

English edition

Legislation

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⁽¹⁾ Text with EEA relevance

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1915/2000
of 8 September 2000
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1498/98 ⁽²⁾, and in particular Article 4(1) thereof,

Whereas:

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

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 September 2000.

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

Done at Brussels, 8 September 2000.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 8 September 2000 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

| CN code | Third country code ⁽¹⁾ | Standard import value |
|------------------------------------|-----------------------------------|-----------------------|
| 0702 00 00 | 052 | 75,0 |
| | 999 | 75,0 |
| 0707 00 05 | 052 | 85,5 |
| | 628 | 142,3 |
| | 999 | 113,9 |
| 0709 90 70 | 052 | 58,1 |
| | 628 | 96,2 |
| | 999 | 77,2 |
| 0805 30 10 | 388 | 57,1 |
| | 524 | 76,6 |
| | 528 | 62,4 |
| | 999 | 65,4 |
| 0806 10 10 | 052 | 72,6 |
| | 064 | 41,6 |
| | 400 | 176,0 |
| | 999 | 96,7 |
| 0808 10 20, 0808 10 50, 0808 10 90 | 388 | 71,6 |
| | 400 | 57,4 |
| | 508 | 69,9 |
| | 512 | 69,9 |
| | 528 | 59,2 |
| | 720 | 66,1 |
| | 800 | 192,9 |
| | 804 | 68,4 |
| | 999 | 81,9 |
| 0808 20 50 | 052 | 88,8 |
| | 388 | 64,7 |
| | 999 | 76,8 |
| 0809 30 10, 0809 30 90 | 052 | 102,0 |
| | 999 | 102,0 |
| 0809 40 05 | 052 | 71,3 |
| | 064 | 49,2 |
| | 066 | 69,5 |
| | 068 | 52,4 |
| | 400 | 138,9 |
| | 999 | 76,3 |

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

COMMISSION REGULATION (EC) No 1916/2000**of 8 September 2000****on implementing Council Regulation (EC) No 530/1999 concerning structural statistics on earnings and on labour costs as regards the definition and transmission of information on structure of earnings****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs ⁽¹⁾, and in particular Article 11 thereof,

Whereas:

- (1) In accordance with Article 11 of Regulation (EC) No 530/1999 implementing measures are necessary concerning the definition and breakdown of the information to be provided and the appropriate technical format for the transmission of the results.
- (2) The measures provided for in this Regulation are in accordance with the opinion delivered by the Statistical Programme Committee, established by Council Decision 89/382/EEC, Euratom ⁽²⁾,

*Article 1***Definition and breakdown of the information**

In accordance with Article 6 of Regulation (EC) No 530/1999 Member States shall provide information on the variables listed in Annex I to the present Regulation.

To this end, the definitions of the variables are laid down in Annex II to the present Regulation.

*Article 2***Technical format for the transmission of the results**

The appropriate technical format to be used for the transmission of the results is laid down in Annex III to the present Regulation.

*Article 3***Entry into force**

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 8 September 2000.

For the Commission
Pedro SOLBES MIRA
Member of the Commission

⁽¹⁾ OJ L 63, 12.3.1999, p. 6.

⁽²⁾ OJ L 181, 28.6.1989, p. 47.

ANNEX I

LIST OF VARIABLES

1. **Information relating to the local unit to which the sampled employees are attached**
 - 1.1. The region according to the nomenclature of territorial units for statistics (NUTS).
 - 1.2. The size of the enterprise to which the local unit belongs.
 - 1.3. The economic activity according to the general industrial classification of economic activities within the European Communities (NACE Rev.1), established by Council Regulation (EEC) No 3037/90 ⁽¹⁾.
 - 1.4. The form of economic and financial control within the meaning of Commission Directive 80/723/EEC ⁽²⁾.
 - 1.5. The existence of collective pay agreements covering the majority of employees in the observation unit.
 - 1.6. Total number of employees in the local unit (*optional*).
 - 1.7. Principal market for the enterprise's products (*optional*).
 - 1.8. Size of the group of enterprises (*optional*).
 - 1.9. Country of residence of the entity controlling the group of enterprises (*optional*).
2. **Information relating to each employee in the sample**
 - 2.1. Sex.
 - 2.2. Age.
 - 2.3. Occupation according to the International Standard Classification of Occupations [ISCO-88 (COM)].
 - 2.4. Management position or supervising position (*optional*).
 - 2.5. Highest completed level of education and training according to the International Standard Classification of Education (ISCED 97).
 - 2.6. Length of service in the enterprise.
 - 2.7. Whether full-time or share of part-time.
 - 2.8. Type of employment contract.
 - 2.9. Citizenship (*optional*).
 - 2.10. Covered by a government scheme designed to promote employment (*optional*).
 - 2.11. Years of career break in the current enterprise (*optional*).
3. **Information concerning earnings, hours paid and days not worked**
 - 3.1. Total gross earnings for a representative month.
 - 3.1.1. Earnings related to overtime.
 - 3.1.2. Special payments for shift work.
 - 3.2. Total gross annual earnings in the reference year.
 - 3.2.1. Number of weeks/months to which the gross annual earnings relate.
 - 3.2.2. Total annual bonuses.
 - 3.2.2.1. Regular bonuses paid not at every pay period (*optional*).
 - 3.2.2.2. Annual bonuses based on productivity (*optional*).
 - 3.2.2.3. Annual premiums related to profit-sharing (*optional*).
 - 3.3. Compulsory social contributions and taxes paid by the employer on behalf of the employee (*optional*).
 - 3.3.1. Compulsory social security contributions (*optional*).
 - 3.3.2. Taxes (*optional*).
 - 3.4. Number of hours paid during the representative month (or in a standard working month).

⁽¹⁾ OJ L 293, 24.10.1990, p. 1.

⁽²⁾ OJ L 195, 29.7.1980, p. 35.

- 3.4.1. Number of overtime hours paid in the representative month.
 - 3.5. Annual days of absence.
 - 3.5.1. Annual days of holiday leave (excluding days of sick leave).
 - 3.5.2. Annual days of sick leave (*optional*).
 - 3.5.2.1. Annual days of sick leave paid by the employer (*optional*).
 - 3.5.2.2. Annual days of sick leave not paid by the employer (*optional*).
 - 3.5.3. Annual days of vocational training (*optional*).
 - 3.6. Annual estimation for payment in kind (*optional*).
 - 4. **Grossing-up factors**
 - 4.1. Grossing-up factor for the local unit.
 - 4.2. Grossing-up factor for employees.
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ANNEX II

DEFINITION OF VARIABLES

1. **Information relating to the local unit to which the sampled employees are attached**

The compilation of structural statistics on earnings shall be based on local units and enterprises as defined in Council Regulation (EEC) No 696/93 ⁽¹⁾ and shall provide information for employees in enterprises of 10 and more employees classified by size and principal activity. The statistics shall cover all activities defined in sections C, D, E, F, G, H, I, J, K, M, N, and O of the general industrial classification of economic activities within the European Communities (hereinafter 'NACE Rev. 1'). M, N and O activities are, however, optional for 2001/02.

- 1.1. The region where the local unit is located according to the nomenclature of territorial statistical units (NUTS) at level 1.
- 1.2. The size of the enterprise to which the local unit belongs classified as one of the following: 10-49, 50-249, 250-499, 500-999, 1 000 or more employees.
- 1.3. The economic activity of the local unit coded at NACE Rev.1 Division level.
- 1.4. The form of economic and financial control within the meaning of Directive 80/723/EEC:

Within the meaning of Directive 80/723/EEC (on the transparency of financial relations between Member States and public undertakings), 'public undertaking' means any undertaking over which the public authorities may exercise directly or indirectly a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it.

A dominant influence (or control) on the part of the public authorities shall be presumed when these authorities directly or indirectly in relation to an undertaking:

- hold the major part of the undertaking's subscribed capital (> 50 %), or
- control the majority of the votes attached to shares issued by the undertakings or can appoint more than half of the members of the undertaking's administrative, managerial or supervisory body.

In order to identify the actual controlling entity, it is necessary to analyse the complete ownership chain if necessary.

The nature of control exercised on the enterprise will be coded to the following categories:

- public control,
- private control,
- shared control.

- 1.5. The existence of a collective pay agreements covering the majority of employees in the observation unit:

Collective pay agreements can be:

- a national level, or interconfederal agreement, covering workers across a wide range of different industries, and usually signed by one or more trade union confederations and by one or more national employer's organisations,
- an industry agreement, setting terms and conditions of employment for all or most workers and employees in an individual industry or economic sector,
- an agreement for individual industries in individual regions,
- an enterprise, or single employer agreement, covering only those workers with the same employer, regardless of size. The agreement may cover only certain local units or groups of employees within the enterprise,
- an agreement applying only to the workers in this local unit,
- any other type of agreement not covered above,

A yes answer should be given when more than 50 % of the employees in the local unit are covered by any one of the abovementioned collective pay agreements.

The national offices may, instead of asking for the type of collective agreement, ask what collective provisions are applied and, on the basis of the answers, determine the type of collective agreement.

⁽¹⁾ OJ L 76, 30.3.1993, p. 1.

- 1.6. Total number of employees in the local unit (*optional*):
- The number of employees should be in line with the information contained in the business register maintained for statistical purposes.
- 1.7. Principal market for the enterprise's products (*optional*):
- Information is to be collected on the principal market for enterprise's products, coded as follows:
- local or regional market,
 - national market,
 - European Unit market,
 - world market.
- The aim is only to establish which is the largest market (solely one response).
- 1.8. Size of the group of enterprises (*optional*):
- The group of enterprises is a statistical unit defined in Regulation (EEC) No 696/93 on statistical units. The group of enterprises should be considered at world level. In most of the cases the local unit belongs to an enterprise which is not controlled by any national or foreign group. When the local units belong to an enterprise group, it is in general well known. A practical guideline that can be given to the respondents is whether the accounts of his enterprise are fully consolidated in the accounts of its group of enterprises.
- 1.9. Country of residence of the entity controlling the group of enterprises (*optional*):
- The entity controlling the group of enterprises is the legal unit exercising actual control in the sense of the System of National Accounts 1993, Chapter 4.30. The country of location of this entity has to be recorded. In many cases, this country is the same as the country of location of the local unit under review. As a practical guideline, the country of residence of the legal unit that published the consolidated accounts for the full group should be registered.
- 2. Information relating to each employee in the sample**
- Employees are all persons who have a direct employment contract with the enterprise or local unit and receive remuneration, irrespective of the type of work performed, the number of hours worked (full or part-time) and the duration of the contract (fixed or indefinite). The outworkers⁽¹⁾ should be included only if there is an explicit agreement that the outworker is remunerated on the basis of the amount of hours which are worked. Apprentices and trainees should be included.
- The following categories should be excluded:
- family workers,
 - outworkers that are remunerated on the basis of the product or service they deliver,
 - occasional workers (i.e. employed without pre-defined working hours),
 - interim workers (employed by/through agencies. If the agency employing them is the observation unit sampled itself, then they should be included),
 - persons wholly remunerated by way of fees, or commission,
 - members of the board of directors of the enterprise,
 - unpaid owners, directors or managers (paid by way of profit share or by fee),
 - the workers of the observation unit permanently (for more than one year) working in an affiliated company located abroad,
 - voluntary workers.
- 2.1. Sex.
- 2.2. Age in entire years at the specified date of the representative month.
- 2.3. Occupation according to the International Standard Classification of Occupations (ISCO-88 (COM)):
- The occupation is to be coded according to the ISCO-88 (COM) classification at a minimum of two-digit and if possible at three-digit level.
- Apprentices and trainees with an employment contract are classified in the occupation for which they carry out their apprenticeship or training period.

⁽¹⁾ An outworker is a person who agrees to work for a particular enterprise or to supply a certain quantity of goods or services to a particular enterprise by prior arrangement or contract with that enterprise, but whose place of work is not within it. (European system of national and regional accounts in the European Community (ESA-95): 11.13 (g).

The occupation 'Managerial and professional' (code P1-2) typically involve a wide range of tasks associated with the planning, direction and coordination of the functioning of business, including internal departments and sections, often with the help of subordinate managers and supervisors.

Persons working in a managerial post will usually require a significant amount of knowledge and experience of the production process and/or service requirements and administration procedures associated with the efficient functioning of organisations and businesses.

In order to provide the occupation, national offices may ask, for the agreed wage or salary group the employee belongs to, the administrative code of the actual job (such codes are available at the local units), and whether employees are insured under wage earners' or salaried employees' pension insurance.

2.4. Management position or supervising position (*optional*):

This variable indicates whether an employee has some form of management function (= yes) or not (= no). Such employees may not be classified as managers in the ISCO-88 (COM) classification (major group 1) but may nevertheless have responsibilities for managing or supervising a group of other employees. Typically such a person might have a job description of 'foreman' or 'supervision' together with the name of the occupation.

2.5. Highest completed level of education and training ⁽¹⁾ according to ISCED 97

Information is to be collected concerning the level of general, professional or higher education which the employee has received according to the following ISCED 97 groupings:

ISCED 0 and 1 (code 01)

0 — PRE-PRIMARY EDUCATION and 1 — PRIMARY EDUCATION OR FIRST STAGE OF BASIC EDUCATION

Programmes at level 1 are normally designed on a unit or projet basis to give children a sound basic education in reading, writing and mathematics along with an elementary understanding of other subjects such as history, geography, natural science, social science, art and music. This level covers, in principle, six years of full-time schooling.

ISCED 2 (code 02)

2 — LOWER SECONDARY EDUCATION OR SECOND STAGE OF BASIC EDUCATION

The programmes at this level are usually on a more subject-oriented pattern using more specialised teachers and more often several teachers conducting classes in their field of specialisation. The full implementation of basic skills occurs at this level.

ISCED 3

3 — UPPER SECONDARY EDUCATION (**code 03, no distinction a, b or c possible**)

The educational programmes included at this level typically require the completion of some 9 years of full-time education (since the beginning of level 1) or a combination of education and vocational or technical experience.

3A — Upper secondary education — general (*optional*) (**code 04**)

3B — Upper secondary education — technical (*optional*) (**code 05**)

3C — Upper secondary education (shorter than three years) — labour-market-oriented (*optional*) (**code 06**)

3C — Upper secondary education (three years or longer) — labour-market-orientad (*optional*) (**code 07**)

ISCED 4 (code 08)

4 — POST-SECONDARY NON-TERTIARY EDUCATION

This item captures programmes that straddle the boundary between upper-secondary and post-secondary education from an international point of view, even though they might clearly be considered as upper-secondary or post-secondary programmes in a national context. These programmes can, considering their content, not be regarded as tertiary programmes. They are often not significantly more advanced than programmes at ISCED 3 but they serve to broaden the knowledge of participants who have already completed a programme at level 3.

⁽¹⁾ The expression 'level successfully completed' must be associated with obtaining a certificate or a diploma, when there is certification. In cases where there is no certification, successful completion must be associated with full attendance.

Typical examples are programmes designed to prepare students for studies at level 5 who, although having completed ISCED level 3, did not follow a curriculum which would allow entry to level 5, i.e. pre-degree foundation courses or short vocational programmes. Second-cycle programmes can be included as well.

ISCED 5B (code 09)

5B — FIRST STAGE OF TERTIARY EDUCATION (NOT LEADING DIRECTLY TO AN ADVANCED RESEARCH QUALIFICATION) — Technical

Compared to 5A these programmes are practically oriented/occupationally specific and are mainly designed for participants to acquire the practical skills and know-how needed for employment in a particular occupation or trade or class of occupations or trades, the successful completion of which usually provides the participants with a labour-market relevant qualification.

ISCED 5A (code 10)

5A — FIRST STAGE OF TERTIARY EDUCATION (NOT LEADING DIRECTLY TO AN ADVANCED RESEARCH-QUALIFICATION) — General

This level consists of tertiary programmes having an educational content more advanced than those offered at levels 3 and 4. Entry to these programmes normally requires the successful completion of ISCED level 3A or 3B or a similar qualification at ISCED level 4A. They do not lead to the award of an advanced research qualification. These programmes must have a cumulative duration of at least two years. 5A programmes are largely theoretically based and are intended to provide sufficient qualifications for gaining entry into advanced research programmes and professions with high skills requirements.

ISCED 6 (code 11)

6 — SECOND STAGE OF TERTIARY EDUCATION (LEADING TO AN ADVANCED RESEARCH QUALIFICATION)

This level is reserved for tertiary programmes which lead to the award of an advanced research qualification. The programmes are therefore devoted to advanced study and original research and not based on coursework only. They typically require the submission of a thesis or dissertation of publishable quality which is the product of original research and represents a significant contribution to knowledge.

2.6. Length of service in the enterprise:

Length of service is defined as the number of entire years worked with the person's current employer. If the employee has already worked in another local unit of the enterprise, length of service should be calculated from the date of entry to the enterprise. Short-duration leaves (less than one year, e.g. for maternity or paternity leave or sickness) should be included. Breaks longer than one year should not be counted.

2.7. Whether full-time or share of part-time:

Full-time employees are those whose regular working hours are the same as the collectively agreed or customary hours worked in the local unit under consideration, even if their contract is for less than one year. A 10 % difference can be allowed.

Other cases are considered as part-time employees. The number of hours worked by part-time employees should be supplied as a percentage of the number of hours normally worked (by full-time employees) in the local unit.

2.8. Type of employment contract:

The following information on type of employment contract is requested:

- indefinite duration,
- fixed-term (except apprentice or trainee),
- apprentice/trainee,
- other.

An indefinite duration contract of employment is a contract between the employee and the employer, for which the actual duration of the contract has not been agreed in advance.

An employment contract is regarded as temporary or of fixed duration if it was the intention of the employer and employee that the duration of the contract was determined by certain conditions such as a definite time schedule for completion of the work, the completion of a certain task or the return to work of another employee who was currently being replaced.

Apprenticeship or training contracts are specific fixed-duration contracts drawn up between the employer and the apprentice/trainee. The purpose of the contract is to enable the apprentice to acquire practical experience in a specific field.

2.9. Citizenship (*optional*):

Citizenship is defined as the legal nationality of each person, and a citizen is a person who is a legal national by birth or naturalisation, whether by declaration, option, marriage or other means.

2.10. Covered by a government scheme designed to promote employment (*optional*):

This item indicates whether the employee is covered by any of the following types of government scheme:

- a total or partial exemption of tax and social contributions of the employer,
- a subsidy,
- a subsidy for training/apprenticeship.

This relates to the individual and not the enterprise. Subsidies paid to the enterprise which cannot be attributed to a particular employee (being calculated on the basis of manpower levels) are not included.

Assistance schemes may also include reductions in the employer's or the employee's social security contributions and direct taxes, where the scheme helps in creating the job or in recruiting the employee.

2.11. Years of career breaks in the current enterprise (*optional*):

Number of complete years (and months) the employee spent in long-term career breaks. Long-term breaks should be of more than one year. If several breaks have occurred in between years of work they should be cumulated. Short-term breaks (less than one year) should not be included even if they cumulate to more than one year.

3. **Information concerning earnings, hours paid and days not worked**

3.1. Total gross earnings for a representative month:

Gross earnings cover remuneration in cash paid directly and regularly by the employer at the time of each wage payment, before tax deductions and social security contributions payable by wage earners and retained by the employer.

The following elements are included:

- all payments relating to this period (even if actually paid outside the representative month), including any overtime pay, shift premium, bonus, commission, etc.,
- payments for overtime, allowances for teamwork, night work, week-end work, commissions, etc.,
- bonuses and allowances paid regularly in each pay period, even if the amount varies from month to month,
- payments for periods of absence and work stoppage paid for entirely by the employer,
- family allowances and other gratuities in cash fixed by collective agreements or voluntarily agreed,
- payment to employees saving scheme.

The following are not included:

- payments paid in this period but relating to other periods, such as arrears, advances, or pay for holiday or sickness absence outside this period,
- periodic bonuses and gratuities not paid regularly at each pay date,
- payments for periods of absence paid by the employer at a reduced rate,
- statutory family allowances,

- the value of benefits in kind (because of the difficulties of data collection),
- allowances for work clothes or tools,
- reimbursements or payments for travelling, subsistence etc. expenses incurred in carrying out the employer's business.

3.1.1. Earnings related to overtime:

The amount of overtime earnings paid for overtime hours. The full rate should be taken into account and not just the premium element added to the normal hourly rate. The remuneration taken into account should cover the actual overtime hours worked during the representative month even if paid later (overtime hours worked previously and paid during the representative month should be excluded).

3.1.2. Special payments for shift work:

This relates to the special premium payments for shift work, and for night work or weekend work where these are not treated as overtime. Only the premium part should be included.

3.2. Total gross annual earnings in the reference year:

This relates to the gross earnings paid during the reference year. All bonuses which are not paid regularly should be included (13th or 14th month, holiday bonuses, profit-sharing, allowances for leave not taken, occasional commissions, etc.). Severance payments should be excluded. Payment in kind should also be excluded.

3.2.1. Number of weeks/months to which the gross annual earnings relate:

It would be useful to ask for the annual earnings for all employees of the sample, even if they have not been present the whole year. In this case, it is necessary to ask the number of weeks or months the annual earnings corresponds to, in order to avoid possible errors.

3.2.2. Total annual bonuses:

It refers to any irregular payments which did not occur during each pay period, such as holidays bonuses, 13th month, allowances for leave not taken, occasional commissions, profit-shares, etc.

3.2.2.1. Regular bonuses not paid at every pay period (*optional*):

This refers to any regular bonuses which did not occur during each pay period, such as holiday bonuses, 13th or 14th month, etc.

3.2.2.2. Annual bonuses based on productivity (*optional*):

This refers to irregular bonuses paid to the employee linked to individual performance or piecework.

3.2.2.3. Annual premiums related to profit-sharing (*optional*):

This refers to ad hoc bonuses or other exception payments linked to the overall performance of the enterprise made under incentive schemes.

3.3. Compulsory social contributions and taxes paid by the employer on behalf of the employee (*optional*):

The total amount of compulsory social contributions and taxes paid by the employer on behalf of the employee to government authorities during the representative month.

NB: This may not be relevant in certain countries.

3.3.1. Compulsory social security contributions (*optional*):

This refers to the amount of the employee social security contribution laid down by law or by collective agreements and withheld by the employer.

3.3.2. Taxes (*optional*):

This refers to the amount of all taxes on earnings withheld by the employer and paid to the tax authorities on behalf of the employee.

3.4. Number of hours paid during the representative month (or in a standard working month):

Paid hours cover normal and overtime hours, remunerated during the representative month. Hours not worked during the reference period but nevertheless paid are counted as 'paid hours' (annual leave, sick leave, official holidays and other hours paid such as for medical examinations). Using this method, it is necessary to ensure that there is consistency between the 'paid hours' and the hours to which the salary corresponds.

Paid hours are calculated by deducting hours lost not paid (due to sickness, maternity leave, etc.) or hours paid at reduced rates from the normal basic hours plus overtime hours.

NB: Normal basic hours are the number of hours which this employee is expected to work in the representative month excluding main meal breaks, and excluding all overtime hours, even if some of these are worked regularly or contractually. This involves the number of hours (weekly/monthly) which the employee is obliged to work under the terms of a contract, regulation or rules in force in the local unit.

3.4.1. Number of overtime hours paid in the representative month:

Overtime hours include those worked in addition to those of the normal or conventional working week (or month). If, for example, 4 hours are paid at a rate of 1,5 the normal rate, enter 4, not 6. Only those overtime hours corresponding to overtime pay registered in 3.1.1 should be included. Time off in lieu of unpaid work periods and travel time are not regarded as overtime.

3.5. Annual days of absence:

3.5.1. Annual days of holiday leave (excluding days of sick leave):

This refers to the number of paid annual holidays of the employee, excluding public holidays. It relates to the annual total of all normal paid-leave days, including those granted to the employee by reason of age, performance of special duties, seniority and other similar reasons.

When employers pay their employees additional amounts for working during paid vocations, such amounts are usually included in annual earnings and the number of days holiday are reduced accordingly. Since the days of holiday worked have been paid for, not to adjust the total days of holiday would be double counting. The actual days of leave taken are therefore reported.

Similarly, when employees are offered additional (paid) time off under working-time reduction agreements, these are added to annual holidays. such amounts are recorded only if the amount of working-time reduction is equivalent to five working days or more per year.

The following are not regarded as annual-leave days:

- rest days granted as a result of team work (because this is already included in the calculation of weekly working hours),
- public holidays,
- training leave,
- days granted for personal reasons and paid.

Only days that can be worked should be included when Saturdays and Sundays are not worked they should not be included, the same with public holidays).

3.5.2. Annual days of sick leave (*optional*):

Actual entire days of sick leave taken by the employee

3.5.2.1. Annual days of sick leave paid by the employer (*optional*):

Actual entire days of sick leave taken by the employee and paid totally or partially by the employer.

3.5.2.2. Annual days of sick leave not paid by the employer (*optional*):

Actual entire days of sick leave taken by the employee and not paid by the employer.

3.5.3. Annual days of vocational training (*optional*):

Annual days of vocational training are the days (in terms of 'days equivalent' spent by the employee on all vocational training activities except for the training of apprentices and trainees with a special training contract.

3.6. Annual estimation for payment in kind (*optional*):

Estimation of the value of all payments in kind given to the employee during the reference year.

4. **Grossing-up factors**

4.1. Grossing-up factor for the local unit:

Within each sampling stratum, grossing-up factors are calculated for each local unit, based on the number of local units in the sample and the number of local units in the population. The factor indicates the number of local units in the population that each local unit in the sample represents.

4.2. Grossing-up factor for employees:

The grossing-up factor for employees is the factor by which the number of employees in the sample need to be multiplied to obtain population estimates. For each local unit, it will be based on the number of the employees sampled within the unit and the total number of employees in the local unit, combined with the grossing-up factor for the local unit.

ANNEX III

FORMAT FOR THE TRANSMISSION OF THE RESULTS

The individual data concerning each local unit and each employee have to be provided. These data have to be provided in the form of two record types:

A: records for the local units;

B: records for the employees.

The employee records have to be linked to the local unit records by a key.

The records should contain a field per variable. Each record has to be either fixed-length or comma-separated. The order of the fields should correspond to the order of the variables. When a variable is missing, a blank field should be introduced. True zeros should be registered as numerical zeros.

COMMISSION REGULATION (EC) No 1917/2000

of 7 September 2000

laying down certain provisions for the implementation of Council Regulation (EC) No 1172/95 as regards statistics on external trade

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1172/95 of 22 May 1995 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries ⁽¹⁾, as last amended by Regulation (EC) No 374/98 ⁽²⁾, and in particular Article 21 thereof,

Whereas:

- (1) For the purpose of compiling external trade statistics, it is necessary to define the implementing procedures for the collection of data and for the processing, transmission and dissemination of the results, in order to obtain harmonised statistics.
- (2) It is essential to clarify the subject of external trade statistics, especially in order to avoid dual recording or to exclude certain transactions and to define the intervals at which they are to be drawn up.
- (3) The definition of the data to be returned needs to be supplemented, together with the procedures by which they are referred to in the statistical information medium.

- (4) It is essential to define the specific movements of goods for which special provisions are necessary, Community harmonisation measures need to be introduced.
- (5) It is necessary to fix the timetable for the transmission of the results to the Commission and the procedures for corrections to ensure regular and uniform dissemination.
- (6) In view of the links that exist between external trade statistics and customs procedures, there is a need to bear in mind the provisions adopted by Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽³⁾, as amended by the Act of Accession of Austria, Finland and Sweden, and by Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽⁴⁾, as last amended by Regulation (EC) No 1602/2000 ⁽⁵⁾.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Committee on External Trade Statistics,

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

CHAPTER 1

Object and reference period

Article 1

For the purpose of this Regulation, 'imports' shall mean the movements of the goods referred to in Article 6(1)(a) of Regulation (EC) No 1172/95, hereinafter referred to as 'the Basic Regulation' and 'exports' shall mean the movements of the goods referred to in Article 6(1)(b) of the Basic Regulation.

Article 2

Pursuant to Article 6(2) of the Basic Regulation, external trade statistics shall not cover goods:

⁽¹⁾ OJ L 118, 25.5.1995, p. 10.
⁽²⁾ OJ L 48, 19.2.1998, p. 6.

- released for free circulation after being subject to inward processing or processing under customs control,
- contained in the list of exemptions set out in Annex I.

Article 3

1. The statistical threshold referred to in Article 12 of the Basic Regulation shall be fixed, for each type of goods, so that imports or exports exceeding EUR 800 in value or 1 000 kg in net mass shall be covered by external trade statistics.
2. Each Member State shall inform the Commission of the statistical threshold it has fixed in national currency.

⁽³⁾ OJ L 302, 19.10.1992, p. 1.
⁽⁴⁾ OJ L 253, 11.10.1993, p. 1.
⁽⁵⁾ OJ L 188, 26.7.2000, p. 1.

Article 4

1. The reference period shall be the calendar month during which the goods are imported or exported.
2. When the single administrative document is the statistical information medium, the date of acceptance of the document by the customs authorities shall determine the calendar month to which the data refer.

CHAPTER 2

Definitions of data*Article 5*

The definitions of data referred to in Article 10(1), (2) and (3), first indent, of the Basic Regulation and the procedures whereby they are given in the data medium are indicated in Articles 6 to 14.

Article 6

1. The 'customs destination' shall be identified by the procedure for which the codes to be indicated are given in Annex 38 to Regulation (EEC) No 2454/93.
2. Without prejudice to the provisions concerning the single administrative document, the statistical procedure shall be indicated in the data medium where the customs declaration is not required by the Member States.
3. Each Member State which makes use of the option provided for in paragraph 2 shall draw up the list of statistical procedures to be given in the data medium so that the statistics may be supplied to the Commission in accordance with the codes indicated in paragraph 4.

4. Statistical procedures shall be coded as follows:

(a) imports:

- 7 — normal
- 1 — after outward processing
- 3 — for inward processing, suspension system
- 5 — for inward processing, drawback system
- 6 — after economic outward processing for textiles;

(b) exports:

- 1 — normal
- 3 — after outward processing
- 5 — after inward processing, suspension system
- 6 — after inward processing, drawback system
- 7 — for economic outward processing for textiles.

Article 7

1. For the purposes of this Regulation,

- (a) 'country of origin' means the country where the goods originate in accordance with Title II, Chapter 2, Section 1, of Regulation (EEC) No 2913/92;

(b) 'country of consignment' means the country from which the goods were initially dispatched to the importing Member State, without any halt or legal operation not inherent in their transport having occurred in an intermediate country; if such halts or legal operations have occurred, the final intermediate country shall be regarded as the country of consignment;

(c) 'country of destination' means the last Member State to which it is known, at the time of import, that the goods are to be delivered;

(d) 'Member State of export or import' means the Member State in which the export or import formalities are carried out;

(e) 'Member State of destination' means the Member State to which it is known, at the time of import, that the goods are to be ultimately delivered;

(f) 'Member State of actual export' means the Member State, other than the Member State of export, from which the goods were initially dispatched for the purpose of export, if the exporter is not established in the Member State of export.

Where the goods were not initially dispatched from another Member State for the purpose of export or when the exporter is established in the Member State of export, the Member State of export shall be the same as the Member State of actual export.

2. Without prejudice to customs regulations, and pursuant to Article 10(1)(b) of the Basic Regulation, the country of origin shall be indicated in the statistical information medium.

Nonetheless, the country of consignment must be indicated in the following instances:

(a) for goods the origin of which is not known;

(b) for the following goods, even if their origin is known:

- goods falling within Chapter 97 of the Combined Nomenclature,
- goods imported after outward processing,
- returned goods and other goods of Community origin.

The monthly returns on the transactions referred to in (a) and (b), which are transmitted to the Commission by the Member States, shall include the country of consignment if it is non-EU country. Otherwise, the code QW (or 960) is used.

3. For specific movements of goods referred to in Title II, the partner countries referred to in the Title should be used, if necessary.

4. The countries defined in paragraph 1 shall be designated and coded in accordance with Article 9 of the Basic Regulation.

Article 8

Where the quantity of goods to be mentioned on the data medium is determined:

- (a) 'net mass' means the actual mass of the good excluding all packaging; failing any provisions to the contrary adopted pursuant to Article 10(4) of the Basic Regulation, the net mass shall be expressed in kilograms for each subheading of the Combined Nomenclature;
- (b) 'supplementary units' means the units measuring quantity, other than the units measuring mass expressed in kilograms; they must be mentioned in accordance with the information set out in the current version of the Combined Nomenclature, opposite the subheadings concerned, the list of which is published in Part I 'Preliminary provisions' of the said nomenclature.

Article 9

1. 'Statistical value' shall be:
 - on export, the value of the goods at the place and time where they leave the statistical territory of the exporting Member State,
 - on import, the value of the goods at the place and time where they enter the statistical territory of the importing Member State.
2. The value of the goods referred to in paragraph 1 shall be calculated as follows:
 - in the case of sale or purchase, on the basis of the invoiced amount of the goods,
 - in other cases, on the basis of the amount which would have been invoiced in the case of sale or purchase.

In cases where it is established, the customs value, defined in accordance with Regulation (EEC) No 2913/92, shall be used to determine the value of the goods.

3. The statistical value must include only ancillary charges, such as transport and insurance, relating to that part of the journey which:
 - in the case of exported goods, takes place in the statistical territory of the exporting Member State,
 - in the case of imported goods, takes place outside the statistical territory of the importing Member State.

The statistical value shall not therefore include taxes due on export or import, such as customs duties, value added tax, excise duty, levies, export refunds or other taxes with similar effect.

4. For goods subject to processing operations, the statistical value shall be established as if the goods had been produced wholly in the country of processing.

5. For the goods used as carriers of information such as floppy disks, computer tapes, films, plans, audio- and video-tapes, CD-ROMs, which are traded in order to provide information, the statistical value shall be based on the total cost of the goods, i.e. it shall cover not only the medium but also the information which is carried.

6. The statistical value to be given in the data medium shall be indicated in national currency. Member States may authorise the indication of a value expressed in another currency.

The exchange rate to be used in determining the statistical value shall be either the exchange rate used in calculating the dutiable value or the official exchange rate at the time of export or import.

Without prejudice to customs regulations, in the case of a periodic declaration Member States may fix a single rate for the period for conversion into national currency.

Article 10

1. 'Mode of transport at the external frontier' means the mode of transport determined by the active means of transport with which:
 - on export, the goods are presumed to leave the statistical territory of the Community,
 - on import, the goods are presumed to have entered the statistical territory of the Community.
2. 'Mode of transport inland' means the mode of transport determined by the active means of transport with which:
 - on export, the goods are presumed to have left the place of departure,
 - on import, the goods reach the place of arrival.

This information shall be required only in the cases for which the customs legislation provides.

3. The modes of transport referred to in paragraphs 1 and 2 are as follows:

| A | B | Title |
|---|----|--|
| 1 | 10 | Sea transport |
| | 12 | Railway wagon on a seagoing vessel |
| | 16 | Powered road vehicle on a seagoing vessel |
| | 17 | Trailer or semi-trailer on a seagoing vessel |
| | 18 | Inland waterway vessel on a seagoing vessel |
| 2 | 20 | Rail transport |
| | 23 | Road vehicle on railway wagon |
| 3 | 30 | Road transport |
| 4 | 40 | Air transport |
| 5 | 50 | Postal consignment |
| 7 | 70 | Fixed transport installations |
| 8 | 80 | Inland waterway transport |
| 9 | 90 | Own propulsion |

4. The modes of transport shall be designated in the data medium by the codes in column A of the list shown in paragraph 3.

Member States may require the modes of transport to be designated in the data medium by the codes in column B of the said list.

5. Transport in containers within the meaning of Article 670(g) of Regulation (EEC) No 2454/93, except when the mode of transport is designated by codes 5 (50), 7 (70), 9 (90), must be indicated.

For this purpose, the relevant codes are:

0 — goods not transported in containers;

1 — goods transported in containers.

6. The nationality of the active means of transport at the external frontier which is known on import or export must also be indicated, except when the mode of transport at the Community frontier is designated by codes 2 (20 or 23), 5 (50), 7 (70) and 9 (90).

For this purpose, the country codes defined pursuant to Article 9 of the Basic Regulation shall be used.

7. 'Active means of transport' means the means of transport which provide the motive power. In the case of intermodal transport or if there are several means of transport, the active means of transport shall be that which provides the motive power for the whole combination.

The nationality of the active means of transport shall be that of the country of registration, as known at the time of completing the formalities.

Article 11

1. 'Preference' means the tariff system whereby preferential customs duties are applicable which are wholly or partially

suspended pursuant to conventions, agreements or specific regulations of the Community.

2. The preference shall be stated in accordance with the procedure laid down in Regulation (EEC) No 2454/93.

Article 12

1. 'Invoiced amount' means the amount indicated in the invoice or other documents in its stead.

2. 'Currency' means the currency in which the invoiced amount is indicated.

Article 13

1. For the purposes of this Regulation,

(a) 'transaction' means any operation, whether commercial or not, which leads to a movement of goods covered by statistics on external trade;

(b) 'nature of the transaction' means all those characteristics which distinguish one transaction from another.

2. The list of transactions is set out in Annex II.

They shall be specified in the data medium by the code numbers in column A or by a combination of the code numbers in column A and their subdivisions in column B, as indicated in the list referred to above.

Article 14

1. 'Delivery terms' means the provisions of the sales contract which lay down the obligations of the seller and the buyer respectively, in accordance with the Incoterms of the International Chamber of Commerce.

2. The delivery terms shall be indicated in the data medium by the codes and, if necessary, the details to be mentioned in accordance with Annex III.

TITLE II

SPECIAL PROVISIONS

CHAPTER 1

Definitions and general considerations

Article 15

1. 'Specific movements of goods' means movements of goods having specific features which have some significance for the interpretation of the information and stem, as the case may be, from the movement as such, from the nature of the goods, from the transaction which results in the movement of the goods or from the exporter or importer of the goods.

2. Specific movements of goods are as follows:

(a) industrial plants;

(b) vessels and aircraft, as defined in Chapter 3 of this Title;

(c) sea products;

(d) ships' and aircraft's stores and supplies;

(e) staggered consignments;

(f) military goods;

(g) offshore installations;

(h) spacecraft and spacecraft launchers;

(i) motor vehicle and aircraft parts;

(j) postal consignments;

(k) petroleum products;

(l) waste products.

3. Subject to contrary provision in this Regulation or in the absence of provisions laid down in accordance with Article 21 of the Basic Regulation, specific movements shall be mentioned according to the relevant national provisions.

4. The Member States shall adopt the appropriate provisions in order to implement this chapter and may use, if necessary, statistical information sources other than those laid down in Article 7 of the Basic Regulation.

CHAPTER 2

Industrial plants

Article 16

1. 'Complete industrial plant' means a combination of machines, apparatus, appliances, equipment, instruments and materials, hereinafter referred to as 'component parts', which fall under various headings of the Harmonised System nomenclature and which are designed to function together as a large-scale unit to produce goods or provide services.

All other goods which are used in constructing a complete industrial plant may be treated as component parts thereof, provided they are not excluded from the statistical compilation by virtue of the Basic Regulation.

2. A simplified declaration procedure may be used for recording arrivals or dispatches of complete industrial plant. Those responsible for supplying the statistical information shall be authorised, at their request, to use such simplified procedure in accordance with the conditions laid down in this Regulation.

3. The simplified procedure may be applied only to the export of complete industrial plant, the total statistical value of each of which exceeds EUR 1,5 million, unless they are complete industrial plants for re-use. In this case, Member States shall inform the Commission of the criteria used.

The statistical value of an industrial plant is calculated by adding the statistical values of its component parts and the statistical values of the goods referred to in the second subparagraph of paragraph 1.

Article 17

1. The subheadings applicable for the purposes of this chapter are those provided for in Chapter 98 of the Combined Nomenclature, in respect of the component parts for complete industrial plant covered by Chapters 63, 68, 69, 70, 72, 73, 76, 82, 84, 85, 86, 87, 90 and 94, with reference to each of these chapters and to each of the individual headings of which they are composed.

2. For the purposes of this chapter, component parts falling within a given chapter shall be classified under the complete industrial plant subheading of Chapter 98 for the chapter in

question unless the competent department listed in that Chapter requires the classification of the goods in chapter 98 under the appropriate complete industrial plant subheadings at the level of the headings of the Harmonised System nomenclature or to apply the provisions of paragraph 3.

However, the simplified procedure shall not prevent the competent department from classifying certain component parts under the relevant Combined Nomenclature subheadings within the meaning of point (b) of Article 1(2) of Council Regulation (EEC) No 2658/87⁽¹⁾.

3. Where the competent department referred to in paragraph 2 considers the value of the items of complete industrial plant to be too low to justify recording them under the subheadings relating to the chapters under which they fall, specific subheadings, as provided for in the Combined Nomenclature, shall apply.

Article 18

In accordance with the Combined Nomenclature, the code numbers for complete industrial plant subheadings shall be composed in conformity with the following rules:

1. the code shall comprise eight digits;
2. the first two digits shall be 9 and 8 respectively;
3. the third digit, which shall serve to identify exports of complete industrial plant, shall be 8;
4. the fourth digit shall vary from 0 to 9 according to the main economic activity carried out by the complete industrial plant and in accordance with the classification given below:

| <i>Code</i> | <i>Economic activities</i> |
|-------------|--|
| 0 | Energy (including production and distribution of steam and hot water) |
| 1 | Extraction of non-energy-producing minerals (including preparation of metalliferous ores and peat extraction); manufacture of non-metallic mineral products (including manufacture of glass and glass-ware) |
| 2 | Iron and steel industry; manufacture of metal articles (excluding mechanical engineering and construction of means of transport) |
| 3 | Mechanical engineering and construction of means of transport, instrument engineering |
| 4 | Chemical industry (including man-made fibres industry); rubber and plastics industry |
| 5 | Food, drink and tobacco industry |
| 6 | Textile, leather, footwear and clothing industry |
| 7 | Timber and paper industry (including printing and publishing); manufacturing industries not classified elsewhere |
| 8 | Transport (excluding services connected with transport, services of travel agents, freight brokers and other agents facilitating the transport of passengers or goods, storage and warehousing) and communications |
| 9 | Collection, purification and distribution of water; services connected with transport; economic activities not classified elsewhere; |

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

5. the fifth and sixth digits shall correspond to the number of the chapter of the Combined Nomenclature to which the complete industrial plant subheading relates. However, for the purposes of Article 17(3), these fifth and sixth digits shall be 9;
6. for complete industrial plant subheadings which are situated:
 - at Combined Nomenclature chapter level, the seventh and eighth digits shall be 0,
 - at Harmonised System heading level, the seventh and eighth digits shall correspond to the third and fourth digits of that heading;
7. the competent department referred to in Article 17 (2) shall prescribe the designation and the code number to be used in the statistical information medium to identify the component parts of a complete industrial plant.

Article 19

1. Those responsible for supplying statistical information may not use the simplified declaration procedure without prior authorisation in accordance with the detailed rules which each Member State shall lay down within the framework of this chapter.
2. In the case of a complete industrial plant whose component parts are exported by several Member States, authorisation for the use of the simplified declaration procedure shall be given by each Member State for the exports which concern it. However, such authorisation may be issued only on presentation of documentary evidence that the total statistical value specified in Article 16(3) is reached or that other criteria justify the use of the simplified procedure.
3. Where the department referred to in Article 17(2) is not the department responsible for compiling the statistics on the external trade of the exporting Member State, it shall not issue authorisation without the approval of the latter.

CHAPTER 3

Imports and exports of vessels and aircraft

Article 20

For the purposes of this chapter:

- (a) 'vessels' means the vessels used for sea transport, referred to in Additional Notes 1 and 2 of Chapter 89 of the Combined Nomenclature, and warships;
- (b) 'aircraft' means aeroplanes falling within CN code 8802 for civilian use, provided they are used by an airline, or for military use;
- (c) 'ownership of a vessel or an aircraft' means the fact of a physical or legal person's registration as owner of a vessel or an aircraft;
- (d) 'partner country' means:
 - on import, the third country of construction if the vessel or aircraft is new; in other cases it shall mean the third country where the natural or legal person transfer-

ring the ownership of the vessel or aircraft is established,

- on export, the third country where the natural or legal person to whom the ownership of the vessel or aircraft is transferred is established.

Article 21

1. External trade statistics covering the following shall be transmitted to the Commission:

- (a) the transfer of ownership of a vessel or aircraft from a physical or legal person established in a third country to a physical or legal person established in a Member State; this transaction shall be treated in the same way as an import;
- (b) the transfer of ownership of a vessel or aircraft from a physical or legal person established in a Member State to a physical or legal person established in a third country; this transaction shall be treated in the same way as an export; if the vessel or aircraft is new, the export shall be recorded in the Member State of construction;
- (c) the placing of vessels or aircraft under inward processing customs procedures and their re-export after inward processing to a destination in a third country;
- (d) the placing of vessels or aircraft under outward processing customs procedures and their re-import after outward processing.

2. The results of the operations referred to in paragraph 1(a) and (b) which the Member States transmit to the Commission shall include the following data:

- the code corresponding to the subdivision of the Combined Nomenclature,
- the statistical procedure,
- the partner country,
- the quantity, as number of items and in any other supplementary units laid down in the Combined Nomenclature, for vessels, and the quantity, in net mass and in supplementary units, for aircraft,
- the statistical value.

Article 22

Member States shall use every available source of information for the purpose of complying with this chapter.

CHAPTER 4

Ships' and aircraft's stores and supplies

Article 23

For the purposes of this chapter:

- 'ships' and aircraft's stores' means the various products for consumption by the crew and passengers of vessels or aircraft;

— 'ships' and aircraft's supplies' means the products for the operation of the engines, machines and other equipment on vessels or aircraft, such as fuel, oil and lubricants.

Article 24

1. External trade statistics covering the following shall be transmitted to the Commission:

- (a) any delivery of ships' and aircraft's stores and supplies to vessels or aircraft for which the natural or legal person responsible for their commercial use is established in a third country, and which are stationed in a port or airport of the reporting Member State, provided that they are Community goods or non-Community goods placed under inward processing customs arrangements or under arrangements for processing under customs control; this operation shall be treated as an export;
- (b) any delivery of ships' and aircraft's stores and supplies to national vessels or aircraft, which are stationed in a port or airport of the reporting Member State, provided that they are non-Community goods which have not been released by customs for free circulation, placed under inward processing customs arrangements or under arrangements for processing under customs control; this operation shall be treated as an import.

2. The monthly returns on the operations referred to in paragraph 1(a), which are transmitted by the Member States to the Commission, shall include the following data:

- (a) the product code, according to the following simplified coding:
 - 9930 24 00: goods from Chapters 1 to 24 of the Harmonised System,
 - 9930 27 00: goods from Chapter 27 of the Harmonised System,
 - 9930 99 00: goods classified elsewhere,
- (b) the specific country code QS (or 952);
- (c) the statistical procedure;
- (d) the quantity in net mass;
- (e) the statistical value.

CHAPTER 5

Staggered consignments

Article 25

For the purposes of this chapter, 'staggered consignments' means imports or exports of components of complete goods in a disassembled state over several deliveries for commercial or transport-related reasons.

Article 26

In the monthly returns transmitted to the Commission by the Member States, data on the imports and exports of staggered consignments shall be compiled once only, in the month of

import or export of the last partial consignment, indicating the full value of the complete assembled good and using the classification code for that good.

CHAPTER 6

Military goods

Article 27

1. Statistics relating to the trading of goods with non-member countries covering exports and imports of goods for military use in compliance with the definition in force in the Member States shall be transmitted to the Commission.

2. The monthly returns covering the operations referred to in paragraph 1, which are transmitted to the Commission by the Member States, shall include the following data:

- (a) the code corresponding to the subdivision of the product classification referred to in Article 8 of the Basic Regulation;
- (b) the code of the partner country;
- (c) the statistical procedure;
- (d) the quantity in net mass and, where appropriate, in supplementary units;
- (e) the statistical value.

3. In the Member States unable to apply the provisions of paragraph 2 owing to military secrecy, appropriate measures shall be taken to ensure that, at a minimum, the statistical value of exports and imports of goods intended for military use are included in the monthly returns transmitted to the Commission.

CHAPTER 7

Offshore installations

Article 28

1. For the purposes of this chapter, 'offshore installations' means the equipment and devices installed in the high sea in order to search for and exploit mineral resources.

2. 'Foreign' installations, as opposed to 'national' installations, means those installations of which the natural or legal person responsible for the commercial use is established in a non-member country.

Article 29

1. In a given Member State, statistics on trade with non-member countries covering the following shall be transmitted to the Commission:

- (a) the delivery of goods to a national installation directly from a non-member country or from a foreign installation; this transaction shall be treated in the same way as an import;

- (b) the delivery of goods to a non-member country or to a foreign installation from a national installation; this transaction shall be treated in the same way as an export;
- (c) the delivery of goods to a national installation from a customs' warehouse located on the statistical territory of a Member State; this transaction shall be treated in the same way as an import;
- (d) the import to the statistical territory of this Member State of goods from a foreign installation;
- (e) the export from the statistical territory of this Member State of goods destined for a foreign installation.

2. The monthly returns covering the operations referred to in paragraph 1, which are transmitted to the Commission by the Member States, shall include the following data:

- (a) the code corresponding to the subdivision of the Combined Nomenclature.

However, without prejudice to the customs regulations, if the goods are those referred to in Article 23 the Member States shall have the option of using the simplified codes set out in Article 24(2)(a);

- (b) the code of the partner country.

However, without prejudice to the customs regulations, in the case of goods coming from or destined for installations, the partner country shall be the country where the natural or legal person responsible for the commercial use of the installation in question is established. Where this information is not available, the code QW (or 960) shall be used;

- (c) the statistical procedure;
- (d) the quantity in net mass;
- (e) the statistical value.

CHAPTER 8

Spacecraft

Article 30

For the purposes of this chapter:

- (a) 'spacecraft' means craft such as satellites which travel in space outside the earth's atmosphere;
- (b) 'ownership of a spacecraft' means the fact of a natural or legal person's registration as owner of a spacecraft.

Article 31

1. Statistics on trade with non-member countries covering the following shall be transmitted to the Commission:

- (a) the admission of a spacecraft under inward-processing arrangements and its export under such arrangements to a non-member country;

- (b) the admission of a spacecraft under outward-processing arrangements and its import under such arrangements;
- (c) the space launch of a spacecraft which was the subject of a transfer of ownership between a natural or legal person established in a non-member country and a natural or legal person established in a Member State.

This operation shall be recorded as an import in the Member State where the new owner is established;

- (d) the space launch of a spacecraft which was the subject of a transfer of ownership from a natural or legal person established in a Member State to a natural or legal person established in a non-member State.

This operation shall be recorded as an export by the Member State of manufacture of the finished spacecraft;

- (e) the transfer of ownership of a spacecraft in orbit from a natural or legal person established in a non-member country to a natural or legal person established in a Member State. This operation shall be recorded as an import;
- (f) the transfer of ownership of a spacecraft in orbit from a natural or legal person established in a Member State to a natural or legal person established in a non-member country. This operation shall be recorded as an export.

2. The monthly returns on the operations referred to in paragraph 1(c) to (f), which are transmitted to the Commission by the Member States, shall include the following data:

- (a) the code corresponding to the subdivision of the product classification referred to in Article 8 of the Basic Regulation;
- (b) the code of the partner country.

For the operations referred to in paragraph 1(c), the partner country means the country of manufacture of the finished spacecraft.

For the operations referred to in paragraph 1(d) and (f), the partner country means the country where the natural or legal person to whom the ownership of the spacecraft is transferred is established.

For the operations referred to in paragraph 1(e), the partner country means the country where the natural or legal person transferring the ownership of the spacecraft is established;

- (c) the statistical procedure;
- (d) the quantity in net mass and in supplementary units;
- (e) the statistical value.

For the imports referred to in paragraph 1(c), the statistical value includes the transport and insurance costs connected with conveyance to the launch base and the space journey.

TITLE III

FINAL PROVISIONS

Article 32

Pursuant to Article 13 of the Basic Regulation, Member States shall transmit to the Commission without delay, and no later than six weeks after the end of the reference period, the monthly results of their external trade statistics.

Article 33

1. If the data contained in a statistical information medium have to be corrected, the corrections shall be made to the figures of the reference period.

2. Member States shall transmit the corrected monthly data at least every three months, together with a file containing the cumulative and corrected annual data.

Article 34

Member States shall retain the statistical information media referred to in Articles 7 and 23 of the Basic Regulation, or at

least the information contained therein, for at least two years after the end of the year to which the media refer.

Article 35

Member States shall transmit to the Commission their national instructions and any subsequent amendments.

Article 36

Commission Regulation (EC) No 840/96 ⁽¹⁾ is repealed effective from 1 January 2001.

References to the repealed Regulation shall be deemed to refer to this Regulation.

Article 37

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 2001.

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

Done at Brussels, 7 September 2000.

For the Commission
Pedro SOLBES MIRA
Member of the Commission

⁽¹⁾ OJ L 114, 8.5.1996, p. 7.

ANNEX I

List of exceptions referred to in Article 2

Data shall not be compiled for the following goods:

- (a) means of payment which are legal tender, and securities;
- (b) monetary gold;
- (c) emergency aid for disaster areas;
- (d) because of the diplomatic or similar nature of their intended use:
 - 1. goods benefiting from diplomatic and consular or similar immunity;
 - 2. gifts to Head of State or to members of a government or parliament;
 - 3. items being circulated within the framework of administrative mutual aid;
- (e) provided that they are not the subject of a commercial transaction:
 - 1. decorations, honorary distinctions and prizes, commemorative badges and medals;
 - 2. travel equipment, provisions and other items, including sports equipment, intended for personal use or consumption which accompany, precede or follow the traveller;
 - 3. bridal outfits, items involved in moving house, or heirlooms;
 - 4. coffins, funerary urns, ornamental funerary articles and items for the upkeep of graves and funeral monuments;
 - 5. printed advertising material, instructions for use, price lists and other advertising items;
 - 6. goods which have become unusable, or which cannot be used for industrial purposes;
 - 7. ballast;
 - 8. postage stamps;
 - 9. pharmaceutical products used at international sporting events;
- (f) products used as part of exceptional common measures for the protection of persons or of the environment;
- (g) goods which are the subject of non-commercial traffic between persons resident in the frontier zones defined by the Member States (frontier traffic); products obtained by agricultural producers on properties located outside, but adjacent to, the statistical territory within which they have their principal undertaking;
- (h) provided that the trade is temporary, goods imported and exported for the repair of means of transport, containers and related transport equipment, but which are not placed under processing arrangements, and parts replaced during the repairs;
- (i) goods exported to national armed forces stationed outside the statistical territory as well as imported goods which had been conveyed outside the statistical territory by the national armed forces, as well as goods acquired or disposed of on the statistical territory of a Member State by the foreign armed forces which are stationed there;
- (j) goods used as carriers of information such as floppy disks, computer tapes, films, plans, audio- and videotapes, CD-ROMs which are traded in order to provide information, where developed to order for a particular client or where they are not the subject of a commercial transaction, as well as goods which complement a previous delivery e.g. an update, and for which the consignee is not invoiced;
- (k) satellite launchers:
 - on export and import pending their launching into space,
 - at the time of launching into space.

ANNEX II

List of transactions referred to in Article 13(2)

| A | B |
|--|---|
| 1. Transactions involving actual or intended transfer of ownership against compensation (financial or otherwise) (except the transactions listed under 2, 7, 8) ^(a) ^(b) ^(c) | 1. Outright/purchase/sale ^(b) 2. Supply for sale on approval or after trial, for consignment or with the intermediation of a commission agent 3. Barter trade (compensation in kind) 4. Personal purchases by travellers 5. Financial leasing (hire-purchase) ^(c) |
| 2. Return of goods after registration of the original transaction under code 1 ^(d) ; replacement of goods free of charge ^(d) | 1. Return of goods 2. Replacement for returned goods 3. Replacement (e.g. under warranty) for goods not being returned |
| 3. Transactions (not temporary) involving transfer of ownership but without compensation (financial or other) | 1. Goods delivered under aid programmes operated or financed partly or wholly by the European Community 2. Other general government-aid deliveries 3. Other aid deliveries (individuals, non-governmental organisations) 4. Others |
| 4. Operations with a view to processing under contract ^(e) or repair ^(f) (except those recorded under 7) | 1. Processing under contract 2. Repair and maintenance against payment 3. Repair and maintenance free of charge |
| 5. Operations following processing under contract ^(e) or repair ^(f) (except those recorded under 7) | 1. Processing under contract 2. Repair and maintenance against payment 3. Repair and maintenance free of charge |
| 6. Transactions not involving transfer of ownership, e.g. hire, loan, operational leasing ^(g) and other temporary uses ^(h) except processing under contract or repair (delivery or return) | 1. Hire, loan, operational leasing 2. Other goods for temporary uses |
| 7. Operations under joint defence projects or other joint intergovernmental production programs (e.g. Airbus) | |
| 8. Supply of building materials and equipment for works that are part of a general construction or engineering contract ⁽ⁱ⁾ | |
| 9. Other transactions | |

-
- (4) This item covers most dispatches and arrivals, i.e. transactions in respect of which:
- ownership is transferred from resident to non-resident, and
 - payment or compensation in kind is or will be made.
- Note that this also applies to movements between entities belonging to the same enterprise or to the same group of enterprises and to movements to/from central distribution depots, unless no payment or other compensation is made (otherwise they are covered by code 3).
- (5) Including spare parts and other replacements made against payment.
- (6) Including financial leasing: the lease instalments are calculated in such a way as to cover all or virtually all of the value of the goods. The risks and rewards of ownership are transferred to the lessee. At the end of the contract the lessee becomes the legal owner of the goods.
- (7) Return and replacement dispatches of goods originally recorded under items 3 to 9 of column A should be registered under the corresponding items.
- (8) Processing operations (whether or not under customs supervision) should be recorded under items 4 and 5 of column A. Processing activities on processor's own account are not covered by this item. They should be registered under item 1 of column A.
- (9) Repair entails the restoration of goods to their original function. This may involve some rebuilding or enhancements.
- (10) Operational leasing: leasing contracts other than financial leasing (see note (6)).
- (11) This item covers goods that are exported/imported with the intention of subsequent re-import/re-export without any change of ownership taking place.
- (12) The transactions recorded under item 8 of column A involve goods which are not separately invoiced, but for which a single invoice is made covering the total value of the works. Where this is not the case, the transactions should be recorded under item 1.
-

ANNEX III

List of delivery terms referred to in Article 14(2)

| First sub-box | Meaning | Second sub-box |
|---------------|--------------------------------------|--|
| Incoterm Code | Incoterm ICC/ECE Geneva | Place to be indicated |
| EXW | ex-works | location of works |
| FCA | free carrier | ... agreed place |
| FAS | free alongside ship | agreed port of loading |
| FOB | free on board | agreed port of loading |
| CFR | cost and freight (C & F) | agreed port of destination |
| CIF | cost, insurance and freight | agreed port of destination |
| CPT | carriage paid to | agreed port of destination |
| CIP | carriage and insurance paid to | agreed port of destination |
| DAF | delivered at frontier | agreed Place of Delivery at Frontier |
| DES | delivered ex-ship | agreed port of destination |
| DEQ | delivered ex-quay | after customs clearance, agreed port |
| DDU | delivered duty unpaid | agreed place of destination in importing country |
| DDP | delivered duty paid | agreed place of delivery in importing country |
| XXX | delivered terms other than the above | precise statement of terms specified in the contract |

Third sub-box

1: Place located in the territory of the Member State concerned;

2: Place located in other Member State;

3: Other (place located outside the Community).

COMMISSION REGULATION (EC) No 1918/2000**of 8 September 2000****determining the world market price for unginne cotton and the rate for the aid**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Council Regulation (EC) No 1554/95 of 29 June 1995 ⁽²⁾ laying down general rules for the system of aid for cotton and repealing Regulation (EEC) No 2169/81, as last amended by Regulation (EC) No 1419/98 ⁽³⁾, and in particular Articles 3, 4 and 5 thereof,

Whereas:

- (1) Article 3 of Regulation (EC) No 1554/95 requires a world market price for unginne cotton to be periodically determined from the world market price determined for ginned cotton, using the historical relationship between the two prices as specified in Article 1(2) of Commission Regulation (EEC) No 1201/89 of 3 May 1989 laying down rules for implementing the system of aid for cotton ⁽⁴⁾, as last amended by Regulation (EC) No 1624/1999 ⁽⁵⁾. If it cannot be determined in this way it is to be based on the last price determined.
- (2) Article 4 of Regulation (EC) No 1554/95 requires the world market price for ginned cotton to be determined for a product of specific characteristics using the most favourable offers and quotations on the world market of those considered representative of the real market trend. To this end an average is to be calculated of offers and quotations on one or more European exchanges for a cif product to a North European port from the supplier countries considered most representative as regards international trade. These rules for determination of the world market price for ginned cotton provide for adjust-

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

- (3) Application of the above rules gives the world market price for unginne cotton indicated hereunder.
- (4) The first subparagraph of Article 5(3a) of Regulation (EC) No 1554/95 stipulates that the advance payment rate for the aid is to be the guide price less the world market price and less a further amount calculated by the formula applicable when the guaranteed maximum quantity based on the production estimated for unginne cotton plus at least 15 %. Commission Regulation (EC) No 1842/2000 ⁽⁶⁾ fixes the production estimated for the 2000/2001 marketing year. The application of this method results in the fixing of the advance payment rate for each Member State at the levels set out below,

HAS ADOPTED THIS REGULATION:

Article 1

1. The world market price for unginne cotton as indicated in Article 3 of Regulation (EC) No 1554/95 is set at 38,565 EUR/100 kg.
2. The advance payment of the aid referred to in Article 5(3a), first subparagraph, of Regulation (EC) No 1554/95 is fixed at:
 - 42,223 EUR/100 kg in Spain,
 - 23,195 EUR/100 kg in Greece,
 - 67,735 EUR/100 kg in other Member States.

Article 2

This Regulation shall enter into force on 9 September 2000.

⁽¹⁾ OJ L 148, 30.6.1995, p. 45.

⁽²⁾ OJ L 148, 30.6.1995, p. 48.

⁽³⁾ OJ L 190, 4.7.1998, p. 4.

⁽⁴⁾ OJ L 123, 4.5.1989, p. 23.

⁽⁵⁾ OJ L 192, 24.7.1999, p. 39.

⁽⁶⁾ OJ L 220, 31.8.2000, p. 14.

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

Done at Brussels, 8 September 2000.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 1919/2000
of 8 September 2000
amending the import duties in the cereals sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector ⁽³⁾, as last amended by Regulation (EC) No 2519/98 ⁽⁴⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) The import duties in the cereals sector are fixed by Commission Regulation (EC) No 1861/2000 ⁽⁵⁾, as last amended by Regulation (EC) No 1889/2000 ⁽⁶⁾.

- (2) Article 2(1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by EUR 5 per tonne from the duty fixed, a corresponding adjustment is to be made. Such a difference has arisen. It is therefore necessary to adjust the import duties fixed in Regulation (EC) No 1861/2000,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 1861/2000 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 9 September 2000.

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

Done at Brussels, 8 September 2000.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 161, 29.6.1996, p. 125.

⁽⁴⁾ OJ L 315, 25.11.1998, p. 7.

⁽⁵⁾ OJ L 221, 1.9.2000, p. 14.

⁽⁶⁾ OJ L 227, 7.9.2000, p. 16.

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EEC) No 1766/92

| CN code | Description | Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (EUR/tonne) | Import duty by air or by sea from other ports ⁽²⁾ (EUR/tonne) |
|------------|--|--|--|
| 1001 10 00 | Durum wheat high quality | 0,00 | 0,00 |
| | medium quality ⁽¹⁾ | 0,00 | 0,00 |
| 1001 90 91 | Common wheat seed | 1,72 | 0,00 |
| 1001 90 99 | Common high quality wheat other than for sowing ⁽³⁾ | 1,72 | 0,00 |
| | medium quality | 27,16 | 17,16 |
| | low quality | 52,62 | 42,62 |
| 1002 00 00 | Rye | 49,80 | 39,80 |
| 1003 00 10 | Barley, seed | 49,80 | 39,80 |
| 1003 00 90 | Barley, other ⁽³⁾ | 49,80 | 39,80 |
| 1005 10 90 | Maize seed other than hybrid | 94,00 | 90,58 |
| 1005 90 00 | Maize other than seed ⁽³⁾ | 94,00 | 90,58 |
| 1007 00 90 | Grain sorghum other than hybrids for sowing | 74,50 | 64,50 |

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements for durum wheat of medium quality, referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

⁽²⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— EUR 3 per tonne, where the port of unloading is on the Mediterranean Sea, or

— EUR 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

⁽³⁾ The importer may benefit from a flat-rate reduction of EUR 14 or 8 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(period from 31 August 2000 to 7 September 2000)

1. Averages over the two-week period preceding the day of fixing:

| Exchange quotations | Minneapolis | Kansas-City | Chicago | Chicago | Minneapolis | Minneapolis | Minneapolis |
|---------------------------------------|-------------|--------------|---------|---------|-------------|--------------------|-------------|
| Product (% proteins at 12 % humidity) | HRS2. 14 % | HRW2. 11,5 % | SRW2 | YC3 | HAD2 | Medium quality (*) | US barley 2 |
| Quotation (EUR/t) | 124,59 | 122,66 | 106,12 | 77,81 | 178,17 (**) | 168,17 (**) | 101,06 (**) |
| Gulf premium (EUR/t) | — | 10,98 | 2,21 | 7,50 | — | — | — |
| Great Lakes premium (EUR/t) | 24,55 | — | — | — | — | — | — |

(*) A discount of 10 EUR/t (Article 4(1) of Regulation (EC) No 1249/96).

(**) Fob Great Lakes.

2. Freight/cost: Gulf of Mexico — Rotterdam: 20,09 EUR/t; Great Lakes — Rotterdam: 30,04 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)
0,00 EUR/t (SRW2).

COMMISSION REGULATION (EC) No 1920/2000
of 8 September 2000
amending representative prices and additional duties for the import of certain products in the
sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 1527/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽³⁾, as last amended by Regulation (EC) No 624/98 ⁽⁴⁾, and in particular the second subparagraph of Article 1(2), and Article 3(1) thereof,

Whereas:

- (1) The amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation

(EC) No 1411/2000 ⁽⁵⁾, as last amended by Regulation (EC) No 1866/2000 ⁽⁶⁾.

- (2) It follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 September 2000.

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

Done at Brussels, 8 September 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 252, 25.9.1999, p. 1.

⁽²⁾ OJ L 175, 14.7.2000, p. 59.

⁽³⁾ OJ L 141, 24.6.1995, p. 16.

⁽⁴⁾ OJ L 85, 20.3.1998, p. 5.

⁽⁵⁾ OJ L 161, 1.7.2000, p. 22.

⁽⁶⁾ OJ L 221, 1.9.2000, p. 25.

ANNEX

to the Commission Regulation of 8 September 2000 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(EUR)

| CN code | Amount of representative prices per 100 kg net of product concerned | Amount of additional duty per 100 kg net of product concerned |
|---------------------------|---|---|
| 1701 11 10 ⁽¹⁾ | 28,82 | 2,64 |
| 1701 11 90 ⁽¹⁾ | 28,82 | 7,12 |
| 1701 12 10 ⁽¹⁾ | 28,82 | 2,51 |
| 1701 12 90 ⁽¹⁾ | 28,82 | 6,69 |
| 1701 91 00 ⁽²⁾ | 30,37 | 10,05 |
| 1701 99 10 ⁽²⁾ | 30,37 | 5,53 |
| 1701 99 90 ⁽²⁾ | 30,37 | 5,53 |
| 1702 90 99 ⁽³⁾ | 0,30 | 0,35 |

⁽¹⁾ For the standard quality as defined in Article 1 of amended Council Regulation (EEC) No 431/68 (OJ L 89, 10.4.1968, p. 3).

⁽²⁾ For the standard quality as defined in Article 1 of Council Regulation (EEC) No 793/72 (OJ L 94, 21.4.1972, p. 1).

⁽³⁾ By 1 % sucrose content.

REGULATION (EC) No 1921/2000 OF THE EUROPEAN CENTRAL BANK**of 31 August 2000****amending Regulation (EC) No 2818/98 of the European Central Bank on the application of minimum reserves (ECB/1998/15) and amending Regulation (EC) No 2819/98 of the European Central Bank concerning the consolidated balance sheet of the monetary financial institutions sector (ECB/1998/16)****(ECB/2000/8)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute') and in particular to Article 19.1 thereof,

Having regard to Council Regulation (EC) No 2531/98 of 23 November 1998 concerning the application of minimum reserves by the European Central Bank ⁽¹⁾, and in particular to Article 6(4) thereof, and to Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions ⁽²⁾,

Having regard to Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank ⁽³⁾, and in particular to Articles 5(1) and 6(4) thereof,

Whereas:

Regulation (EC) No 2818/98 of the European Central Bank of 1 December 1998 on the application of minimum reserves (ECB/1998/15) ⁽⁴⁾ and ECB Regulation (EC) No 2819/98 of the European Central Bank of 1 December 1998 concerning the consolidated balance sheet of the monetary financial institutions sector (ECB/1998/16) ⁽⁵⁾ should be amended for the following reasons:

1. in order to facilitate the liquidity management of the European Central Bank and of credit institutions, reserve requirements should be confirmed at the latest on the first day of the maintenance period;
2. the need may exceptionally arise for credit institutions to report revisions to the reserve base or to reserve requirements which have been confirmed;
3. the procedures for confirmation or acknowledgement of reserve requirements are without prejudice to the obligation for reporting agents always to report correct statistical information and to revise incorrect statistical information they may have already reported;
4. the determination of specific procedures for mergers and divisions involving credit institutions is necessary in order to clarify the obligations of these institutions in respect of reserve requirements;

5. the definitions of mergers and divisions laid down in this Regulation are based on definitions already existing in secondary European Community legislation relating to public limited liability companies; Whereas these definitions have been adapted to the purposes of this Regulation;

6. these procedures do not prejudice the possibility of holding minimum reserves through an intermediary,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2818/98 of the European Central Bank is amended as follows:

1. The following definitions are inserted at the end of Article 1:

— "merger" shall mean an operation whereby one or more credit institutions (the "merging institutions"), on being dissolved without going into liquidation, transfer all their assets and liabilities to another credit institution (the "acquiring institution"), which may be a newly established credit institution;

— "division" shall mean an operation whereby one credit institution (the "institution being divided"), on being dissolved without going into liquidation, transfers all its assets and liabilities to more than one institution (the "recipient institutions"), which may be newly established credit institutions.'

2. Article 3(3) is replaced by the following:

'3. The reserve base in respect of a particular maintenance period shall be calculated by the institution on the basis of the data relating to the month preceding the month within which the maintenance period starts. The reserve base shall be reported by the institution to the relevant participating national central bank (NCB) before the start of the relevant maintenance period as required within the reporting framework for the money and banking statistics of the ECB, which is laid down in Regulation (EC) No 2819/98 of the European Central Bank of 1 December 1998 concerning the consolidated balance sheet of the monetary financial institutions sector (ECB/1998/16) (*).

⁽¹⁾ OJ L 318, 27.11.1998, p. 1.

⁽²⁾ OJ L 318, 27.11.1998, p. 4.

⁽³⁾ OJ L 318, 27.11.1998, p. 8.

⁽⁴⁾ OJ L 356, 30.12.1998, p. 1.

⁽⁵⁾ OJ L 356, 30.12.1998, p. 7.

4. For institutions having been granted the derogation set out in Article 2(2) of Regulation (EC) No 2819/98 of the European Central Bank, the reserve base shall be calculated, for the three maintenance periods consecutive to the maintenance period starting after the end of a quarter, on the basis of end-of-quarter data reported in accordance with Annex II to Regulation (EC) No 2819/98 of the European Central Bank. These institutions shall confirm their reserve requirements and may revise the reported data in accordance with Article 5.

(*) OJ L 356, 30.12.1998, p. 7.'

3. Article 5 is replaced by the following:

'Article 5

Calculation and confirmation of reserve requirements

1. The amount of minimum reserves to be held by each institution in respect of a particular maintenance period shall be calculated by applying the reserve ratios to each relevant item of the reserve base for that period, as defined in Article 4. The amount of reserve requirement identified by the relevant participating NCB and by the institution in accordance with the procedures mentioned in this Article shall constitute the basis for (i) the remuneration of holdings of required reserves, and (ii) the assessment of the compliance by an institution with the obligation to hold the required amount of minimum reserves.

2. An allowance of EUR 100 000, to be deducted from the amount of the reserve requirement, shall be granted to each institution, subject to the provisions contained in Articles 11 and 13.

3. Procedures for the confirmation of individual reserve requirements of institutions shall be determined by each participating NCB, in accordance with the following principles. Either the relevant participating NCB or the institution shall take the initiative to calculate the reserve requirement of the institution for the relevant maintenance period, on the basis of the statistical information and of the reserve base reported in accordance with Article 5 of Regulation (EC) No 2819/98 of the European Central Bank. The calculating party shall notify the other party of the calculated reserve requirement at the latest on the 22nd calendar day of the month within which the maintenance period starts, or on the preceding NCB business day if the 22nd calendar day is not an NCB business day. The relevant participating NCB may specify an earlier date as a time limit for the reporting of reserve requirements. The calculated reserve requirement shall be confirmed at the latest on the first day of the maintenance period. The absence of a reaction by the end of the first day of the maintenance period shall be deemed to constitute a confirmation of the reserve requirement of the institution for the relevant maintenance period.

4. The relevant participating NCB may accept, after the confirmation of the reserve requirement of the institution in accordance with the procedure mentioned in paragraph 3 of this Article, revisions by the institution to the reserve base reported in accordance with Article 5 of Regulation (EC) No 2819/98 of the European Central Bank, and to the confirmed reserve requirement. The revising party shall notify the other party of the revisions at the latest on the 14th calendar day of the month following the month within which the maintenance period started, or on the preceding NCB business day if the 14th calendar day is not an NCB business day. The relevant participating NCB may specify an earlier date as a time limit for the submission of revisions. Revisions shall be acknowledged by the notified party at the latest on the 15th calendar day of the month following the month within which the maintenance period started, or on the following NCB business day if the 15th calendar day is not an NCB business day. The absence of a reaction on the part of the notified party by the end of the 15th calendar day, or the following NCB business day if the 15th calendar day is not an NCB business day, shall be deemed to constitute an acknowledgement of the reserve requirement of the institution for the relevant maintenance period. Should the possibility determined by this paragraph of revising the reserve base and the reserve requirement be used by an institution in an abusive manner, the possibility of accepting revisions for this institution may be suspended.

5. Time limits set by a participating NCB for notification, confirmation, revision or acknowledgement of individual data relevant for reserve requirements may deviate from the time limits set out in this Article. The participating NCBs may publish calendars of forthcoming time limits for the implementation of the procedures mentioned in this Article.

6. In the event that an institution fails to report the relevant statistical information as specified in Article 5 of Regulation (EC) No 2819/98 of the European Central Bank, the relevant participating NCB shall notify the credit institution concerned, for confirmation or acknowledgement in accordance with the procedures mentioned in this Article, of the amount of reserve requirement of the institution for the relevant maintenance period(s), estimated on the basis of historical information reported by the institution and any relevant information. Article 6 of Council Regulation (EC) No 2531/98 and the power of the ECB to impose a sanction for infringement of the ECB's statistical reporting requirements shall remain unaffected.'

4. Article 6(2) is replaced by the following:

'2. An institution shall have complied with its reserve requirement if the average end-of-day balance on its reserve accounts over the maintenance period is not less than the amount defined for that period in accordance with the procedures mentioned in Article 5.'

5. In Article 8(1), the words '(whereby the result is rounded to the nearest cent)' are inserted at the end of the first sentence.

6. Article 13 is replaced by the following:

'Article 13

Mergers and divisions

1. For the maintenance period within which the merger takes effect, the reserve requirements of the merging institutions shall be assumed by the acquiring institution and the acquiring institution shall benefit from each allowance referred to in Article 5(2) which was granted to the merging institutions. All reserve holdings of the merging institutions during the maintenance period within which the merger takes effect count together towards the fulfilment of reserve requirements by the acquiring institution.

2. From the maintenance period consecutive to the maintenance period within which the merger takes effect onwards, the acquiring institution shall be granted only one allowance referred to in Article 5(2). For the maintenance period consecutive to the merger, the reserve requirement of the acquiring institution shall be calculated on the basis of a reserve base aggregating the reserve bases of the merging institutions and, if applicable, of the acquiring institution. The reserve bases to be aggregated are those which would have been relevant for this maintenance period had the merger not occurred. To the extent required to have adequate statistical information for each of the merging institutions, the statistical reporting obligations of the merging institutions shall be assumed by the acquiring institution. Specific provisions, depending on the features of the institutions involved in the merger, are set out in Annex II to Regulation (EC) No 2819/98 of the European Central Bank.

3. For the maintenance period within which a division takes effect, the reserve requirement of the institution being divided shall be assumed by those recipient institutions which are credit institutions. Each of the recipient institutions which is a credit institution shall be liable in proportion to the part allocated to it of the reserve base of the institution being divided. Reserves held by the institution being divided during the maintenance period within which the division takes effect shall be allocated between the recipient institutions which are credit institutions, according to the same proportion. For the maintenance period within which the division takes effect, the allowance referred to in Article 5(2) shall be granted to each of the recipient institutions which is a credit institution.

4. From the maintenance period consecutive to the maintenance period within which the division takes effect and until the recipient institutions which are credit institutions will have reported their respective reserve bases in accordance with Article 5 of Regulation (EC) No

2819/98 of the European Central Bank, each recipient institution which is a credit institution shall assume, possibly in addition to its own reserve requirement, the reserve requirement calculated on the basis of the part of the reserve base allocated to it of the institution being divided. From the maintenance period consecutive to the maintenance period within which the division takes effect onwards, each recipient institution which is a credit institution shall be granted one allowance referred to in Article 5(2).'

Article 2

Regulation (EC) No 2819/98 of the European Central Bank is amended as follows:

1. The following paragraph is added at the end of Article 4:

'6. In the event of a merger or a division, the reporting agent involved shall inform the relevant NCB, once the intention to implement such operation has become public and in due time before the merger or the division takes effect, of the procedures that are planned to fulfil the statistical reporting obligations set out in this Regulation.'

2. Article 5 is replaced by the following:

'Article 5

Use of the reported statistical information under Regulation (EC) No 2818/98 of the European Central Bank

1. The statistical information reported in accordance with this Regulation by credit institutions shall be used by each credit institution to calculate its reserve base in accordance with Regulation (EC) No 2818/98 of the European Central Bank of 1 December 1998 on the application of minimum reserves (ECB/1998/15) (*). In particular, each credit institution shall use this information to verify the fulfilment of its reserve requirement over the maintenance period.

2. Without prejudice to the obligations imposed upon reporting agents by Article 4 of and Annex IV to this Regulation, credit institutions subject to minimum reserves may report revisions to the reserve base and to the reserve requirement in accordance with the procedures mentioned in Article 5 of Regulation (EC) No 2818/98 of the European Central Bank.

3. Transitional and specific provisions which shall apply for the purpose of the application of the ESCB's minimum reserve system are set out in Annex II to this Regulation. The specific provisions of this Annex shall prevail over provisions laid down in Regulation (EC) No 2818/98 of the European Central Bank.

(*) OJ L 356, 30.12.1998, p. 1.'

3. Annex II is replaced by the Annex to this Regulation.

*Article 3***Entry into force**

In accordance with Article 14 of Regulation (EC) No 2818/98 of the European Central Bank, this Regulation shall become effective with regard to the maintenance period starting during the month following the publication of this Regulation in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 31 August 2000.

*On behalf of the Governing Council of the
ECB*

The President

Willem F. DUISENBERG

ANNEX

ANNEX

SPECIFIC AND TRANSITIONAL PROVISIONS AND PROVISIONS ON MERGERS INVOLVING CREDIT INSTITUTIONS IN RESPECT OF THE APPLICATION OF THE MINIMUM RESERVE SYSTEM

PART 1

SPECIFIC PROVISIONS**I. Credit institutions as full reporters**

1. In order to make a correct calculation of the reserve base to which a positive reserve ratio is applied, a detailed monthly breakdown is required of deposits with an agreed maturity of over two years, of deposits redeemable at notice of over two years and of repo liabilities of credit institutions vis-a-vis the ("domestic" and "other MUMS") "MFIs", "CIs subject to minimum reserves, ECB and NCBs" and "Central government" sectors, and vis-a-vis the "rest of the world". Credit institutions may also report positions vis-a-vis "MFIs other than CIs subject to minimum reserves, ECB and NCBs", rather than vis-a-vis "MFIs" and "CIs subject to minimum reserves, ECB and NCBs", provided that no loss of detail is implied and no bold printed positions are affected. Furthermore, depending on the national collection systems and without prejudice to full compliance with the definitions and classification principles of the MFI balance sheet set out in this Regulation, credit institutions subject to reserve requirements may alternatively report the data necessary to calculate the reserve base, except those on negotiable instruments, in accordance with Annex I, Table 1, footnote 7, provided that no bold printed positions are affected.

II. Reporting scheme for credit institutions in the "tail"

2. For the purposes of the minimum reserve system of the European System of Central Banks (ESCB), small credit institutions in the "tail" report, as a minimum, quarterly data necessary to calculate the reserve base in accordance with Table 1A. Credit institutions in the "tail" ensure that the reporting according to Table 1A is fully consistent with the definitions and classifications applicable in Table 1. The "tail" institutions' reserve base data for three (one-month) reserve maintenance periods is based on end-of quarter data collected by the national central banks (NCBs) with a deadline of 28 working days following the end of the quarter to which they relate.

III. Reporting on a consolidated basis as a group by credit institutions subject to the ESCB minimum reserve system

3. On receiving authorisation from the European Central Bank (ECB), credit institutions subject to minimum reserves may carry out consolidated statistical reporting for a group of credit institutions subject to minimum reserves within a single national territory, provided that all the institutions concerned have renounced the benefit of any lump-sum allowance from the reserve requirement. The benefit of the lump-sum allowance remains, however, for the group as a whole. All the institutions concerned are included separately in the ECB's list of monetary financial institutions (MFIs).
4. If the group as a whole falls under the "tail", it is only required to comply with the simplified reporting for "tail" institutions. Otherwise, the reporting scheme for full reporters applies.

IV. The column "o/w CIs subject to reserve requirements, ECB and NCBs"

5. The column "o/w CIs subject to reserve requirements, ECB and NCBs" does not include the liabilities of reporting institutions vis-a-vis institutions listed as exempt from the ESCB's minimum reserve system, i.e. institutions which are exempt for reasons other than their being subject to reorganisation measures.
6. The list of exempt institutions contains only those institutions that are exempt for reasons other than their being subject to reorganisation measures. Institutions which are temporarily exempt from minimum reserve requirements on account of their being subject to reorganisation measures are treated as institutions subject to minimum reserve requirements and, therefore, liabilities vis-a-vis these institutions are covered under the column "o/w CIs subject to reserve requirements, ECB and NCBs". Liabilities vis-a-vis institutions not actually required to maintain reserve holdings with the ESCB owing to the application of the lump-sum allowance are also covered under this column.

PART 2

TRANSITIONAL PROVISIONS

7. The reporting of information on deposits redeemable at notice of over two years is voluntary until further notice. Reporting agents have the option of meeting this requirement by means of voluntary reporting, i.e. they are allowed to report either true figures (including nil positions) or "missing information" (using the appropriate symbol). Once the choice to report true figures has been made, reporting institutions are no longer able to report "missing information".

PART 3

MERGERS INVOLVING CREDIT INSTITUTIONS

8. For the purpose of this Annex, the terms "merger", "merging institutions", and "acquiring institution" have the meaning determined in Regulation (EC) No 2818/98 of the European Central Bank of 1 December 1998 on the application of minimum reserves (ECB/1998/15).
9. For the maintenance period within which a merger takes effect, the reserve requirements of the acquiring institution are calculated and have to be fulfilled as set out in Article 13 of Regulation (EC) No 2818/98 of the European Central Bank.
10. For the consecutive maintenance periods, the reserve requirement of the acquiring institution is calculated on the basis of a reserve base and of statistical information reported in accordance with the rules set out in the Appendix to this Annex II, if applicable. Otherwise, the normal rules for reporting of statistical information and calculation of reserve requirement, as set out in Article 3 of Regulation (EC) No 2818/98 of the European Central Bank, apply.
11. **Temporary derogation from the normal reporting procedures for the acquiring institution**

Without prejudice to the obligations set out in the previous paragraphs, the relevant NCB may authorise the acquiring institution to fulfil its obligation to report statistical information through temporary procedures, for instance separate forms for each of the merging institutions during several periods after the merger has taken effect. This derogation from normal reporting procedures must be limited to the minimum time possible and should not exceed six months after the merger has taken effect. This derogation is without prejudice to the obligation for the acquiring institution to fulfil its reporting obligations in accordance with Regulation (EC) No 2819/98 of the European Central Bank and, if applicable, its obligation to assume the reporting obligations of merging institutions in accordance with this Annex II.

Table 1A

Data required from small CIs to be provided at quarterly frequency for minimum reserve requirements

| | Reserve base calculated as the sum of the following columns in table 1: (a) - (b) + (c) + (d) + (e) + (f) + (g) + (h) + (i) + (j) + (k) |
|---|--|
| DEPOSIT LIABILITIES (Euro and non-MU currencies combined) | |
| 9 TOTAL DEPOSITS 9.1e + 9.1x 9.2e + 9.1x 9.3e + 9.1x 9.4e + 9.1x | |
| of which: 9.2e + 9.2x with agreed maturity over two years | |
| of which: 9.3e + 9.3x redeemable at notice over two years | Voluntary reporting |
| of which: 9.4e + 9.4x repos | |
| | Outstanding issues, column (1) in table 1 |
| NEGOTIABLE INSTRUMENTS (Euro and non-MU currencies combined) | |
| 11 DEBT SECURITIES ISSUED 11e + 11x with agreed maturity up to two years | |
| 11 DEBT SECURITIES ISSUED 11e + 11x with agreed maturity over two years | |
| 12 MONEY MARKET PAPER | |

Appendix

Specific rules for the calculation of reserve requirements of credit institutions involved in a merger⁽¹⁾

| Case No | Type of merger | Obligations to be assumed |
|---------|---|---|
| 1. | A merger where a full reporter (acquiring institution) acquires one or more full reporters (merging institutions) takes effect after the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of monthly statistical information relating to the preceding month. | For the maintenance period consecutive to the merger, the reserve requirement of the acquiring institution is calculated on the basis of a reserve base aggregating the reserve bases of the acquiring institution and of the merging institutions. The reserve bases to be aggregated are those which would have been relevant for this maintenance period had the merger not occurred. Only one lump-sum allowance is granted. |
| 2. | A merger where a full reporter (acquiring institution) acquires one or more "tail" institutions and possibly one or more full reporters (merging institutions) takes effect after the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of statistical information relating to the preceding quarter. | For the maintenance period consecutive to the merger, the reserve requirement of the acquiring institution is calculated on the basis of a reserve base aggregating the reserve bases of the acquiring institution and of the merging institutions. The reserve bases to be aggregated are those which would have been relevant for this maintenance period had the merger not occurred. Only one lump-sum allowance is granted. |
| 3. | A merger where a full reporter (acquiring institution) acquires one or more full reporters (merging institutions) takes effect within the period between the end of a month and the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of monthly statistical information relating to the preceding month. | For the maintenance period consecutive to the merger, the reserve requirement of the acquiring institution is calculated on the basis of a reserve base aggregating the reserve bases of the acquiring institution and of the merging institutions. The reserve bases to be aggregated are those which would have been relevant for this maintenance period had the merger not occurred. Only one lump-sum allowance is granted. The acquiring institution shall assume, in addition to its own reporting obligations, the reporting obligations of merging institutions for statistical information relating to the month preceding the merger. |
| 4. | A merger where a full reporter (acquiring institution) acquires one or more "tail" institutions and possibly one or more full reporters (merging institutions) takes effect within the period between the end of a quarter and the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of statistical information relating to the preceding quarter. | For the maintenance period consecutive to the merger, the reserve requirement of the acquiring institution is calculated on the basis of a reserve base aggregating the reserve bases of the acquiring institution and of the merging institutions. The reserve bases to be aggregated are those which would have been relevant for this maintenance period had the merger not occurred. Only one lump-sum allowance is granted. The acquiring institution shall assume, in addition to its own reporting obligations, the reporting obligations of merging institutions for statistical information relating to the month or the quarter preceding the merger, depending on the institution. |
| 5. | A merger where a "tail" institution (acquiring institution) acquires one or more full reporters and possibly one or more "tail" institutions (merging institutions) takes effect after the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of statistical information relating to the preceding month. | Same procedure as in case 1 is applied. |
| 6. | A merger where a "tail" institution (acquiring institution) acquires one or more "tail" institutions (merging institutions) takes effect after the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of statistical information relating to the preceding quarter. | From the maintenance period consecutive to the merger and until the acquiring institution has reported for the first time after the merger quarterly data in accordance with the reduced reporting requirements imposed upon "tail" reporters as set out in Annex II to this Regulation, the reserve requirement of the acquiring institution is calculated on the basis of a reserve base aggregating the reserve bases of the acquiring institution and of the merging institutions. The reserve bases to be aggregated are those which would have been relevant for this maintenance period had the merger not occurred. Only one lump-sum allowance is granted. |

| Case No | Type of merger | Obligations to be assumed |
|---------|---|---|
| 7. | A merger where a "tail" institution (acquiring institution) acquires one or more "tail" institutions (merging institutions) takes effect after the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of statistical information relating to the preceding quarter and, as a result of the merger, the "tail" institution becomes a full reporter. | Same procedure as in case 2 is applied. |
| 8. | A merger where a "tail" institution (acquiring institution) acquires one or more "tail" institutions (merging institutions) takes effect within the period between the end of a quarter and the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of statistical information relating to the preceding quarter. | From the maintenance period consecutive to the merger and until the acquiring institution has reported, for the first time after the merger, quarterly data in accordance with the reduced reporting requirements imposed upon "tail" reporters as set out in Annex II to this Regulation, the reserve requirement of the acquiring institution is calculated on the basis of a reserve base aggregating the reserve bases of the acquiring institution and of the merging institutions. The reserve bases to be aggregated are those which would have been relevant for this maintenance period had the merger not occurred. Only one lump-sum allowance is granted. The acquiring institution shall assume, in addition to its own reporting obligations, the reporting obligations of merging institutions for statistical information relating to the quarter preceding the merger. |
| 9. | A merger where a "tail" institution (acquiring institution) acquires one or more full reporters and possibly one or more "tail" institutions (merging institutions) takes effect within the period between the end of a month and the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of monthly statistical information relating to the preceding month. | Same procedure as in case 3 is applied. |
| 10. | A merger where a "tail" institution (acquiring institution) acquires one or more "tail" institutions (merging institutions) takes effect within the period between the end of a quarter and the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of statistical information relating to the preceding quarter and, as a result of the merger, the "tail" institution becomes a full reporter. | Same procedure as in case 4 is applied. |
| 11. | A merger where a full reporter (acquiring institution) is created from full reporters (merging institutions) takes effect within the period between the end of a month and the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of monthly statistical information relating to the preceding month. | For the maintenance period consecutive to the merger, the reserve requirement of the acquiring institution is calculated on the basis of a reserve base aggregating the reserve bases of the merging institutions. The reserve bases to be aggregated are those which would have been relevant for this maintenance period had the merger not occurred. Only one lump-sum allowance is granted. The acquiring institution shall assume the reporting obligations of merging institutions for statistical information relating to the month preceding the merger. |
| 12. | A merger where a full reporter (acquiring institution) is created from one or more "tail" institutions and possibly one or more full reporters (merging institutions) takes effect within the period between the end of a quarter and the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of statistical information relating to the preceding quarter. | For the maintenance period consecutive to the merger, the reserve requirement of the acquiring institution is calculated on the basis of a reserve base aggregating the reserve bases of the merging institutions. The reserve bases to be aggregated are those which would have been relevant for this maintenance period had the merger not occurred. Only one lump-sum allowance is granted. The acquiring institution shall assume the reporting obligations of merging institutions for data relating to the month or the quarter preceding the merger, depending on the institution. |

| Case No | Type of merger | Obligations to be assumed |
|---------|---|--|
| 13. | A merger where a "tail" institution (acquiring institution) is created from one or more "tail" institutions (merging institutions) takes effect within the period between the end of a quarter and the deadline set by the relevant NCB in accordance with Article 4 of this Regulation for the reporting of statistical information relating to the preceding quarter. | From the maintenance period consecutive to the merger and until the acquiring institution has reported, for the first time after the merger, quarterly data in accordance with the reduced reporting requirements imposed upon "tail" reporters as set out in Annex II to this Regulation, the reserve requirement of the acquiring institution is calculated on the basis of a reserve base aggregating the reserve bases of the merging institutions. The reserve bases to be aggregated are those which would have been relevant for this maintenance period had the merger not occurred. Only one lump-sum allowance is granted. The acquiring institution shall assume the reporting obligations of merging institutions for data relating to the quarter preceding the merger. |

(¹) The table presents the details of more complex procedures applied to specific cases. For cases not presented in the table the normal rules for reporting of statistical information and calculation of reserve requirement, as set out in Article 3 of Regulation (EC) No 2818/98 of the European Central Bank, apply.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 14 March 2000

on State aid granted by Germany to Elpro AG and its successor companies

(notified under document number C(2000) 808)

(Only the German text is authentic)

(Text with EEA relevance)

(2000/537/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽¹⁾,

Whereas:

I. PROCEDURE

- (1) By letter of 15 October 1996, registered as received on the same date, Germany notified the Commission of aid granted to Elpro AG/Berlin (Elpro). On 3 December 1996 it informed the Commission that, as additional aid would be granted, the notification would have to be amended, although it did not formally withdraw the notification. At a meeting held on 30 June 1997 in Berlin, the German authorities provided the Commission with further information.
- (2) By letter dated 9 October 1997, the Commission informed Germany that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid and called on it to provide all relevant information. The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽²⁾,

⁽¹⁾ OJ C 99, 1.4.1998, p. 9, and OJ C 84, 26.3.1999, p. 9.

⁽²⁾ See footnote 1.

- (3) By letter dated 3 February 1999, the Commission informed Germany that it had decided to extend the procedure initiated in September 1997 to cover the additional aid granted in connection with the sale of an Elpro subsidiary. The Commission decision to extend the procedure was also published in the *Official Journal of the European Communities* ⁽³⁾.

In both notices the Commission invited interested parties to submit their comments on the aid measures.

- (4) The Commission received no comments from interested parties.

II. DETAILED DESCRIPTION OF THE AID MEASURES

- (5) When the procedure was initiated, the information available to the Commission was fragmentary. It was for this reason that Germany was asked to provide complete information. The following description of the aid measures takes account of the supplementary and updated information on the restructuring programme provided by Germany in the course of the procedure.
- (6) Elpro, the successor to VEB Elektroprojekt and Anlagenbau Berlin, was privatised in June 1992 following an open unconditional tender procedure. It was sold without its real estate for DEM 12 million to the highest bidder, a consortium of private individuals. Elpro's real estate was sold separately at a market price of DEM 261,9 million to the Treuhandanstalt (THA) and the proceeds were used to repay Elpro's outstanding debts to banks and the THA. The Bundesanstalt für vereinigungsbedingte Sonderaufgaben (BvS, the successor organisation to the THA) submitted copies of the independent evaluations of the property carried out at the time to prove that no aid had been granted in connection with the privatisation of Elpro. The property consisted of extensive land and buildings located mainly in the eastern part of Berlin.
- (7) One of the new owners of Elpro bought the Technische Gebäudeausrüstung Berlin GmbH (TGA) in June 1992 from the THA as highest bidder after an open unconditional tender procedure for a price of DEM 6,9 million. Again, the real estate was sold separately, first to the THA and subsequently for the market price of DEM 36 million to a real estate company founded by the investors in Elpro. No aid was granted in the context of the privatisation of TGA. In 1995 TGA was [...] ^(*).
- (8) In the autumn of 1992, as sole bidder after an open, unconditional tender procedure, Elpro bought Berliner Lufttechnische Anlagen und Geräte GmbH (BLA) for DEM 1,5 million. That company too was sold without real estate. The proceeds of DEM 49,7 million were used by the THA to repay debts incurred at the time of the German Democratic Republic, loans granted in the meantime and several other liabilities. The valuation of the property was based on an independent report made available to the Commission. No aid was granted in connection with the privatisation.
- (9) In 1993 the buyers of Elpro and the THA entered into a long-running dispute concerning the purchase price of the company. Many of the claims involved in this dispute stemmed from the fact that, when Elpro was transferred to its new owners in 1992, the valuation of numerous assets and liabilities had been provisional. By 1995 a whole set of figures needed to be revised. Elpro's buyers demanded repayment by the BvS of part of the purchase price of DEM 12 million as the value of various assets (e.g. various outstanding demands) was lower than originally expected. For its part, the BvS entered claims increasing the purchase price by a total of DEM 5,6 million, in particular because the buyers had not fully used up the reserves earmarked for the social compensation plan. At the start of 1996, in a bid to avoid lengthy court proceedings the outcome of which was uncertain, the BvS sold its claims for DEM 1 million to the owners' creditor banks that had financed the purchase of the company. The parties agreed that this payment settled all claims from both sides relating to the privatisation contract of 1 and 2 June 1992 ⁽⁴⁾.

⁽³⁾ See footnote 1.

^(*) Business secret.

⁽⁴⁾ Notification from the German Government to the Commission of 27 February 1998, p. 33.

- (10) Until the end of 1995 the three companies (Elpro, TGA and BLA) carried out the investments agreed in the privatisation contracts. These investments of DEM 87 million for plant modernisation received assistance from the generally available, Commission-approved aid programmes under the joint Federal Government/Länder scheme for improving regional economic structures and under the Investment Allowance Law. By the beginning of 1996 Elpro had become a company with a turnover of DEM 250 to 300 million and 1 700 employees. The group consisted of two main divisions: (a) energy and control wiring systems for railways and industrial facilities (LET) ⁽⁵⁾ and (b) electrical and technical equipment for buildings (GVT) ⁽⁶⁾. From the outset, one of Elpro's chief problems was its insufficient capital base. The new owners had financed all their acquisitions with bank loans. This caused serious difficulties in 1995/96, when the crisis in the construction sector in Berlin began, Elpro's traditional markets in Eastern Europe weakened further and the company suffered heavy losses in connection with certain large engineering projects. By the spring of 1996 Elpro had used up a substantial part of its equity capital and was close to insolvency.
- (11) On 24 June 1996, in order to restore its liquidity, Elpro agreed on a rescue package with its banks, the Land of Berlin and the BvS and a tentative restructuring programme was devised. Its shares were transferred to one of the initial investors and subsequently pledged to the creditor banks that had financed the privatisation. As described in detail in the Commission decision initiating the Article 88(2) procedure ⁽⁷⁾ the plan at the time was to close the GVT division and sell the LET division to an international industrial investor. The consultancy company Price Waterhouse was instructed to explore the possibilities of a sale and to prepare a tender procedure. However, a lack of interest from any suitable industrial investor made it clear at a very early stage that the plan envisaged was not feasible and that further modifications were needed. However, the GVT division was closed (at a total cost of DEM 56,3 million), as was the basic industries division and overheads in the LET division were also reduced (at a total cost of DEM 42,7 million). Repayments on long-term loans totalling DEM 54,3 million had to be made and Elpro needed an injection of fresh working capital to continue operations (DEM 47,1 million). The total cost of these measures was DEM 200,4 million. In addition, a new guarantee facility was provided up to a limit of DEM 30 million.
- (12) The above measures were financed as follows:
- | | |
|--|-------------------|
| — profit from the sale of E-Plus shares held as a financial participation by Elpro (*) | DEM 121,2 million |
| — short-term cash resources liquidity generated within Elpro | DEM 13,6 million |
| — waiver of loans by commercial banks | DEM 18,0 million |
| — new loan from commercial (80 % guaranteed under the state guarantee scheme) | DEM 18,5 million |
| — loan from the BvS (first tranche of DEM 4,5 million in summer 1996, remainder in January 1997) | DEM 20,0 million |
| — loan from the BvS (to be converted into a grant after approval of the restructuring by the Commission) | DEM 9,0 million |
| — residual payment of regional aid (joint Federal Government/Länder scheme) | DEM 0,1 million |
| | <hr/> |
| Total (loans/cash) | DEM 200,4 million |

(*) E-Plus is a major mobile phone company. Elpro AG had bought a 2,5 % participation in E-Plus for DEM 26,3 million and sold it for DEM 147,5 million.

A guarantee of DEM 30 million was provided by commercial banks against a counter-guarantee of DEM 15 million from the Land authorities and the BvS.

⁽⁵⁾ Leit- und Energietechnik.

⁽⁶⁾ Gebäudesystem- und Versorgungstechnik (communications, air-conditioning systems, lighting).

⁽⁷⁾ See footnote 1.

(When the procedure was initiated, only the BvS loans and counter-guarantees were mentioned as new aid in paragraph 2.5.1, but the text was based on inexact figures. For this reason, the Commission originally viewed the loan of DEM 9 million as a grant. Germany later explained that it was a loan. The Commission was aware only of counter-guarantees to a value of DEM 7,5 million, and not DEM 15 million.)

- (13) Consequently, the various State agencies supported the financial rescue of Elpro with loans of DEM 29 million and guarantees totalling DEM 29,8 million. The company contributed DEM 134,8 million from its own funds. Commercial banks participated by waiving claims of DEM 18 million and assuming risks in respect of a DEM 3,7 million loan and the new guarantee line of DEM 15 million. Elpro had previously received from commercial banks guarantees not backed by the State totalling DEM 114 million.
- (14) The failure to find an industrial investor and substantial losses on large export contracts towards the end of 1996 made it necessary to adapt the restructuring plan envisaged. It was concluded that Elpro could not survive alone as a contractor for large projects in basic industries (such as cement and steel plants) on export markets because of the very high financing capacity needed and the risks involved. Elpro could not on its own compete against the leading multinationals⁽⁸⁾ which had a far stronger market position. It was decided to concentrate on activities that were viable for a medium-sized company and to wind down the remaining parts of the business, either by means of a sale or through an orderly liquidation. The objectives of this strategy were: (a) to avoid insolvency because of the very high financial liabilities associated with outstanding performance bonds, (b) to stabilise the retained parts of the business and to make them financially viable, and (c) to safeguard as many jobs as possible.
- (15) The main elements of the final restructuring plan of May 1997 are as follows:
 1. Concentration of activities on:
 - (a) production and assembly of electrical installations (substations, overhead lines) for railways and urban rail transport;
 - (b) production and installation of control wiring systems for the utilities sector;
 - (c) assembly of electrical and electronic equipment (circuit breakers, transformers, etc.).
 2. Further reduction in the workforce from 1 700 (beginning of 1996) to 900 (beginning of 1997) and finally to about 400 (end of 1997).
 3. Sale of the reduced basic industries division and of the communications technology division (in all, it proved possible to save the jobs of a further 180 employees and 55 apprentices; with the exception of the sale of a branch of Elpro Leit- und Energietechnik (LET) GmbH (see recitals 25 to 27), no State aid was granted in connection with these sales).
 4. Reduction of outstanding guarantees and bank liabilities.
 5. Improvement of management, controls and finance; modernisation of data processing facilities.
 6. Organisational separation of the Elpro group into those parts to be closed down and those to be continued, with transfer of the latter to the new owners in the second phase of the restructuring programme.
 7. Reduction in the stock of real estate, first through leasing and afterwards by selling the main building (planned for 2001).

Implementation of some of these measures began in early 1997. Most have since been completed, while others, including the reduction of guarantees, the training of staff and modernisation, are ongoing or have been deferred until a decision on the State aid programme has been made.

⁽⁸⁾ Including Siemens, ABB and General Electric.

| | | |
|------|---|------------------|
| (16) | The cost is involved in the first phase of the restructuring (from June 1997 to the end of 1998) ⁽⁹⁾ were: | |
| | — winding-up and closure costs (termination of loss-making projects, settlement of claims, warranties, social plan) | DEM 13,6 million |
| | — repayment of short-term loans used for the rescue operation (see paragraph 12) | DEM 13,6 million |
| | — cash injection to increase working capital | DEM 7,0 million |
| | — loss compensation for two projects | DEM 3,9 million |
| | — debt reduction | DEM 9,8 million |
| | Total | DEM 47,9 million |
| | guarantee for outstanding claims | DEM 3,0 million |
| | | <hr/> |
| | Grand total | DEM 50,9 million |
| (17) | These costs were financed as follows: | |
| | — residual profit from the sale of E-Plus shares | DEM 16,0 million |
| | — other Elpro funds | DEM 0,9 million |
| | — bank loans (of which DEM 14 million secured by a state guarantee) | DEM 31,0 million |
| | Total cash | DEM 47,9 million |
| | — bank guarantee for outstanding claims | DEM 3,0 million |
| | | <hr/> |
| | Grand total | DEM 50,9 million |

The State participated in this phase by extending the guarantees, while the loans granted to save Elpro were given junior-ranking status and made interest-free (see point paragraph 13). It also provided a further guarantee of DEM 14 million to secure a proportion of the above-mentioned bank loans. All other funds came from private sources. When the total costs of the restructuring are calculated, an amount of DEM 13,6 million needs to be deducted from the gross costs of DEM 50,9 million since the temporary financing of this amount by Elpro in 1996 was replaced by the residual proceeds from the sale of E-Plus shares.

- (18) After the first year of the restructuring and stabilisation of the group, the creditor banks decided to embark on the second phase and to sell the retained parts of the business, which were the subject of a management buyout by one of Elpro's managers, Mr Lelbach. By a contract dated 18 December 1998, Mr Lelbach acquired the shares of the five Elpro subsidiaries which are to continue in business under the new holding company Elpro GmbH Berlin Industrieholding (EUB; unless otherwise stated, it includes Elpro Verkehrstechnik GmbH (EVT), which is legally separate from the holding company). New shares in EUB are to be offered to other members of the management at a later date. By the end of 1998 the parts of Elpro that were to be wound up had ceased all operations and they have had no employees since then, their remaining activities being limited to meeting outstanding guarantee and credit commitments by 2001, when liquidation is to take place. The commercial banks will provide the necessary interim financing until Elpro's main building is sold.

⁽⁹⁾ Some winding-up and closure measures will continue until 2001.

- (19) The creation of EUB is a continuation of the first phase of the restructuring as described above. EUB is active almost exclusively on the German market; it hopes to re-enter to some of Elpro's traditional CIS markets when the economic situation improves. EUB plans to invest DEM [...] million by 2001, primarily to modernise its electronic data processing facilities and to buy equipment for contact-line contracts. An additional DEM [...] million or so has been earmarked for staff training (including further training). As EUB will basically be an engineering company (more than [...] % of its workforce are engineering graduates), it intends to spend [...] % of turnover on research and development every year and to obtain about DEM [...] million of aid under general R&D programmes.
- (20) At the end of 1998 the annual accounts of EUB and EVT were as follows (in DEM million):

(a) EUB (excluding EVT)

| Assets | | Equity capital and liabilities | |
|-----------------------------------|-------|--------------------------------------|-------|
| A. Fixed assets | [...] | Subscribed capital | [...] |
| B. Current assets | [...] | Reserves | [...] |
| — inventories | [...] | Retained profits | [...] |
| — accounts receivable | [...] | A. Equity capital | [...] |
| — cash on hand | [...] | B. Reserves | [...] |
| C. Prepayments and accrued income | [...] | C. Liabilities | [...] |
| Total assets | [...] | Total equity capital and liabilities | [...] |

(b) EVT

| Assets | | Equity capital and liabilities | |
|-----------------------------------|-------|--------------------------------------|-------|
| A. Fixed assets | [...] | Suscribed capital | [...] |
| B. Current assets | [...] | Reserves | [...] |
| — inventories | [...] | Retained profits | [...] |
| — accounts receivable | [...] | A. Equity capital | [...] |
| — cash on hand | [...] | B. Reserves | [...] |
| C. Prepayments and accrued income | [...] | C. Liabilities | [...] |
| Total assets | [...] | Total equity capital and liabilities | [...] |

The equity ratio is therefore [...] % in the case of EUB and [...] % in the case of EVT.

- (21) The new owner had to make an equity capital contribution of DEM 1 million in cash and to provide a personal guarantee of DEM 500 000. The BvS will grant a loan of DEM 1,5 million for three years at 5 % to finance half of the training and retraining costs mentioned above. In order to finance the investments totalling DEM 7 million, EUB will receive regional investment aid of DEM 2,1 million (30 %) under the relevant joint Federal Government/Länder scheme.

The banks will provide a new guarantee of DEM 42 million, of which DEM 8 million can be used as an overdraft by EUB. The State will provide a counter-guarantee of DEM 33,6 million gross against a reduction of DEM 10 million in the previous guarantee; the net State contribution here is therefore DEM 23,6 million.

In addition, the commercial banks will provide a separate guarantee for a total amount of DEM [...] million to secure advance payments and performance bonds [...].

The financial measures related to the management buyout basically consist in granting the guarantees needed to enable small independent enterprises in the plant construction sector to provide the required advance payment and performance bonds.

- (22) The development of EUB's order book and turnover is as follows:

| | <i>(in DEM million)</i> | | | |
|--------------------------|-------------------------|-------|-------|-----------------------|
| | 1996 | 1997 | 1998 | 1999 (provisional) |
| Orders received | 124,5 | 99,2 | 138,1 | 121,8 |
| Order book (end of year) | 106,2 | 119,1 | 158,9 | 180,5 |
| Turnover | 96,0 | 88,4 | 93,2 | 105,3 |

The table shows the fairly stable positive development of EUB, which is now working at full capacity. In 1998 the group recorded an operating result of DEM 1,8 million and after-tax profits of DEM 932 000. In 1999 and the following years the group expects fairly stable pre-tax profits equivalent to about 2 to 3 % of turnover, a good average for similar enterprises in the sector. It is currently no longer in difficulties.

- (23) EUB is primarily active on the German rail transport market, but only in the contact lines and substations segments. Its main clients are Deutsche Bahn AG, the Berlin S-Bahn and other public transport operators. Its chief competitors are subsidiaries of Siemens, ABB, Adtranz, Alstom and General Electric Company (GE). In spite of its relatively small market share, its lower overheads keep the company competitive. With its long-standing experience and technical competence, it managed to meet the strict pre-qualification requirements imposed by Deutsche Bahn AG and to win a series of open contracts. As its main client, Deutsche Bahn AG is interested in keeping medium-sized suppliers on this market so as to avoid an even greater degree of concentration among the few large industrial groupings.

In the industries such as electricity supply, gas, water and wastewater treatment, EUB acts basically as an engineering firm for the electrical and process control equipment. Clients include large gas utilities, such as Ruhrgas, Thyssengas and Gazprom, and local water utilities. Depending on the type of project, it competes against the engineering divisions of large multinational corporations as well as against other engineering firms of a similar size. In the light of Elpro's negative experience in the past, EUB confines itself to smaller projects costing DEM 5 million or less.

- (24) Elpro was, and EUB is, essentially a service enterprise that produces and assembles electrical equipment; most of the equipment is manufactured by other firms. Its capacity can therefore be measured only in man-hours. In 1990 the old Elpro had a capacity of some 8 million hours/year; this had fallen to about 2,15 million hours/year by 1996. The various closures resulting from the restructuring have reduced EUB's capacity to about 450 000-500 000 hours/year. The capacity of the hived-off subsidiaries is approximately 200 000 hours/year. Restructuring has therefore reduced capacity by about 65 to 70 %.

- (25) The restructuring plan of May 1997 originally envisaged the complete closure of the basic industries section of Elpro's LET division. In the course of the failed bidding procedure for Elpro one of the bidders, the General Electric Finance Holding GmbH, a subsidiary of GE, showed an interest in taking over LET's metalworking division and over its building materials and transportation division. On 17 October 1997 a contract was concluded for the sale of these divisions, which had 67 employees, to the newly founded GE Industrial Systems GmbH Berlin (GE IS), which is 100 %-owned by General Electric Finance Holding GmbH. GE IS is linked to GE's industrial control systems division. With some 240 000 employees, of whom 6 000 work in Germany, and a turnover of some USD 80 billion (1996), GE is one of the leading electrical equipment suppliers worldwide. The new GE IS has no production capacity; it is an engineering company intended to serve as a technical marketing and support centre for incorporating GE components into major investment projects in the building materials and mining industries. As Elpro had been very much oriented towards eastern Europe, GE would like to exploit this experience and these skills to strengthen its market position in Germany and in central and eastern Europe. Consequently, GE IS intends to market 60 % of its services in central and eastern Europe, 30 % in Germany and 10 % in the other Member States of the European Union.
- (26) The business plan of GE IS is as follows:

(in DEM million)

| | 1997 (actual) ⁽¹⁾ | 1998 (actual) | 1999 (planned) | 2000 (planned) | 2001 (planned) |
|------------------------|---------------------------------|------------------|-------------------|-------------------|-------------------|
| Turnover | [...] | [...] | [...] | [...] | [...] |
| Total production | [...] | [...] | [...] | [...] | [...] |
| Materials | [...] | [...] | [...] | [...] | [...] |
| Operating result | [...] | [...] | [...] | [...] | [...] |
| Profit/loss before tax | [...] | [...] | [...] | [...] | [...] |
| Profit/loss after tax | [...] | [...] | [...] | [...] | [...] |
| Number of employees | 68 | 73 | [...] | [...] | [...] |

⁽¹⁾ Incomplete year: August to December 1997.

In 1996 the corresponding divisions of LET had 165 employees and made a loss of DEM 4,4 million on a turnover of DEM 54,8 million. The losses of GE IS in the start-up period 1997-99 were attributable to primarily intangible investments of DEM 13,1 million, in the form of training and technology transfer, which cannot be capitalised. The remaining investments were in engineering tools and in electronic data processing equipment and systems, which are written off over a very short period. A comparison of the results forecast in 1997 with the actual results up to September 1999 shows that the restructuring of activities by GE IS was slow to get under way. The results were also influenced by the delay in payment of the expected state aid due to the pending state aid procedure. During 1999, however, there was a marked improvement broadly in line with the original plan.

As part of GE, GE IS competes on the market for electrical industrial equipment, its main competitors being very large groups such as Siemens AG, Cegelec (Alstom) and ABB. In Germany its market share is around 1 % of a market worth some EUR 20 billion.

- (27) GE IS purchased the divisions of LET at the book value of their assets (made up almost exclusively of used computers and software), namely DEM 0,237 million. GE committed itself to financing the negative cash flow in the start-up period by means of a variable credit line under its cash pool. This credit amounted to DEM 13,4 million by the end of September 1999, far more than the DEM 5,1 million planned in 1997. Germany intends to provide the following restructuring aid:

| | |
|--|------------------------|
| — Grant from the BvS to cover some of the start-up losses of DEM 5,1 million (from October 1997 until the end of 1998) | DEM 1,3 million |
| — Training aid from the Land of Berlin to Part-finance training measures costing DEM 3,4 million | DEM 1,5 million |
| — Investment aid under the joint Federal Government/Länder scheme for eligible investment costs of DEM 7,66 million | <u>DEM 2,0 million</u> |
| Total aid for the restructuring of GE IS | DEM 4,8 million |

By September 1999 DEM 94 600 of the investment aid and DEM 43 200 of the training aid had been disbursed.

The investor is contributing 74 % of the total restructuring costs of DEM 18,4 million.

- (28) The total costs of the rescue and restructuring of Elpro and its successor companies can be summarised as follows (in DEM million, all loans and guarantees at nominal value):

(in DEM million)

| Item/period | Total cost | Of which: State loans/ grants | State guarantees | Banks | Owners/ investors | Total private share | Finance from private sources % |
|---|------------|-------------------------------------|---------------------|-------|----------------------|------------------------|--------------------------------------|
| 1. Elpro rescue (mid-1996 to mid-1997) | 230,4 | 29,1 | 29,8 | 36,7 | 134,8 | 171,5 | 74,4 |
| 2. Restructuring of Elpro and later development (1997-2001) | 50,9 | 0,0 | 14,0 | 20,0 | 16,9 | 36,9 | 71,7 |
| 3. Restructuring under EUB/EVT (management buyout) | 56,0 | 3,6 | 23,6 | 27,3 | 1,5 | 28,8 | 51,4 |
| 4. Restructuring under GE IS | 18,4 | 4,8 | 0,0 | 0,0 | 13,6 | 13,6 | 73,9 |
| Total restructuring costs (broken down by economic risk) | 355,7 | 37,5 | 67,4 | 84,0 | 166,8 | 250,8 | 70,5 |

- (29) The Commission had initiated the Article 88(2) procedure as it had serious doubts as to the compatibility of the aid with Article 87(3) of the Treaty. In view of the sketchy information available at the time, it doubted in particular whether the aid was in line with the requirements set out in the guidelines on state aid for rescuing and restructuring firms in difficulty (hereinafter the 'guidelines')⁽¹⁰⁾. Particularly critical points were the lack of a new investor and the fact that Germany did not provide the Commission with a comprehensive restructuring plan.

⁽¹⁰⁾ OJ C 368, 23.12.1994, p.12, read in conjunction with the final provisions of the new guidelines (OJ C 288, 9.10.1999, point 101(b)). The criteria for applying this provision are met since all the aid was granted prior to the publication of the new guidelines.

III. COMMENTS FROM INTERESTED PARTIES

- (30) The Commission received no comments from interested parties.

IV. COMMENTS FROM GERMANY

- (31) Germany responded to the initiation of the procedure by answering the questions raised in this connection by letters dated 27 February and 19 August 1998. It provided further information at a meeting with the Commission on 15 June 1998. The additional aid, which eventually led the Commission to extend the procedure, was notified by letter dated 29 July 1998. Further questions from the Commission concerning the new aid were answered by letter dated 19 August 1998.

In response to the extension of the procedure, which had been communicated to Germany by letter dated 3 February 1999, Germany submitted on 22 June 1999 a comprehensive written presentation of the restructuring programme and of the progress in implementing it. The presentation was discussed at two meetings between the German authorities and the Commission on 1 September and 29 October 1999. Answers to the questions raised at those meetings were given by letters dated 9 September and 13 December 1999, and the Commission received the corresponding technical annexes on 22 December 1999. The information provided by Germany can be divided into the five main parts:

- the valuation reports on the property sold when Elpro was privatised in 1992/1993,
- Elpro's complete annual accounts for the period from 1992 to 1997,
- the 1996 and 1997 rescue and restructuring plans for Elpro and Germany's comments (Communication from the German Government dated 22 June 1999),
- the restructuring and business plans and the annual accounts of EVB and EVT until the end of 1999,
- the restructuring and business plans and the annual accounts of GE IS until September 1999.

In the interests of clarity, the contents of these documents have been summarised in Part II of this decision.

V. ASSESSMENT OF THE MEASURES

- (32) It can be concluded from the information provided by the German authorities during the investigation that Elpro and the two companies that subsequently merged with it, BLA and TGA, were all sold at a positive price following an open unconditional tender procedure. All three companies were sold without their substantial real estate, which had been sold separately to the THA or one of its subsidiaries before privatisation to cover the debts that had accrued prior to privatisation. Independent real estate experts had assessed the value of the property at the time and the valuation reports have been made available to the Commission, which has no reason to question the results. It can therefore be concluded that Elpro, BLA and TGA were privatised in 1992 without State aid.
- (33) The form of the privatisations in 1992 was problematic from a financial and commercial point of view, as the new owners financed the entire transaction via the banks. Elpro was therefore undercapitalised from the beginning. Many of its international contracting activities required though a very strong capital base since the clients insisted on bidding, performance and long-term warranty bonds being provided. The extent of the problem became evident at end of 1995, when, owing to losses on a few large industrial projects, the debt-equity ratio reached 726 % ⁽¹¹⁾. It can therefore be concluded that the subsequent need to restructure Elpro resulted mainly from structural shortcomings not addressed at the time of its privatisation in 1992.

⁽¹¹⁾ Corporate Treuhand GmbH and C&L Deutsche Revision AG, Bericht über die Prüfung des Jahresabschlusses 1996 der Elpro AG Berlin, point 92.

- (34) At the beginning of 1996, the BvS and the commercial banks that had financed the purchase of Elpro by the new owners at the time of the first privatisation and acted in their name reached an agreement to settle once and for all the contested claims and counter-claims in connection with the purchase price agreed in the privatisation contract of June 1992 ⁽¹²⁾. Following the sale the THA and the new owners had entered claims in respect of a number of discrepancies regarding the originally assumed balance-sheet values, payment deadlines or fulfilment of obligations by the buyer. The claims arose primarily as a result of the failure before privatisation in 1992 to establish the exact financial position of the enterprises and hence their net worth (which determined the purchase price). A number of points in the privatisation contracts were left for later clarification, and these gave rise to a number of complicated disputes which lasted for several years ⁽¹³⁾. In the light of the auditor's comments on Elpro's annual accounts, the Commission accepts the argument that the BvS acted in accordance with standard commercial practice when it waived its claims for DEM 5,6 million against payment of DEM 1 million and renunciation of all counter-claims by the buyer in order to avoid lengthy legal proceedings the outcome of which was uncertain. It therefore concluded that these transactions did not involve state aid within the meaning of Article 87 of the Treaty.
- (35) The financial participations by the BvS and the *Land* of Berlin in Elpro and subsequently in EUB, EVT and GE IS from June 1996 onwards constitute state aid within the meaning of Article 87(1). As all these companies produced or produce goods and services which are traded between Member States, they could also hamper trade between them. The aid granted in the form of loans and grants by the BvS is unlawful state aid since Germany failed to notify these measures prior to implementation. The state guarantees were granted as part of joint application of the relevant federal and *Land* rules. The former were approved by the Commission as State aid cases N 297/91, N 81/93 and E 24/95, albeit with a reservation regarding large companies and hence Elpro. The guarantees granted by the *Land* of Berlin were approved as State aid case N 130/95. Germany undertook to notify individual cases of aid to large companies. For this reason, the aid granted in the form of guarantees is also unlawful since Germany failed to comply with the notification requirement. Accordingly, all the aid must be assessed under Article 87 of the Treaty in the light of the criteria set out in the guidelines ⁽¹⁴⁾.
- (36) Elpro was in difficulties before its rescue and restructuring got under way in June 1996. It had lost half of its equity capital in 1995 and losses continued in 1996. Its asset position was better than appeared from the annual accounts since the market value of its participation in the mobile phone company E-Plus significantly exceeded its book value. However, the amount of potential liabilities from outstanding guarantees was in the same range, and this was not reflected in the balance sheet either. The various companies constituting the Elpro group were therefore lacking in liquidity and were very close to insolvency in the spring/early summer of 1996.
- (37) On 24 June 1996 Elpro concluded an agreement on the group's financial and organisational rehabilitation with its creditor banks, the *Land* of Berlin and the BvS ⁽¹⁵⁾. From a State aid perspective, this was a rescue plan containing elements of a future restructuring plan. However, the auditor's report makes it clear that the agreement was only a temporary measure to secure the liquidity of Elpro in the short term. At the time, it was hoped that Elpro could be sold as a single entity to one industrial investor. However, market research revealed that this was not feasible. At the beginning of 1997 the BvS asked the auditor KPMG to prepare a revised and detailed restructuring plan. KPMG presented its report on 12 May 1997. It is therefore appropriate to distinguish between a rescue period running from 24 June 1996 until 12 May 1997 and a restructuring period starting on 12 May 1997 and expected to continue until the end of 2000.

⁽¹²⁾ See recital 9.

⁽¹³⁾ Corporate Treuhand GmbH, Bericht über die Prüfung des Jahresabschlusses 1992 der Elpro AG Berlin, points 266-275 and 337.

⁽¹⁴⁾ See footnote 10.

⁽¹⁵⁾ Konzept zur weiteren Entwicklung der Elpro AG, 24 June 1996.

(38) The agreement of 24 June 1996 was the basis for the granting of two loans of an initial DEM 13,5 million and a final total of DEM 29 million as well as the provision of guarantees for a total amount of DEM 29,8 million ⁽¹⁶⁾. For the period until May 1997 these measures are to be considered as rescue aid within the meaning of the guidelines whose terms were in line with requirements set out in the guidelines. The loans supplemented the DEM 134,8 million provided by the company and were used primarily to finance the closure of about 50 % of the group's activities, including the social plan for the employees made redundant. The financial scope of the guarantees was limited to provision of the liquidity necessary to keep the remaining parts of Elpro in business. The high unemployment in Berlin, and in particular the enormous loss of employment in industry since 1990, justified the financial involvement of the BvS and the *Land* of Berlin. The rescue of Elpro caused no unjustified restrictions of competition in other Member States. Elpro ceased its activities in the housing installations sector, which had been concentrated on the regional market anyway. As regards Elpro's other activities (electrical installations for railways and industry), its competitors are far larger and enjoy significantly more favourable financing conditions than Elpro, even taking account of the rescue aid granted. The Commission can accept that the rescue period lasted 11 months as it is evident that the BvS and the banks took immediate action to sell the company, hoping that the buyer would take charge of the subsequent restructuring. When they realised in early 1997 that this would not be feasible, they adapted the restructuring plan without delay. The Commission can therefore accept that the granting of the abovementioned rescue aid, which was subsequently transformed into restructuring aid, was in compliance with the guidelines. For the calculation of the aid element, see paragraph 42.

(39) The final restructuring plan of 12 May 1997 is in essence a more detailed, updated version of the earlier rescue plan. It implemented the decision to close down loss-making activities but, as no financially powerful industrial investor could be found, it was decided to close a large part of the electrical control business (LET) division as well, given its inherent high risks and its substantial capital requirements. The main aim of the restructuring plan was to minimise losses for the financing banks, which had taken control of Elpro. In view of the high risks from outstanding guarantees it was important to avoid insolvency proceedings while ensuring the orderly completion of ongoing projects and fulfilment of the warranty obligations during the guarantee period. The State supported this programme with the primary objective of safeguarding as many jobs as possible given the high unemployment in Berlin, which had lost 140 000 jobs in industry between 1991 and 1997, i.e. 54 % of all industrial jobs. The division of Elpro into activities to be closed down and activities to be continued can be accepted as two elements of one coherent overall plan. As regards the continuation of EUB/EVT and GE IS, the plan was supplemented by the new owners' business plans. From a State aid perspective, therefore, it is appropriate to divide the restructuring of Elpro into three parts:

1. Measures in favour of Elpro to finance the winding down of the activities to be terminated and to prepare the activities to be continued for a separate sale (from May 1997 to the end of 2001);
2. Measures in favour of EUB, including EVT, after their separation by means of a management buyout (from December 1998 to the end of 2000);
3. Measures in favour of GE IS after the sale of the metalworking and building materials/mining divisions to GE (from October 1997 to the end of 2000).

Compliance of the restructuring programme(s) with the requirements of the guidelines can, however, be assessed only as regards the activities to be continued as the closures had no separate impact on the common market.

(40) The EUB restructuring plan can also be regarded as viable in view of the experience gained in over one year of implementation. Recent business results show that the firms now concentrate on fields in which they are competitive, which are less capital-intensive and in which they can generate profits comparable to other medium-sized enterprises in the electrical industry. The Commission cannot,

⁽¹⁶⁾ See recitals 11 to 13.

however, regard EUB and EVT as separate SMEs. However, while both of them are legally separate entities with workforces, balance-sheet totals and turnovers below the relevant thresholds (EUB is very close to the threshold), the notification and the business plan make it clear that EUB and EVT are a single unit commercially, organisationally and from a financial perspective. It is therefore not appropriate to apply the special rules for SMEs to EUB.

- (41) The restructuring aid to Elpro and its main successor company EUB will not lead to excessive distortions on the market. The Commission recognises that Elpro reduced its capacity by 65 to 70 % from 1996 to 1998. As Elpro and EUB are primarily engineering, companies, it is appropriate to measure their capacity in terms of man-hours. Moreover those loss-making activities that could have had the most distortive impact on the market had been made which did not cover costs were closed down. The impact of Elpro and EUB on the market was and is, however, minimal since they were very small players on an oligopolistic market dominated by large groupings. The Commission acknowledges that the continued existence of EUB, whose activities are confined almost exclusively to the eastern part of Germany, improves the market structure. In contrast to the rolling stock segment of the rail transport market, there is no overcapacity in the substations and contact lines segments, where EUB is active. Demand in these segments is driven mainly by the replacement and modernisation needs of the Deutsche Bahn AG and urban rail transport organisations.
- (42) The restructuring aid granted to Elpro consists of the following measures:
1. The loans of DEM 29 million granted originally as rescue aid have been given junior-ranking status (DEM 20 million) and claims will be waived after approval by the Commission. These funds served to finance the losses and closure costs in the period 1996 to 1998; the aid intensity is 100 % in each case.
 2. Prolongation of the guarantees of DEM 29,8 million granted originally as rescue aid and new guarantees of DEM 14 million: although it is now unlikely that the State will have to honour a larger amount of claims in connection with these guarantees, the risks involved were initially very high and so no private financial institution would have provided such guarantees. In accordance with the Commission's usual decision-making practice and given extremely high risk of default and the lack of other appropriate securities, the aid intensity of these guarantees has to be set at 100 %⁽¹⁷⁾.

Taking into account the DEM 138,1 million contributed by the enterprise itself (most of which came from the proceeds of the sale of its share in E-Plus) and the contribution made by the banks, which waived claims amounting to DEM 18 million and assumed a risk equivalent to more than 40 % of their total new loans of DEM 49,5 million, the total private contribution to the financing of the restructuring exceeds 70 %⁽¹⁸⁾. The Commission concludes therefore that the aid was kept to the minimum and that no excess liquidity was provided.

- (43) The restructuring aid granted to EUB in connection with the management buyout consists primarily of counter-guarantees (net amount of DEM 23,6 million) to secure a credit line of up to DEM 8 million and of bid or performance bonds totalling DEM 42,9 million to be provided by the commercial banks on market terms. In view of the nature of the projects secured by these guarantees, the Commission came to the conclusion that the losses to the guarantor would not have exceeded DEM 8 million. This amount is to be regarded as State aid⁽¹⁹⁾. In addition, EUB will receive from the BvS a loan of DEM 1,5 million for three years to finance its training costs at an annual interest rate of 5 %. This is below the market rate. As EUB is not required to secure the loan, the aid intensity must be fixed at 100 %. For its investments of DEM 7 million, EUB will receive DEM 2,1 million of investment aid under the joint Federal Government/*Länder* scheme. Therefore, the total restructuring aid amounts to DEM 11,6 million. In view of the risks assumed by the private banks (DEM 27,3 million) and the costs to be met by the private investor of DEM 7,8 million⁽²⁰⁾, it can be concluded that the aid is kept to a minimum.

⁽¹⁷⁾ See Commission Notice on the application of Articles 87 and 88 of the EC Treaty to state aid in the form of guarantees (OJ C 71, 11.3.2000, p. 14, point 3.2).

⁽¹⁸⁾ See recitals 12, 17 and 28.

⁽¹⁹⁾ Calculation: 80 % of a credit line of DEM 8 million = DEM 6,4 million, assuming a 10 % risk on the residual guaranteed amount of DEM 15,6 million, and this gives a total of DEM 7,96 million.

⁽²⁰⁾ Calculation: DEM 1 million working capital provided by the investor, DEM 4,9 million private share of the investments and DEM 2,9 million private share of training costs.

- (44) As regards the sale of the two sections of Elpro's former LET division to GE, the Commission shares the view that the price paid for the assets reflects their market value and that therefore no aid is involved. Germany provided a comprehensive restructuring plan within the meaning of the guidelines⁽²¹⁾. The Commission has no reason to question the viability of the GE IS project. GE IS (Berlin) is, however, so closely integrated into GE's worldwide industrial systems activities that an individual analysis of its financial results would be meaningless. The future activities of GE IS are aimed predominantly at areas outside the Community. Its market share in Germany is around 1 %. Given the significant overall reduction in Elpro's capacity, the Commission acknowledges that the planned capacity of GE IS of about 100 employees (owing to the nature of GE IS's activities, capacity can be measured only in terms of the numbers employed) is lower than LET's corresponding capacity in the relevant sectors. Consequently, no undue distortions of the market are to be expected.
- (45) The aid granted to GE IS to help it complete its restructuring consists of three elements:
1. A grant of DEM 1,3 million to cover some of the start-up losses: this is clearly operating aid. The Commission recognises, however, that it was used to finance some of the underemployment costs of DEM 5,1 million during the period 1997/98 so as to avoid additional lay-offs;
 2. Training aid of DEM 1,5 million in order to part-finance training measures costing DEM 3,4 million: the aid intensity of 44,5 % is just below the threshold set in the framework on training aid for training projects of large firms in an Article 87(3)(a) area⁽²²⁾. In view of the high number of older employees at GE IS, the supplement of 10 % is in line with point 33 of the framework;
 3. Investment aid of DEM 2 million under the joint Federal Government/Länder scheme for total eligible investments of DEM 7,66 million: the intensity of this aid is below the 35 % approved for investment aid in this Article 87(3) region.

Therefore, only DEM 1,3 million out of a total DEM 4,8 million in aid for the further restructuring of GE IS has not been granted in accordance with the general rules applicable to all enterprises. As the private investor contributes about 74 % of the overall restructuring costs, the aid is not to be considered as disproportionate.

- (46) Germany should be required to report to the Commission twice a year on progress in restructuring EUB and GE IS and on the use of the restructuring aid by Elpro, EUB and GE IS in 1999 and 2000.

VI. CONCLUSIONS

- (47) The Commission finds that Germany has unlawfully granted rescue and restructuring aid to Elpro and its successor companies EUB and GE IS and has, therefore, infringed Article 88(3) of the Treaty. However, on the basis of its investigation, it has decided that the aid is to be regarded as being compatible with the common market within the meaning of Article 87(3)(a) and (c) of the EC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which Germany has granted to Elpro AG Berlin (Elpro) amounting to DEM 72,8 million is compatible with the common market within the meaning of Article 87(3)(c) of the Treaty.

Article 2

The State aid which Germany has granted to Elpro GmbH Berlin - Industrieholding (EUB) and Elpro Verkehrstechnik GmbH (EVT) amounting to DEM 11,6 million is compatible with the common market within the meaning of Article 87(3)(c) of the Treaty.

⁽²¹⁾ See recitals 25 to 27, which contain details of the plan.

⁽²²⁾ OJ C 343, 11.11.1998, p. 10, points 32 and 33.

Article 3

The State aid which Germany has granted to GE Industrial Systems GmbH Berlin amounting to DEM 4,8 million is compatible with the common market within the meaning of Article 87(3)(c) of the Treaty.

Article 4

Germany shall submit to the Commission twice-yearly reports on the progress in restructuring EUB and GE IS and on the use of the restructuring aid by Elpro AG, EUB and GE IS in 1999 and 2000.

Article 5

This Decision is addressed to Germany.

Done at Brussels, 14 March 2000.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION
of 1 September 2000
amending Decision 2000/486/EC concerning certain protection measures with regard to foot-and-mouth disease in Greece

(notified under document number C(2000) 2639)

(Text with EEA relevance)

(2000/538/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 92/118/EEC ⁽²⁾, and in particular Article 10 thereof,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽³⁾, as last amended by Directive 92/118/EEC, and in particular Article 9 thereof,

Whereas:

- (1) Due to outbreaks of foot-and-mouth disease in Greece Commission Decision 2000/486/EC of 31 July 2000 concerning protection measures with regard to foot-and-mouth disease in Greece ⁽⁴⁾ was adopted to reinforce the control measures taken by Greece.
- (2) Further spread of disease has been reported.
- (3) In the light of the disease evolution it is necessary to extend the protection measures taken by Decision 2000/486/EC to other parts of Greece.
- (4) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

Annex I and Annex II of Decision 2000/486/EC shall be replaced by the Annex to this Decision.

Article 2

Member States shall amend the measures, which they apply to trade so as to bring them into compliance with this Decision. They shall immediately inform the Commission thereof.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 1 September 2000.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 224, 18.8.1990, p. 29.

⁽²⁾ OJ L 62, 15.3.1993, p. 49.

⁽³⁾ OJ L 395, 30.12.1989, p. 13.

⁽⁴⁾ OJ L 195, 1.8.2000, p. 59.

ANNEX

The Province(s) of:

EVROS

RODOPI

XANTHI
