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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 248/1999
of 22 December 1998**

**concerning the export of certain ECSC and EC steel products from the Czech Republic to the Community for the period 1 January to 31 December 1999
(extension of the double-checking system)**

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS REGULATION:

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

Having regard to the proposal from the Commission,

Whereas a Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, entered into force on 1 February 1995⁽¹⁾;

Whereas the Parties decided in Association Council Decision No 7/98⁽²⁾ to extend the double-checking system introduced by Decision No 3/97⁽³⁾ for the period between 1 January and 31 December 1999;

Whereas it is consequently necessary to extend the Community implementing legislation introduced by Council Regulation (EC) No 87/98 of 19 December 1997 concerning the export of certain ECSC and EC steel products from the Czech Republic to the Community for the period 1 January to 31 December 1998 (renewal of the double-checking system)⁽⁴⁾,

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

Done at Brussels, 22 December 1998.

For the Council
The President
C. EINEM

⁽¹⁾ OJ L 360, 31. 12. 1994, p. 2.

⁽²⁾ See page 26 of this Official Journal.

⁽³⁾ OJ L 13, 19. 1. 1998, p. 99.

⁽⁴⁾ OJ L 13, 19. 1. 1998, p. 43.

ANNEX

ANNEX I

CZECH REPUBLIC

List of products subject to double-checking (1999)

Heavy plates

(excluding ex-CN codes)

7208 40 10

7208 51 30

7208 51 50

7208 51 91

7208 51 99

7208 52 91

7208 52 99

7208 54 10

7208 90 10

7208 90 90

Cold-rolled sheet

7209 15 00

7209 16 90

7209 17 90

7209 18 91

7209 18 99

7209 25 00

7209 26 90

7209 27 90

7209 28 90

7211 23 10

7211 23 51

7211 29 20

Beams and sections

7216 31 11

7216 31 19

7216 31 91

7216 31 99

7216 32 11

7216 32 19

7216 32 91

7216 32 99

Welded tubes

Complete CN heading 7306'

COMMISSION REGULATION (EC) No 249/1999
of 2 February 1999
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 1498/98⁽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 3 February 1999.

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

Done at Brussels, 2 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 198, 15. 7. 1998, p. 4.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 2 February 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	106,3
	204	42,5
	999	74,4
0709 10 00	220	213,2
	999	213,2
0709 90 70	052	146,8
	204	152,6
	999	149,7
0805 10 10, 0805 10 30, 0805 10 50	052	46,1
	204	42,9
	212	43,8
	600	40,2
	624	52,7
	999	45,1
0805 20 10	204	69,8
	999	69,8
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	54,7
	204	68,3
	464	94,1
	600	73,2
	624	81,1
	999	74,3
0805 30 10	052	56,1
	600	69,9
	999	63,0
0808 10 20, 0808 10 50, 0808 10 90	039	76,4
	060	46,7
	400	84,6
	404	76,6
	728	78,5
	999	72,6
0808 20 50	052	129,5
	388	76,9
	400	78,0
	624	53,0
	999	84,4

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

COMMISSION REGULATION (EC) No 250/1999
of 2 February 1999
amending Regulation (EC) No 2473/98 suspending the introduction into the
Community of specimens of certain species of wild fauna and flora

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein ⁽¹⁾, as last amended by Commission Regulation (EC) No 2214/98 ⁽²⁾, and in particular point 2 of Article 19 thereof,

After consulting the Scientific Review Group,

Whereas Article 4(6) of Regulation (EC) No 338/97 provides for the establishment by the Commission of general restrictions, or restrictions relating to certain countries of origin, on the introduction into the Community of specimens of species listed in its Annexes A and B and lays down the criteria for such restrictions;

Whereas the list of these restrictions has been published in Commission Regulation (EC) No 2473/98 ⁽³⁾; whereas this list must now be amended;

Whereas point (c) of Article 4(6) of Regulation (EC) No 338/97 provides for the establishment by the Commission of restrictions on the introduction into the Community of

live specimens of species listed in its Annex B for which it has been established that they are unlikely to survive in captivity for a considerable proportion of their potential life span;

Whereas Article 41 of Commission Regulation (EC) No 939/97 ⁽⁴⁾, as last amended by Regulation (EC) No 1006/98 ⁽⁵⁾, lays down provisions for the implementation by the Member States of the restrictions established by this Regulation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Trade in Wild Fauna and Flora,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 2478/98 is hereby amended as follows:

1. the entry:

<i>Geochelone chilensis</i>	Wild	All	Argentina	b'
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is replaced by:

<i>Geochelone chilensis</i>	Wild	All	Argentina	b
	Wild	Live	All	c';

2. the entry:

<i>Geochelone denticulata</i>	Wild	All	Bolivia, Ecuador	b'
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is replaced by:

<i>Geochelone denticulata</i>	Wild	All	Bolivia, Ecuador	b
	Wild	Live	All	c';

⁽¹⁾ OJ L 61, 3. 3. 1997, p. 1.

⁽²⁾ OJ L 279, 16. 10. 1998, p. 3.

⁽³⁾ OJ L 308, 18. 11. 1998, p. 18.

⁽⁴⁾ OJ L 140, 30. 5. 1997, p. 9.

⁽⁵⁾ OJ L 145, 15. 5. 1998, p. 3.

3. the entry:

<i>Geochelone elegans</i>	Wild	All	Bangladesh, Pakistan	b'
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is replaced by:

<i>Geochelone elegans</i>	Wild	All	Bangladesh, Pakistan	b
	Wild	Live	All	c';

4. the entry:

<i>Homopus signatus</i>	Wild	All	Namibia	b'
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is replaced by:

<i>Homopus signatus</i>	Wild	All	Namibia	b
	Wild	Live	All	c';

5. the entry:

<i>Kinixys belliana</i>	Wild	All	Burundi, Central-African Republic, Côte d'Ivoire, Djibouti, Liberia, Madagascar, Mauritania, Mozambique	b'
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is replaced by:

<i>Kinixys belliana</i>	Wild	All	Burundi, Central African Republic, Côte d'Ivoire, Djibouti, Liberia, Madagascar, Mauritania, Mozambique	b
	Wild	Live	All	c';

6. the entry:

<i>Kinixys erosa</i>	Wild	All	Benin, Guinea-Bissau, Togo	b'
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is replaced by:

<i>Kinixys erosa</i>	Wild	All	Benin, Guinea-Bissau, Togo	b
	Wild	Live	All	c';

7. the entry:

<i>Kinixys homeana</i>	Ranched and captive bred	All	Benin	b'
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is replaced by:

<i>Kinixys homeana</i>	Ranched and captive bred	All	Benin	b
	Wild	Live	All	c';

8. the entry:

<i>Kinixys natalensis</i>	Wild	All	Mozambique, South Africa, Swaziland	b'
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is replaced by:

<i>Kinixys natalensis</i>	Wild	All	Mozambique, South Africa, Swaziland	b
	Wild	Live	All	c';

9. the entry:

<i>Manouria emys</i>	Wild	All	All	b'
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is replaced by:

<i>Manouria emys</i>	Wild	All	All	b
	Wild	Live	All	c';

10. the entry:

<i>Manouria impressa</i>	Wild	All	All	b'
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is replaced by:

<i>Manouria impressa</i>	Wild	All	All	b
	Wild	Live	All	c';

11. the entry:

<i>Pyxis arachnoides</i>	Wild	All	All	b'
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is replaced by:

<i>Pyxis arachnoides</i>	Wild	All	All	b
	Wild	Live	All	c';

12. the entry:

<i>Testudo horsfieldii</i>	Wild	All	China, Pakistan	b'
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is replaced by:

<i>Testudo horsfieldii</i>	Wild	All	China, Pakistan	b
	Wild	Live	All	c';

13. the following is inserted after the entry '*Gopherus polyphemus*':

<i>Homopus areolatus</i>	Wild	Live	All	c
<i>Homopus boulengeri</i>	Wild	Live	All	c
<i>Homopus femoralis</i>	Wild	Live	All	c';

14. the following entry is inserted after the entry '*Manouria impressa*':

<i>Psammobates</i> spp.	Wild	Live	All	c'
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Article 2

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

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

Done at Brussels, 2 February 1999.

For the Commission
Ritt BJERREGAARD
Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 18 May 1998

on the conclusion of a Protocol adjusting trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, to take account of the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the outcome of the Uruguay Round negotiations on agriculture, including improvements to the existing preferential arrangements

(1999/86/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113, in conjunction with the first sentence of Article 228(2) thereof,

Having regard to the proposal from the Commission,

Whereas the Protocol adjusting trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, should be approved with a view to taking account of the accession of the Republic of Austria, of the Republic of Finland and of the Kingdom of Sweden to the European Union and the outcome of the Uruguay Round negotiations on agriculture, including improvements to the existing preferential arrangements;

Whereas the Commission should be authorised to take measures to implement the Protocol, notably with regard to basic and processed agricultural products;

Whereas by Regulations (EC) No 1926/96⁽¹⁾, (EC) No 921/96⁽²⁾ and (EC) No 340/97⁽³⁾ the Community brought forward implementation of the measures contained in the Protocol relating to basic agricultural products, processed agricultural products and fishery products, respectively; whereas, therefore, appropriate measures should be taken to ensure a smooth transition between the preferential

arrangements applied under those Regulations and those provided for by the Protocol,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol adjusting trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, to take account of the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the outcome of the Uruguay Round negotiations on agriculture, including improvements to the existing preferential arrangements, hereinafter referred to as 'the Protocol', is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Decision.

Article 2

1. Detailed rules for the application of this Decision shall be adopted by the Commission according to the procedure provided for in Article 23 of Regulation (EEC) No 1766/92⁽⁴⁾, or, where appropriate, in the relevant provisions of the other Regulations on the common

⁽¹⁾ OJ L 254, 8. 10. 1996, p. 1.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 1.

⁽³⁾ OJ L 58, 27. 2. 1997, p. 25.

⁽⁴⁾ OJ L 181, 1. 7. 1992, p. 21. Regulation as last amended by Regulation (EC) No 923/96 (OJ L 126, 24. 5. 1996, p. 37).

organisation of the market or of Regulation (EC) No 3448/93 ⁽¹⁾ or of Regulation (EC) No 2178/95 ⁽²⁾.

2. Upon this Decision taking effect, the regulations adopted by the Commission pursuant to Article 5 of Regulation (EC) No 1926/96, implementing the concessions relating to products covered by the Protocol, shall be deemed to be governed by paragraph 1.

Article 3

1. Provisions for the application of tariff quotas and tariff ceilings provided for in the new Annexes to the Europe Agreement, including amendments and technical adaptations made necessary by amendments to the combined nomenclature and Taric codes, or arising from the conclusion by the Council of agreements, protocols or exchanges of letters between the Community and Estonia, shall be adopted by the Commission, assisted by the Customs Code Committee set up by Article 247 of Regulation (EEC) No 2913/92 ⁽³⁾, according to the procedure set out in paragraph 2 of this Article.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chair may lay down according to the urgency or the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chair shall not vote.

The Commission shall adopt the measures, which apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event:

- the Commission may defer application of the measures which it has decided for a period of not more than three months from the date of such communication,
- the Council, acting by qualified majority, may take a different decision within the period referred to in the first indent.

3. The Committee may examine any question concerning the application of tariff quotas and tariff ceilings, which is raised by its chair either at the latter's initiative or at the request of a Member State.

4. As soon as the tariff ceilings are reached, the Commission may adopt a regulation re-establishing, until the end of the calendar year, the customs duties applicable to third countries.

Article 4

The president of the Council shall, on behalf of the Community, give the notification provided for in Article 6 of the protocol.

Done at Brussels, 18 May 1998.

For the Council
The President
C. SHORT

⁽¹⁾ OJ L 318, 20. 12. 1993, p. 18.

⁽²⁾ OJ L 223, 20. 9. 1995, p. 1.

⁽³⁾ OJ L 302, 14. 10. 1992, p. 1.

PROTOCOL

adjusting trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, to take account of the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the outcome of the Uruguay Round negotiations on agriculture, including improvements to the existing preferential arrangements

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

THE REPUBLIC OF ESTONIA, hereinafter referred to as 'Estonia',

of the other part,

WHEREAS the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part (hereinafter referred to as 'the Agreement', was signed in Luxembourg on 12 June 1995;

WHEREAS the Republic of Austria, the Republic of Finland and the Kingdom of Sweden acceded to the European Union on 1 January 1995;

WHEREAS, under the terms of Articles 76, 102 and 128 of the Act of Accession, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden have to apply, as from 1 January 1995, the provisions of the preferential agreements concluded by the Community with certain third countries, among them Estonia;

WHEREAS the Community adopted, as from 1 January 1995, transitional measures in the form of autonomous tariff quotas taking into account the preferential tariff concessions applied by the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to Estonia, and Estonia adopted, as from 1 January 1995, transitional measures in the form of autonomous tariff quotas taking into account the preferential tariff arrangements applied by Estonia to the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, notably with regard to processed agricultural products;

WHEREAS undertakings by the Community in the framework of the Uruguay Round negotiations require the amendment of the import tariff arrangements in the Community, notably with regard to basic and processed agricultural products;

WHEREAS the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the implementation of the Uruguay Round outcome are likely to affect the bilateral concessions granted under the Agreement, which should, therefore, be amended by means of a Protocol adjusting the trade aspects of the Agreement;

WHEREAS the Community adopted, as from 1 June 1996, transitional and autonomous measures establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Agreement on free trade and trade related matters with Estonia to take account of the Agreement on Agriculture concluded during the Uruguay Round multilateral trade negotiations; whereas the concessions concerned will be replaced on the date of entry into force of this Protocol by the concessions provided for herein;

WHEREAS the Council decided, by virtue of Decision 95/131/EC⁽¹⁾, to apply on a provisional basis, as from 1 January 1995, the bilateral Agreement negotiated by the Commission on behalf of the Community amending Protocol 1 to the Agreement to take into account the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union;

HAVE DECIDED to determine, by mutual agreement, the adjustments to be made to the trade aspects of the Agreement to take account, firstly, of the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and, secondly, of the entry into force of the outcome of the Uruguay Round negotiations on agriculture, and to this end have designated as their plenipotentiaries:

(¹) OJ L 94, 26. 4. 1995, p. 1.

THE EUROPEAN COMMUNITY:

Manfred SCHEICH
Ambassador,
Permanent Representative of the Republic of Austria,
Chairman of the Permanent Representatives Committee

Günther BURGHARDT
Director-General of the Directorate-General for External Political Relations of the Commission of the
European Communities

THE REPUBLIC OF ESTONIA:

Priit KOLBRE
Ambassador extraordinary and plenipotentiary,
Head of the Mission of the Republic of Estonia to the European Union

WHO, having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

Article 1

As regards processed agricultural products:

1. Protocol 2 to the Agreement shall be replaced by the text contained in Annex A to this Protocol.
2. Article 9(1) of the Agreement shall be replaced by the following:

‘1. The provisions of this Chapter shall apply to products originating in the Community and in Estonia listed in Chapters 25 to 97 of the Combined Nomenclature, with the exception of the products listed in Annex I and Protocol 2.’
3. Article 16 of, and Annex II to, the Agreement shall be repealed.
4. Article 17(2) of the Agreement shall be replaced by the following:

‘2. The term “agricultural products” means the products listed in Chapters 1 to 24 of the Combined Nomenclature and the products listed in Annex I and Protocol 2, but excluding fishery products as defined by Regulation (EEC) No 3759/92.’

Article 2

As regards agricultural products:

1. Article 19(2) of the Agreement shall be replaced by the following:

‘2. The concessions granted in this Agreement in relation to agricultural products are set out in Annex Va.’
2. the text of Annex Va to the Agreement appears in Annex B to this Protocol.

3. Annexes III, IV and V to the Agreement shall be repealed.

Article 3

Annex VI to the Agreement, relating to fishery products, shall be replaced by the text contained in Annex C to this Protocol.

Article 4

The Annex to this Protocol shall form an integral part thereof. This Protocol shall form an integral part of the Agreement.

Article 5

This Protocol shall be approved by the Community and Estonia in accordance with their own procedures. The Contracting Parties shall take the necessary measures to implement this Protocol.

Article 6

This Protocol shall enter into force on the first day of the second month following notification of the completion of the procedures referred to in Article 5 by the Contracting parties.

Article 7

This Protocol shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Estonian languages, each of those texts being equally authentic.

Hecho en Bruselas, el diez de diciembre de mil novecientos noventa y ocho.

Udfærdiget i Bruxelles den tiende december nitten hundrede og otteoghalvfems.

Geschehen zu Brüssel am zehnten Dezember neunzehnhundertachtundneunzig.

Έγινε στις Βρυξέλλες, στις δέκα Δεκεμβρίου χίλια εννιακόσια ενενήντα οκτώ.

Done at Brussels on the tenth day of December in the year one thousand nine hundred and ninety-eight.

Fait à Bruxelles, le dix décembre mil neuf cent quatre-vingt-dix-huit.

Fatto a Bruxelles, addì dieci dicembre millenovecentonovantotto.

Gedaan te Brussel, de tiende december negentienhonderd achtennegentig.

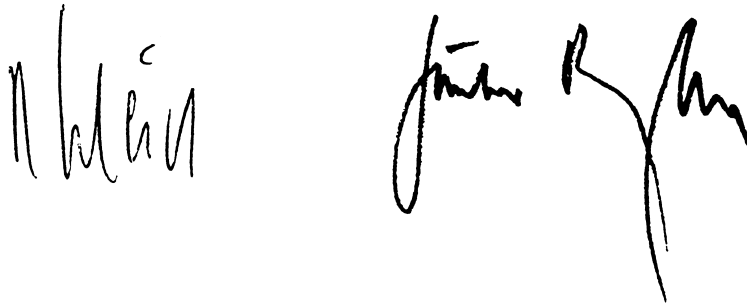
Feito em Bruxelas, em dez de Dezembro de mil novecentos e noventa e oito.

Tehty Brysselissä kymmenentenä päivänä joulukuuta vuonna tuhatyhdeksänsataayhdeksänkymmentäkahdeksan.

Som skedde i Bryssel den tionde december nittonhundraoåttioåttio.

Koostatud Brüsselis kümnendal detsembril tuhande üheksasaja üheksakümne kaheksandal aastal.

Por la Comunidad Europea
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Voor de Europese Gemeenschap
Pela Comunidade Europeia
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar



Eesti Vabariigi nimel



ANNEX A

‘PROTOCOL 2

on trade between the Community and Estonia in processed agricultural products

Article 1

1. The Community applies to processed agricultural products originating in Estonia the duties listed in the Annex in accordance with the conditions mentioned therein, whether limited by quota or not.

2. Imports into Estonia of processed agricultural products of Community origin shall be free of duty. However, in cases where Estonia wishes to apply a duty no such duty may be applied without the approval of the Association Council. Any duty approved shall not exceed the duty applicable to the quantity of agricultural products incorporated in the processed agricultural product in question.

3. The Association Council will decide on:

- any extension of the list of processed agricultural products under this Protocol,
- any amendment of the duties mentioned in the Annex,
- any increase or abolition of tariff quotas.

4. The Association Council may replace the duties established by this Protocol by a regime established on the basis of the respective market prices of the Community and Estonia of the agricultural products actually used in the manufacture of processed agricultural products subject to this Protocol. It will establish the list of goods subject to these amounts and, as a consequence,

the list of basic products; to this end, it will decide the general rules of application.

Article 2

The duties applied conforming to Article 1 may be reduced by decision of the Association Council:

- when in trade between the Community and Estonia the duties applied to the basic products are reduced, or
- in response to reductions resulting from mutual concessions relating to processed agricultural products.

The reductions provided for under the first indent of the first subparagraph will be calculated on the part of the duty designated as the agricultural component which shall correspond to the agricultural products actually used in the manufacture of the processed agricultural products in question and deducted from the duties applied to these basic agricultural products.

Article 3

The Community and Estonia will inform each other of the administrative arrangements adopted for the products covered by this Protocol.

Such arrangements should ensure equal treatment for all interested parties and should be as simple and flexible as possible.

ANNEX

Table 1: Quotas applicable upon import into the Community of goods originating in Estonia

CN code	Description	Annual quota (1 000 kg)			
		1997	1998	1999	2000 and after
1	2	3	4	5	6
1704 10 11 1704 10 19 1704 90 71 1704 90 75	Sugar confectionery	165	180	195	210
ex 1806	Chocolate and other food preparations containing cocoa, excluding CN code 1806 10 15	550	600	650	700
1905	Bakery goods	120	130	140	150
2102 10 39	Yeasts	2 200	2 400	2 600	2 800
2105 00	Ice cream	12	13	14	15
2202 90 91 to 2202 90 99	Waters containing milk fat	600	660	720	780
2402 20 90	Cigarettes	55	60	65	70

Table 2: Duties applicable upon import into the Community of goods originating in Estonia

Note: The basic amounts taken into consideration in calculating the reduced agricultural components and additional duties, applicable on importation into the Community of goods listed in this Table are those set out in Table 3 to this Annex.

CN code	Description	Duty (%)			
		From 1.7.1997 to 30.6.1998	From 1.7.1998 to 30.6.1999	From 1.7.1999 to 30.6.2000	As from 1.7.2000
1	2	3	4	5	6
1521 10 90	Vegetable waxes	0 %	0 %	0 %	0 %
1521 90 99	Beeswax	0 %	0 %	0 %	0 %
1704 10 11 1704 10 19 1704 90 71 1704 90 75	Sugar confectionery	EAR	EAR	EAR	EAR
1805 00 00	Cocoa powder	0 %	0 %	0 %	0 %

CN code	Description	Duty (1)			
		From 1.7.1997 to 30.6.1998	From 1.7.1998 to 30.6.1999	From 1.7.1999 to 30.6.2000	As from 1.7.2000
1	2	3	4	5	6
ex 1806	Chocolate and other food preparations containing cocoa, excluding CN code 1806 10 15	EAR	EAR	EAR	EAR
1806 10 15	Cocoa powder, containing no sucrose or containing less than 5 % by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose	0 %	0 %	0 %	0 %
1905	Bakery goods	EAR	EAR	EAR	EAR
2102 10 39	Yeasts	EAR	EAR	EAR	EAR
2103 90 90	Sauces and preparations	4,1 %	3,8 %	3,5 %	3,2 %
2104	Soups and broths and preparations therefor; homogenized composite food preparations:				
2104 10	Soups and broths and preparations therefor	5,7 %	5,3 %	4,9 %	4,5 %
2104 20 00	Homogenized composite food preparations	7,1 %	6,5 %	6,0 %	5,5 %
2105 00	Ice cream	EAR	EAR	EAR	EAR
2201 10 19	Other mineral waters	0 %	0 %	0 %	0 %
2202 10 00	Refreshing drinks	0 %	0 %	0 %	0 %
2202 90 91 to 2202 90 99	Waters containing milk fat	EAR	EAR	EAR	EAR
2203 00	Beer	4,4 %	3,5 %	2,6 %	0 %
2208 60 11	Vodka	0,52 ECU % vol/hl + 2,53 ECU/hl	0,26 ECU % vol/hl + 1,27 ECU/hl	0 %	0 %
2208 70 10	Liqueurs	0,64 ECU % vol/hl + 4,10 ECU/hl	0,32 ECU % vol/hl + 2,05 ECU/hl	0 %	0 %
2208 90 69	Other spirituous beverages	0,64 ECU % vol/hl + 4,10 ECU/hl	0,32 ECU % vol/hl + 2,05 ECU/hl	0 %	0 %

CN code	Description	Duty (1)			
		From 1.7.1997 to 30.6.1998	From 1.7.1998 to 30.6.1999	From 1.7.1999 to 30.6.2000	As from 1.7.2000
1	2	3	4	5	6
2402 20 90	Cigarettes	36,9 %	34,2 %	31,5 %	28,8 %
3302 10 29	Mixtures of odoriferous substances and mixtures; other preparations based on odoriferous substances	EA	EA	EA	EA
2905 43 00	— — Mannitol	EA	EA	EA	EA
2905 44	— — D-glucitol (sorbitol)	EA	EA	EA	EA
ex 3505 10	Dextrins and other modified starches, excluding starches, esterified or etherified of subheading 3505 10 50	EA	EA	EA	EA
3505 20	Glues with a basis of starches, dextrins and other modified starches	EA	EA	EA	EA
3809 10	Dressings and finishing agents with a basis of amylaceous substances	EA	EA	EA	EA
3824 60	Sorbitol other than that of subheading 2905 44	EA	EA	EA	EA

(1) The reduced agricultural components (EAR) apply within the quantitative limits set out in Table 1. Imports exceeding these quantities are subject to the agricultural components (EA) set out in the Common Customs Tariff (Regulation (EEC) No 2658/87 of 23 July 1987 as amended). EA may be subject to a maximum duty which, if appropriate, is set out in the Common Customs Tariff.

Table 3: Basic amounts taken into consideration in calculating the reduced agricultural components and additional duties applicable on importation into the Community of goods listed in Table 2

(ECU/100 kg)

Basic product	From 1.7.1997 to 30.6.1998	From 1.7.1998 to 30.6.1999	From 1.7.1999 to 30.6.2000	As from 1.7.2000
Common wheat	8,524	7,900	7,277	6,653
Durum wheat	13,231	12,263	11,295	10,326
Rye	8,306	7,698	7,090	6,483
Barley	8,306	7,698	7,090	6,483
Maize	7,408	7,408	7,193	6,577
Long-grain husked rice	23,706	21,972	20,237	18,502
Skimmed-milk powder	26,730	25,740	24,750	23,760
Whole-milk powder	33,423	30,978	28,532	26,086
Butter	48,575	45,021	41,467	37,912
White sugar	32,565	31,795	30,573	29,350'

ANNEX B

ANNEX Va

Imports into the Community of the following products originating in Estonia shall be subject to the concessions set out below (MFN = most favoured nation duty)

CN code	Description (1)	Applicable duty (% of MFN) (2)	Annual quantities				Specific provisions
			From 1. 7. 1997 to 30. 6. 1998 (tonnes)	From 1. 7. 1998 to 30. 6. 1999 (tonnes)	From 1. 7. 1999 to 30. 6. 2000 (tonnes)	From 1. 7. 2000 (tonnes)	
0102 90 05 0102 90 21	Live bovine animals of a live weight not exceeding 80 kg	20	178 000 head	178 000 head	178 000 head	178 000 head	(3)
0102 90 21 0102 90 29 0102 90 41 0102 90 49	Live bovine animals of a live weight exceeding 80 kg but not exceeding 300 kg		153 000 head	153 000 head	153 000 head	153 000 head	
ex 0102 90	Heifers and cows of the following mountain breeds: grey, brown, yellow, spotted Simmental and Pinzgau	6 % <i>ad valorem</i>	7 000 head	7 000 head	7 000 head	7 000 head	(4)
0201 0202	Meat of bovine animals, fresh, chilled or frozen	20	1 650	1 725	1 800	1 875	(5)
0203	Meat of domestic swine, fresh, chilled or frozen	20	1 100	1 150	1 200	1 250	(6)
0204	Meat of sheep or goats	free	110	115	120	125	(5)
0207 11 30 0207 11 90 0207 12 10 0207 12 90 0207 13 50 0207 13 60 0207 14 50 0207 14 60	Chicken carcasses; breast of chicken; legs of chicken	20	550	575	600	625	
ex 0208 90 40	Other meat: meat of elk	free	unlimited	unlimited	unlimited	unlimited	
0402 10 19 0402 21 19	Skimmed milk powder Whole milk powder	20	3 300	3 450	3 600	3 750	
0405 10 11 0405 10 19	Butter	20	1 650	1 725	1 800	1 875	
0406	Cheeses	20	880	920	960	1 000	

CN code	Description (*)	Applicable duty (% of MFN) (2)	Annual quantities				Specific provisions
			From 1. 7. 1997 to 30. 6. 1998 (tonnes)	From 1. 7. 1998 to 30. 6. 1999 (tonnes)	From 1. 7. 1999 to 30. 6. 2000 (tonnes)	From 1. 7. 2000 (tonnes)	
0408 11	Dried egg yolks	20	110	115	120	125	
0409 00 00	Natural honey	64	unlimited	unlimited	unlimited	unlimited	
0601 10	Bulbs, tuberous roots, corms, crowns and rhizomes, dormant	64	unlimited	unlimited	unlimited	unlimited	
0602 10 90	Other live plants (including their roots), cuttings and slips	50	unlimited	unlimited	unlimited	unlimited	
	Unrooted cuttings and slips						
	Other						
0602 20 90	Fruit trees, shrubs and bushes, other	64	unlimited	unlimited	unlimited	unlimited	
0602 30 00	Rhododendrons and azaleas	20	770	805	840	875	
0602 40	Roses, live plants	50	unlimited	unlimited	unlimited	unlimited	
0602 90	Other live plants, except:	50	unlimited	unlimited	unlimited	unlimited	
0602 90 91	Flowering plants with buds	92	unlimited	unlimited	unlimited	unlimited	
ex 0602 90 30	Strawberry plants	64	unlimited	unlimited	unlimited	unlimited	
0603 90 00	Cut flowers, other than fresh	20	56	59	62	65	
0604 91 21 0604 91 29	Christmas trees	50	unlimited	unlimited	unlimited	unlimited	
0604 91 49 0604 99	Conifer branches, fresh, other Other than fresh	50 free	unlimited unlimited	unlimited unlimited	unlimited unlimited	unlimited unlimited	
0701	Potatoes, fresh or chilled	20	2 000	2 100	2 200	2 300	
0703 10	Onions and shallots	20	100	100	100	100	
0704	Cabbages, etc., fresh or chilled	20	220	230	240	250	
0707 00 25 0707 00 30	Cucumbers, fresh or chilled (from 16 May to 31 October)	20	166	174	182	190	
0709 51 30	Chanterelles	free	unlimited	unlimited	unlimited	unlimited	
0709 51 90	Mushrooms, fresh, other than <i>Agaricus</i>	52	unlimited	unlimited	unlimited	unlimited	
0711 40 00	Cucumbers and gherkins, provisionally preserved	20	56	59	62	65	
0712 90 05	Dried potatoes	20	66	69	72	75	

CN code	Description (*)	Applicable duty (% of MFN) (?)	Annual quantities				Specific provisions
			From 1. 7. 1997 to 30. 6. 1998 (tonnes)	From 1. 7. 1998 to 30. 6. 1999 (tonnes)	From 1. 7. 1999 to 30. 6. 2000 (tonnes)	From 1. 7. 2000 (tonnes)	
0808	Apples, pears and quinces, fresh	20	220	230	240	250	
0809 40 90	Sloes	47	unlimited	unlimited	unlimited	unlimited	
0810 10	Strawberries, fresh	25	unlimited	unlimited	unlimited	unlimited	(?)
0810 30 10	Blackcurrants, fresh	41	unlimited	unlimited	unlimited	unlimited	(?)
0810 30 30	Redcurrants, fresh	41	unlimited	unlimited	unlimited	unlimited	(?)
0810 30 90	Other, than black- and redcurrants	42	unlimited	unlimited	unlimited	unlimited	
0810 40 30	Bilberries of the species <i>Vaccinium myrtillus</i>	free	unlimited	unlimited	unlimited	unlimited	
0810 40 50	Fruit of the species <i>Vaccinium macrocarpon</i> and <i>Vaccinium corymbosum</i>	74					
ex 0810 90 85	Other berries, fresh	42	unlimited	unlimited	unlimited	unlimited	
0811 10	Strawberries, frozen	20	550	575	600	625	(?)
ex 0811 20	Berries, frozen; except:	66	unlimited	unlimited	unlimited	unlimited	
ex 0811 20 19	Frozen raspberries, containing added sugar or other sweet matter, not exceeding 13 % by weight: whole fruit	33					(?)
ex 0811 20 19	Frozen raspberries, containing added sugar or other sweet matter, not exceeding 13 % by weight: other	33					(?)
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweet matter: whole fruit	33					(?)
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweet matter: other	33					(?)
ex 0811 20 39	Frozen blackcurrants, containing no added sugar or other sweet matter: without stalk	33					(?)
ex 0811 20 39	Frozen blackcurrants, containing no added sugar or other sweet matter: other	33					(?)
ex 0811 20 51	Frozen redcurrants, containing no added sugar or other sweet matter: without stalk	33					(?)
ex 0811 20 51	Frozen redcurrants, containing no added sugar or other sweet matter: other	33					(?)
0811 90 50	<i>Vaccinium myrtillus</i> , frozen	47	unlimited	unlimited	unlimited	unlimited	
0901 21 00	Coffee, not decaffeinated, roasted	50	unlimited	unlimited	unlimited	unlimited	

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Annual quantities				Specific provisions
			From 1. 7. 1997 to 30. 6. 1998 (tonnes)	From 1. 7. 1998 to 30. 6. 1999 (tonnes)	From 1. 7. 1999 to 30. 6. 2000 (tonnes)	From 1. 7. 2000 (tonnes)	
0910 91 90	Spices, crushed or ground	20	276	289	302	315	
1214 90 10	Swedes, mangolds and other fodder roots	free	unlimited	unlimited	unlimited	unlimited	
1502 00	Fats of bovine animals	free	unlimited	unlimited	unlimited	unlimited	
1506 00 00	Other animal fats and oils	free	unlimited	unlimited	unlimited	unlimited	
1514 90 90	Rape, colza . . ., other than crude oil	20	110	115	120	125	
1601 00	Sausages and similar products	20	550	575	600	625	
1602 41 90	Prepared or preserved meat of swine, other	20	56	59	62	65	
2005 90 75	Preparations of vegetables: Sauerkraut	50	unlimited	unlimited	unlimited	unlimited	
2009 70 30 2009 80 50	Apple juice and pear juice of a density not exceeding 1,33 g/cm ³ at 20 °C: Of a value exceeding ECU 18 per 100 kg net weight, containing added sugar: Apple juice Pear juice	20	56	59	62	65	
2009 70 93 2009 70 99 2009 80 69	Of a value not exceeding ECU 18 per 100 kg net weight, with an added sugar content not exceeding 30 % by weight: Apple juice Apple juice, not containing added sugar Pear juice, not containing added sugar						
2207 10 00	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol. or higher	20	56	59	62	65	

⁽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 code. Where ex CN codes are indicated, the preferential scheme is to be determined by application to the CN code and corresponding description taken together.

⁽²⁾ Where an MFN minimum duty exists, the applicable minimum duty is equal to the MFN minimum duty multiplied by the percentage indicated in this column.

⁽³⁾ The quota for this product is opened in the Czech Republic, the Slovak Republic, Bulgaria, Romania, Hungary, Poland, Estonia, Latvia and Lithuania. Should imports into the Community of live bovine domestic animals exceed 500 000 head for any given year, the Community may take the management measures needed to protect its market, notwithstanding any other rights conferred by the Agreement.

⁽⁴⁾ The quota for this product is opened in the Czech Republic, the Slovak Republic, Bulgaria, Romania, Hungary, Poland, Estonia, Latvia and Lithuania. The applied duty is 6 %.

⁽⁵⁾ The quota for this product is opened for Estonia, Latvia and Lithuania as a whole. The Community may take into account, in the framework of its legislation and when appropriate, the supply needs of its market and the need to maintain its market balance.

⁽⁶⁾ Excluding tenderloin presented alone.

⁽⁷⁾ Subject to minimum import price arrangements.

Annex

Minimum import price arrangement for certain soft fruit for processing

1. Minimum import prices are fixed as follows for the following products for processing originating in Estonia:

CN code	Description	Minimum import price (ECU/100 kg net)
ex 0810 10	Strawberries, fresh, intended for processing	51,4
ex 0810 30 10	Blackcurrants, fresh, intended for processing	38,5
ex 0810 30 30	Redcurrants, fresh, intended for processing	23,3
ex 0811 10 11	Frozen strawberries, containing added sugar or other sweetening matter, with a sugar content exceeding 13 % by weight: whole fruit	75,0
ex 0811 10 11	Frozen strawberries, containing added sugar or other sweetening matter, with a sugar content exceeding 13 % by weight: other	57,6
ex 0811 10 19	Frozen strawberries, containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight: whole fruit	75,0
ex 0811 10 19	Frozen strawberries, containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight: other	57,6
ex 0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter: whole fruit	75,0
ex 0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter: other	57,6
ex 0811 20 19	Frozen raspberries, containing additional sugar or other sweetening matter not exceeding 13 % by weight: whole fruit	99,5
ex 0811 20 19	Frozen raspberries, containing additional sugar or other sweetening matter not exceeding 13 % by weight: other	79,6
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter: whole fruit	99,5
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter: other	79,6
ex 0811 20 39	Frozen blackcurrants, containing no added sugar or other sweetening matter: without stalk	62,8

CN code	Description	Minimum import price (ECU/100 kg net)
ex 0811 20 39	Frozen blackcurrants, containing no added sugar or other sweetening matter: other	44,8
ex 0811 20 51	Frozen redcurrants, containing no added sugar or other sweetening matter: without stalk	39,0
ex 0811 20 51	Frozen redcurrants, containing no added sugar or other sweetening matter: other	29,5

2. The minimum import prices, as set out in point 1, will be respected on a consignment by consignment basis. In the case of a customs declaration value being lower than the minimum import price, a countervailing duty will be charged equal to the difference between the minimum import price and the customs declaration value.
3. If the import prices of a given product covered by this Annex show a trend suggesting that the prices could go below the level of the minimum import prices in the immediate future, the European Commission will inform the Estonian authorities in order to enable them to correct the situation.
4. At the request of either the Community or Estonia, the Association Council shall examine the functioning of the system or the revision of the level of the minimum import prices. If appropriate, the Association Council shall take the necessary decisions.
5. To encourage and promote the development of trade and for the mutual benefit of all parties concerned, a consultation meeting will be organised three months before the beginning of each marketing year in the European Community. This consultation meeting will take place between the European Commission and the interested European producers' organisations for the products concerned, on the one part and the authorities', producers' and exporters' organisations of all the associated exporting countries, on the other part.

During this consultation meeting, the market situation for soft fruit including, in particular, forecasts for production, stock situation, price evolution and possible market development, as well as possibilities to adapt supply to demand, will be discussed.'

ANNEX C

ANNEX VI

List of products originating in Estonia subject to reduced or zero-duty tariff quotas

CN codes	TARIC subdivision	Description	Quota duty	Tariff quotas
0301 92 00 0302 66 00 0303 76 00		Eels (<i>Anguilla</i> spp.), live, fresh/chilled or frozen	0 %	100 tonnes
0302 50 0302 69 35 0303 60 0303 79 41		Cod (<i>Gadus morhua</i> , <i>Gadus oga</i> , <i>Gadus macrocephalus</i>) and fish of the species <i>Boreogadus saida</i> , fresh, chilled or frozen	6 %	2 500 tonnes
0302 50 10		Cod (<i>Gadus morhua</i>), fresh or chilled	0 %	870 tonnes
0302 69 19 0303 79 19		Other fish, fresh, chilled or frozen	4 %	1 000 tonnes
ex 0302 69 19	*10	Perch, pike and pike-perch, fresh or chilled	0 %	220 tonnes
ex 0304 10 19 ex 0304 20 19	*20 *90 *20 *30 *90	Fillets of other freshwater fish, fresh, chilled or frozen, excluding carp	4,5 %	500 tonnes
from 0304 10 11 to 0304 10 38 0304 20		Fish fillets, fresh, chilled or frozen	0 %	360 tonnes
ex 1604 13 90	*91 *92	Brisling or sprat (<i>Sprattus sprattus</i>), prepared or preserved	10 %	350 tonnes
ex 1604 19 94 ex 1604 19 95	*10 *10	Hake (<i>Merluccius</i> spp.), prepared or preserved Alaska pollack (<i>Theragra chalcogramma</i>), prepared or preserved	} 10 %	} 60 tonnes
1604 20 10		Prepared or preserved salmon	0 %	270 tonnes
1604 20 70		Prepared or preserved tuna, skipjack or other fish of the genus <i>Euthynnus</i>	0 %	150 tonnes
1604 20 90		Other fish, prepared or preserved	0 %	1 360 tonnes'

DECISION No 7/98 OF THE ASSOCIATION COUNCIL
between the European Communities and their Member States, of the one part, and the
Czech Republic, of the other part
of 22 December 1998
extending the double-checking system established by Decision No 3/97 of the Association Council for the period 1 January to 31 December 1999

(1999/87/EC)

THE ASSOCIATION COUNCIL,

Whereas the Contact Group referred to in Article 10 of Protocol 2 to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, which entered into force on 1 February 1995, met on 15 October 1998 and agreed to recommend to the Association Council established under Article 104 of the Agreement that the double-checking system introduced in 1998 by Association Council Decision No 3/97 should be extended for the period between 1 January and 31 December 1999;

Whereas the Association Council, having been supplied with all relevant information, has agreed with this recommendation,

HAS DECIDED AS FOLLOWS:

Article 1

1. The double-checking system established by Association Council Decision No 3/97 for the period 1 January to 31 December 1998 shall continue to apply for the period between 1 January and 31 December 1999. In the title, preamble and Article 1(1) and (3) of the Decision, references to the period 1 January to 31 December 1998 shall be replaced by references to 1 January to 31 December 1999.
2. Annex I to the Decision shall be replaced by the text contained in the Annex to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

It shall apply with effect from 1 January 1999.

Done at Brussels, 22 December 1998.

For the Association Council
The President
J. KAVAN

ANNEX

ANNEX I

CZECH REPUBLIC

List of products subject to double-checking (1999)

Heavy plates

(excluding ex-CN codes)

7208 40 10
7208 51 30
7208 51 50
7208 51 91
7208 51 99
7208 52 91
7208 52 99
7208 54 10
7208 90 10
7208 90 90

Cold-rolled sheet

7209 15 00
7209 16 90
7209 17 90
7209 18 91
7209 18 99
7209 25 00
7209 26 90
7209 27 90
7209 28 90
7211 23 10
7211 23 51
7211 29 20

Beams and sections

7216 31 11
7216 31 19
7216 31 91
7216 31 99
7216 32 11
7216 32 19
7216 32 91
7216 32 99

Welded tubes

Complete CN heading 7306'

COMMISSION

COMMISSION DECISION

of 14 July 1998

concerning State aid in favour of 'Porcelanas del Norte SAL (Ponsal)/Comercial Europea de Porcelanas SAL (Comepor)'

(notified under document number C(1998) 2364)

(Only the Spanish text is authentic)

(Text with EEA relevance)

(1999/88/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 given notice in accordance with Article 93 of the Treaty to interested parties to submit their comments,

Whereas:

I

On 30 April 1997 the Commission, having received several complaints since the beginning of 1995 and having sent Spain a letter of formal notice on 30 April 1996, decided to initiate proceedings under Article 93(2) in respect of the aid granted to Porcelanas del Norte SAL (Ponsal).

Ponsal, which is a producer of porcelain, tableware and ornamental ceramics, was set up in 1957 in Pamplona (Navarre). In the mid-1980s it encountered financial difficulties, which lasted for many years. To remedy this situation, it drew up a restructuring plan in 1994, which provided in particular for the firm to move from the centre to the outskirts of Pamplona and for the modernisation of its plant through investment in new machinery.

Under the restructuring, Ponsal had received from the Government of Navarre considerable amounts of aid which, however, had not been previously notified to the Commission. According to press reports submitted by the complainants, the aid consisted of a bank guarantee (ESP

1 200 million), a job-creation grant (ESP 100 million), a 20 % investment subsidy for investment in fixed assets and a waiver of tax and social security contributions by the public authorities (ESP 3 100 million).

In March 1995, in response to a preliminary request for information, the Spanish authorities confirmed in writing that the Government of Navarre had indeed granted aid in order to support the restructuring of Ponsal. The aid, however, had been granted under Regional Law (Ley Foral) 1/1985 of March 1985, which introduced a scheme for rescuing and restructuring firms in difficulty and which preceded Spain's accession to the Community. The scheme had been notified to the Commission as existing aid in March and May 1986. The Commission had not objected to it so far.

Since the Commission had serious doubts about whether to accept this reply or not, in particular with regard to the defence that the aid was based on an existing aid scheme, and since further requests for detailed information were answered reluctantly, it decided on 30 April 1996 to require Spain to demonstrate that the aid to Ponsal was part of an existing aid scheme.

In their reply of July 1996, the Spanish authorities managed to provide the evidence requested. Among the different aid measures referred to by the complainants, however, only the guarantee of ESP 1 200 million was covered by Regional Law 1/1985. For the other aid measures under investigation, no justification could be found within the scheme.

In addition, the Commission discovered that, according to the Spanish authorities' reply, certain corporate bodies were linked to Ponsal and with the aid which was supposed to have been granted to the firm (originally Ponsal, but subsequently Comercial Europa de Porcelanas SAL (Comepor)) and that, in this context, it was not clear why the company name had been changed.

By letter dated 26 July 1996, the Spanish authorities were therefore again requested to comment on the inconsistencies concerning Ponsal.

In their reply of 10 October 1996, the authorities confirmed that, in order to overcome Ponsal's delicate economic situation, the restructuring plan of 1994 had also provided for the introduction, in accordance with Spanish bankruptcy law, of suspension of payments proceedings, under which Ponsal's public creditors had waived ESP 3 100 million in claims by the Government of Navarre and the social security authorities out of a total debt owed to the public authorities of ESP 4 350 million. After Ponsal had been wound up, a new company, Comepor, was founded, which continued Ponsal's business.

In addition, the Spanish authorities pointed out that, in connection with the firm's move from the centre to the outskirts of Pamplona, they had granted further aid to the new firm Comepor, namely an investment premium of ESP 570 million covering 20 % of the total new investment and a grant of ESP 500 000 per job created (up to 250 jobs).

According to the Spanish authorities, the new aid, previously unknown to the Commission, was not notifiable since it was covered by another existing aid scheme, the Law of 23 June 1982, whose purpose is to promote investment. This aid scheme was communicated to the Commission shortly after Spain joined the Community, in March and May 1986, and the Commission had not objected to it so far.

In the meantime, the Commission received press reports according to which Comepor had received additional aid of ESP 750 million.

The Commission carefully examined all information provided by the Spanish authorities in the light of the Community rules on State aid. It reached the conclusion that most of the aid measures quoted by the Spanish authorities were indeed covered by existing aid schemes.

However, regarding the aid of ESP 500 000 per job created, which was supposedly based on the June 1982 investment promotion scheme, the Commission found

that the scheme laid down a maximum grant of ESP 400 000 per job created and that the Navarre authorities had exceeded the ceiling.

In addition, the Commission had serious doubts about the implementation of the Ponsal suspension of payments proceedings, in particular regarding the waiver of ESP 3 100 million in public claims. It could not be ruled out that the company had been liquidated simply in order to allow new industrial projects, using new aid and the assets of the previous (non-viable) company.

Finally, the Spanish authorities did not notify or explain the new aid of ESP 750 million which, according to the press reports, had been granted to the company.

The Commission therefore decided on 30 April 1997 to initiate Article 93(2) proceedings in respect of:

- (a) the ESP 3 100 million waived by the public authorities under the suspension of payments proceedings;
- (b) the investment grants for job-creation, in so far as they exceeded the ceiling laid down in the Navarre aid scheme of June 1982;
- (c) the additional aid of ESP 750 million for which the Commission had not received any official information from the Spanish authorities.

II

By letter dated 1 July 1997 the Spanish authorities replied to the Commission's Decision to initiate Article 93(2) proceedings.

They first indicated that the new plant was located at Cordovilla in the municipality of Cendea de Galar, which, according to the regional aid map for Spain accepted by the Spanish authorities in their letter dated 26 September 1995, was part of an Objective 2 area.

They then emphasised the dramatic financial situation of Ponsal before the restructuring plan had been drawn up. They claimed that, before the suspension of payments proceedings were implemented, Ponsal's assets were ESP 1 720 million but its debts ESP 5 091 million.

According to the Spanish authorities, the suspension of payments proceedings, under which the public authorities waived claims amounting to ESP 3 100 million, was the only one of the various methods of liquidation provided for in Spanish law which made it possible:

- to take on Ponsal's workers in the new firm Comepor,
- for the liquidated firm to achieve reasonable prices for its assets which reflected their real value, and
- for the public creditors to be reimbursed at least in part (otherwise these claims would not have been met).

The Spanish authorities, however, did not support those arguments with any comparative cost calculations for the different methods of liquidation.

As regards the grant of ESP 500 000 per job created, the Spanish authorities pointed out that the amount of aid provided for in the Regional Law of June 1982 had been amended on two occasions. It had first been increased to ESP 750 000 by Regional Law 6/1985 of April 1985, and then reduced again to ESP 500 000 by Regional Law 15/1986 of November 1986. The two Regional Laws had not been notified to the Commission, since they constituted existing aid for which there was no such requirement.

As regards the new aid of ESP 750 million, the Spanish authorities stated that this was a loan which had been granted to the new firm, Comepor, by the State-owned corporation Navarra de Financiación y Control SA (Nafinco). The loan had been granted under market conditions (interest rate: 6,86 %) against collateral (Comepor, backed by the firm's shares). It was necessary to keep the firm in business, as the restructuring programme of 1994 had failed and the firm was still making a loss.

Lastly, the Spanish authorities stated that, due to the failure of the first restructuring, a new restructuring plan would most probably be drawn up, which, once finalised, would immediately be submitted to the Commission. In any case, the new restructuring would require additional State aid, which would be notified to the Commission beforehand.

III

By letter dated 21 October 1997 the Commission forwarded to the Spanish authorities for comment the observations of third parties (namely the Liaison Office of the European Ceramics Industries, Cerase-Unie, and a Spanish competitor of Ponsal), which it had received following publication of the initiation of proceedings in the Official Journal of the European Communities of 9 August 1997.

- (a) Cerase-Unie focused on the negative impact of the aid on the ceramics industry, where there was huge overcapacity. Many firms in the sector had invested in restructuring their production and distribution processes over the last 10 years. These firms were suffering from unfair competition from Ponsal/

Comepor, which, instead of carrying out real restructuring measures, had tried to face the situation with the help of State aid and was therefore able to sell its products below market price.

- (b) The Spanish competitor began by questioning the line taken by the Spanish authorities, namely that the aid granted to Ponsal/Comepor was based on existing schemes, and rejected the Spanish authorities' view on this matter. It then asserted that the investment premium granted to Comepor when the firm moved should not have been granted, since the new plant was not located in a depressed area as defined in Article 92(3). Moreover, it emphasised the financial difficulties it had got into as a result of the aid granted to Ponsal/Comepor. This enabled the latter to pursue an unfair pricing policy, with which it, the competitor, could not compete, since it received no State aid at all.

IV

By letter dated 21 November 1997, the Spanish authorities replied to the third parties' observations.

In response to Cerase-Unie's observations, the Spanish authorities denied that the aid to Ponsal/Comepor could have had a negative impact on the European ceramics market. Ponsal/Comepor's exports accounted for only 0,004 % of total intra-Community exports and concerned only the low-price segment, in which the company did not compete with other European Union producers but only with outside manufacturers.

Regarding the Spanish competitor's allegations, the Spanish authorities replied that there could be no connection between the competitor's economic problems and the aid to Ponsal/Comepor. The competitor's problems had already arisen in 1992/93, whereas Ponsal/Comepor had not received any aid until 1994. In addition, the competitor operated in a market sector (catering china) which was different to that of Ponsal (household china).

V

Following a further exchange of correspondence and a series of bilateral meetings, the Spanish authorities submitted, by letter dated 8 April 1998, an extensive statement (including numerous enclosures in support of their various arguments) concerning the firm's current financial situation and the different measures in respect of which the Commission had initiated the Article 93(2) proceedings.

First of all, they confirmed that the 1994 restructuring plan had failed completely and that now, departing from their original plans to try a second restructuring, they were discussing whether to liquidate the firm in its entirety, since it had proved impossible to restore it to viability. The liquidation would be carried out in full compliance with the Spanish bankruptcy law applicable in such cases. No new aid would be granted in support of the liquidation process or in connection with a possible sale of the firm's assets.

As regards the waiver of the ESP 3 100 million of public claims under the Ponsal suspension of payments proceedings in 1994 to 1995, the Spanish authorities first pointed out, and then submitted proof, that they had acted in full compliance with Spanish bankruptcy law. They then reiterated that the waiver was the only one of the various methods of liquidation in Spanish law which allowed the public creditors to be reimbursed, at least in part (ESP 1 200 million out of a total of ESP 4 300 million). These claims would otherwise not have been recovered. As evidence, the authorities produced the financial results which the public creditors would have obtained if they had followed the other methods allowed by Spanish law. Thus, if they had requested bankruptcy proceedings, they would only have recovered a maximum of ESP 600 million, since, under Spanish bankruptcy law, the workers' claims of ESP 1 000 million would have had priority and the costs of the bankruptcy proceedings would have exceeded ESP 200 million. In the event of a simple liquidation of the firm's assets without bankruptcy proceedings, the assets would have been sold without detailed supervision, which, as experience shows, brings a much lower return than regular liquidation proceedings.

Regarding the ESP 500 000 subsidy per job created, the Spanish authorities submitted copies of the two legal acts by which the original legal basis for these grants, the Regional Law of 1982, was amended. These amendments confirmed that the amount of aid per job created had first been increased to ESP 750 000 by Regional Law 6/1985 of April 1985 and then reduced again to ESP 500 000 by Regional Law 15/1986 of November 1986. Both legal acts referred to the original basis of 1982 and did not contain any other amendment of it.

As for the new aid of ESP 750 million, the Spanish authorities repeated that this was a loan which had been granted to the new firm Comepor by the State-owned corporation Navarra de Financiación y Control SA (Nafinco). The loan was granted under market conditions (interest rate: 6,86 %) against collateral (Comepor, backed by the firm's shares) in support of the restructuring

process and to allow the firm to continue its activities in spite of the difficult financial situation. Nevertheless, the Spanish authorities admitted in the same letter of 8 April 1998 that the collateral was not sufficient since, given the firm's continued losses, the value of its shares was nil.

VI

The Article 93(2) proceedings have clarified the situation of Ponsal and the circumstances under which the firm received public financial support. A number of conclusions can be drawn about the measures in respect of which the Article 93(2) proceedings were initiated. Thus:

- (a) The Spanish authorities showed that the waiver of ESP 3 100 million on the occasion of Ponsal's liquidation does not constitute State aid within the meaning of Article 92(1) of the EC Treaty. The alternative calculations submitted by the Spanish authorities confirm that, if one of the other methods of liquidation provided for in Spanish law had been followed, the losses would have been higher. The authorities also showed that Spanish bankruptcy law had been fully complied with.
- (b) The grant of ESP 500 000 per job created certainly constitutes aid within the meaning of Article 92(1) of the EC Treaty. The Spanish authorities, however, proved that these payments were based on existing aid schemes within the meaning of Article 93(1) of the EC Treaty and were therefore not notifiable under Article 93(3) of the EC Treaty. The amendments to the Regional Law of 1982, i.e. Regional Law 6/1985 of April 1985 and Regional Law 15/1986 of November 1986, which had been communicated by the authorities, both make reference to their respective precedents. The scheme by which the aid ceiling was increased to ESP 750 000 per job created pre-dated Spain's accession to the Community and was thus existing aid. The Regional Law by which the ceiling was reduced again to ESP 500 000 was not notifiable either, since it concerned only the reduction of an existing, and hence authorised, aid ceiling and did not alter the substance of the original 1982 aid scheme.
- (c) Regarding the ESP 750 million loan, it has to be stated that this support constitutes aid for the purposes of Article 92(1) of the Treaty. Even though this credit was awarded under market conditions as far as interest rates are concerned, the security for it was by no means sufficient. The value of the collateral — the value of the Comepor shares — was nil, as the

Spanish authorities themselves admit. Thus, if the private-investor principle is applied, it has to be concluded that no private bank would have granted such a loan to a firm in Comepor's situation under the same conditions as the public authorities.

The aid could distort competition and affect trade between Member States. There is a vigorous trade in goods in the tableware industry between Spain and other Member States. According to data provided by Eurostat, in 1996 Spain exported 7 131 tonnes of tableware products (ECU 28,7 million) to other Member States and imported 8 239 tonnes (ECU 26,8 million). In 1997 the figures were 6 986 tonnes (ECU 29 million) and 9 072 tonnes (ECU 35,1 million) respectively. Comepor, although having a rather limited market share, participates in this market. This is clearly demonstrated by the third parties' reactions. Thus, the aid granted to Comepor certainly improved the firm's position in the common market *vis-à-vis* other competitors, which do not receive any State support.

Since the aid was not based on an approved aid scheme it was notifiable individually in accordance with Article 93(3) of the Treaty. Spain did not comply with this requirement. Consequently, the granting of the aid was definitely illegal.

Furthermore, it is not possible in this case to apply the exceptions laid down in Article 92(2) of the Treaty when one considers the features of the aid and the fact that no attempt was made to satisfy the conditions for such application.

In addition, it has to be pointed out that Comepor is not situated in an area eligible for regional aid under Article 92(3)(a) of the EC Treaty.

Nor was the purpose of the credit to facilitate the economic development of a depressed area within the meaning of Article 92(3)(c) of the EC Treaty but to help a firm in economic difficulties to continue its activities in the sector.

Lastly, the loan does not comply with the derogation set out in Article 92(3)(c) of the EC Treaty, read in conjunction with the Community guidelines on State aid for rescuing and restructuring firms in difficulty⁽¹⁾.

As regards the classification of the ESP 750 million loan as rescue aid, it must be pointed out that, when it obtained the loan, Comepor was certainly a firm in

difficulty, unable to recover through its own resources. According to the said guidelines, rescue aid may take the form of assistance with liquidity, by way of loan guarantees or loans bearing normal commercial interest rates (point 3.1). The ESP 750 million loan, whose interest rate was in keeping with market conditions, meets this criterion. The Spanish authorities, however, did not provide any evidence that, at the time when the loan was granted, there was any link between the loan and the possible restructuring measures, which, under point 3.1 of the guidelines, is a compulsory requirement for the approval of rescue aid. Thus, during the proceedings, it became clear that the aid was aimed only at maintaining the status quo and putting off the inevitable; in the meantime, the unresolved industrial and social problems were transferred to other, more efficient producers and other Member States, whilst no support was given to a restructuring process which should have been undertaken when the rescue aid was granted.

During the proceedings the Spanish authorities could not show that the loan they had granted fulfilled all these requirements. Thus, the loan cannot be approved, since it does not fulfil the criteria set out above.

The ESP 750 million loan to Comepor cannot be described as restructuring aid either, since it was not linked in any way to the restructuring measures provided for in the 1994 restructuring plan but was paid because the restructuring had completely failed and the firm continued to suffer financial difficulties. In addition, it should not be forgotten that the Spanish authorities themselves admitted that it was impossible to restore the firm to viability.

Furthermore, the aid was likely to distort competition unduly. According to the information available to the Commission (Panorama of EU Industry 1997), there is excess capacity in the ceramic goods industry. The sector was hit by a significant decline in consumption in 1992 and 1993 (3,2 % a year), which could not be made good in subsequent years. Thus, the large gap between production capacity (value: ECU 15 163 million in 1993) and demand (value: ECU 12 834 million in 1993) in the past will not decline in future (estimated value of production in 1998: ECU 19 470 million; estimated value of consumption in 1998: ECU 15 650 million). In view of this trend, the loan granted to Comepor could seriously harm the firm's competitors.

⁽¹⁾ OJ C 368, 23. 12. 1994, p. 12.

Taking all the abovementioned facts into account, the Commission is forced to conclude that the loan of ESP 750 million granted to Comepor by Navarra constitutes aid to which none of the derogations in Article 92(3) applies.

VII

Where aid is deemed incompatible with the common market, the Commission requires the Member State to reclaim it from the recipient (Commission communication of 24 November 1983 ⁽²⁾; see also the judgments of the Court of Justice in Case 70/72 Commission v. Germany ⁽³⁾ and Case 310/85 Deufil v. Commission ⁽⁴⁾). This holds good for the aid granted to Comepor which is the subject of this Decision; that aid must therefore be refunded. This requirement is not altered by the fact that Comepor is to be liquidated and disappear from the market. The recovery of the aid is not regarded as impossible, since Comepor's assets will be sold and the creditors will be paid out of the profits of that sale.

The aid will be refunded in accordance with Spanish law, including the provisions concerning interest due for late payment of amounts owing to the Government, which interest will run from the date when the aid was granted (letter from the Commission to the Member States SG (91) D/4577 of 4 March 1991; see also the judgment of the Court of Justice in Case C-142/87 Belgium v. Commission ⁽⁵⁾).

In accordance with the decisions of the Court of Justice, the recovery of aid means that the said provisions are to be applied in such a way that the recovery required by Community law is not rendered impossible in practice. Any procedural or other difficulties in regard to the implementation of the measure cannot have any influence on its lawfulness ⁽⁶⁾,

HAS ADOPTED THIS DECISION:

Article 1

The loan of ESP 750 million provided by the State-owned corporation Navarra de Financiación y Control SA to Comercial Europa de Porcelanas SAL is illegal, since it

was granted in breach of the Spanish authorities' obligation to inform the Commission, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid, as is laid down in Article 93(3) of the EC Treaty.

The aid is considered incompatible with the common market within the meaning of Article 92(1) of the Treaty as it does not meet the conditions for any of the derogations contained in Article 92(2) and (3) of the Treaty to apply.

Article 2

Spain shall ensure that the aid referred to in Article 1 is revoked and recovered in full, including interest, within two months of the date of notification of this Decision.

The aid shall be recovered in accordance with the procedures and provisions of Spanish law and shall include interest, from the date of its award until the date it is actually repaid, at a rate equal to the percentage value on that date of the reference rate used for the calculation of the net grant equivalent of regional aid in Spain.

These provisions shall apply in such a way that the recovery required by Community law is not rendered impossible in practice. Any procedural or other difficulties with regard to the implementation of the measure shall not have any influence on its effectiveness.

Article 3

The Spanish Government shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with it.

Article 4

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 14 July 1998.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽²⁾ OJ C 318, 24. 11. 1983, p. 3.

⁽³⁾ [1973] ECR, p. 813.

⁽⁴⁾ [1987] ECR, p. 901.

⁽⁵⁾ [1990] ECR, I-959.

⁽⁶⁾ See footnote 5, paragraphs 58 to 63.

COMMISSION DECISION

of 25 January 1999

on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards prefabricated stair kits*(notified under document number C(1999) 113)*

(Text with EEA relevance)

(1999/89/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 the 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 pursuant to 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 guidelines for European technical approval.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 25 January 1999.

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

Prefabricated stair kits (the complete stair placed on the market as a kit, incorporating prefabricated steps and other components)⁽¹⁾

— for use in dwellings and other buildings

—

⁽¹⁾ Excluding monolithic concrete and steel stairs. Traditionally-made prefabricated stairs made of solid wood for use inside individual buildings are also excluded from this Decision.

ANNEX II

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

PREFABRICATED STAIR KITS (1/2)

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)
Prefabricated stair kits	for dwellings and other buildings	—	2+

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

The specifications 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

PREFABRICATED STAIR KITS (2/2)

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)
Prefabricated stair kits	for uses subject to reaction to fire regulations	A ⁽¹⁾ , B ⁽¹⁾ , C ⁽¹⁾ _____	1 _____
		A ⁽²⁾ , B ⁽²⁾ , C ⁽²⁾ _____	3 _____
		A ⁽³⁾ , D, E, F	4

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

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

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

⁽¹⁾ 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).

⁽²⁾ Materials for which the reaction to fire performance is not susceptible to change during the production process.

⁽³⁾ Materials of class A that according to the Decision 96/603/EC do not require to be tested for reaction to fire.

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 25 January 1999

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

(notified under document number C(1999) 114)

(Text with EEA relevance)

(1999/90/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 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 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 production control or of the product itself.

⁽¹⁾ OJ L 40, 11. 2. 1989, p. 12.

⁽²⁾ OJ L 220, 30. 8. 1993, p. 1.

Article 3

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

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 25 January 1999.

For the Commission
Martin BANGEMANN
Member of the Commission

*ANNEX I***Damp proof courses:****Roof underlays:****Water vapour control layers:**

For use in buildings, excluding uses subject to reaction to fire regulations for products made of materials falling into classes A⁽¹⁾, B⁽¹⁾, C⁽¹⁾.

*ANNEX II***Damp proofing sheets:****Roof sheets:**

For uses in buildings

Damp proof courses:**Roof underlays:****Water vapour control layers:**

For uses subject to reaction to fire regulations for products made of materials falling into classes A⁽¹⁾, B⁽¹⁾, C⁽¹⁾.

⁽¹⁾ 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).

ANNEX III

Note: for products 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

MEMBRANES (1/3)

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)
Damp proof courses Roof underlays Water vapour control layers	in buildings	—	3
Damp proofing sheets Roof sheets	in buildings	—	2+

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

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

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

MEMBRANES (2/3)

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)
Damp proofing sheets Damp proof courses Roof underlays Roof sheets Water vapour control layers	for uses subject to reaction to fire regulations	A ⁽¹⁾ , B ⁽¹⁾ , C ⁽¹⁾ ————— A ⁽²⁾ , B ⁽²⁾ , C ⁽²⁾ ————— A ⁽³⁾ , D, E, F	1 ————— 3 ————— 4

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

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

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

⁽¹⁾ 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).

⁽²⁾ Materials for which the reaction to fire performance is not susceptible to change during the production process.

⁽³⁾ Materials of class A that according to the Decision 96/603/EC do not require to be tested for reaction to fire.

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 a characteristic (see Article 2.1 of Directive 89/106/EEC, 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

MEMBRANES (3/3)

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)
Roof underlays	for uses subject to external fire performance regulations	products requiring testing	3
Roof sheets		products 'deemed to satisfy' without testing ⁽¹⁾	4

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

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

⁽¹⁾ To be confirmed in discussions with the Fire Regulators Group.

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 a 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 25 January 1999

on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards thermal insulating products*(notified under document number C(1999) 115)*

(Text with EEA relevance)

(1999/91/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

or family of products, since Annex III gives preference to certain systems;

Having regard to the Treaty establishing the European Community,

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;

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

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 required;

HAS ADOPTED THIS DECISION:

Article 1

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;

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

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

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 production control or of the product itself.

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

Article 3

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

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 25 January 1999.

For the Commission
Martin BANGEMANN
Member of the Commission

ANNEX I

Thermal insulating products (factory-made products and products intended to be formed in-situ):

For any use, excluding those subject to reaction to fire regulations for products made of materials falling into classes A ⁽¹⁾, B ⁽¹⁾, C ⁽¹⁾.

ANNEX II

Thermal insulating products (factory-made products and products intended to be formed in-situ):

For uses subject to reaction to fire regulations for products made of materials falling into classes A ⁽¹⁾, B ⁽¹⁾, C ⁽¹⁾.

⁽¹⁾ 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).

ANNEX III

Note: for products 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

THERMAL INSULATING PRODUCTS (1/2)

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)
Thermal insulating products (factory-made products and products intended to be formed <i>in-situ</i>)	any	—	3

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

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

THERMAL INSULATING PRODUCTS (2/2)

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 classe(es) (reaction to fire)	Attestation of conformity system(s)
Thermal insulating products (factory-made products and products intended to be formed <i>in-situ</i>)	for uses subject to regulations on reaction to fire	A ⁽¹⁾ , B ⁽¹⁾ , C ⁽¹⁾ _____	1 _____
		A ⁽²⁾ , B ⁽²⁾ , C ⁽²⁾ _____	3 _____
		A ⁽³⁾ , D, E, F	4

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

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

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

⁽¹⁾ 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).

⁽²⁾ Materials for which the reaction to fire performance is not susceptible to change during the production process.

⁽³⁾ Materials of class A that according to the Decision 96/603/EC do not require to be tested for reaction to fire.

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 25 January 1999

on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards light composite wood-based beams and columns

(notified under document number C(1999) 116)

(Text with EEA relevance)

(1999/92/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 the 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 pursuant to 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 guidelines for European technical approval.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 25 January 1999.

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

Light composite wood-based beams and columns (including T-beams, i.e. beam/slab combinations):
— for use in buildings.

ANNEX II

ATTESTATION OF CONFORMITY

PRODUCT FAMILY

LIGHT COMPOSITE WOOD-BASED BEAMS AND COLUMNS (1/1)**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) (reaction to fire) (resistance to fire)	Attestation of conformity system(s)
Light composite wood-based beams and columns (including T-beams, i.e. beam/slab combinations)	in buildings	any	1

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

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 a 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 25 January 1999

on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards doors, windows, shutters, blinds, gates and related building hardware*(notified under document number C(1999) 117)*

(Text with EEA relevance)

(1999/93/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

or family of products, since Annex III gives preference to certain systems;

Having regard to the Treaty establishing the European Community,

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;

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

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 required;

HAS ADOPTED THIS DECISION:

Article 1

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;

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

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

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 production control or of the product itself.

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

Article 3

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

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 25 January 1999.

For the Commission
Martin BANGEMANN
Member of the Commission

*ANNEX I***Doors and gates** (with or without related hardware):

- for internal communication only,
- for declared specific uses and/or uses subject to specific requirements, in particular noise, energy, tightness and safety-in-use, other than those mentioned in Annex II to this Decision.

Windows (with or without related hardware):

- for uses other than those specified in Annex II to this Decision.

Shutters and blinds (with or without related hardware):

- for external use.
-

*ANNEX II***Doors and gates** (with or without related hardware):

- for use in fire/smoke compartmentation and on escape routes.

Windows (with or without related hardware):

- for use in fire/smoke compartmentation and on escape routes.

Building hardware related to doors and gates:

- for use in fire/smoke compartmentation and on escape routes.
-

ANNEX III

PRODUCT FAMILY

DOORS, WINDOWS, SHUTTERS, BLINDS, GATES AND RELATED BUILDING HARDWARE
(1/1)

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)
Doors and gates (with or without related hardware)	fire/smoke compartmentation and on escape routes	—	1
	other declared specific uses and/or uses subject to other specific requirements, in particular noise, energy, tightness and safety-in-use	—	3
	for internal communication only	—	4
Building hardware related to doors and gates	fire/smoke compartmentation and on escape routes	—	1
Windows (with or without related hardware)	fire/smoke compartmentation and on escape routes	—	1
	any other	—	3
Shutters and blinds (with or without related hardware)	external use	—	4

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

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

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

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 25 January 1999

on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards precast normal/light-weight/autoclaved aerated concrete products

(notified under document number C(1999) 118)

(Text with EEA relevance)

(1999/94/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 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 II, 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 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 production control or of the product itself.

⁽¹⁾ OJ L 40, 11. 2. 1989, p. 12.

⁽²⁾ OJ L 220, 30. 8. 1993, p. 1.

Article 3

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

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 25 January 1999.

For the Commission
Martin BANGEMANN
Member of the Commission

*ANNEX I***Precast normal/lightweight/autoclaved aerated concrete products⁽¹⁾:**

- Intended for light structural⁽²⁾ or non-structural use (in particular, boundary fences, junction boxes for telecommunications, small box culverts, non-loadbearing wall elements and cladding elements).

⁽¹⁾ Excluding pipes and tanks.

⁽²⁾ Light structural use refers to applications that in case of failure are not supposed to cause the collapse of the works or part of them, inadmissible deformations or injury to people (to be defined by Member States).

*ANNEX II***Precast normal/lightweight/autoclaved aerated concrete products:**

- Intended for structural use (in particular prestressed hollow core floor elements, posts and masts ⁽¹⁾, foundation piles, shuttering slabs, lattice girder elements, beam/block floor units and elements, ribbed floor slabs, linear structural elements (beams and columns), load-bearing wall elements, retaining wall elements, roof elements, silos ⁽²⁾, stairs, bridge deck elements and large box culverts).

⁽¹⁾ Excluding lighting columns on highways.

⁽²⁾ Excluding the storage of liquids.

ANNEX III

PRODUCT FAMILY

**PRECAST NORMAL/LIGHTWEIGHT/AUTOCLAVED AERATED CONCRETE PRODUCTS
(1/1)**

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)
Precast normal/lightweight/auto-claved aerated concrete products	for structural use	—	2 +
	for non-structural or light structural use ⁽¹⁾	—	4

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

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

⁽¹⁾ Light structural use refers to applications that in case of failure are not supposed to cause the collapse of the works or part of them, inadmissible deformations or injury to people (to be defined by Member States).

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.