referred to in Article 4(1) of Directive 97/9/EC. During the same period the scope of cover provided in Hungary by an investment firm from another Member State may not exceed the scope provided by the corresponding compensation scheme in Hungary.

2. 32000 L 0012: Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions (OJ L 126, 26.5.2000, p. 1), as amended by:

— 32000 L 0028: Directive 2000/28/EC of the European Parliament and of the Council of 18.9.2000 (OJ L 275, 27.10.2000, p. 37).

With regard to Article 5 of Directive 2000/12/EC, the initial capital requirement laid down in paragraph 2 shall not apply until 31 December 2007 to cooperative credit institutions already established in Hungary at the date of accession. Hungary shall ensure that the initial capital requirement for these cooperative credit institutions is not less than EUR 378 200 until 31 December 2006 and not less than EUR 756 500 from 1 January 2007 until 31 December 2007.

During the transitional period, pursuant to Article 5(4), the own funds of these undertakings may not fall below the highest level reached with effect from the date of accession.

3. FREE MOVEMENT OF CAPITAL

Treaty on European Union;

Treaty establishing the European Community.

1. Notwithstanding the obligations under the Treaties on which the European Union is founded, Hungary may maintain in force for five years from the date of accession the restrictions laid down in its legislation existing at the time of signature of this Act on the acquisition of secondary residences.

Nationals of the Member States and nationals of the States which are a party to the European Economic Area Agreement who have been legally resident in Hungary at least for four years continuously shall not be subject to the provisions of the preceding subparagraph or to any rules and procedures other than those to which nationals of Hungary are subject. During the transitional period Hungary shall apply authorisation procedures for the acquisition of secondary residences based on objective, stable, transparent and public criteria. These criteria shall be applied in a non-discriminatory manner and shall not differentiate between nationals of the Member States residing in Hungary.

2. Notwithstanding the obligations under the Treaties on which the European Union is founded, Hungary may maintain in force for seven years from the date of accession the prohibitions laid down in its legislation existing at the time of signature of this Act on the acquisition of agricultural land by natural persons who are non-residents or non-nationals of Hungary and by legal persons. In no instance may nationals of the Member States or legal persons formed in accordance with the laws of another Member State be treated less favourably in respect of the acquisition of agricultural land than at the date of signature of the Accession Treaty. In no instance may a national of a Member State be treated in a more restrictive way than a national from a third country.

Nationals of another Member State who want to establish themselves as self-employed farmers and who have been legally resident and active in farming in Hungary at least for three years continuously, shall not be subject to the provisions of the preceding subparagraph or to any rules and procedures other than those to which nationals of Hungary are subject.

A general review of these transitional measures shall be held in the third year following the date of accession. To this effect, the Commission shall submit a report to the Council. The Council may, acting unanimously on a proposal from the Commission, decide to shorten or terminate the transitional period indicated in the first subparagraph of point 2.

Should Hungary apply authorisation procedures for the acquisition of agricultural land during the transitional period, they shall be based on objective, stable, transparent and public criteria. These criteria shall be applied in a non-discriminatory manner and shall not differentiate between nationals of the Member States residing in Hungary.

If there is sufficient evidence that, upon expiry of the transitional period, there will be serious disturbances or a threat of serious disturbances on the agricultural land market of Hungary, the Commission, at the request of Hungary, shall decide upon the extension of the transitional period for up to a maximum of three years.

4. COMPETITION POLICY

Treaty establishing the European Community, Title VI, Chapter 1, Rules on Competition.

1. *3bn and 10bn HUF fiscal aid schemes*

(a) Notwithstanding Articles 87 and 88 of the EC Treaty, Hungary may apply corporate tax benefits granted prior to 1 January 2003 on the basis of Articles 21(7), (10) and (11) of Act LXXXI of 1996 on Corporate Tax and Dividend Tax and Article 93 of Act CXXV of 1999 on the Budget of 2000 of the Republic of Hungary, under the following conditions:

(i) for small and medium-sized enterprises, as defined in accordance with the Community definition [1] of such enterprises and in conformity with Commission practice, up to and including 31 December 2011;

In the event of a merger, acquisition or any similar event which involves the beneficiary of a tax benefit granted under the aforementioned legislation and falling under this paragraph (i), the benefit from corporate tax shall be discontinued.

(ii) for other undertakings, provided the following limitations on the aid amounts granted under the aforementioned legislation are respected:

(aa) State aid for regional investments:

— the total investment aid shall not exceed a maximum of 75 % of the eligible investment costs if the undertaking started its investment under the scheme prior to 1 January 2000. If the undertaking started its investment under the scheme during the years 2000-2002, the total investment aid shall not exceed a maximum of 50 % of the eligible investment costs;

— if the undertaking is active in the motor vehicle sector [2], the total investment aid shall not exceed a maximum of 30 % of the eligible investment costs if the undertaking started its investment under the scheme prior to 1 January 2000. If the undertaking started its investment under the scheme during the years 2000-2002, the total investment aid shall not exceed a maximum of 20 % of the eligible investment costs;

— the period for calculating the aid to be included under the abovementioned ceilings of 75 % and 50 % (30 % and 20 % in the case of the motor vehicle sector) shall start on 1 January 2003; all aid claimed and received on the basis of profits that precede this date shall be excluded from the calculation;

— there shall be no requirement to reimburse the aid if at the date of accession the undertaking already exceeded the applicable ceilings;

— for the purpose of calculating the total aid, account shall be taken of all aid granted to the beneficiary in relation to eligible costs, including aid granted under other schemes and irrespective of whether the aid is granted by local, regional, national or Community sources;

— eligible costs shall be defined on the basis of the criteria arising from the Community rules applicable to regional investment aid;

— the eligible costs that may be taken into account are those incurred between 1 January 1997 and 31 December 2005 under the terms of a programme formally adopted by the company no later than 31 December 2002 and notified to the Ministry of Finance of the Republic of Hungary by 31 January 2003.

(bb) State aid for training, research and development, employment and environmental investment:

— the aid shall not exceed the relevant aid intensity ceilings applicable on 1 January 2003 to such aid objectives pursuant to Articles 87 and 88 of the EC Treaty;

— the period for calculation of aid to be included under the applicable ceilings shall start on 1 January 2003; all aid claimed and received on the basis of profits that precede this date shall be excluded from the calculation;

— there shall be no requirement to reimburse the aid if at the date of accession the undertaking already exceeded the applicable ceilings;

— for the purpose of calculating the total aid, account shall be taken of all aid granted to the beneficiary in relation to eligible costs, including aid granted under other schemes and irrespective of whether the aid is granted by local, regional, national or Community sources;

— eligible costs shall be defined on the basis of the criteria arising from the Community rules applicable on 1 January 2003 to the aid objective concerned;

— the eligible costs that may be taken into account are those incurred between 1 January 1997 and 31 December 2005 under the terms of a programme formally adopted by the company no later than 31 December 2002 and notified to the Ministry of Finance of the Republic of Hungary by 31 January 2003.

(cc) In the case of investment by the beneficiary in relation to public infrastructure, the aid shall be limited to 100 % of the costs incurred up to and including 31 December 2002.

The transitional arrangements set out in this paragraph shall not come into effect if the conditions set out above have not been met.

(b) Any aid granted under the aforementioned legislation, which is not brought into compliance with the conditions set out in paragraph (a) by the date of accession, shall be considered as new aid, pursuant to the existing aid mechanism laid down in Annex IV, Chapter 3 on Competition Policy, to this Act.

(c) Hungary shall supply to the Commission:

— two months after the date of accession, information on the fulfilment of the conditions set out in paragraph (a) above;

— by the end of June 2006, information on the eligible investment costs effectively incurred by the beneficiaries under the aforementioned legislation, and on the total aid amounts received by the beneficiaries.

2. *Off-shore scheme*

(a) Notwithstanding Articles 87 and 88 of the EC Treaty, Hungary may apply corporate tax reductions granted prior to 1 January 2003 on the basis of Articles 4.28 and 19(2) of Act LXXXI of 1996 on Corporate Tax and Dividend Tax up to and including 31 December 2005.

(b) In the event of a merger, acquisition or any similar event, which involves the beneficiary of a corporate tax reduction granted under the aforementioned legislation falling under (a) above, the reduction from corporate tax shall be discontinued.

3. *Local authority fiscal aid*

(a) Notwithstanding Articles 87 and 88 of the EC Treaty, Hungary may apply, up to and including 31 December 2007, local business tax reductions of up to 2 % of the net receipts of undertakings, granted by local government for a limited period of time on the basis of Articles 6 and 7 of Act C of 1990 on Local Taxes, as amended by Article 79(1) and (2) of Act L of 2001 on the Amendment to Financial Laws, as amended by Article 158 of Act XLII of 2002 on Amendment of Acts on Taxes, Contributions, and Other Budgetary Payments,

(b) Undertakings benefiting from Article 21(7), (10) or (11) of Act LXXXI of 1996 on Corporate Tax and Dividend Tax or Article 93 of Act CXXV of 1999 on the Budget of 2000 of the Republic of Hungary, or from aid schemes that are not compatible with Articles 87 and 88 of the EC Treaty, shall not be entitled to the transitional arrangement under (a) above.

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(1) Commission Recommendation 96/280/EC of 3 April 1996 concerning the definition of small and medium-sized enterprises (OJ L 107, 30.4.1996, p. 4).

(2) Within the meaning of Annex C of the Community Multisectoral framework on regional aid for large investment projects framework for state aid to the motor vehicle industry (OJ C 70, 19.3.2002, p. 8).

5. AGRICULTURE

A. AGRICULTURAL LEGISLATION

1. 31997 R 2597: Council Regulation (EC) No 2597/97 of 18 December 1997 laying down additional rules on the common organisation of the market in milk and milk products for drinking milk (OJ L 351, 23.12.1997, p. 13), as last amended by:

— 31999 R 1602: Council Regulation (EC) No 1602/1999 of 19.7.1999 (OJ L 189, 22.7.1999, p. 43).

By way of derogation from Article 3(1)(b) of Regulation (EC) No 2597/97, the requirements relating to fat content shall not apply to drinking milk produced in Hungary for a period of five years from the date of accession, in that Hungary may market milk with a fat content of 2,8 % (m/m) as drinking milk. Drinking milk which does not comply with the requirements relating to fat content may be marketed only in Hungary or exported to a third country.

2. 31999 R 1493: Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ L 179, 14.7.1999, p. 1), as last amended by:

— 32001 R 2585: Council Regulation (EC) No 2585/2001 of 19.12.2001 (OJ L 345, 29.12.2001, p. 10).

By way of derogation from Annex V (C)(2)(d) to Regulation (EC) No 1493/1999, for a period of ten years from the date of accession a minimum natural alcoholic strength of 7,7 % vol. for table wines shall be allowed in all Hungarian wine-growing areas.

3. 32002 R 0753: Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products (OJ L 118, 4.5.2002, p. 1).

By way of derogation from Annex II to Regulation (EC) No 753/2002, the use of the name 'Rizlingszilváni' as a synonym for the variety 'Müller Thurgau' shall be allowed until 31 December 2008 for wines produced in Hungary and exclusively marketed in Hungary.

B. VETERINARY LEGISLATION

1. 31964 L 0433: Council Directive 64/433/EEC on health conditions for the production and marketing of fresh meat (OJ P 121, 29.7.1964, p. 2012, and later amended and consolidated in OJ L 268, 29.6.1991, p. 71), as last amended by:

— 31995 L 0023: Council Directive 95/23/EC of 22.6.1995 (OJ L 243, 11.10.1995, p. 7).

(a) The structural requirements laid down in Annex I to Directive 64/433/EEC shall not apply to establishments in Hungary listed in Appendix A to this Annex until 31 December 2006, subject to the conditions laid down below.

(b) As long as the establishments referred to in paragraph (a) above benefit from the provisions of that paragraph, products originating from those establishments shall only be placed on the domestic market or used for further processing in the same establishment, irrespective of the date of marketing. These products must bear a special health mark.

The previous subparagraph also applies to all products originating from integrated meat establishments where a part of the establishment is subject to the provisions of paragraph (a).

(c) Hungary shall ensure gradual compliance with the structural requirements referred to in paragraph (a) in accordance with the deadlines for correcting existing shortcomings set out in Appendix A to this Annex. Hungary shall ensure that only those establishments which fully comply with these requirements by 31 December 2006 may continue to operate. Hungary shall submit annual reports to the Commission on progress made in each of the establishments listed in Appendix A to this Annex, including a list of the establishments which have corrected existing shortcomings during the year in question.

(d) The Commission may update Appendix A to this Annex referred to in paragraph (a) before accession and until 31 December 2006, and in this context may add to a limited extent or delete individual establishments, in the light of progress made in the correction of existing shortcomings and the outcome of the monitoring process.

Detailed implementing rules to ensure the smooth operation of the above transitional regime shall be adopted in accordance with Article 16 of Directive 64/433/EEC.

2. 31999 L 0074: Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens (OJ L 203, 3.8.1999, p. 53).

Until 31 December 2009, establishments in Hungary listed in Appendix B to this Annex may maintain in service cages not meeting the minimum requirements laid down in Article 5(1)(4) and 5(1)(5) of Directive 1999/74/EC, provided that they were brought into service no later than 1 July 1999 and provided that they are at least 36 cm high over at least 65 % of the cage area and not less than 33 cm high at any point.

6. TRANSPORT POLICY

1. 31991 L 0440: Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways (OJ L 237, 24.8.1991, p. 25), as last amended by:

— 32001 L 0012: Directive 2001/12/EC of the European Parliament and of the Council of 26.2.2001 (OJ L 75, 15.3.2001, p. 1).

Until 31 December 2006, Article 10(3) of Council Directive 91/440/EEC shall only apply in Hungary subject to the following conditions:

— Magyar Államvasutak Rt. (MÁV) shall cooperate with railway undertakings to provide international rail freight for imports, exports and transit through Hungary in a non-discriminatory manner. Access rights set out in Article 10(1) and (2) of the Directive shall be granted without limitation;

— at least 20 % of the annual total capacity of the Trans-European Rail Freight Network in Hungary shall be reserved for railway undertakings other than MÁV, and all origin-destinations shall allow for journey times comparable to those enjoyed by MÁV. The actual capacity of each railway line shall be indicated by the infrastructure manager in the network statement. The above 20 % of the annual total capacity covers the access rights set out in Article 10(1), (2) and (3) of Directive 91/440/EEC.

2. 31992 L 0014: Council Directive 92/14/EEC of 2 March 1992 on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988) (OJ L 76, 23.3.1992, p. 21), as last amended by:

— 32001 R 0991: Commission Regulation (EC) No 991/2001 of 21.5.2001 (OJ L 138, 22.5.2001, p. 12).

By way of derogation from Article 2(2) of Directive 92/14/EEC, the conditions laid down in Article 2(1)(a) of that Directive shall not apply in Hungary until 31 December 2004 in respect of aircraft on the register of, and operated by natural or legal persons established in Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Turkmenistan and Ukraine.

3. 31993 R 3118: Council Regulation (EEC) No 3118/93 of 25 October 1993 laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State (OJ L 279, 12.11.1993, p. 1), as last amended by:

— 32002 R 0484: Regulation (EC) No 484/2002 of the European Parliament and of the Council of 1.3.2002 (OJ L 76, 19.3.2002, p. 1).

(a) By way of derogation from Article 1 of Regulation (EEC) No 3118/93 and until the end of the third year following the date of accession, carriers established in Hungary shall be excluded from the operation of national road haulage services in the other Member States, and carriers established in the other Member States shall be excluded from the operation of national road haulage services in Hungary.

(b) Before the end of the third year following the date of accession, Member States shall notify the Commission whether they will prolong this period for a maximum of two years or whether they will fully apply Article 1 of the Regulation henceforth. In the absence of such notification, Article 1 of the Regulation shall apply. Only carriers established in those Member States in which Article 1 of the Regulation applies may perform national road haulage services in those other Member States in which Article 1 also applies.

(c) Those Member States in which, by virtue of paragraph (b) above, Article 1 of the Regulation applies, may resort to the procedure set out below until the end of the fifth year following the date of accession.

When a Member State referred to in the preceding subparagraph undergoes a serious disturbance of its national market or parts thereof due to or aggravated by cabotage, such as serious excess of supply over demand or a threat to the financial stability or survival of a significant number of road haulage undertakings, that Member State shall inform the Commission and the other Member States thereof and shall supply them with all relevant particulars. On the basis of this information, the Member State may request the Commission to suspend, in whole or in part, the application of Article 1 of the Regulation, in order to restore to normal the situation.

The Commission shall examine the situation on the basis of data provided by the Member State concerned and shall decide within one month of receipt of the request on the need for the adoption of safeguard measures. The procedure laid down in the second, third and fourth subparagraphs of paragraph 3, as well as paragraphs 4, 5 and 6 of Article 7 of the Regulation shall apply.

A Member State referred to in the first subparagraph above may, in urgent and exceptional cases, suspend the application of Article 1 of the Regulation, followed by a reasoned *ex-post* notification to the Commission.

(d) As long as the Article 1 of the Regulation is not applied by virtue of paragraphs (a) and (b) above, Member States may regulate access to their national road haulage services by progressively exchanging cabotage authorisations on the basis of bilateral agreements. This may include the possibility of full liberalisation.

(e) The effect of the application of paragraphs (a) to (c) shall not lead to more restrictive access to national road haulage services than that prevailing on the date of signature of the Treaty of Accession.

4. 31996 L 0053: Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ L 235, 17.9.1996, p. 59), as last amended by:

— 32002 L 0007: Directive 2002/7/EC of the European Parliament and of the Council of 18.2.2002 (OJ L 67, 9.3.2002, p. 47).

By way of derogation from Article 3(1) of Directive 96/53/EC, vehicles complying with the limit values of categories 3.2.1, 3.4.1, 3.4.2, 3.5.1, and 3.5.3 specified in Annex I to that Directive may only use non-upgraded parts of the Hungarian road network until 31 December 2008 if they comply with Hungarian axle-weight limits.

Hungary shall adhere to its timetable for the upgrading of its main transit network, as set out in the indicative table below. Any infrastructure investments involving the use of funds from the Community budget shall ensure that the arteries are constructed or upgraded to a load bearing capacity of 11.5 tonnes per axle. In line with the completion of the upgrading, there shall be a progressive opening of the Hungarian road network for vehicles in international traffic complying with the limit values of the Directive.

Temporary additional charges for using non-upgraded parts of the network with vehicles in international traffic complying with the limit values of the Directive shall be levied in a non-discriminatory manner. Vehicles in excess of the Hungarian axle load limits of 10 tonnes for vehicles without and 11 tonnes for vehicles with air suspension systems shall obtain a Hungarian route permit in order to ensure that certain road structures and bridges are bypassed. Hungary shall accept a deviation of 0.5 tonnes when measuring axle-weights of vehicles with air-suspension systems and will only impose temporary additional charges if the axle weight exceeds 11.5 tonnes.

No temporary additional charges shall be levied upon vehicles complying with the limit values of the Directive when using the following main transit roads:

— transit route Hegyeshalom/Nagylak (Pan-European corridor IV): namely the E60 from the Austrian border to Hegyeshalom and Budapest, E60 Budapest southern bypass, E75 from Budapest to Kiskunfélegyháza;

— transit route Rajka/Nagylak (Pan-European corridor IV): namely the E65 from the Slovakian border to Rajka and Hegyeshalom, E60 from Hegyeshalom to Budapest, E60 Budapest southern bypass, E75 from Budapest to Kiskunfélegyháza;

— transit route Tornyiszentmiklós/Nagylak (Pan-European corridors V and IV): namely from Siófok and Budapest, E60 Budapest southern bypass, E75 from Budapest to Kiskunfélegyháza;

— transit route Hegyeshalom/Röszke (Pan-European corridors IV and X): namely the E60 from the Austrian border to Hegyeshalom and Budapest, E60 Budapest southern bypass, E75 from Budapest to Kiskunfélegyháza;

— transit route Rajka/Röszke (Pan-European corridors IV and X): namely the E65 from the Slovakian border to Rajka and Hegyeshalom, E60 from Hegyeshalom to Budapest, E60 Budapest southern bypass, E75 from Budapest to Kiskunfélegyháza.

Road upgrading programme (km)

Main road network	2001	2002	2003	2004	2005	2006	Total		2007	2008	Total (2007—2008)	Total (2001—2008)
Reinforcement of roads indicated in the map of Annex 2 of CONF-H 37/00 (Road 2, 3, 4, 6, 8, 33, 35, 42, 44, 47, 56, 61)		78	126	270	270	270	1 014					1 014
Reinforcement (Road 41, 49, 51, 58)				51	65	69	185	Reinforcement (Road 74, 87, 86)	100	100	200	385
Reinforcement (other roads)	30	50	70	70	70	70	360	Reinforcement (other roads)	70	70	140	500
New construction (mainly bypasses)	29	49	45	27	35	61	246	New construction (mainly bypasses)	60	60	120	366
Total main road	59	177	241	418	440	470	1 805		230	230	460	2 265
Motorway and expressway network												
New construction (M0, M3, M5, M7, M30, M35, M43, M70)		65	24	20	237	85	431	New construction (M6-56, M7, M8, M0)	177	165	342	773
Total	59	242	265	438	677	555	2 236		407	395	802	3 038

7. **TAXATION**

1. 31977 L 0388: Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1), as last amended by:

— 32002 L 0038: Council Directive 2002/38/EC of 7.5.2002 (OJ L 128, 15.5.2002, p. 41).

(a) By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Hungary may maintain:

(i) a reduced rate of value added tax of no less than 12 % on the supply of coal, coal-brick and coke, firewood and charcoal, and on the supply of district heating services until 31 December 2007, and

(ii) a reduced rate of value added tax of no less than 12 % on the supply of restaurant services and of foodstuffs sold on similar premises until 31 December 2007 or until the end of the transitional period referred to in Article 28 l of the Directive, whichever is the earlier,

(b) Without prejudice to a formal decision to be adopted according to the procedure set out in Article 12(3)(b) of Directive 77/388/EEC, Hungary may maintain a reduced rate of value added tax of not less than 5 % on the supply of natural gas and electricity until one year after the date of accession;

(c) For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, Hungary may maintain an exemption from value added tax on international transport of passengers, referred to in point 17 of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or for as long as the same exemption is applied by any of the present Member States, whichever is the earlier.

2. 31992 L 0079: Council Directive 92/79/EEC of 19 October 1992 on the approximation of taxes on cigarettes (OJ L 316, 31.10.1992, p. 8), as last amended by:

— 32002 L 0010: Council Directive 2002/10/EC of 12.2.2002 (OJ L 46, 16.2.2002, p. 26).

By way of derogation from Article 2(1) of Directive 92/79/EEC, Hungary may postpone the application of the overall minimum excise duty on the retail selling price (inclusive of all taxes) for cigarettes of the price category most in demand until 31 December 2008, provided that during this period Hungary gradually adjusts its excise duty rates towards the overall minimum excise duty provided for in the Directive.

Without prejudice to Article 8 of Council Directive 92/12/EEC on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products [1], and having informed the Commission, Member States may, as long as the above derogation applies, maintain the same quantitative limits for cigarettes which may be brought into their territories from Hungary without further excise duty payment as those applied to imports from third countries. Member States making use of this possibility may carry out the necessary checks provided that these checks do not affect the proper functioning of the internal market.

[1] OJ L 76, 23.3.1992, p. 1. Directive as last amended by Directive 2000/47/EC (OJ L 193, 29.7.2000, p. 73).

8. ENVIRONMENT

A. WASTE MANAGEMENT

1. 31993 R 0259: Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (OJ L 30, 6.2.1993, p. 1), as last amended by:

— 32001 R 2557: Commission Regulation (EC) No 2557/2001 of 28.12.2001 (OJ L 349, 31.12.2001, p. 1).

(a) Until 30 June 2005, all shipments to Hungary of waste for recovery listed in Annexes II, III and IV to Regulation (EEC) No 259/93 and shipments of waste for recovery not listed in those Annexes shall be notified to the competent authorities and processed in conformity with Articles 6, 7 and 8 of the Regulation.

(b) By way of derogation from Article 7(4) of Regulation (EEC) No 259/93, the competent authorities shall object to shipments of waste for recovery listed in Annexes II, III and IV to the Regulation and shipments of waste for recovery not listed in those Annexes destined for a facility benefiting from a temporary derogation from certain provisions of Directives 94/67/EC [1]on the incineration of hazardous waste and 2001/80/EC [2] on the limitation of emissions of certain pollutants into the air from large combustion plants, during the period in which the temporary derogation is applied to the facility of destination.

2. 31994 L 0062: European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

(a) By way of derogation from Article 6(1)(a) and (b) of Directive 94/62/EC, Hungary shall attain the recovery and recycling targets for the following packaging materials by 31 December 2005 in accordance with the following intermediate targets:

— recycling of plastics: 11% by weight by the date of accession, and 14% for 2004;

— recycling of glass: 14% by weight by the date of accession, and 15% for 2004;

— overall recovery rate: 40% by weight by the date of accession, and 43% for 2004.

(b) By way of derogation from Article 6(1)(b) of Directive 94/62/EC, Hungary may set an overall recycling target of 46% from 2005 onwards.

B. WATER QUALITY

1. 31991 L 0271: Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ L 135, 30.5.1991, p. 40), as amended by:

— 31998 L 0015: Commission Directive 98/15/EC of 27.2.1998 (OJ L 67, 7.3.1998, p. 29).

(a) By way of derogation from Articles 3, 4 and 5(2) of Directive 91/271/EEC, the requirements for collecting systems and treatment of urban waste water shall not fully apply in Hungary until 31 December 2015 in accordance with the following intermediate targets:

— by 31 December 2008, compliance with the Directive shall be achieved in sensitive areas for agglomerations with a population equivalent of more than 10 000;

— by 31 December 2010, compliance with the Directive shall be achieved in normal areas for agglomerations with a population equivalent of more than 15 000.

(b) By way of derogation from Article 13 of Directive 91/271/EEC, the requirements for biodegradable industrial waste water from plants belonging to the industrial sectors listed in Annex III shall not apply to the following plants in Hungary until 31 December 2008:

— Pannontej Rt., Répcelak

— Bácsbokodi Tejüzem, Bácsbokod

— Papp Kereskedelmi Kft. Konzervgyár, Nyírtas

— Vépisz Szövetkezet, Konzervüzem, Csegöld

— Szatmári Konzervgyár Kft., Tyukod

— PETISFOOD Kft. Konzervüzem, Vasmegyer

— Atev Rt., Debrecen-Bánk

— Mirsa Rt., Albertirsa

— Makói Tejüzem, Makó

— Zalka Tej Rt., Nagybánhegyes.

2. 31998 L 0083: Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (OJ L 330, 5.12.1998, p. 32).

By way of derogation from Article 9(1) of Directive 98/83/EC, Hungary may provide for derogations from the parametric value for arsenic until 25 December 2009 without communicating such a decision to the Commission. If Hungary wishes to extend such a derogation after that date, the procedure provided for in Article 9(2) shall apply. This derogation does not apply to drinking water intended for food processing.

The procedure provided for in Article 9(2) shall also apply if Hungary wishes to provide for the derogations under Article 9(1) for boron, fluoride and nitrite after 25 December 2006.

C. INDUSTRIAL POLLUTION CONTROL AND RISK MANAGEMENT

1. 31994 L 0067: Council Directive 94/67/EC of 16 December 1994 on the incineration of hazardous waste (OJ L 365, 31.12.1994, p. 34).

By way of derogation from Articles 7 and 11 and Annex III of Directive 94/67/EC, the emission limit values and the requirements for measurements shall not apply to the following incinerators in Hungary until 30 June 2005 as specified below:

— Incinerators of waste oils and other liquid waste:

  — Petró & Petró Kft., Ács: only limit value for total dust, measurements;

  — KÖSZOL Kft., Győr: only limit value for total dust, measurements;

  — Nitrokémia Rt., Balatonfűzfő: only limit value for total dust, measurements;

  — MB Szerviz Kft., Budapest: only limit value for total dust, measurements;

  — Jászautó Kft., Jászberény: only limit value for total dust, measurements.

— Incinerators of hospital waste:

  — Semmelweis Orvostudományi Egyetem, Budapest: only measurements;

  — SEPTOX Kft., Országos Korányi Tbc és Pulmonológiai Intézet, Budapest: only measurements;

  — Progress B-90 Kft., Kistarcsa: only limit value for total dust, measurements;

  — Albert Schweizer Kórház, Hatvan: only limit value for hydrogen chloride, measurements;

  — Jósa András Kórház, Nyíregyáza: only measurements;

  — Erzsébet Kórház, Jászberény: only limit value for hydrogen chloride, measurements;

  — Kátai Gábor Kórház, Karcag: only measurements;

  — Mezőtúri Városi Kórház, Mezőtúr: only measurements;

  — Filantrop Kft., Kecskemét: only measurements;

  — Szegedi Városi Kórház, Szeged: only measurements;

  — Csongrád Megyei Területi Kórház, Szentes: only limit values for total dust, hydrogen chloride and measurements;

  — Markhot Ferenc Kórház, Eger: only measurements;

  — Bugát Pál Kórház, Gyöngyös: only limit value for dioxin, measurements;

  — Pándy Kálmán Kórház, Gyula: only limit values for total dust, hydrogen chloride (HCl), measurements.

— Incinerators and co-incinerators of solid and liquid hazardous waste

  — Dunai Cement és Mészmű Rt., Vác: only measurements;

  — Pannoncem Cementipari Rt., Lábatlan: only emission limit values for Nox, measurements;

  — Megoldás Kft., Szombathely (Shenandoah P60-M2 type incinerator and Energospar-2 type incinerator): only emission limit values for HCl, measurements;

  — Crazy Cargo Kft., Székesfehérvár: only measurements;

  — H+H Dunaforg Kft., Dunaújváros: only measurements;

  — Mosonmagyaróvári Fémszerelvény Rt., Mosonmagyaróvár: only emission limit values for PM, HF, measurements;

  — FORTE Rt., Vác: only measurements;

  — Légiforgalmi és Repülőtéri Igazgatóság, Budapest: only emission limit values for HCl, HF, measurements;

  — MOL Rt. Dunai Finomító, Százhalombatta: only emission limit values for Cr in waste water, measurements;

  — ÉMK Kft., Sajóbábony: only emission limit values for dioxin;

  — Ecomissio Kft., Tiszaújváros: only emission limit values for So_2, HCl, measurements;

— Miskolci Városi Közlekedési Rt., Miskolc (Energospar-2 type incinerator and Pirotherm CV-1 type incinerator): only emission limit values for HM, measurements;

— MOL Rt. Tiszai Finomító, Tiszaújváros: only measurements;

— ICN Hungary Rt., Tiszavasvári: only measurements;

— Hajdúkomm Kft., Debrecen: only measurements;

— Mendoterm Kft., Budapest: only measurements;

— Gyógyszerkutató Intézet, Budapest: only measurements;

— Gyógyszerkutató Intézet, Budakeszi: only measurements.

2. 32001 L 0080: Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants (OJ L 309, 27.11.2001, p. 1).

By way of derogation from Article 4(1) and part A of Annexes III to VII of Directive 2001/80/EC, the emission limit values for sulphur dioxide, nitrogen oxides and dust shall not apply until 31 December 2004 to the following plants in Hungary:

— Budapesti Erőmű Rt., Újpest, Boiler No. 4;

— Budapesti Erőmű Rt., Kőbánya, Boilers Nos. 1, 2, 3 and 4;

— Dorog-Esztergom Erőmű Kft., Dorog, Boilers No. 5 and 6;

— EMA-POWER Kft., Dunaújváros, Boilers Nos. 7 and 8;

— Nyíregyházi Erőmű Kft., Nyíregyháza, Boiler No. 15;

— PANNONPOWER Rt., Pécs, Boilers Nos. 5 and 7;

— Mátra Cukor Rt., Hatvan, 3 boilers;

— Zoltek Rt., Nyergesújfalu, 1 boiler.

(1) OJ L 365, 31.12.1994, p. 34.
(2) OJ L 309, 27.11.2001, p. 1.

9. CUSTOMS UNION

31987 R 2658: Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1), as last amended by:

— 32002 R 0969: Commission Regulation (EC) No 969/2002 of 6.6.2002 (OJ L 149, 7.6.2002, p. 20).

(a) By way of derogation from Article 5(1) of Regulation (EEC) No 2658/87, Hungary may until the end of the third year following the date of accession or until 31 December 2007, whichever is the earlier, open a yearly tariff quota for aluminium, not alloyed (CN Code7601 10 00), in accordance with the following schedule: entsprechend dem folgenden Zeitplan eröffnen:

— a quota of a maximum of 110 000 tonnes, at a rate of 2 % ad valorem, or one third of the prevailing EU duty, whichever is the higher, during the first year;

— a quota of a maximum of 70 000 tonnes, at a rate of 4 % ad valorem, or two thirds of the prevailing EU duty, whichever is the higher, during the second year;

— a quota of a maximum of 20 000 tonnes, at a rate of 4 % ad valorem, or two thirds of the prevailing EU duty, whichever is the higher, during the third year;

provided that the goods in question:

— are released for free circulation in the territory of Hungary and are consumed there or undergo processing conferring Community origin there, and

— remain under customs supervision pursuant to the relevant Community provisions on end-use as laid down in Articles 21 and 82 of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (1).

(b) The provisions laid down above shall be applicable only if a licence issued by the relevant Hungarian authorities stating that the goods in question fall within the scope of the provisions laid down above is submitted in support of the declaration of entry for release for free circulation.

(c) The Commission and the competent Hungarian authorities shall take whatever measures are needed to ensure that the final consumption of the product in question, or the processing by which it acquires Community origin, takes place in the territory of Hungary.

(1) OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council (OJ L 311, 12.12.2000, p. 17).

Appendix A

referred to in chapter 5, Section B, point 1 of Annex X (*)

List of establishments, including shortcomings and deadlines for the correction of these shortcomings

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(*) See OJ C 227 E, 23.9.2003, p. 444.

Appendix B

referred to in Chapter 5, Section B, point 2 of Annex X (*)

List of establishments, including their production (eggs/year)

(*) See OJ C 227 E, 23.9.2003, p. 449.