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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 602/98

of 9 March 1998

extending the coverage of Regulations (EC) No 3281/94 and No 1256/96 concerning Community schemes of generalised tariff preferences for the benefit of the least-developed countries

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas Article 3 of Council Regulation (EC) No 3281/94 of 19 December 1994 applying a four-year scheme of generalised tariff preferences (1995 to 1998) in respect of certain industrial products originating in developing countries⁽¹⁾ provides for more favourable tariff treatment for the least-developed countries;

Whereas Article 3 of Council Regulation (EC) No 1256/96 of 20 June 1996 applying multiannual schemes of generalised tariff preferences from 1 July 1996 to 30 June 1999 in respect of certain agricultural products originating in developing countries⁽²⁾ likewise provides for more favourable tariff treatment for the least-developed countries;

Whereas at the Singapore ministerial conference in December 1996 the World Trade Organisation (WTO) member countries pledged to carry out an action plan to improve access to their markets for products originating in the least-developed countries;

Whereas on 2 June 1997 the Council, on the basis of a Commission communication of 16 April 1997, adopted conclusions calling for the implementation of the Singapore conclusions in particular by granting least-developed countries not party to the Fourth ACP-EC Convention preferences equivalent to those enjoyed by signatories to that Convention;

Whereas equivalent treatment for industrial products means including the Generalised System of Preferences (GSP) scheme all products currently excluded from it but exempt from customs duties under the Fourth ACP-EC Convention;

Whereas agricultural products subject under the Fourth ACP-EC Convention to a tariff reduction but not to a tariff quota should be included in the scheme for the benefit of least-developed countries by applying one of the preferential rates of duty provided for in Article 2 of Regulation (EC) No 1256/96, in line with the reduction accorded by the Fourth ACP-EC Convention,

HAS ADOPTED THIS REGULATION:

Article 1

Access to the arrangements provided for in Article 3(1) of Regulation (EC) No 3281/94 is hereby extended to the products listed in Annex I to this Regulation.

Article 2

The arrangements laid down in Article 3(1) of Regulation (EC) No 1256/96 shall be supplemented by applying to the products listed in Annex II to this Regulation one of the preferential rates of duty specified in Article 2 of Regulation (EC) No 1256/96, according to product sensitivity.

Article 3

The list of least-developed countries in Annex IV to Regulations (EC) Nos 3281/94 and 1256/96 is hereby amended as follows:

- in Annex IV to Regulation (EC) No 3281/94, '330 Angola' shall be inserted after '328 Burundi' and '391 Botswana' and '817 Tonga' shall be deleted,
- in Annex IV to Regulation (EC) No 1256/96, '391 Botswana' and '817 Tonga' shall be deleted.

Article 4

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

It shall apply from 1 January 1998.

⁽¹⁾ OJ L 348, 31. 12. 1994, p. 1, Regulation as last amended by Regulation (EC) No 998/97 (OJ L 144, 4. 6. 1997, p. 13).

⁽²⁾ OJ L 160, 29. 6. 1996, p. 1, Regulation as last amended by Regulation (EC) No 2448/96 (OJ L 333, 21. 12. 1996, p. 12).

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

ANNEX I

LIST OF PRODUCTS REFERRED TO IN ARTICLE 1 (1)

CN code	Description
(1)	(2)
	Salt (including table salt and denatured salt) and pure sodium chloride, whether or not in aqueous solution or containing added anti-caking or free-flowing agents; sea water:
2501 00 31	— for chemical transformation (separation of Na from Cl) for the manufacture of other products (2),
2501 00 51	— denatured or for industrial uses (including refining) other than the preservation or preparation of foodstuffs for human or animal consumption (2),
2501 00 91	— salt suitable for human consumption,
2501 00 99	— other
2503 00 90	Sulphur of all kinds, other than sublimed sulphur, precipitated sulphur and colloidal sulphur, except crude or unrefined sulphur
2516 12 10	Granite merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape, of a thickness not exceeding 25 cm
2516 22 10	Sandstone merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape, of a thickness not exceeding 25 cm
2516 90 10	Porphyry, syenite, lava, basalt, gneiss, trachyte and other similar hard rocks, merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape, of a thickness not exceeding 25 cm
2518 20 00	Calcined dolomite
2518 30 00	Agglomerated dolomite, including tarred dolomite
2530 40 00	Natural micaceous iron oxides
2804 61 00	Silicon
2804 69 00	
2805 11 00	Alkali metals
2805 19 00	
2805 21 00	Alkaline-earth metals
2805 22 00	
2805 30	Rare-earth metals, scandium and yttrium, whether or not intermixed or interalloyed
2805 40 10	Mercury in flasks of a net content of 34,5 kg (standard weight), of a fob value per flask not exceeding ECU 224
2818 20 00	Aluminium oxide other than artificial corundum
2818 30 00	Aluminium hydroxide
ex 2844 30 11	Crude cermets, waste and scrap of uranium depleted in U 235
2844 30 19	Uranium depleted in U 235; alloys, dispersions, ceramic products and mixtures, containing uranium depleted in U 235 or compounds of this product (excluding cermets)
ex 2844 30 51	Crude cermets, waste and scrap of thorium
2845 10 00	Heavy water (deuterium oxide)
2845 90 10	Deuterium and compounds thereof; hydrogen and compounds thereof, enriched in deuterium; mixtures and solutions containing these products
2905 43 00	Mannitol
2905 44	D-glucitol (sorbitol)
3201 20 00	Wattle extract
3201 90 20	Sumach, valonea, oak or chestnut extract

(1) Notwithstanding the rules for the interpretation of the combined nomenclature, the wording for the description of the products is to be considered as having no more than indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

(2) The entry under this subheading is subject to conditions laid down in the relevant Community provisions.

(1)	(2)
ex 3201 90 90	Tanning extracts of eucalyptus
ex 3201 90 90	Tanning extracts derived from gambier and myrobalan fruits
ex 3201 90 90	Other tanning extracts of vegetable origin
3502 11 90	Egg albumin, dried (e.g. in sheets, scales, flakes, powder)
3502 19 90	Other (egg albumin)
3502 20 91	Milk albumin (lactalbumin), dried (e.g. in sheets, scales, flakes, powder)
3502 20 99	Other (milk albumin)
3502 90 70	Other albumins
3505 10 10	Dextrins
3505 10 90	Other modified starches, other than esterified or etherified
3505 20	Glues
3809 10	Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations, of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included; with a basis of amylaceous substances
3824 60	Sorbitol other than that of subheading 2905 44
4104 10 91	Other skin leather, not further prepared than tanned
4105 11 91	Other skin leather, not split
4105 11 99	Other skin leather, split
4105 12	Sheep or lamb skin leather, without wool on, other than leather of heading No 4108 or 4109, tanned or retanned but not further prepared, whether or not split, otherwise pre-tanned
4105 19	Other sheep or lamb skin leather, without wool on
4106 11 90	Other goat or kid skin leather, without hair on, other than leather of heading No 4108 or 4109, tanned or retanned but not further prepared, whether or not split, vegetable pre-tanned, other than of Indian goat or kid
4106 12 00	Other goat or kid skin leather, without hair on, other than leather of heading No 4108 or 4109, tanned or retanned but not further prepared, whether or not split, otherwise pre-tanned
4106 19 00	Other goat or kid skin leather, without hair on
4107 10 10	Leather of swine, without hair on, other than leather of heading No 4108 or 4109, not further prepared than tanned
4107 29 10	Reptile skin leather, other than vegetable pre-tanned, not further prepared than tanned
4107 90 10	Leather of other animals, without hair on, not further than tanned
4403 10 10	Poles of coniferous wood, injected or otherwise impregnated to any degree, not less than 6 m or more than 18 m in length and with a circumference at the butt end of more than 45 cm but not more than 90 cm
4501	Natural cork, raw or simply prepared; waste cork; crushed, granulated or ground cork
5001 00 00	Silkworm cocoons suitable for reeling
5002 00 00	Raw silk (not thrown)
5105	Wool and fine or coarse animal hair, carded or combed (including combed wool in fragments)
5203 00 00	Cotton, carded or combed
	Non-alloy pig iron containing by weight 0,5 % or less of phosphorus
7201 10 11	— containing by weight not less than 0,4 % of manganese and 1 % or less of silicon (ECSC)
7201 10 19	— containing by weight not less than 0,4 % of manganese and more than 1 % of silicon (ECSC)
7201 10 30	— containing by weight not less than 0,1 % but less than 0,4 % of manganese
7201 20 00	Non-alloy pig iron containing by weight more than 0,5 % of phosphorus
7201 50 90	Alloy pig iron; spiegeleisen: other than containing by weight not less than 0,3 % but not more than 1 % of titanium and not less than 0,5 % but not more than 1 % of vanadium

(1)	(2)
7203	Ferrous products obtained by direct reduction of iron ore and other spongy ferrous products, in lumps, pellets or similar forms; iron having a minimum purity by weight of 99,94 %, in lumps, pellets or similar forms
7204 50 90	Remelting scrap ingots, other than of alloy steel
7206	Iron and non-alloy steel in ingots or other primary forms, excluding iron of heading No 7203
7218 10 00	Stainless steel in ingots or other primary forms (ECSC)
7224 10 00	Other alloy steel in ingots or other primary forms (ECSC)
7601	Unwrought aluminium: not alloyed
7602 00 19	Other aluminium waste and scrap (including factory rejects)
	Unwrought lead:
7801 10 00	Refined lead
7801 91 00	Lead, other than refined, containing by weight antimony as the principal other element
7801 99 91	Lead alloys
7801 99 99	Other
7901	Unwrought zinc
7903	Zinc dust, powders and flakes
8101 10 00	Tungsten powders
8101 91	Unwrought tungsten, including bars and rods obtained simply by sintering, waste and scrap
8102 10 00	Molybdenum powders
8102 91	Unwrought molybdenum, including bars and rods obtained simply by sintering; waste and scrap
8103 10	Unwrought tantalum including bars and rods obtained simply by sintering; waste and scrap, powders
8104 11 00	Unwrought magnesium, containing at least 99,8 % by weight of magnesium
8104 19 00	Other
8107 10	Unwrought cadmium; waste and scrap; powders
8108 10	Unwrought titanium; waste and scrap; powders
8109 10	Unwrought zirconium; waste and scrap; powders
8110 00 11	Unwrought antimony; powders
8110 00 19	Waste and scrap
8111 00 11	Unwrought manganese; powders
8111 00 19	Waste and scrap
8112 20 31	Unwrought chromium; powders other than chromium alloys containing more than 10 % by weight of nickel
8112 20 39	Waste and scrap
8112 30 20	Unwrought germanium; powders
8112 30 40	Waste and scrap
8112 40 11	Unwrought vanadium; powders
8112 40 19	Waste and scrap
8112 91 10	Hafnium (celtium)
8112 91 31	Unwrought niobium (columbium), unwrought rhenium; powders
8112 91 39	Waste and scrap
8112 91 50	Waste and scrap
8112 91 81	Indium
8112 91 89	Gallium, thallium
	Cermets:
8113 00 20	— unwrought cermets
8113 00 40	— waste and scrap

ANNEX II

LIST OF PRODUCTS REFERRED TO IN ARTICLE 2 (1)

PART 1

Very sensitive products

CN code	Description	
	Live swine: – Other: – – Weighing less than 50 kg: – – – Domestic species	
0103 91 10 (a)	– – – Domestic species	
	– – Weighing 50 kg or more: – – – Domestic species:	
0103 92 11 (a)	– – – – Sows having farrowed at least once, of a weight of not less than 160 kg	
0103 92 19 (a)	– – – – Other	
0105 (a)	Live poultry, that is to say, fowls of the species <i>Gallus domesticus</i> , ducks, geese, turkeys and guinea fowls	
	Pig fat, free of lean meat, and poultry fat, not rendered or otherwise extracted, fresh, chilled, frozen, salted, in brine, dried or smoked:	
0209 00 90 (a)	– Poultry fat	
	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:	
	– Other, including edible flours and meals of meat or meat offal:	
	– – Offal:	
	– – – Other:	
	– – – – Poultry liver:	
0210 90 71 (b)	– – – – – Fatty livers of geese or ducks, salted or in brine	
0210 90 79 (b)	– – – – – Other	
	Milk and cream, not concentrated nor containing added sugar or other sweetening matter:	
0401 10 (a)	– Of a fat content, by weight, not exceeding 1 %	
0401 20 (a)	– Of a fat content, by weight, exceeding 1 % but not exceeding 6 %	
0401 30 (a)	– Of a fat content, by weight, exceeding 6 %	

(1) Notwithstanding the rules for the interpretation of the combined nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description together.

GN-code	Omschrijving	
0403 10 11 (a) 0403 10 13 (a) 0403 10 19 (a) 0403 10 31 (a) 0403 10 33 (a) 0403 10 39 (a)	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa: – Yoghurt: – – Not flavoured nor containing added fruit, nuts or cocoa	
0403 90 11 (a) 0403 90 13 (a) 0403 90 19 (a) 0403 90 31 (a) 0403 90 33 (a) 0403 90 39 (a)	– Other: – – Not flavoured nor containing added fruit, nuts or cocoa: – – – In powder, granules or other solid forms	
129 0403 90 51 (a) 0403 90 53 (a) 0403 90 59 (a) 0403 90 61 (a) 0403 90 63 (a) 0403 90 69 (a)	– – – Other	
0404 (a)	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	
	Butter and other fats and oils derived from milk; dairy spreads:	
0405 10 (a)	– Butter – Dairy spreads:	
144 0405 20 90 (a)	– – Of a fat content, by weight, of more than 75 % but less than 80 %	
0405 90 (a)	– Other	
	Birds' eggs, in shell, fresh, preserved or cooked:	
	– Of poultry:	
0407 00 11 (a)	– – For hatching (1)	
0407 00 19 (a)		
0407 00 30 (a)	– – Other	

(1) Entry under this subheading is subject to conditions laid down in the relevant Community provisions.

CN code	Description	
	Birds' eggs, not in shell, and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other	
	– Egg yolks:	
	– – Dried:	
0408 11 80 (a)	– – – Other	
	– – Other:	
	– – – Other:	
0408 19 81 (a)	– – – – Liquid	
0408 19 89 (a)	– – – – Other, including frozen	
	– Other:	
	– – Dried:	
0408 91 80 (a)	– – – Other	
	– – Other:	
0408 99 80 (a)	– – – Other	
	Onions, shallots, garlic, leeks and other vegetables, fresh or chilled:	
ex 0703 20 00 (b)	– Garlic	The reduction is applicable from 1 June to 31 January
	Cucumbers and gherkins, fresh or chilled:	
ex 0707 00 05 (b)	– Cucumbers with a length of more than 15 cm	The reduction is applicable from 1 November to 15 May
0707 00 90 (b)	– Gherkins	
	Other vegetables, fresh or chilled:	
ex 0709 10 00 (c)	– Globe artichokes	The reduction is applicable from 1 January to 30 June
	– Mushrooms and truffles:	
0709 52 00 (b)	– – Truffles	
	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh:	
ex 0809 10 00 (b)	– Apricots	The reduction is applicable from 1 June to 31 July
ex 0809 30 (b)	– Peaches, including nectarines:	The reduction is applicable from 11 June to 30 September
	– Plums and sloes:	
ex 0809 40 05 (b)	– – Plums	The reduction is applicable from 11 June to 30 September
	Wheat or meslin flour:	
	– Wheat flour:	
1101 00 11 (a)	– – Of durum wheat	
1101 00 15 (a)	– – Of common wheat and spelt	
1101 00 90 (a)	– Meslin flour	
	Cereal groats, meal and pellets:	
1102 10 00 (a)	– Rye flour	

CN code	Description	
1103 11 (a)	Cereal groats, meal and pellets: – Groats and meal: – – Of wheat	
1103 21 00 (a)	– Pellets: – – Of wheat	
1212 91 (a)	Locust beans, seaweeds and other algae, sugar beet and sugar cane, fresh, chilled, frozen or dried, whether or not ground; fruit stones and kernels and other vegetable products (including unroasted chicory roots of the variety <i>Cichorium intybus sativum</i>) of a kind used primarily for human consumption, not elsewhere specified or included: – Other: – – Sugar beet	
1212 92 00 (a)	– – Sugar cane	
1501 00 19 (a)	Pig fat (including lard) and poultry fat, other than that of heading No 0209 or 1503: – Pig fat (including lard): – – Other	
ex 1602 10 00 (b)	Other prepared or preserved meat, meat offal or blood: – Homogenized preparations: – – Of swine, of bovine animals, of sheep and goats – Of liver of any animal: – – Other	
ex 1602 20 90 (b)	– – – Of swine, of bovine animals, of sheep and goats – Of swine: – – Ham and cuts thereof:	
1602 41 10 (a)	– – – Of domestic swine – – Shoulders and cuts thereof:	
1602 42 10 (a)	– – – Of domestic swine – – Other including mixtures:	
1602 49 11 (a)	– – – Of domestic swine	
1602 49 13 (a)		
1602 49 15 (a)		
1602 49 19 (a)		
1602 49 30 (a)		
1602 49 50 (a)		
ex 1602 90 10 (b)	– Other, including preparations of blood of any animal: – – Preparations of blood of any animal: – – – Preparations of blood of bovine animals and of swine – – Other:	
1602 90 51 (a)	– – – Other: – – – – Containing meat or meat offal of domestic swine	

CN code	Description	
	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:	
1702 11 00 (a) 1702 19 00 (a)	– Lactose and lactose syrup	
	– Maple sugar and maple syrup:	
1702 20 10 (a)	– – Maple sugar in solid form, containing added flavouring or colouring matter	
1702 20 90 (b)	– – Other	
	– Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20 % by weight of fructose:	
1702 30 10 (a)	– – Isoglucose	
	– Glucose and glucose syrup, containing in the dry state at least 20 % but less than 50 % by weight of fructose:	
1702 40 10 (a)	– – Isoglucose	
1702 60 (a)	– Other fructose and fructose syrup, containing in the dry state more than 50 % by weight of fructose:	
	– Other, including invert sugar:	
1702 90 30 (a)	– – Isoglucose	
1702 90 60 (a)	– – Artificial honey, whether or not mixed with natural honey	
	– – Caramel:	
1702 90 71 (a)	– – – Containing 50 % or more by weight of sucrose in the dry matter	
	– – – Other:	
1702 90 75 (a)	– – – – In the form of powder, whether or not agglomerated	
1702 90 80 (a)	– – Inulin syrup	
1702 90 99 (a)	– – Other	
	Food preparations not elsewhere specified or included:	
	– Other:	
	– – Flavoured or coloured sugar syrups:	
2106 90 30 (a)	– – – Isoglucose syrups	
	– – – Other:	
2106 90 51 (a)	– – – – Lactose syrup	
2106 90 59 (a)	– – – – Other:	
	Preparations of a kind used in animal feeding:	
	– Dog or cat food, put up for retail sale:	
	– – Containing starch, glucose syrup, maltodextrine or maltodextrine syrup falling within sub-headings 1702 30 51 to 1702 30 99, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products:	
	– – – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup:	

CN code	Description	
	<ul style="list-style-type: none"> — — — — Containing no starch or containing 10 % or less by weight of starch: 	
2309 10 15 (a)	<ul style="list-style-type: none"> — — — — — Containing not less than 50 % but less than 75 % by weight of milk products 	
2309 10 19 (a)	<ul style="list-style-type: none"> — — — — — Containing not less than 75 % by weight of milk products 	
	<ul style="list-style-type: none"> — — — — Containing more than 10 % but not more than 30 % by weight of starch: 	
2309 10 39 (a)	<ul style="list-style-type: none"> — — — — — Containing not less than 50 % by weight of milk products 	
	<ul style="list-style-type: none"> — — — — Containing more than 30 % by weight of starch: 	
2309 10 59 (a)	<ul style="list-style-type: none"> — — — — — Containing not less than 50 % by weight of milk products 	
2309 10 70 (a)	<ul style="list-style-type: none"> — — — Containing no starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup but containing milk products: 	
	<ul style="list-style-type: none"> — Other: 	
	<ul style="list-style-type: none"> — — Other: 	
	<ul style="list-style-type: none"> — — — Containing starch, glucose glucose syrup, maltodextrine or maltodextrine syrup falling within subheadings 1702 30 51 to 1702 30 99, 1702 40 90, 1702 90 50 and 2106 90 55, or milk products: 	
	<ul style="list-style-type: none"> — — — — Containing starch, glucose, glucose syrup, maltodextrine syrup: 	
	<ul style="list-style-type: none"> — — — — — Containing no starch or containing 10 % or less by weight of starch: 	
2309 90 35 (a)	<ul style="list-style-type: none"> — — — — — Containing not less than 50 % but less than 75 % by weight of milk products 	
2309 90 39 (a)	<ul style="list-style-type: none"> — — — — — Containing not less than 75 % by weight of milk products 	
	<ul style="list-style-type: none"> — — — — — Containing more than 10 % but not more than 30 % by weight of starch: 	
2309 90 49 (a)	<ul style="list-style-type: none"> — — — — — Containing not less than 50 % by weight of milk products 	
	<ul style="list-style-type: none"> — — — — — Containing more than 30 % by weight of starch: 	
2309 90 59 (a)	<ul style="list-style-type: none"> — — — — — Containing not less than 50 % by weight of milk products 	
2309 90 70 (a)	<ul style="list-style-type: none"> — — — — Containing no starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup but containin milk products 	

PART 2

Sensitive products

CN code	Description
	Live bovine animals:
0102 90 (b)	– Other
0201 (b) (1)	Meat of bovine animals, fresh or chilled:
0202 (b) (1)	Meat of bovine animals, frozen
	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:
0210 20 (b)	– Meat of bovine animals:
	Starches; inulin:
1108 14 00 (a)	– – Manioc (cassava) starch
	– – Other starches:
	– – – Other:
ex 1108 19 90 (a)	– – – – Other than starches of arrowroot
1109 00 00 (a)	Wheat gluten, whether or not dried
	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:
	– Other, including invert sugar:
	– – Caramel:
	– – – Other:
1702 90 79 (a)	– – – – Other
	Food preparations not elsewhere specified or included:
	– Other:
	– – Flavoured or coloured sugar syrups:
	– – – Other:
2106 90 55 (a)	– – – – Glucose syrup and maltodextrine syrup
	Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets:
	– Residues of starch manufacture and similar residues:
	– – Residues from the manufacture of starch from maize (excluding concentrated steeping liquors), of a protein content, calculated on the dry product:
2303 10 11 (a)	– – – Exceeding 40 % by weight

(1) Where, in the course of a year, imports of beef and veal falling within CN codes 0201 and 0202, originating in one of the countries mentioned in Annex IV of Regulation (EC) No 1256/96, exceed the greatest quantity of Community imports recorded for one year between 1969 and 1974 inclusive for the origin in question, plus an annual growth rate of 7 %, exemption from customs duties on the products of that origin shall be partially or totally suspended.

CN code	Description	
2309 90 31 (a)	Preparations of a kind used in animal feeding: – Other: – – Other: – – – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup falling within subheadings 1702 30 51 to 1702 30 99, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products: – – – – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup: – – – – – Containing no starch or containing 10 % or less by weight of starch: – – – – – – Containing no milk products or containing less than 10 % by weight of such products	

PART 3

Semi-sensitive products

CN code	Description	
0805 10 (b) ex 0805 20 (b)	Citrus fruit, fresh or dried: – Oranges – Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids	The reduction is applicable from 1 November to the end of February

PART 4

Non-sensitive products

CN code	Description	
0204 10 00 (b) 0204 21 00 (b) 0204 22 (b) 0204 23 00 (b) 0204 30 00 (b) 0204 41 00 (b) 0204 42 (b) 0204 43 (b) 0204 50 (b)	Meat of sheep or goats, fresh, chilled or frozen: – Carcasses and half-carcasses of lamb, fresh or chilled – Other meat of sheep, fresh or chilled – Carcasses and half-carcasses of lamb, frozen – Other meat of sheep, frozen – Meat of goats	

CN code	Description	
0206 10 95 (b)	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen: – Of bovine animals, fresh or chilled: – – Other: – – – Thick skirt and thin skirt – Of bovine animals, frozen: – – Other: – – – Other:	
0206 29 91 (b)	– – – – Thick skirt and thin skirt	
0208 90 50 (b)	Other meat and edible meat offal, fresh, chilled or frozen: – Other: – – Whale and seal meat	
0210 12 90 (b)	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal: – Meat of swine: – – Bellies (streaky) and cuts thereof: – – – Other	
0210 90 41 (b)	– – – – Other including edible flours and meals of meat or meat offal:	
0210 90 90 (b)	– – – – Offal: – – – – Of bovine animals: – – – – Thick skirt and thin skirt	
0210 90 90 (b)	– – Edible flours and meals of meat or meat offal	
ex 0703 20 00 (b)	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled: – Garlic	The reduction is applicable from 1 February to 31 May
ex 0707 00 05 (b)	Cucumbers and gherkins, fresh or chilled: – Cucumbers with a length not exceeding 15 cm	The reduction is applicable from 1 November to 15 May
ex 0709 10 00 (b)	Other vegetables, fresh or chilled: – Globe artichokes	The reduction is applicable from 1 November to 31 December
	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh, chilled, frozen or dried, whether or not sliced or in the form of pellets; sago pith: – Manioc (cassava): – – Other:	

CN code	Description	
0714 10 91 (a)	<ul style="list-style-type: none"> – – – Of a kind used for human consumption, in immediate packings of a net content not exceeding 28 kg, either fresh and whole or without skin and frozen, whether or not sliced – Other: – – Arrowroot, salep and similar roots and tubers with high starch content: – – – Of a kind used for human consumption, in immediate packings of a net content not exceeding 28 kg, either fresh and whole or without skin and frozen, whether or not sliced: 	
ex 0714 90 11 (a)	<ul style="list-style-type: none"> – – – – Arrowroot – – – Other: 	
ex 0714 90 19 (a)	<ul style="list-style-type: none"> – – – – Arrowroot <p>Grapes, fresh or dried:</p> <ul style="list-style-type: none"> – Dried: – – Other: 	
0806 20 92 (b)	<ul style="list-style-type: none"> – – – Sultanas <p>Wheat and meslin:</p> <ul style="list-style-type: none"> – Other: 	
1001 90 10 (b)	<ul style="list-style-type: none"> – – Spelt for sowing (1) <p>Flour, meal and powder of the dried leguminous vegetables of heading No 0713, of sago or of roots or tubers of heading No 0714 or of the products of Chapter 8:</p> <ul style="list-style-type: none"> – Of sago or of roots or tubers of heading No 0714: – – Denatured (1): 	
ex 1106 20 10 (a)	<ul style="list-style-type: none"> – – – Of flour and meal of arrowroot – – Other: 	
ex 1106 20 90 (a)	<ul style="list-style-type: none"> – – – Of flour and meal of arrowroot <p>Starches; inulin:</p> <ul style="list-style-type: none"> – Starches: – – Other starches: – – – Other: 	
ex 1108 19 90 (a)	<ul style="list-style-type: none"> – – – – Starches of arrowroot <p>Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified:</p> <ul style="list-style-type: none"> – Fats and oils and their fractions, of marine mammals: – – Solid fractions: 	

(1) Entry under this subheading is subject to conditions laid down in the relevant Community provisions.

CN code	Description	
1504 30 11 (b)	- - - Whale oil and sperm oil Other prepared or preserved meat, meat offal or blood: - Other, including preparations of blood of any animal: - - Other: - - - Other: - - - - Other: - - - - - Other: - - - - - - Of sheep or goats: - - - - - - - Uncooked; mixtures of cooked meat or offal and uncooked meat or offal: - - - - - - - - Of sheep	
1602 90 72 (b)	- - - - - - - - Of sheep	

(a) The reduction is applicable on the specific duties.

(b) The reduction is applicable on the *ad valorem* duties.

(c) The reduction is applicable on the specific duties and on the *ad valorem* duties.

COMMISSION REGULATION (EC) No 603/98
of 17 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 18 March 1998.

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

Done at Brussels, 17 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 17 March 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	204	67,6
	212	108,6
	624	189,5
	999	121,9
0707 00 05	052	139,4
	999	139,4
0709 10 00	220	166,5
	999	166,5
0709 90 70	052	111,8
	204	102,9
	999	107,4
0805 10 10, 0805 10 30, 0805 10 50	052	59,6
	204	33,6
	212	43,1
	600	45,6
	624	50,3
	999	46,4
0805 30 10	052	79,4
	600	75,1
	999	77,3
0808 10 20, 0808 10 50, 0808 10 90	052	44,8
	060	39,9
	388	111,7
	400	102,5
	404	104,3
	508	103,3
	512	85,7
	524	102,0
	528	73,2
	720	108,1
	999	87,5
0808 20 50	052	137,7
	388	70,0
	400	102,2
	512	70,8
	528	83,5
	999	92,8

⁽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 604/98

of 17 March 1998

amending Regulation (EEC) No 3665/87 laying down common detailed rules for the application of the system of export refunds on agricultural products

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 13(11) thereof, together with the corresponding provisions of the other regulations on the common organisation of the markets in agricultural products,

Whereas goods falling within CN codes 1901 90 91, 2101 12 92 and 2101 20 92 have in common that they may be manufactured with a high content of milk products accounting for the major part of the raw material costs; whereas exports of those goods are eligible for refunds on certain agricultural products incorporated in them; whereas those goods may be imported into the Community — from certain preferential third countries — without import duties being levied;

Whereas, therefore, measures should be taken to prevent deflection of trade;

Whereas Article 15(2) of Commission Regulation (EEC) No 3665/87 of 27 November 1987 laying down common detailed rules for the application of the system of export refunds on agricultural products⁽³⁾, as last amended by Regulation (EC) No 2114/97⁽⁴⁾, provides for such measures; whereas those measures may be extended to the goods in question; whereas, therefore, those goods should be included in the list of sensitive products in Annex V;

Whereas, for the sake of simplification, certain notifications provided for in Article 49 of Regulation (EEC) 3665/87, which are no longer considered necessary for the proper administration of the system of export refunds, should be abolished;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3665/87 is hereby amended as follows:

1. In Part VII of Annex V, the following is inserted before subheading 3505 10 10:

- | | | |
|-------------|-------|--|
| ‘1901 90 91 | — — — | Containing no milk fats, sucrose, isoglucose, glucose or starch or containing by weight less than 1,5 % milk fat, 5 % sucrose (including invert sugar) or isoglucose, 5 % glucose or starch, excluding food preparations in powder form of goods of heading Nos 0401 to 0404 |
| 2101 12 92 | — — — | Preparations with a basis of these extracts, essences or concentrates of coffee |
| 2101 20 92 | — — — | Preparations with a basis of extracts, essences or concentrates of tea or mate’; |

2. Article 49 is replaced by the following:

‘Article 49

Member States shall notify the Commission:

- without delay, of all cases of application of Article 5(1)(a); the Commission shall inform the other Member States of such cases;
- for each 12-digit code the quantities exported without an export licence comprising advance fixing of the refund for the cases referred to in the first indent of the second subparagraph of Article 2a(1), Article 3a and Article 43. Member States shall take appropriate measures to ensure that the communication is made at the latest in the second month following that in which the customs export formalities are completed.’

Article 2

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

Article 1(1) shall apply to operations for which export declarations are accepted from the day of its entry into force.

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 351, 14. 12. 1987, p. 1.

⁽⁴⁾ OJ L 295, 29. 10. 1997, p. 2.

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

Done at Brussels, 17 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 605/98
of 17 March 1998
amending Regulation (EEC) No 1164/89 laying down detailed rules concerning
the aid for fibre flax and hemp

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1308/70 of 29 June 1970 on the common organisation of the market in flax and hemp ⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94 ⁽²⁾, and in particular Article 4(5) thereof,

Having regard to Council Regulation (EEC) No 619/71 of 22 March 1971 laying down general rules for granting aid for flax and hemp ⁽³⁾, as last amended by Regulation (EC) No 154/97 ⁽⁴⁾, and in particular Article 5(2) thereof,

Whereas Article 5(1) of Commission Regulation (EEC) No 1164/89 ⁽⁵⁾, as last amended by Regulation (EC) No 2289/97 ⁽⁶⁾, lays down a deadline for the submission of declarations of the areas sown; whereas, in order to improve the checks on areas and harvest dates provided for in Article 5 of Regulation (EEC) No 619/71, Member States should be given the possibility of fixing a date before the abovementioned deadline; whereas the rate of reduction of aid in the event of the deadline for the submission of declarations of areas sown not being met should be adjusted in line with that in other sectors;

Whereas Annex A to Regulation (EEC) No 1164/89 contains a list of varieties of flax grown mainly for fibre; whereas certain new varieties of flax grown mainly for fibre have been included in the Common Seed Catalogue; whereas, furthermore, a number of varieties currently included in Annex A have been deleted from the Catalogue; whereas Annex A to Regulation (EEC) No 1164/89 should therefore be amended accordingly;

Whereas Annex B to Regulation (EEC) No 1164/89 contains a list of the varieties of hemp eligible for aid; whereas, since it has been established that certain new varieties meet the requirements of Article 3 of Regulation (EEC) No 619/71, that Annex should be supplemented;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1164/89 is hereby amended as follows:

1. Article 5(1) is replaced by the following:

'1. All growers of fibre flax and hemp shall submit each year a declaration of the areas sown, in the case of flax not later than 30 June and in the case of hemp not later than 15 July. Member States may fix a deadline earlier than 30 June for flax and earlier than 15 July for hemp. In such cases, Member States shall fix the new deadline 30 days in advance and immediately notify the Commission and the growers concerned.

If the declaration of areas sown is submitted during the 25 days following the respective deadlines, the aid referred to in Article 4 of Regulation (EEC) No 1308/70 shall be reduced by 1 % per working day it is late. If the declaration is submitted after that period of 25 days, no aid shall be paid.'

2. Annex A is replaced by the following:

ANNEX A

List of varieties of flax grown mainly for fibre

Angelin	Ilona
Argos	Laura
Ariane	Marina
Aurore	Martta
Belinka	Natasja
Diane	Nike
Electra	Opaline
Elise	Raisa
Escalina	Regina
Evelin	Viking
Hermes	Viola';

3. the varieties 'Kompolti', 'Usó 31', 'Beniko' and 'Lovrin 110' are hereby added to Annex B.

Article 2

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

⁽¹⁾ OJ L 146, 4. 7. 1970, p. 1.

⁽²⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ L 72, 26. 3. 1971, p. 2.

⁽⁴⁾ OJ L 27, 30. 1. 1997, p. 1.

⁽⁵⁾ OJ L 121, 29. 4. 1989, p. 4.

⁽⁶⁾ OJ L 315, 19. 11. 1997, p. 7.

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

Done at Brussels, 17 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 606/98

of 17 March 1998

determining the world market price for unginned cotton and the rate for the aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 on cotton, as last amended by Council Regulation (EC) No 1553/95 ⁽¹⁾,

Having regard to Council Regulation (EC) No 1554/95 of 29 June 1995 ⁽²⁾ laying down general rules for the system of aid for cotton and repealing Regulation (EEC) No 2169/81, as amended by Regulation (EC) No 1584/96 ⁽³⁾, and in particular Articles 3, 4 and 5 thereof,

Whereas Article 3 of Regulation (EC) No 1554/95 requires a world market price for unginned cotton to be periodically determined from the world market price determined for ginned cotton, using the historical relationship between the two prices as specified in Article 1 (2) of Commission Regulation (EEC) No 1201/89 of 3 May 1989 laying down rules for implementing the system of aid for cotton ⁽⁴⁾, as last amended by Regulation (EC) No 1740/97 ⁽⁵⁾; whereas if it cannot be determined in this way it is to be based on the last price determined;

Whereas Article 4 of Regulation (EC) No 1554/95 requires the world market price for ginned cotton to be determined for a product of specific characteristics using the most favourable offers and quotations on the world market of those considered representative of the real market trend; whereas to this end an average is to be calculated of offers and quotations on one or more European exchanges for a cif product to a North European port from the supplier countries considered most representative as regards international trade; whereas these rules for determination of the world market price for ginned cotton provide for adjustments to reflect differences in

product quality and the nature of offers and quotations; whereas these adjustments are specified in Article 2 of Regulation (EEC) No 1201/89;

Whereas application of the above rules gives the world market price for unginned cotton indicated hereunder;

Whereas Article 5 (3) of Regulation (EC) No 1554/95 stipulates that the advance payment rate for the aid is to be the guide price less the world market price and less a further amount calculated by the formula applicable when the guaranteed maximum quantity is overrun but with a 15 % increase in the estimate for unginned cotton production; whereas Commission Regulation (EC) No 1670/97 ⁽⁶⁾ determined estimated production for the 1997/98 marketing year; whereas application of these rules gives the advance payment rates for each Member State indicated hereunder,

HAS ADOPTED THIS REGULATION:

Article 1

1. The world market price for unginned cotton as indicated in Article 3 of Regulation (EC) No 1554/95 is set at ECU 34,361 per 100 kilograms.

2. Advance payment of the aid as indicated in Article 5 (3) of Regulation (EC) No 1554/95 shall be at the rate of:

- ECU 33,033 per 100 kilograms in Spain,
- ECU 39,092 per 100 kilograms in Greece,
- ECU 71,939 per 100 kilograms in other Member States.

Article 2

This Regulation shall enter into force on 18 March 1998.

⁽¹⁾ OJ L 148, 30. 6. 1995, p. 45.

⁽²⁾ OJ L 148, 30. 6. 1995, p. 48.

⁽³⁾ OJ L 206, 16. 8. 1996, p. 16.

⁽⁴⁾ OJ L 123, 4. 5. 1989, p. 23.

⁽⁵⁾ OJ L 244, 6. 9. 1997, p. 1.

⁽⁶⁾ OJ L 237, 28. 8. 1997, p. 1.

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

Done at Brussels, 17 March 1998.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 607/98
of 17 March 1998

fixing representative prices and additional import duties in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

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

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs ⁽¹⁾, as last amended by Commission Regulation (EC) No 1516/96 ⁽²⁾, and in particular Article 5 (4) thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat ⁽³⁾, as last amended by Commission Regulation (EC) No 2916/95 ⁽⁴⁾, and in particular Article 5 (4) thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin ⁽⁵⁾, as last amended by Commission Regulation (EC) No 2916/95, and in particular Article 3 (4) thereof,

Whereas Commission Regulation (EC) No 1484/95 ⁽⁶⁾, as last amended by Regulation (EC) No 372/98 ⁽⁷⁾, fixes detailed rules for implementing the system of additional import duties and fixes additional import duties in the poultrymeat and egg sectors and for egg albumin;

Whereas it results from regular monitoring of the information providing the basis for the verification of the import prices in the poultrymeat and egg sectors and for egg albumin that the representative prices and additional duties for imports of certain products should be amended taking into account variations of prices according to origin; whereas, therefore, representative prices and corresponding additional duties should be published;

Whereas it is necessary to apply this amendment as soon as possible, given the situation on the market;

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 18 March 1998.

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

Done at Brussels, 17 March 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 282, 1. 11. 1975, p. 49.

⁽²⁾ OJ L 189, 30. 7. 1996, p. 99.

⁽³⁾ OJ L 282, 1. 11. 1975, p. 77.

⁽⁴⁾ OJ L 305, 19. 12. 1995, p. 49.

⁽⁵⁾ OJ L 282, 1. 11. 1975, p. 104.

⁽⁶⁾ OJ L 145, 29. 6. 1995, p. 47.

⁽⁷⁾ OJ L 47, 18. 2. 1998, p. 15.

ANNEX

ANNEX I

CN code	Description	Representative price ECU/100 kg	Additional duty ECU/100 kg	Origin (¹)
0207 14 10	Boneless cuts of fowls of the species <i>gallus domesticus</i> , frozen	216,6	25	01
		232,7	20	02
		216,5	25	03
		262,4	11	04
		262,4	11	05
1602 32 11	Preparations uncooked of the species <i>gallus domesticus</i>	221,6	20	01
		253,8	10	02
		230,6	17	03
1602 39 21	Preparations uncooked other than turkeys and of the species <i>gallus domesticus</i>	221,6	20	01

(¹) Origin of imports:

- 01 China
- 02 Brazil
- 03 Thailand
- 04 Chile
- 05 Argentina.

DIRECTIVE 98/6/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 February 1998

on consumer protection in the indication of the prices of products offered to consumers

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 129a(2) thereof,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty ⁽³⁾, in the light of the joint text approved by the Conciliation Committee on 9 December 1997,

- (1) Whereas transparent operation of the market and correct information is of benefit to consumer protection and healthy competition between enterprises and products;
- (2) Whereas consumers must be guaranteed a high level of protection; whereas the Community should contribute thereto by specific action which supports and supplements the policy pursued by the Member States regarding precise, transparent and unambiguous information for consumers on the prices of products offered to them;
- (3) Whereas the Council Resolution of 14 April 1975 on a preliminary programme of the European Economic Community for a consumer protection and information policy ⁽⁴⁾ and the Council Resolution of 19 May 1981 on a second programme of the European Economic Community for a consumer protection and information policy ⁽⁵⁾ provide for the establishment of common principles for indicating prices;

⁽¹⁾ OJ C 260, 5. 10. 1995, p. 5 and OJ C 249, 27. 8. 1996, p. 2.

⁽²⁾ OJ C 82, 19. 3. 1996, p. 32.

⁽³⁾ Opinion of the European Parliament of 18 April 1996 (OJ C 141, 13. 5. 1996, p. 191). Council Common Position of 27 September 1996 (OJ C 333, 7. 11. 1996, p. 7) and Decision of the European Parliament of 18 February 1997 (OJ C 85, 17. 3. 1997, p. 26). Decision of the European Parliament of 16 December 1997 and Decision of the Council of 18 December 1997.

⁽⁴⁾ OJ C 92, 25. 4. 1975, p. 1.

⁽⁵⁾ OJ C 133, 3. 6. 1981, p. 1.

(4) Whereas these principles have been established by Directive 79/581/EEC concerning the indication of prices of certain foodstuffs ⁽⁶⁾ and Directive 88/314/EEC concerning the indication of prices of non-food products ⁽⁷⁾;

(5) Whereas the link between indication of the unit price of products and their pre-packaging in pre-established quantities or capacities corresponding to the values of the ranges adopted at Community level has proved overly complex to apply; whereas it is thus necessary to abandon this link in favour of a new simplified mechanism and in the interest of the consumer, without prejudice to the rules governing packaging standardisation;

(6) Whereas the obligation to indicate the selling price and the unit price contributes substantially to improving consumer information, as this is the easiest way to enable consumers to evaluate and compare the price of products in an optimum manner and hence to make informed choices on the basis of simple comparisons;

(7) Whereas, therefore, there should be a general obligation to indicate both the selling price and the unit price for all products except for products sold in bulk, where the selling price cannot be determined until the consumer indicates how much of the product is required;

(8) Whereas it is necessary to take into account the fact that certain products are customarily sold in quantities different from one kilogramme, one litre, one metre, one square metre or one cubic metre; whereas it is thus appropriate to allow Member States to authorise that the unit price refer to a different single unit of quantity, taking into account the nature of the product and the quantities in which it is customarily sold in the Member State concerned;

(9) Whereas the obligation to indicate the unit price may entail an excessive burden for certain small retail businesses under certain circumstances; whereas Member States should therefore be allowed to refrain from applying this obligation during an appropriate transitional period;

⁽⁶⁾ OJ L 158, 26. 6. 1979, p. 19. Directive as last amended by Directive 95/58/EC (OJ L 299, 12. 12. 1995, p. 11).

⁽⁷⁾ OJ L 142, 9. 6. 1988, p. 19. Directive as last amended by Directive 95/58/EC (OJ L 299, 12. 12. 1995, p. 11).

- (10) Whereas Member States should also remain free to waive the obligation to indicate the unit price in the case of products for which such price indication would not be useful or would be liable to cause confusion for instance when indication of the quantity is not relevant for price comparison purposes, or when different products are marketed in the same packaging;
- (11) Whereas in the case of non-food products, Member States, with a view to facilitating application of the mechanism implemented, are free to draw up a list of products or categories of products for which the obligation to indicate the unit price remains applicable;
- (12) Whereas Community-level rules can ensure homogenous and transparent information that will benefit all consumers in the context of the internal market; whereas the new, simplified approach is both necessary and sufficient to achieve this objective;
- (13) Whereas Member States must make sure that the system is effective; whereas the transparency of the system should also be maintained when the euro is introduced; whereas, to that end, the maximum number of prices to be indicated should be limited;
- (14) Whereas particular attention should be paid to small retail businesses; whereas, to this end, the Commission should, in its report on the application of this Directive to be presented no later than three years after the date referred to in Article 11(1), take particular account of the experience gleaned in the application of the Directive by small retail businesses, *inter alia*, regarding technological developments and the introduction of the single currency; whereas this report, having regard to the transitional period referred to in Article 6, should be accompanied by a proposal,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

The purpose of this Directive is to stipulate indication of the selling price and the price per unit of measurement of products offered by traders to consumers in order to improve consumer information and to facilitate comparison of prices.

Article 2

For the purposes of this Directive:

- (a) *selling price* shall mean the final price for a unit of the product, or a given quantity of the product, including VAT and all other taxes;
- (b) *unit price* shall mean the final price, including VAT and all other taxes, for one kilogramme, one litre, one metre, one square metre or one cubic metre of the product or a different single unit of quantity which is widely and customarily used in the Member State concerned in the marketing of specific products;
- (c) *products sold in bulk* shall mean products which are not pre-packaged and are measured in the presence of the consumer;
- (d) *trader* shall mean any natural or legal person who sells or offers for sale products which fall within his commercial or professional activity;
- (e) *consumer* shall mean any natural person who buys a product for purposes that do not fall within the sphere of his commercial or professional activity.

Article 3

- The selling price and the unit price shall be indicated for all products referred to in Article 1, the indication of the unit price being subject to the provisions of Article 5. The unit price need not be indicated if it is identical to the sales price.
- Member States may decide not to apply paragraph 1 to:
 - products supplied in the course of the provision of a service,
 - sales by auction and sales of works of art and antiques.
- For products sold in bulk, only the unit price must be indicated.
- Any advertisement which mentions the selling price of products referred to in Article 1 shall also indicate the unit price subject to Article 5.

Article 4

- The selling price and the unit price must be unambiguous, easily identifiable and clearly legible. Member States may provide that the maximum number of prices to be indicated be limited.
- The unit price shall refer to a quantity declared in accordance with national and Community provisions.

Where national or Community provisions require the indication of the net weight and the net drained weight for certain pre-packed products, it shall be sufficient to indicate the unit price of the net drained weight.

Article 5

1. Member States may waive the obligation to indicate the unit price of products for which such indication would not be useful because of the products' nature or purpose or would be liable to create confusion.

2. With a view to implementing paragraph 1, Member States may, in the case of non-food products, establish a list of the products or product categories to which the obligation to indicate the unit price shall remain applicable.

Article 6

If the obligation to indicate the unit price were to constitute an excessive burden for certain small retail businesses because of the number of products on sale, the sales area, the nature of the place of sale, specific conditions of sale where the product is not directly accessible for the consumer or certain forms of business, such as certain types of itinerant trade, Member States may, for a transitional period following the date referred to in Article 11 (1), provide that the obligation to indicate the unit price of products other than those sold in bulk, which are sold in the said businesses, shall not apply, subject to Article 12.

Article 7

Member States shall provide appropriate measures to inform all persons concerned of the national law transposing this Directive.

Article 8

Member States shall lay down penalties for infringements of national provisions adopted in application of this Directive, and shall take all necessary measures to ensure that these are enforced. These penalties must be effective, proportionate and dissuasive.

Article 9

1. The transition period of nine years referred to in Article 1 of Directive 95/58/EC of the European Parliament and of the Council of 29 November 1995

amending Directive 79/581/EEC on consumer protection in the indication of the prices of foodstuffs and Directive 88/314/EEC on consumer protection in the indication of the prices of non-food products⁽¹⁾ shall be extended until the date referred to in Article 11(1) of this Directive.

2. Directives 79/581/EEC and 88/314/EEC shall be repealed with effect from the date referred to in Article 11 (1) of this Directive.

Article 10

This Directive shall not prevent Member States from adopting or maintaining provisions which are more favourable as regards consumer information and comparison of prices, without prejudice to their obligations under the Treaty.

Article 11

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 18 March 2000. They shall forthwith inform the Commission thereof. The provisions adopted shall be applicable as of that date.

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

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field governed by this Directive.

3. Member States shall communicate the provisions governing the penalties provided for in Article 8, and any later amendments thereto.

Article 12

The Commission shall, not later than three years after the date referred to in Article 11(1), submit to the European Parliament and the Council a comprehensive report on the application of this Directive, in particular on the application of Article 6, accompanied by a proposal.

⁽¹⁾ OJ L 299, 12. 12. 1995, p. 11.

The European Parliament and the Council shall, on this basis, re-examine the provisions of Article 6 and shall act, in accordance with the Treaty, within three years of the presentation by the Commission of the proposal referred to in the first paragraph.

Article 13

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

Article 14

This Directive is addressed to the Member States.

Done at Brussels, 16 February 1998.

For the European Parliament
The President
J. M. GIL-ROBLES

For the Council
The President
J. CUNNINGHAM

Commission Declaration*Article 2(b):*

The Commission takes the view that the expression 'for one kilogramme, one litre, one metre, one square metre or cubic metre of the product or a different single unit of quantity' in Article 2(b) also applies to products sold by individual item or singly.

Commission Declaration*Article 12, first paragraph:*

The Commission considers that Article 12, first paragraph, of the Directive cannot be construed as calling into question its right of initiative.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 16 April 1997

on the aid granted by Italy to Enirisorse SpA

(Only the Italian text is authentic)

(Text with EEA relevance)

(98/212/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 93(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular point (a) of Article 62(1) thereof,

After giving notice to the parties concerned, in accordance with the aforementioned Articles, to submit their comments,

Whereas:

I

By letter dated 15 January 1996 the Commission informed the Italian Government of its decision to open the procedure pursuant to Article 93(2) of the Treaty in respect of aid given to Enirisorse S.p.A. and the group of companies led by that company (hereinafter referred to as 'Enirisorse').

Enirisorse was 100 % owned by the Italian State holding company ENI and was recapitalised with ITL 1 819 billion in the years 1992-1996. The Commission decided to initiate the procedure with regard to those capital injections. The Commission's decision to open the procedure was published in the *Official Journal of the European Communities*, inviting other Member States and

interested third parties to submit their comments on the matter (¹).

The Italian Government gave its reaction by letters of 3 July 1996, 5 August 1995, and 13 January 1997.

No other Member State nor any interested party submitted comments to the Commission.

II

In its answer to the letter initiating the procedure, the Italian Government, while submitting detailed information as to the restructuring plan of Enirisorse, has expressed the following general opinions:

- (1) the recapitalisations were not undertaken by the State, and public funds were not used for that purpose;
- (2) the recapitalisations undertaken by ENI in favour of Enirisorse pass the private-investor test and are therefore not State aid; and
- (3) the recapitalisations possibly constituted State aid compatible with the common market.

As to point (1), the Italian Government claims that the recapitalisations were not undertaken directly by the State but by ENI, and that operations by ENI in respect of its subsidiary Enirisorse are not automatically attributable to the Italian State.

The Italian Government observes that ENI was transformed in July 1992 from a public economic body into a public limited company. The ENI shares were held by the Ministry of the Treasury.

⁽¹⁾ OJ C 102, 4. 4. 1996, p. 11.

Furthermore, ENI was no longer subject to Government directives.

In November 1995 the Ministry of the Treasury sold 15 % of the ENI shares for a total sum of ITL 6 300 billion on the stock markets of Milan, London and New York.

All the recapitalisations were undertaken by ENI through its own funds deriving from other ENI companies operating in other sectors, and are consequently not derived from State resources.

As to point (2), the Italian Government maintains that the recapitalisations were carried out exclusively with ENI's own funds for the purpose of financing a drastic programme of closures, liquidations and restructuring of companies and/or non-core activities. Furthermore, recapitalisation was the less costly option for the company, as compared with composition proceedings.

The Italian Government argues that the behaviour as to the recapitalisations was in line with the reasoning by the Court of Justice of the European Communities in its judgment in Case 303/88, *Italy v. Commission*⁽¹⁾. The Court held that a holding company might, for a limited period, bear the losses of its subsidiary in order to allow it to cease operating under the best conditions. The Court added that such a decision might be based not only on the likelihood of an indirect material gain, but also on other considerations, such as the safeguarding of the group's image or the re-orientation of its activities.

In the alternative, the Italian Government is of the opinion, set out in point (3), that the recapitalisations were compatible State aid within the meaning of points (a) and (c) of Article 92(3), since they promote the long-term development of disadvantaged regions suffering from industrial crisis and facilitate the restructuring of an important economic activity without adversely affecting trading conditions to an extent contrary to the common interest.

An assessment of the recapitalisations in the light of the Community guidelines on State aid for rescuing and restructuring firms in difficulty⁽²⁾ (hereinafter: 'the relevant Community guidelines') leads to the conclusion — the Italian Government claims — that they are in line with the requirements imposed by these guidelines.

III

Enirisorse was set up in 1991 as a non-operating holding company, intended to optimise the economic and finan-

cial resources of the ENI Group and with the basic objective of entrusting the administration of the Group's holdings in the following activities to a single centre of responsibility:

- (a) mining of non-ferrous metals, extraction of pyrites and its vertical integration to sulphuric acid, and the coal mining operations of Carbosulcis, under the control of Agip Miniere (12 companies and 21 production sites);
- (b) coal mining abroad, coke production in Italy and coal and coke marketing both in Italy and abroad, under the control of Agipcoal (25 companies and 11 production sites);
- (c) metallurgy of non-ferrous metals, under the control of Nuova Samim (7 companies and 12 production sites);
- (d) inorganic chemistry in the sectors of barium, boron and chlorine/caustic soda/potash and of abrasives and synthesized products, and research into advanced materials, under the control of Samatec (5 companies and 9 production sites).

ENI and its shareholder decided in 1991 to disengage from the non-core business, so as to make the core business profitable again by separating it from loss-making activities and, finally, to sell the profitable parts.

To that end, Enirisorse formulated a plan of one-off aids, involving a series of measures:

- (a) for the activities formerly controlled by Agipcoal (coal and coke), which were achieving generally satisfactory economic results, a complete privatisation, entailing, in the case of coke, closure of one production site which would have enabled the best value to be obtained from the activity;
- (b) for the activities formerly controlled by Agip Miniere:
 - (1) the selling-off of those companies/holdings abroad which were economically viable or otherwise of interest to private operators;
 - (2) the liquidation, with the closure of production sites, of all the mining activities in Italy, notwithstanding the high cost of making good environmental damage and of severance packages, since these were activities in a state of structural loss (mining of non-ferrous metals, pyrites and coal);
 - (3) the restructuring, at a modest investment cost, of the sulphuric acid operation, which as a result could be upvalued and sold off.
- (c) for the activities formerly controlled by Samatec (inorganic chemicals and abrasives):

⁽¹⁾ [1991] ECR I-1443, at paragraph 21.

⁽²⁾ OJ C 368, 23. 12. 1994, p. 12.

- (1) the liquidation of the activities with closure of the production sites, in a state of structural loss (abrasives);
- (2) the selling-off of the activities which could be administered by other operators and whose closure would, in any event, have entailed substantial costs for making good environmental damage (barium, boron, chlorine/caustic soda/potash, artificial diamonds);
- (d) For the activities formerly controlled by Nuova Samim (metallurgy):
 - (1) the selling-off of companies/areas of business which had aroused evident interest on the part of other operators and which would otherwise have given rise to heavy liquidation/closure expenditure;
 - (2) the restructuring of primary metallurgy for the purposes of subsequent privatisation;
 - (3) the liquidation of unsaleable marginal activities.

At the same time, Enirisorse planned to carry out a series of company-rationalisation schemes, made possible by concentrating other companies which had previously headed its sectors or areas of the ENI Group in a single centre of responsibility.

On the basis of this plan, the following action has been taken:

- (a) company reorganisation, the leading companies for the various areas of operation (Agip Miniere, Agipcoal, Nuova Samim, Terfin, Samatec) and other minor companies (Temav, Ardisia, Unicoke, etc) being merged by way of incorporation into Enirisorse. The administration headquarters were reduced from 14 to 2; the associated staff were reduced from 650 to 216 as of 31 March 1996;
- (b) closure of a total of 16 uneconomical metallurgical, miscellaneous and mining industrial sites which could not be put back in order, and closure of 5 minor metallurgical production lines;
- (c) liquidation of uneconomical mining and miscellaneous companies which could not be rescued from the standpoint of the private operator (SIM, Carbo-sulcis, Mineraria Campiano, Attività Meridionali, Simur and other minor companies) and of commercial and financial companies that no longer served their purpose (Nonfermet, Eurobatex, Nuova Samim Metals, Agipcoal International and other minor companies);
- (d) selling-off all companies and interests in operating companies in the coal and coke sector (Agipcoal USA,

Agipcoal South Africa, Agipcoal Australia, Carbones del Guasare, Nuova Italiana Coke and other minor companies);

- (e) selling-off/liquidation of all the inorganic chemicals and abrasives companies (Società Chimica di Lardello, Società Sali di bario, Eurosic, Supradiamant, Karl Hertel);
- (f) selling-off all the operations (companies and areas of business) in the sector of aluminium (Sacal), secondary processing of copper (plants at Moncalieri, Pieve Vergonte and Sulmona), steel-works flue-gas processing (Ponte Nossa) and secondary lead (plants at Paderno Dugnano and Marcianise);
- (g) selling-off Comerint (engineering and training services) and the company Manifatture Cotoniere del Mezzogiorno.

As a result of the sell-offs, the mergers by way of incorporation into Enirisorse of companies no longer serving any purpose, and the liquidation of companies, the number of companies still operating was reduced over the period from 1992 to March 1996 from 60 to 3: Pertusola Sud, Nuova Solmine, both controlled by Enirisorse, and Enirisorse itself.

The number of production sites in operation has been reduced from 56 to 5 as of 31 March 1996, of which three are under the direct control of Enirisorse (integrated complex of Portovesme/San Gavino: zinc and primary lead; the Porto Marghera plant: copper; and the bronze/brass division of Paderno Dugnano), one under the control of Pertusola Sud (Crotone: zinc) and one under the control of Nuova Solmine (Scarlino: sulphuric acid).

The number of jobs has fallen by 10 200 as of 31 December 1991 to about 2 800 as of 30 April 1996 (including the employees of companies in liquidation or no longer operational).

The companies mentioned above and the 5 plants constitute the core business of Enirisorse (copper, lead, zinc and sulphuric acid). Under the plan, the core business is to be made profitable by selling and closing some of these companies/plants, leaving only two production sites.

The current situation is as follows:

- (a) the bronze/brass division of Paderno Dugnano has now been sold;
- (b) with regard to the Porto Marghera plant, a letter of intent has been signed with a potential buyer;
- (c) Pertusola Sud will either be closed and scrapped by the end of 1997 or sold to an interested buyer who will turn the complex into a production unit — probably for producing nickel.

This leaves the production sites of Portovesme/San Gavino (zinc and lead) and Scarlino (sulphuric acid) as the final core business of Enirisorse.

Over the five-year period 1992-96, Enirisorse will have received from its shareholder, by way of recapitalisation, ITL 1 819 billion, used to implement the plan.

Over the same period Enirisorse expects, through its selling-off of companies and areas of business, to receive payment of about ITL 840 billion.

The breakdown of the receipts from sales is as follows (including the estimated income from sell-offs now taking place):

- (i) ITL 454 billion deriving from selling-off the companies in the coal and coke sector;
- (ii) ITL 220 billion from selling-off the participating interests held in ENI International Holding, Sofid, Padana Assicurazione;
- (iii) ITL 107 billion from selling-off the metallurgical areas of business (formerly Nuova Samim);
- (iv) ITL 58 billion from selling-off minor companies in the other sectors.

The total of the resources derived from payments by the shareholder and income from the sales amounts to ITL 2 658 billion and is used as follows over the five-year period:

- (a) ITL 448 billion for reducing the initial indebtedness of Enirisorse and Nuova Samim, merged into Enirisorse, primarily towards the financing companies of the ENI Group;
- (b) ITL 822 billion to cover the deficit, including the previous losses, of the mineral and miscellaneous companies which have been placed in liquidation or whose operating activities have ceased. The costs of the liquidations relate primarily to the personnel costs for employees retained until the date of departure, the costs of redeploying or providing severance payments to staff and environmental expenses (restoration of sites and removal of slag).

The breakdown of the necessary contribution to cover the requirements of liquidation is as follows:

- (i) ITL 425 billion to companies controlled by the former Agip Miniere (SIM, SIMUR, Mineraria Campiano, Agip Australia);

(ii) ITL 160 billion to Carbusulcis;

(iii) ITL 115 billion to Samatec;

(iv) ITL 113 billion to companies in the miscellaneous area (formerly Terfin);

(v) ITL 9 billion to minor companies.

(c) ITL 53 billion, for the restructuring of Nuova Somine, undertaken in the period 1992-93, by way of the termination of the pyrites extraction operations, closure of the mines, commencement of activities to repair environmental damage, reconversion of the plants for the production of sulphuric acid from sulphur (with reduction of production capacity) and redeployment or redundancy of surplus personnel. Nuova Solmine, restructured on this basis, has been producing profits from 1995: ITL 10 046 million in 1995, ITL 5 312 million in 1996 and is expecting ITL 7 057 million in 1997 and ITL 10 590 million in 1998.

(d) ITL 973 billion, for restructuring (including the losses for the period) the metallurgical operations formerly controlled by Nuova Samim and subsequently incorporated into Enirisorse. The payments for this restructuring of metallurgical operations is broken down as follows:

(1) ITL 93 billion to companies liquidated or sold off;

(2) ITL 280 billion to Pertusola Sud (Crotone), including ITL 123 billion to cover maintenance investments and operating losses (ITL 77 billion for the two-year period 1992-93; ITL 33 billion for the two-year period 1994-95; ITL 13 billion for 1996); the residue of ITL 157 billion being made up of the extraordinary charges that appear in 1992-96, including those allowed for the current year (severance payments to personnel of ITL 26 billion, costs of slag removal and repair of environmental damage of ITL 95 billion and devaluation of sources of income ITL 36 billion);

(3) ITL 600 billion for the former Nuova Samim metallurgical activities, including ITL 200 billion for the extraordinary charges for the period (ITL 100 billion for voluntary redundancies and ITL 100 billion for environmental action), plus ITL 400 billion for the period 1992-1996 for operating losses (ITL 243 billion) and investments (ITL 157 billion).

(e) ITL 362 billion to cover the general, financial and extraordinary costs of the Enirisorse holding company. Of this total, ITL 117 billion is attributable to extraordinary charges (mainly severance payments to personnel) and ITL 245 billion to general costs and financial charges.

To sum up: the restructuring of Enirisorse has mainly entailed the abandonment of a large part of its activities, involving the closure/liquidation of subsidiaries and sites and the sale of subsidiaries and sites to third parties. The restructured Enirisorse was then (in March 1996) based on Pertusola Sud and Nuova Solmine, both controlled by Enirisorse and Enirisorse itself. The number of production sites had been reduced from 56 to 5. Enirisorse controlled directly the integrated complex of Portovesme/San Gavino, the Porto Marghera plant and the bronze/brass division of Paderno Dugnano; Pertusola Sud controlled the Crotone production site and Nuova Solmine the Scarlino site.

These production units together with the central management constituted the core of the restructured Enirisorse.

In order to reach profitability a further shrinking of the corebusiness is necessary. This will entail relinquishment of the Marghera plant, the Paderno Dugnano plant and

Pertusola Sud. These plants and companies are to be sold or closed in 1997. Only the Portovesme/San Gavino production site (lead and zinc) of Enirisorse and the sulphuric acid production by Nuova Solmine are to be continued for the moment, although with the clear intention to privatise these as well.

The whole operation has diminished Enirisorse's activities significantly. This is illustrated by the reduction of the annual turnover of the group: from ITL 1 867 billion in 1992 to ITL 810 billion (expected) in 1997.

A reduction of capacity has also taken place for the core-business and is still continuing. This is demonstrated by the following tables on the evolution of the production capacity for lead, zinc, copper and sulphuric acid and on the employment situation in these sectors:

Evolution of production capacity

	1992	1993	1994	1995	1996	1997
Lead	(*) ⁽¹⁾ (*) ⁽²⁾	(*) (*)	(*) (*)	(*) (*)	(*) (*)	(*) —
Zinc	(*)	(*)	(*)	(*)	(*)	(*)
Copper ⁽³⁾	(*)	(*)	(*)	(*)	(*)	—
Sulphuric acid	(*)	(*)	(*)	(*)	(*)	(*)

(*) Business secrets (Text omitted at request of Italian Government).

(¹) Primary.

(²) Secondary.

(³) Copper cathodes, alloys and tubes.

Evolution of the employment situation

	1992	1993	1994	1995	1996
Lead	618	564	513	442	297
Zinc	1 636	1 542	1 398	1 310	1 284
Copper	518	558	345	318	202
Sulphuric acid	346	274	252	209	187
Total	3 118	2 938	2 508	2 279	1 970

The restructuring efforts described above have resulted in a substantial decrease in Enirisorse's losses. For an overview of the fall of losses, see the table below:

(ITL billion)

	Normal business activity	Extraordinary costs resulting from restructuring	Total
1992	(*)	(*)	(*)
1993	(*)	(*)	(*)
1994	(*)	(*)	(*)
1995	(*)	(*)	(*)
1996	(*)	(*)	(*)
1997	(*)	(*)	(*)
1998		(*)	(*)
1999		(*)	(*)

(*) Business secrets (Text omitted at request of Italian Government).

The loss of ITL 48 billion in 1997 is caused by Pertusola Sud producing zinc. This company will either be closed or sold to an interested buyer in 1997. The potential buyer, if the sale goes ahead, is planning to turn production away from zinc and into nickel. Also for Portovesme, a binding offer has been received from a potential buyer. In the case of Nuova Solmine negotiations are taking place with the prospective buyer.

Forecasts on Portovesme/San Gavino, lead and zinc, and Nuova Solmine, sulphuric acid, are looking good. Nuova Solmine has been making profits over the past years and is expected to continue its profit-making line. Prospects for the lead and zinc production of Enirisorse are also satisfactory. World forecasts for these products in terms of prices, consumption and diminished stocks are positive for the coming three years. After that the cycle takes a more downward trend. In 1997 a profit of ITL 11 288 billion is expected, in 1998 ITL 49 675 billion, in 1999 ITL 80 710 billion and in 2000 ITL 47 046 billion.

IV

In order to ascertain whether State aid is included in the recapitalisations, the Commission examines the flow of capital between the Italian State, the ultimate shareholder, and Enirisorse in the light of the marker-investor principle as set out in the Commission's communication to the Member States on public undertakings⁽¹⁾. According to this principle State aid is involved if the financial

transaction would not have been undertaken by a private investor operating under normal market economy conditions.

On the basis of the information provided to the Commission, the amount invested by the Italian State, through its holding company ENI, in Enirisorse amounts to ITL 1 819 billion for the five-year period 1992-1996.

Until very recently 100 % of the shares of ENI were held by the Italian Ministry of the Treasury. The meeting of the shareholders, namely the Ministry of the Treasury, appointed the board of directors of ENI, in accordance with Italian civil law. One of the members of the board is an official of the aforementioned Ministry. This was the situation in 1991/1992 when the decision to restructure Enirisorse was taken.

The capital injections have been financed by proceeds that otherwise would have benefited the shareholder of ENI, the Italian State.

Consequently, the funds that ENI has made available to Enirisorse are considered to be State resources within the meaning of Article 92(1) of the Treaty.

The injections of capital made by ENI with the intention of financing the restructuring process of Enirisorse suffer from a lack of sufficient financial return on these injections, since the restructuring consists, in essence, of outright privatisations, liquidations and privatisations following investments. A profitable return in relation to the amount of the recapitalisation was therefore not to be expected. Because of this lack of sufficient return it cannot be claimed that ENI acted as a private investor.

⁽¹⁾ OJ C 307, 13. 11. 1993, p. 3.

Also, Enirisorse has suffered heavy losses over more than five years. This is, in terms of the Court's judgment in Case 303/88, *Italy v. Commission* ⁽¹⁾, too long a period to be classified as limited in time. A private operator would have restructured or liquidated Enirisorse at an earlier stage in order to avoid an ongoing cumulation of losses.

Enirisorse was active in different sectors, like mining of non-ferrous metals, coal, cokes, lead, zinc, metallurgy of non-ferrous metals and inorganic chemicals. These sectors or products are traded within the Community and even on a global scale. An injection of ITL 1 819 billion into Enirisorse threatens to distort competition and affects intra-Community trade.

It should therefore be concluded that the total amount of the recapitalisations in the years 1992-1996 constitute State aid within the meaning of Article 92(1) of the Treaty and Article 61(1) of the EEA Agreement.

Article 92(2) and (3) of the Treaty define certain types of State aid that are compatible with the common market.

Given the nature of the operation, Article 92(2) and (3), point (b), of the Treaty is not applicable to the State aid in question. Given the diversity of the group's operation and locations, and since the financial measures have no regional objective, only the derogation under point (c) of Article 92(3) of the Treaty, in so far as it concerns aid to facilitate the development of certain economic activities, could be taken into consideration.

The recapitalisations have been made available to Enirisorse to finance a restructuring project envisaging a final liquidation of Enirisorse.

The Commission's approach to State aid for restructuring is outlined in the relevant Community guidelines ⁽²⁾.

In those guidelines, the Commission has pointed out that it takes a strict approach in assessing the compatibility of this kind of aid, since it might otherwise end up by transferring without reason social or industrial problems from one Member State to another.

For this reason, before the Commission will approve restructuring aid to a company, its restructuring must satisfy the following basic conditions:

- (1) it must restore the long-term viability of the company within a reasonable time;

⁽¹⁾ [1991] ECR I-1443, at paragraph 21.

⁽²⁾ OJ C 368, 23. 12. 1994, p. 12.

- (2) it must avoid unduly distorting competition;
- (3) it must be in proportion with the restructuring costs and benefits;
- (4) it must be fully implemented;
- (5) it must be subject to monitoring and reporting requirements.

Only if these basic requirements are fulfilled may the effects of the aid be considered to be in keeping with the common interest under point (c) of Article 92(3) of the Treaty.

1. Restoration of viability and privatisation

As a general rule, the *conditio sine qua non* of all restructuring plans is that they must restore long-term viability and health to the company in question.

In the case of Enirisorse the restructuring plan was aiming at liquidation of companies through closure, sale and restructuring, followed by privatisation.

As has been shown, these measures have resulted in an important decrease of the losses of Enirisorse over the years in which the plan has been executed: for ordinary business activity, the losses declined from ITL 551,2 billion in 1992 to ITL 98,6 billion in 1996. The expected loss of ITL 48 billion in 1997 is attributed to the zinc producer Pertusola Sud, which will either be closed and scrapped in 1997 or sold to a buyer that has expressed interest. It will, however, not produce zinc any more. One of the reasons for opening the procedure was the preliminary conclusion of the Commission that the financial situation of Enirisorse had not been rectified after various liquidations and sales of companies. This was true at the time of opening the procedure, but the restructuring was at that time still in progress and had not yet yielded all its benefits. As has been said, the financial situation of Enirisorse has changed considerably in the sense that its indebtedness has decreased and that the only loss-making activity left (the zinc producer Pertusola Sud) is to be privatised in the course of 1997. After this privatisation, Enirisorse will be composed of only Portovesme and Nuova Solmine, both profit-making entities.

Enirisorse has thus managed to part from all its non-core business activities and is now still engaged in the process of reducing the size of the core-business. It has been able, thanks to this process, to reduce its debts and with the selling or closing of Pertusola Sud it will have shed its last loss-making company.

It is also shown by the Italian authorities that the restructuring has not stopped short of the 'core business' of Enirisorse, as was asserted at the time of the opening of the procedure. After the first phase of abandoning a large part of its activities, Enirisorse consisted of only three companies that were considered to be the core business. The process of privatising these companies is under way and will be completed in the near future. In fact, after the sale of the Porto Marghera plant and the Paderno Dugnano plant together with the company Pertusola Sud, the remaining core business is profitable. It therefore no longer holds true that the core business is draining resources from ENI. The restructuring effort made *vis-à-vis* the core business has had repercussions in terms of reduced production capacity and reduced levels of employment.

In addition, the Italian authorities have communicated to the Commission their commitment to carry out a privatisation of the two remaining companies. In fact the process of privatising them has been launched and binding offers have been received from the interested buyers. These are private companies. After completion of these privatisations Enirisorse will be liquidated, contrary to the assumption made at the time when the procedure was initiated, when it was not clear whether or not the restructuring would lead to a continuation of Enirisorse's activities. In these circumstances of full privatisation and a total liquidation of Enirisorse, it will be the task of the new owners to ensure the ultimate viability of the companies concerned, without State assistance.

The privatisation will result in a severing of the direct financial links between Enirisorse and the Italian State and subsequently the companies will no longer enjoy constant State financing.

2. Prevention of undue distortion of competition

A further condition set on restructuring aid is that measures are to be taken to offset, as far as possible, adverse effects on competitors. Otherwise, aid would be contrary to the common interest and not eligible for the exemption under point (c) of Article 92(3) of the Treaty.

Enirisorse's restructuring represents a considerable effort to reduce its productive capacity across its product range. Figures on the annual turnover, which went from ITL 1 867 billion in 1992 to ITL 810 billion in 1997, are a clear expression of such a reduction. When opening the procedure, the Commission was not aware of the massive reductions of capacity planned for the core business of

Enirisorse, and it held the view, on the basis of the information available at the time, that the restructuring had had no effect on these activities of Enirisorse. In its answers to the opening of the procedure the Italian Government has pointed out that the restructuring also involved the core business, giving consistent reductions: lead was reduced by 45 %, zinc by 40 %, copper by 100 % and sulphuric acid by 38 %.

The reduction in personnel working in these sectors has also been remarkable: for lead from 618 in 1992 to 297 in 1996, for zinc from 1 636 in 1992 to 1 284 in 1996, for copper from 518 in 1992 to 202 in 1996, and for sulphuric acid from 346 in 1992 to 187 in 1997.

In the light of the above, the Commission concludes that the restructuring of Enirisorse will not affect competition to an extent contrary to the common interest.

3. Proportionality of the aid in relation to the restructuring

As has been shown, the capital injections made over the past years have been used to cover the costs related to reducing the indebtedness of Enirisorse, the liquidation and closure of companies and plants, and the restructuring of several other companies and plants.

It is noted that the beneficiary contributed significantly to the financing of the restructuring and liquidation plan by using the income it derived from the sale of assets and subsidiaries for those very purposes. Doubts existed at the time of opening the procedure as to the existence of these contributions. The Commission has received full confirmation from the Italian Government that the income derived from the sales has been used to co-finance the other elements of the restructuring. As has been demonstrated, the total costs for the restructuring so far are ITL 2 658 billion. Enirisorse has been able to pay for these costs through capital injections amounting to ITL 1 819 billion and through the sales proceeds amounting to ITL 840 billion. The costs of the restructuring would not have been met if Enirisorse had not used the income from the various sales for the restructuring purposes. The final privatisation of Enirisorse's restructured business area will contribute further to these costs. This contribution is the maximum possible to be given by the beneficiary.

Under these circumstances, the aid granted may be considered not to provide Enirisorse or its still operating subsidiaries/plants with surplus cash which could be used for aggressive, market-distortive activities unrelated to the restructuring process, nor to finance new investment not required by the restructuring.

4. Full implementation of restructuring plan

One of the other conditions imposed by the relevant Community guidelines is that the company must fully implement the restructuring plan submitted to and accepted by the Commission. As has been described, this plan consists in selling and liquidating most of the companies owned by Enirisorse, the restructuring of the core-business of Enirisorse in order to privatise the relevant companies, followed by the privatisation of these companies and, finally, the liquidation of Enirisorse. The Italian Government has undertaken to carry out this plan in its entirety. The Commission concludes therefore that this condition will be complied with by the Italian Government.

5. Monitoring and reporting

The further implementation of the privatisation underway (Pertusola Sud) and the privatisations of Portovesme/San Gavino and Nuova Solmine are to be monitored by the Commission. For this purpose, periodic reports will have to be submitted by the Italian authorities concerning the progress of those privatisations, the financial situation of Enirisorse and the income derived from the privatisations as such,

HAS ADOPTED THIS DECISION:

Article 1

The State aid granted by Italy in the period 1992 to 1996 in favour of Enirisorse S.p.A., in the form of recapitalisations amounting to ITL 1 819 billion and aimed at its restructuring in accordance with the plan is compatible with the common market and the EEA Agreement by virtue of point (c) of Article 92(3) of the Treaty and point (c) of Article 61(3) of the Agreement, provided that the Italian Government complies with the conditions laid down in Articles 2 and 3 of this Decision.

Article 2

Italy shall comply with its commitment to privatise the remaining companies and production sites of Enirisorse S.p.A. and to commence the final liquidation of Enirisorse S.p.A. The privatisations shall take place by 31 December 1998. The proceeds obtained by these privatisations shall not be used to invest in other companies owned by ENI but shall be used to defray any further liquidation costs of Enirisorse S.p.A.

Article 3

1. Italy shall cooperate fully with the monitoring of this Decision by the Commission, and shall provide the Commission with half-yearly reports, including in particular:

- (a) the progress of the outstanding privatisations and the proceeds derived from them;
- (b) the progress of the final liquidation of Enirisorse S.p.A. and any further liquidation costs;
- (c) an update on the financial situation of Enirisorse S.p.A.

2. The first report shall reach the Commission by 1 October 1997 and the reports thereafter shall be submitted at six-monthly intervals.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 16 April 1997.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 9 March 1998

on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards internal partition kits

(Text with EEA relevance)

(98/213/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products⁽¹⁾, as amended by Directive 93/68/EEC⁽²⁾, and in particular Article 13(4) thereof,

Whereas the Commission is required to select, as between the two procedures under Article 13(3) of Directive 89/106/EEC for attesting for conformity of a product, the 'least onerous possible procedure consistent with safety'; whereas this means that it is necessary to decide whether, for a given product or family of products, the existence of a factory production control system under the responsibility of the manufacturer is a necessary and sufficient condition for an attestation of conformity, or whether, for reasons related to compliance with the criteria mentioned in Article 13(4), the intervention of an approved certification body is therefore required;

Whereas Article 13(4) requires that the procedure thus determined must be indicated in the mandates and in the technical specifications; whereas, therefore, it is desirable to define the concept of products or family of products as used in the mandates and in the technical specifications;

Whereas the two procedures provided for in Article 13(3) are described in detail in Annex III to Directive 89/106/EEC; whereas it is necessary therefore to specify clearly the methods by which the two procedures must be implemented, by reference to Annex III, for each product or family of products, since Annex III gives preference to certain systems;

Whereas the procedure referred to in Article 13(3)(a) corresponds to the systems set out in the first possibility, without continuous surveillance, and the second and third possibilities of point (ii) of section 2 of Annex III, and the procedure referred to in Article 13(3)(b) corresponds to the systems set out in point (i) of section 2 of Annex III,

and in the first possibility, with continuous surveillance, of point (ii) of section 2 of Annex III;

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

HAS ADOPTED THIS DECISION:

Article 1

The products and families of products set out in Annex I shall have their conformity attested by a procedure whereby the manufacturer has under its sole responsibility a factory production control system ensuring that the product is in conformity with the relevant technical specifications.

Article 2

The products set out in Annex II shall have their conformity attested by a procedure whereby, in addition to a factory production control system operated by the manufacturer, an approved certification body is involved in assessment and surveillance of the product control or of the product itself.

Article 3

The procedure for attesting conformity as set out in Annex III shall be indicated in mandates for European technical specifications.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 9 March 1998.

For the Commission

Martin BANGEMANN

Member of the Commission⁽¹⁾ OJ L 40, 11. 2. 1989, p. 12.⁽²⁾ OJ L 220, 30. 8. 1993, p. 1.

ANNEX I

Internal partition kits, with materials of Euroclasses A ⁽¹⁾, B ⁽¹⁾, C ⁽¹⁾, A (without testing), D, E and F, intended for uses subject to reaction to fire requirements.

Internal partition kits intended for fire compartmentation.

Internal partition kits intended for uses subject to regulations on dangerous substances.

Internal partition kits intended for uses subject to regulations on 'safety in use'.

Internal partition kits intended for other uses.

ANNEX II

Internal partition kits, with materials of Euroclasses A ⁽²⁾, B ⁽²⁾ and C ⁽²⁾, intended for uses subject to reaction to fire requirements.

⁽¹⁾ Materials for which the reaction to fire performance is not susceptible to change during the production process.

⁽²⁾ Materials for which the reaction to fire performance is susceptible to change during the production process

ANNEX III

ATTESTATION OF CONFORMITY

Note: for kits having more than one of the intended uses specified in the following families, the tasks for the approved body, derived from the relevant systems of attestation of conformity, are cumulative.

PRODUCT FAMILY

INTERNAL PARTITION KITS (1/5)

1. Systems of attestation of conformity

For the product(s) and intended use(s) listed below, EOTA is requested to specify the following system(s) of attestation of conformity in the relevant guideline for European technical approval:

Product(s)	Intended use(s)	Level(s) or class(es) (reaction to fire)	Attestation of conformity system(s)
Internal partition kits	For uses subject to reaction to fire requirements	A ⁽¹⁾ , B ⁽¹⁾ and C ⁽¹⁾	1 ⁽²⁾
		A ⁽³⁾ , B ⁽³⁾ and C ⁽³⁾	3 ⁽⁴⁾
		A (without testing), D, E and F	4 ⁽⁵⁾

⁽¹⁾ Materials for which the reaction to fire performance is susceptible to change during the production process.

⁽²⁾ System 1: See Annex III(2)(i) to Directive 89/106/EEC, without audit-testing of samples.

⁽³⁾ Materials for which the reaction to fire performance is not susceptible to change during the production process.

⁽⁴⁾ System 3: See Annex III(2)(ii) to Directive 89/106/EEC, second possibility.

⁽⁵⁾ System 4: See Annex III(2)(ii) to Directive 89/106/EEC, third possibility.

2. Conditions to be applied by EOTA on the specifications of the attestation of conformity system

The specification for the system should be such that it can be implemented even where performance does not need to be determined for a certain characteristic, because at least one Member State has no legal requirement of all for such characteristic (see Article 2(1) of Directive 89/106/EEC and, where applicable, point 1.2.3 of the interpretative documents). In those cases the verification of such a characteristic must not be imposed on the manufacturer if he does not wish to declare the performance of the product in that respect.

PRODUCT FAMILY

INTERNAL PARTITION KITS (2/5)

1. Systems of attestation of conformity

For the product(s) and intended use(s) listed below, EOTA is requested to specify the following system(s) of attestation of conformity in the relevant guideline for European technical approval:

Product(s)	Intended use(s)	Level(s) or class(es) (fire resistance)	Attestation of conformity system(s)
Internal partition kits	For fire compartmentation	any	3 ⁽¹⁾

⁽¹⁾ System 3: See Annex III(2)(ii) to Directive 89/106/EEC, second possibility.

2. Conditions to be applied by EOTA on the specifications of the attestation of conformity system

The specification for the system should be such that it can be implemented even where performance does not need to be determined for a certain characteristic, because at least one Member State has no legal requirement of all for such characteristic (see Article 2(1) of Directive 89/106/EEC and, where applicable, point 1.2.3 of the interpretative documents). In those cases the verification of such a characteristic must not be imposed on the manufacturer if he does not wish to declare the performance of the product in that respect.

PRODUCT FAMILY

INTERNAL PARTITION KITS (3/5)

1. Systems of attestation of conformity

For the product(s) and intended use(s) listed below, EOTA is requested to specify the following system(s) of attestation of conformity in the relevant Guideline for European Technical Approvals:

Product(s)	Intended use(s)	Level(s) or class(es)	Attestation of conformity system(s)
Internal partition kits	For uses subject to regulations on dangerous substances ⁽¹⁾	—	3 ⁽²⁾

⁽¹⁾ In particular, those dangerous substances defined in Council Directive 76/769/EEC, as amended.

⁽²⁾ System 3: See Annex III(2)(ii) to Directive 89/106/EEC, second possibility.

2. Conditions to be applied by EOTA on the specifications of the attestation of conformity system

The specification for the system should be such that it can be implemented even where performance does not need to be determined for a certain characteristic, because at least one Member State has no legal requirement of all for such characteristic (see Article 2(1) of Directive 89/106/EEC and, where applicable, point 1.2.3 of the interpretative documents). In those cases the verification of such a characteristic must not be imposed on the manufacturer if he does not wish to declare the performance of the product in that respect.

PRODUCT FAMILY

INTERNAL PARTITION KITS (4/5)

1. Systems of attestation of conformity

For the product(s) and intended use(s) listed below, EOTA is requested to specify the following system(s) of attestation of conformity in the relevant Guideline for European Technical Approvals:

Product(s)	Intended use(s)	Level(s) or class(es)	Attestation of conformity system(s)
Internal partition kits	For uses liable to present 'safety-in-use' risks and subject to such regulations	—	3 ⁽¹⁾

⁽¹⁾ System 3: See Annex III(2)(ii) to Directive 89/106/EEC, second possibility.

2. Conditions to be applied by EOTA on the specifications of the attestation of conformity system

The specification for the system should be such that it can be implemented even where performance does not need to be determined for a certain characteristic, because at least one Member State has no legal requirement at all for such characteristic (see Article 2(1) of Directive 89/106/EEC and, where applicable, point 1.2.3 of the interpretative documents). In those cases the verification of such a characteristic must not be imposed on the manufacturer if he does not wish to declare the performance of the product in that respect.

PRODUCT FAMILY

INTERNAL PARTITION KITS (5/5)

1. Systems of attestation of conformity

For the product(s) and intended use(s) listed below, EOTA is requested to specify the following system(s) of attestation of conformity in the relevant Guideline for European Technical approvals:

Product(s)	Intended use(s)	Level(s) or class(es)	Attestation of conformity system(s)
Internal partition kits	For uses other than those mentioned in 1/5, 2/5, 3/5 and 4/5	—	4 (1)

(1) System 4: See Annex III(2)(ii) to Directive 89/106/EEC, third possibility.

2. Conditions to be applied by EOTA on the specifications of the attestation of conformity system

The specification for the system should be such that it can be implemented even where performance does not need to be determined for a certain characteristic, because at least one Member State has no legal requirement at all for such characteristic (see Article 2(1) of Directive 89/106/EEC and, where applicable, point 1.2.3 of the interpretative documents). In those cases the verification of such a characteristic must not be imposed on the manufacturer if he does not wish to declare the performance of the product in that respect.

COMMISSION DECISION

of 9 March 1998

on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards structural metallic products and ancillaries

(Text with EEA relevance)

(98/214/EC)

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

Having regard to Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products⁽¹⁾, as amended by Directive 93/68/EEC⁽²⁾, and in particular Article 13(4) thereof,

Whereas the Commission is required to select, as between the two procedures under Article 13(3) of Directive 89/106/EEC for attesting the conformity of a product, the 'least onerous possible procedure consistent with safety'; whereas this means that it is necessary to decide whether, for a given product or family of products, the existence of a factory production control system under the responsibility of the manufacturer is a necessary and sufficient condition for an attestation of conformity, or whether, for reasons related to compliance with the criteria mentioned in Article 13(4), the intervention of an approved certification body is therefore required;

Whereas Article 13(4) requires that the procedure thus determined must be indicated in the mandates and in the technical specifications; whereas, therefore, it is desirable to define the concept of products or family of products as used in the mandates and in the technical specifications;

Whereas the two procedures provided for in Article 13(3) are described in detail in Annex III to Directive 89/106/EEC; whereas it is necessary therefore to specify clearly the methods by which the two procedures must be implemented, by reference to Annex III, for each product or family of products, since Annex III gives preference to certain systems;

Whereas the procedure referred to in point (a) of Article 13(3) corresponds to the systems set out in the first possibility, without continuous surveillance, and the second

and third possibilities of point (ii) of section 2 of Annex III, and the procedure referred to in point (b) of Article 13(3) corresponds to the systems set out in point (i) of section 2 of Annex III, and in the first possibility, with continuous surveillance, of point (ii) of section 2 of Annex III;

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

HAS ADOPTED THIS DECISION:

Article 1

The products set out in Annex I shall have their conformity attested by a procedure whereby, in addition to a factory production control system operated by the manufacturer, an approved certification body is involved in assessment and surveillance of the production control or of the product itself.

Article 2

The procedure for attesting conformity as set out in Annex II shall be indicated in mandates for harmonised standards.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 9 March 1998.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ L 40, 11. 2. 1989, p. 12.

⁽²⁾ OJ L 220, 30. 8. 1993, p. 1.

*ANNEX I***Structural metallic sections/profiles**

Hot rolled, cold formed or otherwise produced sections/profiles with various shapes (T, L, H, U, Z, I, channels, angle, hollow, tubes), flat products (plate, sheet, strip), bars, castings, forgings made of various metallic materials, unprotected or protected against corrosion by coating.

Structural metallic construction members

Finished metallic products such as metal framing for suspended ceilings (heavy duty), trusses, girders, columns, stairs, ground piles, bearing piles and sheet piling, cut to size sections designed for certain applications, and rails and sleepers.

They can be unprotected or protected against corrosion by coating, welded or not.

Welding materials**Structural connectors**

Metallic rivets, bolts (nuts and washers) and H. R. bolts (high strength friction grip bolts), studs, screws, railway fasteners.

ANNEX II

PRODUCT FAMILY

STRUCTURAL METALLIC PRODUCTS AND ANCILLARIES (1/4)

1. Systems of attestation of conformity

For the product(s) and intended use(s) listed below, CEN/CENELEC are requested to specify the following system(s) of attestation of conformity in the relevant harmonised standard(s):

Product(s)	Intended use(s)	Level(s) or class(es)	Attestation of conformity system(s)
<p><i>Structural metallic sections/profiles</i></p> <p>Hot rolled, cold formed or otherwise produced sections/profiles with various shapes (T, L, H, U, Z, I, channels, angle, hollow, tubes), flat products (plate, sheet, strip), bars, castings, forgings made of various metallic materials, unprotected or protected against corrosion by coating</p>	<p>to be used in metal structures or in composite metal and concrete structures</p>		<p>2+ ⁽¹⁾</p>

⁽¹⁾ System 2+: See Annex III(2)(ii) of Directive 89/106/EEC, first possibility, including certification of the factory production control by an approved body on the basis of its continuous surveillance, assessment and approval

2. Conditions to be applied by CEN on the specifications of the attestation of conformity system

The specification for the system should be such that it can be implemented even where performance does not need to be determined for a certain characteristic, because at least one Member State has no legal requirement at all for such characteristic [see Article 2.1 of the CPD and, where applicable, clause 1.2.3 of the Interpretative Documents]. In those cases the verification of such a characteristic must not be imposed on the manufacturer if he does not wish to declare the performance of the product in that respect.

PRODUCT FAMILY

STRUCTURAL METALLIC PRODUCTS AND ANCILLARIES (2/4)

1. Systems of attestation of conformity

For the product(s) and intended use(s) listed below, CEN/CENELEC are requested to specify the following system(s) of attestation of conformity in the relevant harmonised standard(s):

Product(s)	Intended use(s)	Level(s) or class(es) (reaction to fire)	Attestation of conformity system(s)
<p><i>Structural metallic construction members</i></p> <p>Finished metallic products such as trusses, girders, columns, stairs, ground piles, bearing piles and sheet piling, cut to size sections designed for certain applications, and rails and sleepers.</p> <p>They can be unprotected or protected against corrosion by coating, welded or not.</p>	for uses in work's frames and foundations	—	2+ ⁽¹⁾
<p><i>Structural metallic construction members</i></p> <p>Finished metal framing for suspended ceilings (heavy duty).</p> <p>They can be unprotected or protected against corrosion by coating, welded or not.</p>	for uses in work's frames	(A, B, C) ⁽²⁾	1 ⁽³⁾
		(A, B, C) ⁽⁴⁾ , D, E, F, A ⁽⁵⁾	2+ ⁽¹⁾

⁽¹⁾ System 2+: See Annex III(2)(ii) of Directive 89/106/EEC, first possibility, including certification of the factory production control by an approved body on the basis of its continuous surveillance, assessment and approval

⁽²⁾ Materials for which the reaction to fire performance is susceptible to change during production (In general, those subject to chemical modification, e.g. fire retardants, or where changes of composition may lead to changes in reaction to fire performance)

⁽³⁾ System 1: See CPD Annex III(2)(ii), without audit-testing of samples

⁽⁴⁾ Materials for which the reaction to fire performance is not susceptible to change during the production process

⁽⁵⁾ Materials of class A that according to the Decision 96/603/EC do not require to be tested for reaction to fire.

2. Conditions to be applied by CEN on the specifications of the attestation of conformity system

The specification for the system should be such that it can be implemented even where performance does not need to be determined for a certain characteristic, because at least one Member State has no legal requirement at all for such characteristic [see Article 2.1 of the CPD and, where applicable, clause 1.2.3 of the Interpretative Documents]. In those cases the verification of such a characteristic must not be imposed on the manufacturer if he does not wish to declare the performance of the product in that respect.

PRODUCT FAMILY

STRUCTURAL METALLIC PRODUCTS AND ANCILLARIES (3/4)

1. Systems of attestation of conformity

For the product(s) and intended use(s) listed below, CEN/CENELEC are requested to specify the following system(s) of attestation of conformity in the relevant harmonised standard(s):

Product(s)	Intended use(s)	Level(s) or class(es)	Attestation of conformity system(s)
<i>Welding materials</i>	for uses in structural metallic works		2+ ⁽¹⁾

⁽¹⁾ System 2+: See Annex III(2)(ii) of Directive 89/106/EEC, First possibility, including certification of the factory production control by an approved body on the basis of its continuous surveillance, assessment and approval

2. Conditions to be applied by CEN on the specifications of the attestation of conformity system

The specification for the system should be such that it can be implemented even where performance does not need to be determined for a certain characteristic, because at least one Member State has no legal requirement at all for such characteristic [see Article 2.1 of the CPD and, where applicable, clause 1.2.3 of the Interpretative Documents]. In those cases the verification of such a characteristic must not be imposed on the manufacturer if he does not wish to declare the performance of the product in that respect.

PRODUCT FAMILY

STRUCTURAL METALLIC PRODUCTS AND ANCILLARIES (4/4)

1. Systems of attestation of conformity

For the product(s) and intended use(s) listed below, CEN/CENELEC are requested to specify the following system(s) of attestation of conformity in the relevant harmonised standard(s):

Product(s)	Intended use(s)	Level(s) or class(es)	Attestation of conformity system(s)
<i>Structural connectors</i> metallic rivets, bolts (nuts and washers) and H. R. bolts (high strength friction grip bolts), studs, screws, railway fasteners	for uses in structural metallic works		2+ ⁽¹⁾

⁽¹⁾ System 2+: See Annex III(2)(ii) of Directive 89/106/EEC, First possibility, including certification of the factory production control by an approved body on the basis of its continuous surveillance, assessment and approval

2. Conditions to be applied by CEN on the specifications of the attestation of conformity system

The specification for the system should be such that it can be implemented even where performance does not need to be determined for a certain characteristic, because at least one Member State has no legal requirement at all for such characteristic [see Article 2.1 of the CPD and, where applicable, clause 1.2.3 of the Interpretative Documents]. In those cases the verification of such a characteristic must not be imposed on the manufacturer if he does not wish to declare the performance of the product in that respect.

COMMISSION DECISION

of 13 March 1998

setting up a consultative committee for cooperatives, mutual societies, associations and foundations (CMAF)

(Text with EEA relevance)

(98/215/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas cooperatives, mutual societies, associations and foundations are all undertakings with inherent characteristics which mean that they belong to the category of undertakings in the 'social economy';

Whereas, like other undertakings in the market sector, these undertakings must be able to benefit from the opportunities deriving from the achievement of the single market and from economic and monetary union;

Whereas, on 18 December 1989, the Commission presented to the Council of Ministers of the EC a communication on 'Businesses in the social economy sector — Europe's frontier-free market' (SEC(89) 2187 final); whereas, in 1992, the Commission subsequently submitted to the Council three proposals for Regulations, amended in 1993, on the statutes for a European cooperative society, a European mutual society and a European association, as well as three proposals for Directives supplementing these statutes with regard to the role of employees⁽¹⁾;

Whereas, on 17 February 1994, the Commission presented to the Council a proposal for a Decision on a multiannual programme (94-96) of actions in favour of CMAF in the Community; whereas this Decision was amended on 8 June 1995 subsequent to the opinion of the European Parliament⁽²⁾;

Whereas the CMAF are playing an increasingly important role in representing individuals, in defending their democratic rights and in meeting their needs;

Whereas, on 4 June 1997, the Commission presented a communication on 'Promoting the role of voluntary organisations and foundations in Europe'⁽³⁾;

Whereas a growing number of Community policies have an impact on undertakings in the social economy and there is a need to ensure that the Commission's policy on cooperatives, mutual societies, associations and foundations is integrated into the other policies;

Whereas the Commission, in order to clarify its policy in the sector, must be able to consult the sector's socio-professional organisations on all matters likely to have an impact on the activities of undertakings in the social economy; whereas close and ongoing contact with the representatives of the sector may contribute towards the implementation of its policy;

Whereas the organisations in the CMAF sector are currently consulted through a consultative committee which has been functioning since 1995 on the basis of subsidies granted annually by the Commission;

Whereas the most appropriate method of organising these contacts is to set up within the Commission a consultative committee on which the operators in the social economy are represented,

HAS DECIDED AS FOLLOWS:

Article 1

The Commission hereby establishes a consultative committee for cooperatives, mutual societies, associations and foundations (CMAF), hereinafter called 'the Committee'.

Article 2

The Committee may be consulted by the Commission on all questions relating to the promotion and implementation of Community policy on the social economy; its task shall be to advise the Commission on all problems relating, in particular, to:

— actions and programmes in favour of cooperatives, mutual societies, associations and foundations in the Community,

⁽¹⁾ Initial text: OJ C 99, 21. 4. 1992; modified text: OJ C 236, 31. 8. 1993.

⁽²⁾ The Commission decided to withdraw this proposal on 29 July 1997, as the Council had never adopted it and the programme had become obsolete.

⁽³⁾ COM 241/97.

- the participation of cooperatives, mutual societies, associations and foundations in the implementation of the various Community policies,
- the role played by the sector of cooperatives, mutual societies, associations and foundations in creating jobs and strengthening economic and social cohesion,
- proposals for legislative measures concerning cooperatives, mutual societies, associations and foundations.

Article 3

1. The Committee shall be composed of 24 members.
2. The seats shall be allocated in equal parts to representatives of organisations representative of the three families making up the social economy, namely 8 for cooperatives, 8 for mutual societies and 8 for associations/foundations.

Article 4

1. The members of the Committee shall be appointed by the Commission.
2. An equal number of alternates shall be appointed under the same conditions as the full members. The alternate shall automatically replace a full member who is absent or prevented from attending.

Without prejudice to Article 7, the alternate shall attend the meetings of the Committee and take part in its work only if the full member for whom he deputises is prevented from attending.

3. For each of the seats allocated to them, the organisations representing the three families shall propose to the Commission three candidates as full members and three candidates as alternates.
4. The term of office of members shall be three years and shall be renewable.
5. The term of office of a full member or alternate shall lapse before the end of the three year period in the event of resignation, termination of membership of the organisation which he represents, winding-up of the organisation or if the organisation which the member represents requests his replacement. In such cases, new members shall be appointed from the most recent list of candidates, as provided for in Article 3, and for the remainder of the term of office.
6. Membership shall not confer entitlement to payment.
7. Upon the expiry of the three-year period, the members shall remain in office until they are replaced or the term of office is renewed.

Article 5

The Commission shall publish the list of full members and alternates for information in the *Official Journal of the European Communities*.

Article 6

1. The Commission shall hold the chairmanship of the Committee. The Committee shall elect three vice-chairmen, one for each family, who shall hold office for a period of three years. The election shall be by a majority of two thirds of the members present.

2. By the same majority, the Committee may appoint other members to the steering committee. The steering committee shall prepare and organise the work of the Committee.

Article 7

The chairman or the steering committee may invite to take part in its work, as an expert, any person with a particular expertise in an item on the agenda. Experts shall take part in the deliberations only for the items which are the reason for their presence.

Article 8

The Committee may set up working parties from amongst its members, subject to agreement by the Commission.

Article 9

1. The Committee shall meet at the seat of the Commission at the invitation of the Commission. Meetings shall be held at least once a year. A quorum is established if the meeting is attended by at least eight members, with at least one member for each of the families.
2. In urgent cases, the Committee may, at the request of the Commission, be consulted by written procedure.
5. The Commission shall provide secretarial services for the Committee, the steering committee and the working parties.

Article 10

1. The Committee shall deliberate on requests for opinions drawn up by the Commission. The Committee may also express own-initiative opinions. The positions of the members and, as the case may be, of each family shall be recorded in minutes transmitted to the Commission and the members (full members and alternates) of the Committee.

2. When requesting an opinion from the Committee, the Commission may fix a deadline by which the opinion must be given.

Article 11

1. Without prejudice to Article 214 of the EC treaty, the members of the Committee are required not to divulge information obtained from their work in the Committee or its working parties, if the Commission informs them that the opinion requested or the question raised relates to a confidential matter.

2. In such cases, only members of the Committee and representatives of the Commission shall take part in the meetings.

Article 12

This Decision shall enter into force on 20 March 1998.

Done at Brussels, 13 March 1998.

For the Commission

Christos PAPOUTSIS

Member of the Commission
