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Information and Notices

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I

(Information)

COMMISSION

Euro exchange rates ⁽¹⁾

23 July 2002

(2002/C 176/01)

1 euro =

Currency		Exchange rate	Currency		Exchange rate
USD	US dollar	0,991	LVL	Latvian lats	0,5932
JPY	Japanese yen	116,37	MTL	Maltese lira	0,4151
DKK	Danish krone	7,4331	PLN	Polish zloty	4,057
GBP	Pound sterling	0,6329	ROL	Romanian leu	32943
SEK	Swedish krona	9,4645	SIT	Slovenian tolar	226,684
CHF	Swiss franc	1,4549	SKK	Slovak koruna	44,565
ISK	Iceland króna	85,39	TRL	Turkish lira	1665000
NOK	Norwegian krone	7,548	AUD	Australian dollar	1,823
BGN	Bulgarian lev	1,9477	CAD	Canadian dollar	1,5625
CYP	Cyprus pound	0,57494	HKD	Hong Kong dollar	7,7297
CZK	Czech koruna	30,18	NZD	New Zealand dollar	2,0763
EEK	Estonian kroon	15,6466	SGD	Singapore dollar	1,729
HUF	Hungarian forint	244,74	KRW	South Korean won	1152,63
LTL	Lithuanian litas	3,4524	ZAR	South African rand	10,0126

⁽¹⁾ Source: reference exchange rate published by the ECB.

Information procedure — Technical rules

(2002/C 176/02)

(Text with EEA relevance)

Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and rules on Information Society services (OJ L 204, 21.7.1998, p. 37; OJ L 217, 5.8.1998, p. 18).

Notifications of draft national technical rules received by the Commission

Reference ⁽¹⁾	Title	End of three-month standstill period ⁽²⁾
2002/239/F	Decision No 02-... of the French Telecommunications Regulatory Authority of ... 2002 amending the frequencies allocated to low-power, short-range radio installations in the 446 MHz band	25.9.2002
2002/249/B	Draft Royal Decree organising the monitoring and accreditation of certification service providers who issue qualified certificates	30.9.2002
2002/250/NL	Regulation concerning type designation of breath testing equipment 3	2.10.2002
2002/251/F	Draft Order relating to technical regulations on the design and operation for the connection to public distribution networks of electricity consumer installations	4.10.2002
2002/252/F	Draft Decree on general technical regulations on design and operation with which installations must comply in view of their connection to public distribution networks	4.10.2002
2002/253/F	Draft Order relating to technical regulations on the design and operation for the connection to public distribution networks of electricity generating installations	4.10.2002
2002/254/UK	UK Radio Interface Requirement 2006 Short Range, Broadband, Data Services (Hiperlan) operating in the frequency range 5-6 GHz	3.10.2002
2002/259/DK	Notice from the Danish Maritime Authority D. Technical regulation on the construction and equipment etc. of ships, Chapters I, IV and VI	7.10.2002
2002/260/S	Agreement on cords/drawstrings and hoods on children's clothing	7.10.2002
2002/261/S	Guidelines containing safety requirements for cots, highchairs and bunkbeds/hig beds	7.10.2002

⁽¹⁾ Year — registration number — Member State of origin.

⁽²⁾ Period during which the draft may not be adopted.

⁽³⁾ No standstill period since the Commission accepts the grounds of urgent adoption invoked by the notifying Member State.

⁽⁴⁾ No standstill period since the measure concerns technical specifications or other requirements linked to fiscal or financial measures, pursuant to the third indent of the second paragraph of Article 1(11) of Directive 98/34/EC.

⁽⁵⁾ Information procedure closed.

The Commission draws attention to the judgment given on 30 April 1996 in the 'CIA Security' case (C-194/94 — ECR I, p. 2201), in which the Court of Justice ruled that Articles 8 and 9 of Directive 98/34/EC (formerly 83/189/EEC) are to be interpreted as meaning that individuals may rely on them before the national court which must decline to apply a national technical regulation which has not been notified in accordance with the Directive.

This judgment confirms the Commission's Communication of 1 October 1986 (OJ C 245, 1.10.1986, p. 4).

Accordingly, breach of the obligation to notify renders the technical regulations concerned inapplicable, so that they are unenforceable against individuals.

If you require any information on these notifications, please contact the national departments listed below:

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List of members of the ECSC Consultative Committee proposed by the representative European organisations for the Consultative Subcommittee for Coal, Steel and Industrial Conversion within the Economic and Social Committee

(2002/C 176/03)

	Organisation	STEEL		Organisation	COAL	
		Full members	Alternate members		Full members	Alternate members
Consumers/ dealers	Orgalime	Birken-Bertsch Castañeda Dhejne Diederich Julien-Vauzelle Masi Nusser	Bay MacDonald Mäki Maurizio Niemi Nota Tordoff	Euriscoal	Glorieux Guieze Mack	Bloemendal Kirkpatrick Vivar
Workers	EMF	Andersson Cué Gibellieri Leahy Mainguy San Miguel Schmidt	Barthel Biondo Breidbach Detaille Duynhoven Haas Shannon	EMCEF	Mohr Varea Wodopia	Carragher Mainguy Mastenbroek
Producers	Eurofer	Bartolomé Chacornac Hosman Kormann Legelius Rodgers Vescovi	Alvarez Joos May Paschinger Smolsky Tiktopoulos	CECSO	González Reichel Rostron	Berte Parry Ziesler

RESOLUTION OF THE ECSC CONSULTATIVE COMMITTEE
ON THE OCCASION OF ITS FINAL SESSION
ON THE LEGACY OF THE EUROPEAN COAL AND STEEL COMMUNITY

(Adopted unanimously at the 361st session on 26 June 2002)

(2002/C 176/04)

1. THE CONSULTATIVE COMMITTEE OF THE EUROPEAN COAL AND STEEL COMMUNITY,
 - 1.1. with reference to the Preamble to the Treaty establishing the European Coal and Steel Community, and, in particular, to the desire to help raise the standard of living, further the works of peace and, by establishing an economic community, create the basis for a deeper community among peoples;
 - 1.2. recalling Jean Monnet's address at the first meeting of the Consultative Committee on 26 January 1953, and, in particular, his emphasis on improving production, on free access for all users to all sources of supply, at reduced prices and with no discrimination, and on improving living and working conditions, all key objectives of ECSC activities;
 - 1.3. emphasising that the Consultative Committee is currently the only institution set up under the ECSC Treaty which is still in existence in its original form and that, for five decades, it has made possible concerted management of all issues relating to the development of the coal and steel industries;
 - 1.4. referring to the Commission communication ⁽¹⁾ of 27 September 2000 on the future of structured dialogue after the expiry of the ECSC Treaty;
 - 1.5. referring to its Resolution ⁽²⁾ of 25 January 2001 on the future of structured dialogue in the coal and steel industries;
 - 1.6. referring to its Resolution ⁽³⁾ of 6 April 2000 on the state of the competitiveness of the steel industry in the EU;
 - 1.7. referring to its declarations of 25 June 1999 on the role of coal in the Europe of the 21st century and of 5 April 2001 on the role of steel in Europe at the beginning of the 21st century;
 - 1.8. referring to its opinion ⁽⁴⁾ of 25 January 2002 on the Commission communication 'A European Union strategy for sustainable development',
2. WISHES TO EXPRESS ITS SATISFACTION AT THE EFFORTS MADE TO PRESERVE THE ACHIEVEMENTS OF THE ECSC AFTER THE TREATY EXPIRES,
 - 2.1. firstly, at the creation, under the Decision of the Representatives of the Governments of the Member States, meeting within the Council, of 27 February 2002 on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel ⁽⁵⁾, of the Research Fund for Coal and Steel, to continue collaborative sectoral research on the basis of the guidelines annexed to that Decision; it is particularly important for the industry to continue to be involved in the distribution of the research funds generated by the ECSC levy and for the network of experts set up by the ECSC to continue in existence. The Consultative Committee is also gratified to note that their access to the EU's general framework programmes will not be restricted because of post-ECSC research which is outside the EU budget;
 - 2.2. secondly, at the setting-up, within the Economic and Social Committee, of a Consultative Subcommittee for Coal, Steel and Industrial Conversion, in which, in addition to the members of the ESC representing the two sectors, 30 delegates from the three Consultative Committee categories who have the know-how gained from experience with the ECSC and first-hand knowledge of industrial and social reality will be responsible for ensuring that structured sectoral dialogue continues;
 - 2.3. thirdly, at the adoption by the Commission on 19 March 2002 of a communication on the multisectoral framework on regional aid for large investment projects and on rescue, restructuring and closure aid for the steel industry, under which neither the expiry of the ECSC Treaty nor the enlargement expected for 2004 will lead to any relaxation of the strict aid regime applying in the EU steel sector. Those types of aid which are known to be damaging to healthy competition — investment aid, regional aid, rescue and restructuring aid — will continue to be banned in the steel sector;
 - 2.4. fourthly, at the political agreement in the Council on 7 June 2002 on the proposal for a Council Regulation on State aid to the coal industry, which maintains the principles of the ECSC as regards flanking measures to go with restructuring, whilst placing this issue in the context of security of supply and sustainable development for the 21st century,

⁽¹⁾ COM(2000) 588 final.

⁽²⁾ OJ C 87, 17.3.2001.

⁽³⁾ OJ C 136, 16.5.2000, p. 7.

⁽⁴⁾ OJ C 54, 1.3.2002, p. 5.

⁽⁵⁾ OJ L 79, 22.3.2002.

3. URGES THE EU INSTITUTIONS TO BEAR IN MIND THAT:

3.1. the ECSC sectors have substantially increased their efforts to protect the environment with a view to sustainable development. It is vitally important that the authorities — essentially at European level — take into account the progress made;

3.2. undertakings in the coal and steel industries are increasingly constrained by the rising tide of regulations and administrative provisions issued by European, national, regional and local authorities. Excessive bureaucratic regulation is stifling investment capacity, which is crucial for the maintenance and improvement of overall competitive capacity and the improvement of environmental protection. The authorities should endeavour to take a balanced view of economic, environmental and social constraints;

3.3. undertakings in the ECSC sector need young and highly qualified engineers and entrepreneurs to enable them to develop. Schools and universities should play their part in arousing greater interest in industry and technology. Society as it is today cannot survive without an effective industrial base;

3.4. international negotiations on sustainable and verifiable world-level reductions in the steel industry's excess capacity should be speeded up within the WTO and the OECD. In view of the Consultative Committee's experience in restructuring the ECSC sectors, the social partners should be involved in these negotiations;

3.5. to promote the competitiveness of their steel industries, the CEEC governments must reduce their controls and speed up the privatisation process, whilst complying with the ECSC Aid Code. Local undertakings must also cut capacity in line with a realistic estimate of foreseeable demand. The Consultative Committee considers that the Commission should take this point into account when negotiations on these important issues are concluded, ensuring that there is strict compliance with the relevant commitments,

4. NEVERTHELESS WISHES TO EXPRESS ITS CONCERN ABOUT THE MEANS USED TO SECURE THE BENEFIT OF THE ECSC LEGACY, NOTING IN PARTICULAR THAT:

4.1. the various ECSC social measures, more especially aid for retraining, have gradually been stopped without being replaced by equivalent measures under the EC Treaty,

with the risk of serious restructuring problems in the future, notably in countries which will be joining the European Union;

4.2. the sectoral approach to the use of the Structural Funds, as illustrated in the Community's Resider and Rechar initiatives, has been abandoned instead of acting as a link with ECSC measures;

4.3. there is no guaranteed future for the Paul Finet Foundation, which was set up to award study grants to the orphans of workers in the coal and steel industries who had died as a result of industrial accidents or diseases, and which thus symbolises the ECSC's social conscience;

4.4. the merger of the Safety and Health Commission for the Mining and Other Extractive Industries with the Advisory Committee on Safety, Hygiene and Health Protection at Work raises a serious problem, in view of which the Committee recommends that the Commission continue to treat prevention in the mining industry as a special case, since the work involved is high risk,

5. WOULD LIKE, AS ITS WORK DRAWS TO A CLOSE, TO EXPRESS ITS FEELINGS OF GRATITUDE AND PRIDE BY:

5.1. paying solemn tribute to the workers in the two sectors whose efforts and devotion enabled the ECSC to be created and to operate, in particular the victims of serious industrial accidents and diseases;

5.2. paying tribute to all those involved in the two industries who, by their commitment and their willingness to engage in social dialogue and promote social peace, made it possible to develop what is today an efficient and competitive industrial tool;

5.3. recalling that the European Union came into being in the coal and iron ore mines and in the steelworks and that the process which began in 1952 with the ECSC has drawn to a conclusion in 2002 with the introduction of the single currency;

5.4. paying a sincere tribute to the citizens of the Grand Duchy of Luxembourg — the first country to play host to the European institutions — whose hospitality has provided an especially calm backdrop, firstly to the work of the High Authority and the Consultative Committee and then for all the Community institutions.

II

(Preparatory Acts pursuant to Title VI of the Treaty on European Union)

Initiative of the Kingdom of Denmark with a view to adopting a Council Decision on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States

(2002/C 176/05)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 30(1)(a), (b) and (c), Article 30(2)(c) and Article 34(2)(c) thereof,

Having regard to the initiative of the Kingdom of Denmark ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) At its meeting in Vienna on 11 and 12 December 1998 the European Council called for a strengthening of action against organised crime in the light of the new possibilities opened up by the Treaty of Amsterdam, which include cooperation and joint initiatives in the exchange of liaison officers and secondments within five years after the entry into force of the Treaty of Amsterdam on 1 May 1999.
- (2) At its meeting in Tampere on 15 and 16 October 1999 the European Council invited the Council and the Commission, in close cooperation with the European Parliament, to promote the full and immediate implementation of the Treaty of Amsterdam, on the basis of the action plan agreed at the meeting of the European Council in Vienna on 11 and 12 December 1998 and of the political guidelines and concrete objectives agreed in Tampere.
- (3) At its meeting in Helsinki on 10 and 11 December 1999, the European Council urged the European Union to intensify its efforts at the international level by stepping up cooperation with third countries in reducing the demand for and supply of drugs, and on justice and home affairs. The European Council also noted that there would be a need for combined efforts by all the relevant authorities, with a particular role for Europol.
- (4) At its meeting in Laeken on 14 and 15 December 2001 the European Council confirmed the guidelines and objectives defined at Tampere. The European Council

also noted that there was a need for new impetus and guidelines to make good delays in some areas.

- (5) On 14 October 1996 the Council adopted Joint Action 96/602/JHA providing for a common framework for the initiatives of the Member States concerning liaison officers ⁽³⁾.
- (6) In the light of experience in applying the Joint Action and in the light of the provisions of the Treaty of Amsterdam on combating cross-border crime, cooperation on the posting of liaison officers to third countries and international organisations needs to be strengthened and developed.
- (7) In so far as is relevant for performing the tasks defined in the Europol Convention ⁽⁴⁾, Europol may establish and maintain cooperative relations with third countries and external organisations.
- (8) Europol has established and will continue to establish and maintain cooperative relations with a wide range of third countries and external organisations.
- (9) Europol needs to be given the necessary support and means to function effectively as the focal point of European police cooperation. The European Council has stressed that Europol plays a central role in cooperation between the authorities of the Member States in investigating cross-border crime by supporting the prevention, analysis and investigation of crime at Union level.
- (10) Europol needs to be given the opportunity to make use to some extent of Member States' liaison officers in third countries, so as to strengthen Europol's operative support function in relation to national police authorities.
- (11) Member States recognise that extensive cooperation is already taking place between Member States' liaison officers posted to third countries and international organisations. However, there is a need to strengthen some aspects of cooperation between those liaison officers, to make the best possible use of Member States' resources.
- (12) Cooperation between Member States in this area needs to be strengthened so as to facilitate the exchange of information with a view to combating serious cross-border crime.

⁽¹⁾ OJ ...

⁽²⁾ OJ ...

⁽³⁾ OJ L 268, 19.10.1996, p. 2.

⁽⁴⁾ OJ C 316, 27.11.1995, p. 2.

(13) Member States attach particular weight to cooperation in combating cross-border crime, as they believe that strengthening cooperation regarding the exchange of information will enhance the national authorities' capabilities to combat crime effectively. Member States believe that Europol should play a central role in this.

(14) The aim of this Decision is to regulate questions relating to the fight against serious cross-border crime. However, the Decision does not cover questions relating to asylum or immigration.

(15) The provision in the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at the common borders ⁽¹⁾ (hereinafter 'Convention implementing the Schengen Agreement') which relates to the common use of liaison officers should be developed further, with a view to strengthening cooperation between Member States in the fight against cross-border crime.

(16) Regarding Iceland and Norway, this Decision is with the exception of Article 9 a further development of the provisions in the Schengen *acquis* under the terms of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* ⁽²⁾, falling within Article 1(H) of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement ⁽³⁾.

(17) The United Kingdom shall participate in this Decision in accordance with Article 5 of the Protocol integrating the Schengen *acquis* into the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community, and Article 8(2) of Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽⁴⁾.

(18) Ireland shall participate in this Decision in accordance with Article 5 of the Protocol integrating the Schengen *acquis* into the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community, and Article 6(2) of Council

Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽⁵⁾,

HAS DECIDED AS FOLLOWS:

Article 1

Definition

1. In this Decision, 'liaison officer' means a representative of one of the Member States, posted to one or more third countries or to international organisations with a view to establishing and maintaining contacts with the authorities in those countries or organisations with a view to preventing or investigating criminal offences.

2. This Decision is without prejudice to Member States' liaison officers' tasks within the framework of their responsibilities and in compliance with national law and any agreements concluded with the host State or the international organisation.

Article 2

Tasks of liaison officers

1. Member States shall ensure that its liaison officers establish and maintain direct contacts with competent authorities in the host State or the international organisation, with a view to facilitating and expediting the collection and exchange of information.

2. Each Member State's liaison officer shall also contribute to the collection and exchange of information, particularly of a strategic nature, which may be used to combat serious cross-border crime, including information providing a readier knowledge of the legal systems and operational methods available in the States or international organisations concerned.

Article 3

Notification of the posting of liaison officers

1. Member States shall inform the General Secretariat of the Council of the European Union (hereinafter 'the General Secretariat of the Council') each year of posting of liaison officers, including their responsibilities and any cooperative agreements between the Member States on the posting of liaison officers.

2. The General Secretariat of the Council shall draw up an annual summary to be sent to Member States and to Europol concerning Member States' postings of liaison officers, including their responsibilities.

⁽¹⁾ OJ L 239, 22.9.2000, p. 19.

⁽²⁾ OJ L 176, 10.7.1999, p. 36.

⁽³⁾ OJ L 176, 10.7.1999, p. 31.

⁽⁴⁾ OJ L 131, 1.6.2000, p. 43.

⁽⁵⁾ OJ L 64, 7.3.2002, p. 20.

*Article 4***Liaison officer networks in third countries**

1. Member States shall ensure that Member States' liaison officers posted to the same third country or international organisation meet regularly and whenever relevant to exchange relevant information. The Member State holding the Presidency of the Council of the European Union shall ensure that its liaison officers take the initiative to hold such meetings. If the Member State holding the Presidency of the Council of the European Union is not represented in the third country or international organisation concerned, then the representative of the Member State appointed for that purpose shall take the initiative to hold the meeting. The Commission and Europol shall be notified of such meetings and may be invited to take part in the meetings where this is judged to be appropriate.

2. Member States shall ensure that its liaison officers posted to the same third country or international organisation provide one another with assistance in contacts with the authorities of the host State. Where relevant, Member States may agree that their liaison officers shall share tasks among themselves.

3. Member States may bilaterally or multilaterally agree that liaison officers who are posted to a third country or international organisation by a Member State shall also look after the interests of one or more other Member States.

*Article 5***Cooperation between Member States regarding the exchange of information via liaison officers in third countries**

1. Member States shall ensure that its liaison officers in third countries and international organisations shall, in accordance with national law and relevant international instruments, provide its respective national authorities with information relating to serious criminal threats to other Member States not represented by their own liaison officers in the third country or international organisation concerned. National authorities shall inform the Member States concerned.

2. Member States' liaison officers in third countries or international organisations may, in accordance with national law and relevant international instruments, provide information relating to criminal threats to other Member States directly to the liaison officers of the Member State in question, if that Member State is represented in the third country or international organisation concerned.

3. In accordance with national law and relevant international instruments, Member States which do not have liaison officers in a third country or international organisation may make a request to another Member State which does have liaison officers in the third country or international organisation concerned, with a view to the exchange of relevant information.

4. Member States shall deal with any request as described in paragraph 3 in accordance with national law and relevant international instruments, and shall state as speedily as possible whether such a request may be met.

5. Member States may consent to information being exchanged directly between liaison officers in third countries and international organisations and the authorities of other Member States.

*Article 6***Joint seminars for liaison officers**

1. To enhance cooperation between liaison officers in one or more third countries and international organisations, where there are specific needs for knowledge of and intervention in the third countries and international organisations concerned, Member States may hold joint seminars on crime trends and on the most effective methods of combating cross-border crime.

2. Participation in the seminars described in paragraph 1 must not hinder liaison officers in the performance of their duties.

*Article 7***Cooperation between liaison officers of the various authorities of the Member States**

1. Member States having liaison officers belonging to different authorities shall ensure appropriate forms of cooperation between those officers having regard to their respective authorities' tasks.

2. To this end Member States shall encourage:

(a) contacts between the authorities which post and manage liaison officers,

(b) suitable coordination of information on the posting of those liaison officers,

(c) contacts between liaison officers in the States to which they are posted.

*Article 8***National contact points**

1. Member States shall establish or designate a national contact point to facilitate the tasks referred to in this Decision.

2. Member States shall inform the General Secretariat of the Council in writing of its national contact point and of any subsequent changes pursuant to this Decision. The General Secretariat of the Council shall publish this information in the Official Journal.

3. Member States shall ensure that the national contact point is able to carry out its duties efficiently and speedily.

4. This Decision applies without prejudice to existing national provisions, particularly as regards the division of competence between the various authorities and services in the Member States concerned.

Article 9

Europol

1. Member States shall ensure that, in accordance with national law and the Europol Convention, Europol may request information from Member States' liaison officers in third countries or international organisations where Europol is not represented.

2. Europol's requests shall be addressed to the Member States' National Units, which, in accordance with national law and the Europol Convention, shall take a decision on the request. Information from Member States' liaison officers in third countries or international organisations shall be trans-

mitted to Europol in accordance with national law and the Europol Convention.

3. When establishing the duties of their liaison officers, Member States shall where appropriate pay attention to the tasks which under the Europol Convention are to be carried out by Europol.

Article 10

Repeal

1. Joint Action 96/602/JHA is hereby repealed.

2. Article 47(4) of the Convention implementing the Schengen Agreement is hereby repealed.

Article 11

Entry into force

This Decision shall enter into force 14 days after its publication in the Official Journal.

Done at ...

For the Council

The President

...

III

(Notices)

COMMISSION

Irish Sugar Intervention Agency (ISIA), Dublin
Fonds d'intervention et de régularisation du marché du sucre (FIRS), Paris
Bundesanstalt für Landwirtschaft und Ernährung (BLE), Frankfurt am Main
Agenzia per le erogazioni in agricoltura (AGEA), Roma
Hoofdproductschap Akkerbouw (HPA), Den Haag
Bureau d'intervention et de restitution belge (BIRB), Bruxelles
Ministère de l'agriculture, Luxembourg
Rural Payments Agency (RPA), Newcastle
Direktoratet for FødevareErhverv, København
Οργανισμός Πληρωμών και Ελέγχου Κοινοτικών Ενισχύσεων Προσανατολισμού και Εγγυήσεων (ΟΠΕΚΕΠΕ), Αθήνα
Fondo Español de Garantía Agraria (FEGA), Madrid
Ministério do Comércio e Turismo, Direcção-Geral do Comércio, Lisboa
Agrarmarkt Austria, Wien
Maa- ja metsätalousministeriö, interventioyksikkö, Helsinki
Statens jordbruksverk (SJV), Jönköping

Notice of a standing invitation to tender in order to determine levies and/or refunds on exports of white sugar

(No 1/2002)

(2002/C 176/06)

I. SUBJECT

1. A standing invitation to tender will be held in order to determine levies and/or refunds on exports of white sugar falling within CN code 1701 99 10.

2. The standing invitation to tender shall be conducted in accordance with the provisions laid down in:

— Article 28 of Regulation (EC) No 1260/2001 ⁽¹⁾,

and

— Regulation (EC) No 1331/2002 ⁽²⁾.

II. TIME LIMITS

1. The standing invitation to tender shall remain open until 31 July 2003. During the period of validity of this invitation, partial invitations will be issued.

2.1. The period during which tenders may be submitted in response to the first partial invitation will begin on 26 July 2002 and will expire at 10 a.m. on Thursday 1 August 2002.

2.2. The period during which tenders may be submitted in response to the second and subsequent partial invitations will begin on the first working day following the day on which the preceding period ends.

2.3. The period for the submission of tenders will end at 10 a.m. on 1, 8, 22 and 29 August 2002, 5, 12, 19 and 26 September 2002, 3, 10, 17, 24 and 31 October 2002, 7, 14, 21 and 28 November 2002, 5 and 19 December 2002, 3, 16 and 30 January 2003, 13 and 27 February 2003, 13 and 27 March 2003, 10 and 24 April 2003, 8 and 22 May 2003, 5, 12, 19 and 26 June 2003, and 3, 10, 17 and 31 July 2003.

3. The time limits laid down in this notice are expressed in Belgian time.

4. Subject to its amendment or replacement, the terms of this notice will apply to every partial invitation to tender held during the period of validity of this standing invitation to tender.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 195, 24.7.2002, p. 6.

III. TENDERS

1. This notice invites interested parties to submit, for each partial invitation to tender, tenders for the export levy and/or export refund for the sugar referred to in Title I above.

2.1. Written tenders must reach the competent agency of a Member State no later than the dates and times indicated in point 2 of Title II, and must either be handed in, in return for a receipt, or be sent by registered post or by telegram, or else by telex, fax or electronic-mail provided the competent agency accepts those forms of transmission, to one of the following addresses:

— Rural Payments Agency

Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YE
United Kingdom
(Telex 848 302; tel. (44) 191-226 52 80;
(44) 191 226 51 82; fax (44) 191-226 52 12)

— Irish Sugar Intervention Agency

Department of Agriculture and Food
Agriculture House, Kildare Street
Dublin 2
Ireland
(Tel. (353-1) 607 20 00; fax (353-1) 676 40 37)

— Fonds d'intervention et de régularisation

du marché du sucre
120, boulevard de Courcelles
F-75017 Paris
[téléphone (33) 156 79 46 00;
télécopieur (33) 156 79 46 60]

— Bundesanstalt für Landwirtschaft und Ernährung

Referat 325
Adickesallee 40
D-60322 Frankfurt am Main
(Tel. (49-69) 15 64-0;
Fax (49-69) 15 64-624/793)

— Agenzia per le erogazioni in agricoltura

Direzione organismo pagatore
Colture specializzate
Via Palestro 81
I-00185 Roma
[telex (06) 62 00 64;
tel. (39-06) 49 49 95 63/(39-06) 49 49 95 76;
fax (39-06) 445 39 16]

— Hoofdproductschap Akkerbouw

Stadhoudersplantsoen 12
2517 JL Den Haag
Nederland
(tel. (31-70) 370 87 08;
fax (31-70) 346 14 00 — (31-70) 370 84 44
e-mail: hpa@hpa.agro.nl)

— Bureau d'intervention et de restitution belge
Rue de Trèves 82
B-1040 Bruxelles
[téléx 240 76, 655 67; tél. (32-2) 287 24 11;
télécopieur (32-2) 230 25 33 — (32-2)
280 03 07]

— Office des Licences
21, rue Philippe II, Boîte postale 113
L-2011 Luxembourg
[téléphone (352) 478 23 70;
télécopieur (352) 46 61 38
téléx: 2537 AGRIM LU]

— Direktoratet for FødevarerErhverv

Kampmannsgade 3
DK-1780 København V
(tlf. (45) 33 95 80 00;
fax (45) 33 95 80 80)

— Οργανισμός Πληρωμών και Ελέγχου Κοινοτικών
Ενισχύσεων Προσανατολισμού και Εγγυήσεων
(ΟΠΕΚΕΠΕ)
Αχαρνών 241, Αθήνα
[telex 221 734 — 221 735 — 221 738;
fax (301) 867 11 11 Αθήνα]

— Fondo Español de Garantía Agraria

Beneficencia, 8
E-28004 Madrid
[Telex FEGA (34) 91 347 63 97
Tel. (34) 91 347 63 10/91 347 64 68
Fax (34) 91 521 98 32/91 347 64 65
e-mail: sgarmoni@fega.mapya.es]

— Ministério das Finanças

Direcção-Geral das Alfândegas e dos Impostos
Especiais sobre o Consumo
Direcção de Serviços de Licenciamento
Edifício da Alfândega
Rua Terreiro do Trigo
P-1149-060 Lisboa
[Tel. (351) 218 81 42 63
Fax (351) 218 81 42 61]

— Agrarmarkt Austria

Dresdnerstraße 70
A-1200 Wien
(Tel. (43-1) 33 15 12 08; Fax (43-1) 33 15 13 03)

— Maa- ja metsätalousministeriö

Interventioyksikkö
Malminkatu 16
PL 30
FIN-00023 Valtioneuvosto, Helsinki
(puh. (358-9) 160 01; faksi (358-9) 16 05 27 78)

— Statens jordbruksverk

Vallgatan 8
S-551 82 Jönköping
(telex 709 91 SJV-S; tfn (46-36) 15 50 00;
fax (46-36) 19 05 46).

- 2.2. Tenders not submitted by telex, telegram, fax or e-mail message must reach the address concerned in double sealed envelopes. The inner envelope, also sealed, must carry the words: 'Tender under standing invitation to tender to determine levies and/or refunds on exports of white sugar, No 1/2002 — Confidential'.
3. The tender must indicate:
- (a) the reference number of the invitation to tender (No 1/2002);
 - (b) the name and address of the tenderer;
 - (c) the quantity of white sugar to be exported;
 - (d) the amount of the export levy, or export refund, per 100 kilograms of white sugar, expressed in euro to three decimal places;
 - (e) the amount of the security to be lodged covering the quantity of sugar referred to under (c), expressed in the currency of the Member State in which the tender is submitted.
4. A tender will be valid only if:
- (a) before the expiry of the time limit for the submission of tenders, the security referred to under IV, or proof that this security has been lodged, has been furnished to one of the addresses listed under III.2.1 chosen by the tenderer for the submission of the tender;
 - (b) it is in respect of at least 250 tonnes of white sugar;
 - (c) it includes a declaration by the tenderer that if his tender is successful he will apply within the time limit specified under V.6.1(b) for an export licence or licences in respect of the quantities of white sugar to be exported;
 - (d) it includes a declaration by the tenderer that the product for exports is white sugar of fair, sound and marketable quality, falling within CN code 1701 99 10;
 - (e) it includes a declaration by the tenderer that if his offer is successful he will:
 - where the obligation to export created by the export licence referred to under V.6.1(b) is not fulfilled, supplement the security by the payment of the amount referred to in VI.3, and
 - within 30 days following the expiry of the export licence in question notify the agency which issued the licence of the quantity of quantities in respect of which the licence was not used;
- (f) it includes all the particulars specified in III.3.
5. The tender, as well as the proofs and declarations referred to in points 3 and 4, must be in the official language, or one of the official languages, of the Member State in which the tender is submitted.
 6. A tender which is not submitted in accordance with this notice, or which contains terms other than those in this notice, will not be considered.
 7. Once submitted, a tender cannot be withdrawn.
 8. A tender may stipulate that it is to be regarded as having been submitted only if:
 - (a) a decision is taken on the minimum amount of the export levy, or the maximum amount of the export refund, on the day on which the period for the submission of tenders expires;
 - (b) the award of the tenders is for the entire quantity or for a specific part thereof.
- #### IV. SECURITY
- 1.1. A security of EUR 11 per 100 kilograms of sugar to be exported under this standing invitation to tender must be lodged by each tenderer.
 - 1.2. Without prejudice to VI.3, the security referred to in 1.1 shall in the case of successful tenderers and at the time of the application referred to in V.6.1(b) become the security for the export licence.
 - 2.1. The security may be lodged at the tenderer's choice, either in cash or in the form of a guarantee given by a bank approved by the Member State concerned and expressed in the currency of that Member State. The guarantee must be made out in favour of the competent authority concerned.
 - 2.2. However, for a tender submitted to the competent authority in Germany, the security must be in favour of the Federal Republic of Germany. For a tender submitted to the competent authority in the other Member States, the guarantee may also be given by a financial institution approved by the Member State concerned. The guarantee must be made out in the official language, or in one of the official languages, of the Member State in which the tender is submitted.

3.1. Except in case of force majeure the security shall be released:

- (a) to unsuccessful tenderers in respect of the quantity for which no award has been made;
- (b) to successful tenderers who have not applied for their export licence within the period laid down in V.6.1(b), to the extent of EUR 10 per 100 kilograms of white sugar.

However, this part of the releasable security will be reduced by the amount representing the difference existing as applicable:

- between the maximum amount of the export refund fixed for the partial invitation in question and the maximum amount of the export refund fixed for the following partial invitation when the latter amount is higher than the former,
- or between the minimum amount of the export levy fixed for the partial invitation in question and the minimum amount of the export levy fixed for the following partial invitation when the latter is lower than the former;

- (c) to successful tenderers, for the quantity for which they have fulfilled, within the meaning of Article 31(b) and the first subparagraph of Article 32(1)(b)(i) of Commission Regulation (EC) No 1291/2000⁽¹⁾, the export obligation resulting from the licence referred to in V.6.1(b) in accordance with the terms of Article 35 of that Regulation.

3.2. The part of the security or the security which is not released shall be forfeit in respect of the quantity of sugar for which the corresponding obligations have not been fulfilled.

4. In case of force majeure the competent authority will determine the measures necessary in view of the circumstances put forward by the party concerned.

V. AWARD OF CONTRACTS

1. After examination of the offers a maximum quantity may be fixed for each of the partial invitations to tender.
2. It may be decided that no award should be made under a specific partial invitation to tender.

3.1. Except where point 2 applies and without prejudice to points 4 and 5, where a minimum export levy is fixed an award will be made to the tenderer or tenderers who

quote either the same levy as the minimum levy or a higher figure.

3.2. Except where point 2 applies, and without prejudice to points 4 and 5, where a maximum export refund is fixed, an award will be made to the tenderer or tenderers who quote either the same refund as the maximum refund or a lower figure, or to every tenderer quoting an export levy.

4. Where a maximum quantity has been fixed for a partial invitation to tender:

- in the case of a minimum levy, an award will be made to the tenderer quoting the highest export levy. If the maximum quantity is not totally accounted for by this award, then further awards will be made, until the entire quantity is fully accounted for, to those tenderers quoting the next highest export levy,
- in the case of a maximum refund, and where there are offers for export levies, awards will be made in accordance with the preceding indent. After all offers for export levies have been accepted, or where there are no such offers, awards will be made to the tenderers quoting a refund, in ascending order of refunds, until the entire maximum quantity is fully accounted for.

5.1. Where, however, the provisions in point 4 governing awards would result in the maximum quantity being exceeded because of the acceptance of a particular offer, an award will be made to the tenderer concerned only in respect of that quantity necessary to use up the balance of the maximum quantity remaining.

5.2. Where offers quote the same export levy or refund and would, if accepted for the full quantity in respect of which they have been submitted, cause the maximum quantity to be exceeded, awards will be made:

- either pro rata to the total quantities specified in each of the tenders,
- or by successful tenderer, up to a maximum tonnage to be determined for each of them,
- by drawing lots.

6.1. The successful tenderer will have:

- (a) the right to receive in the circumstances referred to under (b), in respect of the quantity for which an award has been made, an export licence specifying, as appropriate, the export levy or refund quoted in the tender;

⁽¹⁾ OJ L 152, 24.6.2000, p. 1.

(b) the obligation to lodge, in accordance with the relevant provisions of Regulation (EC) No 1291/2000, an application for an export licence in respect of that quantity not later than:

- the last working day preceding the date of the partial invitation to tender to be held in the following week, or
- if no partial invitation to tender is to be held that week, the last working day of the following week;

(c) the obligation to export the tendered quantity and if this obligation is not fulfilled in accordance with Article 31(b) and Article 32(1)(b)(i) of Regulation (EC) No 1291/2000, to pay, where applicable, the amount referred to in VI.3.

6.2. This right and these obligations are not transferable.

7.1. The competent authority in the Member State concerned will immediately notify all applicants of the result of their participation in the invitation to tender. In addition, that authority will send the successful tenderers a statement of award.

7.2. Statements of award will indicate, *inter alia*:

- (a) the reference number of the invitation to tender (No 1/2002);
- (b) the quantity of white sugar to be exported;
- (c) the export levy to be charged, or the export refund to be granted, expressed in EUR per 100 kilograms of white sugar of the quantity referred to in (b).

VI. EXPORT LICENCES

1. The first subparagraph of Article 9 of Commission Regulation (EC) No 1464/95 ⁽¹⁾, as last amended by Regulation (EC) No 995/2002 ⁽²⁾, and Article 12 of Commission Regulation (EEC) No 120/89 ⁽³⁾, as last amended by Regulation (EC) No 2194/96 ⁽⁴⁾, shall not apply to white sugar exported in accordance with this notice.

2.1. Export licences issued as a result of a partial invitation will be valid from the day of issue until the end of the fifth

month following that in which the partial invitation took place.

2.2. However, export licences issued in respect of the partial invitations held after 1 May 2003 will be valid only until 30 September 2003.

The competent authorities in the Member State which issued the export licence may, at the written request of the holder of that licence, extend its validity to 15 October 2003 at the latest where technical difficulties arise which prevent the export being carried out by the expiry date of the licence laid down in 2.2, provided that the export is not subject to the rules laid down in Article 4 or 5 of Council Regulation (EEC) No 565/80 ⁽⁵⁾.

2.3. The export licences issued in respect of the partial invitations held between 1 August and 30 September 2002 will be usable only from 1 October 2002.

3. Except in the case of force majeure, if the obligation to export resulting from the export licence applied for is not fulfilled in accordance with Articles 31(b) and 32(1)(b)(i) of Regulation (EC) No 1291/2000 and if the security referred to in IV.1.1 is less than:

- (a) the export levy indicated in the licence, reduced by the levy referred to in the second subparagraph of Article 33(1) of Regulation (EC) No 1260/2001 in force on the last day of validity of the said licence; or
- (b) the sum of the export levy indicated in the licence and the refund referred to in Article 28(2) of Regulation (EC) No 1260/2001 in force on the last day of validity of the said licence; or
- (c) the export refund referred to in Article 28(2) of Regulation (EC) No 1260/2001 in force on the last day of validity of the licence reduced by the refund indicated on the said licence,

then, for the quantity in respect of which the said obligation was not fulfilled, the licence holder will be charged an amount equal to the difference between the result of the calculation made under (a), (b) or (c), as the case may be, and the security referred to in IV.1.1.

4. For this standing invitation, the cancellation procedure provided for in Article 13(2) of Regulation (EC) No 1291/2000 cannot be invoked.

⁽¹⁾ OJ L 144, 28.6.1995, p. 14.

⁽²⁾ OJ L 152, 12.6.2002, p. 11.

⁽³⁾ OJ L 16, 20.1.1989, p. 19.

⁽⁴⁾ OJ L 293, 16.11.1996, p. 3.

⁽⁵⁾ OJ L 62, 7.3.1980, p. 5.

VII. DISPUTES

Any dispute between the successful tenderer and the competent authority to whom the tender was submitted will

1. fall exclusively within the jurisdiction:

- of the Tribunal de Grande Instance de Paris, in all instances, even proceedings involving the introduction of third parties and proceedings involving several defendants, in case of FIRS,
- of the courts of Frankfurt am Main, in the case of BLE,
- of the courts of Rome, in the case of AGEA,
- of the 'College van Beroep voor het Bedrijfsleven', Juliana van Stolberlaan 2, The Hague, in the case of the HPA,
- of the courts of Brussels, as court of last instance, in the case of the BIRB,
- of the 'Tribunal administratif' of Luxemburg in the case of the 'Office des Licences',

— of the courts of Copenhagen, in the case of the 'Direktoratet for FødevarerErhverv',

— of the courts of Athens, in the case of the ΟΠΕΚΕΠΕ,

— of the courts of Madrid, in the case of FEGA,

— of the 'da Comarca' court of Lisbon, in the case of the Ministério do Comércio e Turismo',

— of the courts of Vienna, in the case of the AMA,

— of the Uudenmaan läänioikeus court, in the case of the Maa- ja metsätalousministeriö, interventioyksikö;

2. be settled:

— according to English law, in the case of RPA,

— according to Irish law, in the case of ISIA,

— according to Swedish law, in the case of SJV.

VIII. Standing invitation to tender No 1/2001 (OJ C 199, 14.7.2001, p. 24) and (OJ C 99, 24.4.2002, p. 21) shall be closed on 26 July 2002.
