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## Legislation

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<sup>(1)</sup> Text with EEA relevance

## I

*(Acts whose publication is obligatory)*

**COMMISSION REGULATION (EC) No 128/98**  
**of 19 January 1998**  
**establishing the standard import values for determining the entry price of**  
**certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables <sup>(1)</sup>, as last amended by Regulation (EC) No 2375/96 <sup>(2)</sup>, and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy <sup>(3)</sup>, as last amended by Regulation (EC) No 150/95 <sup>(4)</sup>, and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third

countries, in respect of the products and periods stipulated in the Annex thereto;

Whereas, in compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 20 January 1998.

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

Done at Brussels, 19 January 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 337, 24. 12. 1994, p. 66.

<sup>(2)</sup> OJ L 325, 14. 12. 1996, p. 5.

<sup>(3)</sup> OJ L 387, 31. 12. 1992, p. 1.

<sup>(4)</sup> OJ L 22, 31. 1. 1995, p. 1.

## ANNEX

to the Commission Regulation of 19 January 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	204	55,5
	212	106,3
	624	161,3
	999	107,7
0707 00 05	624	201,3
	999	201,3
0709 10 00	220	177,5
	999	177,5
0709 90 70	052	130,6
	204	117,1
	999	123,9
0805 10 10, 0805 10 30, 0805 10 50	052	46,8
	204	44,4
	212	41,5
	220	47,3
	400	54,1
	448	29,7
	600	49,7
	624	53,9
	999	45,9
0805 20 10	052	60,1
	204	64,3
	624	69,0
	999	64,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	51,5
	204	73,5
	464	136,3
	624	78,7
	999	85,0
	0805 30 10	052
0808 10 20, 0808 10 50, 0808 10 90	400	73,1
	528	32,4
	600	90,1
	999	67,4
	060	56,4
	400	90,7
	404	86,1
	720	93,4
0808 20 50	728	83,2
	800	100,7
	999	85,1
	052	139,4
	064	60,0
	388	96,8
	400	102,1
	999	99,6

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 129/98**  
**of 19 January 1998**

**fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the first individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products <sup>(1)</sup>, as last amended by Regulation (EC) No 1587/96 <sup>(2)</sup>, and in particular Articles 6(3) and 12(3) thereof,

Whereas the intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs <sup>(3)</sup> to sell by invitation to tender certain quantities of butter that they hold and to grant aid for cream, butter and concentrated butter; whereas Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter; whereas it is further stipulated that the price or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure, and that a decision may

also be taken to make no award in response to the tenders submitted; whereas the amount(s) of the processing securities must be fixed accordingly;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

The maximum aid and processing securities applying for the first individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97 shall be fixed as indicated in the Annex hereto.

No award shall be made as regards the sale of butter from intervention stocks.

*Article 2*

This Regulation shall enter into force on 20 January 1998.

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

Done at Brussels, 19 January 1998.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

<sup>(1)</sup> OJ L 148, 28. 6. 1968, p. 13.

<sup>(2)</sup> OJ L 206, 16. 8. 1996, p. 21.

<sup>(3)</sup> OJ L 350, 20. 12. 1997, p. 3.

## ANNEX

to the Commission Regulation of 19 January 1998 fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the first individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(ECU/100 kg)

Formula		A/C-D		B	
Incorporation procedure		With tracers	Without tracers	With tracers	Without tracers
Minimum selling price	Butter $\geq$ 82 %	Unaltered	—	—	—
		Concentrated	—	—	—
Processing security		Unaltered	—		—
		Concentrated	—		—
Maximum aid	Butter $\geq$ 82 %	117	113	117	113
	Butter $<$ 82 %	—	108	—	—
	Concentrated butter	144	140	144	140
	Cream	—	—	50	48
Processing security	Butter	129	—	129	—
	Concentrated butter	158	—	158	—
	Cream	—	—	55	—

**COMMISSION REGULATION (EC) No 130/98**  
**of 19 January 1998**  
**concerning the 100th special invitation to tender issued under the standing**  
**invitation to tender referred to in Regulation (EEC) No 3398/91**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products <sup>(1)</sup>, as last amended by Regulation (EC) No 1587/96 <sup>(2)</sup>, and in particular Article 7(5) thereof,

Whereas, pursuant to Commission Regulation (EEC) No 3398/91 of 20 November 1991 on the sale by invitation to tender of skimmed-milk powder for the manufacture of compound feedingstuffs <sup>(3)</sup>, as last amended by Regulation (EC) No 2080/96 <sup>(4)</sup>, intervention agencies have put up for sale by standing invitation to tender certain quantities of skimmed-milk powder held by them;

Whereas, according to Article 8 of Regulation (EEC) No 3398/91, in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no award;

Whereas on the basis of the examination of the offers received, the tendering procedure should not be proceeded with;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 100th individual invitation to tender pursuant to Regulation (EEC) No 3398/91, in respect of which the time limit for the submission of tenders expired on 13 January 1998, no award shall be made.

*Article 2*

This Regulation shall enter into force on 20 January 1998.

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

Done at Brussels, 19 January 1998.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

<sup>(1)</sup> OJ L 148, 28. 6. 1968, p. 13.

<sup>(2)</sup> OJ L 206, 16. 8. 1996, p. 21.

<sup>(3)</sup> OJ L 320, 22. 11. 1991, p. 16.

<sup>(4)</sup> OJ L 279, 31. 10. 1996, p. 15.

## COUNCIL DIRECTIVE 97/80/EC

of 15 December 1997

## on the burden of proof in cases of discrimination based on sex

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Agreement on social policy annexed to the Protocol (No 14) on social policy annexed to the Treaty establishing the European Community, and in particular Article 2(2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(2)</sup>,

Acting, in accordance with the procedure laid down in Article 189c of the Treaty, in cooperation with the European Parliament <sup>(3)</sup>,

- (1) Whereas, on the basis of the Protocol on social policy annexed to the Treaty, the Member States, with the exception of the United Kingdom of Great Britain and Northern Ireland (hereinafter called 'the Member States'), wishing to implement the 1989 Social Charter, have concluded an Agreement on social policy;
- (2) Whereas the Community Charter of the Fundamental Social Rights of Workers recognizes the importance of combating every form of discrimination, including discrimination on grounds of sex, colour, race, opinions and beliefs;
- (3) Whereas paragraph 16 of the Community Charter of the Fundamental Social Rights of Workers on equal treatment for men and women, provides, *inter alia*, that 'action should be intensified to ensure the implementation of the principle of equality for men and women as regards, in particular, access to employment, remuneration, working conditions, social protection, education, vocational training and career development';
- (4) Whereas, in accordance with Article 3(2) of the Agreement on social policy, the Commission has consulted management and labour at Community level on the possible direction of Community action on the burden of proof in cases of discrimination based on sex;
- (5) Whereas the Commission, considering Community action advisable after such consultation, once again consulted management and labour on the content of

the proposal contemplated in accordance with Article 3(3) of the same Agreement; whereas the latter have sent their opinions to the Commission;

- (6) Whereas, after the second round of consultation, neither management nor labour have informed the Commission of their wish to initiate the process — possibly leading to an agreement — provided for in Article 4 of the same Agreement;
- (7) Whereas, in accordance with Article 1 of the Agreement, the Community and the Member States have set themselves the objective, *inter alia*, of improving living and working conditions; whereas effective implementation of the principle of equal treatment for men and women would contribute to the achievement of that aim;
- (8) Whereas the principle of equal treatment was stated in Article 119 of the Treaty, in Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women <sup>(4)</sup> and in Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions <sup>(5)</sup>;
- (9) Whereas Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding <sup>(6)</sup> also contributes to the effective implementation of the principle of equal treatment for men and women; whereas that Directive should not work to the detriment of the aforementioned Directives on equal treatment; whereas, therefore, female workers covered by that Directive should likewise benefit from the adaptation of the rules on the burden of proof;

<sup>(1)</sup> OJ C 332, 7. 11. 1996, p. 11 and OJ C 185, 18. 6. 1997, p. 21.

<sup>(2)</sup> OJ C 133, 28. 4. 1997, p. 34.

<sup>(3)</sup> Opinion of the European Parliament of 10 April 1997 (OJ C 132, 28. 4. 1997, p. 215), Common Position of the Council of 24 July 1997 (OJ C 307, 8. 10. 1997, p. 6) and Decision of the European Parliament of 6 November 1997 (OJ C 358, 24. 11. 1997).

<sup>(4)</sup> OJ L 45, 19. 2. 1975, p. 19.

<sup>(5)</sup> OJ L 39, 14. 2. 1976, p. 40.

<sup>(6)</sup> OJ L 348, 28. 11. 1992, p. 1.



- (10) Whereas Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC<sup>(1)</sup>, is also based on the principle of equal treatment for men and women;
- (11) Whereas the references to 'judicial process' and 'court' cover mechanisms by means of which disputes may be submitted for examination and decision to independent bodies which may hand down decisions that are binding on the parties to those disputes;
- (12) Whereas the expression 'out-of-court procedures' means in particular procedures such as conciliation and mediation;
- (13) Whereas the appreciation of the facts from which it may be presumed that there has been direct or indirect discrimination is a matter for national judicial or other competent bodies, in accordance with national law or practice;
- (14) Whereas it is for the Member States to introduce, at any appropriate stage of the proceedings, rules of evidence which are more favourable to plaintiffs;
- (15) Whereas it is necessary to take account of the specific features of certain Member States' legal systems, *inter alia* where an inference of discrimination is drawn if the respondent fails to produce evidence that satisfies the court or other competent authority that there has been no breach of the principle of equal treatment;
- (16) Whereas Member States need not apply the rules on the burden of proof to proceedings in which it is for the court or other competent body to investigate the facts of the case; whereas the procedures thus referred to are those in which the plaintiff is not required to prove the facts, which it is for the court or competent body to investigate;
- (17) Whereas plaintiffs could be deprived of any effective means of enforcing the principle of equal treatment before the national courts if the effect of introducing evidence of an apparent discrimination were not to impose upon the respondent the burden of proving that his practice is not in fact discriminatory;
- (18) Whereas the Court of Justice of the European Communities has therefore held that the rules on the burden of proof must be adapted when there is a *prima facie* case of discrimination and that, for the principle of equal treatment to be applied effectively, the burden of proof must shift back to the

respondent when evidence of such discrimination is brought;

- (19) Whereas it is all the more difficult to prove discrimination when it is indirect; whereas it is therefore important to define indirect discrimination;
- (20) Whereas the aim of adequately adapting the rules on the burden of proof has not been achieved satisfactorily in all Member States and, in accordance with the principle of subsidiarity stated in Article 3b of the Treaty and with that of proportionality, that aim must be attained at Community level; whereas this Directive confines itself to the minimum action required and does not go beyond what is necessary for that purpose,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

##### **Aim**

The aim of this Directive shall be to ensure that the measures taken by the Member States to implement the principle of equal treatment are made more effective, in order to enable all persons who consider themselves wronged because the principle of equal treatment has not been applied to them to have their rights asserted by judicial process after possible recourse to other competent bodies.

#### *Article 2*

##### **Definitions**

1. For the purposes of this Directive, the principle of equal treatment shall mean that there shall be no discrimination whatsoever based on sex, either directly or indirectly.
2. For purposes of the principle of equal treatment referred to in paragraph 1, indirect discrimination shall exist where an apparently neutral provision, criterion or practice disadvantages a substantially higher proportion of the members of one sex unless that provision, criterion or practice is appropriate and necessary and can be justified by objective factors unrelated to sex.

#### *Article 3*

##### **Scope**

1. This Directive shall apply to:
  - (a) the situations covered by Article 119 of the Treaty and by Directives 75/117/EEC, 76/207/EEC and, insofar as discrimination based on sex is concerned, 92/85/EEC and 96/34/EC;

<sup>(1)</sup> OJ L 145, 19. 6. 1996, p. 4.

(b) any civil or administrative procedure concerning the public or private sector which provides for means of redress under national law pursuant to the measures referred to in (a) with the exception of out-of-court procedures of a voluntary nature or provided for in national law.

2. This Directive shall not apply to criminal procedures, unless otherwise provided by the Member States.

#### *Article 4*

##### **Burden of proof**

1. Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.

2. This Directive shall not prevent Member States from introducing rules of evidence which are more favourable to plaintiffs.

3. Member States need not apply paragraph 1 to proceedings in which it is for the court or competent body to investigate the facts of the case.

#### *Article 5*

##### **Information**

Member States shall ensure that measures taken pursuant to this Directive, together with the provisions already in force, are brought to the attention of all the persons concerned by all appropriate means.

#### *Article 6*

##### **Non-regression**

Implementation of this Directive shall under no circumstances be sufficient grounds for a reduction in the general level of protection of workers in the areas to which it applies, without prejudice to the Member States' right to respond to changes in the situation by introducing laws, regulations and administrative provisions which differ from those in force on the notification of this Directive, provided that the minimum requirements of this Directive are complied with.

#### *Article 7*

##### **Implementation**

The Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive by 1 January 2001. They shall immediately inform the Commission thereof.

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

The Member States shall communicate to the Commission, within two years of the entry into force of this Directive, all the information necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.

#### *Article 8*

This Directive is addressed to the Member States.

Done at Brussels, 15 December 1997.

*For the Council*

*The President*

J.-C. JUNCKER

**COUNCIL DIRECTIVE 97/81/EC**

of 15 December 1997

**concerning the Framework Agreement on part-time work concluded by UNICE,  
CEEP and the ETUC**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Agreement on social policy annexed to the Protocol (No 14) on social policy, annexed to the Treaty establishing the European Community, and in particular Article 4(2) thereof,

Having regard to the proposal from the Commission,

- (1) Whereas on the basis of the Protocol on social policy annexed to the Treaty establishing the European Community, the Member States, with the exception of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as 'the Member States'), wishing to continue along the path laid down in the 1989 Social Charter, have concluded an agreement on social policy;
- (2) Whereas management and labour (the social partners) may, in accordance with Article 4(2) of the Agreement on social policy, request jointly that agreements at Community level be implemented by a Council decision on a proposal from the Commission;
- (3) Whereas point 7 of the Community Charter of the Fundamental Social Rights of Workers provides, *inter alia*, that 'the completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community. This process must result from an approximation of these conditions while the improvement is being maintained, as regards in particular (...) forms of employment other than open-ended contracts, such as fixed-term contracts, part-time working, temporary work and seasonal work';
- (4) Whereas the Council has not reached a decision on the proposal for a Directive on certain employment relationships with regard to distortions of competition<sup>(1)</sup>, as amended<sup>(2)</sup>, nor on the proposal for a Directive on certain employment relationships with regard to working conditions<sup>(3)</sup>;
- (5) Whereas the conclusions of the Essen European Council stressed the need to take measures to promote employment and equal opportunities for women and men, and called for measures with a view to increasing the employment-intensiveness of

growth, in particular by a more flexible organization of work in a way which fulfils both the wishes of employees and the requirements of competition;

- (6) Whereas the Commission, in accordance with Article 3(2) of the Agreement on social policy, has consulted management and labour on the possible direction of Community action with regard to flexible working time and job security;
- (7) Whereas the Commission, considering after such consultation that Community action was desirable, once again consulted management and labour at Community level on the substance of the envisaged proposal in accordance with Article 3(3) of the said Agreement;
- (8) Whereas the general cross-industry organizations, the Union of Industrial and Employer's Confederations of Europe (UNICE), the European Centre of Enterprises with Public Participation (CEEP) and the European Trade Union Confederation (ETUC) informed the Commission in their joint letter of 19 June 1996 of their desire to initiate the procedure provided for in Article 4 of the Agreement on social policy; whereas they asked the Commission, in a joint letter dated 12 March 1997, for a further three months; whereas the Commission complied with this request;
- (9) Whereas the said cross-industry organizations concluded, on 6 June 1997, a Framework Agreement on part-time work; whereas they forwarded to the Commission their joint request to implement this Framework Agreement by a Council decision on a proposal from the Commission, in accordance with Article 4(2) of the said Agreement;
- (10) Whereas the Council, in its Resolution of 6 December 1994 on prospects for a European Union social policy: contribution to economic and social convergence in the Union<sup>(4)</sup>, asked management and labour to make use of the opportunities for concluding agreements, since they are as a rule closer to social reality and to social problems;
- (11) Whereas the signatory parties wished to conclude a framework agreement on part-time work setting out the general principles and minimum requirements for part-time working; whereas they have demonstrated their desire to establish a general framework

<sup>(1)</sup> OJ C 224, 8. 9. 1990, p. 6.

<sup>(2)</sup> OJ C 305, 5. 12. 1990, p. 8.

<sup>(3)</sup> OJ C 224, 8. 9. 1990, p. 4.

<sup>(4)</sup> OJ C 368, 23. 12. 1994, p. 6.

for eliminating discrimination against part-time workers and to contribute to developing the potential for part-time work on a basis which is acceptable for employers and workers alike;

(12) Whereas the social partners wished to give particular attention to part-time work, while at the same time indicating that it was their intention to consider the need for similar agreements for other flexible forms of work;

(13) Whereas, in the conclusions of the Amsterdam European Council, the Heads of State and Government of the European Union strongly welcomed the agreement concluded by the social partners on part-time work;

(14) Whereas the proper instrument for implementing the Framework Agreement is a Directive within the meaning of Article 189 of the Treaty; whereas it therefore binds the Member States as to the result to be achieved, whilst leaving national authorities the choice of form and methods;

(15) Whereas, in accordance with the principles of subsidiarity and proportionality as set out in Article 3(b) of the Treaty, the objectives of this Directive cannot be sufficiently achieved by the Member States and can therefore be better achieved by the Community; whereas this Directive does not go beyond what is necessary for the attainment of those objectives;

(16) Whereas, with regard to terms used in the Framework Agreement which are not specifically defined therein, this Directive leaves Member States free to define those terms in accordance with national law and practice, as is the case for other social policy Directives using similar terms, providing that the said definitions respect the content of the Framework Agreement;

(17) Whereas the Commission has drafted its proposal for a Directive, in accordance with its Communication of 14 December 1993 concerning the application of the Protocol (No 14) on social policy and its Communication of 18 September 1996 concerning the development of the social dialogue at Community level, taking into account the representative status of the signatory parties and the legality of each clause of the Framework Agreement;

(18) Whereas the Commission has drafted its proposal for a Directive in compliance with Article 2(2) of the Agreement on social policy which provides that Directives in the social policy domain 'shall avoid imposing administrative, financial and legal

constraints in a way which would hold back the creation and development of small and medium-sized undertakings';

(19) Whereas the Commission, in accordance with its Communication of 14 December 1993 concerning the application of the Protocol (No 14) on social policy, informed the European Parliament by sending it the text of its proposal for a Directive containing the Framework Agreement;

(20) Whereas the Commission also informed the Economic and Social Committee;

(21) Whereas Clause 6.1 of the Framework Agreement provides that Member States and/or the social partners may maintain or introduce more favourable provisions;

(22) Whereas Clause 6.2 of the Framework Agreement provides that implementation of this Directive may not serve to justify any regression in relation to the situation which already exists in each Member State;

(23) Whereas the Community Charter of the Fundamental Social Rights of Workers recognizes the importance of the fight against all forms of discrimination, especially based on sex, colour, race, opinion and creed;

(24) Whereas Article F(2) of the Treaty on European Union states that the Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, as general principles of Community law;

(25) Whereas the Member States may entrust the social partners, at their joint request, with the implementation of this Directive, provided that the Member States take all the necessary steps to ensure that they can at all times guarantee the results imposed by this Directive;

(26) Whereas the implementation of the Framework Agreement contributes to achieving the objectives under Article 1 of the Agreement on social policy,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

The purpose of this Directive is to implement the Framework Agreement on part-time work concluded on 6 June 1997 between the general cross-industry organizations (UNICE, CEEP and the ETUC) annexed hereto.

*Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 20 January 2000, or shall ensure that, by that date at the latest, the social partners have introduced the necessary measures by agreement, the Member States being required to take any necessary measures to enable them at any time to be in a position to guarantee the results imposed by this Directive. They shall forthwith inform the Commission thereof.

Member States may have a maximum of one more year, if necessary, to take account of special difficulties or implementation by a collective agreement.

They shall inform the Commission forthwith in such circumstances.

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

2. Member States shall communicate to the Commission the text of the main provisions of domestic law which they have adopted or which they adopt in the field governed by this Directive.

*Article 3*

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

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 15 December 1997.

*For the Council*

*The President*

J.-C. JUNCKER

## ANNEX

UNION OF INDUSTRIAL AND EMPLOYERS' CONFEDERATIONS OF EUROPE

EUROPEAN TRADE UNION CONFEDERATION

EUROPEAN CENTRE OF ENTERPRISES WITH PUBLIC PARTICIPATION

**FRAMEWORK AGREEMENT ON PART-TIME WORK****Preamble**

This Framework Agreement is a contribution to the overall European strategy on employment. Part-time work has had an important impact on employment in recent years. For this reason, the parties to this agreement have given priority attention to this form of work. It is the intention of the parties to consider the need for similar agreements relating to other forms of flexible work.

Recognizing the diversity of situations in Member States and acknowledging that part-time work is a feature of employment in certain sectors and activities, this Agreement sets out the general principles and minimum requirements relating to part-time work. It illustrates the willingness of the social partners to establish a general framework for the elimination of discrimination against part-time workers and to assist the development of opportunities for part-time working on a basis acceptable to employers and workers.

This Agreement relates to employment conditions of part-time workers recognizing that matters concerning statutory social security are for decision by the Member States. In the context of the principle of non-discrimination, the parties to this Agreement have noted the Employment Declaration of the Dublin European Council of December 1996, wherein the Council *inter alia* emphasized the need to make social security systems more employment-friendly by 'developing social protection systems capable of adapting to new patterns of work and of providing appropriate protection to people engaged in such work'. The parties to this Agreement consider that effect should be given to this Declaration.

ETUC, UNICE and CEEP request the Commission to submit this Framework Agreement to the Council for a decision making these requirements binding in the Member States which are party to the Agreement on social policy annexed to the Protocol (No 14) on social policy annexed to the Treaty establishing the European Community.

The parties to this Agreement ask the Commission, in its proposal to implement this Agreement, to request that Member States adopt the laws, regulations and administrative provisions necessary to comply with the Council decision within a period of two years from its adoption or ensure <sup>(1)</sup> that the social partners establish the necessary measures by way of agreement by the end of this period. Member States may, if necessary to take account of particular difficulties or implementation by collective agreement, have up to a maximum of one additional year to comply with this provision.

Without prejudice to the role of national courts and the Court of Justice, the parties to this agreement request that any matter relating to the interpretation of this agreement at European level should, in the first instance, be referred by the Commission to them for an opinion.

**General considerations**

1. Having regard to the Agreement on social policy annexed to the Protocol (No 14) on social policy annexed to the Treaty establishing the European Community, and in particular Articles 3(4) and 4(2) thereof;
2. Whereas Article 4(2) of the Agreement on social policy provides that agreements concluded at Community level may be implemented, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission.
3. Whereas, in its second consultation document on flexibility of working time and security for workers, the Commission announced its intention to propose a legally binding Community measure;

<sup>(1)</sup> Within the meaning of Article 2(4) of the Agreement on social policy of the Treaty establishing the European Community.

4. Whereas the conclusions of the European Council meeting in Essen emphasized the need for measures to promote both employment and equal opportunities for women and men, and called for measures aimed at 'increasing the employment intensiveness of growth, in particular by more flexible organization of work in a way which fulfils both the wishes of employees and the requirements of competition';
5. Whereas the parties to this agreement attach importance to measures which would facilitate access to part-time work for men and women in order to prepare for retirement, reconcile professional and family life, and take up education and training opportunities to improve their skills and career opportunities for the mutual benefit of employers and workers and in a manner which would assist the development of enterprises;
6. Whereas this Agreement refers back to Member States and social partners for the arrangements for the application of these general principles, minimum requirements and provisions, in order to take account of the situation in each Member State;
7. Whereas this Agreement takes into consideration the need to improve social policy requirements, to enhance the competitiveness of the Community economy and to avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;
8. Whereas the social partners are best placed to find solutions that correspond to the needs of both employers and workers and must therefore be given a special role in the implementation and application of this Agreement.

THE SIGNATORY PARTIES HAVE AGREED THE FOLLOWING:

*Clause 1: Purpose*

The purpose of this Framework Agreement is:

- (a) to provide for the removal of discrimination against part-time workers and to improve the quality of part-time work;
- (b) to facilitate the development of part-time work on a voluntary basis and to contribute to the flexible organization of working time in a manner which takes into account the needs of employers and workers.

*Clause 2: Scope*

1. This Agreement applies to part-time workers who have an employment contract or employment relationship as defined by the law, collective agreement or practice in force in each Member State.
2. Member States, after consultation with the social partners in accordance with national law, collective agreements or practice, and/or the social partners at the appropriate level in conformity with national industrial relations practice may, for objective reasons, exclude wholly or partly from the terms of this Agreement part-time workers who work on a casual basis. Such exclusions should be reviewed periodically to establish if the objective reasons for making them remain valid.

*Clause 3: Definitions*

For the purpose of this agreement:

1. The term 'part-time worker' refers to an employee whose normal hours of work, calculated on a weekly basis or on average over a period of employment of up to one year, are less than the normal hours of work of a comparable full-time worker.
2. The term 'comparable full-time worker' means a full-time worker in the same establishment having the same type of employment contract or relationship, who is engaged in the same or a similar work/occupation, due regard being given to other considerations which may include seniority and qualification/skills.

Where there is no comparable full-time worker in the same establishment, the comparison shall be made by reference to the applicable collective agreement or, where there is no applicable collective agreement, in accordance with national law, collective agreements or practice.

*Clause 4: Principle of non-discrimination*

1. In respect of employment conditions, part-time workers shall not be treated in a less favourable manner than comparable full-time workers solely because they work part time unless different treatment is justified on objective grounds.
2. Where appropriate, the principle of *pro rata temporis* shall apply.

3. The arrangements for the application of this clause shall be defined by the Member States and/or social partners, having regard to European legislation, national law, collective agreements and practice.
4. Where justified by objective reasons, Member States after consultation of the social partners in accordance with national law, collective agreements or practice and/or social partners may, where appropriate, make access to particular conditions of employment subject to a period of service, time worked or earnings qualification. Qualifications relating to access by part-time workers to particular conditions of employment should be reviewed periodically having regard to the principle of non-discrimination as expressed in Clause 4.1.

**Clause 5: Opportunities for part-time work**

1. In the context of Clause 1 of this Agreement and of the principle of non-discrimination between part-time and full-time workers:
  - (a) Member States, following consultations with the social partners in accordance with national law or practice, should identify and review obstacles of a legal or administrative nature which may limit the opportunities for part-time work and, where appropriate, eliminate them;
  - (b) the social partners, acting within their sphere of competence and through the procedures set out in collective agreements, should identify and review obstacles which may limit opportunities for part-time work and, where appropriate, eliminate them.
2. A worker's refusal to transfer from full-time to part-time work or vice-versa should not in itself constitute a valid reason for termination of employment, without prejudice to termination in accordance with national law, collective agreements and practice, for other reasons such as may arise from the operational requirements of the establishment concerned.
3. As far as possible, employers should give consideration to:
  - (a) requests by workers to transfer from full-time to part-time work that becomes available in the establishment;
  - (b) requests by workers to transfer from part-time to full-time work or to increase their working time should the opportunity arise;
  - (c) the provision of timely information on the availability of part-time and full-time positions in the establishment in order to facilitate transfers from full-time to part-time or vice versa;
  - (d) measures to facilitate access to part-time work at all levels of the enterprise, including skilled and managerial positions, and where appropriate, to facilitate access by part-time workers to vocational training to enhance career opportunities and occupational mobility;
  - (e) the provision of appropriate information to existing bodies representing workers about part-time working in the enterprise.

**Clause 6: Provisions on implementation**

1. Member States and/or social partners may maintain or introduce more favourable provisions than set out in this agreement.
  2. Implementation of the provisions of this Agreement shall not constitute valid grounds for reducing the general level of protection afforded to workers in the field of this agreement. This does not prejudice the right of Member States and/or social partners to develop different legislative, regulatory or contractual provisions, in the light of changing circumstances, and does not prejudice the application of Clause 5.1 as long as the principle of non-discrimination as expressed in Clause 4.1 is complied with.
  3. This Agreement does not prejudice the right of the social partners to conclude, at the appropriate level, including European level, agreements adapting and/or complementing the provisions of this Agreement in a manner which will take account of the specific needs of the social partners concerned.
  4. This Agreement shall be without prejudice to any more specific Community provisions, and in particular Community provisions concerning equal treatment or opportunities for men and women.
  5. The prevention and settlement of disputes and grievances arising from the application of this Agreement shall be dealt with in accordance with national law, collective agreements and practice.
  6. The signatory parties shall review this Agreement, five years after the date of the Council decision, if requested by one of the parties to this Agreement.
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## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 20 November 1997

**on the approval of the single programming document for Community structural assistance in the region of Lorraine concerned by objective 2 in France**

**(Only the French text is authentic)**

(98/77/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards co-ordination of activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>(1)</sup>, as last amended by Regulation (EC) No 3193/94<sup>(2)</sup>, and in particular Article 10(1) last subparagraph thereof,

After consultation of the Advisory Committee on the Development and Conversion of Regions and the Committee pursuant to Article 124 of the Treaty,

Whereas the programming procedure for structural assistance under objective 2 is defined in Article 9(6) to (10) of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>(3)</sup>, as last amended by Regulation (EC) No 3193/94; whereas however the last subparagraph of Article 5(2) of Regulation (EEC) No 4253/88 foresees that in

order to simplify and to speed up programming procedures, Member States may submit in a single programming document the information required for the regional and social conversion plan referred to in Article 9(8) of Regulation (EEC) No 2052/88 and the information required at Article 14(2) of Regulation (EEC) No 4253/88; whereas the last subparagraph of Article 10(1) of Regulation (EEC) No 4253/88 foresees that in that case the Commission adopts a single decision in a single document covering the points referred to in Article 8(3) and the assistance from the Funds referred to in the last subparagraph of Article 14(3);

Whereas the Commission has established, by Decision 96/472/EC<sup>(4)</sup>, the list of declining industrial areas concerned by objective 2 for the programming period from 1997 to 1999;

Whereas the global maximum allocation foreseen for the assistance of the Structural Funds for the present single programming document is composed of resources coming from the indicative allocation of Structural Fund commitment appropriations for the period 1997 to 1999 under objective 2 resulting from Commission Decision 96/468/EC<sup>(5)</sup> and from unused appropriations of ECU 31,086 million of the corresponding single programming document covering the period 1994 to 1996, pursuant to Commission Decision C (96) 4156 of 18 December 1996;

<sup>(1)</sup> OJ L 374, 31. 12. 1988, p. 1.

<sup>(2)</sup> OJ L 337, 24. 12. 1994, p. 11.

<sup>(3)</sup> OJ L 185, 15. 7. 1988, p. 9.

<sup>(4)</sup> OJ L 193, 3. 8. 1996, p. 54.

<sup>(5)</sup> OJ L 192, 2. 8. 1996, p. 29.

Whereas the French Government has submitted to the Commission on 10 January 1997 the single programming document as referred to in Article 5(2) of Regulation (EEC) No 4253/88 for the region of Lorraine; whereas this document contains the elements referred to in Article 9(8) of Regulation (EEC) No 2052/88 and in Article 14(2) of Regulation (EEC) No 4253/88; whereas expenditure under this single programming document is eligible as from that date;

Whereas the single programming document submitted by this Member State includes a description of the conversion priorities selected and the applications for assistance from the European Regional Development Fund (ERDF) and the European Social Fund (ESF) as well as an indication of the planned use of the assistance available from the European Investment Bank (EIB) and the other financial instruments in implementing the single programming document;

Whereas, in accordance with Article 3 of Regulation (EEC) No 4253/88, the Commission is charged with ensuring, within the framework of the partnership, co-ordination and consistency between assistance from the Funds and assistance provided by the EIB and the other financial instruments;

Whereas the EIB has been involved in the drawing up of the single programming document in accordance with the provisions of Article 8(1) of Regulation (EEC) No 4253/88, applicable by analogy in the establishment of the single programming document; whereas it has declared itself prepared to contribute to the implementation of this document in conformity with its statutory provisions; whereas, however, it has not yet been possible to evaluate precisely the amounts of Community loans corresponding to the financial needs;

Whereas the second subparagraph of Article 2 of Commission Regulation (EEC) No 1866/90 of 2 July 1990 on arrangements for using the ecu for the purpose of the budgetary management of the Structural Funds<sup>(1)</sup>, as last amended by Regulation (EC) No 2745/94<sup>(2)</sup>, stipulates that in the Commission decisions approving a single programming document, the Community assistance available for the entire period and the annual breakdown thereof shall be set out in ecus at prices for the year in which each decision is taken and shall be subject to indexation; whereas this annual breakdown must be compatible with the progressive increase in the commitment appropriations shown in Annex II to Regulation (EEC) No 2052/88; whereas indexation is based on a single rate per year, corresponding to the rates applied annually to budget appropriations on the basis of the mechanism for the technical adjustment of the financial perspectives;

Whereas Article 1 of Council Regulation (EEC) No 4254/88 of 19 December 1988 laying down provisions for

implementing Regulation (EEC) No 2052/88 as regards the European Regional Development Fund<sup>(3)</sup>, as amended by Regulation (EEC) No 2083/93<sup>(4)</sup>, defines the measures for which the ERDF may provide financial support;

Whereas Article 1 of Council Regulation (EEC) No 4255/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Social Fund<sup>(5)</sup>, as amended by Regulation (EEC) No 2084/93<sup>(6)</sup>, defines the measures for which the ESF may provide financial support;

Whereas the single programming document has been established in agreement with the Member State concerned through the partnership defined in Article 4 of Regulation (EEC) No 2052/88;

Whereas Article 9(3) of Regulation (EEC) No 4253/88 lays down that Member States shall provide the relevant financial information to the Commission to permit verification of the respect of the principle of additionality; whereas the analysis, in the framework of partnership, of the information provided for by the French Authorities has not yet allowed this verification; whereas, payments should therefore be suspended after the first advance provided for in Article 21(2) of the said regulation until the Commission has verified the respect of the additionality;

Whereas the present assistance satisfies the conditions laid down in Article 13 of Regulation (EEC) No 4253/88, and so should be implemented by means of an integrated approach involving finance from more than one Fund;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities<sup>(7)</sup>, as last amended by Regulation (EC, Euratom, ECSC) No 2335/95<sup>(8)</sup>, states that the legal commitments entered into for measures extending over more than one financial year must contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas it is appropriate to mention that this Decision is ruled by the provisions on the eligibility of expenditure laid down in the Annex to Commission Decision C (97) 1035/1 of 23 April 1997 modifying the decisions approving the Community support frameworks, the single programming documents and the Community initiatives programmes in respect of France;

Whereas all the other conditions laid down for the grant of aid from the ERDF and the ESF have been complied with,

<sup>(3)</sup> OJ L 374, 31. 12. 1988, p. 15.

<sup>(4)</sup> OJ L 193, 31. 7. 1993, p. 34.

<sup>(5)</sup> OJ L 374, 31. 12. 1988, p. 21.

<sup>(6)</sup> OJ L 193, 31. 7. 1993, p. 39.

<sup>(7)</sup> OJ L 356, 31. 12. 1977, p. 1.

<sup>(8)</sup> OJ L 240, 7. 10. 1995, p. 12.

<sup>(1)</sup> OJ L 170, 3. 7. 1990, p. 36.

<sup>(2)</sup> OJ L 290, 11. 11. 1994, p. 4.

HAS ADOPTED THIS DECISION:

*Article 1*

The single programming document for Community structural assistance in the region of Lorraine concerned by objective 2 in France, covering the period 1 January 1997 to 31 December 1999, is hereby approved.

*Article 2*

The single programming document includes the following essential elements:

- (a) a statement of the main priorities for joint action, their specific quantified objectives, an appraisal of their expected impact and their consistency with economic, social and regional policies in France;

the main priorities are:

1. to encourage the creation of activity,
2. to continue the development of the European development pole (PED),
3. to strengthen the competitiveness of companies,
4. to strengthen the environment and the quality of training,
5. to improve the environment,
6. to continue the urban upgrading and develop support for disadvantaged quarters,
7. to develop the touristic potential,
8. technical assistance;

- (b) the assistance from the Structural Funds as referred to in Article 4;

- (c) the detailed provisions for implementing the single programming document comprising:

- the procedures for monitoring and evaluation,
- the provisions on financial implementation,
- the rules for compliance with Community policies;

- (d) the procedures for verifying additionality;

- (e) the arrangements for associating the environmental authorities with the implementation of the single programming document;

- (f) the means available for technical assistance necessary for the preparation, implementation or adaptation of the measures concerned.

*Article 3*

1. For the purpose of indexation, the annual breakdown of the global maximal allocation foreseen for the assistance from the Structural Funds is as follows:

<i>million ECU (1997 prices)</i>	
1997	45,609
1998	47,408
1999	49,484
Total	142,501

2. To this global maximum allocation is added an amount of ECU 31,086 million not subject to indexation, resulting from unused appropriations of the corresponding single programming document covering the period 1994 to 1996.

*Article 4*

The assistance from the Structural Funds granted to the single programming document amounts to a maximum of ECU 173,587 million.

The procedure for granting the financial assistance, including the financial contribution from the Funds to the various priorities and measures, is set out in the financing plan and the detailed implementing provisions which form an integral part of the single programming document.

The national financial contribution envisaged, which is approximately ECU 195 million for the public sector and ECU 12 million for the private sector, may be met in part by Community loans, in particular from the EIB.

*Article 5*

1. The breakdown among the Structural Funds of the total Community assistance available is as follows:

— ERDF:	ECU 143,527 million
— ESF:	ECU 30,060 million

2. The budgetary commitments for the first instalment are as follows:

— ERDF:	ECU 45,928 million
— ESF:	ECU 9,620 million

Commitments of subsequent instalments will be based on the financing plan for the single programming document and on progress in its implementation.

3. Payments subsequent to the first advance provided for in Article 21(2) of Regulation (EEC) No 4253/88 shall be subject to confirmation by the Commission of the respect of the principle of additionality on the basis of the relevant information supplied by the Member State.

*Article 6*

The breakdown among the Structural Funds and the procedure for the grant of the assistance may be altered subsequently, subject to the availability of funds and the budgetary rules, in the light of adjustments decided according to the procedure laid down in Article 25(5) of Regulation (EEC) No 4253/88.

*Article 7*

The Community aid concerns expenditure on operations under the single programming document which, in the Member State concerned, are the subject of legally binding commitments and for which the requisite finance has been specifically allocated no later than 31 December 1999. The final date for taking account of expenditure on these measures is 31 December 2001.

*Article 8*

The single programming document shall be implemented in accordance with Community law, and in particular

Articles 6, 30, 48, 52 and 59 of the Treaty and the Community directives on the coordination of procedures for the award of contracts.

*Article 9*

This Decision is ruled by the provisions laid down in the Annex to Decision C (97) 1035/1.

*Article 10*

This Decision is addressed to the French Republic.

Done at Brussels, 20 November 1997.

*For the Commission*

Monika WULF-MATHIES

*Member of the Commission*

## COMMISSION DECISION

of 18 December 1997

**on the approval of the single programming document for Community structural assistance in the region of Friuli-Venezia Giulia concerned by objective 2 in Italy**

(Only the Italian text is authentic)

(98/78/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards co-ordination of activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>(1)</sup>, as last amended by Regulation (EC) No 3193/94<sup>(2)</sup>, and in particular Article 10(1) last subparagraph thereof,

After consultation of the Advisory Committee on the Development and Conversion of Regions and the Committee pursuant to Article 124 of the Treaty,

Whereas the programming procedure for structural assistance under objective 2 is defined in Article 9(6) to (10) of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on co-ordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>(3)</sup>, as last amended by Regulation (EC) No 3193/94; whereas however the last subparagraph of Article 5(2) of Regulation (EEC) No 4253/88 foresees that in order to simplify and to speed up programming procedures, Member States may submit in a single programming document the information required for the regional and social conversion plan referred to in Article 9(8) of Regulation (EEC) No 2052/88 and the information required at Article 14(2) of Regulation (EEC) No 4253/88; whereas the last subparagraph of Article 10(1) of Regulation (EEC) No 4253/88 foresees that in that case the Commission adopts a single decision in a single document covering the points referred to in Article 8(3) and the assistance from the Funds referred to in the last subparagraph of Article 14(3);Whereas the Commission has established, by Decision 96/472/EC<sup>(4)</sup>, the list of declining industrial areas concerned by objective 2 for the programming period from 1997 to 1999;Whereas the global maximum allocation foreseen for the assistance of the Structural Funds for the present single programming document is composed of resources coming from the indicative allocation of Structural Fund commitment appropriations for the period 1997 to 1999 under objective 2 resulting from Commission Decision 96/468/EC<sup>(5)</sup> and from unused appropriations of ECU 10,242 million of the corresponding single programming document covering the period 1994 to 1996, pursuant to Commission Decision C (96) 4171/2 of 18 December 1996;

Whereas the Italian Government has submitted to the Commission on 8 August 1996 the single programming document as referred to in Article 5(2) of Regulation (EEC) No 4253/88 for the region of Friuli-Venezia Giulia; whereas this document contains the elements referred to in Article 9(8) of Regulation (EEC) No 2052/88 and in Article 14(2) of Regulation (EEC) No 4253/88; whereas expenditure under this single programming document is eligible as from that date;

Whereas the single programming document submitted by this Member State includes a description of the conversion priorities selected and the applications for assistance from the European Regional Development Fund (ERDF) and the European Social Fund (ESF) as well as an indication of the planned use of the assistance available from the European Investment Bank (EIB) and the other financial instruments in implementing the single programming document;

Whereas, in accordance with Article 3 of Regulation (EEC) No 4253/88, the Commission is charged with ensuring, within the framework of the partnership, co-ordination and consistency provided by the EIB and the other financial instruments;

Whereas the EIB has been involved in the drawing up of the single programming document in accordance with the provisions of Article 8(1) of Regulation (EEC) No 4253/88, applicable by analogy in the establishment of the single programming document; whereas it has

<sup>(1)</sup> OJ L 374, 31. 12. 1988, p. 1.<sup>(2)</sup> OJ L 337, 24. 12. 1994, p. 11.<sup>(3)</sup> OJ L 185, 15. 7. 1988, p. 9.<sup>(4)</sup> OJ L 193, 3. 8. 1996, p. 54.<sup>(5)</sup> OJ L 192, 2. 8. 1996, p. 29.

declared itself prepared to contribute to the implementation of this document in conformity with its statutory provisions; whereas, however, it has not yet been possible to evaluate precisely the amounts of Community loans corresponding to the financial needs;

Whereas the second subparagraph of Article 2 of Commission Regulation (EEC) No 1866/90 of 2 July 1990 on arrangements for using the ecu for the purpose of the budgetary management of the Structural Funds<sup>(1)</sup>, as last amended by Regulation (EC) No 2745/94<sup>(2)</sup>, stipulates that in the Commission decisions approving a single programming document, the Community assistance available for the entire period and the annual breakdown thereof shall be set out in ecus at prices for the year in which each decision is taken and shall be subject to indexation; whereas this annual breakdown must be compatible with the progressive increase in the commitment appropriations shown in Annex II to Regulation (EEC) No 2052/88; whereas indexation is based on a single rate per year, corresponding to the rates applied annually to budget appropriations on the basis of the mechanism for the technical adjustment of the financial perspectives;

Whereas Article 1 of Council Regulation (EEC) No 4254/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Regional Development Fund<sup>(3)</sup>, as amended by Regulation (EEC) No 2083/93<sup>(4)</sup>, defines the measures for which the ERDF may provide financial support;

Whereas Article 1 of Council Regulation (EEC) No 4255/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Social Fund<sup>(5)</sup>, as amended by Regulation (EEC) No 2084/93<sup>(6)</sup>, defines the measures for which the ESF may provide financial support;

Whereas the single programming document has been established in agreement with the Member State concerned through the partnership defined in Article 4 of Regulation (EEC) No 2052/88;

Whereas the single programming document satisfies the conditions and includes the information required by Article 14 of Regulation (EEC) No 4253/88;

Whereas the present assistance satisfies the conditions laid down in Article 13 of Regulation (EEC) No 4253/88,

and so should be implemented by means of an integrated approach involving finance from more than one Fund;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities<sup>(7)</sup>, as last amended by Regulation (EC, Euratom, ECSC) No 2335/95<sup>(8)</sup>, states that the legal commitments entered into for measures extending over more than one financial year must contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas Article 20(3) of Regulation (EEC) No 4253/88 provides, subject to available funding, for a single commitment where the Community assistance granted is less than ECU 40 million for the whole programming period;

Whereas it is appropriate to mention that this Decision is ruled by the provisions on the eligibility of expenditure laid down in the Annex to Commission Decision C (97) 1035/6 of 23 April 1997 modifying the decisions approving the Community support frameworks, the single programming documents and the Community initiatives programmes in respect of Italy;

Whereas all the other conditions laid down for the grant of aid from the ERDF and the ESF have been complied with,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The single programming document for Community structural assistance in the region of Friuli-Venezia Giulia concerned by objective 2 in Italy, covering the period 1 January 1997 to 31 December 1999, is hereby approved.

#### *Article 2*

The single programming document includes the following essential elements:

- (a) a statement of the main priorities for joint action, their specific quantified objectives, an appraisal of their expected impact and their consistency with economic, social and regional policies of Italy;

the main priorities are:

1. creation and development of business,
2. transfer of innovation,

<sup>(1)</sup> OJ L 170, 3. 7. 1990, p. 36.

<sup>(2)</sup> OJ L 290, 11. 11. 1994, p. 4.

<sup>(3)</sup> OJ L 374, 31. 12. 1988, p. 15.

<sup>(4)</sup> OJ L 193, 31. 7. 1993, p. 34.

<sup>(5)</sup> OJ L 374, 31. 12. 1988, p. 21.

<sup>(6)</sup> OJ L 193, 31. 7. 1993, p. 39.

<sup>(7)</sup> OJ L 356, 31. 12. 1977, p. 1.

<sup>(8)</sup> OJ L 240, 7. 10. 1995, p. 12.

3. regeneration and upgrading of the territory,
4. strengthening of human resources,
5. technical assistance;

(b) the assistance from the Structural Funds as referred to in Article 4;

(c) the detailed provisions for implementing the single programming document comprising:

- the procedures for monitoring and evaluation,
- the provisions on financial implementation,
- the rules for compliance with Community policies;

(d) the procedures for verifying additionality and an initial evaluation of the latter;

(e) the arrangements for associating the environmental authorities with the implementation of the single programming document;

(f) the means available for technical assistance necessary for the preparation, implementation or adaptation of the measures concerned.

#### Article 3

1. For the purpose of indexation, the annual breakdown of the global maximal allocation foreseen for the assistance from the Structural Funds is as follows:

*million ECU (1997 prices)*

1997	9,280
1998	9,659
1999	10,061
Total	29,000

2. To this global maximum allocation is added an amount of ECU 10,242 million not subject to indexation, resulting from unused appropriations of the corresponding single programming document covering the period 1994 to 1996.

#### Article 4

The assistance from the Structural Funds granted to the single programming document amounts to a maximum of ECU 39,242 million.

The procedure for granting the financial assistance, including the financial contribution from the Funds to the

various priorities and measures, is set out in the financing plan and the detailed implementing provisions which form an integral part of the single programming document.

The national financial contribution envisaged, which is approximately ECU 67,792 million for the public sector and ECU 1,377 million for the private sector, may be met in part by Community loans, in particular from the EIB.

#### Article 5

1. The breakdown among the Structural Funds of the total Community assistance available is as follows:

— ERDF:	ECU 28,032 million
— ESF:	ECU 11,210 million

2. The budgetary commitments at the moment of approval of the single programming document refer to the total Community assistance.

3. Payments subsequent to the first advance provided for in Article 21(2) of Regulation (EEC) No 4253/88 shall be subject to confirmation by the Commission of the respect of the principle of additionality on the basis of the relevant information supplied by the Member State.

#### Article 6

The breakdown among the Structural Funds and the procedure for the grant of the assistance may be altered subsequently, subject to the availability of funds and the budgetary rules, in the light of adjustments decided according to the procedure laid down in Article 25(5) of Regulation (EEC) No 4253/88.

#### Article 7

The Community aid concerns expenditure on operations under the single programming document which, in the Member State concerned, are the subject of legally binding commitments and for which the requisite finance has been specifically allocated no later than 31 December 1999. The final date for taking account of expenditure on these measures is 31 December 2001.

*Article 8*

The single programming document shall be implemented in accordance with Community law, and in particular Articles 6, 30, 48, 52 and 59 of the Treaty and the Community directives on the coordination of procedures for the award of contracts.

*Article 9*

This Decision is ruled by the provisions laid down in the Annex to Decision C (97) 1035/6.

*Article 10*

This Decision is addressed to the Italian Republic.

Done at Brussels, 18 December 1997.

*For the Commission*

Monika WULF-MATHIES

*Member of the Commission*

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## COMMISSION DECISION

of 22 December 1997

on the approval of the single programming document for Community structural assistance in the region of Lazio concerned by objective 2 in Italy

(Only the Italian text is authentic)

(98/79/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards co-ordination of activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>(1)</sup>, as last amended by Regulation (EC) No 3193/94<sup>(2)</sup>, and in particular Article 10(1) last subparagraph thereof,

After consultation of the Advisory Committee on the Development and Conversion of Regions and the Committee pursuant to Article 124 of the Treaty,

Whereas the programming procedure for structural assistance under objective 2 is defined in Article 9(6) to (10) of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on co-ordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>(3)</sup>, as last amended by Regulation (EC) No 3193/94; whereas however the last subparagraph of Article 5(2) of Regulation (EEC) No 4253/88 foresees that in order to simplify and to speed up programming procedures, Member States may submit in a single programming document the information required for the regional and social conversion plan referred to in Article 9(8) of Regulation (EEC) No 2052/88 and the information required at Article 14(2) of Regulation (EEC) No 4253/88; whereas the last subparagraph of Article 10(1) of Regulation (EEC) No 4253/88 foresees that in that case the Commission adopts a single decision in a single document covering the points referred to in Article 8(3) and the assistance from the Funds referred to in the last subparagraph of Article 14(3);

Whereas the Commission has established, by Decision 96/472/EC<sup>(4)</sup>, the list of declining industrial areas concerned by objective 2 for the programming period from 1997 to 1999;

Whereas the global maximum allocation foreseen for the assistance of the Structural Funds for the present single programming document is composed of resources coming from the indicative allocation of Structural Fund commitment appropriations for the period 1997 to 1999 under objective 2 resulting from Commission Decision 96/468/EC<sup>(5)</sup> and from unused appropriations of ECU 5,944,504 million of the corresponding single programming document covering the period 1994 to 1996, pursuant to Commission Decision C (96) 4179/2 of 18 December 1996;

Whereas the Italian Government has submitted to the Commission on 4 October 1996 the single programming document as referred to in Article 5(2) of Regulation (EEC) No 4253/88 for the region of Lazio; whereas this document contains the elements referred to in Article 9(8) of Regulation (EEC) No 2052/88 and in Article 14(2) of Regulation (EEC) No 4253/88; whereas expenditure under this single programming document is eligible as from that date;

Whereas the single programming document submitted by this Member State includes a description of the conversion priorities selected and the applications for assistance from the European Regional Development Fund (ERDF) and the European Social Fund (ESF) as well as an indication of the planned use of the assistance available from the European Investment Bank (EIB) and the other financial instruments in implementing the single programming document;

Whereas, in accordance with Article 3 of Regulation (EEC) No 4253/88, the Commission is charged with ensuring, within the framework of the partnership, co-ordination and consistency between assistance from the Funds and assistance provided by the EIB and the other financial instruments;

Whereas the EIB has been involved in the drawing up of the single programming document in accordance with the provisions of Article 8(1) of Regulation (EEC) No 4253/88, applicable by analogy in the establishment of

<sup>(1)</sup> OJ L 374, 31. 12. 1988, p. 1.

<sup>(2)</sup> OJ L 337, 24. 12. 1994, p. 11.

<sup>(3)</sup> OJ L 185, 15. 7. 1988, p. 9.

<sup>(4)</sup> OJ L 193, 3. 8. 1996, p. 54.

<sup>(5)</sup> OJ L 192, 2. 8. 1996, p. 29.

the single programming document; whereas it has declared itself prepared to contribute to the implementation of this document in conformity with its statutory provisions; whereas, however, it has not yet been possible to evaluate precisely the amounts of Community loans corresponding to the financial needs;

Whereas the second subparagraph of Article 2 of Commission Regulation (EEC) No 1866/90 of 2 July 1990 on arrangements for using the ecu for the purpose of the budgetary management of the Structural Funds <sup>(1)</sup>, as last amended by Regulation (EC) No 2745/94 <sup>(2)</sup>, stipulates that in the Commission decisions approving a single programming document, the Community assistance available for the entire period and the annual breakdown thereof shall be set out in ecus at prices for the year in which each decision is taken and shall be subject to indexation; whereas this annual breakdown must be compatible with the progressive increase in the commitment appropriations shown in Annex II to Regulation (EEC) No 2052/88; whereas indexation is based on a single rate per year, corresponding to the rates applied annually to budget appropriations on the basis of the mechanism for the technical adjustment of the financial perspectives;

Whereas Article 1 of Council Regulation (EEC) No 4254/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Regional Development Fund <sup>(3)</sup>, as amended by Regulation (EEC) No 2083/93 <sup>(4)</sup>, defines the measures for which the ERDF may provide financial support;

Whereas Article 1 of Council Regulation (EEC) No 4255/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Social Fund <sup>(5)</sup>, as amended by Regulation (EEC) No 2084/93 <sup>(6)</sup>, defines the measures for which the ESF may provide financial support;

Whereas the single programming document has been established in agreement with the Member State concerned through the partnership defined in Article 4 of Regulation (EEC) No 2052/88;

Whereas all required elements for an appropriate assessment of the rules for the implementation and management of the measure 2.3 are not yet available; whereas the financial commitments should therefore be reduced by

<sup>(1)</sup> OJ L 170, 3. 7. 1990, p. 56.

<sup>(2)</sup> OJ L 290, 11. 11. 1994, p. 4.

<sup>(3)</sup> OJ L 374, 31. 12. 1988, p. 15.

<sup>(4)</sup> OJ L 193, 31. 7. 1993, p. 34.

<sup>(5)</sup> OJ L 374, 31. 12. 1988, p. 21.

<sup>(6)</sup> OJ L 193, 31. 7. 1993, p. 29.

the corresponding amounts until the said rules are approved by the Commission services;

Whereas the present assistance satisfies the conditions laid down in Article 13 of Regulation (EEC) No 4253/88, and so should be implemented by means of an integrated approach involving finance from more than one Fund;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities <sup>(7)</sup>, as last amended by Regulation (EC, Euratom, ECSC) No 2335/95 <sup>(8)</sup>, states that the legal commitments entered into for measures extending over more than one financial year must contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas it is appropriate to mention that this Decision is ruled by the provisions on the eligibility of expenditure laid down in the Annex to Commission Decision C (97) 1035/6 of 23 April 1997 modifying the decisions approving the Community support frameworks, the single programming documents and the Community initiatives programmes in respect of Italy;

Whereas all the other conditions laid down for the grant of aid from the ERDF and the ESF have been complied with,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The single programming document for Community structural assistance in the region of Lazio concerned by objective 2 in Italy, covering the period 1 January 1997 to 31 December 1999, is hereby approved.

#### *Article 2*

The single programming document includes the following essential elements:

- (a) a statement of the main priorities for joint action, their specific quantified objectives, an appraisal of their expected impact and their consistency with economic, social and regional policies in Italy;

the main priorities are:

1. upgrading and improvement of the environment,
2. development and strengthening of SMEs,

<sup>(7)</sup> OJ L 356, 31. 12. 1977, p. 1.

<sup>(8)</sup> OJ L 240, 7. 10. 1995, p. 12.

3. upgrading and development of the territory,
  4. strengthening of human resources,
  5. technical assistance;
- (b) the assistance from the Structural Funds as referred to in Article 4;
- (c) the detailed provisions for implementing the single programming document comprising:
- the procedures for monitoring and evaluation,
  - the provisions on financial implementation,
  - the rules for compliance with Community policies;
- (d) the procedures for verifying additionality and an initial evaluation of the latter;
- (e) the arrangements for associating the environmental authorities with the implementation of the single programming document;
- (f) the means available for technical assistance necessary for the preparation, implementation or adaptation of the measures concerned.

#### Article 3

1. For the purpose of indexation, the annual breakdown of the global maximal allocation foreseen for the assistance from the Structural Funds is as follows:

<i>million ECU (1997 prices)</i>	
1997	21,300
1998	24,850
1999	24,850
Total	71,000

2. To this global maximum allocation is added an amount of ECU 5,944504 million not subject to indexation, resulting from unused appropriations of the corresponding single programming document covering the period 1994 to 1996.

#### Article 4

The assistance from the Structural Funds granted to the single programming document amounts to a maximum of ECU 76,944504 million.

The procedure for granting the financial assistance, including the financial contribution from the Funds to the

various priorities and measures, is set out in the financing plan and the detailed implementing provisions which form an integral part of the single programming document.

The national financial contribution envisaged, which is approximately ECU 97,805 million for the public sector and ECU 12,313 million for the private sector, may be met in part by Community loans, in particular from the EIB.

#### Article 5

1. The breakdown among the Structural Funds of the total Community assistance available is as follows:

— ERDF:	ECU 62,386000 million
— ESF:	ECU 14,558504 million

2. The budgetary commitments for the first instalment are as follows:

— ERDF:	ECU 14,811800 million
— ESF:	ECU 4,463100 million

These commitments do not include the amounts relating to the measure 2.3; the corresponding commitments will be made after the approval by the Commission services of the rules for the implementation and management of the said measure.

Commitments of subsequent instalments will be based on the financing plan for the single programming document and on progress in its implementation.

#### Article 6

The breakdown among the Structural Funds and the procedure for the grant of the assistance may be altered subsequently, subject to the availability of funds and the budgetary rules, in the light of adjustments decided according to the procedure laid down in Article 25(5) of Regulation (EEC) No 4253/88.

#### Article 7

The Community aid concerns expenditure on operations under the single programming document which, in the Member State concerned, are the subject of legally binding commitments and for which the requisite finance has been specifically allocated no later than 31 December 1999. The final date for taking account of expenditure on these measures is 31 December 2001.

*Article 8*

The single programming document shall be implemented in accordance with Community law, and in particular Articles 6, 30, 48, 52 and 59 of the Treaty and the Community directives on the coordination of procedures for the award of contracts.

*Article 9*

This Decision is ruled by the provisions laid down in the Annex to Decision C (97) 1035/6.

*Article 10*

This Decision is addressed to the Italian Republic.

Done at Brussels, 22 December 1997.

*For the Commission*

Monika WULF-MATHIES

*Member of the Commission*

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**COMMISSION DECISION**  
**of 7 January 1998**  
**on amendment of Annex II to Council Directive 92/44/EEC**  
(Text with EEA relevance)

(98/80/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/44/EEC of 5 June 1992 on the application of open network provision (ONP) to leased lines <sup>(1)</sup>, as last amended by Directive 97/51/EC of the European Parliament and of the Council <sup>(2)</sup>, and in particular Article 7(3) thereof,

Whereas Article 7(3) of Directive 92/44/EEC provides for the modification of its Annex II in order to adapt it to new technical developments and to changes in market demand, taking into account the state of development of national networks;

Whereas, following a standardisation mandate issued by the Commission, the European Telecommunications Standards Institute (ETSI) has adopted European Telecommunications Standards (ETSS) for leased lines, developed on the basis of the relevant recommendations of the International Telecommunications Union (ITU);

Whereas there is no requirement for telecommunications organisations to withdraw any existing leased lines offerings;

Whereas, in accordance with Article 7(3) of Directive 92/44/EEC, the Commission has submitted the draft Decision for an opinion of the ONP Committee, under the procedure provided for in Article 10 of Council Directive 90/387/EEC <sup>(3)</sup>;

Whereas the amendment of Annex II to Directive 92/44/EEC adopted in this Decision is in accordance with the opinion of the ONP Committee,

HAS ADOPTED THIS DECISION:

*Article 1*

Annex II to Directive 92/44/EEC is replaced by the Annex to this Decision.

*Article 2*

Member States shall take the necessary measures to comply with this Decision within two months of the date of its publication in the *Official Journal of the European Communities*.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 7 January 1998.

*For the Commission*

Martin BANGEMANN

*Member of the Commission*

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<sup>(1)</sup> OJ L 165, 19. 6. 1992, p. 27.

<sup>(2)</sup> OJ L 295, 29. 10. 1997, p. 23.

<sup>(3)</sup> OJ L 192, 24. 7. 1990, p. 1.

## ANNEX

## ANNEX II

**Definition of a minimum set of leased lines with harmonised technical characteristics, in accordance with Article 7**

Leased line type	Technical characteristics	
	Interface presentation specifications	Connection characteristics and performance specifications
Ordinary quality voice bandwidth analogue	2 wire <sup>(1)</sup> - ETS 300 448 <sup>(3)</sup> or 4 wire <sup>(2)</sup> - ETS 300 451 <sup>(4)</sup>	2 wire - ETS 300 448 <sup>(3)</sup> 4 wire - ETS 300 451 <sup>(4)</sup>
Special quality voice bandwidth analogue	2 wire <sup>(1)</sup> - ETS 300 449 <sup>(5)</sup> or 4 wire <sup>(2)</sup> - ETS 300 452 <sup>(6)</sup>	2 wire - ETS 300 449 <sup>(5)</sup> 4 wire - ETS 300 452 <sup>(6)</sup>
64 kbit/s digital <sup>(7)</sup>	ETS 300 288 ETS 300 288/A1 <sup>(8)</sup>	ETS 300 289
2048 kbit/s digital unstructured <sup>(9)</sup>	ETS 300 418	ETS 300 247 ETS 300 247/A1
2048 kbit/s digital structured <sup>(10)</sup>	ETS 300 418 <sup>(11)</sup>	ETS 300 419 <sup>(12)</sup>

<sup>(1)</sup> The attachment requirements for terminal equipment to be connected to these leased lines are described in Common Technical Regulation 15 (CTR 15).

<sup>(2)</sup> The attachment requirements for terminal equipment to be connected to these leased lines are described in Common Technical Regulation 17 (CTR 17).

<sup>(3)</sup> Previously provided in accordance with CCITT Recommendation M.1040 (1988 version) instead of ETS 300 448.

<sup>(4)</sup> Previously provided in accordance with CCITT Recommendation M.1040 (1988 version) instead of ETS 300 451.

<sup>(5)</sup> Previously provided in accordance with CCITT Recommendations M.1020/M.1025 (1988 version) instead of ETS 300 449.

<sup>(6)</sup> Previously provided in accordance with CCITT Recommendations M.1020/M.1025 (1988 version) instead of ETS 300 452.

<sup>(7)</sup> The attachment requirements for terminal equipment to be connected to these leased lines are described in Common Technical Regulation 14 (CTR 14).

<sup>(8)</sup> For an interim period extending beyond 31 December 1997, these leased lines may be provided using other interfaces, based on X.21 or X.21 *bis*, instead of ETS 300 288.

<sup>(9)</sup> The attachment requirements for terminal equipment to be connected to these leased lines are described in Common Technical Regulation 12 (CTR 12).

<sup>(10)</sup> The attachment requirements for terminal equipment to be connected to these leased lines are described in Common Technical Regulation 13 (CTR 13).

<sup>(11)</sup> Previously provided in accordance with CCITT Recommendations G.703, G.704 (excluding section 5) and G.706 (cyclic redundancy checking) (1988 version) instead of ETS 300 418.

<sup>(12)</sup> Previously provided in accordance with relevant G.800 series CCITT Recommendations (1988 version) instead of ETS 300 419.

For the types of leased lines listed above, the specifications referred to also define the network termination points (NTPs), in accordance with the definition given in Article 2 of Directive 90/387/EEC.

## COMMISSION DECISION

of 14 January 1998

authorising the Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of potatoes, other than potatoes intended for planting, originating in New Zealand

(98/81/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community<sup>(1)</sup>, as last amended by Directive 97/14/EC<sup>(2)</sup>, and in particular Article 14(1) thereof,

Having regard to the request made by the United Kingdom,

Whereas, pursuant to the provisions of Directive 77/93/EEC, potatoes, other than potatoes intended for planting originating in New Zealand may in principle not be introduced into the Community because of the risk of introducing potato diseases unknown in the Community;

Whereas, information supplied by New Zealand has shown that there are good reasons to believe that potatoes can be grown under adequate health conditions in New Zealand and that, at present, there are no sources for the introduction of exotic potato diseases; whereas moreover, New Zealand has implemented adequate health and quality standards in its potato production;

Whereas, in relation to the requirements laid down in point 25.2 of Annex IV, part A, section I to Directive 77/93/EEC and on the basis of information provided by New Zealand, and of international scientific technical literature, it is apparent that New Zealand is known to be free from *Clavibacter michiganensis* ssp. *sepedonicus*;

Whereas the United Kingdom has stated that the importation of potatoes, other than potatoes intended for planting originating in New Zealand, would be restricted to a limited period;

Whereas the Commission will ensure that New Zealand makes available all technical information necessary to assess the phytosanitary status of the production of potatoes in New Zealand;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

*Article 1*

1. The Member States are hereby authorised to provide, under the conditions laid down in paragraph 2, for exceptions from Article 4(1) of Directive 77/93/EEC, with regard to the prohibitions referred to in Part A, point 12 of Annex III thereto for potatoes, other than potatoes intended for planting originating in New Zealand.

2. In addition to the requirements laid down in Annexes I and II to Directive 77/93/EEC in relation to potatoes the following specific conditions shall be satisfied:

- (a) the potatoes shall be other than potatoes intended for planting;
- (b) they shall have been grown in New Zealand directly from seed potatoes certified in the New Zealand seed potato certification scheme or from seed potatoes certified in one of the Member States and imported into New Zealand exclusively from the Member States, or from seed potatoes certified in any other country for which the entry into the Community of potatoes intended for planting is permitted pursuant to Directive 77/93/EEC;
- (c) they shall have been treated for the suppression of their faculty of germination except for early potatoes;
- (d) they shall have been grown in areas known to be free from *Synchytrium endobioticum* (Schilbersky) Percival, and no symptoms of *Synchytrium endobioticum* (Schilbersky) Percival shall have been observed either at the place of production or in its immediate vicinity since the beginning of an adequate period;

<sup>(1)</sup> OJ L 26, 31. 1. 1977, p. 20.

<sup>(2)</sup> OJ L 87, 2. 4. 1997, p. 17.

- (e) — they shall have been grown in areas where *Pseudomonas solanacearum* (Smith) Smith is not known to occur,
- they shall have been found free, in growing season inspections and tuber inspections, from all growth stages of *Graphognathus leucoloma* (Boheman), and, in addition, in tuber inspections found free from all signs of *Graphognathus leucoloma* (Boheman),
- they shall have been found free, in growing season inspections and tests on soil or crop samples, as appropriate, from the following harmful organisms: *Globodera pallida* (Stone) Behrens, *Globodera rostochiensis* (Wollenweber) Behrens, *Pseudomonas solanacearum* (Smith) Smith and *Synchytrium endobioticum* (Schilbersky) Percival. The results of these inspections and tests shall be kept available to the Commission, on its request;
- (f) they shall have been handled by machinery which is reserved for them or which has been disinfected in an appropriate manner after each use for other purposes;
- (g) they shall be packed either in new bags or in containers which have been disinfected in an appropriate manner; and an official label shall be applied to each bag or container, bearing the information specified in the Annex;
- (h) prior to export the potatoes shall have been cleaned free from soil, leaves and other plant debris;
- (i) the potatoes intended for the Community shall be accompanied by a phytosanitary certificate issued in New Zealand in accordance with Article 7 of Directive 77/93/EEC, on the basis of the examination laid down therein, in particular freedom from the harmful organisms mentioned in points (d) and (e).

The certificate shall state under 'Additional declaration', the indication 'This consignment meets the conditions laid down in Decision 98/81/EC';

- (j) the potatoes shall be introduced through points of entry situated within the territory of a Member State making use of this derogation, and designated for the purpose of this derogation by that Member State;
- (k) prior to introduction into the Community, the importer shall be officially informed of the conditions laid down in points (a) to (k); the said importer shall notify each introduction sufficiently in advance to the responsible official bodies in the Member State of introduction and that Member State shall without

delay convey the details of the notification to the Commission, indicating:

- the type of material,
- the quantity,
- the declared date of introduction and confirmation of the point of entry.

At the time of import the importer shall provide the confirmation of the details of the aforementioned advance notification;

- (l) the inspections required pursuant to Article 12 of Directive 77/93/EEC shall be made by the responsible official bodies referred to in the said Directive. Without prejudice to the monitoring referred to in Article 19a(3) second indent, first possibility, the Commission shall determine to which extent the inspections referred to in Article 19a(3) second indent, second possibility of the said Directive shall be integrated into the inspection programme in accordance with Article 19a(5)(c) of that Directive;
- (m) Member States making use of this derogation shall, where appropriate, in cooperation with the Member States of introduction ensure that at least two samples of 200 tubers shall be drawn from each consignment of 50 tonnes or part thereof, of imported potatoes pursuant to this Decision, for official examination in respect of *Pseudomonas solanacearum* in accordance with the Community interim test scheme for the diagnosis, detection and identification of *pseudomonas solanacearum*, and in the case of *Clavibacter michiganensis* ssp. *sepedonicus*, in accordance with the Community established method for the detection and diagnosis of *Clavibacter michiganensis* ssp. *sepedonicus*; in the case of suspicion the lots shall remain separate under official control and may not be marketed or used until it has been established that the presence of *Pseudomonas solanacearum* or *Clavibacter michiganensis* ssp. *sepedonicus* was not suspected or detected in those examinations.

#### Article 2

Member States shall inform the other Member States and the Commission by means of the notification referred to in Article 1(2)(k) first sentence of any use made of the authorisation. They shall provide the Commission and the other Member States, before 1 July 1998, with the information on amounts imported pursuant to this Decision and with a detailed technical report of the official examination referred to in Article 1(2)(l); copies of each phytosanitary certificate shall be transmitted to the Commission.



*Article 3*

1. The authorisation granted in Article 1 shall apply in the period between 15 January 1998 to 30 April 1998.

2. The authorisation shall be revoked if it is established that the conditions laid down in Article 1(2) have been insufficient to prevent the introduction of harmful organisms or have not been complied with.

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 14 January 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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*ANNEX***Information required on the label**

(referred to in Article 1(2)(g))

1. Name of the authority issuing the label
  2. Name of the exporters' organisation, if available
  3. Indication 'New Zealand potatoes other than potatoes intended for planting'
  4. Variety
  5. Place of production
  6. Size
  7. Declared net weight
  8. Indication 'In accordance with EC requirements 1998'
  9. A mark printed or stamped on behalf of the New Zealand plant protection administration
  10. A distinguishable mark of the lot such as a code, a mark, or any other external feature easily readable
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