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Legislation

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(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

II *Acts whose publication is not obligatory*

Commission

EN

([1]) Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1464/2000
of 5 July 2000
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,

Whereas:

(1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

(2) 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 6 July 2000.

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

Done at Brussels, 5 July 2000.

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.

ANNEX

to the Commission Regulation of 5 July 2000 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	50,2
	999	50,2
0707 00 05	052	103,8
	999	103,8
0709 90 70	052	61,5
	999	61,5
0805 30 10	388	52,4
	524	72,7
	528	61,5
	999	62,2
0808 10 20, 0808 10 50, 0808 10 90	064	129,9
	388	83,3
	400	73,6
	508	69,0
	512	93,3
	528	87,2
	720	79,3
	804	79,2
	999	86,8
0808 20 50	388	84,6
	512	66,0
	528	65,3
	800	67,5
	999	70,8
0809 10 00	052	198,4
	064	110,4
	999	154,4
0809 20 95	052	253,7
	066	130,3
	068	63,4
	400	257,3
	999	176,2
0809 40 05	624	281,7
	999	281,7

(1) Country nomenclature as fixed by Commission Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1465/2000

of 5 July 2000

fixing the maximum export refund for white sugar for the 46th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1489/1999

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector [1], and in particular the second subparagraph of Article 18(5) thereof,

Whereas:

(1) Commission Regulation (EC) No 1489/1999 of 7 July 1999 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar [2], requires partial invitations to tender to be issued for the export of this sugar.

(2) Pursuant to Article 9(1) of Regulation (EC) No 1489/1999 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question.

(3) Following an examination of the tenders submitted in response to the 46th partial invitation to tender, the provisions set out in Article 1 should be adopted.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

For the 46th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1489/1999 the maximum amount of the export refund is fixed at 44,994 EUR/100 kg.

Article 2

This Regulation shall enter into force on 6 July 2000.

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

Done at Brussels, 5 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

(1) OJ L 252, 25.9.1999, p. 1.
(2) OJ L 172, 8.7.1999, p. 27.

COMMISSION REGULATION (EC) No 1466/2000

of 5 July 2000

fixing the representative prices and the additional import duties for molasses in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the market in sugar [1],

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

Whereas:

(1) Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 [3]. That price should be fixed for the standard quality defined in Article 1 of the above Regulation.

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

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

(4) The information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small quantity that is not representative of the market. Offer prices which can be regarded as not representative of actual market trends must also be disregarded.

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

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

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

(8) Application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 6 July 2000.

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[1] OJ L 252, 25.9.1999, p. 1.
[2] OJ L 141, 24.6.1995, p. 12.
[3] OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 5 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

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

(in EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 (2)
1703 10 00 (1)	8,38	—	0
1703 90 00 (1)	8,80	—	0

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

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

COMMISSION REGULATION (EC) No 1467/2000

of 5 July 2000

fixing the export refunds on white sugar and raw sugar exported in its unaltered state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector [1], and in particular point (a) of the second subparagraph of Article 18(5) thereof,

Whereas:

(1) Article 18 of Regulation (EC) No 2038/1999 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(a) of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Regulation (EC) No 2038/1999 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 19 of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account.

(3) The refund on raw sugar must be fixed in respect of the standard quality; the latter is defined in Article 1 of Council Regulation (EC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar [2], as amended by Regulation (EC) No 3290/94 [3]; furthermore, this refund should be fixed in accordance with Article 19(4) of Regulation (EC) No 2038/1999; candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector [4]; the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content.

(4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for sugar according to destination.

(5) In special cases, the amount of the refund may be fixed by other legal instruments.

(6) The refund must be fixed every two weeks; whereas it may be altered in the intervening period.

(7) It follows from applying the rules set out above to the present situation on the market in sugar and in particular to quotations or prices for sugar within the Community and on the world market that the refund should be as set out in the Annex hereto.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 2038/1999, undenatured and exported in the natural state, are hereby fixed to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 6 July 2000.

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

Done at Brussels, 5 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

(1) OJ L 252, 25.9.1999, p. 1.
(2) OJ L 89, 10.4.1968, p. 3.
(3) OJ L 349, 31.12.1994, p. 105.
(4) OJ L 214, 8.9.1995, p. 16.

ANNEX

to the Commission Regulation of 5 July 2000 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— EUR/100 kg —
1701 11 90 9100	36,77 (1)
1701 11 90 9910	36,72 (1)
1701 11 90 9950	(2)
1701 12 90 9100	36,77 (1)
1701 12 90 9910	36,72 (1)
1701 12 90 9950	(2)
	— EUR/1 % of sucrose × 100 kg —
1701 91 00 9000	0,3997
	— EUR/100 kg —
1701 99 10 9100	39,97
1701 99 10 9910	41,80
1701 99 10 9950	39,92
	— EUR/1 % of sucrose × 100 kg —
1701 99 90 9100	0,3997

(1) Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 19 (4) of Regulation (EC) No 2038/1999.

(2) Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ L 255, 26.9.1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ L 309, 21.11.1985, p. 14).

COMMISSION REGULATION (EC) No 1468/2000

of 4 July 2000

establishing unit values for the determination of the customs value of certain perishable goods

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (1), as last amended by Regulation (EC) No 955/1999 of the European Parliament and of the Council (2),

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (3), as last amended by Regulation (EC) No 1662/1999 (4), and in particular Article 173 (1) thereof,

Whereas:

(1) Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish unit values for the products referred to in the classification in Annex 26 to that Regulation.

(2) The result of applying the rules and criteria laid down in the abovementioned Articles to the elements communicated to the Commission in accordance with Article 173 (2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 173 (1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 7 July 2000.

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

Done at Brussels, 4 July 2000.

For the Commission

Erkki LIIKANEN

Member of the Commission

(1) OJ L 302, 19.10.1992, p. 1.
(2) OJ L 119, 7.5.1999, p. 1.
(3) OJ L 253, 11.10.1993, p. 1.
(4) OJ L 197, 29.7.1999, p. 25.

ANNEX

Code	Description		Amount of unit values per 100 kg					
	Species, varieties, CN code	a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.10	New potatoes 0701 90 50	a) b) c)	37,23 221,34 313,48	512,24 244,19 1 501,69	72,81 29,32 23,54	277,74 72 079,59	12 538,83 82,04	6 193,89 7 463,14
1.30	Onions (other than seed) 0703 10 19	a) b) c)	24,97 148,47 210,28	343,61 163,80 1 007,33	48,84 19,67 15,79	186,31 48 350,60	8 410,98 55,03	4 154,82 5 006,24
1.40	Garlic 0703 20 00	a) b) c)	96,25 572,26 810,50	1 324,39 631,34 3 882,60	188,24 75,80 60,86	718,10 186 360,37	32 418,91 212,10	16 014,17 19 295,81
1.50	Leeks ex 0703 90 00	a) b) c)	45,99 273,44 387,28	632,84 301,67 1 855,23	89,95 36,22 29,08	343,13 89 049,06	15 490,81 101,35	7 652,09 9 220,17
1.60	Cauliflowers 0704 10 00	a) b) c)	55,28 328,68 465,51	760,67 362,61 2 229,99	108,12 43,54 34,95	412,44 107 037,01	18 619,96 121,82	9 197,82 11 082,64
1.70	Brussels sprouts 0704 20 00	a) b) c)	59,69 354,90 502,65	821,35 391,54 2 407,89	116,74 47,01 37,74	445,35 115 575,96	20 105,38 131,54	9 931,58 11 966,77
1.80	White cabbages and red cabbages 0704 90 10	a) b) c)	29,53 175,58 248,67	406,34 193,70 1 191,24	57,76 23,26 18,67	220,32 57 178,05	9 946,59 65,08	4 913,38 5 920,23
1.90	Sprouting broccoli or calabrese *(Brassica oleracea L. convar. botrytis (L.) Alef* var. *italica Plenck)* ex 0704 90 90	a) b) c)	74,29 441,71 625,60	1 022,26 487,31 2 996,87	145,30 58,51 46,97	554,28 143 846,47	25 023,27 163,71	12 360,90 14 893,91
1.100	Chinese cabbage ex 0704 90 90	a) b) c)	84,62 503,13 712,59	1 164,40 555,07 3 413,56	165,50 66,64 53,51	631,35 163 847,17	28 502,55 186,48	14 079,58 16 964,79
1.110	Cabbage lettuce (head lettuce) 0705 11 10	a) b) c)	152,67 907,73 1 285,63	2 100,79 1 001,45 6 158,69	298,60 120,24 96,53	1 139,07 295 610,34	51 423,84 336,44	25 402,15 30 607,59
1.120	Endives ex 0705 29 00	a) b) c)	21,82 129,74 183,75	300,25 143,13 880,22	42,68 17,18 13,80	162,80 42 249,41	7 349,63 48,08	3 630,54 4 374,52
1.130	Carrots ex 0706 10 00	a) b) c)	25,12 149,39 211,58	345,73 164,81 1 013,54	49,14 19,79 15,89	187,46 48 648,59	8 462,82 55,37	4 180,43 5 037,09
1.140	Radishes ex 0706 90 90	a) b) c)	129,01 767,06 1 086,39	1 775,22 846,25 5 204,25	252,32 101,60 81,57	962,54 249 798,19	43 454,44 284,30	21 465,46 25 864,18
1.160	Peas *(Pisum sativum)* 0708 10 00	a) b) c)	450,42 2 678,07 3 792,98	6 197,90 2 954,56 18 169,86	880,94 354,73 284,80	3 360,58 872 132,99	151 714,67 992,59	74 943,43 90 300,92

Code	Description Species, varieties, CN code		Amount of unit values per 100 kg EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.170	Beans:							
1.170.1	Beans (*Vigna* spp., *Phaseolus* ssp.) ex 0708 20 00	a) b) c)	149,17 886,94 1 256,19	2 052,67 978,51 6 017,62	291,76 117,48 94,32	1 112,98 288 839,20	50 245,94 328,73	24 820,30 29 906,50
1.170.2	Beans (*Phaseolus* ssp., *vulgaris* var. *Compressus Savi)* ex 0708 20 00	a) b) c)	176,17 1 047,46 1 483,53	2 424,16 1 155,60 7 106,71	344,56 138,75 111,39	1 314,41 341 114,04	59 339,58 388,23	29 312,34 35 319,05
1.180	Broad beans ex 0708 90 00	a) b) c)	157,74 937,88 1 328,33	2 170,55 1 034,71 6 363,22	308,51 124,23 99,74	1 176,90 305 427,23	53 131,56 347,61	26 245,73 31 624,03
1.190	Globe artichokes 0709 10 00	a) b) c)	— — —	— — —	— — —	— —	— —	— —
1.200	Asparagus:							
1.200.1	— green ex 0709 20 00	a) b) c)	736,14 4 376,87 6 199,01	10 129,46 4 828,74 29 695,68	1 439,76 579,75 465,46	5 492,32 1 425 359,60	247 952,96 1 622,23	122 482,86 147 582,18
1.200.2	— other ex 0709 20 00	a) b) c)	236,74 1 407,59 1 993,59	3 257,61 1 552,91 9 550,07	463,02 186,45 149,69	1 766,32 458 392,56	79 741,13 521,71	39 390,22 47 462,11
1.210	Aubergines (eggplants) 0709 30 00	a) b) c)	101,35 602,60 853,47	1 394,61 664,82 4 088,47	198,22 79,82 64,08	756,18 196 241,93	34 137,89 223,35	16 863,30 20 318,95
1.220	Ribbed celery *(Apium graveolens L.*, var. *dulce (Mill.) Pers.)* ex 0709 40 00	a) b) c)	74,07 440,40 623,75	1 019,23 485,87 2 988,00	144,87 58,34 46,83	552,64 143 420,49	24 949,17 163,23	12 324,29 14 849,80
1.230	Chantarelles 0709 51 30	a) b) c)	1 393,76 8 286,93 11 736,86	19 178,57 9 142,47 56 224,19	2 725,96 1 097,68 881,28	10 398,85 2 698 698,00	469 460,58 3 071,45	231 902,35 279 424,03
1.240	Sweet peppers 0709 60 10	a) b) c)	132,61 788,48 1 116,73	1 824,78 869,88 5 349,56	259,37 104,44 83,85	989,42 256 773,02	44 667,77 292,24	22 064,81 26 586,36
1.250	Fennel 0709 90 50	a) b) c)	73,55 437,31 619,36	1 012,07 482,46 2 967,00	143,85 57,93 46,51	548,76 142 412,66	24 773,85 162,08	12 237,69 14 745,45
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	a) b) c)	60,08 357,21 505,92	826,70 394,09 2 423,56	117,50 47,32 37,99	448,25 116 328,39	20 236,27 132,40	9 996,24 12 044,68
2.10	Chestnuts *(Castanea* spp.), fresh ex 0802 40 00	a) b) c)	176,48 1 049,30 1 486,14	2 428,42 1 157,63 7 119,19	345,16 138,99 111,59	1 316,72 341 712,93	59 443,76 388,91	29 363,80 35 381,06
2.30	Pineapples, fresh ex 0804 30 00	a) b) c)	74,58 443,44 628,05	1 026,26 489,22 3 008,60	145,87 58,74 47,16	556,45 144 409,53	25 121,22 164,36	12 409,28 14 952,21

Code	Description: Species, varieties, CN code		EUR / FIM / SEK	ATS / FRF / BEF/LUF	DEM / IEP / GBP	DKK / ITL	GRD / NLG	ESP / PTE
			Amount of unit values per 100 kg					
2.40	Avocados, fresh ex 0804 40 00	a) b) c)	85,39 507,71 719,07	1 175,00 560,12 3 444,64	167,01 67,25 53,99	637,10 165 338,87	28 762,05 188,18	14 207,77 17 119,24
2.50	Guavas and mangoes, fresh ex 0804 50 00	a) b) c)	124,13 738,06 1 045,32	1 708,09 814,25 5 007,48	242,78 97,76 78,49	926,15 240 353,26	41 811,42 273,55	20 653,84 24 886,25
2.60	Sweet oranges, fresh:							
2.60.1	— Sanguines and semi-sanguines 0805 10 10	a) b) c)	55,64 330,82 468,54	765,62 364,97 2 244,51	108,82 43,82 35,18	415,13 107 734,06	18 741,22 122,61	9 257,72 11 154,82
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamoutis, ovalis, trovita and hamlins 0805 10 30	a) b) c)	43,22 256,97 363,94	594,70 283,50 1 743,44	84,53 34,04 27,33	322,45 83 683,07	14 557,35 95,24	7 190,99 8 664,57
2.60.3	— Others 0805 10 50	a) b) c)	30,32 180,26 255,30	417,17 198,87 1 222,99	59,30 23,88 19,17	226,20 58 702,09	10 211,71 66,81	5 044,34 6 078,03
2.70	Mandarins (including tangerines and satsumas), fresh; clementines, wilkings and similar citrus hybrids, fresh:							
2.70.1	— Clementines ex 0805 20 10	a) b) c)	61,95 368,35 521,70	852,48 406,38 2 499,15	121,17 48,79 39,17	462,23 119 956,19	20 867,36 136,52	10 307,98 12 420,30
2.70.2	— Monreales and satsumas ex 0805 20 30	a) b) c)	49,33 293,29 415,38	678,76 323,57 1 989,85	96,48 38,85 31,19	368,03 95 510,78	16 614,88 108,70	8 207,36 9 889,22
2.70.3	— Mandarines and wilkings ex 0805 20 50	a) b) c)	64,07 380,96 539,56	881,67 420,29 2 584,71	125,32 50,46 40,51	478,05 124 063,01	21 581,78 141,20	10 660,88 12 845,52
2.70.4	— Tangerines and others ex 0805 20 70 ex 0805 20 90	a) b) c)	36,08 214,52 303,83	496,47 236,67 1 455,47	70,57 28,42 22,81	269,19 69 860,82	12 152,86 79,51	6 003,22 7 233,41
2.85	Limes *(Citrus aurantifolia)*, fresh ex 0805 30 90	a) b) c)	123,33 733,26 1 038,52	1 696,99 808,96 4 974,93	241,20 97,13 77,98	920,13 238 790,89	41 539,63 271,77	20 519,59 24 724,48
2.90	Grapefruit, fresh:							
2.90.1	— white ex 0805 40 00	a) b) c)	54,00 321,04 454,70	742,99 354,19 2 178,17	105,61 42,52 34,14	402,86 104 549,87	18 187,30 118,99	8 984,10 10 825,13
2.90.2	— pink ex 0805 40 00	a) b) c)	57,33 340,84 482,74	788,82 376,03 2 312,52	112,12 45,15 36,25	427,71 110 998,23	19 309,05 126,33	9 538,21 11 492,79
2.100	Table grapes 0806 10 10	a) b) c)	202,21 1 202,26 1 702,77	2 782,40 1 326,38 8 156,93	395,48 159,25 127,85	1 508,65 391 523,67	68 108,74 445,60	33 644,10 40 538,48

Code	Description Species, varieties, CN code		Amount of unit values per 100 kg EUR FIM SEK	 ATS FRF BEF/LUF	 DEM IEP GBP	 DKK ITL	 GRD NLG	 ESP PTE
		a) b) c)						
2.110	Water melons 0807 11 00	a) b) c)	41,87 248,95 352,59	576,15 274,65 1 689,05	81,89 32,98 26,47	312,40 81 072,40	14 103,21 92,27	6 966,65 8 394,26
2.120	Melons (other than water melons):							
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onteniente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	a) b) c)	100,32 596,50 844,83	1 380,49 658,08 4 047,05	196,22 79,01 63,43	748,52 194 253,96	33 792,07 221,08	16 692,48 20 113,12
2.120.2	— other ex 0807 19 00	a) b) c)	81,91 487,01 689,76	1 127,11 537,29 3 304,24	160,20 64,51 51,79	611,13 158 599,88	27 589,75 180,51	13 628,68 16 421,48
2.140	Pears							
2.140.1	Pears — nashi *(Pyrus pyrifolia)* ex 0808 20 50	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.140.2	Other ex 0808 20 50	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.150	Apricots 0809 10 00	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.160	Cherries 0809 20 95 0809 20 05	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.170	Peaches 0809 30 90	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.180	Nectarines ex 0809 30 10	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.190	Plums 0809 40 05	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.200	Strawberries 0810 10 00	a) b) c)	394,59 2 346,13 3 322,84	5 429,68 2 588,34 15 917,72	771,75 310,76 249,50	2 944,04 764 032,78	132 909,75 869,56	65 654,25 79 108,19
2.205	Raspberries 0810 20 10	a) b) c)	316,83 1 883,81 2 668,06	4 359,73 2 078,29 12 781,05	619,67 249,53 200,33	2 363,90 613 475,98	106 719,16 698,21	52 716,73 63 519,49
2.210	Fruit of the species *Vaccinium myrtillus* 0810 40 30	a) b) c)	1 822,37 10 835,32 15 346,18	25 076,36 11 953,96 73 514,22	3 564,25 1 435,23 1 152,28	13 596,70 3 528 600,36	613 828,89 4 015,97	303 216,85 365 352,38
2.220	Kiwi fruit *(Actinidia chinensis Planch.)* 0810 50 00	a) b) c)	133,77 795,35 1 126,46	1 840,69 877,46 5 396,19	261,63 105,35 84,58	998,04 259 010,97	45 057,08 294,79	22 257,12 26 818,08

Code	Description Species, varieties, CN code		Amount of unit values per 100 kg EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.230	Pomegranates ex 0810 90 85	a) b) c)	347,17 2 064,18 2 923,52	4 777,16 2 277,29 14 004,80	679,01 273,42 219,52	2 590,24 672 214,86	116 937,27 765,06	57 764,23 69 601,34
2.240	Khakis (including sharon fruit) ex 0810 90 85	a) b) c)	288,93 1 717,92 2 433,11	3 975,82 1 895,28 11 655,58	565,11 227,55 182,69	2 155,74 559 454,62	97 321,71 636,73	48 074,61 57 926,11
2.250	Lychees ex 0810 90 30	a) b) c)	329,37 1 958,32 2 773,58	4 532,16 2 160,49 13 286,55	644,18 259,40 208,26	2 457,39 637 739,57	110 940,01 725,82	54 801,72 66 031,75

COMMISSION REGULATION (EC) No 1469/2000

of 5 July 2000

opening import quotas in respect of special preferential raw cane sugar from the ACP States and India for supply to refineries in the period 1 July 2000 to 28 February 2001

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector [1], and in particular Articles 14(2) and 44(6) thereof,

Whereas:

(1) Article 44 of Regulation (EC) No 2038/1999 lays down that, during the marketing years 1995/96 to 2000/01 and in order to ensure adequate supplies to Community refineries, a special reduced duty is to be levied on imports of raw cane sugar originating in States with which the Community has concluded supply arrangements on preferential terms. At present such Agreements have been concluded by Council Decision 95/284/EC [2] only with the ACP States party to Protocol 8 on ACP sugar annexed to the fourth ACP-EEC Lomé Convention, and with the Republic of India.

(2) The quantities of special preferential sugar to be imported are calculated in accordance with the said Article 44 on the basis of a Community forecast supply balance. The balance indicates the need to import raw sugar and to open at this stage for the 2000/2001 marketing year a tariff quota at the special reduced rate of duty as provided for in the above Agreements so that the Community refineries' supply needs can be met for part of the year. The forecasts for raw cane sugar production are now available for the 2000/2001 marketing year. A quota should be opened at this stage for part of that year. Because of the presumed maximum refining needs fixed by Member State and the shortfall resulting from the forecast supply balance, provision should be made to authorise imports for each refining Member State for the period 1 July 2000 to 28 February 2001.

(3) The above Agreements lay down that the refiners in question must pay a minimum purchase price equal to the guaranteed price for raw sugar, minus the adjustment aid fixed for the marketing year in question. This minimum price must therefore be fixed by taking account of the factors applying in the 2000/2001 marketing year.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The following tariff quotas are opened for the period 1 July 2000 to 28 February 2001 pursuant to Decision 95/284/EC in respect of imports of raw cane sugar for refining:

(a) 200 000 tonnes expressed as white sugar originating in the ACP States covered by that Decision, bearing the serial number 09.4098; and

(b) 10 000 tonnes expressed as white sugar originating in the Republic of India, bearing the serial number 09.4099.

Article 2

1. A special reduced duty of EUR 5,41 per 100 kg of standard quality raw sugar shall apply to imports of the quantities referred to in Article 1.

2. Article 7 of Commission Regulation (EC) No 1916/95 [3] notwithstanding, the minimum purchase price to be paid by Community refiners shall be fixed for the period referred to in Article 1 at EUR 49,68 per 100 kg of standard-quality raw sugar.

Article 3

The following Member States are authorised to import, under the quotas referred to in Article 1 and on the terms laid down in Article 2(1), the following shortfall expressed as white sugar:

(a) Finland: 44 000 tonnes;

(b) metropolitan France: 3 000 tonnes;

(c) mainland Portugal: 158 000 tonnes;

(d) United Kingdom: 5 000 tonnes.

Article 4

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

It shall apply with effect from 1 July 2000.

(1) OJ L 252, 25.9.1999, p. 1.
(2) OJ L 181, 1.8.1995, p. 22.
(3) OJ L 184, 3.8.1995, p. 18.

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

Done at Brussels, 5 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1470/2000

of 5 July 2000

amending Regulation (EEC) No 1964/82 laying down the conditions for granting special export refunds on certain cuts of boned meat of bovine animals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ([1]), as amended by Commission Regulation (EC) No 907/2000 ([2]), and in particular Article 33(12) thereof,

Whereas:

(1) Commission Regulation (EC) No 1000/2000 ([3]), which entered into force on 13 May 2000, *inter alia* amends Regulation (EEC) No 3846/87 ([4]) establishing an agricultural product nomenclature for export refunds.

(2) That amendment also makes it necessary to adjust Article 6(3) of Commission Regulation (EEC) No 1964/82 ([5]), as last amended by Regulation (EC) No 1452/1999 ([6]).

(3) At the same time, references to Commission Regulation (EEC) No 3665/87 ([7]), as replaced by Regulation (EC) No 800/1999 ([8]), can be updated.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

Article 6(3) and (4) of Regulation (EEC) No 1964/82 is replaced by the following:

'3. Where the difference in weight exceeds 10 %, the special refund shall be the same as the refund on products falling within CN code 0201 30 00 9060 applicable on the date given in box 21 of the export licence on the basis of which the formalities under Article 5(1) or Article 26(1) of Regulation (EC) No 800/1999 were completed.

4. The penalty laid down in Article 51(1)(a) of Regulation (EC) No 800/1999 shall not apply in the cases referred to in paragraphs 2 and 3.'

Article 2

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

It shall apply to operations for which the formalities referred to in Article 5(1) or Article 26(1) of Regulation (EC) No 800/1999 are completed on the basis of export licences applied for from 13 May 2000.

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

Done at Brussels, 5 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

([1]) OJ L 160, 26.6.1999, p. 21.
([2]) OJ L 105, 3.5.2000, p. 6.
([3]) OJ L 114, 13.5.2000, p. 10.
([4]) OJ L 366, 24.12.1987, p. 1.
([5]) OJ L 212, 21.7.1982, p. 48.
([6]) OJ L 167, 2.7.1999, p. 17.
([7]) OJ L 351, 14.12.1987, p. 1.
([8]) OJ L 102, 17.4.1999, p. 11.

COMMISSION REGULATION (EC) No 1471/2000

of 5 July 2000

derogating from Regulation (EC) No 2316/1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 as regards eligibility for area payments

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops [1], as amended by Regulation (EC) No 2704/1999 [2], and in particular Article 9 thereof,

Whereas:

(1) Commission Regulation (EC) No 2316/1999 [3] lays down detailed rules for the application of Regulation (EC) No 1251/1999 as regards eligibility for area payments. Article 3(1)(c) provides in particular that area payments for arable crops are to be paid solely on areas on which the crop is maintained until at least the beginning of flowering under conditions of normal growth. It further provides that for oilseeds, protein plants, linseed and durum wheat, crops must also be cultivated at least until 30 June prior to the marketing year in question.

(2) As a result of the mixing of rape seed with genetically modified rape seed not covered by an authorisation within the meaning of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms [4], as last amended by Commission Directive 97/35/EC [5], for reasons beyond their control some producers must destroy their rape plants and therefore cannot maintain their rape crop at least until 30 June 2000 or the beginning of flowering. So as not to unduly penalise those producers, they should be authorised to derogate from Article 3(1)(c) of Regulation (EC) No 2316/1999.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3(1)(c) of Regulation (EC) No 2316/1999 notwithstanding, for the 2000/01 marketing year, areas under rape seed mixed with genetically modified rape seed, not covered by an authorisation within the meaning of Directive 90/220/EEC on which the rape plants have been destroyed before 30 June 2000 or prior to the beginning of flowering where it occurs after 30 June, shall continue to be eligible for the area payment.

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, 5 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

(1) OJ L 160, 26.6.1999, p. 1.
(2) OJ L 327, 21.12.1999, p. 12.
(3) OJ L 280, 30.10.1999, p. 43.
(4) OJ L 117, 8.5.1990, p. 15.
(5) OJ L 169, 27.6.1997, p. 72.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 16 November 1999

on aid which France is planning to grant to Cofidur to help it take over the former Gooding (ex Grundig) plant at Creutzwald

(notified under document number C(1999) 4229)

(Only the French text is authentic)

(Text with EEA relevance)

(2000/424/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

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

Having called on interested parties to submit their comments pursuant to those provisions,

Whereas:

I. **PROCEDURE**

(1) By letter dated 23 June 1997, France notified the Commission under Article 88(3) of the Treaty of a number of aid awards totalling FRF 8,65 million which it intended to grant to the firm Cofidur for the purpose of setting up a new company, Continental Edison. The aid was to be granted by national and regional authorities in the form of decentralised loans and a reimbursable interest-free advance. According to France, the aid was being made available in the context of the second takeover of the former Gooding Electronique SA (GESA) (ex Grundig) plant both as investment aid and as restructuring aid under the criteria laid down by the Commission in the Community guidelines on State aid for rescuing and restructuring firms in difficulty [1] (hereinafter called 'the guidelines').

(2) GESA had taken over the former Grundig plant at Creutzwald. When the plant was taken over, the French authorities provided support in the context of a restructuring plan submitted by the firm. The procedure laid down in Article 88(2) of the Treaty has been initiated separately in respect of the aid to GESA, which went into liquidation in June 1995 [2].

(3) On 25 February 1998 the Commission decided to initiate the same procedure in respect of the abovementioned measures to assist Cofidur. France was informed of this decision by letter dated 22 April 1998 [3]. The Commission invited the other Member States and interested parties to submit their comments on the measures. It has received no replies as part of this procedure.

(4) By letter dated 14 May 1998, France asked the Commission for an extension until 4 June 1998 of the time limit for submitting its comments. The request was granted. The comments were received by the Commission on 16 June 1998, further comments being received by letters dated 8 September and 9 October 1998.

(5) France provided further information at a meeting on 7 June 1999. It also stated that investment had been undertaken and that jobs had been maintained in accordance with the diversification plan and that it wished to fulfil its commitments towards Cofidur.

[1] OJ C 283, 19.9.1997, p. 2.
[2] OJ C 179, 11.6.1998, p. 9.
[3] OJ C 198, 24.6.1998, p. 12.

(6) This information was repeated at a meeting between France and the Commission's departments on 22 September 1999. The result is that Cofidur has decided to concentrate on producing multimedia equipment and top-of-the-range television sets. Lastly, France confirmed by letter dated 30 September 1999, registered as received on 1 October 1999, that the planned investment in diversifying Continental Edison's production had been carried out and the jobs had been maintained in accordance with the original plan.

II. DESCRIPTION OF THE MEASURES

(7) This Decision is concerned with the aid, in the form of investment aid and restructuring aid amounting to FRF 8,65 million, which France intends to grant to Cofidur for the purpose of setting up the new company Continental Edison.

The aid recipient

(8) Following the opening of bankruptcy proceedings on 22 June 1995 and of compulsory administration and winding-up proceedings under Law 85-98 of 25 January 1985, the Metz Regional Court ordered the liquidation of GESA on 21 February 1997. The enforcement of this decision was suspended when a prospective buyer, the Cofidur group, came forward. The Regional Court then drew up an assignment plan in favour of Cofidur, which set up Continental Edison, which in turn was registered in the Commercial and Companies Register on 28 May 1997.

(9) The Cofidur group was admitted to the unlisted securities market of the Paris Stock Exchange on 1 October 1996. It controls 24 industrial and commercial companies throughout the world, including 20 in France, whose activities range from electronic component subcontracting to IT products (printed circuit boards and electronic cards).

(10) In 1997 Cofidur had a workforce of 2 080 and a consolidated turnover, including the results of Continental Edison, of FRF 1 110 million. The group has enjoyed uninterrupted growth since it was set up in 1968. By creating the company Continental Edison at Creutzwald on the site of the former Grundig and latterly GESA plant, it has extended its product range in the electronic cards sector and on the communication and multimedia market.

(11) Continental Edison has re-hired 200 of GESA's 375 employees; the workforce should increase to 288 by the end of 1999.

(12) Continental Edison is, in accordance with a restructuring plan presented to, and deemed feasible by, the Commercial Chamber of the Metz Regional Court, producing a new line of top-of-the-range television sets with high value added as well as the existing line of more down-market TV sets, of which the company will raise output to 440 000 units a year. Under the plan, Continental Edison will also manufacture under subcontract to Cofidur electronic components for the latter's customers in Germany and eastern France and produce innovative multimedia equipment which will diversify its target market into that high-technology growth area.

(13) Following the poor results achieved by Continental Edison in 1998, especially in the down-market television set sector, the company's diversification was delayed. In order to ensure Continental Edison's viability, Cofidur chose to give priority to the development of personal computers (hereinafter called 'PCs'), a more buoyant market. According to France, however, the production of top-of-the-range television sets — a more profitable sector than that of more down-market television sets, which is in sharp decline — is expanding in tandem with multimedia PC production following the investment carried out.

(14) Cofidur is injecting FRF 20 million of fresh capital into the new company, plus FRF 5 million in the form of equity loans. This figure of FRF 25 million constitutes the own funds or quasi-own funds of Continental Edison and is intended to cover acquisitions of fixed assets (including the assets taken over) and to carry out the restructuring plan.

The aid

(15) The planned public assistance is as follows:

(a) exceptional State aid for investment amounting to FRF 2,25 million, granted in the form of decentralised funds administered by the Regional Prefecture and paid as a proportion of the investment actually made. This aid is to be granted under the funds for industrial restructuring scheme of the Ministry of Industry (CIRI, budget heading 64-96) authorised by the Commission [4];

(b) aid for a firm in difficulty granted by the Moselle General Council under Article L.3231-3 of the General Local Authorities Code, amounting to FRF 1,4 million and paid under the same conditions as the exceptional State aid;

(c) assistance for a firm in difficulty granted by the Lorraine Regional Council under Article L.4211-1 of the General Local Authorities Code, amounting to FRF 5 million in the form of a reimbursable five-year interest-free advance to facilitate the creation and, subsequently, safeguarding of jobs. The Regional Prefecture and the General Council will closely monitor the three-year recruitment plan.

[4] OJ C 181, 12.7.1991, p. 3; state aid E 1/90 — NN 120/90 — France; Funds for industrial restructuring.

(16) The new investments are estimated by France at FRF 21,5 million. To this amount must be added, according to a memorandum from France dated 30 September 1999, GESA's assignment price, i.e. assets worth FRF 7,5 million. The total investments therefore come to FRF 29 million.

III. COMMENTS UNDER THE PROCEDURE LAID DOWN IN ARTICLE 88(2) OF THE TREATY

Reasons given by the Commission for initiating the procedure

(17) In the decision to initiate the abovementioned procedure, the Commission expressed doubts about the compatibility of the aid with the common market. Its reasons were basically as follows:

(18) According to France, the new company Continental Edison is the result of a takeover, by Cofidur, of GESA. This takeover was effected in accordance with French bankruptcy law, under the assignment procedure. Assignment is intended to ensure the survival of activities that are capable of operating independently and to save some or all of the associated jobs, with the proceeds from the assignment serving to meet some or all of the liabilities. Thus, according to France, GESA and Continental Edison are entirely separate legal entities.

(19) The conditions for exemption under the guidelines are not met because Cofidur/Continental Edison is not taking over all the assets and liabilities of the liquidated company, GESA. Being a new company, Cofidur is *prima facie* neither capable of being responsible for any aid paid previously to GESA, nor eligible for restructuring aid.

(20) If Continental Edison were to continue the business activities of GESA and to be responsible for any aid paid previously to that company, it might still qualify as a firm in difficulty and be eligible for restructuring aid provided such aid complies with the guidelines.

(21) The company is located in an assisted area within the meaning of Article 87(3)(c) of the Treaty by virtue of the regional planning grants (Prime a l'aménagement du territoire — PAT) scheme ([5]), under which the maximum authorised aid ceiling is 17 % gross for a large firm. The Commission found when it initiated the procedure that Continental Edison does not meet the independence criterion laid down in Article 1(3) of the Annex to Commission Recommendation 96/280/EC of 3 April 1996 concerning the definition of small and medium-sized enterprises ([6]). If France were to change the legal basis of the restructuring aid and call it investment aid, the intensity of the notified aid would be 21,16 %. Lastly, pursuant to point 18(i) of the Annex to the 1979 Commission communication on regional aid systems ([7]), the takeover of an establishment which has closed or which would have closed had such takeover not taken place may also be deemed to be initial investment.

Comments from France

(22) In the course of the proceedings France advanced the following arguments:

(23) France did not comment on whether the new company, Continental Edison, is eligible for restructuring aid under the guidelines. It merely reiterated the aim of keeping the Creutzwald production plant going in difficult economic and social circumstances. It stated that, in accordance with the guidelines, 'the Commission has to take account of regional development needs when it assesses restructuring aid in an assisted area'.

(24) As regards the conditions under which Continental Edison is operating, France provided a detailed description of the major structural difficulties facing the company which have induced it to invest in adapting its production facilities and diversifying and rationalising its activities and working methods.

(25) The company's image has suffered as a result of GESA's bankruptcy, and its relations with customers, suppliers and creditors have been affected. The worsening of the company's image has had an impact from a commercial and financial point of view and in the social sphere. To stay in business, Continental Edison must both tackle the weaknesses of the former company GESA and confront the new difficulties stemming from the latter's cessation of payments. To allow a return to viability, a large-scale restructuring plan presented to, and deemed feasible by, the Commercial Chamber of the Metz Regional Court has been devised. It has three points:

(a) a drastic reduction in the workforce (dismissal of 47 % of GESA's employees) to 200;

(b) the business will be reorganised so as to reposition Continental Edison on the television set market. Without abandoning the lower-price segment, the company will develop a complementary line of top-of-the-range, high-value-added sets. At the same time, it will diversify into electronic component subcontracting and the innovative production of multimedia equipment in the booming high technology sector.

([5]) OJ C 364, 20.12.1994, p. 6.

([6]) OJ L 107, 30.4.1996, p. 4.

([7]) OJ C 31, 3.2.1979, p. 9.

The shift of business emphasis has necessitated the introduction of a new industrial organisation and new working methods, generating design, adaptation and product defect costs initially. This has been coupled with a search for better cost control (introduction of a management control tool).

(c) lastly, a major training plan costing FRF 3 million has been drawn up to enable staff to keep pace with technological change and adjust to the more modern working methods.

(26) The linking of Continental Edison to a strong group, Cofidur, which ensures the security of certain outlets and provides a financial safety net.

(27) However, France has provided the Commission with no projected balance sheet or market survey such as might enable it to check whether the proposed restructuring is appropriate.

(28) As to the investment needed to implement the restructuring plan, France states that it is aimed at:

(a) technical adaptation of the existing industrial plant in order to create a full range of television sets where the company previously had only three models. The technical adaptation costs are put at FRF 800 000;

(b) the development of new equipment for making television moulds and for the production of new types of apparatus (multimedia consoles and TVs with built-in satellite reception), the cost of which is put at FRF 20,7 million.

(29) France wishes to apply to the company a three-part scheme (FRF 2,25 million in central government support, FRF 1,4 million in Moselle General Council support and FRF 5 million in Lorraine Regional Council support). It considers that the investment to which these three parts apply may be considered new investment aimed at helping the company diversify.

(30) Because France's arguments revealed an inconsistency between the precise nature of the FRF 5 million of aid intended for employment-promoting measures and the training plan costing FRF 3 million, the Commission contacted France once more. By letter dated 8 September 1998, registered as received on 9 September, France confirmed that the Lorraine Regional Council assistance in the form of a FRF 5 million advance was intended to cover the supporting of jobs as part of the overall restructuring plan. In return for this aid, Cofidur had undertaken, as buyer, initially to keep on 200 employees and subsequently to create 88 new jobs over three years.

(31) In its memorandum of 30 September 1999, France drew the Commission's attention to the fact that the FRF 3 million training plan with which it was proposed to back up the multimedia equipment development and electronic component subcontracting had been delayed.

IV. **ASSESSMENT OF THE MEASURES**

Restructuring aid

(32) Under French bankruptcy law, assignment is intended to ensure the maintenance of activities susceptible of independent operation and of some or all of the associated jobs, with the proceeds from the assignment serving to meet some or all of the liabilities. According to the French authorities, the pre-existing company and the emerging company are entirely separate legal entities even if the emerging company is without question continuing a pre-existing economic activity.

(33) When the procedure was initiated, the Commission took the view that, in this type of takeover, there are three possible scenarios:

(a) either the new company does not take over all the assets and liabilities of the bankrupt company. In this case, the company cannot *prima facie* be held responsible for any aid paid previously or be eligible for restructuring aid;

(b) or the company does take over all the assets and liabilities, in which case there is a presumption that it may be eligible for restructuring aid if the requirements of the Community guidelines are met, and that it must also be held responsible for repaying any aid which the Commission might declare incompatible with the Treaty;

(c) or, as the French authorities maintain, the company has its debts written off during the bankruptcy proceedings, this write-off being part of a restructuring process involving economic continuity. In this event, the Commission will examine the possibility of considering such write-off to be aid assignable to the new company and forming part of a restructuring plan.

(34) The company in this case is a new company which is not taking over all the assets and liabilities. The second alternative therefore does not apply.

(35) Even if the Commission were to consider that Continental Edison is eligible for restructuring aid, the necessity of the aid would not be proved as any difficulties the firm might be experiencing should have been quantified and factored into the buyer's economic calculation and hence deducted from the purchase price of the

assets. Quite apart from the fact that under the French Receivership Act it is not possible to consider the writing-off of debts to be aid assignable to the new company, the amount of aid thus calculated would be so large that the principle of proportionality required by the guidelines would not be observed.

(36) France contends that the first two aid measures totalling FRF 3,65 million support more specifically physical investment and that the third measure (FRF 5 million, of which the aid element comes to FRF 900 000) supports measures to promote employment linked to that investment.

(37) In its memorandum of 30 September 1999, France takes the view that the aid can be considered aid for initial investment within the meaning of the guidelines on national regional aid ([8]). The Commission must therefore conclude that, by this argument, France has altered its assessment of the aid in question, calling it now investment and employment aid. This explains why France has not transmitted, in addition to information on the strategy proposed by the buyer, a restructuring plan within the meaning of the guidelines.

Regional aid

(38) The aid proposed by France is to be paid for out of resources of the French State (FRF 2,25 million), the department of Moselle (FRF 1,4 million) and the Lorraine Region (FRF 5 million). The amount of FRF 3,65 million is earmarked for investment, an advance of FRF 2 million, of which the aid element comes to FRF 360 000, is earmarked for employment, and an advance of FRF 3 million, of which the aid element comes to FRF 540 000, is earmarked for training. This aid favours the recipient company in so far as it reduces the cost of the investment project, which totals FRF 29 million, a cost which the company in question ought normally to have borne entirely on its own. It is therefore State aid within the meaning of Article 87(1) of the Treaty which is likely to distort competition and affect trade between Member States.

(39) Continental Edison operates in the consumer electronics market, where the company will offer a product mix consisting essentially of still-to-be-developed top-of-the-range television sets and more down-market television sets already produced by GESA, and of multimedia equipment. The Commission notes that Continental Edison is turning once more towards the market segment of top-of-the-range television sets which was abandoned by the pre-existing company in favour of more down-market sets. The top-of-the-range market is considered to be a growth market following the introduction of 16:9 format screens, in which sales should continue to expand ([9]). But the small-screen market segment may, despite the fact that nearly 100 % of EU households have at least one TV set, remain buoyant thanks to the increasing tendency for households to own more than one set. Continental Edison is in direct competition, however, with imports from low-wage Asian countries. The markets for electronic cards and multimedia equipment, on which Continental Edison has been focusing since 1999, are expanding ([10]). In 1998 the world market for PCs grew by 23,4 %, and in 1997 the European PC market saw a 49 % surge in demand ([11]).

(40) Continental Edison's share of the overall television set market will, after the planned increase in production, amount to 440 000 units, or the equivalent of 2,13 % of the Community colour television market in 1996. Cofidur's investment in Continental Edison will have the effect of maintaining (down-market products) or increasing (top-of-the-range products) its output. Any aid to the company might therefore influence Cofidur's position on that market vis-à-vis its competitors in the Community.

(41) As to Continental Edison's share of the PC market, it is clear that, at a time when it is just starting up, production has yet to reach an intense level in what is a highly competitive growth sector.

(42) The aid's compatibility with the common market cannot be justified on the basis of the exceptions provided for in Article 87(2)(a) and (b) of the Treaty as it is not aid having a social character granted to individual consumers and it is not intended to make good the damage caused by natural disasters or exceptional occurrences. The exception provided for in Article 87(2)(c) is likewise not applicable. Nor can the aid be considered compatible on the basis of Article 87(3)(a), (b) and (d). It is not intended to promote the economic development of an area where the standard of living is abnormally low or where there is serious underemployment within the meaning of Article 87(3)(a), within the meaning of the Commission communication on the method for the application of Article 87(3)(a) and (c) to regional aid ([12]), or within the meaning of the Commission decision on the regional planning grants scheme. And it is not intended to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State, or to promote culture and heritage conservation.

([8]) OJ C 74, 10.3.1998, p. 4.

([9]) *Panorama of EU Industry 1997*, Volume 2.
([10]) See previous footnote.
([11]) CeBITViews 18-24 March 1999.
([12]) OJ C 212, 12.8.1988, p. 2.

(43) Under the exception provided for in Article 87(3)(c) of the Treaty, the Commission may consider aid to facilitate the development of certain economic areas to be compatible where it does not adversely affect trading conditions to an extent contrary to the common interest. By decision of 14 September 1994 on the regional planning grant scheme for industrial projects ([13]), the Commission decided, on the basis of the socio-economic data for the regions concerned, that initial investment within the meaning of point 18(i) of the Annex to the Commission communication on regional aid systems, undertaken in the region where Continental Edison is situated, may be eligible for regional aid with an aid intensity of 17 % gross in the case of a large firm.

(44) According to the arguments put forward by France, the new investment, the eligibility of which has been verified by the Commission and which has been evaluated at FRF 29 million, is intended for the purchase of GESA's assets and for the rationalisation, diversification and modernisation of production. The investment aid proposed for Cofidur totals FRF 3,65 million, giving an intensity of 12,6 % gross of the total of FRF 29 million. This investment may be regarded as initial investment within the meaning of the 1979 communication. Consequently, and in the light of the above, the investment aid amounting to FRF 3,65 million may be considered compatible with the common market on the basis of the exception provided for in Article 87(3)(c) of the Treaty.

Employment aid

(45) The third aspect of the public assistance for Cofidur, amounting to FRF 5 million in the form of an interest-free advance of which the aid element comes to FRF 900 000, is the supporting of measures to promote employment and training. An amount of FRF 2 million, of which the aid element comes to FRF 360 000, has been earmarked for the creation of new jobs. Cofidur has undertaken, in return for the aid, to maintain 200 existing jobs and to create 88 new ones over three years. It has also undertaken to provide the Lorraine Regional Council with salary statements on 31 May of each year.

(46) The measures in question constitute employment aid linked to initial investment within the meaning of the regional aid guidelines.

(47) In this respect, the Commission notes that Cofidur has undertaken to create 88 new jobs over three years. In its analysis, the Commission takes account of the fact that the regional planning grants scheme leads, for this number of jobs, to an eligible amount of FRF 4,4 million. In the present case, the grant proposed for job creation purposes amounts to FRF 2 million.

(48) The maximum ceiling of intensity of regional aid for investment and job creation, linked to initial investment, is set at 17 %. The aid for job creation in the form of an interest-free advance contains an aid element of FRF 360 000. Combining the aid for initial investment, namely FRF 3,65 million, with the job creation aid element, namely FRF 360 000, gives FRF 4,01 million. If this amount is compared with the investment cost of FRF 29 million, an aid intensity of 13,8 % gross is obtained. The Commission notes that the intensity of the planned aid is lower than the 17 % maximum ceiling authorised for large firms in an assisted area under Article 87(3)(c) of the Treaty. In this context, mention should be made of the assurance given by France in its letter of 30 September 1999 that no other investment or employment aid will be granted.

Training aid

(49) Some training aid measures may be covered by one of the exceptions in Article 87(3) of the Treaty. Under Article 87(3)(c), the Commission may authorise aid to facilitate the development of certain activities where it does not adversely affect trading conditions to an extent contrary to the common interest. The Commission considers that training plays an indispensable part in the introduction of new technologies and that it can help to create and maintain jobs. A training-promoting measure may, however, be covered by the above-mentioned exception only if it is in the nature of an incentive and is commensurate with the Community objectives it sets out to achieve.

(50) The training measures contained in the training plan drawn up by Cofidur seek to adapt the 200 employees taken over from GESA to technological change and to the modernisation of working methods as part of the overall restructuring plan. The Commission considers that training aid always has an incentive effect in the case of small and medium-sized firms, and this effect is also presumed to exist even in the case of large firms owing to the relatively large externalities which training may produce in some regions covered by Article

([13]) See footnote 5.

87(3)(c) of the Treaty. It is in these regions that expenditure on training and the level of skills are the lowest and that the Community interest in increasing that level so as to improve the employment situation and attract new investment is the strongest. The Commission considers that the skilling of workers also plays an important part in the framework of industrial redevelopment.

(51) The cost of the measures, the eligibility of which has been examined by the Commission, comes to FRF 3 million, the aid element of which is FRF 540 000, or 18 %. The Commission considers, given the relatively low rate of the aid intensity of these measures and the incentive effects they have in an area affected by conversion of the coalmining and mining industry and covered by Article 87(3)(c) of the Treaty, that the aid for training the workforce of Continental Edison is not likely to adversely affect trading conditions to an extent contrary to the common interest and that it is compatible with Community law.

V. **CONCLUSION**

(52) In the light of the above, the Commission considers that the aid for initial investment amounting to FRF 3,65 million, combined with the job creation aid element (linked to the initial investment) of FRF 360 000, giving a total of FRF 4,01 million, is compatible with the common market pursuant to Article 87(3)(c) of the Treaty.

(53) The Commission notes that the training aid in the form of an advance of FRF 3 million contains an aid element of FRF 540 000 the intensity of which, compared with the eligible costs of FRF 3 million, is 18 %. In view of the important role played by the training and skilling of workers and the incentive effect this has in some regions covered by Article 87(3)(c) of the Treaty, the Commission concludes that this aid is compatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The aid for initial investment amounting to FRF 3,65 million (EUR 556 439) and the aid for job creation, linked to that investment, in the form of an advance of FRF 2 million (EUR 302 898) which France plans to grant to Cofidur is compatible with the common market pursuant to Article 87(3)(c) of the Treaty.

Article 2

The training aid in the form of an advance of FRF 3 million (EUR 457 347) is compatible with the common market.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 16 November 1999.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 16 November 1999

on aid granted by France to Gooding Consumer Electronics Ltd in connection with the purchase of the former Grundig plant at Creutzwald

(notified under document number C(1999) 4230)

(Only the French text is authentic)

(Text with EEA relevance)

(2000/425/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

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

Having, in accordance with the abovementioned Articles, given the parties concerned notice to submit their comments,

Whereas:

I. PROCEDURE

(1) Following the publication of various articles in the press, the Commission's attention was drawn to the aid which the French authorities were planning to grant to the former Grundig plant in Creutzwald which had recently been acquired by Gooding Consumer Electronics Ltd (hereinafter GCE).

(2) The information sent by the French authorities at the Commission's request between 16 June 1994 and 29 March 1995 and the documents attached to the letter of 5 January 1995 confirmed that some of the aid had been granted. There are two aid packages: one for research and development (R&D) and one for restructuring (also referred to as back-up aid):

(a) the first package totalled FRF 10 million (ECU 1,52 million), granted under the 'electronics industry' scheme approved by the Commission [1];

(b) the second totalled FRF 36 million (ECU 5,5 million), of which FRF 24 million was provided by the State and FRF 12 million by the regional authorities. In both cases, the aid was granted on an ad hoc basis.

(3) The purchase of the former Grundig plant by GCE was part of a takeover plan which was initiated on 30 March 1994 and had two objectives: to restructure the firm, known as Gooding Electronique SA (hereinafter GESA), and restore its long-term viability. The guidelines for action put forward by the buyer focused on (i) reorienting production (quality mono television sets and introduction of satellite receiver technology, a market with rapid growth potential), (ii) establishing a degree of production security through orders guaranteed by the former shareholder Grundig, (iii) reducing output and employment, (iv) acquiring a very popular brand under which it could sell a large proportion of its own products and (v) creating a distribution and manufacturing network — original equipment manufacturing (OEM).

(4) In 1994, GESA employed 350 persons, i.e. 38 % fewer than the 562 employees of the former Grundig plant.

(5) After restructuring and in order to rationalise the investment, GESA cut capacity to some 300 000 television sets a year against the 578 000 sets produced by Grundig in 1990/91. GCE/GESA were operating on a European market with an estimated output, according to a market study communicated by the French authorities, of 16,7 million colour television sets in 1993. Thus their market share at the time was some 1,74 %. In the same year, demand in the same European market accounted for 21,5 million sets.

(6) On 3 and 25 July 1995, the French authorities informed the Commission that GESA had filed for bankruptcy on 22 June 1995. Other data on the position of the firm and on the compulsory administration and winding-up proceedings subsequently reached the Commission, most recently on 20 October 1997.

(7) On several occasions throughout the examination of this case, the French authorities asked the Commission to take account of recent developments in the legal proceedings before it decided to initiate proceedings under Article 88(2) of the Treaty as such a decision 'could make it more difficult for the firm to recover'.

(8) GESA was granted an observation period of six months, renewable several times, by the Metz Regional Court (Tribunal de grande instance), in accordance with Law No 85/98 of 25 January 1985 on compulsory administration and winding-up proceedings. On 16 April 1997, France informed the Commission that, on 21 February

[1] The Commission decision was communicated to the French authorities by letter of 1 December 1986.

1997, the Regional Court had declared GESA bankrupt. The order was suspended when a buyer, Cofidur, offered to purchase the company. The Court then allowed GESA's assets to be transferred to Cofidur, which set up a new company, Continental Edison which, according to the French authorities, is a completely new company with no attachments to the past.

(9) On 25 June 1997, France informed the Commission that it planned to grant fresh aid to Cofidur, the firm that had acquired GESA's assets. Following its examination of the aid, the Commission decided on 25 February 1998 to initiate proceedings under Article 88(2) of the Treaty ([1]).

(10) On the same day, the Commission decided to initiate proceedings under the same provision in respect of the aid to GESA referred to above. France was informed of this decision by letter of 22 April 1998 ([2]) published in the *Official Journal of the European Communities* on 11 June 1998 ([3]). The Commission gave interested parties notice to submit their comments on the aid in question, but no replies were received either from Member States or from other parties.

II. OBSERVATIONS UNDER THE ARTICLE 88(2) PROCEDURE

Reasons given by the Commission for initiating proceedings

(11) The reasons why the Commission decided to initiate proceedings are as follows:

(a) There was no indication that the transaction proposed by GCE complied with the Community guidelines on state aid for rescuing and restructuring firms in difficulty ([4]) (hereinafter referred to as the 'Community guidelines') as there was no evidence that the restructuring plan submitted could ensure the long-term viability of the firm within a reasonable time. The Commission was doubtful as to the realistic nature of certain assumptions concerning future operating conditions and the formation of the forward accounts, which could call into question the positive results which the firm was expected to achieve at the end of the restructuring. In view of the doubts, it was not possible to conclude that the forward accounts for the next three years and the liquidity forecasts and financing plan communicated by the French authorities were reliable.

(b) No evidence had been provided that competition would not be distorted on the market segment in which GESA had planned to operate, i.e. quality mono television sets with screens in the 37 to 55 cm range, as production was set to double before the end of the restructuring plan.

(c) The failure to complete the restructuring plan owing to serious problems with the supply of components and other difficulties encountered by GESA. The Commission, unlike France, regarded these difficulties as internally generated, i.e. caused by the firm. Furthermore, there was still some doubt as to the shareholder's real intention to carry out the recovery plan it had devised. The doubt was confirmed by the fact that the aid of FRF 10 million granted under the 'electronics industry's' scheme was not paid because of the failure to provide the competent authorities with the necessary administrative certificates, although the research work had been undertaken.

(d) The financial position of the CGE group, a GESA shareholder, appeared not to have been examined in detail by the French authorities. The fact that GCE had in fact ceased to exist could also indicate that it did not have the necessary financial stability. The cessation of business implied that the conditions required by the Community guidelines were unlikely to be satisfied in the future.

Comments presented by the French authorities

(12) By letters of 20 May and 18 June 1998, France forwarded its comments to the Commission.

(13) Firstly, it rejected the Commission's doubts concerning the forecasts on which the firm's return to viability was based. The forecasts were not unrealistic, as the niche for small screens was set to expand owing to the gradual increase in the number of television sets per household. Furthermore, the strategy was that Asian imports would be partially replaced by GESA's products in response to specific demand from large-scale distributors.

(14) According to the French authorities, the increase of over 80 % in turnover between 1994 and 1996 is explained by the very low initial turnover (1994) in comparison to Grundig's output. They also pointed out that GESA had not been handicapped by a lack of orders but by the difficulty of honouring them owing to external difficulties during that period. The difficulties had been caused by a shortage of cathode ray tubes following an industrial accident at one of GESA's main suppliers.

([1]) OJ C 198, 24.6.1998, p. 12.
([2]) SG(98)D/3213.
([3]) OJ C 179, 11.6.1998, p. 9.
([4]) OJ C 368, 23.12.1994, p. 12.

(15) The predicted cuts in production costs at GESA were based on the development of the new G 1000 chassis which, as it is highly integrated and flexible, can be adjusted easily to the various European standards. The predictions were also based on the existence of an efficient, highly automated production plant capable of manufacturing a more integrated chassis than those of its Asian competitors in this segment of the market.

(16) Lastly, in order to benefit fully from such automation, production output must be considerable. This proved impossible, because of component supply problems and because the Continental Edison brand could not be used. The French authorities stated that other consumer electronics firms had also decided in the same period to increase their European output of similar products by cutting their imports from Asia.

(17) France rejected the Commission's arguments that the aid could have distorted competition between Community producers. GESA was not aiming for the segment occupied by the leading European brand manufacturers (with the exception of products made for Grundig); its target was, on the contrary, the market for bottom-of-the-range products essentially imported from Asia and produced only on a small scale in the Community.

(18) France disputed the finding that its authorities had not sufficiently examined the financial position of the GCE group, little known in France at the time of the takeover because of its medium size and its absence from the French market. It stated that it had on the contrary undertaken the necessary investigations to ensure that GCE was viable. According to those investigations, the UK company had a good reputation, based in particular on its position in a cutting-edge market (satellite receivers in particular), the personal reputation of the group's head and principal shareholder and its business connections with the Grundig group.

(19) On the other hand, France shared the Commission's doubts concerning the intentions of the GCE shareholders to complete the recovery plan they had devised. The shareholders had failed to honour all their commitments, e.g. their promise to diversify production at Creutzwald. The transfer of the production of satellite receivers was an important part of the plan as it was to have brought a significant amount of business to the plant.

(20) The behaviour of the shareholders also had the effect of limiting the resources available to the firm as it made it impossible to pay the R&D aid and the bank loans, thus depriving the firm of FRF 53 million. Even more seriously, it is suspected that funds may have been misappropriated.

(21) In short, France stresses that the difficulties encountered by the firm are rooted in the exceptional and unpredictable nature of the shareholders' conduct and that a combination of unfavourable events (taken separately, these are ordering errors and shortages of certain electronic components and cathode ray tubes) multiplied the effect of each of these unpredictable events and handicapped GESA in particular. The failure of the restructuring plan could therefore be attributed to outside factors.

III. **ASSESSMENT OF THE AID**

(22) The back-up aid granted to GESA constitutes State aid within the meaning of Article 87(1) of the Treaty as it enabled the recipient to undertake restructuring without bearing the full costs as any other firm in the market would have had to do.

(23) Furthermore, as stated in the initiation of proceedings, there is fierce competition in the European television set industry which is caused by continual price cuts and a large number of sets imported from third countries. According to the data in the Commission's possession, France's share of intra-Community trade in colour televisions averaged 18,7 % in 1992 and 19,05 % in 1993, before falling to 15,7 % in 1996. The balance of intra-Community trade in France was in deficit throughout the period 1992 to 1996, with the exception of 1993 when a slight surplus was recorded.

(24) The Commission regrets that France failed to notify the restructuring aid in time for it to submit its comments in accordance with Article 88(3) of the Treaty. By failing to notify the measure, France did not comply with its obligations under the Treaty. It again failed to comply with those obligations when it decided to pay the promised aid without awaiting the Commission's decision on compatibility. The aid in question is therefore unlawful.

(25) The aid is not compatible with the common market under the exceptions provided for in Article 87(2) of the Treaty as it is not aid having a social character, granted to individual consumers, and it is not intended to make good damage caused by natural disasters or exceptional occurrences. Nor can the aid be exempted under Article 87(2)(c).

(26) The aid cannot be considered compatible under Article 87(3)(a), (b) and (d) as it is not intended to promote the economic development of areas where the standard of living is abnormally low or where there is serious unemployment within the meaning of Article 87(3)(a), in accordance with the Commission communication on the

method of application of Article 92(3)(c) to national regional aid [1]. Nor is the aid intended to promote an important project of common European interest or to remedy a serious disturbance in the economy of a Member State or to promote culture and heritage conservation.

(27) Assessment of the compatibility of the aid must therefore be confined to the exception provided for in Article 87(3)(c), in the light of the relevant Community guidelines.

(28) According to those guidelines, the Commission considers that the aid can contribute to the development of economic activity without affecting trade to an extent contrary to the general interest, provided certain conditions are met. If the Commission is to approve aid, the restructuring plan must satisfy all the general conditions, in particular the return to long-term viability, there must be no undue distortions of competition, the aid must be proportionate to the costs and benefits of restructuring and the plan must be implemented in full.

(29) Proceedings were initiated because, on the basis of the information supplied to the Commission, certain conditions laid down in the Community guidelines had not apparently been satisfied.

(30) As a preliminary comment, the three-year restructuring plan, initiated when CGE acquired the Grundig plant on 30 March 1994, was never completed, as is clear from the bankruptcy petition lodged on 22 June 1995. However, according to the French authorities, the fact that GESA became bankrupt a little more than one year after launching the restructuring plan is not proof that the operating forecasts and forward accounts were unrealistic at the time the aid was granted. The Commission must therefore examine the relevance of the plan in the light of the requirements of the guidelines at the moment when the decision to invest in the former Grundig plant was presented to the French authorities by the purchaser.

The existence of a restructuring plan based on realistic assumptions of a return to viability

(31) According to the authorities, GESA's return to long-term viability within a reasonable time was based on realistic forecasts. Turnover, according to the Commission when it initiated proceedings, was expected to rise by over 80 % between 1994 and 1996. That trend, according to the French authorities, was based on a very modest reference figure, i.e. a very low initial production level compared with that of the former Grundig plant.

(32) GESA's initial production capacity was reduced to 300 000 sets a year, the orders placed by Grundig accounting for all GESA's output in 1994, i.e. 160 000 sets and various sub-assemblies. Because production was being redirected towards smaller sets, the plan provided for an increase in volume in the following years in order to meet demand in that segment.

(33) The Commission notes that this production increase was a key factor in the viability of the project, as the automation of the production process required high output levels in order to be profitable. Furthermore, even if it had been possible to double production in two years, it would have reached the same level as Grundig before it left the site, i.e. some 500 000 sets in 1992 to 1993 (and nearly 600 000 the previous year); furthermore, the small screens' sector is a far more promising sector than that in which Grundig was operating (large screens).

(34) The reasons given by the French authorities for the strategy of penetrating the small-screen market, still in the middle of a price war between the leading manufacturers that had started in the early 1990s, was the general tendency for households to have more than one set. This market trend for the period 1993 to 1995 was confirmed by the 1997 Panorama of European Union Industry, which found that a majority of sales consisted of replacement sets or second sets.

(35) The strategy adopted by GESA was based on specific demand from large-scale distributors seeking local sources with flexible production facilities for good quality, competitive televisions, whether own-brand or not, to take the place of bottom-of-the-range sets from Asia. According to the information supplied by France, the distributors were anxious to find substitutes for the products in question, which were not always reliable and hence entailed high after-sales costs, and with lead times no longer suited to the fluctuations in demand.

(36) As this demand came specifically from the major distributors and hence constituted a significant outlet (one third of the market in 1993), it was reasonable to anticipate a surge in sales. It should also be noted that, in 1993, the production of small television sets accounted for only half of European demand in this market (4,1 million sets produced, compared with demand in the region of 8,3 million) [2], as most European imports fell into this segment.

[1] OJ C 282, 26.10.1995, p. 11.

[2] *Source*: Grundig.

(37) The same strategy was adopted by several medium-sized European producers, for instance Kasui in France, Mivar, Formenti or Imperial in Italy and Elbe in Spain. It must therefore be concluded that the choice made by GESA does not appear to be unusual as it is shared by other similar-sized producers in other Member States.

(38) The merits of the strategy became rapidly apparent as GESA won over the major European distributors with, on the one hand, its G 100 range with a highly integrated, reliable chassis which could be adapted to the European standards and, on the other, by its ability to respond rapidly to demand on a market that had become very seasonal. Thus it was not a lack of orders which handicapped the firm but the difficulty of honouring the orders owing to supply problems.

(39) When it initiated proceedings, the Commission noted that GESA had planned to produce sets at particularly competitive prices, comparable to those from Asian imports. The Commission expressed doubts about the firm's ability to achieve a level of prices, especially as regards labour costs, comparable to those of imports.

(40) The French authorities' reply was that the aim of the firm was not to achieve production costs identical to those of Asian producers as major distributors, which traditionally seek low prices, specifically accept a relative surcharge for European products whose higher quality and ease of supply give them the same margins as those obtained on imports. The reduction in the number of sets returned for after-sales servicing and the ability to respond to a highly cyclical pattern of demand whilst at the same time cutting safety stocks help to offset a slightly higher purchase price.

(41) In addition, the reduction in GESA's production costs was based on the development of the new G 1000 chassis and on the existence of a highly automated production line which would therefore be capable of producing a more integrated chassis than the Asian competitors in this market. Naturally, in order to benefit fully from such automation and thus cut labour costs, it was desirable to achieve a high output. This proved impossible owing to the supply difficulties referred to above.

(42) In view of the foregoing, the Commission considers that the assumptions underlying the forward accounts were indeed realistic estimates based on the exploitation of a new and growing niche in the market concerned. Furthermore, the anticipated recovery of the firm over three financial years was coherent and sufficiently progressive and based on structural improvements (diversification into growth sectors, installation of new technology by the buyer, reduction in labour costs in relation to turnover, continued investment in research and development) to be feasible and ensure viability. Thus the operating result should have improved to 5,2 % of turnover before tax at the end of the restructuring and 1.4 % net of tax.

(43) Furthermore, the financial account predicted that, by the end of restructuring in 1996, the liquidity position would be healthy and cashflow distinctly positive. The debt/net worth ratio would level out after rising, due to the investments, in the first years of the restructuring. The return on own funds would be in the region of 15 % by the end of the restructuring.

(44) It should also be added that the 1994 financial year closed with a positive net result, whereas the restructuring plan had forecast a negative result. This was achieved solely as a result of the orders Grundig had undertaken to place with GESA.

(45) Thus the criterion of a return to viability contained in the Community guidelines is satisfied by the plan presented by the buyer of the former Grundig plant.

Prevention of undue distortions of competition

(46) As the Commission noted when it initiated the procedure, it was possible, especially in view of the cost-cutting objectives, that GESA's output would replace that of the other Community producers rather than imports from third countries. It could thus not be ruled out that the aid might distort competition.

(47) The Commission concludes, however, that, rather than targeting the market niche held by the European manufacturers of premium brand products, with the exception of the products made for Grundig, GESA was targeting the market for bottom-of-the-range products mainly imported from Asia. Furthermore, the work subcontracted by Grundig was to remain relatively stable over time. Rather than seeking to achieve the same production costs as those of Asian producers, GESA was hoping for comparable costs, given the difference in quality of its products.

(48) The demand for GESA's products from the major distributors is explained by quality and not by the possible influence of aid on the final selling price. As the major distributors were clearly prepared to pay more for better quality products, it is reasonable to conclude that GESA's output would have replaced imported goods rather than those of other European competitors. Indeed, no competitors have complained to the Commission during the proceedings that the aid to GESA was financing a strategy which could injure them.

(49) It would have been logical for that trend to continue in view of the gap of over 4 million small sets between European demand and European production. According to the information sent by France, other major consumer electronics manufacturers such as Sanyo or Sharp decided during the same period to increase European output of similar products by reducing their imports from low-wage Asian countries in order to benefit from the competitive advantage of highly automated production tools, better quality, as well as to avoid customs duties and anti-dumping charges.

(50) In view of the fact that the planned increase in output of this type of product was not likely to be at the expense of Community production but would instead partially replace third-country imports, the Commission considers that the condition requiring the avoidance of undue distortion of competition has been met.

(51) The Commission also notes that the plant's production capacity was reduced very significantly after it was sold. Given the planned increase in output, it could not be ruled out that production capacity would also increase. However, in accordance with the Community guidelines, the Commission considers that the available data do not justify imposing a capacity cut at the end of the restructuring because, when the restructuring plan was drawn up, there was no structural overcapacity on the market targeted by GESA, according to a market study provided by the French authorities.

Aid in proportion to costs

(52) Under the Community guidelines, the aid must be proportionate to the costs and benefits of restructuring. In particular, the aid recipients should make a considerable contribution to the restructuring plan from their own resources or through outside finance obtained at market rates. In the present case, the aid totals FRF 46 million, of which FRF 10 million is granted under the 'electronics industry' scheme approved by the Commission. In addition, the financing of the acquisition was based on capital of FRF 80 million provided by GCE and FRF 75 million for the financing of the earlier social plans. The total financing for the transaction was thus FRF 201 million. The restructuring aid amounts to 18 % of that total. The public contribution appears to be proportionate to the total financing of the acquisition, to which private firms made a substantial contribution.

Full implementation of the restructuring plan

(53) According to the French authorities, the fact that GESA was wound up on 22 June 1995 does not affect the assessment of the compatibility of the State aid granted in 1994. As the Community guidelines also require the entire restructuring plan to be carried out, it is necessary to consider why GESA was unable to complete the plan.

(54) The Commission notes that several factors hampered the execution of the plan, namely, the impossibility of filling orders owing on the one hand to a shortage of electronic components and cathode ray tubes and, on the other, to difficulties relating to the marketing of the Continental Edison brand.

(55) The Commission considers, following explanations provided by the French authorities, that component supply problems arising less than a year after the purchase of the plant can to some extent be regarded as external to the firm and unforeseeable as they result from the supply problems encountered by one of its main suppliers, Thomson, which suddenly interrupted its supplies of cathode ray tubes. Because of the importance of the component, which accounts for one third of the total cost, and its technical link with the electronic chassis which means the supplier cannot be changed rapidly, the break in supply caused a sharp fall in GESA's output. The French authorities also point out that competitors were no better able to cover the risk of shortages, notably Daewoo, which set up a television set plant in the Moselle at the same time as GESA.

(56) On the other hand, the Commission regards, the 'ordering errors' made by the firm as being endogenous, i.e. as being the responsibility of the shareholders, as acknowledged by the French authorities when the aid in question was examined. The errors had a multiplier effect on the abovementioned shortage.

(57) GESA was unable to use the Continental Edison brand, a very well-known brand name which would have allowed a large proportion of its output to be sold. This was due to the length of the negotiations between GESA and the former owner of the brand, Thomson SA. The disagreement concerned the number of sets that GESA would have marketed under the name. When it initiated proceedings the Commission pointed out that the negotiation of this type of clause was standard practice and was therefore predictable. Whilst France acknowledged this, it considered it was most unusual for the difficulty of the negotiations in question to have constituted a pretext for the former owner to delay signing the contract for several months. Furthermore, the misuse of the clause by another party was not foreseeable. The negotiations started only after GESA was wound up in August 1995, i.e. when its position was already compromised. However, the Commission considers that GCE did not make a real effort to conclude the negotiations on the use of the Continental Edison brand name in time.

(58) Lastly, the failure by the prospective buyer to keep the promises made at the time of the restructuring proposal limited the resources available to the firm. The shareholders did not diversify business in the plant or transfer production of satellite receivers to Creutzwald. Moreover, the failure to provide documentary evidence prevented payment of the R&D aid (FRF 10 million) authorised under a scheme approved by the Commission, although the investment had been made. There is also the fact that the shareholders, by refusing to present the group's consolidated financial positions, caused the banks to withhold loans totalling FRF 53 million provided for in the financing plan. In the opinion of the Commission, it is not the alleged insolvency of GCE Ltd which caused GESA to file for bankruptcy but the parent company's failure to present its consolidated financial position.

(59) The financing plan and the restructuring thus depended on the shareholders fulfilling their commitments. The French authorities also suspect that fraud has taken place and have opened a judicial inquiry. According to press reports at the time, considerable financial resources were moved from GESA to companies in the GCE group. According to the same sources, the judicial authorities are also examining the use of public money received by GESA.

(60) France confirms the doubts expressed by the Commission when initiating the proceedings concerning the real intention of GCE shareholders to carry out the plan they had put forward. The conduct of the shareholders, whether due to internal or external factors or not, was completely unpredictable and ruined any possibility that the plant would survive, in spite of the wishes of the French authorities themselves. The shareholders' conduct is thus the key factor which explains why the restructuring plan was not carried out in full.

(61) In that context, the French authorities assured the Commission that they conducted the necessary investigations to determine the true position of GCE. According to those investigations, there had been no signs in business circles, especially among firms specialising in this area, that GCE was in difficulty. It seems that GCE had a good reputation, based chiefly on its position in a developing market, the personal reputation of its managing director and principal shareholder and its business connections with the Grundig group.

(62) However, the doubts already expressed by the Commission when initiating the proceedings as to whether there was any real intention of completing the plan put forward have been confirmed by the irregular conduct of GESA's main shareholder, the GCE group.

IV. **CONCLUSIONS**

(63) In view of the foregoing, the Commission concludes that the plan to restructure GESA was credible, based on realistic assumptions as to future operating conditions and capable of restoring long-term viability. On the other hand, the implementation of the restructuring plan was a failure which forced the firm to file for bankruptcy. The causes of this can to some extent be found in external factors such as accidental interruptions of supply, but chiefly in the failure of the new owner to fulfil undertakings given on financing and diversification of production. This constitutes a failure to satisfy one of the general conditions of the Community guidelines on restructuring aid, namely full implementation by the firm of the restructuring plan.

(64) Consequently, for the reasons given above, the aid of FRF 36 million granted by the French authorities to GESA does not qualify for exemption under Article 87(3)(c) of the Treaty, pursuant to the Community guidelines.

(65) If aid proves incompatible with the common market, the Commission is required, under the judgments given by the Court of Justice in Case 70/72 [1], upheld in Case 310/85 [2] and in Case C-5/89 [3], to require the Member State to recover from the recipient all aid granted unlawfully. This measure is necessary in order to revert to the previous situation by removing all the financial benefits which the firm receiving the unlawful aid has improperly enjoyed since the date on which the aid was paid.

(66) The aid must be repaid in accordance with the procedure laid down by French law. The aid includes interest calculated from the date on which it was granted to the date on which it is actually recovered. Interest is calculated on the basis of the commercial rate, with reference to the rate used to calculate the grant equivalent of regional aid,

HAS ADOPTED THIS DECISION:

Article 1

The state aid totalling FRF 36 million granted by France to Gooding Electronique SA is incompatible with the common market.

(1) Commission v Germany [1973] ECR 813.
(2) Deufil v Commission [1987] ECR 901.
(3) Commission v Germany [1990] ECR I-3437.

Article 2

1. France shall take the necessary steps to recover from the recipient the aid referred to in Article 1 which has already been unlawfully paid.

2. The aid shall be recovered forthwith in accordance with the procedures of national law, insofar as they permit the immediate and effective enforcement of this Decision. The aid to be recovered shall include interest calculated from the date on which the aid was granted to the date on which it is recovered. The interest shall be calculated on the basis of the reference rate used to calculate the grant equivalent of regional aid.

Article 3

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

Article 4

This Decision is addressed to the French Republic.

Done at Brussels, 16 November 1999.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 26 June 2000

amending Decision 1999/659/EC fixing an indicative allocation by Member State of the allocations under the European Agricultural Guidance and Guarantee Fund Guarantee Section for rural development measures for the period 2000 to 2006

(notified under document number C(2000) 1648)

(2000/426/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) (1), and in particular Article 46(2) thereof,

Whereas:

(1) By Decision 1999/659/EC (2), the Commission determined the initial allocations to the Member States for rural development measures part-financed by the EAGGF Guarantee Section for the period 2000 to 2006.

(2) For the sake of clarity and transparency, the expenditure covered by the funds allocated to the Member States by that Decision should be specified.

(3) Payments from the EAGGF Guarantee Section for accompanying measures under Council Regulations (EEC) No 2078/92, (EEC) No 2079/92 and (EEC) No 2080/92 (3), repealed on 1 January 2000, continue to be made in respect of the 2000 and following budget years. The funds allocated to the Member States for the period 2000 to 2006 also cover that expenditure.

(4) Article 7 of Commission Regulation (EC) No 296/96 of 16 February 1996 on data to be forwarded by the Member States and the monthly booking of expenditure financed under the Guarantee Section of the Agricultural Guidance and Guarantee Fund (EAGGF) (4), as last amended by Regulation (EC) No 2761/1999 (5) states that for year *n*, account is to be taken of expenditure effected by the Member States from 16 October of year *n–1* to 15 October of year *n*. As a consequence, expenditure incurred by the EAGGF Guarantee Section on measures under Regulations (EEC) No 2078/92, (EEC) No 2079/92 and (EEC) No 2080/92 since 16 October 1999 fall within the 2000 budget year and must be taken into account under the allocation for the period 2000 to 2006. Furthermore, payments made by the paying agencies from 16 October to 31 December 2006 are to be charged against the 2007 budget year.

(5) It also transpires that the table in the Annex to the Decision laying down the initial allocations to the Member States does not allow the annual budget ceilings to be calculated accurately. That table should accordingly be replaced by a more detailed table setting out the amounts not to be exceeded by each Member State per year,

(1) OJ L 160, 26.6.1999, p. 80.
(2) OJ L 259, 6.10.1999, p. 27.
(3) OJ L 215, 30.7.1992, pp. 85, 91 and 96.
(4) OJ L 39, 17.2.1996, p. 5.
(5) OJ L 331, 23.12.1999, p. 57.

HAS ADOPTED THIS DECISION:

Article 1

Decision 1999/659/EC is hereby amended as follows:

1. The following paragraphs are added to Article 1:

'The allocations referred to in the first paragraph shall also cover:

(a) expenditure incurred by the EAGGF Guarantee Section on accompanying measures under Council Regulations (EEC) No 2078/92, (EEC) No 2079/92 and (EEC) No 2080/92 as from the 2000 budget year and, in accordance with the rules laid down in Article 7 of Commission Regulation (EC) No 296/96, payments by the paying agencies as from 16 October 1999;

(b) the other rural-development measures approved before 1 January 2000 and included in the new programming pursuant to Article 4(2) and (3) of Commission Regulation (EC) No 2603/1999 (*).

For the period 16 October to 31 December 2006, the maximum amount eligible under the EAGGF for expenditure paid by the paying agencies of the Member States must not exceed the total expenditure incurred by those Member States in the period 16 October to 31 December 1999.

(*) OJ L 316, 10.12.1999, p. 26.'

2. The table in the Annex is replaced by that set out in the Annex hereto.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 26 June 2000.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Support for rural development (2000 to 2006)

Annual allocations to Member States

(in million EUR)

Ceiling	Annual average 1999 prices (1)	Financial allocation (EUR million)						
		2000	2001	2002	2003	2004	2005	2006
R 1(b) (1999 prices)		4 300	4 320	4 330	4 340	4 350	4 360	4 370
Deflator (2)		1,02000	1,04040	1,06121	1,08243	1,10408	1,12616	1,14869
R 1(b) (current prices)		4 386,0	4 494,5	4 595,0	4 697,8	4 802,8	4 910,1	5 019,8
Belgium	50	50,5	51,8	52,9	54,1	55,3	56,6	57,8
Denmark	46	46,5	47,6	48,7	49,8	50,9	52,1	53,2
Germany	700	707,6	725,1	741,3	757,9	774,8	792,1	809,8
Greece	131	132,4	135,7	138,7	141,8	145,0	148,2	151,6
Spain	459	464,0	475,4	486,1	497,0	508,1	519,4	531,0
France	760	768,2	787,2	804,8	822,8	841,2	860,0	879,2
Ireland	315	318,4	326,3	333,6	341,0	348,7	356,5	364,4
Italy	595	601,4	616,3	630,1	644,2	658,6	673,3	688,4
Luxembourg	12	12,1	12,4	12,7	13,0	13,3	13,6	13,9
Netherlands	55	55,6	57,0	58,2	59,5	60,9	62,2	63,6
Austria	423	427,6	438,2	448,0	458,0	468,2	478,7	489,4
Portugal	200	202,2	207,2	211,8	216,5	221,4	226,3	231,4
Finland	290	293,1	300,4	307,1	314,0	321,0	328,2	335,5
Sweden	149	150,6	154,3	157,8	161,3	164,9	168,6	172,4
United Kingdom	154	155,7	159,5	163,1	166,7	170,5	174,3	178,2
Total	4 339	4 386,0	4 494,5	4 595,0	4 697,8	4 802,8	4 910,1	5 019,8

(1) Average annual allocation by Member State: the percentages resulting from this breakdown apply to the amounts in the annual financial perspectives in point 23 of the Presidency's Conclusions of 24 and 25 March 1999.

(2) Deflator: the table is based on a constant deflator of 2 % a year in accordance with point 15 of the Interinstitutional Agreement on budgetary discipline and improvement of the budgetary procedure of 6 May 1999 (OJ C 172, 18.6.1999, p. 1).

The amounts are rounded off to one decimal point.