

English edition

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 73/2001
of 15 January 2001
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 16 January 2001.

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

Done at Brussels, 15 January 2001.

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 15 January 2001 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	96,6
	204	31,5
	624	73,1
	999	67,1
0707 00 05	052	104,3
	628	142,5
	999	123,4
0709 90 70	052	95,0
	204	86,1
	999	90,5
0805 10 10, 0805 10 30, 0805 10 50	052	46,5
	204	51,7
	220	41,9
	999	46,7
0805 20 10	052	47,4
	204	84,1
	624	63,6
	999	65,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	64,5
	204	78,5
	624	74,7
	999	72,6
0805 30 10	052	55,5
	600	64,8
	999	60,1
0808 10 20, 0808 10 50, 0808 10 90	060	38,4
	400	92,2
	404	89,9
	720	122,6
	728	73,8
	999	83,4
0808 20 50	052	189,0
	400	87,7
	999	138,3

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2032/2000 (OJ L 243, 28.9.2000, p. 14). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 74/2001
of 15 January 2001
amending Regulation (EC) No 31/2001 on the supply of vegetable oil as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food aid policy and food aid management and special operations in support of food security ⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas:

Commission Regulation (EC) No 31/2001 ⁽²⁾ issued an invitation to tender for the supply, as food aid, of vegetable oil. For

lot B some of the conditions specified in the Annex to that Regulation should be altered at the request of the beneficiary,

HAS ADOPTED THIS REGULATION:

Article 1

For lot B the Annex to Regulation (EC) No 31/2001 is replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day of 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, 15 January 2001.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 4, 9.1.2001, p. 3.

ANNEX

LOT B

1. **Action No:** 19/00 (B1); 23/00 (B2)
 2. **Beneficiary** ⁽²⁾: WFP (World Food Programme), via Cristoforo Colombo 426, I-00145 Rome; tel.: (39-06) 65 13 29 88; fax: 6513 2844/3; telex: 626675 WFP I
 3. **Beneficiary's representative:** to be designated by the beneficiary
 4. **Country of destination:** Angola
 5. **Product to be mobilised:** refined rapeseed oil or refined sunflower oil
 6. **Total quantity (tonnes net):** 1 300
 7. **Number of lots:** 1 in 2 parts (B1: 800 tonnes; B2: 700 tonnes)
 8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁴⁾ ⁽⁶⁾: see OJ C 312, 31.10.2000, p. 1 (D.1 or D.2)
 9. **Packaging:** see OJ C 267, 13.9.1996, p. 1 (10.4, A, B and C.(2))
 10. **Labelling or marking** ⁽⁵⁾: see OJ C 114, 29.4.1991, p. 1 (III.A.(3))
 - Language to be used for the markings: Portuguese
 - Supplementary markings: —
 11. **Method of mobilisation of the product:** mobilisation of refined vegetable oil produced in the Community. The mobilisation may not involve a product manufactured and/or packaged under inward-processing arrangements.
 12. **Specified delivery stage** ⁽⁷⁾: free at port of landing — port warehouse PAM/WFP
 13. **Alternative delivery stage:** free at port of shipment
 14. a) **Port of shipment:** —
b) **Loading address:** —
 15. **Port of landing:** B1: Luanda; B2: Lobito
 16. **Place of destination:**
 - port or warehouse of transit: —
 - overland transport route: —
 17. **Period or deadline of supply at the specified stage:**
 - first deadline: 22.4.2001
 - second deadline: 29.4.2001
 18. **Period or deadline of supply at the alternative stage:**
 - first deadline: 5-18.3.2001
 - second deadline: 19-31.3.2001
 19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 30.1.2001
 - second deadline: 13.2.2001
 20. **Amount of tendering guarantee:** EUR 15 per tonne
 21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn. Mr T. Vestergaard, Bâtiment Loi 130, Bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel; telex: 25670 AGREC B; fax: (32-2) 296 70 03/296 70 04 (exclusively)
 22. **Export refund:** —
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COMMISSION REGULATION (EC) No 75/2001
of 15 January 2001
on the supply of cereals as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security ⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) The abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage.
- (2) Following the taking of a number of decisions on the allocation of food aid, the Commission has allocated cereals to certain beneficiaries.
- (3) It is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied

under Council Regulation (EC) No 1292/96 as Community food aid ⁽²⁾. It is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Cereals shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in the tender is deemed unwritten.

Article 2

This Regulation shall enter into force on the 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, 15 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOT A

1. **Action No:** 22/00
2. **Beneficiary** ⁽²⁾: WFP (World Food Programme), via Cristoforo Colombo 426, I-00145 Rome; tel.: (39-06) 65 13 29 88; fax: 65 13 28 44/3; telex: 626675 WFP I
3. **Beneficiary's representative:** to be designated by the beneficiary
4. **Country of destination:** Ethiopia
5. **Product to be mobilized:** common wheat
6. **Total quantity (tonnes net):** 33 500
7. **Number of lots:** 1
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁵⁾: see OJ C 312, 31.10.2000, p. 1 (A.1)
9. **Packaging** ⁽⁷⁾: see OJ C 267, 13.9.1996, p. 1 (1.0, A(1.C and 2.C) and B(3))
10. **Labelling or marking** ⁽⁶⁾: See OJ C 114, 29.4.1991, p. 1 (II.A.(3))
 - Language to be used for the markings: English
 - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage:** ⁽⁸⁾: free at port of landing — landed
13. **Alternative delivery stage:** free at port of shipment — fob stowed
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** Djibouti
16. **Place of destination:**
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 25.3.2001
 - second deadline: 8.4.2001
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: 19.2-4.3.2001
 - second deadline: 5-18.3.2001
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 30.1.2001
 - second deadline: 13.2.2001
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn. Mr T. Vestergaard, bâtiment Loi 130, Bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel; telex: 25670 AGREC B; fax: (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** ⁽⁴⁾: refund applicable on 11.1.2001, fixed by Commission Regulation (EC) No 2842/2000 (OJ L 328, 23.12.2000, p. 37)

LOT B

1. **Action No:** 21/00
2. **Beneficiary** ⁽²⁾: WFP (World Food Programme), via Cristoforo Colombo 426, I-00145 Rome; tel.: (39-06) 6513 2988; fax: 65 13 28 44/3; telex: 626675 WFP I
3. **Beneficiary's representative:** to be designated by the beneficiary
4. **Country of destination:** Djibouti
5. **Product to be mobilised:** milled rice (product code 1006 30 92 9900, 1006 30 94 9900, 1006 30 96 9900, 1006 30 98 9900)
6. **Total quantity (tonnes net):** 2 700
7. **Number of lots:** 1
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁵⁾: see OJ C 312, 31.10.2000, p. 1 (A.7)
9. **Packaging** ⁽⁷⁾: see OJ C 267, 13.9.1996, p. 1 (1.0, A(1.C and 2.C) and B(b))
10. **Labelling or marking** ⁽⁶⁾: see OJ C 114, 29.4.1991, p. 1 (IIA(3))
 - Language to be used for the markings: French
 - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage** ⁽⁸⁾: free at port of landing — port warehouse PAM/WFP
13. **Alternative delivery stage:** free at port of shipment
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** Djibouti
16. **Place of destination:**
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 18.3.2001
 - second deadline: 1.4.2001
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: 19.2-4.3.2001
 - second deadline: 5-18.3.2001
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 30.1.2001
 - second deadline: 13.2.2001
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, Bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel; telex: 25670 AGREC B; fax: (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** ⁽⁴⁾: refund applicable on 11.1.2001, fixed by Commission Regulation (EC) No 2842/2000 (OJ L 328, 23.12.2000, p. 37)

Notes:

- (¹) Supplementary information: Torben Vestergaard (tel. (32-2) 299 30 50); fax (32-2) 296 20 05).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the products to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) Commission Regulation (EC) No 259/98 (OJ L 25, 31.1.1998, p. 39) is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that referred to in point 22 of this Annex.
- The supplier's attention is drawn to the last subparagraph of Article 4(1) of the above Regulation. The photocopy of the export licence shall be sent as soon as the export declaration has been accepted (fax (32-2) 296 20 05).
- (⁵) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— phytosanitary certificate.
- (⁶) Notwithstanding OJ C 114, point II.A(3)(c) is replaced by the following: 'the words "European Community"'.
(⁷) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁸) In addition to the provisions of Article 14(3) of Regulation (EC) No 2519/97, vessels chartered shall not appear on any of the four most recent quarterly lists of detained vessels as published by the Paris Memorandum of Understanding on Port State Control (Council Directive 95/21/EC, (OJ L 157, 7.7.1995, p. 1)).
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COMMISSION REGULATION (EC) No 76/2001
of 15 January 2001
on the supply of common wheat as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security ⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) The abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage.
- (2) Following the taking of a number of decisions on the allocation of food aid, the Commission has allocated cereals to Bangladesh.
- (3) It is necessary to provide for the carrying out of this measure in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 ⁽²⁾ of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid. It is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

A tendering procedure is hereby initiated for the award of a contract for the supply of common wheat to Bangladesh in accordance with the provisions of Regulation (EC) No 2519/97 and with the conditions laid down in Annex I hereto.

The offer submitted shall be deemed to have been drawn up taking account of the charges and constraints resulting from specific clauses set out in the Exchange of Letters between the Commission and the recipient, published in part in Annex II. In particular, the laydays should be assessed on the basis of an average daily discharge rate of 2 400 tonnes in such a way that dispatch to be paid to the recipient by the European Community will be for the account of the supplier.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

This Regulation shall enter into force on the 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, 15 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX I

LOTS A, B

1. **Action No:** 303/99 (A) and 304/99 (B)
2. **Beneficiary** ⁽²⁾: Bangladesh
3. **Beneficiary's representative:** The Secretary, Ministry of Food, Bangladesh Secretariat, Dhaka, Bangladesh
4. **Country of destination:** Bangladesh
5. **Product to be mobilized:** common wheat
6. **Total quantity (tonnes net):** 50 000
7. **Number of lots:** 2 (A: 25 000 tonnes; B: 25 000 tonnes)
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁵⁾: see OJ C 312, 31.10.2000, p. 1 (A.1)
9. **Packaging:** in bulk
10. **Labelling or marking:**
 - Language to be used for the markings: —
 - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage:** free at port of landing — undischarged ⁽⁷⁾
The recipient shall unload the wheat as per the conditions laid down in Annex II
13. **Alternative delivery stage:** free at port of shipment — fob stowed and trimmed
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** Chittagong
16. **Place of destination:**
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage** ⁽⁶⁾ ⁽⁸⁾:
 - first deadline: A: 1.4.2001; B: 16-22.4.2001
 - second deadline: A: 15.4.2001; B: 30.4.-13.5.2001
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: A: 12-18.2.2001; B: 5-11.3.2001
 - second deadline: A: 26.2-4.3.2001; B: 19-25.3.2001
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 30.1.2001
 - second deadline: 13.2.2001
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn. Monsieur T. Vestergaard, bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel; telex: 25670 AGREC B; fax: (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** ⁽⁴⁾: refund applicable on 11.1.2001, fixed by Commission Regulation (EC) No 2842/2000 (OJ L 328, 23.12.2000, p. 37)

Notes:

- (¹) Supplementary information: Torben Vestergaard (tel.: (32-2) 299 30 50; fax: (32-2) 296 20 05).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) Commission Regulation (EC) No 259/98 (OJ L 25, 31.1.1998, p. 39) is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that referred to in point 22 of this Annex.
The supplier's attention is drawn to the last subparagraph of Article 4(1) of the above Regulation. The photocopy of the export licence shall be sent as soon as the export declaration has been accepted (fax (32-2) 296 20 05).
- (⁵) The supplier shall supply to the beneficiary or its representative, on delivery, the following documents:
— phytosanitary certificate,
— fumigation certificate.
- (⁶) See Annex II point 4, second paragraph.
- (⁷) In addition to the provisions of Article 14(3) of Regulation (EC) No 2519/97, vessels chartered shall not appear on any of the four most recent quarterly lists of detained vessels as published by the Paris Memorandum of Understanding on Port State Control (Council Directive 95/21/EC (OJ L 157, 7.7.1995, p. 1)).
- (⁸) The final subparagraph of Article 14(14) of Commission Regulation (EC) No 2519/97 (OJ L 346, 17.12.1997, p. 23) applies.
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ANNEX II

1. Type of vessel to be fixed

It is envisaged that two vessels (self-trimming bulk carriers) will be fixed. The vessels must have at least five hatches. Vessels to be geared and each crane/derrick to serve one or two hatches. The vessels must be capable of entering the Chittagong outer anchorage and, after necessary lighterage, be able to shift and berth at Chittagong jetties. To this end vessels should have a maximum length of 610 feet.

Charterers/shipowners must ensure that all certificated officers carry with them on board the original valid certificate of competency and that all vessels are manned strictly according to the STCW Convention 1995, failing which any delay to the vessel will be on owner's account.

2. Discharging facilities

Vessels will furnish at the discharge port, free of expenses to the recipient, winches and/or cranes and the power to drive them, gins and falls in good working condition and will also supply sufficient lights for night work, as on board, on deck and in the holds, if required. Vessels will provide winchmen at load and discharge ports at their own expense.

3. Vessels' ETA information

Master to wireless/cable nominees of the recipient, namely Movements Chittagong — telex 642237 CMS C BJ — (simultaneously informing Banglaship Chittagong — telex 66277 BSC BJ — and Movestore Dhaka — telex 642230 CMS BJ) for orders regarding discharge 10 days prior to their arrival at the discharge port, i.e. Chittagong, and state ETA and draft. Orders for discharging will be transmitted to the vessel within five days of the receipt of master's request.

Master to give the following notice to the recipient's nominees, i.e. Movements Chittagong, Banglaship Chittagong and Movestore Dhaka:

- (a) upon sailing from load port vessels must state:
 - (i) quantity loaded;
 - (ii) arrival draft;
 - (iii) TPI (tonnes per inch);
- (b) 10 days beforehand ETA Chittagong port,
five days beforehand ETA Chittagong port,
72 hours, 48 hours and 24 hours beforehand ETA Chittagong port.

4. Discharging rate and discharging port time counting

The cargo is to be discharged by the recipient free of risk and expense to the vessel at the rate of 2 400 tonnes per weather working day of 24 consecutive hours. Time from 12 noon on Thursday or 5 p.m. on a day preceding a holiday until 9 a.m. on Saturday or next working day not to count as laytime even if used. The rate of discharge is based on four or more workable hatches. If, however, the number of workable hatches is less than the specified minimum, the discharging rate will be reduced proportionately.

Notice of readiness is to be tendered and accepted after vessel arrives at the Chittagong outer anchorage and laytime to commence 24 hours after NOR tendered during office hours (09.00-17.00), whether the vessel is in berth or not. However, in case a time period for the supply has been fixed by the Commission, laytime shall not commence before the first day of the said period. At discharge port, cost of shifting from anchorage to anchorage, anchorage to berth and berth to berth on owner's/charterer's account and time used for such shifting not to count as laytime.

Although stevedores appointed by recipients, all discharging operations to be carried out under masters' direction/ approval. All necessary trimming will be at owner's time and expense.

At Chittagong anchorage, if a lighter vessel is required to cast off from the mother ship, due to heavy swell and/or bad weather, all time lost will not count as laytime. The time will stop counting from the time the lighter vessel casts off and will start counting again from the time the lighter vessel is re-tied alongside the mother ship.

5. Lighterage at discharge port

All necessary lighterage at Chittagong outer anchorage will be carried out by the recipients at their own cost and time. For vessels unable to enter the Chittagong outer anchorage, due to excessive draft, lighterage may be carried out at Kutubdia anchorage by the charterers/owners at their expense and such lighterage to be treated as transshipment and lighters engaged to be discharged on identical terms as the mother ship, and time used for lighterage at Kutubdia not to count as laytime. Collision damage, if any, during lighterage to be settled directly between the owners of the mother and the lighter vessels (notwithstanding whether engaged by owners/charterers for Kutubdia lighterage, or by the recipients for outer anchorage lighterage). In case of unsafe anchorage at Chittagong outer anchorage, any lighterage at Kutubdia is for recipients account.

Master of the vessel(s) at all times to extend full cooperation to the recipients and/or their nominees/agents/stevedores/lighterage contractors in order to expedite discharge. Lighter vessels to supply suitable fenders to avoid damage.

6. Demurrage/Dispatch

Should the vessel(s) not be discharged at the rate herein stipulated, demurrage shall be paid by the recipient at the rate stipulated in the charter party, subject to a maximum of EUR 8 000 per day or part thereof.

For working time saved at the port of discharge, dispatch money shall be paid to the recipient at the rate of 50 % of the rate of demurrage stipulated in the charter party, subject to a maximum of EUR 4 000 per day saved.

Demurrage or dispatch at the discharge port, if any, at the amounts specified above, shall be paid, as the case may be, by the recipient to the Commission or by the Commission to the recipient. Afterwards settlement of dispatch/demurrage, if any, between the supplier and the Commission will take place.

Laytime at port of discharge to be non-reversible.

7. Miscellaneous

Overtime expenses, if any, on account of port and customs personnel will be for the account of the party (owner/their agents or receiver/their agents) ordering the same, but if ordered by the Port Authorities, to be on the receiver's/owner's account on 50:50 basis. Overtime expenses for vessel's crew always to be on the owner's account.

At the port of discharge opening/closing of hatches on all occasions to be for owner's account and time not to count as laytime.

First opening and last closing of hatches at port of discharge to be done by vessel's crew.

Whatever the respective destination of the goods found damaged, they must be disposed of/destroyed as per port rules prior to sailing out of the vessel.

Dock worker management board's levy or any similar levy is for owner's account.

In the case where some extra costs requested by the owner/charterer are to be pre-financed by the recipient, they may be directly paid by the Commission on the recipient's behalf to the supplier.

COMMISSION REGULATION (EC) No 77/2001

of 5 January 2001

amending the Annexes to Regulation (EC) No 1547/1999 and Council Regulation (EC) No 1420/1999 as regards shipments of certain types of waste to Albania, Brazil, Bulgaria, Burundi, Jamaica, Morocco, Nigeria, Peru, Romania, Tunisia and Zimbabwe

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community ⁽¹⁾, as last amended by Commission Decision 1999/816/EC ⁽²⁾, and in particular Article 17(3) thereof,

Having regard to Council Regulation (EC) No 1420/1999 of 29 April 1999 establishing common rules and procedures to apply to shipments to certain non-OECD countries of certain types of waste ⁽³⁾, as amended by Commission Regulation (EC) No 1208/2000 ⁽⁴⁾, and in particular Article 3(5) thereof,

Whereas:

(1) In January 2000, the Commission sent a *note verbale* to all non-OECD countries (plus Hungary and Poland which do not yet apply OECD Decision C(92) 39 final). The purpose of this *note verbale* was three fold: (a) to inform these countries of the Community's new regulations; (b) to ask for confirmation of the respective positions as outlined in the Annexes to Regulation (EC) No 1420/1999 and Commission Regulation (EC) No 1547/1999 of 12 July 1999 determining the control procedures under Council Regulation (EEC) No 259/93 to apply to shipments of certain types of waste to certain countries to which OECD Decision C(92) 39 final does not apply ⁽⁵⁾, as last amended by Regulation (EC) No 1552/2000 ⁽⁶⁾, and (c) to have an answer from those countries which did not reply in 1994.

(2) Among the countries that replied, Brazil, Bulgaria, Burundi, Jamaica, Morocco, Nigeria, Peru, Romania, Tunisia and Zimbabwe notified the Commission that the import of certain wastes listed in Annex II to Regulation (EEC) No 259/93 is accepted either without any control procedure or subject to control pursuant to the control procedure applying to Annex III or IV thereto or laid

down in Article 15 thereof. Concerning other waste, they have indicated that they do not wish to receive shipments.

- (3) Albania replied to the *note verbale* stating that its position has not changed. However, the provisions concerning Albania need to be amended to take into account the new labelling system for certain types of waste laid down in Annex II to Regulation (EC) No 259/93 as amended by Decision 1999/816/EC.
- (4) In accordance with Article 17(3) of Regulation (EEC) No 259/93, the Committee set up by Article 18 of Council Directive 75/442/EEC of 15 July 1975 on waste ⁽⁷⁾, as last amended by Commission Decision 96/350/EC ⁽⁸⁾, was notified of the official request of these countries on 23 June 2000 (on 12 July 2000 for Burundi).
- (5) In order to take into account the new situation of these countries, it is necessary to amend at the same time Regulation (EC) No 1420/1999 and Regulation (EC) No 1547/1999.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee set up by Article 18 of Directive 75/442/EEC,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1547/1999 is amended as follows:

1. Annex A is amended as set out in Annex A to this Regulation;
2. Annex B is amended as set out in Annex B to this Regulation;
3. Annex C is amended as set out in Annex C to this Regulation;
4. Annex D is amended as set out in Annex D to this Regulation.

⁽¹⁾ OJ L 30, 6.2.1993, p. 1.⁽²⁾ OJ L 316, 10.12.1999, p. 45.⁽³⁾ OJ L 166, 1.7.1999, p. 6.⁽⁴⁾ OJ L 138, 9.6.2000, p. 7.⁽⁵⁾ OJ L 185, 17.7.1999, p. 1.⁽⁶⁾ OJ L 176, 15.7.2000, p. 27.⁽⁷⁾ OJ L 194, 25.7.1975, p. 39.⁽⁸⁾ OJ L 135, 6.6.1996, p. 32.

Article 2

Regulation (EC) No 1420/1999 is amended as follows:

1. Annex A is amended as set out in Annex E to this Regulation;

2. Annex B is amended as set out in Annex F to this Regulation.

Article 3

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, 5 January 2001.

For the Commission
Pascal LAMY
Member of the Commission

ANNEX A

Annex A to Regulation (EC) No 1547/1999 is amended as follows:

1. All the text related to Bulgaria is deleted.
2. All the text related to Jamaica is deleted.
3. All the text related to Tunisia is replaced by the text:

TUNISIA

1. All types in section GB ("Metal bearing wastes arising from melting, smelting and refining of metals").
2. In section GC ("Other wastes containing metals"):

GC 010		Electrical assemblies consisting only of metals or alloys
GC 020		Electronic scrap (e.g. printed circuit boards, electronic components, wire, etc.) and reclaimed electronic components suitable for base and precious metal recovery
GC 030	ex 8908 00	Vessels and other floating structures for breaking up, properly emptied of any cargo and other materials arising from the operation of the vessel which may have been classified as a dangerous substance or waste
GC 040		Motor vehicle wrecks, drained of liquids

The following metal and metal alloy wastes in metallic dispersible form:

GC 150		Gold
GC 160		Platinum (the expression "platinum" includes platinum, iridium, osmium, palladium, rhodium and ruthenium)
GC 170		Other precious metals, e.g. silver

NB: mercury is specifically excluded as a contaminant of these metals and their alloys or amalgams.

3. All types in section GH ("Solid plastic wastes").
4. All types in section GI ("Paper, paperboard and paper product wastes").
5. In section GJ ("Textiles wastes"):

GJ 033	5202 99	— Other
GJ 120	6309 00	Worn clothing and other worn textile articles
GJ 132	ex 6310 90	— Other
GJ 140	ex 6310	Waste textile floor coverings, carpets.

6. In section GK ("Rubber wastes"):

GK 020	4012 20	Used pneumatic tyres.
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7. All types in section GM ("Wastes arising from agro-food industries").

ANNEX B

Annex B to Regulation (EC) No 1547/1999 is amended as follows:

1. All the text related to Brazil is replaced by the text:

'BRAZIL

1. In section GA ("Metal and metal-alloy wastes in metallic non-dispersible (!) form"):

(a) The following waste and scrap of non-ferrous metals and their alloys:

GA 120	7404 00	Copper waste and scrap
GA 130	7503 00	Nickel waste and scrap
GA 160	7902 00	Zinc waste and scrap
GA 170	8002 00	Tin waste and scrap
GA 210	8104 20	Magnesium waste and scrap (excluding those listed in AA 190) (*)
GA 220	ex 8105 10	Cobalt waste and scrap
GA 230	ex 8106 00	Bismuth waste and scrap
GA 250	ex 8108 10	Titanium waste and scrap
GA 260	ex 8109 10	Zirconium waste and scrap
GA 280	ex 8111 00	Manganese waste and scrap
GA 310	ex 8112 30	Germanium waste and scrap
GA 320	ex 8112 40	Vanadium waste and scrap

(*) See Annex III to Commission Decision 98/368/EC (OJ L 165, 10.6.1998, p. 20).

2. In section GB ("Metal bearing wastes arising from melting, smelting, and refining of metals"):

GB 020 Zinc containing drosses

3. In section GC ("Other wastes containing metals"):

GC 070 ex 2619 00 Slag arising from the manufacture of iron and carbon steel (including low alloy steel) excluding those slags which have been specifically produced to meet both national and relevant international requirements and standards (*)

The following metal and metal alloy wastes in metallic dispersible form:

GC 090 Molybdenum
 GC 100 Tungsten
 GC 110 Tantalum

(*) This entry covers the use of such slags as a source of titanium dioxide and vanadium.

4. In section GF ("Ceramic wastes in non-dispersible form"):

GF 020 ex 8113 00 Cermet waste and scrap (metal ceramic composites)

5. In section GN ("Wastes arising from tanning and fellmongery operations and leather use"):

GN 040	ex 4110 00	Parings and other waste of leather or of composition leather, not suitable for the manufacture of leather articles, excluding leather sludges
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(¹) "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

2. All the text related to Jamaica is replaced by the words:

JAMAICA

All types in section GM ("Wastes arising from agro-food industries")

3. All the text related to Nigeria is replaced by the text:

NIGERIA

1. All types in section GA ("Metal and metal-alloy wastes in metallic, non-dispersible (¹) form").

2. All types in section GB ("Metal bearing wastes arising from melting, smelting and refining of metals").

3. All types in section GH ("Solid plastic wastes").

4. All types in section GI ("Paper, paperboard and paper product wastes").

5. In section GJ ("Textile wastes"):

GJ 010	5003	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock)
GJ 011	5003 10	— not carded or combed
GJ 012	5003 90	— other
GJ 020	5103	Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock
GJ 021	5103 10	— noils of wool or of fine animal hair
GJ 022	5103 20	— other waste of wool or of fine animal hair
GJ 023	5103 30	— waste of coarse animal hair
GJ 030	5202	Cotton waste (including yarn waste and garnetted stock)
GJ 031	5202 10	— yarn waste (including thread waste)
GJ 032	5202 91	— garnetted stock
GJ 033	5202 99	— other
GJ 040	5301 30	Flax tow and waste
GJ 050	ex 5302 90	Tow and waste (including yarn waste and garnetted stock) of true hemp (<i>Cannabis sativa</i> L.)
GJ 060	ex 5303 90	Tow and waste (including yarn waste and garnetted stock) of jute and other textile bast fibres (excluding flax, true hemp and ramie)
GJ 070	ex 5304 90	Tow and waste (including yarn waste and garnetted stock) of sisal and other textile fibres of the genus <i>Agave</i>
GJ 080	ex 5305 19	Tow, noils and waste (including yarn waste and garnetted stock) of coconut
GJ 090	ex 5305 29	Tow, noils and waste (including yarn waste and garnetted stock) of abaca (Manila hemp or <i>Musa textilis</i> Nee)
GJ 100	ex 5305 99	Tow, noils and waste (including yarn waste and garnetted stock) of ramie and other vegetable textile fibres, not elsewhere specified or included

GJ 110	5505	Waste (including noils, yarn waste and garnetted stock) of man-made fibres
GJ 111	5505 10	— of synthetic fibres
GJ 112	5505 20	— of artificial fibres
GJ 130	ex 6310	Used rags, scrap twine, cordage, rope and cables and worn-out articles of twine, cordage, rope or cables of textile materials
GJ 131	ex 6310 10	— sorted
GJ 132	ex 6310 90	— other
GJ 140	ex 6310	Waste textile floor coverings, carpets

6. In section GK ("Rubber wastes"):

GK 010	4004 00	Waste, parings and scrap of rubber (other than hard rubber) and granules obtained therefrom
GK 030	ex 4017 00	Waste and scrape of hard rubber (for example, ebonite)

7. In section GM ("Wastes arising from agro-food industries"):

GM 070	ex 2307	Wine lees
GM 080	ex 2308	Dried and sterilised vegetable waste, residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included
GM 090	1522	Degras; residues resulting from the treatment of fatty substances or animal or vegetable waxes
GM 100	0506 90	Waste of bones and horn-cones, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised
GM 110	ex 0511 91	Fish waste
GM 120	1802 00	Cocoa shells, husks, skins and other cocoa waste

(¹) "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

4. Between the texts related to Nigeria and Russia, the following text is inserted:

'PERU

In section GA ("Metal and metal-alloy wastes in metallic, non-dispersible (¹) form"):

GA 430	7204	Iron or steel scrap
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(¹) "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

ANNEX C

Annex C to Regulation (EC) No 1547/1999 is amended as follows:

All the text related to Romania is replaced by the text:

ROMANIA

1. In section GA ("Metal and metal-alloy wastes in metallic, non-dispersible⁽¹⁾ form"):

(a) The following waste and scrap of precious metals and their alloys:

GA 010	ex 7112 10	— of gold
GA 020	ex 7112 20	— of platinum (the expression "platinum" includes platinum, iridium, osmium, palladium, rhodium and ruthenium)
GA 030	ex 7112 90	— other precious metals, e.g. silver

NB: Mercury is specifically excluded as a contaminant of these metals or their alloys or amalgams.

(b) The following waste and scrap of non-ferrous metals and their alloys:

GA 120	7404 00	Copper waste and scrap
GA 140	7602 00	Aluminium waste and scrap
GA 150	7802 00	Lead waste and scrap
GA 160	7902 00	Zinc waste and scrap
GA 430	7204	Iron or steel scrap

2. In section GE ("Glass waste in non-dispersible form"):

GE 010	ex 7001 00	Cullet or other waste and scrap of glass except for glass form cathode-ray tubes and other activated (with coatings) glasses
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3. In section GI ("Paper, paperboard and paper product wastes"):

GI 010	4707	Waste and scrap of paper or paperboard
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4. In section GJ ("Textile wastes"):

GJ 020	5103	Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock
GJ 030	5202	Cotton waste (including yarn waste and garnetted stock)

5. In section GO ("Other wastes containing principally organic constituents, which may contain metals and inorganic materials"):

GO 050		Single-use cameras without batteries
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⁽¹⁾ "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.

ANNEX D

Annex D to Regulation (EC) No 1547/1999 is amended as follows:

1. All the text related to Albania is replaced by the text:

'ALBANIA

1. In section GA ("Metal and metal-alloy wastes in metallic, non-dispersible⁽¹⁾ form"):

The following waste and scrap of non-ferrous metals and their alloys:

GA 120	7404 00	Copper waste and scrap
GA 150	7802 00	Lead waste and scrap
GA 160	7902 00	Zinc waste and scrap
GA 170	8002 00	Tin waste and scrap
GA 430	7204	Iron or steel scrap

2. All types included in section GB ("Metal bearing wastes arising from melting, smelting and refining of metals").

3. All types included in section GE ("Glass waste in non-dispersible form").

4. In section GG ("Other wastes containing principally inorganic constituents, which may contain metals and organic materials"):

GG 080	ex 2621 00	Slag from copper production, chemically stabilised, having a high iron content (above 20 %) and processed according to industrial specifications (e.g. DIN 4301 and DIN 8201) mainly for construction and abrasive applications
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5. All types in section GI ("Paper, paperboard and paper product wastes").

6. In section GJ ("Textile wastes"):

GJ 020	5103	Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock:
GJ 021	5103 10	— noils of wool or of fine animal hair
GJ 022	5103 20	— other waste of wool or of fine animal hair
GJ 023	5103 30	— waste of coarse animal hair
GJ 030	5202	Cotton waste (including yarn waste and garnetted stock):
GJ 031	5202 10	— yarn waste (including thread waste)
GJ 032	5202 91	— garnetted stock
GJ 033	5202 99	— other.

⁽¹⁾ "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

2. All the text related to Brazil is replaced by the text:

'BRAZIL

All types in Annex II B except those listed in Annex B and except:

1. In section GA ("Metal and metal-alloy wastes in metallic, non-dispersible⁽¹⁾ form"):

The following waste and scrap of non-ferrous metals and their alloys:

GA 150	7802 00	Lead waste and scrap
GA 240	ex 8107 10	Cadmium waste and scrap
GA 270	ex 8110 00	Antimony waste and scrap
GA 300	ex 8112 20	Chromium waste and scrap
GA 400	ex 2804 90	Selenium waste and scrap
GA 410	ex 2804 50	Tellurium waste and scrap

2. In section GB ("Metal bearing wastes arising from melting, smelting and refining of metals"):

GB 010 2620 11 Hard zinc spelter

3. In section GG ("Other wastes containing principally inorganic constituents, which may contain metals and organic material"):

GG 160 Bituminous materials (asphalt waste) from road construction and maintenance, not containing tar

4. In section GK ("Rubber wastes"):

GK 020 4012 20 Used pneumatic tyres

(¹) "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

3. All the text related to Bulgaria is replaced by the words:

'BULGARIA

"All types in Annex II".

4. Between the texts related to Burkina Faso and Cameroon, the following text is inserted:

'BURUNDI

1. In section GA ("Metal and metal-alloy wastes in metallic, non-dispersible (¹) form"):

GA 430 7204 Iron or steel scrap

2. All types in section GI ("Paper, paperboard and paper product wastes").

3. In section GJ ("Textile wastes"):

GJ 120 6309 00 Worn clothing and other worn textile articles

GJ 140 ex 6310 Waste textile floor coverings, carpets

4. In section GK ("Rubber wastes"):

GK 020 4012 20 Used pneumatic tyres

5. In section GM ("Wastes arising from agro-food industries"):

GM 130 Waste from the agro-food industry excluding by-products which meet national and international requirements and standards for human or animal consumption.

(¹) "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

5. Between the texts related to Monaco and Netherland Antilles, the following text is inserted:

'MOROCCO

All types in section GJ ("Textile wastes").

6. All the text related to Tunisia is replaced by the text:

'TUNISIA

1. All types in section GA ("Metal and metal-alloy wastes in metallic, non-dispersible (¹) form").

2. All types in section GD ("Wastes from mining operations: these wastes to be in non-dispersible form").

3. All types in section GE ("Glass waste in non-dispersible form").
4. All types in section GF ("Ceramic waste in non-dispersible form").
5. In section GG ("Other wastes containing principally inorganic constituents, which may contain metals and organic materials"):

GG 010		Partially refined calcium sulphate produced from flue gas desulphurisation (FGD)
GG 020		Waste gypsum wallboard or plasterboard arising from the demolition of buildings
GG 090		Sulphur in solid form
GG 100		Limestone from the production of calcium cyanamide (having a pH less than 9)
GG 120		Sodium, potassium, calcium chlorides
GG 130		Carborundum (silicon carbide)
GG 140		Broken concrete
GG 150	ex 2620 90	Lithium-tantalum and lithium-niobium containing glass scraps
GG 160		Bituminous materials (asphalt waste) from road construction and maintenance, not containing tar

6. In section GJ ("Textile waste"):

GJ 010	5003	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock)
GJ 011	5003 10	— not carded or combed
GJ 012	5003 90	— other
GJ 020	5103	Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock
GJ 021	5103 10	— noils of wool or of fine animal hair
GJ 022	5103 20	— other waste of wool or of fine animal hair
GJ 023	5103 30	— waste of coarse animal hair
GJ 030	5202	Cotton waste (including yarn waste and garnetted stock)
GJ 031	5202 10	— yarn waste (including thread waste)
GJ 032	5202 91	— garnetted stock
GJ 040	5301 30	Flax tow and waste
GJ 050	ex 5302 90	Tow and waste (including yarn waste and garnetted stock) of true hemp (<i>Cannabis sativa</i> L.)
GJ 060	ex 5303 90	Tow and waste (including yarn waste and garnetted stock) of jute and other textile bast fibres (excluding flax, true hemp and ramie)
GJ 070	ex 5304 90	Tow and waste (including yarn waste and garnetted stock) of sisal and other textile fibres of the genus <i>Agave</i>
GJ 080	ex 5305 19	Tow, noils and waste (including yarn waste and garnetted stock) of coconut
GJ 090	ex 5305 29	Tow, noils and waste (including yarn waste and garnetted stock) of abaca (Manila hemp or <i>Musa textilis</i> Nee)
GJ 100	ex 5305 99	Tow, noils and waste (including yarn waste and garnetted stock) of ramie and other vegetable textile fibres, not elsewhere specified or included
GJ 130	ex 6310	Used rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables of textile materials:
GJ 131	ex 6310 10	— sorted

7. In section GK ("Rubber wastes"):

GK 010	4004 00	Waste, paring and scrap of rubber (other than hard rubber) and granulates obtained therefrom
GK 030	ex 4017 00	Waste and scrap of hard rubber (for example, ebonite)

8. All types in section GL ("Untreated cork and wood wastes").

9. In section GN ("Wastes arising from tanning and fellmongery operations and leather use"):

GN 010	ex 0502 00	Waste of pigs' hogs' or boars' bristles and hair or of badger hair and other brush-making hair
GN 020	ex 0503 00	Horsehair waste, whether or not put up as a layer with or without supporting material
GN 040	ex 4110 00	Parings and other leather waste of leather or of composition leather, not suitable for the manufacture of leather articles, excluding leather sludges.

10. In section GO ("Other wastes containing principally organic constituents, which may contain metals and inorganic materials"):

GO 010	ex 0501 00	Waste of human hair
GO 020		Waste straw

(¹) "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

7. After the texts related to Zambia, the following text is added:

'ZIMBABWE

"All types in Annex II".

ANNEX E

Annex A to Regulation (EC) No 1420/1999 is amended as follows:

1. All the text related to Albania is replaced by the text:

'ALBANIA

All types except:

1. In section GA ("Metal and metal-alloy wastes in metallic, non-dispersible⁽¹⁾ form"):

The following waste and scrap of non-ferrous metals and their alloys:

GA 120	7404 00	Copper waste and scrap
GA 150	7802 00	Lead waste and scrap
GA 160	7902 00	Zinc waste and scrap
GA 170	8002 00	Tin waste and scrap
GA 430	7204	Iron or steel scrap

2. All types included in section GB ("Metal bearing wastes arising from melting, smelting and refining of metals").

3. All types included in section GE ("Glass waste in non-dispersible form").

4. In section GG ("Other wastes containing principally inorganic constituents, which may contain metals and organic materials"):

GG 080	ex 2621 00	Slag from copper production, chemically stabilised, having a high iron content (above 20 %) and processed according to industrial specifications (for example DIN 4301 and DIN 8201) mainly for construction and abrasive applications.
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5. All types in section GI ("Paper, paperboard and paper product wastes").

6. In section GJ ("Textile wastes"):

GJ 020	5103	Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock:
GJ 021	5103 10	— noils of wool or of fine animal hair
GJ 022	5103 20	— other waste of wool or of fine animal hair
GJ 023	5103 30	— waste of coarse animal hair
GJ 030	5202	Cotton waste (including yarn waste and garnetted stock):
GJ 031	5202 10	— yarn waste (including thread waste)
GJ 032	5202 91	— garnetted stock
GJ 033	5202 99	— other.

⁽¹⁾ "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

2. All the text related to Brazil is replaced by the text:

'BRAZIL

1. In section GA ("Metal and metal-alloy wastes in metallic, non-dispersible⁽¹⁾ form"):

The following waste and scrap of non-ferrous metals and their alloys:

GA 150	7802 00	Lead waste and scrap
GA 240	ex 8107 10	Cadmium waste and scrap
GA 270	ex 8110 00	Antimony waste and scrap
GA 300	ex 8112 20	Chromium waste and scrap
GA 400	ex 2804 90	Selenium waste and scrap
GA 410	ex 2804 50	Tellurium waste and scrap

2. In section GB ("Metal bearing wastes arising from melting, smelting and refining of metals"):

GB 010	2620 11	Hard zinc spelter
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3. In section GG ("Other wastes containing principally inorganic constituents, which may contain metals and organic material"):

GG 160		Bituminous materials (asphalt waste) from road construction and maintenance, not containing tar
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4. In section GK ("Rubber wastes"):

GK 020	4012 20	Used pneumatic tyres
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(¹) "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

3. All the text related to Bulgaria is deleted.

4. Between the texts related to Burkina Faso and Cameroon, the following text is inserted:

'BURUNDI

All types except:

1. In section GA ("Metal and metal-alloy wastes in metallic, non-dispersible" form):

GA 430	7204	Iron or steel scrap
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2. All types in section GI ("Paper, paperboard and paper product wastes").

3. In section GJ ("Textile wastes"):

GJ 120	6309 00	Worn clothing and other worn textile articles
GJ 140	ex 6310	Waste textile floor coverings, carpets

4. In section GK ("Rubber wastes"):

GK 020	4012 20	Used pneumatic tyres
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5. In section GM ("Wastes from agro-food industries"):

GM 130		Waste from the agro-food industry excluding by-products which meet national and international requirements and standards for human or animal consumption.
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(¹) "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

5. Between the texts related to Guyana and Kiribati, the following text is inserted:

JAMAICA

All types except:

All types in section GM ("Wastes arising from agro-food industries").

6. All the text related to Nigeria is replaced by the text:

NIGERIA

All types except:

1. All types in section GA ("Metal and metal-alloy wastes in metallic, non-dispersible (!) form").
2. All types in section GB ("Metal bearing wastes arising from melting, smelting and refining of metals").
3. All types in section GH ("Solid plastic wastes").
4. All types in section GI ("Paper, paperboard and paper product wastes").
5. In section GJ ("Textile wastes"):

GJ 010	5003	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock)
GJ 011	5003 10	— not carded or combed
GJ 012	5003 90	— other
GJ 020	5103	Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock
GJ 021	5103 10	— noils of wool or of fine animal hair
GJ 022	5103 20	— other waste of wool or of fine animal hair
GJ 023	5103 30	— waste of coarse animal hair
GJ 030	5202	Cotton waste (including yarn waste and garnetted stock)
GJ 031	5202 10	— yarn waste (including thread waste)
GJ 032	5202 91	— garnetted stock
GJ 033	5202 99	— other
GJ 040	5301 30	Flax tow and waste
GJ 050	ex 5302 90	Tow and waste (including yarn waste and garnetted stock) of true hemp (<i>Canabis sativa</i> L.)
GJ 060	ex 5303 90	Tow and waste (including yarn waste and garnetted stock) of jute and other textile bast fibres (excluding flax, true hemp and ramie)
GJ 070	ex 5304 90	Tow and waste (including yarn waste and garnetted stock) of sisal and other textile fibres of the genus <i>Agave</i>
GJ 080	ex 5305 19	Tow, noils and waste (including yarn waste and garnetted stock) of coconut
GJ 090	ex 5305 29	Tow, noils and waste (including yarn waste and garnetted stock) of abaca (Manila hemp or <i>Musa textilis</i> Nee)
GJ 100	ex 5305 99	Tow, noils and waste (including yarn waste and garnetted stock) of ramie and other vegetable textile fibres, not elsewhere specified or included
GJ 110	5505	Waste (including noils, yarn waste and garnetted stock) of manmade fibres
GJ 111	5505 10	— of synthetic fibres
GJ 112	5505 20	— of artificial fibres
GJ 130	ex 6310	Used rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables of textile materials
GJ 131	ex 6310 10	— sorted
GJ 132	ex 6310 90	— other
GJ 140	ex 6310	Waste textile floor coverings, carpets

6. In section GK ("Rubber wastes"):

GK 010	4004 00	Waste, parings and scrap of rubber (other than hard rubber) and granules obtained therefrom
GK 030	ex 4017 00	Waste and scrap of hard rubber (for example, ebonite)

7. In section GM ("Wastes arising from agro-food industries"):

GM 070	ex 2307	Wine lees
GM 080	ex 2308	Dried and sterilised vegetable waste, residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included
GM 090	1522	Degras; residues resulting from the treatment of fatty substances or animal or vegetable waxes
GM 100	0506 90	Waste of bones and horn-cones, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised
GM 110	ex 0511 91	Fish waste
GM 120	1802 00	Cocoa shells, husks, skins and other cocoa waste

(¹) "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

7. The texts related to Peru is replaced by the text:

'PERU

All types except:

in section GA ("Metal and metal-alloy wastes in metallic, non-dispersible (¹) form")

GA 430	7204	Iron or steel scrap
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(¹) "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

8. Between the texts related to Peru and São Tomé and Príncipe, the following text is inserted:

'ROMANIA

All types except:

1. In section GA ("Metal and metal-alloy wastes in metallic, non-dispersible (¹) form"):

(a) The following waste and scrap of precious metals and their alloys:

GA 010	ex 7112 10	— gold
GA 020	ex 7112 20	— platinum (the expression "platinum" includes platinum, iridium, osmium, palladium, rhodium and ruthenium)
GA 030	ex 7112 90	— other precious metals, for example silver

NB: Mercury is specifically excluded as a contaminant of these metals or their alloys or amalgams.

(b) The following waste and scrap of non-ferrous metals and their alloys:

GA 120	7404 00	Copper waste and scrap
GA 140	7602 00	Aluminium waste and scrap
GA 150	7802 00	Lead waste and scrap
GA 160	7902 00	Zinc waste and scrap
GA 430	7204	Iron or steel scrap

2. In section GE ("Glass waste in non-dispersible form"):

GE 010	ex 7001 00	Cullet or other waste and scrap of glass except for glass from cathode-ray tubes and other activated (with coatings) glasses
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3. In section GI ("Paper, paperboard and paper product wastes"):

GI 010 4707 Waste and scrap of paper or paperboard

4. In section GJ ("Textile wastes"):

GJ 020 5103 Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock

GJ 030 5202 Cotton waste (including yarn waste and garnetted stock)

5. In section GO ("Other wastes containing principally organic constituents, which may contain metals and inorganic materials"):

GO 050 Single-use cameras without batteries

(¹) "Non-dispersible" does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.'

9. Between the texts related to Tanzania and Uganda, the following text is inserted:

"TUNISIA

1. In section GC ("Other wastes containing metals"):

GC 050 Spent fluid catalytic cracking (FCC) catalysts (for example aluminium oxide, zeolites)

GC 060 Spent metal-bearing catalysts containing any of:

- platinum-group metals: ruthenium, rhodium, palladium, osmium, iridium, platinum
- transition metals: scandium, vanadium, manganese, cobalt, copper, yttrium, niobium, hafnium, tungsten, titanium, chromium, iron, nickel, zinc, zirconium, molybdenum, tantalum, rhenium
- Lanthanides (rare earth metals): lanthanum, praseodymium, samarium, gadolinium, dysprosium, erbium, ytterbium, cerium, neodymium, europium, terbium, holmium, thulium, lutetium

The following metal and metal alloy wastes in metallic dispersible form:

GC 090 Molybdenum

GC 100 Tungsten

GC 110 Tantalum

GC 120 Titanium

GC 130 Niobium

GC 140 Rhenium

2. In section GG ("Other wastes containing principally inorganic constituents, which may contain metals and organic materials"):

GG 030 ex 2621 Bottom ash and slag tap from coal-fired power plants

GG 040 ex 2621 Coal-fired power plants fly ash

GG 050 Anode butts of petroleum coke and/or bitumen

GG 060 ex 2803 Spent activated carbon, resulting from the treatment of potable water and processes of the food industry and vitamin production

GG 080 ex 2621 00 Slag from copper production, chemically stabilised, having a high iron content (above 20 %) and processed according to industrial specifications (for example DIN 4301 and DIN 8201), mainly for construction and abrasive applications

GG 110 ex 2621 00 Neutralised red mud from alumina production

3. In section GJ ("Textile wastes"):

GJ 110	5505	Waste (including noils, yarn waste and garnetted stock) of man-made fibres:
GJ 111	5505 10	— of synthetic fibres
GJ 112	5505 20	— of artificial fibres

4. In section GO ("Other wastes containing principally organic constituents, which may contain metals and inorganic materials"):

GO 030	Deactivated fungus mycelium from penicillin production to be used as animal feed
GO 040	Waste photographic film and paper (including base and photosensitive coating), whether or not containing silver and not containing silver in free ionic form
GO 050	Single-use cameras without batteries'

ANNEX F

Annex B to Regulation (EC) No 1420/1999 is amended as follows:

1. All the text related to Burundi is deleted
2. All the text related to Morocco is replaced by the text:

MOROCCO

All types except:

All types in section GJ ("Textile wastes")

3. All the text related to Tunisia is replaced by the text:

TUNISIA

1. In section GC ("Other wastes containing metals")

GC 070	ex 2619 00	Slags arising from the manufacture of iron and carbon steel (including low alloy steel) excluding those slags which have been specifically produced to meet both national and relevant international requirements and standards (*).
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GC 080		Mill scale (ferrous metal)
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(*) This entry covers the use of such slags as a source of titanium dioxide and vanadium.

2. In section GN ("Wastes arising from tanning and fellmongery operations and leather use")

GN 030	ex 0505 90	Waste of skins and other parts of birds, with their feathers or down of feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation.'
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4. All the text related to Zimbabwe is deleted.
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COMMISSION REGULATION (EC) No 78/2001
of 15 January 2001
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 2235/2000 ⁽⁴⁾, and in particular Article 2(1) thereof,

Whereas:

(1) The import duties in the cereals sector are fixed by Commission Regulation (EC) No 2892/2000 ⁽⁵⁾.

(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 2892/2000,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 2892/2000 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 16 January 2001.

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

Done at Brussels, 15 January 2001.

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 256, 10.10.2000, p. 13.

⁽⁵⁾ OJ L 336, 30.12.2000, p. 19.

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	0,00	0,00
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	0,00	0,00
	medium quality	24,23	14,23
	low quality	50,70	40,70
1002 00 00	Rye	43,04	33,04
1003 00 10	Barley, seed	43,04	33,04
1003 00 90	Barley, other ⁽³⁾	43,04	33,04
1005 10 90	Maize seed other than hybrid	59,83	49,83
1005 90 00	Maize other than seed ⁽³⁾	59,83	49,83
1007 00 90	Grain sorghum other than hybrids for sowing	43,04	33,04

⁽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 24 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 29 December 2000 to 12 January 2001)

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)	128,07	129,03	110,34	94,43	200,51 (**)	190,51 (**)	124,43 (**)
Gulf premium (EUR/t)	40,64	14,22	6,44	13,21	—	—	—
Great Lakes premium (EUR/t)	—	—	—	—	—	—	—

(*) 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: 18,07 EUR/t; Great Lakes — Rotterdam: 28,27 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).

II

(Acts whose publication is not obligatory)

COUNCIL

**COUNCIL DECISION
of 22 December 2000**

on the rules applicable to national experts on detachment to the General Secretariat of the Council in the context of an exchange system for officials of the General Secretariat of the Council of the European Union and officials of national administrations or of international organisations

(2001/41/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 207(2) thereof,

Whereas:

- (1) The conclusions of the Helsinki European Council in December 1999 encourage the implementation within the General Secretariat of the Council of the possibility of exchanges with national administrations.
- (2) It has been decided to introduce arrangements for the exchange of officials to ensure closer collaboration between the Council and national administrations or international organisations, by means of the detachment of officials of the General Secretariat to such administrations or organisations and by the detachment to the General Secretariat of national or international officials, thus allowing a reciprocal transfer of knowledge to be carried out.
- (3) The specific nature and volume of the work to be done justifies the detachment of several national experts and practitioners, to the General Secretariat of the Council for a limited period,

HAS DECIDED AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

Article 1

Definition

1. These rules are applicable to national experts on detachment to the General Secretariat of the Council, hereinafter referred to as the 'General Secretariat', in the context of the

arrangements for exchanges of officials of the General Secretariat with national administrations or international organisations.

2. The persons covered by these rules shall remain in paid employment in an international or national administration throughout the period of detachment.

3. Except where the Secretary-General/High Representative grants a derogation, national experts on detachment shall be nationals of a Member State of the European Union. However, such a derogation shall be excluded in the field of the European common security and defence policy.

Article 2

Period of detachment

1. The period of detachment of national experts on detachment shall depend on the tasks assigned to them. The total period of detachment, including any renewal, may not exceed four years. They shall serve on a full-time basis throughout the period of detachment.

2. The probable period of detachment shall be fixed at the outset in the Exchange of Letters referred to in Article 18(2) between the Secretary-General/High Representative and the Permanent Representative, or the employer in the case of an international organisation.

3. No national expert may be detached to the General Secretariat more than once.

*Article 3***Duties**

1. National experts on detachment shall assist General Secretariat officials and carry out the tasks entrusted to them in a predetermined work programme or job description.
2. The duties carried out shall be defined by mutual agreement between the General Secretariat and the home administration in the interest of the departments and taking into account the candidate's qualifications.
3. Unless special instructions to the contrary are given, under the authority of the Secretary-General/High Representative, by the Director-General of the Directorate-General to which they are assigned, national experts on detachment shall not enter into any commitment on the General Secretariat's behalf with third parties.
4. National experts on detachment may work in any field where their services are deemed necessary provided there is no conflict with the interests of the European Union.

*Article 4***Level, professional experience and knowledge of languages**

1. To qualify for detachment to the General Secretariat a national expert must have at least three years' experience of advisory or supervisory duties in a grade equivalent to Categories A or B at the General Secretariat.
2. A national expert on detachment must have a thorough knowledge of one of the languages of the European Union and a satisfactory knowledge of another of these languages to the extent necessary for him to carry out the tasks entrusted to him.
3. The Exchange of Letters referred to in Article 18(2) must stipulate the level of any security clearance of national experts on detachment.
4. National experts on detachment must have a good knowledge of the use of information technology.

*Article 5***Social security**

1. Before the period of detachment begins, the administration from which the official is to be detached shall certify to the General Secretariat that he will remain subject throughout the period of detachment to the social security legislation applicable to that administration which will assume responsibility for expenses incurred abroad.
2. From the day he takes up duty a national expert on detachment shall be personally insured against the risk of accidents on the same terms as General Secretariat employees not covered by the Staff Regulations.

3. A national expert on detachment who cannot be covered by a public sickness insurance scheme can apply to have this risk insured by the General Secretariat subject to his contributing half the relevant insurance premium. In such a case, his contribution shall be deducted monthly from the subsistence allowance referred to in Article 12.

*Article 6***Breaks in or termination of periods of detachment**

1. The General Secretariat may authorise breaks in periods of detachment and specify the terms applicable. The allowances referred to in Articles 12 and 13 shall not be payable during such breaks. The allowances referred to in Articles 14 and 15 shall be paid only if the break is at the General Secretariat's request.
2. Periods of detachment may be terminated if the interests of the General Secretariat or the expert's employer so require or for any other sufficient cause.

CHAPTER II

RIGHTS AND OBLIGATIONS OF A NATIONAL EXPERT ON DETACHMENT*Article 7*

1. A national expert on detachment shall carry out his duties and conduct himself solely with the interests of the Council in mind.
2. A national expert on detachment shall abstain from any action, and in particular any public expression of opinion, which may reflect on his position.
3. A national expert on detachment who, in the performance of his duties, is called on to decide on a matter in the handling or outcome of which he has a personal interest such as to impair his independence shall inform the head of the department to which he is assigned.
4. A national expert on detachment shall exercise the greatest discretion with regard to all facts and information coming to his knowledge in the course of or in connection with the performance of his duties; he shall not in any form whatsoever disclose to any unauthorised person any document or information not already made public. He shall continue to be bound by this obligation after his period of detachment has terminated.
5. A national expert on detachment shall not, whether alone or together with others, publish or cause to be published any matter dealing with the work of the European Union without obtaining permission in accordance with the conditions and rules in force at the General Secretariat.

6. A national expert on detachment shall be subject to the security rules in force at the General Secretariat.

7. All rights in any work done by a national expert on detachment in the performance of his duties shall be the property of the General Secretariat.

8. A national expert on detachment shall reside at his place of employment or at no greater distance therefrom than is compatible with the proper performance of his duties.

9. A national expert on detachment shall assist and tender advice to the superiors at the General Secretariat; he shall be responsible to them for performance of the tasks entrusted to him.

CHAPTER III

WORKING CONDITIONS OF THE NATIONAL EXPERT ON DETACHMENT

Article 8

Hours of work

1. A national expert on detachment shall be bound by the rules on hours of work in force at the General Secretariat.

2. However, a national expert on detachment shall not be authorised to work half-time.

Article 9

Leave and holidays

A national expert on detachment shall be subject to the rules on annual leave, special leave and holidays in force at the General Secretariat.

Article 10

Management and control

Management and control of leave and working time shall be the responsibility of the administration of the General Secretariat.

CHAPTER IV

EMOLUMENTS

A. Remuneration

Article 11

Declaration of salary paid by the expert's employer

1. The Office of the Permanent Representative of the Member State concerned, or the employer in the case of an international organisation, shall notify the General Secretariat of the gross annual salary paid to each national expert on detachment.

2. This information shall appear in the Exchange of Letters between the Secretary-General/High Representative and the Permanent Representative of the Member State concerned, or the employer in the case of an international organisation.

B. Allowances

Article 12

Subsistence allowance

1. A national expert on detachment shall be entitled, throughout the period of detachment, to a daily subsistence allowance of EUR 104,03. This allowance shall be paid monthly. However, the Exchange of Letters referred to in Article 18(2) may stipulate that this allowance shall not be paid.

2. The allowance shall also be payable for periods of mission, annual leave, special leave and holidays granted by the General Secretariat.

3. The allowance shall be reduced by 75 % if the place of recruitment is less than 50 km from the place of employment.

4. An advance payment shall be made to a national expert on detachment, when he takes up his duties, corresponding to the allowances to which he is entitled under paragraph 1 for the period from the day on which he takes up his duties to the last day of the second month following that in which he takes up his duties.

Where such payment is made, there shall be no further entitlement to allowances for the corresponding period.

Where a national expert on detachment definitively ends his employment with the General Secretariat before expiry of the period taken into account for the calculation of the advance payment, that portion of the advance payment made to the expert which corresponds to the period not spent in the General Secretariat's employment shall be recoverable.

5. The subsistence payment to the national expert on detachment may be revised taking into account consumer price trends in Brussels.

Article 13

Additional flat-rate allowance

Except where the place of recruitment of the national expert on detachment is less than 50 km from his place of employment, he shall, where appropriate, receive an additional flat-rate allowance equal to the difference between the gross annual salary (less family allowances) paid by his employer plus the subsistence allowance paid by the General Secretariat and the basic salary payable to an official in step 1 of Grade A 8 or step 1 of Grade B 5, depending on the category to which he is deemed to correspond.

C. Reimbursement of expenses

Article 14

Travel expenses

1. If a national expert on detachment has not removed his personal effects from his place of recruitment to his place of employment, he shall be entitled for himself each month to the cost of a return journey from his place of employment to his place of recruitment. This payment shall be made at the end of each month or on the last day worked if the whole month is not worked. This flat-rate payment shall be based on the cost of the first-class rail fare where the single journey does not exceed 500 km. Where the journey exceeds 500 km or involves a sea crossing, payment shall be based on the reduced-price economy-class air fare (the lowest fare offered by the national companies serving the place of recruitment and the place of employment).

2. The rate applied shall be that in force at the General Secretariat's travel office on 1 January of the current year. This rate shall be reviewed on 1 July in respect of journeys where the price has increased by more than 5 % since 1 January. Where a whole month is not worked, the amount shall be calculated in proportion to the number of days worked.

3. If a national expert on detachment removes his personal effects from his place of recruitment to his place of employment, he shall be entitled each year for himself, his spouse and his dependent children to a flat-rate payment equal to the cost of a return journey from his place of employment to his place of recruitment in accordance with the rules and conditions in force at the General Secretariat.

4. In accordance with the rules and conditions in force at the General Secretariat, a national expert on detachment shall be entitled to reimbursement of travel expenses:

(a) for himself:

- from his place of recruitment to his place of employment at the beginning of the period of detachment,
- from his place of employment to his place of recruitment at the end of the period of detachment;

(b) for his spouse and dependent children:

- from the place of recruitment to the place of employment when removal takes place,
- from the place of employment to the place of recruitment at the end of the period of detachment.

5. For the purpose of this Decision, the place of recruitment shall be the place where the national expert on detachment performed his duties with his original employer prior to his

detachment. The place of employment shall be the place in which the department to which he is assigned is located. The Exchange of Letters referred to in Article 18(2) shall specify these places.

6. The Exchange of Letters referred to in Article 18(2) may specify that travel expenses shall not be borne by the General Secretariat.

Article 15

Removal expenses

1. A national expert on detachment who is obliged to move his residence to his place of employment may remove his personal effects no later than six months after taking up duty provided that the probable period of detachment is at least one year and that the place of recruitment is at least 50 km from the place of employment.

2. A national expert on detachment shall be entitled to reimbursement of the costs of removing his personal effects in accordance with the rules and conditions in force at the General Secretariat.

3. Removal must take place within three months of the end of the period of detachment.

4. The Exchange of Letters referred to in Article 18(2) may specify that removal expenses shall not be borne by the General Secretariat.

Article 16

Missions and mission expenses

1. A national expert on detachment may be sent on mission in accordance with Article 3.

2. Mission expenses shall be reimbursed in accordance with the rules and conditions relating to the reimbursement of mission expenses for officials in force at the General Secretariat.

Article 17

Adjustment of emoluments

1. The emoluments to which a national expert on detachment is entitled shall not be revised during the period of detachment.

2. However, the additional flat-rate allowance referred to in Article 13 shall be adjusted once a year, without retroactive effect, to take account of changes in the basic salaries of Community officials.

CHAPTER V

ADMINISTRATIVE AND BUDGETARY PROVISIONS

*Article 18***Budgetary allocations and contracts**

1. Expenditure arising from the detachment of national experts shall be charged to budget heading 1113 of the Council budget.

2. Detachment shall be implemented by an Exchange of Letters between the Secretary-General/High Representative and the Permanent Representative of the Member State concerned, or the employer in the case of an international organisation. The Exchange of Letters shall indicate the names of the individuals authorised to lay down the practical detailed arrangements for detachment under this Decision. Any letter extending, breaking or terminating the period of detachment shall also be sent by the Secretary-General/High Representative. A national expert on detachment shall present himself to the appropriate department of the Directorate-General for Administration and Protocol on the first day of his detachment to complete the relevant administrative formalities. He shall take up duty on the first of the month.

*Article 19***Settlement of expenditure**

Payments shall be made by the appropriate department of the Directorate-General for Administration and Protocol, in euro into a bank account opened at a banking institution in Belgium.

*Article 20***Expenditure on infrastructure**

Expenditure on the provision of working facilities (offices, furniture, machines, etc.) for national experts on detachment shall be charged to administrative appropriations.

Article 21

This Decision shall take effect on the day of its adoption.

Article 22

This Decision shall be published in the Official Journal.

Done at Brussels, 22 December 2000.

For the Council
The President
C. PIERRET

COMMISSION

COMMISSION RECOMMENDATION

of 22 December 2000

concerning a coordinated Community monitoring programme for 2001 to ensure compliance with maximum levels of pesticide residues in and on cereals and certain products of plant origin, including fruit and vegetables

(notified under document number C(2000) 4096)

(Text with EEA relevance)

(2001/42/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 86/362/EEC of 24 July 1986 on the fixing of maximum levels for pesticide residues in and on cereals ⁽¹⁾, as last amended by Directive 2000/58/EC ⁽²⁾, and in particular Article 7(2)(b) thereof,

Having regard to Council Directive 90/642/EEC of 27 November 1990 on the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables ⁽³⁾, as last amended by Directive 2000/58/EC, and in particular Article 4(2)(b) thereof,

Whereas:

(1) Article 7(2)(b) of Directive 86/362/EEC and Article 4(2)(b) of Directive 90/642/EEC require the Commission to submit to the Standing Committee on Plant Health by 31 December each year a recommendation setting out a coordinated Community monitoring programme to ensure compliance for maximum levels of pesticide residues set out in the Annexes II to the said Directives.

(2) Experience gained by the Commission and the Member States in establishing, carrying out and reporting on the three previous annual coordinated monitoring programmes indicates that multiannual programmes appear to be most effective and practical. It appears appropriate to indicate in this recommendation the framework of future programmes. Article 1(1) of Commission Regulation (EC) No 645/2000 ⁽⁴⁾ provides for Commission recommendations covering periods between one and five years.

(3) The Commission should progressively work towards a system which would permit the estimation of actual pesticide dietary exposure, as provided for in the second paragraph of Article 7(3) of Directive 86/362/EEC and the second paragraph of Article 4(3) of Directive 90/642/EEC. To facilitate examination of the feasibility of such estimations, data concerning the monitoring of residues of pesticides in a number of food products which constitute major components of European diets should be available. In view of the resources available at national level for pesticide residue monitoring, Member States are only able to analyse samples of 10 products each year within a coordinated monitoring programme. Pesticide uses show changes within a five years' rolling programme timescale. Each pesticide should generally be monitored in 20 to 30 food products over a series of three-year cycles.

(4) The residues recommended to be monitored in 2001 will allow examination of the feasibility of using the data concerning the pesticides acephate, the benomyl group, chlorpyrifos, iprodione and methamidophos as these compounds (identified as Group A in Annex IA) have already been monitored between 1996 and 2000 for estimation of actual dietary exposure. Continued monitoring facilitates recognising changes in pesticide occurrence.

(5) The residues recommended to be monitored between 2001 and 2004 will allow examination of the feasibility of using the data concerning the pesticides diazinon, metalaxyl, methidathion, thiabendazole and triazophos for estimation of actual dietary exposure as these compounds (identified as Group B in Annex IA) have already been monitored between 1997 and 2000.

⁽¹⁾ OJ L 221, 7.8.1986, p. 37.

⁽²⁾ OJ L 244, 29.9.2000, p. 78.

⁽³⁾ OJ L 350, 14.12.1990, p. 71.

⁽⁴⁾ OJ L 78, 29.3.2000, p. 7.

- (6) The residues recommended to be monitored between 2001 and 2004 will allow examination of the feasibility of using the data concerning the pesticides chlorpyrifos-methyl, deltamethrin, endosulfan, imazalil, lambda-cyhalothrin, the maneb group, mecarbam, permethrin, pirimiphos-methyl and vinclozolin for estimation of actual dietary exposure, as these compounds (identified as Group C in Annex IA) have already been monitored in 1998, 1999 and 2000.
- (7) The residues recommended to be monitored between 2000 and 2004 will allow examination of the feasibility of using the data concerning the pesticides azinphosmethyl, captan, chlorothalonil, dichlofluanid, dicofol, dimethoate, folpet, malathion, omethoate, procymidone, propyzamide and azoxystrobin for estimation of actual dietary exposure as these compounds, except azoxystrobin (identified as Group D in Annex IA) have already been monitored in 1998, 1999 and 2000.
- (8) The monitoring of disulfoton, phorate, thiometon and oxydemeton-methyl is not feasible within routine monitoring multi-residue analytical methods. It is appropriate to collect data on occurrence of these residues when expected, in those Member States where the pesticide residues are most likely to be detected.
- (9) A systematic statistical approach to numbers of samples to be taken in each coordinated monitoring exercise is necessary. Such an approach has been set out by the Commission of the *Codex Alimentarius* ⁽⁵⁾. Based on a binomial probability distribution it can be calculated that examination of a total sample number of 459 gives a 99 % confidence of detecting one sample containing pesticide residues above the LOD where 1 % of products of plant origin contain residues above the LOD. At least 459 samples should therefore be taken across the Community, and should be apportioned between Member States on the basis of population and consumer numbers, with a minimum of 12 samples per product and per year, and indicated in Annex IB.
- (10) Draft guidelines concerning quality control procedures for pesticide residue analysis, have been discussed by the experts of the Member States at Oeiras, Portugal on 15 and 16 September 1997 and discussed and taken note of in the subgroup 'Pesticide Residues' of the Working Group on Plant Health on 20 and 21 November 1997. It is agreed that these draft guidelines should be implemented as far as possible by the analytical laboratories of the Member States and should be reviewed in the light of this experience. The guidelines were discussed and revised by the experts of the Member States at Athens, Greece on 15 to 17 November 1999. The revised guidelines will be submitted to the Standing
- Committee on Plant Health and are to be published by the Commission ⁽⁶⁾.
- (11) Article 4(2)(a) of Directive 90/642/EEC requires Member States to specify the criteria applied in drawing up their national inspection programmes when sending to the Commission information on their implementation during the previous year. Such information should include the criteria applied in determining the numbers of samples to be taken and analyses to be carried out and the reporting levels applied and the criteria by which the reporting levels have been fixed. Details of accreditation under Directive 93/99/EEC of 29 October 1993 on the subject of additional measures concerning the official control of foodstuffs ⁽⁷⁾ of the laboratories carrying out analyses should be indicated.
- (12) Information on the results of monitoring programmes is particularly appropriate for treatment, storage and transmission by electronic/informatic methods. Formats have been developed for supply of data in diskette form from the Member States to the Commission. Member States should therefore be able to send their reports to the Commission in the standard format. The further development of such a standard format is most effectively undertaken by the development of guidelines by the Commission.
- (13) The measures provided for in this recommendation are in accordance with the opinion of the Standing Committee on Plant Health,

HEREBY RECOMMENDS THE MEMBER STATES TO:

Article 1

Sample and analyse for the product/pesticide residue combinations set out in Annex IA, on the basis of the number of samples of each product allocated to each Member State in Annex IB, reflecting as appropriate, national, Community and third country share of the Member State's market; for at least one pesticide possibly posing an acute risk, one of the products will be subjected to individual analysis of the items in the composite sample: two samples of an appropriate number of items will be taken, where possible the produce of a single producer; if in the first, composite sample a detectable level of the pesticide is found, the items of the second sample will be analysed individually; in 2001 this will include the combination phorate/potatoes and/or metidathion/apples.

Article 2

Sample products for the analysis of disulfoton, phorate, thiometon and oxydemeton-methyl in those countries where authorisations exist for the use of these pesticides on those products, on the basis of the number of samples of each product allocated to each Member State in Annex IB.

⁽⁵⁾ *Codex Alimentarius*, 'Pesticide Residues in Foodstuffs', Rome 1994, ISBN 92-5-203271-1; Volume 2, page 372.

⁽⁶⁾ Published in OJ L 128, 21.5.1999, p. 30. A revised version will be available as document number SANCO/3103/2000 (http://europa.eu.int/comm/food/fs/ph_ps/pest/index_en.htm).

⁽⁷⁾ OJ L 290, 24.11.1993, p. 14.

Article 3

By 31 August 2001, report the results for the part of the specific exercise allocated for 2000 in Annex IA, indicating the analytical methods used and reporting levels achieved, in accordance with the quality control procedures set out in the quality control procedures for pesticide residue analysis ⁽⁸⁾, in a format, including the electronic format, as set out in the Document for Guidance to the Member States with regard to implementation of the Commission Recommendations concerning coordinated Community monitoring programmes ⁽⁹⁾.

Article 4

By 31 August 2001, send to the Commission and to the Member States all the information as required by Article 7(3) of Directive 86/362/EEC and Article 4(3) of Directive 90/642/EEC concerning the 2000 monitoring exercise to ensure, at least by check sampling, compliance with maximum pesticide residue levels including:

1. the results of their national programmes concerning pesticides listed in the Annexes II of Directives 86/362/EEC and 90/642/EEC, in relation to harmonised levels and, where these have not yet been fixed at Community level, in relation to the national levels in force;
2. information on their laboratories quality control procedures and, in particular, information concerning aspects of the guidelines concerning quality control procedures for pesti-

cide residue analysis which they have not been able to apply or have had difficulty in applying;

3. information on accreditation in accordance with the provisions of Article 3 of Directive 93/99/EEC (including type of accreditation, accreditation body and copy of accreditation certificate) of the laboratories carrying out the analyses;
4. information about the proficiency tests and ring tests the laboratory has participated in.

Article 5

By 30 September 2001, send to the Commission their intended national programme for monitoring maximum pesticide residue levels fixed by Directives 90/642/EEC and 86/362/EEC for the year 2002.

This recommendation is addressed to the Member States.

Done at Brussels, 22 December 2000.

For the Commission

David BYRNE

Member of the Commission

⁽⁸⁾ See footnote 6.

⁽⁹⁾ OJ L 128, 21.5.1999, p. 48.

ANNEX IA

Pesticide/product combinations to be monitored in the specific exercise set out in Article 1 of this Recommendation

Pesticide residue for which to be analysed	Years (!)			
	2001	2002	2003	2004
GROUP A				
Acephate	(a)	(b)	(c)	(d)
Benomyl group	(a)	(b)	(c)	(d)
Chlorpyrifos	(a)	(b)	(c)	(d)
Iprodione	(a)	(b)	(c)	(d)
Methamidophos	(a)	(b)	(c)	(d)
GROUP B				
Diazinon	(a)	(b)	(c)	(d)
Metalaxyl	(a)	(b)	(c)	(d)
Methidathion	(a)	(b)	(c)	(d)
Thiabendazole	(a)	(b)	(c)	(d)
Triazophos	(a)	(b)	(c)	(d)
GROUP C				
Chlorpyrifos-methyl	(a)	(b)	(c)	(d)
Deltamethrin	(a)	(b)	(c)	(d)
Endosulfan	(a)	(b)	(c)	(d)
Imazalil	(a)	(b)	(c)	(d)
Lambda-cyhalothrin	(a)	(b)	(c)	(d)
Maneb group	(a)	(b)	(c)	(d)
Mecarbam	(a)	(b)	(c)	(d)
Permethrin	(a)	(b)	(c)	(d)
Pirimiphos-methyl	(a)	(b)	(c)	(d)
Vinclozolin	(a)	(b)	(c)	(d)
GROUP D				
Azinphos-methyl	(a)	(b)	(c)	(d)
Captan	(a)	(b)	(c)	(d)
Chlorothalonil	(a)	(b)	(c)	(d)

Pesticide residue for which to be analysed	Years ⁽¹⁾			
	2001	2002	2003	2004
Dichlofluanid	(a)	(b)	(c)	(d)
Dicofol	(a)	(b)	(c)	(d)
Dimethoate	(a)	(b)	(c)	(d)
Disulfoton		(b)	(c)	(d)
Folpet	(a)	(b)	(c)	(d)
Malathion	(a)	(b)	(c)	(d)
Omethoate	(a)	(b)	(c)	(d)
Oxydemeton-methyl		(b)	(c)	(d)
Phorate		(b)	(c)	(d)
Procymidone	(a)	(b)	(c)	(d)
Propyzamide	(a)	(b)	(c)	(d)
Thiometon		(b)	(c)	(d)
Azoxystrobin	(a)	(b)	(c)	(d)
GROUP E				
Aldicarb		(b)	(c)	(d)
Bromopropylate		(b)	(c)	(d)
Cypermethrin		(b)	(c)	(d)
Methiocarb		(b)	(c)	(d)
Methomyl		(b)	(c)	(d)
Monocrotophos		(b)	(c)	(d)
Parathion		(b)	(c)	(d)
Tolylfluanid		(b)	(c)	(d)

⁽¹⁾ Indicative for, 2002, 2003 and 2004, subject to programmes which will be recommended for these years.

(a) Apples, tomatoes, lettuce, strawberries, grapes.

(b) Pears, bananas, beans (fresh or frozen), potatoes, carrots, oranges, mandarines, peaches/nectarines, spinach.

(c) Cauliflower, peppers, wheat, melon, rice, cucumber, head cabbage, peas (fresh/frozen, without pod).

(d) Apples, oats, tomatoes, lettuce, grapes, strawberries, leeks, onions, orange juice, apple juice, rye, aubergines.

ANNEX IB

Number of samples of each product to be taken by each Member State, in the coordinated Community monitoring programme for 2001

B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	Total
12	12	93	12	45	66	12	65	12	17	12	12	12	12	66	460

ANNEX II

Coordinated monitoring programme of the years 1996 to 2004 with the intake estimation time windows and scope

Year	Product groups monitored	Pesticide groups monitored (Annex I A)	Intake estimation period	Intake pesticides scope
1996	z	A		
1997	y	A, B		
1998	x	A, B, C		
1999	w	A, B, C		
2000	v	A, B, C		
2001	z	A, B, C, D	1996-2000	A
2002	y + x	A, B, C, D, E	1997-2001	A, B
2003	w + v	A, B, C, D, E	1999-2002	A, B, C
2004	z + u	A, B, C, D, E	2001-2003	A, B, C, D
2005			2002-2004	A, B, C, D, E

z Apples, strawberries, grapes, tomatoes, lettuce.

y Mandarines, pears, bananas, beans, potatoes.

x Oranges, peaches, carrots, spinach.

w Cauliflower, peppers, wheat, melons.

v Rice, cucumber, head cabbage, peas.

u Onions, leeks, orange juice, apple juice, rye.

COMMISSION DECISION

of 20 September 2000

amending Commission Decision 1999/395/EC on State aid implemented by Spain in favour of Sniace SA, located in Torrelavega, Cantabria

(notified under document number C(2000) 2741)

(Only the Spanish text is authentic)

(Text with EEA relevance)

(2001/43/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Communities and, in particular, the first paragraph of Article 88(2),

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

Whereas:

I. BACKGROUND

A. Commission Decision 1999/395/EC ⁽²⁾

(1) By its decision to open the procedure provided for pursuant to Article 88(2) of the Treaty regarding certain measures undertaken in favour of Sociedad Nacional de Industrias y Aplicaciones de Celulosa Espanola SA ⁽³⁾, (hereinafter 'Sniace'), the Commission expressed its doubts whether the repayment agreements between Sniace and the wages fund Fogasa and the rescheduling agreement between Sniace and the Social Security Treasury, among other measures, constituted compatible State aid within the meaning of the Article 87(1) of the Treaty.

(2) By its Decision 1999/395/EC, the Commission came to the conclusion that the treatment of Sniace's debts, through the abovementioned agreements, were not consistent with prevailing market conditions in so far as the rate of interest was below market rates. Accordingly, the Decision stated that, the abovementioned agreements were incompatible with the common market.

(3) Spain challenged Decision 1999/395/EC before the Court of Justice by application lodged at the Court Registry on 24 December 1998 (Case C-479/98). The Decision was also challenged by the beneficiary, Sniace, before the Court of First Instance by application lodged at the Court Registry on 24 August 1999 (Case T-190/99). Both cases are currently pending.

B. The judgment of the Court of Justice of the European Communities of 29 April 1999 in case C-342/96, Spain v. Commission ⁽⁴⁾, relating to State aid granted by Spain to Tubacex (hereinafter the "Tubacex judgment")

(4) On 29 April 1999 the Court of Justice delivered its judgement in Case C-342/96 Spain v. Commission on

State aid granted by Spain in favour of Tubacex (hereinafter the Tubacex judgment). The Court annulled Commission Decision 97/21/ECSC,EC ⁽⁵⁾, which had declared as incompatible aid to Tubacex the rescheduling agreements between Tubacex and the Social Security Treasury and the repayment agreements between Tubacex and the Fogasa, in so far as the rate of interest was below market rates.

(5) In its ruling the Court concluded that Fogasa does not award loans to undertakings in liquidation or in difficulties, but settles all valid claims put forward by employees with money which it pays and then recovers from the undertakings. Moreover, Fogasa may conclude repayment agreements enabling it to reschedule the sums payable or to make them payable by instalments.

(6) Similarly, the Social Security Fund may agree to reschedule the payment of debts in respect of social security contributions or to their payment by instalments.

(7) The Court noted that in these repayment and rescheduling agreements, the State did not act as a public investor whose conduct must be compared with the conduct of a private investor laying out capital with a view to realising a profit but as a public creditor which, like private creditor, seeks to recover sums owing to it.

(8) The interest normally applicable to that type of debt is intended to make good the loss suffered by the creditor because of the debtor's delay in performing its obligation to pay off its debt, namely default interest. If the rate of default interest applied to the debts of a public creditor is lower than the rate charged for the debts owed to a private creditor, it is the latter rate which ought to be charged.

(9) Based on the above arguments, the Court annulled Decision 97/21/ECSC,EC to the extent that it declared the measures to be incompatible with the EC Treaty.

⁽¹⁾ OJ C 110, 15.4.2000, p. 33.

⁽²⁾ OJ L 149, 16.6.1999, p. 40.

⁽³⁾ OJ C 49, 14.2.1998, p. 2.

⁽⁴⁾ [1999] ECR I-2459.

⁽⁵⁾ OJ L 8, 11.1.1997, p. 14.

II. PROCEDURE

- (10) Having reexamined its Decision 1999/395/EC in the light of the Tubacex judgment, the Commission decided to initiate the procedure laid down in Article 88(2) of the Treaty. The case was registered under C5/2000.
- (11) The Commission informed the Spanish Government of its decision by letter dated 16 February 2000 (SG(2000) D/101521).
- (12) The Commission Decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽⁶⁾. The Commission invited interested parties to submit their comments on the re-analysis of the measures in the light of the Tubacex judgment and, consequently, on the envisaged partial revocation of its Decision 1999/395/EC.

III. COMMENTS FROM INTERESTED PARTIES

No comments were submitted by interested parties.

IV. COMMENTS FROM SPAIN

- (13) By letter registered 19 April 2000 under A/33374, the Spanish Government replied to the Commission's letter opening the procedure. The main points were as follows.
- (14) The Spanish authorities disagree with the decision of the Commission to open the formal investigation procedure inasmuch as in their view the investigation procedure was not necessary to carry out the envisaged partial revocation of Decision 1999/395/EC.
- (15) As regards the rescheduling agreement between Sniace and the Social Security Treasury the Spanish authorities do not support the view of the Commission that 'it seems probable that, in the case of out of court agreements concerned with or having the effect of rescheduling pre-existing debts, the logic of the creditor's behaviour would lead him to seek to obtain from the debtor a rate of interest on arrears that would be higher than the legal interest rate as compensation for not pursuing the recovery of the debt by legal means.' On the contrary, they claim that, owing to the financial situation of the company as well as costs, delay and uncertainty involved in legal proceedings, out of court agreements would frequently lead to agreeing an interest rate lower than the legal interest rate.
- (16) Thus, the Spanish authorities reiterate their argument that the granting of deferments applying the legal interest rate protects the interests of the social-security system, in terms of recovering debts, better than any other form of action that a private creditor could have taken.

- (17) Moreover, the Spanish Government recalls that while a private creditor can agree any interest rate with the debtor, the Social Security authorities are bound by Article 20 of the Social Security General Laws ⁽⁷⁾ which states that the legal interest rate is to be applied in the rescheduling agreements of debt.
- (18) The Commission considered in the opening decision that the comparison of the terms contained in the private creditors' agreement in October 1996 with the terms of the rescheduling agreement between the Social Security Treasury and Sniace may not constitute a correct application of the 'private creditor' test as defined by the Court. In this regard, the Spanish authorities stated that owing to legal constraints of public administration, the circumstances of public creditors cannot be similar to those of private creditors. However, they emphasise that in spite of the different circumstances, it should be noted that the agreements between the Social Security Treasury and Sniace and agreements between Fogasa and Sniace were less generous than those reached in the private creditors' agreement.
- (19) Finally, the Spanish authorities reiterated the views expressed under the procedure which led to Decision 1999/395/EC.

V. ASSESSMENT

- (20) The Commission must consider whether or not any of the elements deemed as incompatible with the common market set out in Article 1 of Decision 1999/395/EC constitute State aid within the meaning of Article 87(1) of the Treaty. If any such aid were found to exist, the Commission would then need to consider whether it was compatible with the common market.
- (21) The factual and legal context of the Tubacex judgment is similar to the one raised by Spain before the Court of Justice in Case C-479/98 and by Sniace before the Court of First Instance in Case T-190/99 against Decision 1999/395/EC. The Commission considers that the arguments developed by the Court in this judgment are relevant with equal force to the agreements between Sniace and Fogasa and between Sniace and the Social Security Treasury which were deemed to contain State aid in Decision 1999/395/EC.
- (22) It should firstly be noted that Sniace was already subject to the pre-existing statutory obligation to repay the wages advanced by Fogasa and to pay its debts in respect of social security contributions. The agreements in question did not therefore create any new debt owed by Sniace to the public authorities. Thus, in the repayment agreements of Fogasa and in the rescheduling agreements of the Social Security Treasury, the State did not act as a public investor whose conduct must be

⁽⁶⁾ See footnote 1.

⁽⁷⁾ BOE 154, 20.6.1994, p. 20658.

compared with that of a private investor providing capital with a view to realising a profit but as a public creditor which, like a private creditor, may seek to recover sums owing to it. Consequently, in assessing the contested State aid, the Commission has to compare the default rate of interest applied to the debts of the public creditor with the rate charged for the debts owed to private creditors acting in similar circumstances.

- (23) However it should be noted that particular circumstances of debtors and creditors are likely to prove problematic for the determination of a common applicable behaviour of private creditors seeking to recover sums owing to them. Consequently, the Commission has to base its assessment on an analysis of the behaviour of private creditors on a case by case approach.
- (24) In the particular case of Sniace, following an application made by the company in 1992, the Spanish Courts ordered suspension of payments in March 1993. By using their abstention rights⁽⁸⁾, public creditors did not subscribe to the creditors agreement of October 1996 within the framework of the suspension of payments procedure agreement. As the Commission noted in the opening decision⁽⁹⁾, by using their abstention rights, the public creditors were protecting their claims.
- (25) The separate agreements between Fogasa and Sniace and between the Social Security Treasury and Sniace did not accord Sniace any more generous treatment than that reached in the private creditors' agreement.
- (26) However, the circumstances of the private creditors were not the same as those of public creditors because of their status, the securities provided and abstention rights that the public institutions enjoyed. Consequently, the Commission considers that such a comparative approach does not constitute in this particular case a correct application of the 'private creditor' test as defined by the Court, which as it subsequently underlined in its judgment of 29 June 1999 in the DMT case (C-256/97)⁽¹⁰⁾, supposes that the public creditors' behaviour under examination should be compared with that of a hypothetical private creditor finding himself, as far as possible, in the same situation.
- (27) The Commission notes that Article 1108 of the Spanish Civil Code establishes that the legal interest rate is that which applies for compensation of damage and harm when the debtor delays the payment and no determined interest rate has been agreed. In addition, Article 312 of the Spanish Commercial Law rules that in case of a money loan and in the absence of any specific agreement between the parties, the debtor is obliged to repay

the legal value ('valor legal') of the debt at the time the repayment is made. Therefore, legal interest rate would be the highest rate a private creditor could expect to obtain if he pursued the recovery of the debt by legal means.

- (28) As a consequence, a private creditor could not have obtained from the debtor a rate of interest on arrears that would be higher than the legal interest rate as a compensation for not pursuing the recovery of the debt by legal means.
- (29) Finally, the particular circumstances of Sniace at the time the rescheduling agreements with Fogasa and the Social Security Treasury were made should be underlined. The company had been in serious financial difficulties, resulting in the suspension of all debt repayments and there were serious doubts about its future existence. As the Commission noted in its Decision 1999/395/EC, by not proceeding to execution and thereby possibly provoking the liquidation of the company, the Social Security Treasury acted in such a way as to maximise its prospects of recovering the debt.
- (30) In the light of the above, the Commission can accept that in this particular case, by rescheduling and applying the legal interest rate to debts owed by Sniace, Spain was seeking to maximise the recovery of the sums due to it without suffering any financial loss. Consequently, Spain acted as a hypothetical private creditor would have done, *vis-a-vis* Sniace.

CONCLUSION

- (31) In the light of the above, the reassessment of the alleged aid deemed as incompatible with the common market Decision 1999/395/EC leads to the conclusion that the repayment agreements between Fogasa and Sniace and the debt rescheduling agreement between the Social Security Treasury and Sniace do not constitute State aid.
- (32) Accordingly, the Commission considers it appropriate to amend its Decision 1999/395/EC,

HAS ADOPTED THIS DECISION:

Article 1

Decision 1999/395/EC is hereby amended as follows:

1. The first subparagraph of Article 1 is replaced by the following:

The following measures which Spain has implemented in favour of Sociedad Nacional de Industrias y Aplicaciones de Celulosa Española SA (Sniace) do not constitute State aid:

⁽⁸⁾ According to Spanish law, public institutions such as the Social Security Treasury enjoy the privilege of not subscribing to a creditors agreement.

⁽⁹⁾ See footnote 3.

⁽¹⁰⁾ [1999] ECR I-3913.

- (a) the agreement of 8 March 1996 (as amended by the agreement of 7 May 1996) between Sniace and the Social Security Treasury to reschedule debts covering ESP 2 903 381 848 (EUR 17 449 676,34) in principal, as further amended by the agreement of 30 September 1997 to reschedule debts covering ESP 3 510 387 323 (EUR 21 097 852,72) in principal;
- (b) the agreements of 5 November 1993 and 31 October 1995 between Sniace and the wage guarantee fund Fogasa covering ESP 1 362 708 700 (EUR 8 190 044,23) and ESP 339 459 878 (EUR 2 040 194,96) respectively'

2. Article 2 is revoked.

Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 20 September 2000.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION**of 28 December 2000****adjusting the weightings applicable from 1 February, 1 March, 1 April, 1 May and 1 June 2000 to the remuneration of officials of the European Communities serving in third countries**

(2001/44/EC, ECSC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾, as last amended by Regulation (EC, ECSC, Euratom) No 2700/1999 ⁽²⁾, and in particular the second paragraph of Article 13 of Annex X thereto,

Whereas:

- (1) Pursuant to the first paragraph of Article 13 of Annex X to the Staff Regulations, Council Regulation (EC, ECSC, Euratom) No 1967/2000 ⁽³⁾ laid down the weighting to be applied from 1 January 2000 to the remuneration of officials serving in third countries, payable in the currency of their country of employment.
- (2) The Commission has made a number of adjustments to these weightings ⁽⁴⁾ in recent months, pursuant to the second paragraph of Article 13 of Annex X to the Staff Regulations.
- (3) Some of these weightings should be adjusted with effect from 1 February, 1 March, 1 April, 1 May and 1 June 2000 given that the statistics available to the Commission show that in certain third countries the variation in

the cost of living measured on the basis of the weighting and the corresponding exchange rate has exceeded 5 % since weightings were last laid down or adjusted,

DECIDES:

Sole Article

With effect from 1 February, 1 March, 1 April, 1 May and 1 June 2000 the weightings applicable to the remuneration of officials serving in third countries payable in the currency of their country of employment are adjusted as shown in the Annex.

The exchange rates for the calculation of such remuneration shall be those used for implementation of the general budget of the European Communities for the month preceding the dates referred to in the first paragraph.

Done at Brussels, 28 December 2000.

For the Commission

Micheale SCHREYER

Member of the Commission

⁽¹⁾ OJ L 56, 4.3.1968, p. 1.

⁽²⁾ OJ L 327, 21.12.1999, p. 1.

⁽³⁾ OJ L 235, 19.9.2000, p. 1.

⁽⁴⁾ OJ L 233, 15.9.2000, p. 47.

ANNEX

Place of employment	Weightings February 2000
Bulgaria	68,9
Central African Republic	109,4
Equatorial Guinea	86,6
Georgia	93,9
Guyana	63,1
Lebanon	99,6
Mali	85,1
Romania	51,0
São Tomé and Príncipe	80,1
Slovenia	77,1
Solomon Islands	87,6
Sudan	37,0
Swaziland	49,6
Syria	97,6
Tonga	84,5
Ukraine	118,0

Place of employment	Weightings March 2000
Angola	76,8
Mozambique	99,0
Republic of Cape Verde	81,3
Turkey	93,4
Zimbabwe	43,1

Place of employment	Weightings April 2000
Burkina Faso	75,0
Chad	95,6
Mexico	81,3
Venezuela	122,4

Place of employment	Weightings May 2000
Angola	86,0
Costa Rica	96,1
Federal Republic of Yugoslavia	61,1
Haiti	89,2
Madagascar	56,2
Malawi	31,1
Romania	54,2
Suriname	80,1
Turkey	96,8
Zimbabwe	48,6

Place of employment	Weightings June 2000
Colombia	81,2
Guinea	92,1
Nicaragua	99,8