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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 551/98
of 9 March 1998
amending Regulation (EEC) No 3950/92 establishing an additional levy in the
milk and milk products sector

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

Whereas, when originally adopted, Council Regulation (EEC) No 3950/92 of 28 December 1992 establishing an additional levy in the milk and milk products sector ⁽³⁾ made provision, subject to certain special conditions, for the reference quantity to be allocated provisionally for a 12-month period in the case of agricultural holdings situated in the territory of the former German Democratic Republic; whereas, with a view to the completion of restructuring of such holdings, those provisions were renewed until the end of 1997/1998 by Regulation (EC) No 1883/94 ⁽⁴⁾; whereas difficulties connected in particular with milk production on leased land cannot be resolved before 31 March 1998; whereas, to overcome the difficulties stemming from the restructuring of such

holdings, a final extension of the derogating measures should accordingly be allowed, by way of an exception, for two 12-month periods,

HAS ADOPTED THIS REGULATION:

Article 1

The following subparagraph shall be added to Article 4(4) of Regulation (EEC) No 3950/92:

‘With a view to the definitive solution of the difficulties stemming from restructuring as referred to above, the application of the first subparagraph shall be extended for two 12-month periods from the expiry of the period referred to in the second subparagraph.’

Article 2

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

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

Done at Brussels, 9 March 1998.

For the Council

The President

G. BROWN

⁽¹⁾ OJ C 1, 3. 1. 1998, p. 20.

⁽²⁾ OJ C 80, 16. 3. 1998.

⁽³⁾ OJ L 405, 31. 12. 1992, p. 1. Regulation as last amended by Commission Regulation (EC) No 614/97 (OJ L 94, 9. 4. 1997, p. 4).

⁽⁴⁾ OJ L 197, 30. 7. 1994, p. 25.

COMMISSION REGULATION (EC) No 552/98
of 11 March 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⁽¹⁾, as last amended by Regulation (EC) No 2375/96⁽²⁾, 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⁽³⁾, as last amended by Regulation (EC) No 150/95⁽⁴⁾, 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 Commis-

sion 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 12 March 1998.

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

Done at Brussels, 11 March 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 11 March 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

<i>(ECU/100 kg)</i>			<i>(ECU/100 kg)</i>		
CN code	Third country code ⁽¹⁾	Standard import value	CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	204	85,0	0808 10 20, 0808 10 50, 0808 10 90	600	75,3
	212	108,9		999	77,4
	624	188,3		052	52,0
	999	127,4		060	36,3
0707 00 05	052	139,4		388	137,1
	068	93,1		400	94,1
	999	116,2		404	106,3
0709 10 00	220	159,0		508	104,8
	999	159,0		512	93,3
0709 90 70	052	125,2		524	102,8
	204	131,5	528	102,8	
	624	177,6	720	139,0	
	999	144,8	999	96,9	
0805 10 10, 0805 10 30, 0805 10 50	052	34,7	0808 20 50	052	136,2
	204	38,9		388	77,4
	212	43,4		400	96,6
	600	55,4		512	82,2
	624	47,2		528	100,6
	999	43,9		999	98,6
	052	79,4			

⁽¹⁾ 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 553/98**of 11 March 1998****fixing the representative prices and the additional import duties for molasses in the sugar sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 ⁽³⁾, and in particular Articles 1(2) and 3 (1) thereof,

Whereas Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 ⁽⁴⁾; whereas that price should be fixed for the standard quality defined in Article 1 of the above Regulation;

Whereas the representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; whereas that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality; whereas the standard quality for molasses is defined in Regulation (EEC) No 785/68;

Whereas, when the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States; whereas, under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends;

Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small quantity that is not representative of the market;

whereas offer prices which can be regarded as not representative of actual market trends must also be disregarded;

Whereas, if information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68;

Whereas a representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price;

Whereas where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95; whereas should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed;

Whereas application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation;

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

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 March 1998.

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 141, 24. 6. 1995, p. 12.

⁽⁴⁾ OJ L 145, 27. 6. 1968, p. 12.

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

Done at Brussels, 11 March 1998.

For the Commission
 Franz FISCHLER
 Member of the Commission

ANNEX

fixing the representative prices and additional import duties applying to imports of molasses in the sugar sector

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	7,28	0,00	—
1703 90 00 ⁽¹⁾	8,89	—	0,00

⁽¹⁾ For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 554/98
of 11 March 1998
altering the export refunds on white sugar and raw sugar exported in the natural state

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾, and in particular the second subparagraph of Article 19 (4) thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 512/98 ⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 512/98 to the information known to the Commission that the export refunds at

present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 512/98 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 March 1998.

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

Done at Brussels, 11 March 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 65, 5. 3. 1998, p. 5.

ANNEX

to the Commission Regulation of 11 March 1998 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— ECU/100 kg —
1701 11 90 9100	39,25 ⁽¹⁾
1701 11 90 9910	37,53 ⁽¹⁾
1701 11 90 9950	⁽²⁾
1701 12 90 9100	39,25 ⁽¹⁾
1701 12 90 9910	37,53 ⁽¹⁾
1701 12 90 9950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 9000	0,4267
	— ECU/100 kg —
1701 99 10 9100	42,67
1701 99 10 9910	42,67
1701 99 10 9950	42,67
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 9100	0,4267

⁽¹⁾ Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 17a (4) of Regulation (EEC) No 1785/81.

⁽²⁾ Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ L 255, 26. 9. 1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ L 309, 21. 11. 1985, p. 14).

COMMISSION REGULATION (EC) No 555/98
of 11 March 1998

fixing the maximum export refund for white sugar for the 30th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1408/97

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾, and in particular the second subparagraph of Article 17 (5) (b) thereof,

Whereas Commission Regulation (EC) No 1408/97 of 22 July 1997 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1408/97 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 30th partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 30th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1408/97 the maximum amount of the export refund is fixed at ECU 45,685 per 100 kilograms.

Article 2

This Regulation shall enter into force on 12 March 1998.

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

Done at Brussels, 11 March 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 194, 23. 7. 1997, p. 16.

COMMISSION REGULATION (EC) No 556/98
of 11 March 1998
altering the export refunds on syrups and certain other sugar sector products
exported in the natural state

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾, and in particular Article 17 (5) thereof,

Whereas the refunds on syrups and certain other sugar products were fixed by Commission Regulation (EC) No 480/98 ⁽³⁾;

Whereas it follows from applying the rules, criteria and other provisions contained in Regulation (EC) No 480/98 to the information at present available to the Commission

that the export refunds at present in force should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The refunds to be granted on the products listed in Article 1 (1) (d), (f) and (g) of Regulation (EEC) No 1785/81, exported in the natural state, as fixed in the Annex to Regulation (EC) No 480/98 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 March 1998.

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

Done at Brussels, 11 March 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 60, 28. 2. 1998, p. 50.

ANNEX

to the Commission Regulation of 11 March 1998 altering the export refunds on syrups and certain other sugar products exported in the natural state

Product code	Amount of refund
	— ECU/100 kg dry matter —
1702 40 10 9100	42,67 ⁽²⁾
1702 60 10 9000	42,67 ⁽²⁾
1702 60 90 9200	81,07 ⁽⁴⁾
	— ECU/1 % sucrose × 100 kg —
1702 60 90 9800	0,4267 ⁽¹⁾
	— ECU/100 kg dry matter —
1702 90 30 9000	42,67 ⁽²⁾
	— ECU/1 % sucrose × 100 kg —
1702 90 60 9000	0,4267 ⁽¹⁾
1702 90 71 9000	0,4267 ⁽¹⁾
1702 90 99 9900	0,4267 ⁽¹⁾ ⁽³⁾
	— ECU/100 kg dry matter —
2106 90 30 9000	42,67 ⁽²⁾
	— ECU/1 % sucrose × 100 kg —
2106 90 59 9000	0,4267 ⁽¹⁾

⁽¹⁾ The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EC) No 2135/95). Sucrose content is determined in accordance with Article 3 of Regulation (EC) No 2135/95.

⁽²⁾ Applicable only to products referred to in Article 5 of Regulation (EC) No 2135/95.

⁽³⁾ The basic amount is not applicable to the product defined under point 2 of the Annex to Regulation (EEC) No 3513/92 (OJ L 355, 5. 12. 1992, p. 12).

⁽⁴⁾ Applicable only to products defined under Article 6 of Regulation (EC) No 2135/95.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87 (OJ L 366, 24. 12. 1987, p. 1).

COMMISSION REGULATION (EC) No 557/98
of 11 March 1998
fixing the export refunds on olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1581/96⁽²⁾, and in particular Article 3 (3) thereof,

Whereas Article 3 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries;

Whereas the detailed rules for fixing and granting export refunds on olive oil are contained in Commission Regulation (EEC) No 616/72⁽³⁾, as last amended by Regulation (EEC) No 2962/77⁽⁴⁾;

Whereas Article 3 (3) of Regulation No 136/66/EEC provides that the refund must be the same for the whole Community;

Whereas, in accordance with Article 3 (4) of Regulation No 136/66/EEC, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market; whereas, however, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period; whereas the amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted, where appropriate, to take account of export costs for the products on the world market;

Whereas, in accordance with Article 3 (3) third indent, point (b) of Regulation No 136/66/EEC, it may be decided that the refund shall be fixed by tender; whereas the tendering procedure should cover the amount of the

refund and may be limited to certain countries of destination, quantities, qualities and presentations;

Whereas the second indent of Article 3 (3) of Regulation No 136/66/EEC provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary;

Whereas the refund must be fixed at least once every month; whereas it may, if necessary, be altered in the intervening period;

Whereas it follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁵⁾, as last amended by Regulation (EC) No 150/95⁽⁶⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁷⁾, as last amended by Regulation (EC) No 1482/96⁽⁸⁾;

Whereas the Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (2) (c) of Regulation No 136/66/EEC shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 March 1998.

⁽¹⁾ OJ 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 11.

⁽³⁾ OJ L 78, 31. 3. 1972, p. 1.

⁽⁴⁾ OJ L 348, 30. 12. 1977, p. 53.

⁽⁵⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁷⁾ OJ L 108, 1. 5. 1993, p. 106.

⁽⁸⁾ OJ L 188, 27. 7. 1996, p. 22.

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

Done at Brussels, 11 March 1998.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 11 March 1998 fixing the export refunds on olive oil
(*ECU/100 kg*)

Product code	Amount of refund (1)
1509 10 90 9100	0,00
1509 10 90 9900	0,00
1509 90 00 9100	0,00
1509 90 00 9900	0,00
1510 00 90 9100	0,00
1510 00 90 9900	0,00

(1) For destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87 (OJ L 351, 14. 12. 1987, p 1), as well as for exports to third countries.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

COMMISSION REGULATION (EC) No 558/98
of 11 March 1998

fixing the maximum export refunds for olive oil for the eighth partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 1978/97

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1581/96⁽²⁾, and in particular Article 3 thereof,

Whereas Commission Regulation (EC) No 1978/97⁽³⁾ issued a standing invitation to tender with a view to determining the export refunds on olive oil;

Whereas Article 6 of Regulation (EC) No 1978/97 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current situation and foreseeable developments on the Community and world olive-oil markets and on the basis of the tenders received; whereas contracts are awarded to any tenderer who submits a tender at the level of the maximum refund or at a lower level;

Whereas, for the purposes of applying the abovementioned provisions, the maximum export refunds should be set at the levels specified in the Annex;

Whereas the Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refunds for olive oil for the eighth partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 1978/97 are hereby fixed in the Annex, on the basis of the tenders submitted by 9 March 1998.

Article 2

This Regulation shall enter into force on 12 March 1998.

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

Done at Brussels, 11 March 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 11.

⁽³⁾ OJ L 278, 11. 10. 1997, p. 7.

ANNEX

to the Commission Regulation of 11 March 1998 fixing the maximum export refunds for olive oil for the eighth partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 1978/97

(ECU/100 kg)

Product code	Amount of refund
1509 10 90 9100	6,00
1509 10 90 9900	—
1509 90 00 9100	4,50
1509 90 00 9900	—
1510 00 90 9100	—
1510 00 90 9900	—

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

COMMISSION REGULATION (EC) No 559/98

of 11 March 1998

altering the rates of the refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex II to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾, and in particular Article 17 ⁽⁵⁾ thereof,Whereas the rates of the refunds applicable from 1 March 1998 to the products listed in the Annex, exported in the form of goods not covered by Annex II to the Treaty, were fixed by Commission Regulation (EC) No 485/98 ⁽³⁾;

Whereas it follows from applying the rules and criteria contained in Regulation (EC) No 485/98 to the information at present available to the Commission that the export refunds at present applicable should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of refund fixed by Regulation (EC) No 485/98 are hereby altered as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 March 1998.

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

Done at Brussels, 11 March 1998.

For the Commission
Martin BANGEMANN
Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 60, 28. 2. 1998, p. 60.

ANNEX

to the Commission Regulation of 11 March 1998 altering the rates of the refunds applicable to certain products in the sugar sector exported in the form of goods not covered by Annex II to the Treaty

Product	Rate of refund in ECU/100 kg	
	In case of advance fixing of refunds	Other
White sugar:		
— pursuant to Article 4 (5) (b) of Regulation (EC) No 1222/94	7,98	7,98
— in all other cases	42,67	42,67
Raw sugar:		
— pursuant to Article 4 (5) (b) of Regulation (EC) No 1222/94	7,35	7,35
— in all other cases	39,26	39,26
Syrups of beet sugar or cane sugar, other than the syrups obtained by dissolving white or raw sugar in the solid state, containing, in the dry state, 85 % or more by weight of sucrose (including invert sugar expressed as sucrose):		
— pursuant to Article 4 (5) (b) of Regulation (EC) No 1222/94	$\frac{7,98^{(1)} \times S^{(1)}}{100}$	$\frac{7,98^{(1)} \times S^{(1)}}{100}$
— in all other cases	$\frac{42,67^{(1)} \times S^{(1)}}{100}$	$\frac{42,67^{(1)} \times S^{(1)}}{100}$
For syrups obtained by dissolving white or raw sugar in the solid state, whether or not the dissolving is followed by inversion:	the rate fixed above for 100 kg of white or raw sugar used for the dissolution	
Molasses	—	—
Isoglucose ⁽²⁾		
— pursuant to Article 4 (5) (b) of Regulation (EC) No 1222/94	7,98 ⁽³⁾	7,98 ⁽³⁾
— in all other cases	42,67 ⁽³⁾	42,67 ⁽³⁾

(¹) 'S' represents in 100 kilograms of syrup:

- the sucrose content (including invert sugar expressed as sucrose) of the syrup in question, where the latter is not less than 98 % pure,
- the extractable sugar content of the syrup in question, where the latter is not less than 85 %, but less than 98 % pure.

(²) Products obtained by isomerization of glucose, which have a content by weight in the dry state of at least 41 % fructose and of which the total content by weight in the dry state of polysaccharides and oligosaccharides, including the di- or trisaccharides content, does not exceed 8,5 %.

(³) Amount of refund per 100 kilograms of dry matter.

(⁴) The basic amount is not applicable to the product defined under point 2 of the Annex to Commission Regulation (EEC) No 3513/92 (OJ L 355, 5. 12. 1992, p. 12).

II

(Acts whose publication is not obligatory)

COUNCIL

DECISION No 1/98 OF THE ASSOCIATION COUNCIL

between the European Communities and their Member States, of the one part,
and the Republic of Estonia, of the other part,

of 23 February 1998

adopting its rules of procedure

(98/191/EC)

THE ASSOCIATION COUNCIL,

Having regard to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, and in particular Articles 109, 110, 111, 112, 113 and 114 thereof,

Whereas that Agreement entered into force on 1 February 1998,

HAS DECIDED AS FOLLOWS:

Article 1

Chairmanship

The Association Council shall be presided over alternately for periods of 12 months by a representative of the Council of the European Union, on behalf of the Community and its Member States, and a representative of the Government of the Republic of Estonia. The first period shall begin on the date of the first Association Council meeting and end on 31 December 1998.

Article 2

Meetings

The Association Council shall meet regularly at ministerial level once a year. Special sessions of the Association Council may be held if the Parties so agree, at the request of either Party.

Unless otherwise agreed by the parties, each session of the Association Council shall be held at the usual venue for

meetings of the Council of the European Union at a date agreed by both Parties.

The meetings of the Association Council shall be jointly convened by the Secretaries of the Association Council in agreement with the President.

Article 3

Representation

The members of the Association Council may be represented if unable to attend. If a member wishes to be so represented, he must notify the President of the name of his representative before the meeting at which he is to be so represented.

The representative of a member of the Association Council shall exercise all the rights of that member.

Article 4

Delegations

The members of the Association Council may be accompanied by officials.

Before each meeting, the President shall be informed of the intended composition of the delegation of each Party.

A representative of the European Investment Bank shall attend the meetings of the Association Council, as an observer, when matters which concern the Bank appear on the agenda.

The Association Council may invite non-members to attend its meetings in order to provide information on particular subjects.

*Article 5***Secretariat**

An official of the General Secretariat of the Council of the European Union and an official of the Mission of the Republic of Estonia in Brussels shall act jointly as Secretaries of the Association Council.

*Article 6***Correspondence**

Correspondence addressed to the Association Council shall be sent to the President of the Association Council at the address of the General Secretariat of the Council of the European Union.

The two Secretaries shall ensure that correspondence is forwarded to the President of the Association Council and, where appropriate, circulated to other members of the Association Council. Correspondence circulated shall be sent to the General Secretariat of the Commission, the Permanent Representations of the Member States and the Mission of the Republic of Estonia in Brussels.

Communications from the President of the Association Council shall be sent to the addressees by the two Secretaries and circulated, where appropriate, to the other members of the Association Council at the addresses indicated in the preceding paragraph.

*Article 7***Publicity**

Unless otherwise decided, the meetings of the Association Council shall not be public.

*Article 8***Agendas for meetings**

1. The President shall draw up a provisional agenda for each meeting. It shall be forwarded by the Secretaries of the Association Council to the addressees referred to in Article 6 not later than 15 days before the beginning of the meeting.

The provisional agenda shall include items in respect of which the President has received a request for inclusion in the agenda not later than 21 days before the beginning of the meeting, save that items shall not be written into the provisional agenda unless the supporting documentation has been forwarded to the Secretaries not later than the date of despatch of the agenda.

The agenda shall be adopted by the Association Council at the beginning of each meeting. An item other than those appearing on the provisional agenda may be placed on the agenda if the two Parties so agree.

2. The President may, in agreement with the two Parties, shorten the time limits specified in paragraph 1 in order to take account of the requirements of a particular case.

*Article 9***Minutes**

Draft minutes of each meeting shall be drawn up by the two Secretaries.

The minutes shall, as a general rule, indicate in respect of each item on the agenda

- the documentation submitted to the Association Council,
- statements the entry of which has been requested by a member of the Association Council,
- the decisions and recommendations taken, the statements agreed upon and the conclusions adopted.

The draft minutes shall be submitted to the Association Council for approval. When approved, the minutes shall be signed by the President and the two Secretaries. The minutes shall be filed in the archives of the General Secretariat of the Council of the European Union who is acting as depository of the documents of the Association; a certified copy shall be forwarded to each of the addressees referred to in Article 6.

*Article 10***Decisions and Recommendations**

1. The Association Council shall take its decisions and recommendations by common agreement of the Parties.

During the inter-sessional period, the Association Council may take decisions or recommendations by written procedure if both Parties so agree.

2. The decisions and recommendations of the Association Council within the meaning of Article 111 of the Europe Agreement shall be entitled respectively 'Decision' and 'Recommendation' followed by a serial number, by the date of their adoption and by a description of their subject.

The decisions and recommendations of the Association Council shall be signed by the President and authenticated by the two Secretaries.

Decisions and recommendations shall be forwarded to each of the addressees referred to in Article 6 above.

Each Party may decide on the publication of decisions and recommendations of the Association Council in its respective official publication (the *Official Journal of the European Communities* and the *Riigi Teataja*).

*Article 11***Languages**

The official languages of the Association Council shall be the official languages of the two Parties.

Unless otherwise decided, the Association Council shall base its deliberations on documentation prepared in these languages.

*Article 12***Expenses**

The Community and the Republic of Estonia shall each defray the expenses they incur by reason of their participation in the meetings of the Association Council, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure.

Expenditure in connection with interpreting at meetings, translation and reproduction of documents shall be borne by the Community, with the exception of expenditure in connection with interpreting or translation into or from Estonian, which shall be borne by the Republic of Estonia.

Other expenditure relating to the material organization of meetings shall be borne by the Party which hosts the meetings.

*Article 13***Association Committee**

1. An Association Committee is hereby established in order to assist the Association Council in carrying out its duties. It shall be composed of representatives of the members of the Council of the European Union and of members of the Commission of the European Communities, on the one hand, and of representatives of the Estonian Government on the other, normally at senior civil servant level.

2. The Association Committee shall prepare the meetings and the deliberations of the Association Council, implement the decisions of the Association Council where appropriate and, in general, ensure continuity of the association relationship and the proper functioning of the Europe Agreement. It shall consider

any matter referred to it by the Association Council as well as any other matter which may arise in the course of the day-to-day implementation of the Europe Agreement. It shall submit proposals or any draft decisions/recommendations for adoption to the Association Council.

3. In cases where the Europe Agreement refers to an obligation to consult or a possibility of consultation, such consultation may take place within the Association Committee. The consultation may continue in the Association Council if the two Parties so agree.

4. The rules of procedure of the Association Committee are annexed to this Decision.

*Article 14***Subcommittees and special groups**

The subcommittees, mentioned in Article 114 of the Europe Agreement, are listed in Annex II to this Decision. Subcommittees shall work under the authority of the Association Committee, to which they shall report after each of their meetings.

The Association Committee may decide to abolish any existing subcommittees or groups, modify their terms of reference or set up further subcommittees or groups to assist it in carrying out its duties.

These subcommittees and groups shall not have any decision-making power.

Done at Brussels, 23 February 1998.

For the Association Council

The President

R. COOK

ANNEX I

RULES OF PROCEDURE OF THE ASSOCIATION COMMITTEE

*Article 1***Chairmanship**

The Association Committee shall be presided over alternately for periods of 12 months by a representative of the European Commission, on behalf of the Community and its Member States, and a representative of the Government of the Republic of Estonia. The first period shall begin on the date of the first Association Council meeting and end on 31 December 1998.

*Article 2***Meetings**

The Association Committee shall meet when circumstances require with the agreement of both Parties.

Each meeting of the Association Committee shall be held at a time and place agreed by both Parties.

The meetings of the Association Committee shall be convened by the Chairman.

*Article 3***Delegations**

Before each meeting, the Chairman shall be informed of the intended composition of the delegation of each Party.

*Article 4***Secretariat**

An official of the European Commission and an official of the Estonian Government shall act jointly as Secretaries of the Association Committee.

All communications to and from the Chairman of the Association Committee provided for in this Decision shall be forwarded to the Secretaries of the Association Committee and to the Secretaries and the President of the Association Council.

*Article 5***Publicity**

Unless otherwise decided, the meetings of the Association Committee shall not be public.

*Article 6***Agendas for meetings**

1. The Chairman shall draw up a provisional agenda for each meeting. It shall be forwarded by the Secretaries of the Association Committee to the addressees referred

to in Article 4 not later than 15 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the Chairman has received a request for inclusion in the agenda not later than 21 days before the beginning of the meeting, save that items shall not be written into the provisional agenda unless the supporting documentation has been forwarded to the Secretaries not later than the date of dispatch of the agenda.

The Association Committee may ask experts to attend its meetings in order to provide information on particular subjects.

The agenda shall be adopted by the Association Committee at the beginning of each meeting. An item other than those appearing on the provisional agenda may be placed on the agenda if the two Parties so agree.

2. The Chairman may, in agreement with the two Parties, shorten the time limits specified in paragraph 1 in order to take account of the requirements of a particular case.

*Article 7***Minutes**

Minutes shall be taken for each meeting and shall be based on a summing up by the Chairman of the conclusions arrived at by the Association Committee.

When approved by the Association Committee, the minutes shall be signed by the Chairman and by the Secretaries and filed by each of the Parties. A copy of the minutes shall be forwarded to each of the addressees referred to in Article 4.

*Article 8***Deliberations**

In the specific cases where the Association Committee is empowered by the Association Council under Article 113(2) of the Europe Agreement to take decisions/recommendations, these acts shall be entitled respectively 'Decision' and 'Recommendation', followed by a serial number, by the date of their adoption and by a description of their subject. Decisions and recommendations shall be made by common agreement between the Parties.

The decisions and recommendations of the Association Committee shall be signed by the President and authenticated by the two Secretaries and shall be forwarded to the addressees referred to in Article 4 of this Annex. Each Party may decide on the publication of the decisions and recommendations of this Association Committee in its respective official publication (i.e. the *Official Journal of the European Communities* and the *Riigi Teataja*).

*Article 9***Expenses**

The Community and the Republic of Estonia shall each defray the expenses they incur by reason of their participation in the meetings of the Association Committee, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure.

Expenditure in connection with interpreting at meetings, translation and reproduction of documents shall be borne by the Community, with the exception of expenditure in connection with interpreting or translation into or from Estonian, which shall be borne by the Republic of Estonia.

Other expenditure relating to the material organization of meetings shall be borne by the Party which hosts the meetings.

ANNEX II

MULTIDISCIPLINARY SUB-COMMITTEE STRUCTURE

Title	Issues	Europe Agreement Article
(1) Agriculture and fisheries	Agriculture Fisheries Processed Agricultural Products	16-20/78 21/22/79 Protocol 2
(2) Approximation of legislation, Competition and Opening Up of Community Programmes	Approximation of legislation (all areas) White Paper on integration into the Internal Market Competition Intellectual and industrial property Public procurement Public administration Community programmes	68-70 63-65 66 67 98 108
(3) Trade, Industry and Consumer Protection	Commercial questions Industrial cooperation and investment promotion Standards, technical regulations for industrial and processed agricultural goods and conformity assessment Tourism Small and medium enterprises Consumer protection	9-15, 23-35 72-73 75 92 74 94
(4) Economic Issues	Economic questions Monetary policy	71, 97 88
(5) Human Resources, Research, technological development and social policy	Education, training and youth Science, research and technology Social cooperation (employment, labour market, legislation, industrial relations, etc) Cultural cooperation Audio-visual policy	77 76 91 101 84
(6) Transport and Trans European Networks	Transport Maritime Transport Infrastructure and Trans european networks Telecommunication (and information infrastructure)	83 53, 83 83 84-85
(7) Environment, energy and regional development	Environment Energy Nuclear safety Regional development	82 80 81 90

Title	Issues	Europe Agreement Article
(8) Cooperation in customs matters, statistics, drugs and prevention of illegal activities	Customs cooperation	95
	Indirect taxation	
	Statistical Cooperation	96
	Drugs and money laundering	89, 99
	Prevention of illegal activities	100
	Protocols on Origin and on Mutual Assistance	
(9) Financial services and Establishment and Capital Movements	Financial services, banking, insurance	86/87
	Investment promotion, protection of investment	73
	Movement of workers	36-42
	Right of Establishment and services	43-53
	Capital movements and payments	60-62

DECISION No 1/98 OF THE ASSOCIATION COUNCIL
between the European Communities and their Member States, of the one part,
and the Republic of Lithuania, of the other part,
of 23 February 1998
adopting its rules of procedure

(98/192/EC)

THE ASSOCIATION COUNCIL,

Having regard to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part, and in particular Articles 111, 112, 113, 114, 115 and 116 thereof,

Whereas that Agreement entered into force on 1 February 1998,

HAS DECIDED AS FOLLOWS:

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Chairmanship

The Association Council shall be presided over alternately for periods of 12 months by a representative of the Council of the European Union, on behalf of the Community and its Member States, and a representative of the Government of the Republic of Lithuania. The first period shall begin on the date of the first Association Council meeting and end on 31 December 1998.

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2. The President may, in agreement with the two Parties, shorten the time limits specified in paragraph 1 in order to take account of the requirements of a particular case.

*Article 9***Minutes**

Draft minutes of each meeting shall be drawn up by the two Secretaries.

The minutes shall, as a general rule, indicate in respect of each item on the agenda

- the documentation submitted to the Association Council,
- statements the entry of which has been requested by a member of the Association Council,
- the decisions and recommendations taken, the statements agreed upon and the conclusions adopted.

The draft minutes shall be submitted to the Association Council for approval. When approved, the minutes shall be signed by the President and the two Secretaries. The minutes shall be filed in the archives of the General Secretariat of the Council of the European Union who is acting as depository of the documents of the Association; a certified copy shall be forwarded to each of the addressees referred to in Article 6.

*Article 10***Decisions and Recommendations**

1. The Association Council shall take its decisions and recommendations by common agreement of the Parties.

During the inter-sessional period, the Association Council may take decisions or recommendations by written procedure if both Parties so agree.

2. The decisions and recommendations of the Association Council within the meaning of Article 113 of the Europe Agreement shall be entitled respectively 'Decision' and 'Recommendation' followed by a serial number, by the date of their adoption and by a description of their subject.

The decisions and recommendations of the Association Council shall be signed by the President and authenticated by the two Secretaries.

Decisions and recommendations shall be forwarded to each of the addressees referred to in Article 6 above.

Each Party may decide on the publication of decisions and recommendations of the Association Council in its respective official publication (the *Official Journal of the European Communities* and the *Valstybes Zinios*).

*Article 11***Languages**

The official languages of the Association Council shall be the official languages of the two Parties.

Unless otherwise decided, the Association Council shall base its deliberations on documentation prepared in these languages.

*Article 12***Expenses**

The Community and the Republic of Lithuania shall each defray the expenses they incur by reason of their participation in the meetings of the Association Council, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure.

Expenditure in connection with interpreting at meetings, translation and reproduction of documents shall be borne by the Community, with the exception of expenditure in connection with interpreting or translation into or from Lithuanian, which shall be borne by the Republic of Lithuania.

Other expenditure relating to the material organization of meetings shall be borne by the Party which hosts the meetings.

*Article 13***Association Committee**

1. An Association Committee is hereby established in order to assist the Association Council in carrying out its duties. It shall be composed of representatives of the members of the Council of the European Union and of members of the Commission of the European Communities, on the one hand, and of representatives of the Lithuanian Government on the other, normally at senior civil servant level.

2. The Association Committee shall prepare the meetings and the deliberations of the Association Council, implement the decisions of the Association Council where appropriate and, in general, ensure continuity of the association relationship and the proper functioning of the Europe Agreement. It shall consider any matter referred to it by the Association Council as well as any other matter which may arise in the course of the day-to-day implementation of the Europe Agreement. It shall submit proposals or any draft decisions/recommendations for adoption to the Association Council.

3. In cases where the Europe Agreement refers to an obligation to consult or a possibility of consultation, such consultation may take place within the Association Committee. The consultation may continue in the Association Council if the two Parties so agree.

4. The rules of procedure of the Association Committee are annexed to this Decision.

Article 14

Subcommittees and special groups

The subcommittees, mentioned in Article 116 of the Europe Agreement, are listed in Annex II to this De-

cision. Subcommittees shall work under the authority of the Association Committee, to which they shall report after each of their meetings.

The Association Committee may decide to abolish any existing subcommittees or groups, modify their terms of reference or set up further subcommittees or groups to assist it in carrying out its duties.

These subcommittees and groups shall not have any decision-making power.

Done at Brussels, 23 February 1998.

For the Association Council

The President

R. COOK

ANNEX I

RULES OF PROCEDURE OF THE ASSOCIATION COMMITTEE

*Article 1***Chairmanship**

The Association Committee shall be presided over alternately for periods of 12 months by a representative of the European Commission, on behalf of the Community and its Member States, and a representative of the Government of the Republic of Lithuania. The first period shall begin on the date of the first Association Council meeting and end on 31 December 1998.

*Article 2***Meetings**

The Association Committee shall meet when circumstances require with the agreement of both Parties.

Each meeting of the Association Committee shall be held at a time and place agreed by both Parties.

The meetings of the Association Committee shall be convened by the Chairman.

*Article 3***Delegations**

Before each meeting, the Chairman shall be informed of the intended composition of the delegation of each Party.

*Article 4***Secretariat**

An official of the European Commission and an official of the Lithuanian Government shall act jointly as Secretaries of the Association Committee.

All communications to and from the Chairman of the Association Committee provided for in this Decision shall be forwarded to the Secretaries of the Association Committee and to the Secretaries and the President of the Association Council.

*Article 5***Publicity**

Unless otherwise decided, the meetings of the Association Committee shall not be public.

*Article 6***Agendas for meetings**

1. The Chairman shall draw up a provisional agenda for each meeting. It shall be forwarded by the Secretaries of the Association Committee to the addressees referred

to in Article 4 not later than 15 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the Chairman has received a request for inclusion in the agenda not later than 21 days before the beginning of the meeting, save that items shall not be written into the provisional agenda unless the supporting documentation has been forwarded to the Secretaries not later than the date of dispatch of the agenda.

The Association Committee may ask experts to attend its meetings in order to provide information on particular subjects.

The agenda shall be adopted by the Association Committee at the beginning of each meeting. An item other than those appearing on the provisional agenda may be placed on the agenda if the two Parties so agree.

2. The Chairman may, in agreement with the two Parties, shorten the time limits specified in paragraph 1 in order to take account of the requirements of a particular case.

*Article 7***Minutes**

Minutes shall be taken for each meeting and shall be based on a summing up by the Chairman of the conclusions arrived at by the Association Committee.

When approved by the Association Committee, the minutes shall be signed by the Chairman and by the Secretaries and filed by each of the Parties. A copy of the minutes shall be forwarded to each of the addressees referred to in Article 4.

*Article 8***Deliberations**

In the specific cases where the Association Committee is empowered by the Association Council under Article 115(2) of the Europe Agreement to take decisions/recommendations, these acts shall be entitled respectively 'Decision' and 'Recommendation', followed by a serial number, by the date of their adoption and by a description of their subject. Decisions and recommendations shall be made by common agreement between the Parties.

The decisions and recommendations of the Association Committee shall be signed by the President and authenticated by the two Secretaries and shall be forwarded to the addressees referred to in Article 4 of this Annex. Each Party may decide on the publication of the decisions and recommendations of this Association Committee in its respective official publication (i.e. the *Official Journal of the European Communities* and the *Valstybes Zinios*).

*Article 9***Expenses**

The Community and the Republic of Lithuania shall each defray the expenses they incur by reason of their participation in the meetings of the Association Committee, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure.

Expenditure in connection with interpreting at meetings, translation and reproduction of documents shall be borne by the Community, with the exception of expenditure in connection with interpreting or translation into or from Lithuanian, which shall be borne by the Republic of Lithuania.

Other expenditure relating to the material organization of meetings shall be borne by the Party which hosts the meetings.

ANNEX II

MULTIDISCIPLINARY SUB-COMMITTEE STRUCTURE

Title	Issues	Europe Agreement Article
1) Agriculture and fisheries	Agriculture Fisheries Processed Agricultural Products	18-21/79 22/23/80 Protocol 2
2) Approximation of legislation, Competition and Opening Up of Community Programmes	Approximation of legislation (all areas) White Paper on integration into the Internal Market Competition Intellectual and industrial property Public procurement Public administration Community programmes	69-71 64-66 67 68 100 110
3) Trade, Industry and Consumer Protection	Commercial questions Industrial cooperation and investment promotion Standards, technical regulations for industrial and processed agricultural goods and conformity assessment Tourism Small and medium enterprises Consumer protection	9-17, 24-36 73-74 76 94 75 96
4) Economic Issues	Economic questions Monetary policy	72/99 89
5) Human Resources, Research, technological development and social policy	Education, training and Youth Science, research and technology Social cooperation (employment, labour market, legislation, industrial relations, etc) Cultural cooperation Audio-visual policy	78 77 93 103 85
6) Transport and Trans European Networks	Transport Maritime Transport Infrastructure and Trans european networks Telecommunication (and information infrastructure)	84 54 84 85/86
7) Environment, energy and regional development	Environment Energy Nuclear safety Regional development Housing and Construction	83 81 82 91 92

Title	Issues	Europe Agreement Article
8) Cooperation in customs matters, statistics, drugs and prevention of illegal activities	Customs cooperation	97
	Indirect taxation	
	Statistical Cooperation	98
	Drugs and money laundering	101 and 90
	Prevention of illegal activities	102
	Protocols on Origin and on Mutual Assistance	
9) Financial services and Establishment and Capital Movements	Financial services, banking, insurance	87-88
	Investment promotion, protection of investment	74
	Movement of workers	37-43
	Right of Establishment and services	44-54
	Capital movements and payments	61-63

DECISION No 1/98 OF THE ASSOCIATION COUNCIL
between the European Communities and their Member States, of the one part,
and the Republic of Latvia, of the other part,
of 23 February 1998
adopting its rules of procedure

(98/193/EC)

THE ASSOCIATION COUNCIL,

Having regard to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part, and in particular Articles 110, 111, 112, 113, 114 and 115 thereof,

Whereas that Agreement entered into force on 1 February 1998,

HAS DECIDED AS FOLLOWS:

Article 1

Chairmanship

The Association Council shall be presided over alternately for periods of 12 months by a representative of the Council of the European Union, on behalf of the Community and its Member States, and a representative of the Government of the Republic of Latvia. The first period shall begin on the date of the first Association Council meeting and end on 31 December 1998.

Article 2

Meetings

The Association Council shall meet regularly at ministerial level once a year. Special sessions of the Association Council may be held if the Parties so agree, at the request of either Party.

Unless otherwise agreed by the parties, each session of the Association Council shall be held at the usual venue for meetings of the Council of the European Union at a date agreed by both Parties.

The meetings of the Association Council shall be jointly convened by the Secretaries of the Association Council in agreement with the President.

Article 3

Representation

The members of the Association Council may be represented if unable to attend. If a member wishes to be so represented, he must notify the President of the name of his representative before the meeting at which he is to be so represented.

The representative of a member of the Association Council shall exercise all the rights of that member.

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Delegations

The members of the Association Council may be accompanied by officials.

Before each meeting, the President shall be informed of the intended composition of the delegation of each Party.

A representative of the European Investment Bank shall attend the meetings of the Association Council, as an observer, when matters which concern the Bank appear on the agenda.

The Association Council may invite non-members to attend its meetings in order to provide information on particular subjects.

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Secretariat

An official of the General Secretariat of the Council of the European Union and an official of the Mission of the Republic of Latvia in Brussels shall act jointly as Secretaries of the Association Council.

Article 6

Correspondence

Correspondence addressed to the Association Council shall be sent to the President of the Association Council at the address of the General Secretariat of the Council of the European Union.

The two Secretaries shall ensure that correspondence is forwarded to the President of the Association Council and, where appropriate, circulated to other members of the Association Council. Correspondence circulated shall be sent to the General Secretariat of the Commission, the Permanent Representations of the Member States and the Mission of the Republic of Latvia in Brussels.

Communications from the President of the Association Council shall be sent to the addressees by the two Secretaries and circulated, where appropriate, to the other members of the Association Council at the addresses indicated in the preceding paragraph.

*Article 7***Publicity**

Unless otherwise decided, the meetings of the Association Council shall not be public.

*Article 8***Agendas for meetings**

1. The President shall draw up a provisional agenda for each meeting. It shall be forwarded by the Secretaries of the Association Council to the addressees referred to in Article 6 not later than 15 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the President has received a request for inclusion in the agenda not later than 21 days before the beginning of the meeting, save that items shall not be written into the provisional agenda unless the supporting documentation has been forwarded to the Secretaries not later than the date of despatch of the agenda.

The agenda shall be adopted by the Association Council at the beginning of each meeting. An item other than those appearing on the provisional agenda may be placed on the agenda if the two Parties so agree.

2. The President may, in agreement with the two Parties, shorten the time limits specified in paragraph 1 in order to take account of the requirements of a particular case.

*Article 9***Minutes**

Draft minutes of each meeting shall be drawn up by the two Secretaries.

The minutes shall, as a general rule, indicate in respect of each item on the agenda

- the documentation submitted to the Association Council,
- statements the entry of which has been requested by a member of the Association Council,
- the decisions and recommendations taken, the statements agreed upon and the conclusions adopted.

The draft minutes shall be submitted to the Association Council for approval. When approved, the minutes shall be signed by the President and the two Secretaries. The minutes shall be filed in the archives of the General Secretariat of the Council of the European Union who is acting as depository of the documents of the Association; a certified copy shall be forwarded to each of the addressees referred to in Article 6.

*Article 10***Decisions and Recommendations**

1. The Association Council shall take its decisions and recommendations by common agreement of the Parties.

During the inter-sessional period, the Association Council may take decisions or recommendations by written procedure if both Parties so agree.

2. The decisions and recommendations of the Association Council within the meaning of Article 112 of the Europe Agreement shall be entitled respectively 'Decision' and 'Recommendation' followed by a serial number, by the date of their adoption and by a description of their subject.

The decisions and recommendations of the Association Council shall be signed by the President and authenticated by the two Secretaries.

Decisions and recommendations shall be forwarded to each of the addressees referred to in Article 6 above.

Each Party may decide on the publication of decisions and recommendations of the Association Council in its respective official publication (the *Official Journal of the European Communities* and the *Latvijas Vestnesis*).

*Article 11***Languages**

The official languages of the Association Council shall be the official languages of the two Parties.

Unless otherwise decided, the Association Council shall base its deliberations on documentation prepared in these languages.

*Article 12***Expenses**

The Community and the Republic of Latvia shall each defray the expenses they incur by reason of their participation in the meetings of the Association Council, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure.

Expenditure in connection with interpreting at meetings, translation and reproduction of documents shall be borne by the Community, with the exception of expenditure in connection with interpreting or translation into or from Latvian, which shall be borne by the Republic of Latvia.

Other expenditure relating to the material organization of meetings shall be borne by the Party which hosts the meetings.

*Article 13***Association Committee**

1. An Association Committee is hereby established in order to assist the Association Council in carrying out its duties. It shall be composed of representatives of the members of the Council of the European Union and of members of the Commission of the European Communities, on the one hand, and of representatives of the Latvian Government on the other, normally at senior civil servant level.

2. The Association Committee shall prepare the meetings and the deliberations of the Association Council, implement the decisions of the Association Council where appropriate and, in general, ensure continuity of the association relationship and the proper functioning of the Europe Agreement. It shall consider any matter referred to it by the Association Council as well as any other matter which may arise in the course of the day-to-day implementation of the Europe Agreement. It shall submit proposals or any draft decisions/recommendations for adoption to the Association Council.

3. In cases where the Europe Agreement refers to an obligation to consult or a possibility of consultation, such consultation may take place within the Association Committee. The consultation may continue in the Association Council if the two Parties so agree.

4. The rules of procedure of the Association Committee are annexed to this Decision.

Article 14

Subcommittees and special groups

The subcommittees, mentioned in Article 115 of the Europe Agreement, are listed in Annex II to this De-

cision. Subcommittees shall work under the authority of the Association Committee, to which they shall report after each of their meetings.

The Association Committee may decide to abolish any existing subcommittees or groups, modify their terms of reference or set up further subcommittees or groups to assist it in carrying out its duties.

These subcommittees and groups shall not have any decision-making power.

Done at Brussels, 23 February 1998.

For the Association Council

The President

R. COOK

ANNEX I

RULES OF PROCEDURE OF THE ASSOCIATION COMMITTEE

*Article 1***Chairmanship**

The Association Committee shall be presided over alternately for periods of 12 months by a representative of the European Commission, on behalf of the Community and its Member States, and a representative of the Government of the Republic of Latvia. The first period shall begin on the date of the first Association Council meeting and end on 31 December 1998.

*Article 2***Meetings**

The Association Committee shall meet when circumstances require with the agreement of both Parties.

Each meeting of the Association Committee shall be held at a time and place agreed by both Parties.

The meetings of the Association Committee shall be convened by the Chairman.

*Article 3***Delegations**

Before each meeting, the Chairman shall be informed of the intended composition of the delegation of each Party.

*Article 4***Secretariat**

An official of the European Commission and an official of the Latvian Government shall act jointly as Secretaries of the Association Committee.

All communications to and from the Chairman of the Association Committee provided for in this Decision shall be forwarded to the Secretaries of the Association Committee and to the Secretaries and the President of the Association Council.

*Article 5***Publicity**

Unless otherwise decided, the meetings of the Association Committee shall not be public.

*Article 6***Agendas for meetings**

1. The Chairman shall draw up a provisional agenda for each meeting. It shall be forwarded by the Secretaries of the Association Committee to the addressees referred to in Article 4 not later than 15 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the Chairman has received a request for inclusion in the agenda not later than 21 days before the beginning of the meeting, save that items shall not be written into the provisional agenda unless the supporting documentation has been forwarded to the Secretaries not later than the date of dispatch of the agenda.

The Association Committee may ask experts to attend its meetings in order to provide information on particular subjects.

The agenda shall be adopted by the Association Committee at the beginning of each meeting. An item other than those appearing on the provisional agenda may be placed on the agenda if the two Parties so agree.

2. The Chairman may, in agreement with the two Parties, shorten the time limits specified in paragraph 1 in order to take account of the requirements of a particular case.

*Article 7***Minutes**

Minutes shall be taken for each meeting and shall be based on a summing up by the Chairman of the conclusions arrived at by the Association Committee.

When approved by the Association Committee, the minutes shall be signed by the Chairman and by the Secretaries and filed by each of the Parties. A copy of the minutes shall be forwarded to each of the addressees referred to in Article 4.

*Article 8***Deliberations**

In the specific cases where the Association Committee is empowered by the Association Council under Article 114(2) of the Europe Agreement to take decisions/recommendations, these acts shall be entitled respectively 'Decision' and 'Recommendation', followed by a serial number, by the date of their adoption and by a description of their subject. Decisions and recommendations shall be made by common agreement between the Parties.

The decisions and recommendations of the Association Committee shall be signed by the President and authenticated by the two Secretaries and shall be forwarded to the addressees referred to in Article 4 of this Annex. Each Party may decide on the publication of the decisions and recommendations of this Association Committee in its respective official publication (i.e. the *Official Journal of the European Communities* and the *Latvijas Vestnesis*).

*Article 9***Expenses**

The Community and the Republic of Latvia shall each defray the expenses they incur by reason of their participation in the meetings of the Association Committee, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure.

Expenditure in connection with interpreting at meetings, translation and reproduction of documents shall be borne by the Community, with the exception of expenditure in connection with interpreting or translation into or from Latvian, which shall be borne by the Republic of Latvia.

Other expenditure relating to the material organization of meetings shall be borne by the Party which hosts the meetings.

ANNEX II

MULTIDISCIPLINARY SUB-COMMITTEE STRUCTURE

Title	Issues	Europe Agreement Article
1) Agriculture and fisheries	Agriculture Fisheries Processed Agricultural Products	18-21, 79 22-23, 80 19, Prot. 2
2) Approximation of legislation and Opening Up of Community Programmes	Approximation of legislation White Paper on integration into the Internal Market Competition and state aids Intellectual and industrial property Public procurement Public administration Community programmes	69-71 64-66 67 68 99 109
3) Trade, Industry and Consumer Protection	Commercial questions Industrial cooperation and investment promotion Standards, technical regulations for industrial and processed agricultural goods and conformity assessment Tourism Small and medium sized enterprises Consumer protection	9-16 73-74 76 93 75 95
4) Economic and Financial Issues	Economic questions Monetary policy Fiscal policy	72 and 98 89
5) Human Resources, Research, technological development and social policy	Education, training and Youth Mutual recognition of professional qualifications Science, research and technology Social cooperation (employment, labour market, legislation, industrial relations, etc) Cultural cooperation Audio-visual policy	78 50, 78 77 92 102 85
6) Transport and Trans-European Networks	Transport Maritime Transport Infrastructure and Trans-European networks Telecommunications (and information infrastructure)	84 54, 84 84 85/86
7) Environment, energy and regional development	Environment Energy Nuclear safety Regional development	83 81 82 91

Title	Issues	Europe Agreement Article
8) Cooperation in customs matters, statistics, drugs and prevention of illegal activities	Customs cooperation	96
	Indirect taxation	
	Statistical Cooperation	97
	Drugs and money laundering	90, 100
	Prevention of illegal activities	101
Protocols on Origin and on Mutual Assistance		
9) Financial services, Establishment and Capital Movements	Financial services, banking, insurance	87/88
	Investment promotion, protection of investment	74
	Movement of workers	37-43
	Right of Establishment and services	44-54
	Capital movements and payments	61-63

COMMISSION

COMMISSION DECISION

of 1 October 1997

concerning the extension of the 8 % investment premium for investment projects in the new *Länder* pursuant to the Finance Law 1996

(Only the German text is authentic)

(Text with EEA relevance)

(98/194/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular to Articles 92 and 93 thereof,

Having given the other Member States and interested parties, pursuant to Article 93(2) of the EC Treaty, a period in which to submit their comments,

Having regard to the comments submitted,

Whereas:

Article 3 of the Investment Premium Law 1993 (InvZulG) was amended by Article 18(1) of the Finance Law 1996⁽²⁾ to the effect that the 8 % premium is now granted to investments which were begun after 31 December 1992 but before 1 July 1994 and which will be concluded before 1 January 1999. This extended the time-limit for the implementation of assisted investment projects by two years, but did not change the provisions governing the start of the investment. The Finance Law 1996 came into force on 1 January 1996. By letter dated 17 November 1995, the Federal Ministry of Finance informed the *Länder* tax authorities that the said provision must not be applied before the Commission has approved the aid pursuant to Articles 92 and 93 of the EC Treaty. The letter was published in the Federal Tax Gazette (*Bundessteuerblatt*) 1996, Series I, No 1.

I

By decision dated 11 November 1992⁽¹⁾, the Commission authorized an 8 % investment premium for investment projects in the new *Länder* begun before 1 July 1994 and completed before the end of 1996. The aid intensity of 8 % gross (approximately 5,2 % net) relates exclusively to the cost of acquiring assets for fixed investment.

The investment premium is granted direct by Federal law, so that every undertaking which fulfils the statutory requirements can claim the premium without the authorities having to take a discretionary decision. The premium consists of a reduction of corporation tax and can result in a negative tax claim by the State, so that instead of a tax reduction the recipient undertaking receives a sum of money.

⁽¹⁾ State aid N 561/92, letter of 24 November 1992, ref. SG (92) D/16623.

II

The Commission was informed of the amendment to the Investment Premium Law in a communication dated 19 December 1995, i.e. six working days before the entry into force of the Finance Law 1996; the amendment was therefore registered as a non-notified aid (NN 6/96).

On 3 July 1996 the Commission decided, because the period in which the 8 % investment premium may be claimed was being extended, to initiate the procedure under Article 93(2) of the EC Treaty. Its reason for so doing was that the extension constituted additional State aid for investment projects which were begun before 1 July 1994 and which will be completed in 1997 and

⁽²⁾ BGBl. 1995, I-1250.

1998, since no extra investment compared with the original situation was being promoted. The measure would therefore not assist any new investment projects which could contribute to the regional economic development of the former GDR.

Consequently, the aid would only boost the equity of the undertakings which before July 1994 had begun to invest in the new *Länder*; it would accordingly have to be regarded as operating aid, which, as the Commission has consistently held, is compatible with the common market only if certain conditions are met and the aid serves exclusively to assist the economic development of areas in accordance with Article 92(3)(a) of the EC Treaty. The Commission took the view, however, that the aid could also stimulate economic development outside these assisted areas, with the result that the question was whether the aid could exceptionally be declared compatible with the common market.

Germany was informed by letter dated 31 July 1996⁽¹⁾ of the initiation of the procedure and, like the other Member States and interested parties, was invited by publication of that letter in the *Official Journal of the European Communities*⁽²⁾ to submit its comments.

Germany submitted its comments by letter dated 9 September 1996, and the French undertaking Elf Aquitaine SA (Elf) by letter dated 29 October 1996. On 30 October 1996, the French Government gave its views making reference to Elf's submission. It is clear from Elf's comments that the measure in question relates to investment by the Elf subsidiary Mitteldeutsche Erdöl-Raffinerie (MIDER), which is building a new refinery at Leuna in Saxony-Anhalt. As a result of unforeseen technical difficulties, which the undertaking says it is not responsible for, the investment has been delayed. Without the proposed extension of the time-limit, the investment premium for the entire project could not be claimed, which would put MIDER at a considerable economic disadvantage.

The letters from Elf and the French Government were forwarded for comment to the Federal Republic of Germany by letter dated 26 November 1996.

Between December 1996 and July 1997 the matter was discussed at several meetings between the German authorities and the Commission's departments.

III

In Germany's view, the extension of the time-limit for investment projects for which the 8 % investment premium can be claimed is compatible with the common market. The extension will avert a reduction of invest-

ment aid for large projects where delays have occurred on account of the particular circumstances in eastern Germany. In this way, the equity of undertakings investing in the new *Länder* will be increased, thus contributing to their economic stability. According to Germany, it is not known how many cases are affected by the general extension of the time-limit for claiming the investment premium. Basically, the extension applies to all investment projects which were begun after 31 December 1992 and before 1 July 1994 and which had not been completed by the end of 1996.

In the MIDER/Leuna 2000 case, which the competent authorities had in mind when they proposed the said provision, the undertaking could not conclude the investment project in time by the end of 1996 on account of unforeseeable technical and administrative problems for which the undertaking could not be held responsible. The total aid package for the Leuna 2000 refinery would have been some DEM 360 million lower than had been accepted when the privatisation agreement was concluded. For legal reasons, it was not possible to pass a Federal law just for the MIDER case. The Federal Government, however, declared its readiness to apply the Investment Premium Law as amended by the Finance Law 1996 to MIDER only and to notify individually any further cases to which the amendment would apply.

IV

The investment premium is State aid within the meaning of Article 92(1) of the EC Treaty and Article 61(1) of the EEA Agreement.

The extension of the time-limit for investment projects in respect of which an 8 % premium can be requested from 2 1/2 to 4 years to 4 1/2 to 6 years constitutes additional State aid.

How many investment projects might be covered by the general extension of the time-limit is not known. Basically, the new time-limits apply to all investment projects which were begun after 31 December 1992 and before 1 July 1994 and which had not been concluded by the end of 1996.

Undertakings which began investment projects between January 1993 and June 1994 took their decision in the full knowledge that projects which were not completed by the end of 1996 either would not qualify at all for the investment premium, since the finished part would not be regarded as a complete but smaller than planned investment, or, if the part completed in time is treated as a full investment, albeit smaller than planned, would qualify only to a certain extent. The particular problems which prevent the swift implementation of complex investment projects on the territory of the former GDR,

⁽¹⁾ SG(96) D/7034.

⁽²⁾ OJ C 290, 3. 10. 1996, p. 8.

such as organisational difficulties of regional and local authorities, possible environmental burdens and problems arising from the rules on the restitution of immovable property in the new *Länder*, were known and were the subject of comprehensive discussions before July 1994. Investment projects which were begun in the full knowledge that they could not be concluded in time and in respect of which the investment premium cannot therefore be claimed would nevertheless now be eligible for assistance, thus generating a windfall profit for undertakings which had originally calculated their investment in such a way that it would have been profitable even without such aid.

Undertakings which have taken investment decisions regarding the 8 % investment premium without allowing time for investment-related risks have accepted investment aid which turns out to be potentially lower than if they had met the requirements laid down in the Investment Premium Law 1993, and despite those risks have regarded their investment as profitable. The extension of the time-limit does not generate any extra investment and will probably have no effect on the termination of investment projects already begun.

Aid which does not stimulate any additional investment cannot be regarded as investment aid. State aid which, accordingly, constitutes only an additional payment that should not have been taken into account or which, according to the rules on regional investment aid applying at the time of the investment decision, was uncertain is to be regarded as operating aid for increasing the equity of the undertaking concerned, as was already explained by Germany before the initiation of the procedure in its communication of 19 December 1995.

In its Communication on the method for the application of Article 92(3)(a) and (c) of the EC Treaty to regional aid⁽¹⁾, the Commission explained that operating aid, despite the fact that it is such as seriously to distort competition, may exceptionally be regarded in assisted areas as compatible with the common market in accordance with Article 92(3)(a), if it is necessary for the maintenance of the operation of existing plant. These considerations, however, do not apply to those undertakings which would benefit from the measure in question. Such undertakings decided before July 1994, with regard to the regional investment aid available under the law applicable at the time, to invest in the new *Länder*. Their investments were calculated in such a way that they would be achievable and show a steady profit without operating aid. There are therefore no extraordinary circumstances which

would justify *de facto* operating aid in the form of an extension of the time-limit for claiming the 8 % investment premium as a contribution to the regional development of the disadvantaged regions.

This *de facto* operating aid would, moreover, not only stimulate the economy in eastern Germany. Undertakings which meet the conditions may also maintain plant elsewhere and could thus use the aid to finance activities outside eastern Germany.

The aid in question does not contribute, therefore, to the achievement of one of the objectives referred to in Article 92(2) and (3) of the EC Treaty, which the recipient undertakings under normal market conditions could not achieve either by their own efforts or with the help of existing approved State aid. The investment decisions were taken in the knowledge that the aid in question cannot be claimed if the time-limits are not observed. Aid which does not contribute to the achievement of one of the objectives recognised as justification for the exceptional approval of measures which distort competition cannot be regarded as compatible with the proper functioning of the common market⁽²⁾.

The Federal Government's proposal to apply the amendment of the Investment Premium Law 1993 made by the Finance Law 1996 only to MIDER/Elf Aquitaine and to notify further cases individually in advance does not alter the assessment. The Finance Law is a law passed by the Bundestag which may be relied on directly by any undertaking which meets the general assistance conditions. The number of potential recipients cannot be determined with certainty.

The scope of the relevant provision of the Finance Law 1996 is not limited to the case of MIDER/Elf Aquitaine. There is no provision stating that it is up to the authorities to decide whether the premium will be granted. The commitment offered by Germany cannot effectively be made, since the Federal Government cannot declare a law passed by the Bundestag to be inapplicable or applicable on certain conditions. The authorities do not have the power to apply the relevant provision only in individual cases where it seems reasonable to them to do so. The relevant provision is therefore to be assessed with regard to all potential cases of application and not just to the MIDER case.

The above comments, however, are without prejudice to a possible individual notification by Germany of particular measures modifying the aid package for MIDER's investment in eastern Germany. Such an amendment would be examined by the Commission with regard to the special circumstances of this particular investment and the positive decision of the Commission on this project⁽³⁾.

V

In conclusion, therefore, the Commission finds that the aid in question does not contribute to the promotion of additional investment in the new *Länder* and is not necessary for the maintenance of existing economic activ-

⁽¹⁾ OJ C 212, 12. 8. 1988, p. 2.

⁽²⁾ See also the judgment of the Court of Justice in Case 730/79 Philip Morris [1980] ECR I-2671, paragraph 16 et seq.

⁽³⁾ Letter SG(93) D/11541, OJ C 214, 7. 8. 1993, p. 9.

ities in them. As a result, the aid does not contribute to the achievement of one of the objectives referred to in Article 92(2) and (3) of the EC Treaty and is not compatible therefore with the proper functioning of the common market.

The aid scheme was wrongly brought into force on 1 January 1996 without prior approval by the Commission. The Commission has noted that Germany has instructed the authorities in the new *Länder* to apply the Law only after it has been approved by the Commission. This communication, however, cannot be opposed to the direct application of a Federal law which gives all potential recipients who meet the conditions a legal claim, without a discretionary decision by the authorities being necessary,

HAS ADOPTED THIS DECISION:

Article 1

Article 18(1) of the Finance Law 1996, which amends Article 3 of the Investment Premium Law 1993 to the effect that the 8 % investment premium is now granted for investment projects which were begun after 31 December 1992 and before 1 July 1994 and are completed before 1 January 1999 (instead of before 1 January 1997), introduces new, additional State aid for undertakings which have made investments in the new *Länder*. This aid is unlawful, since it was put into effect in disregard of Article 93(3) of the EC Treaty. The aid is

incompatible with the common market, since it does not contribute to the achievement of one of the objectives referred to in Article 92(2) and (3) of the EC Treaty.

Article 2

Article 18(1) of the Finance Law 1996 shall be repealed. Germany shall recover all aid which was granted pursuant to this provision. The aid shall be repaid in accordance with the procedures and provisions of German law with interest running from the date of grant of the aid calculated on the basis of the rate serving as the reference interest rate used in assessing regional aid programmes.

Article 3

Germany shall inform the Commission within two months of the date of notification of this Decision of the measures it has taken to comply herewith.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 October 1997.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION RECOMMENDATION
of 8 January 1998
on interconnection in a liberalised telecommunications market
(Part 1 — Interconnection pricing)
(Text with EEA relevance)

(98/195/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in telecommunications with regard to ensuring universal service and interoperability through the application of the principles of open network provision (ONP)⁽¹⁾, and in particular Article 7(5) thereof,

Whereas Commission Directive 96/19/EC of 13 March 1996 amending Directive 90/388/EEC with regard to the implementation of full competition in telecommunications markets⁽²⁾, abolishes special and exclusive rights as regards the provision of telecommunications networks and services;

Whereas it is Community policy to create an open and competitive market in the telecommunications sector; whereas for new entrants in the telecommunications market seeking to compete with the incumbent operators, interconnection to the existing public switched telecommunications networks is essential, and interconnection charges represent one of the biggest items of expenditure for new market entrants; whereas the Community has agreed a regulatory framework for interconnection as set out in Directive 97/33/EC;

Whereas Directive 97/33/EC gives national regulatory authorities for telecommunications (NRAs) an important role in securing adequate interconnection of networks, in accordance with Community law, taking into account recommendations defined by the Commission so as to facilitate the development of a genuine European home market (recital 12); whereas, in particular, Article 7(5) of Directive 97/33/EC calls upon the Commission to draw up recommendations on cost accounting systems and accounting separation; whereas, in accordance with the principle of subsidiarity, the setting of tariffs for interconnection is a responsibility of the Member States;

Whereas Article 7(2) of Directive 97/33/EC requires that certain organisations notified by their NRA as having significant market power (hereinafter referred to as 'notified operators') follow the principles of transparency and cost orientation for interconnection charges, and states that the burden of proof that charges are cost-oriented lies with the organisation providing interconnection to its network;

Whereas the Commission considers that that most appropriate approach to interconnection pricing is one based on forward-looking long-run average incremental costs, since this is most compatible with a competitive market; whereas this approach does not preclude the use of justified 'mark-ups' as a means of recovering the forward-looking joint and common costs of an efficient operator as would arise under competitive conditions;

Whereas until interconnection charges based on forward-looking long-run average incremental costs are put in place, it is appropriate to publish international comparisons of interconnection charges as a means of assisting national regulatory authorities in ensuring the implementation of cost-oriented interconnection to the networks of notified operators;

Whereas Article 7(5) of Directive 97/33/EC calls for NRAs to ensure that the cost accounting systems used by the organisations concerned are suitable to ensure transparency and cost orientation, but does not specify a particular cost accounting system; whereas an approach to interconnection pricing based on forward-looking long-run average incremental costs implies an accounting system based on current costs rather than historic costs; whereas activity based accounts can be used to build a 'top-down' model of the long-run average incremental cost of interconnection;

Whereas the cost of terminating a call from an interconnected network should not depend on the type of network on which the call originated; whereas the principle of non-discrimination means that the interconnection tariffs for call termination services provided by notified operators should not in general discriminate between calls originating from fixed networks and calls originating

⁽¹⁾ OJ L 199, 26. 7. 1997, p. 32.

⁽²⁾ OJ L 74, 22. 3. 1996, p. 13.

from mobile networks, nor between calls originating from networks in the same Member State and calls originating from networks in other Member States;

Whereas Member State may make the provision of telecommunications services, including the establishment and/or operation of telecommunications networks required for the provision of such services, subject to authorisations in accordance with Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licences in the field of telecommunications services⁽¹⁾; whereas the general principles of the Treaty and the particular requirements of the Directive 97/33/EC, mean that all points of interconnection open to national operators should also be open to authorised operators in other Member States who wish to deliver cross-border traffic; whereas the established practice that existing network operators can deliver traffic to other Member States without needing authorisations in the destination Member State, or needing to be established in the destination Member State, is consistent with the principle that delivery of traffic to a Member State does not constitute the offering of a service in that Member State;

Whereas Directive 97/33/EC allows Member States to establish mechanisms for sharing the net cost of universal service obligations between organisations operating public telecommunications networks and/or publicly available voice telephony services;

Whereas Article 12(1) of Directive 95/62/EC of the European Parliament and the Council of 13 December 1995 on the application of open network provision to voice telephony⁽²⁾ requires tariffs for use of the fixed public telephone network and the voice telephony service to follow the basic principles of cost orientation and transparency; whereas contributions by interconnected parties to 'access deficit' type schemes are only permissible when tariff constraints are imposed by NRAs on the grounds of affordability and accessibility of telephone service in accordance with Article 12(2) of Directive 95/62/EC; whereas the Commission has indicated that it believes such schemes should disappear by 1 January 2000⁽³⁾;

Whereas the application of the principles set out in this recommendation is without prejudice to the duty of the Member States and of undertakings to fully comply with the EU competition rules, taking account of the specific positions set out in the communication from the

Commission on the application of the competition rules to access agreements in the telecommunications sector⁽⁴⁾;

Whereas the advisory committee set up by Article 9(1) of Directive 90/387/EEC on the establishment of the internal market for telecommunications services through the implementation of open network provision⁽⁵⁾ ('the ONP Committee') has given broad support to the principles contained in this recommendation, and the Commission has taken utmost account of the views expressed,

MAKES THE FOLLOWING RECOMMENDATION:

1. This recommendation concerns the interconnection of telecommunications networks, and in particular the pricing of call termination on the networks of operators designated by their national regulatory authority as having significant market power (hereinafter referred to as 'notified operators') in accordance with Directive 97/33/EC.
2. Article 7(2) of Directive 97/33/EC requires the interconnection charges of notified operators to follow the principles of cost orientation and transparency. The principle of cost orientation when applied to interconnection means that interconnection charges should reflect the way in which the costs of interconnection are actually incurred. Notified operators should be able to recover the one-off incremental cost required to connect the networks, and the incremental capacity costs imposed by the interconnecting traffic.

Annex I of this recommendation provides further details on the type of costs associated with call termination.
3. Interconnection costs should be calculated on the basis of forward-looking long run average incremental costs, since these costs closely approximate those of an efficient operator employing modern technology. Interconnection charges which are based on such costs may include justified 'mark-ups' to cover a portion of the forward-looking joint and common costs of an efficient operator, as would arise under competitive conditions.
4. The interconnection charges based on 'best current practice' given below provide guidance to NRAs when assessing the interconnection charges for call termination proposed by notified operators, until calculated costs for interconnection based on forward-looking, long-run average incremental costs are available.

⁽¹⁾ OJ L 117, 7. 5. 1997, p. 15.

⁽²⁾ OJ L 321, 30. 12. 1995, p. 6.

⁽³⁾ COM(96) 608, 27.11.1996, Commission communication on assessment criteria for national schemes for the costing and financing of universal service in telecommunications and guidelines for the Member States on operation of such schemes.

⁽⁴⁾ OJ C 76, 11. 3. 1997, p. 9.

⁽⁵⁾ OJ L 192, 24. 7. 1990, p. 1.

Based on the data given in Annex II of this recommendation, the following 'best current practice' charges are recommended maximum interconnection charges for the period starting 1 January 1998.

'Best current practice' interconnection charges

'Best current practice' interconnection charge for call termination at the LOCAL level (i. e. at a local exchange or as near a local exchange as possible)
between ECU 0,6 and 1,0/100 per minute (at peak rate)

'Best current practice' interconnection charge for SINGLE TRANSIT interconnection (*metropolitan level*)
between ECU 0,9 and 1,8/100 per minute (at peak rate)

'Best current practice' interconnection charge for DOUBLE TRANSIT interconnection (*national level — more than 200 km*)
between ECU 1,5 and 2,6/100 per minute (at peak rate)

5. It is recommended that where charges lie outside the ranges of 'best current practice' charges given in point 4, national regulatory authorities use their rights under Article 7(2) of the Directive 97/33/EC to request full justification of the proposed charges, and if appropriate, to require retrospective changes to interconnection charges. The ranges of 'best current practice' charges given in point 4 are considered to be wide enough to cover recognised cost differences between Member States.

6. The use of forward-looking, long-run average incremental costs implies a cost accounting system using activity-based allocations of current costs, rather than historic costs. It is recommended that national regulatory authorities (NRAs) set deadlines for their notified operators for the implementation of new costs accounting systems based on current costs, where such systems are not already in place. Activity-based costing systems, in which costs are allocated to each product and/or service on the basis of the underlying cost drivers and activities of an efficient operator, are recommended in order to minimise the joint and common costs that cannot be directly allocated.

7. In keeping with current practice for cross-border interconnection between operators of established

networks, and the principle of non-discrimination, operators authorised in one Member State that merely interconnect to deliver traffic to another Member State, and that do not offer services or operate infrastructure in that other Member State, should not need to be authorised or established in that other Member State.

It is recommended that the reference interconnection offer of notified organisations should include — as a discrete unbundled element of the interconnection offer — terms and conditions and tariffs for the transmission link between the actual point of interconnection and the border of the Member State.

8. Without prejudice to the principle of non-discrimination, any contributions to access deficits or universal service paid by organisations operating public telecommunications networks and/or voice telephony services operators in a Member State (which in accordance with Community law must be separated from interconnection charges), should not be imposed on organisations which merely interconnect to deliver traffic to a Member State and do not actually offer telecommunications services in that Member State, nor be imposed indirectly on consumers in other Member States.

9. This recommendation, and in particular the 'best current practice charges' in point 4 and the data in Annex II, will be reviewed by the Commission by 31 July 1998 at the latest, and updated where necessary.
10. This recommendation is addressed to the Member States.

Done at Brussels, 8 January 1998.

For the Commission
Martin BANGEMANN
Member of the Commission

ANNEX I

COMPONENTS OF INTERCONNECTION CHARGES FOR CALL TERMINATION

Directive 97/33/EC requires the interconnection charges of notified operators to follow the principles of cost orientation. This Annex considers the implications of this requirement for the components of an interconnection charge for call termination.

1. Pricing the local loop for interconnection purposes

The local loop refers to the final links between the customer and the local exchange. In a fixed network using wired or wireless local loops, the cost of an unswitched local loop is largely a one-off cost, with periodic maintenance costs. Where call termination is being purchased, the 'lowest' place in the network where this can occur is on the main network side of the local switch⁽¹⁾. Interconnection at this point may impose additional switch capacity costs, but there is no additional capacity cost or investment requirement relating to those components of the local loop which are dedicated to a particular customer (i.e. the pair of copper wires in a traditional network).

It follows from the principle of cost orientation that since the provision of interconnection does not lead to any increase of costs in the dedicated components of the local loop of the terminating network, the calculation of interconnection charges should not include any component relating to the direct cost of the subscriber-dedicated components of the local loop. The cost of those components in the unswitched local loop that are dedicated to a particular customer should therefore be recovered from that customer through a subscriber line charge, or as a combination of this and revenues from other services, to the extent that competition permits.

A difficulty arises if the incumbent is prevented from rebalancing its tariffs by regulatory measures and thus cannot charge an economic price to its own customers to cover the cost of the local loop. This gives rise to the so-called 'access deficit'. In a monopoly environment the operator compensates for the deficit in the 'access network' (i.e. the local loop) by charging prices in excess of economic cost for other services, such as international calls. With cost-oriented interconnection, competitors are able to capture some of this long distance and international traffic, and the incumbent's ability to compensate for the access deficit is reduced. An access deficit scheme involves contributions being imposed on other operators to compensate the incumbent for the loss of revenues that would have been used to fund this deficit.

Access deficit contribution schemes always provide inefficient investment signals, and raise overall industry costs. They are also administratively cumbersome, and lack transparency. As mentioned in the 'Guidelines on costing and pricing of universal service' published by the Commission in November 1996⁽²⁾ it is expected that access deficit type schemes will only be applied on a temporary basis, up to the year 2000, by which time a sufficient level of re-balancing should have been completed in all Member States.

In accordance with the Interconnection Directive, any contribution to 'access deficits' paid by interconnecting parties must be clearly separated from the interconnection charges. Payment of 'access deficit contributions' by interconnected parties is only permissible under Community law where Member States impose regulatory constraints on the retail tariffs of notified operators. Where an operator is not prevented by regulatory measures from rebalancing its tariffs, and 'access deficit' charge is not justified.

2. Pricing uncompleted calls for interconnection purposes

Uncompleted busy hour calls that originate from interconnected networks may impose additional capacity costs on a terminating network. In some cases, however, the reason for call failure could be lack of performance of the incumbent's own network. The Interconnection Directive places the onus of proof regarding costs on the network operator, so any operator seeking to include in its interconnection tariffs a fee for uncompleted calls would have to demonstrate that lack of performance of its own network had not been a reason for call failure.

⁽¹⁾ The provision of 'unbundled' local loop, whereby a new entrant takes over and has exclusive use of a local loop installed by an incumbent, for an appropriate fee, is not strictly 'interconnection' in EU terms.

⁽²⁾ COM(96) 608, 27. 11. 1996.

3. Call set-up charges for interconnection purposes

In a fixed network, switch costs are mainly driven by two factors — call duration and call events (i.e. signalling and call set-up). A great deal of information is required to determine the proper balance in terms of cost causation between these two types of costs. Partly because of this, it is common for regulatory authorities to allow recovery of switching costs only on the basis of duration of completed calls. A charge for call set-up could only be considered to be a valid component of an interconnection tariff if the operator could demonstrate the extent to which calls originating from interconnected networks imposed incremental costs on the terminating network in terms of additional processing power required to handle the additional call set-up attempts occurring during the peak period. If a call set-up charge is used, the corresponding call duration charges should be lower than when there is no call set-up charge.

4. Interconnection charges and retail pricing

Some countries have in the past calculated interconnection charges on the basis of discounted retail tariffs. However, current retail tariffs are not necessarily cost-oriented, and this approach would in most cases be incompatible with the requirements of Community law.

Even if retail tariffs were cost-oriented, the approach is not desirable because it tends to lock new entrants into the same retail tariff structure as that of the incumbent, thus preventing the development by new entrants of innovative retail tariff schemes targeted at different types of user. The variety and choice of retail tariff schemes currently available on mobile networks in Member States shows there is considerable scope for innovative retail tariffing as a means of providing consumer choice and increasing the market demand for telecommunications services.

Where interconnection charges include time of day and day of week variations, they should be applied in a non-discriminatory manner to new entrants and to the incumbent's own traffic.

ANNEX II

'BEST PRACTICE' INTERCONNECT CHARGES AND THEIR DERIVATION

1. Approach

The approach taken is to use the interconnect charges in the three lowest cost Member States (for which data was available at 1 September 1997) as the starting point for a set of 'best current practice' figures at which to aim in the short term.

The figure below shows the level of interconnection charges for Member States. The costs in this figure refer to call termination on fixed networks at peak rates. Call set-up charges are included where they exist, but other non-traffic-related charges are in general not included. The figures do not include any 'access deficit' type contributions or universal service contributions. These additional contributions will not be required in many Member States, but where they are required as part of the regulatory environment in a Member State, they must be calculated and shown separately from the interconnection charge, in accordance with the Interconnection Directive.

Note that these figures concern one specific element of the cost of interconnection, i.e. the charge for call termination. They do not represent the full interconnection charges that may be payable in a given country.

1997/1998 — Interconnection rates

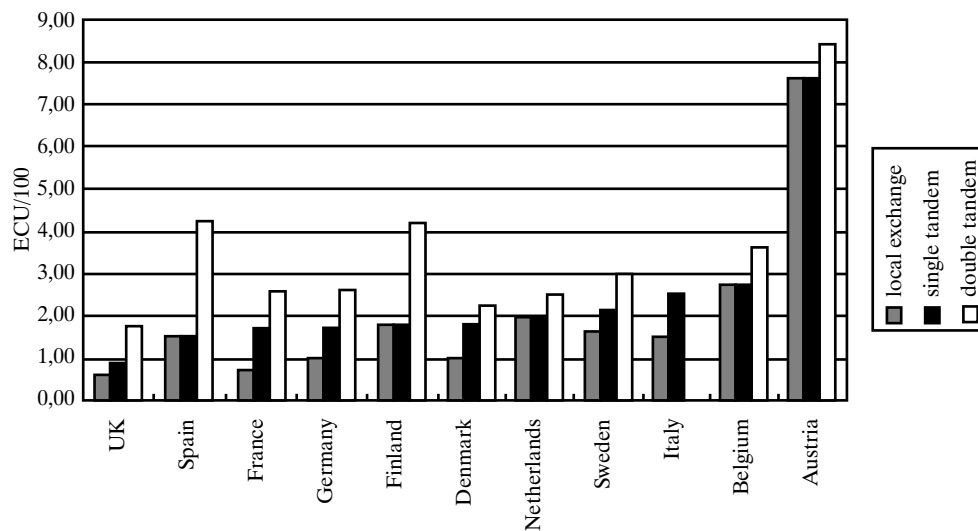


Figure 1

Interconnection charges for local, single transit and double transit levels, at peak rates
(rate in ECU/100 per minute, based on a three minute call duration)

The tables in section 3 give the data upon which this chart is based.

There are factors such as average density of connections, labour costs, geological factors, permitted rate of return on capital employed ⁽¹⁾, which vary between EU Member States. While such variations will to some extent affect the cost of interconnection, the differences are not considered to be large enough to invalidate the 'best current practice' charges recommended here ⁽²⁾.

It is intended to review the figures in this recommendation during 1998, and it is to be expected that the 'best current practice' interconnection charges will be progressively reduced in the future to reflect both the downward trend in network costs and better estimation of those costs. Currently interconnection charges worldwide are reducing at about 8 % per annum.

It must be stressed that these 'best current practice' charges are higher — in some cases considerably higher — than those which would be expected using a bottom-up LRAIC calculation. Nevertheless given the situation in the EU as of January 1998, it is considered that these 'best current practice' charges represent a realistic intermediate goal.

2. Derivation of 'best current practice' interconnection charges

The price ranges were derived from the tariffs that were available as of 1 September 1997. Changes in interconnection tariffs occurring after that date have not been taken into account.

The top price in each range shown above corresponds to the charge that applied at 1 September 97 in the third lowest-cost Member State, rounded up to the nearest ECU/1 000.

The bottom price in each range corresponds to the charge that applied at 1 September 97 in the lowest cost Member State, rounded down to the nearest ECU/1 000, and with an adjustment to the 'double transit' rate to take account of the fact that in smaller Member States a distance component of less than 200 km may be appropriate.

3. Detailed cost data for Member States

Interconnect charges per minute based on a three-minute call duration as of 1 January 1998 basic starting values in ECU cents (ECU/100)				Exchange rates to ECU at September 1997	Interconnection charges in local currencies Date at which prices are effective, other supplementary information
Member State	Local	Single transit	Double transit ⁽¹⁾		
UK	0,64	0,91	1,74	0,68	Prices from October 1997 (GBP/100): — local exchange = 0,434 per min. — single tandem = 0,618 per min. — double tandem (> 200 km) = 1,177 per min.
Spain ⁽²⁾	1,51 ⁽²⁾	1,51	4,22	166	Prices since April 1997 (ESP): — local = not provided — metropolitan = 2,5 per min. — national = 7 per min.
France	0,71	1,73	2,55	6,59	Prices for 1 January 1998 (FRF/100): — local exchange = 4,69 per min. — single tandem = 11,40 per min. — double tandem (> 200 km) = 16,77 per min. Charges without ADC or USO contribution
Germany ⁽²⁾	1,00 ⁽²⁾	1,71-2,16 ⁽²⁾	2,61	1,97	Prices for 1 January 1998 (DEM/100): — city = 1,97 per min. — Regio50 = 3,36 par min. — Regio200 = 4,25 per min. — national = 5,14 per min.

⁽¹⁾ Historically, the real cost of capital has been higher in some countries, and some regions of the world compared with other. Rates of return on capital employed may therefore differ between states by several percentage points per annum.

⁽²⁾ The density of connections is largely reflected in access cost, a dedicated cost to the end customer, rather than imposing great differences in interconnection rates. A similar argument can be made regarding differences in geological factors.

Interconnect charges per minute based on a three-minute call duration as of 1 January 1998 basic starting values in ECU cents (ECU/100)				Exchange rates to ECU at September 1997	Interconnection charges in local currencies Date at which prices are effective, other supplementary information
Member State	Local	Single transit	Double transit ⁽¹⁾		
Finland	1,81 ⁽²⁾	1,81	4,20 ⁽⁷⁾	5,88	Prices since September 1997 (FIM/100): — local = not provided — metropolitan = 20 per call + 4 per min. — national = 20 per call + 13,8 to 18 per min.
Denmark	0,98	1,82	2,22	7,49	Prices since September 1997 (DKK/100): — local exchange = 4 per call + 6 per min. — single tandem = 8 per call + 11 per min. — double tandem = 8 per call + 14 per min.
Netherlands	2,00 ⁽²⁾	2,00	2,52	2,21	Prices since July 1997 (NLG/100): — local exchange = not provided — local segment = 2,5 per call + 3,6 per min. — national = 3,2 per call + 4,5 per min.
Sweden	1,68	2,15	2,98	8,51	Prices since January 1997 (SEK/100): — local exchange = 7 per call + 12 per min. — single segment = 7 per call + 16 per min. — double segment = 7 per call + 23 per min.
Italy ^(*)	1,54 ⁽⁸⁾	2,52		1 921	Proposed tariffs for 1 January 1998 (ITL): — local (only from 1 September 1998) = 29,6 per min. — region = 48,4 per min. — national = not provided
Belgium ^(*)	2,78 ⁽²⁾	2,78	3,62	40	Proposed tariffs for 1 January 1998 (BEF): — local = not provided — region = 0,354 per call + 0,996 per min. — national = 0,460 per call + 1,294 per min.
Austria ^(*)	7,61 ⁽²⁾	7,61	8,41	13,79	Proposed tariffs for 1 January 1998 (ATS/100): — local = not provided — region = 1,05 per min. — national = 1,16 per min.

Source: OVUM and Commission services

(*) Initial tariffs proposed by the operator but not yet approved by the national regulatory authority.

(1) The 'double transit' rate includes a distance component for links of > 200 km.

(2) In Spain, until full liberalisation on 1 December 1998, (in accordance with the derogation granted under Directive 96/19/EC) this offer is only available to a limited number of authorised operators.

(3) In Spain, Finland, Netherlands, Belgium and Austria the lowest interconnection charge covers interconnection at a local or a tandem exchange. Thus the 'local' rate is the same as the 'single transit' rate.

(4) Interconnection charges in Germany were not available on 1 September 1997 and have not been used in the derivation of 'best current practice' price ranges. The four zones in Germany, which are defined by distance, do not correspond on a 1:1 basis to the three bands in the table which are defined in technical terms.

(5) In Germany the local tariff is in general identical with the so-called City-zone, which also covers large cities, but might sometimes include single transit interconnection.

(6) In Germany the single transit segment or metropolitan area is covered by two regional zones: Regio50 = 1,71 ECU/100 per minute and Regio200 = 2,16 ECU/100 per minute (Regio200 might sometimes include double transit connection).

(7) The price range is between 3,48 and 4,20 according to traffic carried.

(8) In Italy local tariffs are only available from 1 September 1998.

In Greece, Ireland, Luxembourg, and Portugal, telecommunications organisations have not published interconnection prices, in accordance with the derogations granted under Directive 96/19/EC.