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Legislation

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EN

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EUROPEAN PARLIAMENT

DECISION OF THE EUROPEAN PARLIAMENT

of 13 April 2000

granting discharge in respect of the implementation of the general budget of the European Union for the 1998 financial year: Section IV — Court of Justice; Section V — Court of Auditors; Section VI — Part B — Committee of the Regions

(2000/465/EC)

THE EUROPEAN PARLIAMENT,

Having regard to the revenue and expenditure account and the balance sheet for the 1998 financial year (SEC(1999) 414 — C5-0008/1999),

Having regard to the Annual Report of the Court of Auditors concerning the financial year 1998 (C5-0266/1999) ([1]),

Having regard to the Council's recommendation of 13 March 2000 (C5-0154/2000),

Having regard to Article 272(10) of the EC Treaty,

Having regard to Article 22(2) and (3) of the Financial Regulation,

Having regard to the report of the Committee on Budgetary Control (A5-0089/2000),

Court of Justice

1. Notes that the evacuation of the Court of Justice's main building (Palais) was made possible by those responsible, the Court of Justice and the Luxembourg authorities, four years after the first measures were taken to deal with the presence of asbestos.

2. States that its assessment of the Court of Justice's building policy will be made in the light of the Special Report the Court of Auditors is currently drawing up concerning the annexes to the Palais building.

3. Requests the Court of Justice to submit, in time for the first reading of the 2001 draft budget, a report on ways to improve the quality of financial forecasts used for the endowment of Article 270 (Official Journal) in light of the continuous need for the topping up of its appropriations in the 1995 to 1997 financial years.

Court of Auditors

4. Reiterates its disapproval of the declining trend in the utilisation of appropriations earmarked for Chapter 15 (Staff exchanges between Community institutions and the public and private sectors); underlines that those exchanges can be beneficial in particular to national civil servants and administrations; calls on the Court of Auditors to submit, in time for the first reading of the 2001 budget, a report outlining its policy as regards the staff exchanges in question and the problems which have hindered full utilisation of available resources from 1997 onwards.

([1]) OJ C 349, 3.12.1999.

5. Notes that allocations earmarked for Article 104 (mission expenses, local travel costs and incidental expenditure) had to be topped up twice to allow Members to complete the 1998 Audit Programme; asks the Court of Auditors to improve planning and forecasting in connection with that sector.

Committee of the Regions

6. Urges the Committee of the Regions to take all necessary steps to reverse the seriously declining rate of utilisation of appropriations (56,27 %) automatically carried over from the previous financial year. In this respect, asks for a report to be submitted to Parliament by 15 June 2000 on all Section VI appropriations automatically carried over from 1997 to 1998 and from 1998 to 1999 where the rate of cancellations is greater than 10 %.

7. Reierates its request to the Committee of the Regions to improve financial management of the appropriations, the implementation of which has been entrusted to it by the budgetary authority.

8. Points out that as part of its role of supporting Parliament in scrutinising implementation of the budget at the Committee of the Regions, the Court of Auditors carried out an investigation to assess the appropriateness and effectiveness of the measures taken by the Committee of the Regions to ensure that the irregularities identified in the 1996 annual report did not recur. Notes that following the investigation, which took place in September 1999, the Court of Auditors found that it was not yet able to confirm the effectiveness of the measures introduced on 1 April 1999. Insists that the latest set of rules, which entered into force on 1 April 2000, aimed at bolstering controls relating to the refund of travel expenses and daily subsistence and travel allowances, must be fully in line with the Court of Auditors' observations. Requests that the latter include the assessment of the efficiency of the new rules in the follow-up to its 1996 Annual Report.

9. Regrets that, almost two years after Parliament evacuated the Belliard building complex, the Committee of the Regions, jointly with the Economic and Social Committee, do not appear to have acted with the required diligence with regard to their relocation there. Takes the view that the prolonged negotiations with the owners of the buildings ultimately risk undermining the validity of the two Committees' undertaking to move to the Belliard complex as soon as possible. Underlines that the current situation is detrimental to the Union budget with expenditure on rent and associated costs being charged in connection with both the current (Ardenne and Ravenstein complex) and future (Belliard complex) premises of the Committees.

10. Urges the Committee of the Regions, jointly with the Economic and Social Committee, to conclude the abovementioned negotiations on the basis of the principle of sound financial management and to ensure optimum utilisation of appropriations put at their disposal by the budgetary authority at their own request (transfer No 44/99 involving EUR 26 000 000).

Discharge decision

11. Grants discharge to the Registrar of the Court of Justice and the Secretaries-General of the Court of Auditors and the Committee of the Regions in respect of the implementation of their budgets for the 1998 financial year.

12. Instructs its President to forward this decision to the institutions and the advisory body concerned and to have it published in the *Official Journal of the European Communities* (L series).

The Secretary-General — Julian PRIESTLEY

The President — Nicole FONTAINE

DECISION OF THE EUROPEAN PARLIAMENT

of 13 April 2000

granting discharge to the Administrative Board of the European Foundation for the Improvement of Living and Working Conditions in respect of the implementation of its budget for the 1998 financial year

(2000/466/EC)

THE EUROPEAN PARLIAMENT,

Having regard to the report of the Court of Auditors on the financial statements and management of the European Foundation for the Improvement of Living and Working Conditions (Dublin-Foundation) for the financial year 1998 (C5-0150/2000) ([1]),

Having regard to the Council recommendation of 13 March 2000 (C5-0152/2000),

Having regard to the EC Treaty and in particular Article 276 thereof,

Having regard to Rule 93 and Annex V of its Rules of Procedure,

Having regard to the report of the Committee on Budgetary Control (A5-0089/2000),

Whereas:

A. Parliament granted discharge to the Administrative Board of the Foundation on 4 May 1999 ([2]) for the financial year 1997 on the basis of commitments to separate the duties of authorising and accounting officer, to enact a memorandum of understanding with the European Agency for Health and Safety in Bilbao and to improve day-to-day management by reducing the reliance on imprest accounts and by actively controlling mission expenses and study contracts.

B. The report of the Court of Auditors for 1998 notes that the Foundation relies substantially on the imprest accounts, needs to strengthen analysis and management of mission expenses, has not updated its version of the Implementation of the Financial Regulation since 1976 and needs to review its in-house translation with regard to the development of the Translation Centre for the Bodies of the European Union in Luxembourg.

C. The Foundation has not adopoted the budget and on-line visa system of the Commission, available for agencies since 1 January 1998.

D. The relatively long contradictory procedure between the Foundation and the Court of Auditors for a relatively short report leads to the submission of the annual report for 1998 in November 1999.

E. The Court of Auditors, whose mandate is not to evaluate the effectiveness of the Foundation in meeting its goals but to audit its accounts, concludes that it has obtained reasonable assurance that the annual accounts for the financial year ended 31 December 1998 are reliable and the underlying transactions are, as a whole, legal and regular.

1. Notes the following figures for the accounts of the European Foundation for the Improvement of Living and Working Conditions:

1998 FINANCIAL YEAR

	(in thousand EUR)
(a) **Revenue**	**11 448**
1. Subsidy from the Commission	11 262
2. Miscellaneous revenue	156
3. Revenue from services rendered against payment	30

([1]) OJ C 372, 22.12.1999, p. 38.
([2]) OJ C 279, 1.10.1999, p. 139.

(b) **Expenditure**	**13 586**
Title I — Staff expenditure	
1. Payments for the year	6 676
2. Appropriations carried over	78
Title II — Administrative expenditure	
1. Payments for the year	797
2. Appropriations carried over	223
Title III — Operating expenditure	
1. Payments for the year	2 893
2. Appropriations carried over	2 919
Balance for the year	**– 2 148**
Out-turn for the year ((a) – (b))	– 2 138
Amount received from the Commission	2 352
Appropriations carried over from the previous year which lapsed	60
Exchange rate differences for the year	– 70

Marking 25 years of operation

2. Congratulates the Foundation on its silver jubilee year of operation, since its creation by Council Regulation (EEC) No 1365/75 on 26 May 1975.

Impact of Commission reform programme

3. Notes that Parliament's demands for the Commission to reform its structure and financial management systems and the consequent change in the role of the Directorate-General for Financial Control will have a direct bearing on the Foundation and will require the recasting of the financial regulations and the introduction of activity-based budgeting.

Sharing experiences with other Agencies

4. Welcomes the active collaboration of the Foundation with six other Agencies, as well as with the Economic and Social Committee and the Committee of the Regions, in using the Sincom2 accounting system developed by the Commission, but is disappointed to note that only Agencies based in Copenhagen, Turin and Luxembourg have fully implemented the system at present.

5. Calls on the Commission to extend the system to encompass activity-based management for Agencies, including monitoring, auditing or evaluation of personnel, missions, documents and inventory, on the lines of the integrated resources management system (IRMS).

Cooperation with other Agencies

6. Welcomes the fact that Parliament's call for a Memorandum of Understanding with the European Agency for Health and Safety in Bilbao, on 31 March 1998 ([1]), has resulted in the directors of both agencies attending each other's Board meetings as observers and stronger links at project management level.

([1]) OJ C 138, 4.5.1998, p. 58.

7. Notes favourably that following observations by the Court of Auditors, more than 85 % of the Foundation's translation requirements are met by the Translation Centre in Luxembourg and will result in the review of the language and translation service in the Foundation.

Imprest accounts

8. Encourages the Foundation to further reduce its reliance on imprest accounts for payments and welcomes the fact that usage has decreased from EUR 3,89 million in 1997, or 40 % of total expenditure excluding salaries, to EUR 3,40 million or 37 % in 1998 and, following further cuts, to EUR 2,94 million or 32 % in 1999.

Mission expenses

9. Welcomes the fact that the Foundation has managed to reduce the cost of mission expenses through the use of strict guidelines whereby low-cost tickets are used and that it has managed to cut expenses from EUR 433 000 in 1997, to EUR 423 600 in 1998, to EUR 350 000 in 1999.

Requests to the Court of Auditors

10. Welcomes the short and precise reporting by the Court of Auditors and hopes that the Court will continue in this business-like fashion. Calls on the Court of Auditors to follow up systematically the decisions of the discharge authority and to produce a comprehensive analysis of the audits of all Agencies.

11. Calls on the Foundation and Court of Auditors to reduce the duration of the contradictory procedure to ensure that the annual report can be presented to Parliament before 15 July of the year following the financial year in question.

New strategy and action plan for 2001 to 2004

12. Welcomes the Foundation's preparation of its next four-year programme for 2001 to 2004, following the launch of an evaluation process in spring 1999, and notes with interest the progress in training staff and dedicating resources to monitoring and evaluating activities.

13. Calls on the Foundation to present to Parliament the results of its evaluation exercise and new strategy and action plan before 31 December 2000.

Discharge decision

14. Gives discharge to the Administrative Board of the European Foundation for the Improvement of Living and Working Conditions in respect of the implementation of its budget for the 1998 financial year, on the basis of the report of the Court of Auditors.

15. Instructs its President to forward this decision to the Administsrative Board of the European Foundation for the Improvement of Living and Working Conditions, the Council, the Commission and the Court of Auditors and to have it published in the *Official Journal of the European Communities* (L series).

The Secretary General
Julian PRIESTLEY

The President
Nicole FONTAINE

DECISION OF THE EUROPEAN PARLIAMENT

of 13 April 2000

granting discharge to the Management Board of the European Centre for the Development of Vocational Training in respect of the implementation of its budget for the 1998 financial year

(2000/467/EC)

THE EUROPEAN PARLIAMENT,

Having regard to the report of the Court of Auditors on the statements and management of the European Centre for the Development of Vocational Training (Cedefop — Thessaloniki) for the financial year ended December 1998 (C5-0149/2000) [1],

Having regard to the Council recommendation of 13 March 2000 (C5-0151/2000),

Having regard to the EC Treaty and in particular Article 276 thereof,

Having regard to Rule 93 and Annex V of its Rules of Procedure,

Having regard to the report of the Committee on Budgetary Control (A5-0089/2000),

Whereas:

A. Parliament granted discharge to the Management Board on 4 May 1999 [2] for the financial year 1997 on the basis of commitments to introduce a new budgetary and accounting system, to reduce reliance on imprest accounts, to adopt a new staff policy and to submit biannual progress reports on the state of the new premises.

B. The report of the Court of Auditors for 1998 notes that the Centre still uses an old and complex system for drawing up its budget and balance sheets, relies on the imprest accounts for paying staff, does not systematically review staff entitlements and suffers from delays when issuing calls for tender.

C. The Centre is behind shedule in the completion of its own management and accounting system, begun in 1997, while a similar system was developed for decentralised Agencies for the Commission as of 1 January 1998.

D. The Centre foresees final approval of its new building in November 2000, following its official opening in November 1999.

E. The relatively long contradictory procedure between the Centre and the Court of Auditors for a short report leads to the submission of the annual report for 1998 in November 1999.

F. The Court of Auditors, whose mandate is not to evaluate the effectiveness of the Centre in meeting its goals but to audit its accounts, concludes that it has obtained reasonable assurance that the annual accounts for the financial year ended 31 December 1998 are reliable and the underlying transactions are, as a whole, legal and regular.

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[1] OJ C 372, 22.12.1999, p. 26.
[2] OJ C 279, 1.10.1999, p. 140.

G. There is a need for an external evaluation to assess the effectiveness of the Centre in meeting its goals of developing vocational training, given that the last study on the impact of the Centre was conducted in February 1995.

1. Notes the following figures for the accounts of the European Centre for the Development of Vocational Training:

1998 FINANCIAL YEAR

	(in thousand EUR)
(a) **Revenue**	**12 953**
1. Subsidy from the Commission	12 943
2. Miscellaneous revenue	10
3. Revenue from services rendered against payment	0
(b) **Expenditure**	**12 635**
Title I — Staff expenditure	
1. Payments for the year	5 421
2. Appropriations carried over	599
Title II — Administrative expenditure	
1. Payments for the year	878
2. Appropriations carried over	528
Title III — Operating expenditure	
1. Payments for the year	2 433
2. Appropriations carried over	2 776
Balance for the year	**697**
Out-turn for the year ((a) - (b))	318
Appropriations carried over from the previous year which lapsed	320
Exchange differences for the year	59

25th year of operation of first decentralised Agency

2. Congratulates the Centre on its silver jubilee year of operation, since its creation by Council Regulation (EEC) No 337/75 on 10 February 1975, and believes that its revitalisation in recent years will lead to a marked improvement in the delivery of products and services.

3. Recognises that the Centre has managed to overcome staffing and location problems resulting directly from its enforced transfer from Berlin to Thessaloniki in September 1995.

Impact of Commission reform programme

4. Notes that Parliament's demands for the Commission to reform its structure and financial management systems and the consequent change in the role of the Directorate-General for Financial Control will have a direct bearing on the Agency and will require the recasting of the financial regulations and the introduction of activity-based budgeting.

Delays in development of computer system

5. Notes that the Centre expended scarce resources in 1997, 1998 and 1999 to develop a tailor-made computer system to manage its budget and accounts, while a number of Agencies employ a decentralised application developed by the Commission, Sincom2.

6. Calls on the Centre to ensure that the old system is fully replaced before 1 July 2000 and expects that the new application will be vetted by the Commission and the adequate documentation and in-house expertise will be provided for.

7. Calls on the Commission to extend the system to encompass activity-based management for Agencies, including monitoring, auditing or evaluation of personnel, missions, documents and inventory, on the lines of the Integrated Resources Management System (IRMS).

Imprest accounts

8. Welcomes the fact that the Centre has reduced its reliance on imprest accounts for payments from EUR 6,6 million in 1997 and EUR 5,9 million in 1998 to EUR 3,1 million in 1999 and, while recognising the environment in which the Centre operates, urges a further reduction in the use of imprest accounts.

Buildings policy

9. Congratulates the Centre on the official inauguration of its building on 22 November 1999, but is concerned that final approval is only foreseen for November 2000.

Recommendations to the Court of Auditors

10. Welcomes the short and precise reporting by the Court of Auditors and hopes that the Court will continue in this business-like fashion. Calls on the Court of Auditors to follow up systematically decisions of the discharge Authority and to produce a comprehensive analysis of the audits of all Agencies.

11. Calls on the Centre and the Court of Auditors to reduce the duration of the contradictory procedure to ensure that the annual report can be presented to Parliament before 15 July of the year following the financial year in question.

New strategy and action plan in the light of the five-year evaluation

12. Welcomes the launching of an external evaluation of the impact of the Centre's activities and asks that recommendations made in its last evaluation of 1995 be appraised, and calls for presentation to Parliament of the new strategy and action plan before 31 December 2000.

Discharge decision

13. Gives discharge to the Management Board of the European Centre for the Development for Vocational Training in respect of the implementation of its budget for the 1998 financial year.

14. Instructs its President to forward this decision to the Management Board of the European Centre for the Development for Vocational Training, the Council, the Commission and the Court of Auditors and to have it published in the *Official Journal of the European Communities* (L series).

The Secretary-General	*The President*
Julian PRIESTLEY	Nicole FONTAINE

EUROPEAN PARLIAMENT DECISION

of 13 April 2000

on granting discharge to the Commission in respect of the implementation of the budget of the European Coal and Steel Community (ECSC) for the 1998 financial year

(2000/468/EC)

THE EUROPEAN PARLIAMENT,

Having regard to the report of the European Court of Auditors on the financial statements of the European Coal and Steel Community at 31 December 1998 ([1]),

Having regard to the Court of Auditor's Annual Report on the ECSC for the financial year 1998 (including the statement of assurance concerning the ECSC), together with the Commission's reply (C5-0153/2000) ([2]),

Having regard to the special report of the Court of Auditors on the management and control of interest-rate subsidies by the Commission with the Commission's replies ([3]),

Having regard to the ECSC Treaty, and in particular Article 78g thereof,

Having regard to Rule 93 and Annex V to its Rules of Procedure,

Having regard to the report of the Committee on Budgetary Control (A5-0092/2000),

1. Proposes granting discharge to the Commission in respect of management of the ECSC for the 1998 financial year, but requires the following reports to be submitted before 15 August 2000:

   (a) a report by OLAF on the follow-up to allegations of fraud communicated in November 1998 to the Commission and transmitted to the Guardia di Finanza in Italy in October 1999;

   (b) an evaluation report by the Commission on buildings acquired with ECSC funds, including criteria used and explanations as to why and how buildings were acquired and disposed of;

   (c) an evaluation report by the Commission on loans granted to officials from ECSC funds, including criteria used and explanations as to who decided on the granting of loans and the category and nationality of officials who benefited from loans.

2. Instructs its President to forward this decision and the resolution containing its comments to the Commission, the Council, the Court of Auditors, the ECSC Consultative Committee and each of the other institutions and to have them published in the *Official Journal of the European Communities* (L series).

The Secretary-General
Julian PRIESTLEY

The President
Nicole FONTAINE

([1]) OJ C 240, 25.8.1999, p. 24.
([2]) OJ C 338, 25.11.1999.
([3]) OJ C 217, 29.7.1999.

RESOLUTION

of the European Parliament containing the comments accompanying the decision to grant discharge to the Commission in respect of the implementation of the budget of the European Coal and Steel Community (ECSC) for the 1998 financial year

THE EUROPEAN PARLIAMENT,

Having regard to the report of the European Court of Auditors on the financial statements of the European Coal and Steel Community at 31 December 1998 ([1]),

Having regard to the Court of Auditors' Annual Report on the ECSC for the financial year 1998 (including the statement of assurance concerning the ECSC), together with the Commission's reply (C5-0153/2000) ([2]),

Having regard to Special Report No 3/99 of the Court of Auditors on the management and control of interest-rate subsidies by the Commission with the Commission's replies ([3]),

Having regard to Article 78g and Article 97 of the ECSC Treaty,

Having regard to Rule 93 and Annex V of its Rules of Procedure,

Having regard to the report of the Committee on Budgetary Control (A5-0092/2000),

Whereas:

A. Article 2 of the ECSC Treaty lays down as objectives economic expansion, growth of employment and a rising standard of living.

B. In 1998, in a climate of very low market prices and a depressed freight market, coal restructuring in Germany and the effects of liberalisation of the electricity and gas markets in the United Kingdom, EU production of hard coal fell by 12 % from the previous year to 107 million tonnes.

C. In its Special Report No 3/99, in particular in paragraph 3.11, the Court of Auditors concluded that, with regard to measures to create jobs under Article 56 of the ECSC Treaty, subsidies had almost no real impact and were more a windfall for the beneficiaries.

D. In 1998, depressed demand from Asia due to the economic crisis, resulted in a slowdown in the demand for steel in the motor industry, mechanical and electrical engineering but gradual improvements in the construction industry, resulting in production of 160 million tonnes.

E. The balance sheet of the ECSC declined by EUR 903 million from the previous year to EUR 5,027 billion, with 56,4 % as loans and 39,1 % as liquid assets.

F. The balance sheet reported that in comparison with the previous year, Off balance sheet commitments received fell from EUR 590 million to EUR 372 million, commitments given fell from EUR 712 million to EUR 497 million, and Other assets fell from EUR 87 million to EUR 8 million, of which EUR 5,4 million constituted loans to officials, while other liabilities rose from EUR 12 million to EUR 29 million and provisions for liabilities and charges rose from EUR 87 million to EUR 122 million.

([1]) OJ C 240, 25.8.1999, p. 24.
([2]) OJ C C 338, 25.11.1999.
([3]) OJ C 217, 29.7.1999.

G. The profit and loss account posted a fall of EUR 264 million from the previous year to EUR 588 million, while on the charges side, net losses on financial operations rose from EUR 15 million to EUR 73 million, value adjustments (loans, advances, provisions) rose from EUR 9 million to EUR 62 million and allocations to provision for the operating budget fell from EUR 274 million to EUR 26 million, and the income side, interest received fell from EUR 420 million to EUR 345 million and income relating to the ECSC operating budget fell from EUR 301 million to EUR 146 million.

H. The budget out-turn indicated a fall from EUR 459 million in the previous year to EUR 184 million, with fines rising from 0 to EUR 6 million, and the net balance for the year falling from EUR 109 million to EUR 38 million.

I. From 1 January 1998 the Commission reduced the levy on coal and steel products to 0 %, deciding to divide up its resources between social and research aid.

J. In the run-up to the expiry of the ECSC Treaty on 23 July 2002, its solvency ratio increased from 28,3 % at the end of 1997 to 32,8 %, bringing it a step closer to the stated goal of 100 %, due to an increase in the Guarantee Fund and a substantial decrease in the volume of outstanding loans.

K. The European Council resolution on growth and employment adopted in Amsterdam on 16 and 17 June 1997 and the Council resolution of 21 June 1999 on the future of the ECSC call for the revenues of outstanding reserves to be used for a research fund for sectors related to the coal and steel industries.

L. Under current forecasts the Commission estimates that reserves for the ECSC to use for funding research will amount to EUR 1,1 billion in 2002.

M. The Directorates-General for Economic and Financial Affairs, Research, Energy and Transport, Employment and Budget jointly manage the operating budget of the ECSC resulting during the course of 1998 in total expenditure of EUR 185 million, with EUR 84 million allocated as aid for research, EUR 43 million for aid for redeployment, and EUR 27 million for social measures for coal.

N. It appears that the Commission has not yet fully enacted Parliament's recommendations laid down in its discharge resolution of 4 May 1999 for the financial year 1997 ([1]), when Parliament called for outstanding legal problems to be solved in the disposal of buildings acquired by the ECSC with excess funds, in Lisbon and Milan in 1986, Canberra in 1987 and Windhoek in 1992.

O. The last independent assessment and evaluation of direct financial returns on ECSC steel research programmes carried out between 1981 and 1990 was commissioned in June 1994.

P. The Annual Report on the ECSC for the 1998 financial year was adopted by the Court of Auditors on 22 and 23 September 1999.

Q. Since the adoption of the Merger Treaty, only a small part (equivalent to a flat rate) of the administrative expenditure arising from the research activities of the ECSC is financed from the budget in question, while the major part of the expenditure is paid out of the general budget. With a view to the expiry of the Treaty, an assessment of real staffing needs and a reorganisation of the Commission's services must be undertaken.

([1]) OJ C 279, 1.10.1999, p. 135.

R. The Court of Auditors concludes that the financial statements of the ECSC at 31 December 1998 give an accurate picture of the assets, of the financial situation and of the results of its operations for the financial year ending at the same date.

S. The Court of Auditors states that the legality and regularity of the transactions, on the whole, are adequately guaranteed and therefore proposes a positive statement of assurance.

Independent appraisal of the added-value of the ECSC

1. Is deeply concerned that the Court of Auditors has concluded, in its special report on the management and control of interest-rate subsidies by the Commission, that subsidies had almost no real impact on the creation of jobs under programmes launched under Article 56 of the ECSC Treaty.

2. Calls on the Commission before the expiry of the ECSC Treaty on 23 July 2002 to appraise the impact of the ECSC in meeting the objectives of economic expansion, growth of employment and a rising standard of living laid down in the Treaty.

3. Notes that the Commission, in accordance with the ECSC Treaty, has individualised the social aid measures and research support measures.

Prudent approach to winding down the ECSC

4. Calls on the Commission to assure Parliament that steps have been taken to raise the solvency ratio from the level of 32,8 % on 31 December 1998 to the level of 100 % before 23 July 2002.

5. Notes the strength of the balance sheet of the ECSC which stood at EUR 5,027 billion at the end of 1998, but is concerned by the management of loans and the effective use of liquid assets.

Handover plan for successor of ECSC

6. Observes that in 1997 the Amsterdam European Council on growth and employment called for the revenues of outstanding reserves to be used for research after the expiry of the ECSC Treaty, a decision confirmed in the resolution adopted by the Council on 21 June 1999. Stresses in consequence the need to establish effective systems to monitor the quality of projects and contracts in the area of coal and steel with a view to the activities of the future research fund.

7. Calls on the Commission to present an independent report evaluating the ECSC's research activities with a view to the continuation of these activities after the expiry of the ECSC Treaty, using the ECSC's accumulated reserves.

8. Calls for the Commission to publish criteria against which research projects in the coal and steel area are selected, monitored and appraised.

9. Calls for greater coordination between the various directorates-general jointly managing the operating budget of the ECSC and calls for a rationalisation of the various services which will be responsible for the management of funds on expiry of the Treaty.

10. Reminds the Commission of the resolutions it adopted on 28 October 1999 on the operational budget of the ECSC [1] and the budget at the European Union [2], in which it called on the Commission to carry out an assessment of real staffing needs in the light of the expiry of the ECSC Treaty, and, in consequence, a reorganisation of the directorates-general concerned, and to present Parliament with a report on the subject.

State of play of previous recommendations

11. Regrets the absence of a full reply from the Commission to the recommendations contained in its abovementioned resolution of 4 May 1999 on the discharge in respect of the 1997 financial year, and calls on the Commission to take appropriate and vigorous measures to follow these recommendations within the shortest possible time.

Winding up of the ECSC

12. Reminds the Commission that Parliament will continue to monitor the effective use of tax-payers' money in the operations of the ECSC

13. Instructs its President to forward this resolution to the Commission, the Council, the Court of Justice, the Court of Auditors and the Euruopean Investment Bank.

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[1] Texts adopted at that sitting, Item 3.
[2] Texts adopted at that sitting, Items 1 and 2.

EUROPEAN PARLIAMENT RESOLUTION

of 13 April 2000

on postponement of the decision concerning discharge to the Commission in respect of the financial management of the sixth, seventh and eighth European Development Funds for the 1998 financial year

(2000/469/EC)

THE EUROPEAN PARLIAMENT,

Having regard to the balance sheets and accounts of the sixth, seventh and eighth European Development Funds for the 1998 financial year (COM(1999) 227 — C5-0003/1999),

Having regard to the Convention signed in Lomé on 31 October 1979 (sixth EDF, Lomé II),

Having regard to the Convention signed in Lomé on 8 December 1984 (seventh EDF, Lomé III) ([1]),

Having regard to the Convention signed in Lomé on 15 December 1989 (eighth EDF, Lomé IV) ([2]),

Having regard to the Convention signed in Mauritius on 4 November 1995 (eighth EDF, Lomé IV a) ([3]),

Having regard to the report of the Court of Auditors for the 1998 financial year, and the replies of the institutions (C5-0266/1999) ([4]),

Having regard to the recommendation of the Council of 13 March 2000 (C5-0154/2000),

Having regard to Article 276 of the EC Treaty,

Having regard to Rule 93 and Annex V of its Rules of Procedure,

Having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Development and Cooperation (A5-0089/2000),

Whereas:

A. As at 31 December 1998, financial aid corresponding to the sixth, seventh and eighth European Development Funds amounted to EUR 1,469 billion.

1. Recommends postponing discharge to the Commission for the sixth, seventh and eighth European Development Fund for 1998. Requests the Commission to draw up by 15 May 2000 an action plan with dates where appropriate incorporating the following elements:

   — a confirmation by the Commission of the procedures by which it will inform Parliament, OLAF and the Court of Auditors of fraud and irregularities in development aid programmes,

   — a breakdown of the corrective measures to be requested from beneficiary governments when found to be responsible for fraud and irregularities, including measures to strengthen national and EU control systems,

([1]) OJ L 86, 31.3.1986, p. 1.
([2]) OJ L 229, 17.8.1991, p. 1.
([3]) OJ L 156, 29.5.1998, p. 1.
([4]) OJ C 349, 3.12.1999.

— a statement of the monies which, according to the measures agreed by the Commission, have been or remain to be reimbursed by national authorities following the results of audits,

— a commitment to a policy of zero tolerance of fraud and irregularity in the use of counterpart funds by beneficiary governments,

— a full list of the administrative and/or disciplinary enquiries relating to delegation staff which need to be carried out in the light of audits of structural adjustment programmes, and other development assistance,

— an outline of the measures which it will take to revise the policy framework for structural adjustment, in coordination with the donors, in order to ensure that the responsibilities given to beneficiary governments are matched with adequate independent controls of the counterpart funds at their disposal (to include strengthening of controls carried out both by national bodies and by the Commission),

— the full measures to be taken to strengthen the internal audit and evaluation functions which deal with external aid,

— a full response to the conclusions contained in the opinion of the Development Committee on the 1998 discharge,

— rapid implementation of a standard model contract for services and supplies and an appraisal of all technical assistance, as requested repeatedly by the Court of Auditors,

— a commitment to a benchmarking exercise with audit and evaluation systems of aid delivered by Member States and to propose a fail-safe system whereby key findings are systematically and immediately flagged to senior management.

2. Instructs its President to forward this resolution containing its observations to the Commission, the Council, the Court of Auditors, the European Investment Bank and each of the other institutions, and to have it published in the *Official Journal of the European Communities* (L series).

The Secretary-General
Julian PRIESTLEY

The President
Nicole FONTAINE

EUROPEAN PARLIAMENT DECISION

of 13 April 2000

closing the accounts in respect of the implementation of the budget of the European Coal and Steel Community (ECSC) for the 1998 financial year

(2000/470/EC)

THE EUROPEAN PARLIAMENT,

Having regard to the report of the European Court of Auditors on the financial statements of the European Coal and Steel Community at 31 December 1998 [1],

Having regard to the Court of Auditors' Annual Report on the ECSC for the financial year 1998 (including the statement of assurance concerning the ECSC), together with the Commission's reply (C5-0153/2000) [2],

Having regard to the ECSC Treaty, and in particular Article 78g thereof,

Having regard to Rule 93 and Annex V to its Rules of Procedure,

Having regard to the report of the Committee on Budgetary Control (A5-0092/2000),

1. Notes that the ECSC balance sheet, profit and loss accounts and implementation of the ECSC operating budget for the 1998 financial year amounted to:

[1] OJ C 240, 25.8.1999, p. 24.
[2] OJ C 338, 25.11.1999.

ECSC BALANCE SHEET AT 31 DECEMBER 1998

ASSETS

(EUR)

	31 December 1998	31 December 1997
Balance with central banks	27 373	555 027
Loans/advances to credit institutions	1 655 753 225	2 120 510 437
Loans/advances to customers	1 680 676 255	1 925 994 228
Bonds/other fixed income securities	1 559 191 292	1 623 506 318
Tangible and intangible assets	1 293 461	2 623 844
Other assets	8 083 389	87 399 574
Prepayments and accrued income	121 505 439	169 427 311
TOTAL ASSETS	**5 026 530 434**	**5 930 016 739**
Off balance sheet commitments	372 924 076	590 786 635

LIABILITIES

(EUR)

	31 December 1998	31 December 1997
Amounts owed to credit institutions	1 847 547 032	2 277 710 073
Debts evidenced by certificates	958 179 659	1 359 610 749
Other liabilities	29 591 303	12 788 060
Accruals and deferred income	93 919 208	121 190 289
Provisions for liabilities and charges	122 906 181	87 376 377
Commitments for ECSC operating budget	695 662 822	853 779 193
Total liabilities vis-à-vis third parties	**3 747 806 205**	**4 712 454 741**
Provisions for financing operating budget	476 042 442	441 712 926
Provisions for large exposures	23 000 000	27 000 000
Reserves	777 340 723	745 678 210
Value adjustment reserve	0	313 119
Surplus brought forward	1 195 230	537 606
Surplus for the financial year	1 145 834	2 320 137
Net total	**1 278 724 229**	**1 217 561 998**
TOTAL LIABILITIES	**5 026 530 434**	**5 930 016 739**
Off balance sheet commitments	497 605 519	712 444 915

PROFIT AND LOSS ACCOUNTS FOR YEAR ENDING 31 DECEMBER 1998

CHARGES

(EUR)

	31 December 1998	31 December 1997
Interest payable and similar charges	232 061 730	331 419 509
Commissions payable	561 449	844 743
Net losses on financial operations	73 457 022	15 931 380
Administrative expenditure	5 000 000	5 000 000
Value adjustments (tangible assets)	407 994	573 251
Other operating charges	267 708	382 650
Value adjustments (loans/advances/provisions)	62 437 283	9 190 689
Total operating charges	**374 193 186**	**363 342 222**
Extraordinary charges	137 845	580 380
Conversion difference	2 735 343	746 892
Legal commitments for the financial year	153 992 955	180 869 553
Allocation to provision for operating budget	26 000 000	274 000 000
Allocation to the guarantee fund	30 000 000	31 256 356
Total charges	**587 059 329**	**850 795 403**
Surplus for the financial year	1 145 834	2 320 137
TOTAL	**588 205 163**	**853 115 540**

INCOME

(EUR)

	31 December 1998	31 December 1997
Interest received and similar income	346 079 959	420 240 962
Net profit on financial operations	24 526 800	13 235 896
Value adjustment (loans/advances/provisions)	67 963 378	46 198 844
Other operating income	2 729 291	22 507 685
Total operating income	**441 321 690**	**502 183 387**
Withdrawal from the value adjustment reserve	313 119	746 892
Income relating to operating budget	146 570 354	301 054 072
Transfer from provision for operating budget	0	49 131 189
TOTAL INCOME	**588 205 163**	**853 115 540**

IMPLEMENTATION OF THE ECSC OPERATING BUDGET

OUT-TURN

(EUR)

	31 December 1998	31 December 1997
Expenditure		
Administrative expenditure	5 000 000	5 000 000
Legal commitments	153 992 955	180 869 553
Financing of future operational budgets	26 000 000	274 000 000
Total	**184 992 955**	**459 869 553**
Revenue		
Levy	0	101 640 567
Fines	6 686 169	0
Interest subsidies	4 808 477	4 168 145
Miscellaneous	831 970	0
Cancellations of legal commitment	134 243 738	195 235 395
Surplus from previous budget	0	49 131 189
Net balance for the year	38 422 601	109 694 257
Total	**184 992 955**	**459 869 553**
BUDGET OUT-TURN	**0**	**0**

RESULT FOR FINANCIAL YEAR

(EUR)

	31 December 1998	31 December 1997
Result from non-budgetary operations after deducting the net balance allocated to the operating budget	31 145 834	33 576 493
Out-turn of the budget	0	0
Total	**31 145 834**	**33 576 493**
Allocation to provision for operating budget	0	0
Allocation to the Guarantee Fund	−30 000 000	−31 256 356
RESULT BEFORE ALLOCATION	**1 145 834**	**2 320 137**

2. Closes the accounts relating to the implementation of the general budget of the ECSC for the 1998 financial year.

3. Instructs its President to forward this decision and the resolution containing its comments to the Commission, the Council, the Court of Justice, the Court of Auditors and the European Investment Bank and to have them published in the *Official Journal of the European Communities* (L series).

The Secretary-General — Julian PRIESTLEY

The President — Nicole FONTAINE

RESOLUTION

of the European Parliament containing the comments accompanying the decision to grant discharge to the Commission in respect of the implementation of the budget of the European Coal and Steel Community (ECSC) for the 1998 financial year

THE EUROPEAN PARLIAMENT,

Having regard to the report of the European Court of Auditors on the financial statements of the European Coal and Steel Community at 31 December 1998 ([1]),

Having regard to the Court of Auditors' Annual Report on the ECSC for the financial year 1998 (including the statement of assurance concerning the ECSC), together with the Commission's reply (C5–0153/2000) ([2]),

Having regard to Special Report No 3/99 of the Court of Auditors on the management and control of interest-rate subsidies by the Commission with the Commission's replies ([3]),

Having regard to Article 78g and Article 97 of the ECSC Treaty,

Having regard to Rule 93 and Annex V of its Rules of Procedure

Having regard to the report of the Committee on Budgetary Control (A5–0092/2000),

Whereas:

A. Article 2 of the ECSC Treaty lays down as objectives economic expansion, growth of employment and a rising standard of living.

B. In 1998, in a climate of very low market prices and a depressed freight market, coal restructuring in Germany and the effects of liberalisation of the electricity and gas markets in the United Kingdom, EU production of hard coal fell by 12 % from the previous year to 107 million tonnes.

C. In its Special Report No 3/99, in particular in paragraph 3.11, the Court of Auditors concluded that, with regard to measures to create jobs under Article 56 of the ECSC Treaty, subsidies had almost no real impact and were more a windfall for the beneficiaries.

D. In 1998, depressed demand from Asia owing to the economic crisis, resulted in a slowdown in the demand for steel in the motor industry, mechanical and electrical engineering but gradual improvements in the construction industry, resulting in production of 160 million tonnes.

E. The balance sheet of the ECSC declined by EUR 903 million from the previous year to EUR 5,027 billion, with 56,4 % as loans and 39,1 % as liquid assets.

F. The balance sheet reported that in comparison with the previous year, off balance sheet commitments received fell fdrom EUR 590 million to EUR 372 million, commitments given fell from EUR 712 million to EUR 497 million, and other assets fell from EUR 87 million to EUR 8 million, of which EUR 5,4 million constituted loans to officials, while other liabilities rose from EUR 12 million to EUR 29 million and provisions for liabilities and charges rose from EUR 87 million to EUR 122 million.

([1]) OJ C 240, 25.8.1999, p. 24.
([2]) OJ C 338, 25.11.1999.
([3]) OJ C 217, 29.7.1999.

G. The profit and loss account posted a fall of EUR 264 million from the previous year to EUR 588 million, while on the charges side, net losses on financial operations rose from EUR 15 million to EUR 73 million, value adjustments (loans, advances, provisions) rose from EUR 9 million to EUR 62 million and allocations to provision for the operating budget fell from EUR 274 million to EUR 26 million, and on the income side, interest received fell from EUR 420 million to EUR 345 million and income relating to the ECSC operating budget fell from EUR 301 million to EUR 146 million.

H. The Budget out-turn indicated a fall from EUR 459 million in the previous year to EUR 184 million, with fines rising from 0 to EUR 6 million, and the net balance for the year falling from EUR 109 million to EUR 38 million.

I. From 1 January 1998 the Commission reduced the levy on coal and steel products to 0 %, deciding to divide up its resources beetween social and research aid.

J. In the run-up to the expiry of the ECSC Treaty on 23 July 2002, its solvency ratio increased from 28,3 % at the end of 1997 to 32,8 %, bringing it a step closer to the stated goal of 100 %, owing to an increase in the Guarantee Fund and a substantial decrease in the volume of outstanding loans.

K. The European Council resolution on growth and employment adopted in Amsterdam on 16 and 17 June 1997 and the Council resolution of 21 June 1999 on the future of the ECSC call for the revenues of outstanding reserves to be used for a research fund for sectors related to the coal and steel industries.

L. Under current forecasts the Commission estimates that reserves for the ECSC to use for funding research will amount to EUR 1,1 billion in 2002.

M. The Directorates-General for Economic and Financial Affairs, Research, Energy and Transport, Employment and Budget jointly manage the operating budget of the ECSC resulting during the course of 1998 in total expenditure of EUR 185 million, with EUR 84 million allocated as aid for research, EUR 43 million for aid for redeployment, and EUR 27 million for social measures for coal.

N. It appears that the Commission has not yet fully enacted Parliament's recommendations laid down in its discharge resolution of 4 May 1999 for the financial year 1997 ([1]), when Parliament called for outstanding legal problems to be solved in the disposal of buildings acquired by the ECSC with excess funds, in Lisbon and Milan in 1986, Canberra in 1987 and Windhoek in 1992.

O. The last independent assessment and evaluation of direct financial returns on ECSC steel research programmes carried out between 1981 and 1990 was commissioned in June 1994.

P. The Annual Report on the ECSC for the financial year 1998 was adopted by the Court of Auditors on 22 and 23 September 1999.

Q. Since the adoption of the Merger Treaty, only a small part (equivalent to a flat rate) of the administrative expenditure arising from the research activities of the ECSC is financed from the budget in question, while the major part of the expenditure is paid out of the general budget and wehreas, with a view to the expiry of the Treaty, an assessment of real staffing needs and a reorganisation of the Commission's services must be undertaken.

([1]) OJ C 279, 1.10.1999, p. 135.

R. The Court of Auditors concludes that the financial statements of the ECSC at 31 December 1998 give an accurate picture of the assets, of the financial situation and of the results of its operations for the financial year ending at the same date.

S. The Court of Auditors states that the legality and regularity of the transactions, on the whole, are adequately guaranteed and therefore proposes a positive statement of assurance,

Independent appraisal of the added-value of the ECSC

1. Is deeply concerned that the Court of Auditors has concluded, in its special report on the management and control of interest-rate subsidies by the Commission, that subsidies had almost no real impact on the creation of jobs under programmes launched under Article 56 of the ECSC Treaty.

2. Calls on the Commission before the expiry of the ECSC Treaty on 23 July 2002 to appraise the impact of the ECSC in meeting the objectives of economic expansion, growth of employment and a rising standard of living laid down in the Treaty.

3. Notes that the Commission, in accordance with the ECSC Treaty, has individualised the social aid measures and research support measures.

Prudent approach to winding down the ECSC

4. Calls on the Commission to assure Parliament that steps have been taken to raise the solvency ratio from the level of 32,8 % on 31 December 1998 to the level of 100 % before 23 July 2002.

5. Notes the strength of the balance sheet of the ECSC which stood at EUR 5,027 billion at the end of 1998, but is concerned by the management of loans and the effective use of liquid assets.

Handover plan for successor of ECSC

6. Observes that in 1997 the Amsterdam European Council on growth and employment called for the revenues of outstanding reserves to be used for research after the expiry of the ECSC Treaty, a decision confirmed in the resolution adopted by the Council on 21 June 1999. Stresses in consequence the need to establish effective systems to monitor the quality of projects and contracts in the area of coal and steel with a view of the activities of the future research fund.

7. Calls on the Commission to present an independent report evaluating the ECSC's research activities with a view to the continuation of these activities after the expiry of the ECSC Treaty, using the ECSC's accumulated reserves.

8. Calls for the Commission to publish criteria against which research projects in the coal and steel area are selected, monitored and appraised.

9. Calls for greater coordination between the various directorates-general jointly managing the operating budget of the ECSC and calls for a rationalisation of the various services which will be responsible for the management of funds on expiry of the Treaty.

10. Reminds the Commission of the resolutions it adopted on 28 October 1999 on the operational budget of the ECSC [1] and the budget of the European Union [2], in which it called on the Commission to carry out an assessment of real staffing needs in the light of the expiry of the ECSC Treaty, and, in consequence, a reorganisation of the directorates-general concerned, and to present Parliament with a report on the subject.

State of play of previous recommendations

11. Regrets the absence of a full reply from the Commission to the recommendations contained in its abovementioned resolution of 4 May 1999 on the discharge in respect of the 1997 financial year, and calls on the Commission to take appropriate and vigorous measures to follow these recommendations within the shortest possible time.

Winding up of the ECSC

12. Reminds the Commission that Parliament will continue to monitor the effective use of tax-payers' money in the operations of the ECSC.

13. Instructs its President to forward this resolution to the Commission, the Council, the Court of Justice, the Court of Auditors and the European Investment Bank.

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[1] Texts adopted at that sitting, Item 3.
[2] Texts adopted at that sitting, Items 1 and 2.

DECISION OF THE EUROPEAN PARLIAMENT

of 13 April 2000

granting discharge to the Commission in respect of the decisions on clearance of accounts of the Guarantee Section of the EAGGF for the 1993, 1994 and 1995 financial years

(2000/471/EC)

THE EUROPEAN PARLIAMENT,

Having regard to the revenue and expenditure accounts and the financial statement for the 1993, 1994 and 1995 financial years (C4-0128/1998 — C4-0372/1998 — C5-0167/2000),

Having regard to the summary reports on the results of inspections concerning the clearance of the EAGGF Guarantee Section accounts for 1993, 1994 and 1995,

Having regard to the Annual Report of the Court of Auditors concerning the 1997 financial year [1] and the Annual Report concerning 1998 [2],

Having regard to the special reports of the Court of Auditors for the 1993 financial year [3] and on the management of Community cereals trade involving export refunds, special import arrangements and regional aid schemes [4],

Having regard to the EC Treaty and, in particular, to Article 276 thereof,

Having regard to Rule 93 of and to Annex V to the Rules of Procedure,

Having regard to the report of the Committee on Budgetary Control (A5-0095/2000),

1. Notes that the financial correction for expenditure of EUR 32 397 million in financial year 1993, decided on 23 April 1997 and 30 July 1997, amounted to EUR 744 million.

2. Notes that the financial correction for expenditure of EUR 33 593 million in financial year 1994, decided on 6 May 1998 [5] amounted to EUR 308 million.

3. Notes that the financial correction for expenditure of EUR 34 503 million in financial year 1995, taken on 3 February 1999 and 28 July 1999 and 1 March 2000, amounted to EUR 595 million.

4. Grants discharge to the Commission, subject to the receipt of further information concerning the Fléchard case, the export refund scheme and the operation of the common organisation of markets, in respect of the clearance of accounts for the 1993, 1994 and 1995 financial years.

5. Records its comments in the resolution which forms part of this Decision.

6. Instructs its President to forward this Decision and the resolution containing its comments to the Commission, the Council, the Court of Justice, the Court of Auditors and the European Investment Bank and to have them published in the *Official Journal of the European Communities* (L series).

The Secretary-General — Julian PRIESTLEY

The President — Nicole FONTAINE

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[1] OJ C 349, 17.11.1998.
[2] OJ C 349, 3.12.1999.
[3] OJ C 52, 21.2.1997 and OJ C 121, 20.4.1998.
[4] OJ C 159, 26.5.1997.
[5] See Commission Decision 98/358/EC (OJ L 163, 6.6.1998, p. 28).

RESOLUTION

of the European Parliament containing the comments accompanying the decision granting discharge to the Commission in respect of the decisions on clearance of accounts of the Guarantee Section of the EAGGF for the 1993, 1994 and 1995 financial years

THE EUROPEAN PARLIAMENT,

Having regard to the revenue and expenditure accounts and the financial statement for the 1993, 1994 and 1995 financial years (C4-0128/1998 — C4-0372/1998 — C5-0167/2000),

Having regard to the summary reports on the results of inspections concerning the clearance of the EAGGF Guarantee Section accounts for 1993, 1994 and 1995,

Having regard to the Annual Report of the Court of Auditors concerning the 1997 financial year [1], and the Annual Report concerning 1998 [2],

Having regard to the special reports of the Court of Auditors for the 1993 financial year [3] and on the management of Community cereals trade involving export refunds, special import arrangements and regional aid schemes [4],

Haaving regard to the EC Treaty and, in particular, to Article 276 thereof,

Having regard to Rule 93 of and to Annex V to the Rules of Procedure,

Having regard to the report of the Committee on Budgetary Control (A5-0095/2000),

Whereas:

A. The clearance of accounts must ensure that the Community is not charged for any amounts paid without a legal basis.

B. The European Court of Justice has repeatedly ruled that the Commission may refuse to implement expenditure for the EAGGF account if the scale of amounts wrongly paid cannot be determined and that the burden of proof for the level of losses actually incurred rests with Member States.

C. Respect for Community legislation must be ensured and must on no account be encouraged or bought with financial concessions charged to the Community budget.

D. The Court of Auditors has not been able to give a positive DAS for the 1998 financial year and has noted that the rate of substantive and formal errors in the EAGGF sector was again too high, although lower than the rate for the overall budget, with half of the substantive errors concerning final beneficiaries.

E. Irregularities can best be prevented by adjusting the underlying legislation.

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[1] OJ C 349, 17.11.1998.
[2] OJ C 349, 3.12.1999.
[3] OJ C 52, 21.2.1997 and OJ C 121, 20.4.1998.
[4] OJ C 159 26.5.1997.

F. The Commission has failed to ensure that Member States set up suitably robust control systems, including those for cotton, tobacco and olive oil and for controls at customs posts for export refunds.

G. Export refunds have constituted an area of control left neglected for some time, although it has proved particularly prone to significant irregularities.

H. It has been noted that the Commission has taken steps with a view to following up the recommendations made by the Court of Auditors and by Parliament in its resolution of 20 February 1998 ([1]) regarding the management of the Community cereals trade involving export refunds.

I. Again, in 1993, 1994 and 1995, the findings on Corsica were among the most serious ever encountered, illustrating an almost total breakdown of control at every level, with subsequent commonplace abuses leading to the application of a 25 % financial correction.

J. For the fourth year in succession, the Commission failed to carry out its threat to apply a correction above 10 % for olive oil in Greece, thereby showing an inability or unwillingness to act on repeated irregularities or illustrating that repeated irregularities cannot be addressed satisfactorily under the present rules.

K. The integrated administration and control system is operational in most Member States but is still not fully operational in some Member States.

L. The Commission has taken steps to follow up the recommendations made by the Court of Auditors in its Special Report No 2/98 on the clearance of accounts for 1993 ([2]) to draw up overall work plans and to include particular Member States in periodic on-the-spot controls or smaller measures.

M. Expenditure on rural development measures will increase in coming years.

N. The level of staffing in the clearance of accounts unit remains a cause for concern.

O. On occasion, Member States have prolonged and distorted the clearance procedure by not handing over information to the Commission from the outset.

P. Member States have not always taken sufficient steps to attract and retain suitably qualified and experienced staff for exercising the important functions of payment and control, including the strengthening of customs controls for export refunds, and whereas the use and the effectiveness of the 10 to 25 % retained for collecting own resources by Member States is unclear.

Q. The added-value and effectiveness of the Conciliation Body has yet to be confirmed, as a significant number of its cases are passed to the European Court of Justice.

R. The recovery of funds by Member States and of debts by the Anti-fraud Office (OLAF) and the Commission ([3]) should be improved in terms of coverage, timeliness, transparency and procedural rigour, thereby ensuring equality of treatment and hence competition.

([1]) OJ C 80, 16.3.1998, p. 299.
([2]) OJ C 121, 20.4.1998.
([3]) See Council Regulation (EEC) No 595/91 (OJ L 67, 14.3.1991, p. 11).

S. The information supplied to Parliament on the action taken on cases referred to OLAF is inadequate.

T. Judgement is reserved until the Court of Auditors reports on what is known as the Fléchard case and the Anti-fraud Office reports on the action taken by the Spanish prosecutor on alleged mismanagement or fraud in the aid regime for flax [1].

General

1. Is concerned at the consistently high levels of financial corrections — EUR 755 million for 1993, EUR 308 million for 1994 and EUR 595 million in 1995 — and sees in these annual figures confirmation that major problems within national payment and control systems have not been addressed with sufficient urgency, rigour and determination by Member States.

2. Welcomes efforts made by the Commission to propose fraud-proof legislation and, while urging the Commission to continue along this path, calls on Council together with Parliament to assume proper responsibility for preventing irregularities through fraud-proof legislation.

Declaration of assurance per sector

3. Calls on the Court of Auditors to work with the Commission, Member State certifying bodies and paying agencies to explore the feasibility of drawing up a separate DAS for the EAGGF and its respective sectors, and to report back to Parliament as soon as possible.

Integrated administration and control system (IACS)

4. Calls for the integrated administration and control system to be fully operational in all Member States before April 2002, after which date the Commission should revert to maximum financial corrections if controls are breached.

Extension of clearance of accounts to the Guidance Section of the EAGGF

5. Calls for the clearance of accounts system to be extended to include the Guidance Section of the EAGGF, as the clearance of accounts could prove a useful instrument for monitoring and preventing irregularities in other areas of expenditure such as the Structural Funds.

Responsibility of the Commission in implementing the budget

6. Welcomes the introduction of a central work plan based on risk analysis and, noting that export refunds are included in each work programme, calls on the Commission and Court of Auditors to put increased emphasis on the control of rural development measures.

7. Calls on the Commission to take all the necessary steps to comply fully, with no further delays, with its obligations under Article 274, namely by creating a common database on all final beneficiaries as the Court of Auditors has repeatedly demanded.

8. Calls on the Commission to investigate the legal possibility of penalties being applied, should infringements be recurrent or structural, as, under current legislation, only the Court of Justice has the power to sanction a Member State, and to report to Parliament as soon as possible.

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[1] See Council Regulation (EEC) No 1308/70 (OJ L 146, 4.7.1970, p. 1), and Council Regulation (EEC) No 619/71 (OJ L 72, 26.3.1971, p. 2), amended by Regulation (EC) No 154/97 (OJ L 27, 30.1.1997, p. 1).

9. Reminds the Commission that under the new guidelines improvements made subsequent to the period in question cannot be used as an argument for decreasing the correction.

10. Welcomes the creation of an additional 15 posts in the clearance of accounts unit, but is dismayed that nine administrator posts remain vacant and calls on the Commission to address the underlying causes of a relatively high turnover. Calls on the Commission to attract, motivate and retain suitably qualified and experienced staff in the clearance of accounts unit and to alert Parliament if the level of staffing proves to be inadequate.

11. Calls on the Commission to report on the action it takes on the recommendations made by the Court of Auditors.

Responsibility of Member States

12. Calls on the Member States to place suitable importance on attracting and retaining staff for agencies involved in administering payments and exercising controls.

13. Calls on the Member States to supply the Commission with all necessary information from the outset in order to prevent the clearance procedure from being prolonged and distorted.

14. Calls on the Member States to improve coordination between administrations operating within a country, to strengthen the prevention, detection and prosecution of fraud or irregularities and to cooperate fully and unconditionally with OLAF.

15. Calls on the Commission to inform Parliament of the use and possible role of the 10 to 25 % retained nationally for collecting own resources with a view to strengthening customs and export refund controls.

Conciliation Body

16. Welcomes the Commission's evaluation of the Conciliation Body, looks forward to receiving a comprehensive appraisal from the Court of Auditors and will address this as part of the discharge procedure for the clearance of accounts for the 1996 financial year.

Recovery of funds and action taken by the Anti-fraud Office

17. Is alarmed that statistics relating to amounts to be recovered following cases of fraud and other irregularities show that, out of a total of EUR 7 559 million in irregularities notified by Member States between 1972 and 1998, EUR 1 747 million has yet to be recovered, with paying agencies in Italy, Germany and Spain accounting for 84 % of this total.

18. Urges the Commission and OLAF to take a clearance of accounts decision to charge either the Member State concerned if it has not met all its obligations or the EAGGF if recovery proves impossible. Concerned that information on cases referred to OLAF is not properly notified to Parliament, calls on OLAF and the Commission to provide Parliament with regular information on the progress of cases under investigation, to inform Parliament when the EUR 1 747 million has been recovered and to come forward with proposals to improve recovery.

19. Calls on the Commission's legal services to consider the possibility of forcing Member States to pay penalties if delays in the recovery of debts are excessive.

Exclusion of Flax and Fléchard cases

20. Expects the Court of Auditors to submit as soon as possible its findings concerning the allegations made in December 1998 that Commission officials and members of Commissioners' private offices had arbitrarily reduced the penalty from EUR 17,6 million to EUR 3 million in what is known as the Fléchard case.

21. Looks forward to receiving a full report from the Anti-fraud Office, following the latter's request of 7 June 1999 to the Spanish judicial authorities for an inquiry into the possible abuse of the flax aid regime, in the light of a 500-fold increase in production between 1993 and 1998.

22. Asks the Commission to present full reports on the export refund system and the flax and hemp mechanism explaining why the abovementioned failures took place as well as on the measures already taken and planned to ensure that they will not be repeated.

23. Instructs its President to forward this resolution to the Commission, the Council, the Court of Justice, the Court of Auditors and the European Investment Bank.

COMMISSION

COMMISSION DECISION

of 29 March 2000

on the aid scheme implemented by Belgium under Article 29*ter* of the Economic Expansion Act of 30 December 1970, as amended by the Decree of 25 June 1992

(notified under document number C(2000)1007)

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

(2000/472/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 regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty [1], and in particular Article 14 thereof,

Having called on interested parties to submit their comments pursuant to Article 88(2) of the EC Treaty and Article 62(1) of the EEA Agreement,

Whereas:

I. PROCEDURE

(1) On 11 March 1991, pursuant to Article 88(3) of the EC Treaty, Belgium notified a draft decree amending the Belgian Economic Expansion Act of 30 December 1970 (N 144/91) [2]. Articles 17 to 19 of the draft decree introduced new aid instruments to support Walloon firms participating in European industrial programmes for which specific international agreements had been concluded.

(2) By letter dated 9 July 1991 [3], the Commission approved Articles 1 to 16 of the Walloon decree of 25 June 1992, explicitly excluding Articles 17 to 19 from its decision. The Commission indicated that the Articles in question were too imprecise and that the situations which they covered were too diverse for it to take a position. It had therefore taken the view that the notification was incomplete and had reserved the right to examine whether the Articles were compatible with the Treaty in the light of implementation arrangements, which were to be notified to it on a case-by-case basis, as Belgium had undertaken to do.

(3) In August 1992 the Belgian authorities transmitted to the Commission for information purposes the final text, as approved by the Walloon Regional Council on 25 June 1992, of the decree amending the Economic Expansion Act of 30 December 1970 [4]. A reading of the final text showed that certain provisions had been changed compared with the version of the draft decree on which the Commission had taken a position in its letter of 9 July 1991 [5]. Some of the changes were of a purely linguistic nature and involved no changes of substance, while others affected the substance of the text.

(4) In the final text of the decree, Articles 17 to 19 of the draft decree were merged into a single Article 19. Article 19 of the decree provided for the insertion of a new Article 29*ter* in the Economic Expansion Act of 30 December 1970. Article 29*ter* of the Economic Expansion Act of 30 December 1970, as amended by the decree of 25 June 1992 (referred to hereinafter as 'Article 29*ter*'), made provision for aid instruments to support Walloon firms participating in European industrial programmes for which specific international agreements had been concluded, as referred to in recital (1).

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[1] OJ L 83, 27.3.1999, p. 1.

[2] Letter P11/91/533/26.864 dated 11 March 1991, registered by the Commission on 14 March 1991 as aid N 144/91.

[3] Letter SG(91) D/12925.

[4] Letter P11/91/533/35.050 dated 7 August 1992.

[5] See footnote 3.

(5) Following the discovery of these amendments to the version of the scheme on which the Commission had taken a position, the case was classified as unnotified aid (NN 113/92).

(6) The Belgian authorities subsequently notified the Commission by letter dated 22 December 1992 ([6]) of certain provisions of the final version of the decree of 25 June 1992 which, according to them, had been amended as to the substance. Article 19 was not included. They also asked the Commission to confirm that provisions which had not been amended as to the substance and which the Commission had accepted in its Decision of 9 July 1991 could still be implemented.

(7) By letter dated 28 January 1993 ([7]), the Commission replied that it accepted the implementation only of those provisions of the decree of 25 June 1992 which had been included in the approval decision of 9 July 1991 ([8]) and whose wording had not been altered since then.

(8) By letter dated 17 January 1994 ([9]), the Commission informed the Belgian authorities that it had decided not to raise any objections to the unnotified amendments to the decree of 25 June 1992 (NN 113/92). At the same time, it stressed that its decision not to raise objections did not concern Article 19 of the decree by which the new Article 29*ter* was inserted into the Economic Expansion Act.

(9) On 12 January 1993, reacting to information published in the press, the Commission sent the Belgian authorities a request for further information on aid granted by the Walloon region to provide partial cover against exchange risks.

(10) The Walloon regional authorities replied by fax dated 15 March 1993, stating that the Walloon Executive had decided to allocate an amount of BEF 315 million as partial cover for exchange-rate differentials relating to the implementation of various programmes. The Belgian authorities stated that the decision had been taken on 4 June 1992 in anticipation of the decree of 25 June 1992 amending the Economic Expansion Act of 30 December 1970. They also pointed out that the fax should be regarded as being equivalent to notification within the meaning of Article 88(3) and the operational procedures laid down pursuant to Article 29*ter* , and that this was the first case in which that Article had been applied.

(11) By letter dated 29 March 1993, the Commission asked whether aid had already been paid under Article 29*ter* .

([6]) Letter P11/91/533/37.107.
([7]) Letter DG IV.E.3-D/06258.
([8]) See footnote 3.
([9]) Letter SG(94) D/607.

(12) By letter dated 30 April 1993, the Belgian authorities stated that aid had been paid at the end of March 1993. They also confirmed that this was the first time that Article 29*ter* had been applied.

(13) By letter dated 2 December 1993 ([10]), the Commission informed the Belgian authorities that it had decided to initiate the procedure laid down in Article 88(2) in respect of the 'Article 29*ter*' aid scheme.

(14) The decision to initiate the procedure was published in the *Official Journal of the European Communities* ([11]). The Commission invited interested parties to submit their comments on the aid scheme.

(15) The Commission received no comments from interested parties.

(16) The Commission received the Belgian authorities' official reply by letter dated 10 February 1994 ([12]). In this letter the Belgian authorities undertook to notify the Commission, pursuant to Article 88(3) of the EC Treaty, of any plan to grant aid under Article 29*ter*. The Belgian authorities confirmed this undertaking by letter dated 6 April 1994 ([13]).

(17) By letter dated 26 May 1994 ([14]), the Commission requested the abrogation of Article 29*ter*. By letter dated 16 June 1994 ([15]), the Belgian authorities argued that the complexity of parliamentary procedures meant that abrogating Article 29*ter* was not a practicable proposition. By letter dated 30 January 1996, the Belgian authorities informed the Commission of their decision to initiate the parliamentary procedure to abrogate Article 29*ter* . By letter dated 29 February 1996 ([16]), the Commission took note of the Belgian authorities' decision to abrogate Article 29*ter*.

(18) By letters dated 10 May 1996 ([17]), 10 July 1996 ([18]), 2 July 1997 ([19]) and 26 November 1997 ([20]), the Belgian authorities informed the Commission of progress in the parliamentary procedure to abrogate Article 29*ter*. By letter dated 13 February 1998 ([21]), the Belgian authorities informed the Commission that the Walloon

([10]) Letter SG(93) D/19520.
([11]) OJ C 170, 23.6.1994, p. 5.
([12]) Letter P11/91/533/43.927.
([13]) Letter P11/91/533/44.740.
([14]) Letter D/4596.
([15]) Letter P11/91/533/45.789.
([16]) Letter DG IV.E.3.-D/13056.
([17]) Letter P12/533/54.981.
([18]) Letter P12/533/55.773.
([19]) Letter P12/533/61.758
([20]) Letter P12/533/64.012
([21]) Letter P12/533/65.339

Regional Council had abrogated Article 29*ter* of the Economic Expansion Act of 30 December 1970, as amended by the decree of 25 June 1992, and that this decision had been published in the *Belgian Official Gazette* on 4 February 1998.

(19) By letter dated 10 June 1998 ([22]), the Commission asked the Belgian authorities to provide a list of companies that had been granted aid under Article 29*ter*. The Belgian authorities provided this information by letters dated 20 August 1998 and 9 November 1998 ([23]).

II. **DETAILED DESCRIPTION OF THE AID**

(20) Article 29*ter* provides for aid for Walloon firms participating in Community industrial programmes for which specific international agreements had been concluded. Aid may take the form of:

(a) a guarantee covering exchange-rate risks based on a central rate established by the Walloon Executive in accordance with procedures determined by it;

(b) a guarantee in respect of divergent trends in economic indicators, in accordance with procedures determined by the Executive;

(c) financing in the form of recoverable advances or cover for financing costs in respect of no more than 50 % of funds mobilised for the performance of a contract, in accordance with procedures determined by the Executive.

(21) In its decision to initiate the Article 88(2) procedure ([24]), the Commission expressed doubts regarding both the lawfulness and compatibility of the aid measure.

(22) *Regarding the unlawful nature of the aid:*

The Commission took the view that the decision of 4 June 1992 by the Walloon Executive to grant aid under Article 29*ter* was improper because it had not been notified. The Commission regards aid as having been granted as from the point in time when a decision is taken to that effect by the competent authorities, as opposed to the time of actual disbursement ([25]). The fax of 15 March 1993, in which the Belgian authorities stated that the information provided must be regarded as constituting notification pursuant to Article 88(3) of the EC Treaty, was sent some time after the date on which the Walloon authorities decided to grant aid under Article 29*ter* (namely 4 June 1992).

(23) *Regarding the incompatibility of the aid with the common market:*

Article 29*ter* (exchange-rate guarantee, guarantee in respect of divergent trends in economic indicators, financing of or cover for funds mobilised for the performance of the contract) enabled the Belgian authorities to grant operating aid in Wallonia, a region which was only partially eligible under Article 87(3)(c) of the EC Treaty.

Under Community rules applying to national regional aid both at the time and now ([26]), operating aid is allowed only in regions eligible under Article 87(3)(a) of the EC Treaty and only by way of a derogation and subject to certain conditions.

III. **COMMENTS FROM BELGIUM**

(24) By letter dated 10 February 1994 ([27]), the Belgian authorities disputed the unlawful nature of the aid granted under Article 29*ter* on the basis of the following arguments:

(a) by letter dated 9 July 1991 ([28]), the Commission had approved the draft decree amending the Economic Expansion Act of 30 December 1970, stating that it could not take a position on Articles 17 to 19 and that it would examine the compatibility of those articles on a case-by-case basis;

(b) the final version of the decree adopted by the Walloon Regional Council on 25 June 1992 differed from the version of the decree on which the Commission had taken a position, but the changes were very minor. As regards Articles 17 to 19, there had been no changes of substance. The main change was a merger of the three Articles into one single Article 19. Other changes were of a purely linguistic nature. In its letter of 29 January 1993 ([29]), the Commission agreed that the measures which it had approved by letter dated 9 July 1991 could be implemented. In that letter, it also identified the Articles of the final version of the decree which it considered to have been substantially amended and which required a new authorisation procedure. Article 19 was not one of the Articles identified in this manner;

([22]) Letter D/52407.
([23]) Letter P11/533/68.255 and P11/533/69.298
([24]) Letter SG(93) D/19520.
([25]) Letter from the Commission to the Member States dated 27 April 1989 (Ref: SG(89) D/5521).
([26]) Commission communication on the method for the application of Article 92(3)(a) and (c) to regional aid (OJ C 212, 12.8.1988, p. 2), and guidelines on national regional aid (OJ C 74, 10.3.1998, p. 9).
([27]) See footnote 12.
([28]) See footnote 3.
([29]) Letter DG IV.E.3-D/06258.

(c) in view of the fact that no specific mention was made of the need to re-examine Article 19 of the final version of the decree, the Walloon authorities considered that the Commissions' agreement to the implementation of the measures approved on 9 July 1991 also covered that Article.

(25) The Belgian authorities did not comment on the doubts expressed by the Commission as to the compatibility of the scheme with the common market.

(26) By letter dated 13 February 1998 ([30]), the Belgian authorities informed the Commission that the Walloon Regional Council had abrogated Article 29*ter* of the Economic Expansion Act, as amended by the decree of 25 June 1992.

IV. ASSESSMENT OF THE AID

Regarding the existence of aid:

(27) The Commission takes the view that the aid scheme established by Article 29*ter* of the Economic Expansion Act of 30 December 1970, as amended by the decree of 25 June 1992, constitutes State aid within the meaning of Article 87(1) of the EC Treaty because it meets all the conditions governing the application of Article 87(1) of the EC Treaty. The reasons for this are set out below.

(28) 'Aid in any form whatsoever': under the scheme, aid is granted in the form of guarantees and recoverable advances.

(29) 'Aid': the scheme does not contain provisions requiring the recipients of guarantees to pay a premium for those guarantees. Nor are there provisions requiring recipients to pay charges or interest on advances granted under the scheme. The fact that the guarantee can give rise to a significant transfer of resources to a recipient is illustrated by the fax dated 15 March 1993 from the Walloon regional authorities confirming that the Walloon Executive had decided to allocate BEF 315 million (around EUR 7,8 million) as partial cover for exchange-rate fluctuations.

(30) 'Aid granted by the Member State or through State resources': in this case, aid is granted by the regional government of the Walloon Region, namely the Walloon Executive. It is also financed from the budget of the Walloon region.

([30]) See footnote 21.

(31) 'The aid favours certain undertakings': the selectivity criterion is met because the aid is granted solely to firms located in the Walloon region which are participating in Community industrial programmes for which specific international agreements have been concluded.

(32) 'The aid distorts or threatens to distort competition': the guarantees protect recipients from the consequences of unfavourable trends in exchange rates or other economic indicators (such as labour costs). In this way, recipients are shielded from fluctuations in general economic variables which are part of the normal interplay of market forces. Such aid therefore provides recipients with an artificial edge over their competitors, who have to face the same situation without aid. Equally, the provision of interest-free advances under the scheme artificially favours recipients over their competitors, who have to pay the market interest rate in order to obtain financing from capital markets. Clearly, providing advantages of this type to certain competitors and not others may distort competition.

(33) 'The aid distorts competition in so far as it affects trade between Member States': in the case of an aid scheme such as Article 29*ter* (as opposed to ad hoc aid), the Court of Justice has ruled as follows: 'In the case of an *aid programme* the Commission *may confine* itself to examining the characteristics of the programme in question in order to determine whether, by reason of the high amounts or percentages of aid, the nature of investments for which aid is granted or other terms of the programme, it gives an appreciable advantage to recipients in relation to their competitors and is *likely* to benefit in particular undertakings engaged in trade between Member States' ([31]) (emphasis added).

Article 29*ter* is applicable to all sectors (with the exception of those for which special EU State aid rules are in force). Clearly, therefore, the scheme could also be applied to companies engaged in economic activities involving trade between Member States.

Regarding the lawfulness of the aid:

(34) In their letter of 10 February 1994 ([32]), the Belgian authorities disputed the unlawful nature of the aid granted under Article 29*ter*, arguing that the Commission had given its approval to the scheme in its letter of 28 January 1993 ([33]).

([31]) Case 248/84 *Germany* v *Commission* [1987] ECR 4013.
([32]) See footnote 12.
([33]) See footnote 29.

(35) In its letter of 28 January 1993, the Commission endorsed the implementation of those notified measures which had been approved on 9 July 1991 (letter SG(91) D/12925) and which had not been amended since that date.

(36) Article 19 of the decree of 25 June 1992 amending the Economic Expansion Act of 30 December 1970 ([34]) does not meet either of the conditions specified by the Commission:

(a) the approval Decision of 9 July 1991 covered only Articles 1 to 16 of the draft decree amending the Economic Expansion Act of 30 December 1970. Articles 17 to 19 of the draft decree (Article 19 of the final version of the decree) were specifically excluded from the approval decision;

(b) in their letter, the Belgian authorities themselves recognise that Article 19 was one of the articles to which (minor) amendments were made in the final version of the decree adopted on 25 June 1992 by the Walloon Regional Council.

(37) In its Decision of 17 January 1994 ([35]) approving the amended parts of the decree of 25 June 1992 (NN 113/29, the Commission reiterated that the approval Decision did not concern Article 19 of the decree, which added the new Article 29*ter* to the Economic Expansion Act of 30 December 1970.

Regarding the compatibility of the aid:

(38) Having established that Article 29*ter* constituted State aid within the meaning of Article 87(1) of the EC Treaty, the Commission examined whether it qualified for one of the derogations provided for in Article 87(2) and (3) of the EC Treaty.

(39) In the case of Article 29*ter*, the Commission takes the view that the exemptions provided for in Article 87(2) of the EC Treaty do not apply since the aid measure does not pursue any of the objectives listed in that Article; nor has Belgium argued that this might be the case.

(40) Article 87(3)(a) of the EC Treaty does not apply since no part of Wallonia has ever qualified for regional aid under Article 87(3)(a) of the EC Treaty.

(41) In spite of the title of the scheme (which refers to the granting of incentives and guarantees for the carrying out of European industrial programmes covered by specific international agreements), the Commission takes the view that Article 87(3)(b) of the EC Treaty does not apply either:

(a) Article 29*bis* of the Belgian Economic Expansion Act of 30 December 1970, as amended by the decree of 25 June 1992, provides that the aid specified in Article 29*ter* of that Act may be granted by the Executive to companies in the region participating in a European industrial programme on the basis of provisions set out in an agreement between the State and the region. The scheme does not specify the criteria to be used by the Walloon authorities in determining whether individual projects or programmes are eligible for the aid. Given that these criteria have not been specified ([36]) the Commission takes the vie that the scheme is too vague to qualify for exemption as provided for in Article 87(3)(b) of the EC Treaty for 'aid to promote the execution of an important *project* of common European interest' (emphasis added) ([37]);

(b) the scheme is not intended to remedy a serious distortion in the Belgian economy.

It should also be borne in mind that the Belgian authorities have not claimed exemption for the scheme on the basis of Article 87(3)(b).

(42) Article 87(3)(d) of the EC Treaty is not applicable because the scheme in question is not intended to promote culture or heritage conservation.

(43) In the light of the above, the Commission has examined the aid on the basis of Article 87(3)(c) of the EC Treaty. This has prompted the following observations:

(a) Article 29*ter* enables the Belgian authorities to provide guarantees or advances to firms without

([34]) Article 19 of the decree of 25 June 1992 amends the Economic Expansion Act of 30 December 1970 by inserting the new Article 29*ter* .

([35]) See footnote 9.

([36]) This failure to indicate the criteria is the reason why the Commission did not take a position on the scheme (then Articles 17 to 19 of the draft decree) in its letter of 9 July 1991 (SG(91 D/12925) and reserved the right to examine whether the scheme was compatible in the light of the practical arrangements for its implementation, which were to be notified to it on a case-by-case basis, as Belgium had undertaken to do.

([37]) In this connection, it should be noted that, in accordance with the Community framework for State aid for research and development, in all cases where, after examination, the Commission concludes that the purpose of the aid in question is to promote the execution of an important project of common European interest, that aid may qualify for the derogation contained in Article 87(3)(b)(OJ C 45, 17.2.1996, p. 5, point 3.2).

reference to any initial investment or job creation by the recipient firms, in accordance with the Community rules applying to national regional aid both at the time and now ([38]);

(b) in other words, the scheme enables the Belgian authorities to grant, throughout the entire territory of Wallonia, aid intended to reduce the recipients' normal current costs. Such aid constitutes 'operating aid';

(c) in several communications, and in particular its communication on the method for the application of Article 92(3)(a) and (c) to regional aid and in the guidelines on national regional aid ([39]), the Commission has indicated that, in view of its particularly distorting effect, operating aid may be considered compatible with the common market only in regions qualifying under Article 87(3)(a) and provided that certain strict conditions are met;

(d) no part of the Walloon region qualifies under Article 87(3)(a). In fact, the Walloon region is only partially eligible under Article 87(3)(c);

(e) the scope of Article 29*ter* is not limited to R & D projects, environmental protection projects, job creation, training projects or to rescue and restructuring projects in accordance with the Community framework for State aid for research and development ([40]), the Community guidelines on State aid for environmental protection ([41]), the guidelines on aid to employment ([42]), the framework on training aid ([43]) or the Community guidelines on State aid for rescuing and restructuring firms in difficulty ([44]). Nor is the scheme restricted to SMEs as defined in the Community guidelines on State aid for SMEs ([45]). The Commission therefore concludes that the aid granted under Article 29*ter* does not qualify for the derogation provided for in the above frameworks and guidelines either;

(f) lastly, it should also be borne in mind that the Belgian authorities have not requested exemption for the schemes pursuant to Article 87(3)(c).

In the light of the above, the Commission concludes that Article 29*ter* does not qualify for any of the derogations provided for in Article 87(3)(c).

(44) On the basis of the analysis presented in paragraphs 39 to 43, the Commission takes the view that Article 29*ter* of the Economic Expansion Act of 30 December 1970, as amended by the decree of 25 June 1992, does not qualify for any of the derogations provided for in Article 87(2) and (3) and that Article 29*ter* is therefore incompatible with the common market.

V. **CONCLUSION**

(45) The Commission finds that Belgium has unlawfully implemented Article 29*ter* of the Belgian Economic Expansion Act of 30 December 1970, as amended by the decree of 25 June 1992, in breach of Article 88(3) of the EC Treaty.

(46) The Commission also finds that Article 29*ter* of the Belgian Economic Expansion Act of 30 December 1970, as amended by the decree of 25 June 1992, is incompatible with the common market.

(47) Pursuant to Article 14 of Council Regulation (EC) No 659/1999, and with a view to restoring competition, all State aid within the meaning of Article 87(1) of the EC Treaty granted under Article 29*ter* must be recovered without delay. The aid to be recovered includes interest at a rate equal to the reference rate. Recovery must be effected in accordance with the procedures of Belgian law, provided that they allow the immediate and effective execution of the Commission's Decision. To that end, Belgium should take all necessary measures to ensure the effective implementation of the Commission's Decision.

(48) The Commission takes note of the fact that the Walloon Regional Council has already abrogated Article 29*ter* and that this Decision was published in the *Belgian Official Gazette* on 4 February 1998. The measures concerned have therefore already been terminated,

HAS ADOPTED THIS DECISION:

Article 1

Article 29*ter* of the Belgian Economic Expansion Act of 30 December 1970, as amended by the decree of 25 June 1992, is incompatible with the common market.

([38]) See footnote 26.
([39]) See footnote 26.
([40]) OJ C 83, 11.4.1986, p.2; OJ C 45, 17.2.1996, p.5.
([41]) OJ C 72, 10.3.1994, p.3.
([42]) OJ C 334, 12.12.1995, p. 4.
([43]) OJ C 343, 11.11.1998, p.10.
([44]) OJ C 368, 23.12.1994, p. 12.
([45]) OJ C 213, 19.8.1992, p. 4.

Article 2

1. Belgium shall take all necessary measures to recover from the recipients the aid within the meaning of Article 87(1) of the EC Treaty unlawfully made available under the aid scheme referred to in Article 1.

2. Recovery shall be effected without delay and in accordance with the procedures of national law provided that they allow the immediate and effective execution of this Decision. The aid to be recovered shall include interest from the date on which it was made available to the recipients until the date of its recovery. Interest shall be calculated on the basis of the reference rate used for calculating the grant-equivalent of regional aid.

Article 3

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

Article 4

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 29 March 2000.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION RECOMMENDATION

of 8 June 2000

on the application of Article 36 of the Euratom Treaty concerning the monitoring of the levels of radioactivity in the environment for the purpose of assessing the exposure of the population as a whole

(notified under document number C(2000) 1299)

(2000/473/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 124 and Article 36 thereof,

Having consulted the group of persons appointed in accordance with Article 31 of the Euratom Treaty by the Scientific and Technical Committee,

Whereas:

(1) Article 35 of the Euratom Treaty requires each Member State to establish the facilities necessary to carry out continuous monitoring of the level of radioactivity in the air, water and soil and to ensure compliance with the basic standards.

(2) Article 36 of the Euratom Treaty requires the appropriate authorities periodically to communicate information on the checks referred to in Article 35 of the Euratom Treaty to the Commission so that it is kept informed of the level of radioactivity to which the public is exposed.

(3) Experience has been gained in the application of Article 36 of the Euratom Treaty. It is current practice for the Commission to publish annual monitoring reports, on the basis of quality controlled data received by the Commission in application of Article 36 and Article 39 of the Euratom Treaty. The Commission should continue to publish such annual monitoring reports.

(4) To ensure that the exposure of the population is kept under review it is important that the Commission be informed in a timely fashion and on a uniform basis of the levels of radioactivity to which the population as a whole is exposed in every Member State.

(5) Article 14 of Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation [1] (the Basic Safety Standards) requires contribution to the exposure of the population as a whole from all practices to be regularly assessed.

(6) Article 45 of the Basic Safety Standards requires the competent authorities to ensure that dose estimates for the population as a whole are made as realistic as possible.

(7) Without prejudice to the requirements of Article 35 of the Euratom Treaty, it is sufficient for the review of the exposure of the population as a whole to provide a defined set of specific monitoring results.

(8) To ensure compliance with the Basic Safety Standards it is important that, in addition to air, water and soil, levels of radioactivity be determined in biological samples and in particular in foodstuffs, and that, to assess external exposure, the ambient dose rates be monitored.

(9) The monitoring of levels of radioactivity in soil does not allow a direct assessment of the exposure of the population. The exposure related to soil contamination is more directly assessed on the basis of ambient dose rate and foodstuff contamination. Experience has shown that the incorporation of soil data in the monitoring serves little useful purpose.

(10) It is necessary to keep under review which sampling media and which radionuclide categories are relevant indicators of actual and potential levels of radioactivity in the environment and of exposure of the population.

(11) There is consensus among Member States as to the adequacy of current monitoring programmes. Such monitoring may change in function of the evolution of levels of radioactivity, measurement technology, and the needs in view of emergency response. The Commission will keep under review the adequacy of monitoring programmes and will involve the group of experts established under Article 31 of the Euratom Treaty in this process.

[1] OJ L 159, 29.6.1996, p. 1.

(12) In the framework of Article 37 of the Euratom Treaty, the data on discharges of radionuclides to the environment from nuclear power plants and reprocessing plants are already requested in Commission Recommendation 1999/829/Euratom of 6 December 1999 on the application of Article 37 of the Euratom Treaty ([2]).

(13) Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption ([3]) provides for indicator parameters for radioactivity. This Recommendation is without prejudice to specific requirements under Annex II and Annex III to that Directive.

(14) The uniformity, comparability, transparency and timeliness of data reported in accordance with Article 36 of the Euratom Treaty should be ensured.

HEREBY RECOMMENDS:

1. In order to discharge their obligation under Article 36 of the Euratom Treaty periodically to communicate information on the results of the monitoring of the levels of radioactivity which they are bound to perform under the terms of Article 35 of that Treaty, the Member States should forward to the Commission, in accordance with the time periods set out in point 5(c), the monitoring results listed in Annex I. In case of an elevated concentration of a radionuclide not specified in Annex I, appropriate date should also be forwarded.

2. For the purposes of this Recommendation, the following definitions apply:

   (a) 'continuous monitoring' means the existence and implementation of a continuing monitoring programme. Depending on the medium monitored, this is achieved as appropriate through:

      (i) continuous sampling and assessment;

      (ii) continuous sampling and periodic assessment;

      (iii) periodic sampling and periodic assessment;

      (iv) direct continuous measurement;

   (b) 'facilities' means the monitoring programme, the direct measurement and sampling and analysis equipment and procedures (including quality control and the reporting and archiving of all relevant data), and the laboratories necessary to implement continuous monitoring of the levels of radioactivity;

   (c) 'monitoring network' means the combination of each medium of the sampling and direct measurement locations, as appropriate, used for the monitoring of that specific medium;

   (d) 'dense monitoring network' means a monitoring network comprising sampling locations distributed throughout the Member State's territory such as to allow the Commission to compute regional averages for radioactivity levels in the Community;

   (e) 'sparse monitoring network' means a monitoring network comprising for every region and for every sampling medium at least one location representative of that region. At such locations high sensitivity measurements should be performed thus giving a transparent representation of actual levels and trends of radioactivity levels;

   (f) 'region' means each representative area of a Member State for the assessment of the radiological exposure of the population as a whole under consideration of the radiological impact by emissions and ambient dose and the population distribution. The regions currently defined in the Commission monitoring reports are given in Annex II.

3. Member States should notify to the Commission the appropriate authorities referred to in Article 36 of the Euratom Treaty.

4. The following requirements should be met:

   (a) *Monitoring networks*

      (i) Each Member State should define representative geographical regions for its own territory.

      (ii) Each Member State should define for each type of medium a sparse monitoring network and a dense monitoring network.

      (iii) The sites comprising a network should be representative of the regional situation taking into account, where appropriate, the population distribution within the region.

   (b) *Sampling media, types of measurements, and periodicity*

      (i) The sampling media and types of measurements are listed in Annex I. Except where otherwise specified in this Recommendation, measurements should preferably be carried out for the sparse network on a monthly basis and for the dense network quarterly.

      (ii) For the sparse monitoring network, the detection limits and sensitivities of the measurement instruments should allow the actual levels to be quantified.

      (iii) For the dense monitoring network, the detection limits of the measurement devices should be lower than the reporting levels defined in Annex III.

([2]) OJ L 324, 16.12.1999, p. 23.
([3]) OJ L 330, 5.12.1998, p. 32.

(iv) The Member States should inform the Commission of the detection limits and of the uncertainties taken into account.

(v) The Member States should retain measurement techniques that have proven reliable and ensure quality control of the results.

(vi) Member State laboratories supplying data under the terms of this Recommendation should periodically participate in intercomparison exercises, in particular those organised by the Commission, so as to ensure the intercomparability of the data reported.

(c) *Sampling strategies and measurements in relation to each of the required sampling media*

(i) Airborne particulates

Measurements of gamma emitting radionuclides should be performed on a routine basis to detect and measure man-made radioisotopes as well as naturally occurring radionuclides. Beryllium-7 should be reported as a qualitative check of the methods used. Where gross beta activity [4] measurements are recorded these should also be reported.

Sampling locations should be in the vicinity of densely populated areas; adequate geographical coverage should be ensured by the choice of at least one sampling location per geographical region.

Sampling should be performed by systems operating continuously.

(ii) External ambient gamma dose rates should be measured continuously. No reporting level is defined.

(iii) Surface water

Samples should be taken from major inland waters of the Member States' territory and, if relevant, from coastal waters.

In the case of river water, sampling should be carried out, where practicable, at locations for which flow rate measurements are available. In such cases, the average flow rate during the sampling period should be reported to improve the representativeness of the mean values calculated by the Commission.

Gamma emitting radionuclides should be monitored. Where residual beta activity [5] measurements are recorded these should also be reported.

(iv) Water intended for human consumption

Monitoring of levels of radioactivity in drinking water should be such as to ensure compliance with the requirements of Directive 98/83/EC.

For the purposes of compliance with Article 36 of the Euratom Treaty, values should be reported for major ground or surface water supplies and for water distribution networks such as to ensure a representative coverage of the Member State.

The corresponding volumes of water distributed or produced in a year should be reported to improve the representativeness of the mean values calculated by the Commission.

(v) Milk

Milk samples should be taken from dairies. The necessary statistical information on production rates should be reported to improve the representativeness of the mean values calculated by the Commission. The spread of dairies should be sufficient to ensure representative coverage of the Member State.

Gamma emitters and strontium-90 should be monitored; potassium-40 should be reported as a qualitative check of the methods used.

(vi) Mixed diet

Due to the trade in foodstuffs, the mixed diet is not necessarily representative of the regional or national environmental contamination but is an indicator of public exposure.

Where appropriate, foodstuffs are measured as separate ingredients; in this case the Member State should report to the Commission the results of measurements of the individual ingredients and the composition of the diet. The sampling programme should take into consideration regional variations in dietary patterns. Individual ingredients should be from market places or local distribution centres providing food products to large population groups. Appropriate account should be taken of products from natural or semi-natural ecosystems, to the extent that the fallout from the Chernobyl accident may still affect such systems.

In addition, Member States should sample complete meals to give a representative figure for the average level of radioactivity in mixed diet. Actual meal samples should be taken from large consumption centres such as canteens or restaurants.

[4] The total measured beta activity in a sample; depending on the measurement methodology tritium and in general very low energy beta emitters are normally not included and short lived radon daughters are excluded through a sufficient delay time (e.g. five days) before counting.

[5] The total measured beta acitivity minus potassium-40 activity.

Gamma emitters and strontium-90 should be monitored; the measurements should be not less frequent than quarterly. Where carbo-14 measurements are performed, these should also be reported.

5. The procedure for reporting to the Commission should be as follows:

(a) *Treatment of data*

The Member States should forward to the Commission data which have been subject to quality control and cleared for public release. The data set should contain all details listed in Annex IV.

The Member States should forward the data in the format defined by the Commission and preferably use the specialised software provided by the Commission.

Tndividual non-aggregated measurement data should be transmitted for each medium and each site rather than average values. However, if the data correspond to direct continuous measurements, then the monthly averages for each site should be communicated.

(b) *Means of transmission*

Data should be forwarded in a digital form using the most appropriate electronic media.

(c) *Periodicity*

All available data should be forwarded to the Commission as soon as they are validated in order to allow for a prompt assessment by the Commission of the impact of environmental radioactivity on public health. All data for a calendar year should be submitted no later than 30 June of the following year.

(d) *Transmission of other data*

In addition to the data transmitted under point (a), Member States should transmit to the Commission their national monitoring reports to allow a fuller understanding of the significance of the data referred to in Annex I in relation to the national monitoring programmes. The Commission's annual monitoring reports will list references to those national reports.

(e) *Intergration of reporting practices*

Data regularly reported under Article 36 of the Euratom Treaty, data voluntarily reported other than national monitoring reports and large amounts of data of types potentially relevant in emergency situations should be forwarded through the same communication means and channels and in the same format in order to simplify reporting practices and to avoid duplication of efforts and to conduct regular exercises of the emergency arrangements.

6. This Recommendation is addressed to the Member States.

Done at Brussels, 8 June 2000.

For the Commission
Margot WALLSTRÖM
Member of the Commission

ANNEX I

Sample types and measurements

Media	Measurement category	
	Dense network	Sparse network
Airborne particulates	Cs-137, gross beta	Cs-137, Be-7
Air	Ambient gamma dose rate	Ambient gamma dose rate
Surface water	Cs-137, residual beta	Cs-137
Drinking water	Tritium, Sr-90, Cs-137 Natural radionuclides as monitored in compliance with Council Directive 98/83/EC	Tritium, Sr-90, Cs-137 Natural radionuclides as monitored in compliance with Council Directive 98/83/EC
Milk	Cs-137, Sr-90	Cs-137, Sr-90, K-40
Mixed diet	Cs-137, Sr-90	Cs-137, Sr-90, C-14

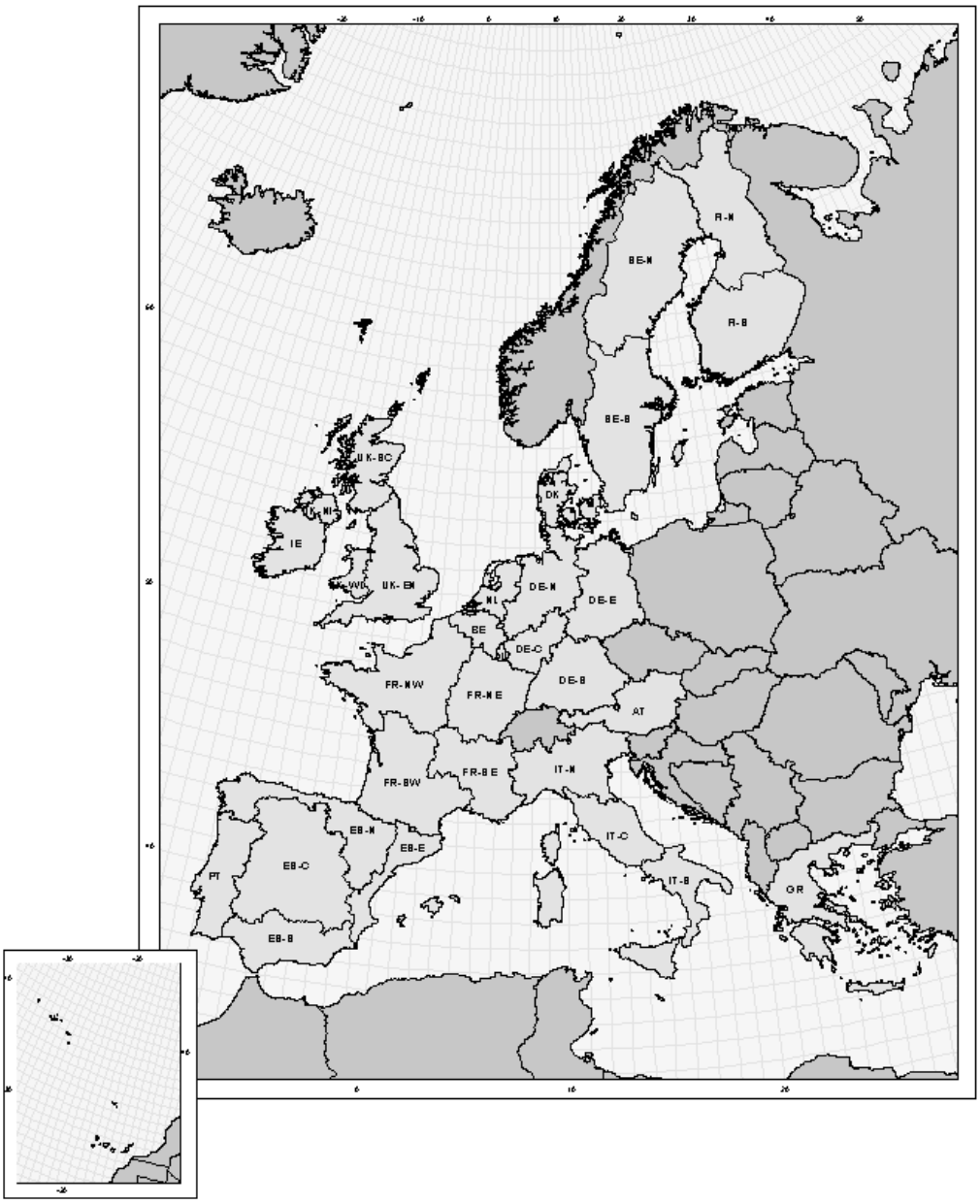
ANNEX II

Definition of country partitions and country codes according to ISO 3166/4217

Country	Geographical region	Detailed description
AT	Austria	
BE	Belgium	
DE-N	Germany — North	Bremen, Hamburg, Nordrhein-Westfalen, Niedersachsen and Schleswig-Holstein
DE-C	Germany — Central	Hessen, Rheinland-Pfalz and Saarland
DE-S	Germany — South	Baden-Württemberg and Bayern
DE-E	Germany – East	Berlin, Brandenburg, Mecklenburg-Vorpommern, Sachsen, Sachsen-Anhalt and Thüringen
DK	Denmark	
ES-N	Spain — North	Aragón, Asturias, Cantabria, Galicia, Navarra, Pais Vasco and Rioja
ES-C	Spain — Central	Castilla-La Mancha, Castilla-León, Extremadura and Madrid
ES-S	Spain — South	Andalucia, Canarias, Ceuta and Melilla and Murcia
ES-E	Spain — East	Baleares, Cataluña and Communidad Valenciana
FI-N	Finland — North	Lappland and Oulu
FI-S	Finland — South	Ahvenanmaa, Central Finland, Hame, North Karelia, Kuopio, Kymi, Mikkeli, Turku and Pori, Uusimaa and Vaasa
FR-NW	France — Northwest	Brittany, Centre, Île de France, Nord-Pas-de-Calais, Haute Normandie, Basse Normandie, Pays de la Loire and Picardie
FR-NE	France — Northeast	Alsace, Burgundy, Champagne-Ardenne, Franche-Comté and Lorraine
FR-SW	France — Southwest	Aquitaine, Languedoc-Roussillon, Limousin, Midi-Pyrénées and Poitou-Charentes
FR-SE	France — Southeast	Auvergne, Corse, Provence-Alpes-Côte-d'Azur and Rhône-Alpes
GR	Greece	
IE	Ireland	
IT-N	Italy — North	Emilia-Romagna, Friuli-Venezia-Giulia, Liguria, Lombardy, Piemonte, Provincie di Trento e Bolzano, Val d'Aosta and Veneto
IT-C	Italy — Central	Abruzzo, Lazio, Marche, Molise, Tuscany, Umbria and Sardinia
IT-S	Italy — South	Basilicata, Calabria, Campania, Puglia and Sicily

Country	Geographical region	Detailed description
LU	Luxembourg	
NL	Netherlands	
PT	Portugal	
SE-N	Sweden — North	Jämtland, Norrbotten, Västerbotten and Västernorrland
SE-S	Sweden — South	Ålvsborg, Blekinge, Bohus Gävleborg, Gotland, Halland, Jönköping, Kalmar, Kopparberg, Kronoberg, Malmöhus, Örebro, Östergötland, Skaraborg, Skane, Södermanland, Stockholm, Uppsala, Värmland and Västmanland.
UK-EN	United Kingdom — England	East Anglia, Northern England, North-West England, South-East England, South-West England, East Midlands, West Midlands and North-East England
UK-SC	United Kingdom — Scotland	
UK-WL	United Kingdom— Wales	
UK-NI	United Kingdom— Northern Ireland	

Definition of the geographical regions



ANNEX III

Reporting levels

Uniform reporting levels have been defined on the basis of their significance from an exposure point of view, irrespective of the detection limits applied by the different laboratories.

Sample type	Radionuclide category	Reporting level
Air	Gross beta (based on Sr-90)	5 E−03 Bq/m^3
	Cs-137	3 E−02 Bq/m^3
Surface water	Residual beta (based on Sr-90)	6 E−01 Bq/l
	Cs-137	1 E+00 Bq/l
Drinking water	H-3	1 E+02 Bq/l
	Sr-90	6 E−02 Bq/l
	Cs-137	1 E−01 Bq/l
Milk	Sr-90	2 E−01 Bq/l
	Cs-137	5 E−01 Bq/l
Mixed diet	Sr-90	1 E−01 Bq/d.p ([1])
	Cs-137	2 E−01 Bq/d.p

([1]) Becquerel per person per day.

ANNEX IV

LIST OF MINIMUM REQUIREMENTS PER DATA RECORD

1. REQUIREMENTS FOR SAMPLING DATA

A. **Sample characteristics**

Sample type

Sample treatment (e.g. chemical treatment, delay of five days, etc.)

B. **Date and time**

Sampling date

Date type (e.g. begin date, end date, etc.)

Sampling time [1]

Time system [1] (e.g. GMT)

Duration of sampling (in hours)

C. **Location**

Locality name

NUTS-Code

Latitude, longitude specified in degrees, minutes or in decimal degrees

Catchment [1] (for surface waters: name of river, lake, reservoir or sea)

2. REQUIREMENTS FOR MEASUREMENT DATA

Laboratory name

Nuclide category

Apparatus type

Activity value

Uncertainty

Uncertainty type

Value unit

Value type

Reference date [1] (date for which the activity value is given)

Flow rate [1] (in case of river water)

Production rate [1] (for milk and drinking water)

Volume produced or distributed in a year (for drinking water).

[1] Only to be mentioned if appropriate.