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Contents

(Continued overleaf)

EN

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

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

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[1] Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 237/2001

of 22 December 2000

concerning the export of certain ECSC steel products from Romania to the Community for the period 1 January to 31 December 2001 (extension of the double-checking system)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part [1], entered into force on 1 February 1995.

(2) The Parties decided by Decision No 1/2001 of the Association Council [2] to extend the double-checking system introduced by Decision No 3/97 of the Association Council [3] for the period between 1 January and 31 December 2001.

(3) It is consequently necessary to extend the Community implementing legislation introduced by Council Regulation (EC) No 84/98 of 19 December 1997, concerning the export of certain ECSC steel products from Romania to the Community for the period 1 January to 31 December 2000 (extension of the double-checking system) [4],

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 84/98 shall continue to apply for the period 1 January to 31 December 2001, in accordance with the provisions of Association Council Decision No 1/2001 between the European Communities and their Member States, of the one part, and Romania, of the other part.

Article 2

Regulation (EC) No 84/98 shall in consequence be amended as follows:

In the title, preamble and Article 1(1) and (4) references to the period '1 January to 31 December 2000' shall be replaced by references to '1 January to 31 December 2001'.

Article 3

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

It shall apply with effect from 1 January 2001.

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

Done at Brussels, 22 December 2000.

For the Council

The President

C. PIERRET

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[1] OJ L 357, 31.12.1994, p. 2.
[2] See page 36 of this Official Journal.
[3] OJ L 13, 19.1.1998, p. 57. Decision as amended by Decision No 5/1998 of the Association Council (OJ L 19, 26.1.1999, p. 9).
[4] OJ L 13, 19.1.1998, p. 1. Regulation as amended by Regulation (EC) No 542/2000 (OJ L 67, 15.3.2000, p. 2).

COUNCIL REGULATION (EC) No 238/2001

of 22 December 2000

concerning the export of certain ECSC and EC steel products from the Slovak Republic to the Community for the period 1 January to 31 December 2001 (extension of the double-checking system)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Europe Agreement establishing an association between the European Communities and their Member States, of, the one part, and the Slovak Republic, of the other part [1]; entered into force on 1 February 1995.

(2) The Parties decided by Decision No 1/2001 of the Association Council [2] to extend the double-checking system, introduced by Decision No 3/97 of the Association Council [3], for the period between 1 January and 31 December 2001.

(3) It is consequently necessary to extend the Community implementing legislation introduced by Council Regulation (EC) No 85/98 of 19 December 1997, concerning the export of certain ECSC and EC steel products from the Slovak Republic to the Community for the period 1 January to 31 December 2000 (extension of the double-checking system) [4],

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 85/98 shall continue to apply for the period between 1 January and 31 December 2001, in accordance with the provisions of Decision No 1/2001 of the Association Council between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other part.

Article 2

Regulation (EC) No 85/98 shall in consequence be amended as follows:

In the title preamble and Article 1(1) and (4) references to the period '1 January to 31 December 2000' shall be replaced by references to '1 January to 31 December 2001.'

Article 3

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

It shall apply with effect from 1 January 2001.

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

Done at Brussels, 22 December 2000.

For the Council

The President

C. PIERRET

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[1] OJ L 359, 31.12.1994, p. 2.
[2] See page 38 of this Official Journal.
[3] OJ L 13, 19.1.1998, p. 71. Decision as amended by Decision No 1/99 of the Association Council (OJ L 36, 10.2.1999, p. 18.).
[4] OJ L 13, 19.1.1998, p. 15. Regulation as amended by Regulation (EC) No 543/2000 (OJ L 67, 15.3.2000, p. 3.)

COUNCIL REGULATION (EC) No 239/2001

of 22 December 2000

concerning the export of certain ECSC and EC steel products from the Czech Republic to the Community for the period 1 January to 31 December 2001 (extension of the double-checking system)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

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

(2) The Parties decided by Decision No 1/2001 of the Association Council [2] to extend the double-checking system introduced by Decision No 3/97 of the Association Council [3], for the period 1 January to 31 December 2001.

(3) It is consequently necessary to extend the Community implementing legislation introduced by Council Regulation (EC) No 87/98 of 19 December 1997 concerning the export of certain ECSC and EC steel products from the Czech Republic to the Community for the period 1 January to 31 December 2000 (extension of the double-checking system) [4],

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 87/98 shall continue to apply for the period 1 January to 31 December 2001, in accordance with the provisions of Decision No 1/2001 of the Association Council between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part.

Article 2

Regulation (EC) No 87/98 shall in consequence be amended as follows:

In the title, preamble and Article 1(1) and (4), references to the period '1 January to 31 December 2000' shall be replaced by references to '1 January to 31 December 2001'.

Article 3

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

It shall apply with effect from 1 January 2001.

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

Done at Brussels, 22 December 2000.

For the Council

The President

C. PIERRET

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[1] OJ L 360, 31.12.1994, p. 2.
[2] See page 37 of this Official Journal.
[3] OJ L 13, 19.1.1998, p. 99. Decision as amended by Decision No 7/98 of the Association Council (OJ L 29, 3.2.1999, p. 26).
[4] OJ L 13, 19.1.1998, p. 43. Regulation as amended by Regulation (EC) No 567/2000 (OJ L 69, 17.3.2000, p. 1).

COMMISSION REGULATION (EC) No 240/2001

of 5 February 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 6 February 2001.

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

Done at Brussels, 5 February 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 5 February 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	91,8
	204	44,3
	999	68,0
0707 00 05	052	106,4
	624	196,9
	628	142,5
	999	148,6
0709 90 70	052	116,1
	204	60,0
	999	88,0
0805 10 10, 0805 10 30, 0805 10 50	052	36,7
	204	49,8
	212	40,7
	624	71,9
	999	49,8
0805 20 10	204	94,9
	999	94,9
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	73,2
	204	105,1
	600	92,1
	624	81,3
	999	87,9
0805 30 10	052	60,4
	600	59,9
	999	60,1
0808 10 20, 0808 10 50, 0808 10 90	400	84,6
	404	84,5
	720	116,4
	728	79,8
	999	91,3
0808 20 50	388	118,1
	400	99,5
	528	106,0
	999	107,9

(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 241/2001
of 5 February 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 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, 5 February 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:** 27/00
2. **Beneficiary** [2]**:** World Food Programme (WFP), via cesare Giulio Viola 68, I-00148 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:** Guinea
5. **Product to be mobilised:** maize grits
6. **Total quantity (tonnes net):** 4 500
7. **Number of lots:** 1
8. **Characteristics and quality of the product** [3] [5]**:** see OJ C 312, 21.10.2000, p. 1 (A(14))
9. **Packaging** [7]**:** see OJ C 267, 13.9.1996, p. 1 (2.2, A(1.d and 2.d) and B(2))
10. **Labelling or marking** [6]**:** see OJ C 114, 29.4.1991, p. 1 (II.B(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 — landed
13. **Alternative delivery stage:** free at port of shipment — fob stowed
14. a) **Port of shipment:** —
    b) **Loading address:** —
15. **Port of landing:** Conakry
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: 6.5.2001
18. **Period or deadline of supply at the alternative stage:**
    — first deadine: from 19-31.3.2001
    — second deadline: from 2-15.4.2001
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
    — first deadline: 20.2.2001
    — second deadline: 6.3.2001
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; tlx 25670 AGREC B; fax (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** [4]**:** refund applicable on 1.2.2001, fixed by Commission Regulation (EC) No 185/2001 (OJ L 27, 30.1.2001, p. 24)

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 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 indicated 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 of 29 April 1991, point II.A(3)(c) or II.B(3)(c) is replaced by the following: 'the words "European Community"'

(7) Since the goods may be rebagged, the successful tenderer 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 the Regulation (EC) No 2519/97, vessels chartered shall not appear on any of the four most recent quartery 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)).

COMMISSION REGULATION (EC) No 242/2001

of 5 February 2001

on the issuing of a standing invitation to tender for the resale on the internal market of 113 000 tonnes of common wheat held by the Belgian intervention agency

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], and in particular Article 5 thereof,

Whereas:

(1) Commission Regulation (EEC) No 2131/93 [3], as last amended by Regulation (EC) No 1630/2000 [4], lays down the procedure and conditions for the disposal of cereals held by the intervention agencies.

(2) In the present market situation, a standing invitation to tender for the resale on the internal market of 113 000 tonnes of common wheat held by the Belgian intervention agency should be issued.

(3) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The Belgian intervention agency shall issue pursuant to Regulation (EEC) No 2131/93 a standing invitation to tender for the resale on the internal market of 113 000 tonnes of common wheat held by it.

Article 2

1. The final date for the submission of tenders for the first partial invitation to tender shall be 26 February 2001.

2. The final date for the submission of tenders for the last partial invitation to tender shall expire on 30 April 2001.

3. Tenders must be lodged with the Belgian intervention agency at the following address:

Bureau d'intervention et de restitution belge (BIRB)
Rue de Trèves 82
B-1040 Brussels
Telex BIRB 24076, 65567
Fax (32-2) 230 25 33/280 03 07.

Article 3

Not later than Tuesday of the week following the final date for the submission of tenders, the Belgian intervention agency shall notify the Commission of the quantities and average prices of the various lots sold.

Article 4

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, 5 February 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 191, 31.7.1993, p. 76.
[4] OJ L 187, 26.7.2000, p. 24.

COMMISSION REGULATION (EC) No 243/2001

of 2 February 2001

opening tendering procedures for the sale of wine alcohol exclusively for use in third countries in the fuel sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine [1],

Having regard to Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms [2], as last amended by Regulation (EC) No 2786/2000 [3], and in particular Article 86 thereof,

Whereas:

(1) Regulation (EC) No 1623/2000 lays down, *inter alia*, the detailed rules for disposing of stocks of alcohol arising from distillation under Articles 27, 28 and 30 of Regulation (EC) No 1493/1999 held by intervention agencies.

(2) Tendering procedures should be opened for the sale of wine alcohol for export to the third countries listed in Article 86 of Regulation (EC) No 1623/2000 exclusively for use in the fuel sector in a third country, with a view to reducing stocks of wine alcohol of Community origin and giving the third countries listed in this Article greater continuity of supply. The wine alcohol of Community origin in storage in the Member States consists of quantities produced from distillation under Articles 35, 36 and 39 of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine [4], as last amended by Regulation (EC) No 1677/1999 [5], as well as Articles 27 and 28 of Regulation (EC) No 1493/1999.

(3) Since the adoption of Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro [6], the prices offered in tenders and securities must be expressed in euros and payments must be made in euros.

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

HAS ADOPTED THIS REGULATION:

Article 1

Three tendering procedures Nos 292/2001 EC, 293/2001 EC and 294/2001 EC are hereby opened for the sale of a total volume of 250 000 hectolitres of alcohol exclusively for use in the fuel sector in third countries. The alcohol concerned was produced from distillation under Articles 35, 36 and 39 of Regulation (EEC) No 822/87 as well as Articles 27 and 28 of Regulation (EC) No 1493/1999 and is held by the French, Spanish and Portuguese intervention agencies.

Tendering procedures Nos 292/2001 EC and 293/2001 EC shall each cover a volume of 100 000 hectolitres of alcohol at 100 % vol., and the tendering procedure No 294/2001 EC shall cover a volume of 50 000 hectolitres of alcohol at 100 % vol.

Article 2

The alcohol put up for sale for export from the European Community shall be imported into one of the third countries listed in Article 86 of Regulation (EC) No 1623/2000 and must be used in accordance with that Article.

Article 3

The place of storage, the vat numbers, the volume of alcohol in each vat, the alcoholic strength and the characteristics of the alcohol, certain specific conditions, as well as the address of the Commission department responsible for receiving tenders shall be as set out in Annex I to this Regulation.

Article 4

The sale shall be conducted in accordance with Articles 87, 88, 89, 90, 91, 95, 96, 100, 101 and 102 of Regulation (EC) No 1623/2000 and Article 2 of Regulation (EC) No 2799/98.

Article 5

The minimum price which may be offered shall be EUR 7,5 per hectolitre of alcohol at 100 % vol for tendering procedure No 292/2001 EC and EUR 7,5 per hectolitre of alcohol at 100 % vol for tendering procedure No 293/2001 EC and EUR 7,5 per hectolitre of alcohol at 100 % vol for tendering procedure No 294/2001 EC.

[1] OJ L 179, 14.7.1999, p. 1.
[2] OJ L 194, 31.7.2000, p. 45.
[3] OJ L 323, 20.12.2000, p. 4.
[4] OJ L 84, 27.3.1987, p. 1.
[5] OJ L 199, 30.7.1999, p. 8.
[6] OJ L 349, 24.12.1998, p. 1.

Article 6

1. Physical removal of the alcohol from the storehouses of each of the intervention agencies concerned must be completed no later than 10 August 2001.

2. The alcohol awarded under the tendering procedures referred to in Article 1 of this Regulation must be exported no later than 10 September 2001.

Article 7

To be eligible for consideration, tenders shall entail presentation of the undertakings and documents listed in Annex II to this Regulation and must comply with Articles 88 and 97 of Regulation (EC) No 1623/2000.

Article 8

The formalities for sampling shall be as set out in Articles 91 and 98 of Regulation (EC) No 1623/2000.

Article 9

The export security shall be EUR 3 per hectolitre of alcohol at 100 % vol.

Article 10

The Commission department referred to in Article 91(5) of Regulation (EC) No 1623/2000 shall be that indicated in Annex III to this Regulation.

Article 11

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, 2 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

TENDERING PROCEDURE No 292/2001 EC FOR THE SALE OF ALCOHOL EXCLUSIVELY FOR USE IN THE FUEL SECTOR IN A THIRD COUNTRY

I. **Place of storage, volume and characteristics of the alcohol put up for sale**

Member State	Location	Vat No	Volume in hectolitres of alcohol at 100 % volume	Regulation (EEC) No 822/87 Article	Type of alcohol
FRANCE	Onivins-Longuefuye F-53200 Longuefuye	20	22 050	39	raw + 92 %
		5	19 205	35	raw + 92 %
	Onivins-Port La Nouvelle Av. Adolphe Turrel BP 62 F-11210 Port-La-Nouvelle	8	11 500	35	raw + 92 %
		1	47 245	35	raw + 92 %
	Total		100 000		

On application to the intervention agency concerned, interested parties may obtain samples of the alcohol put up for sale, taken by a representative of the intervention agency concerned, against payment of EUR 10 per litre.

II. **Destination and use of the alcohol**

The alcohol put up for sale is intended for export from the Community. It must be imported into and dehydrated in one of the third countries listed in Article 86 of Regulation (EC) No 1623/2000 exclusively for use in the fuel sector in a third country.

Proof of the destination and use of the alcohol shall be supplied to the intervention agency concerned by an international surveillance firm.

The cost of providing such proof shall be borne by the successful tenderer.

III. **Submission of tenders**

1. Tenders shall relate to 100 000 hectolitres of alcohol expressed in hectolitres of alcohol at 100 % vol.

   Tenders for smaller volumes shall not be eligible for consideration.

2. Tenders must:

   — either be sent by registered mail to the Commission of the European Communities, rue de la Loi/Wetstraat 200, B-1049 Brussels,

   — or delivered to the reception of building 'Loi 130' of the Commission of the European Communities, rue de la loi/Wetstraat 130, B-1049 Brussels, between 11.00 and 12.00 on the date mentioned in point 4.

3. Tenders shall be submitted in a sealed double envelope, the inside envelope marked: 'Tender under procedure No 292/2001 EC, sale of alcohol, exclusively for use in the fuel sector in third countries — Alcohol, DG AGRI/E/2 — Not to be opened until the meeting of the group opening the tenders', the outer envelope addressed to the Commission.

4. Tenders must reach the Commission not later than 12 noon Brussels time on 22 February 2001.

5. Tenders must indicate the name and address of the tenderer and:

   (a) the reference number of the tendering procedure for the sale of alcohol exclusively for use in third countries in the fuel sector, i.e. 292/2001 EC,

   (b) the price offered, expressed in euro per hectolitre of alcohol at 100 % vol,

   (c) all the undertakings, documents and statements provided for in Articles 88 and 97 of Regulation (EC) No 1623/2000 and in Annex II to this Regulation.

6. Tenders must be accompanied by a receipt certifying the lodging of a tendering security, issued by the following intervention agency:

   — Onivins-Libourne, Délégation nationale, 17 avenue de la Ballastière, boîte postale 231, F-33505 Libourne Cedex (tel. (33-5) 57 55 20 00; telex 57 20 25; fax (33-5) 57 55 20 59).

   Securities shall be for EUR 400 000.

TENDERING PROCEDURE No 293/2001 EC FOR THE SALE OF ALCOHOL EXCLUSIVELY FOR USE IN THIRD COUNTRIES IN THE FUEL SECTOR

I. **Place of storage, volume and characteristics of the alcohol put up for sale**

Member State	Location	Vat No	Volume in hectolitres of alcohol at 100 % vol.	Regulation (EEC) No 822/87 and (EC) No 1493/1999 Article	Type of alcohol
SPAIN	Tarancón	A-3	23 683	27 + 28	raw
		A-3	768	35 + 36	raw
		B-5	24 787	35 + 36	raw
		A-6	22 296	35 + 36	raw
		A-5	24 846	35 + 36	raw
		B-4	3 620	35 + 36	raw
	Total		100 000		

On application to the intervention agency concerned, interested parties may obtain samples of the alcohol put up for sale, taken by a representative of the intervention agency concerned, against payment of EUR 10 per litre.

II. **Destination and use of the alcohol**

The alcohol put up for sale is intended for export from the Community. It must be imported into and dehydrated in one of the third countries listed in Article 86 of Regulation (EC) No 1623/2000 exclusively for use in the fuel sector in a third country.

Proof of the destination and use of the alcohol shall be supplied to the intervention agency concerned by an international surveillance firm.

The cost of providing such proof shall be borne by the successful tenderer.

III. **Submission of tenders**

1. Tenders shall relate to 100 000 hectolitres of alcohol expressed in hectolitres of alcohol at 100 % vol.

   Tenders for smaller volumes shall not be eligible for consideration.

2. Tenders must:

   — either be sent by registered mail to the Commission of the European Communities, rue de la Loi/Wetstraat 200, B-1049 Brussels,

   — or delivered to the reception of building 'Loi 130' of the Commission of the European Communities, rue de la Loi/Wetstraat 130, B-1049 Brussels, between 11.00 and 12.00 on the date mentioned in point 4.

3. Tenders shall be submitted in a sealed double envelope, the inside envelope marked: 'Tender under procedure No 293/2001 EC, sale of alcohol, exclusively for use in the fuel sector in third countries — Alcohol, DG AGRI/E/2 — Not to be opened until the meeting of the group opening the tenders', the outer envelope addressed to the Commission.

4. Tenders must reach the Commission not later than 12 noon Brussels time on 22 February 2001.

5. Tenders must indicate the name and address of the tenderer and:

   (a) the reference number of the tendering procedure for the sale of alcohol exclusively for use in third countries in the fuel sector, i.e. 293/2001 EC,

   (b) the price offered, expressed in euro per hectolitre of alcohol at 100 % vol,

   (c) all the undertakings, documents and statements provided for in Articles 88 and 97 of Regulation (EC) No 1623/2000 and in Annex II to this Regulation.

6. Tenders must be accompanied by a receipt certifying the lodging of a tendering security, issued by the following intervention agency:

   — FEGA, Beneficencia 8, E-28004 Madrid (tel. (34) 913 47 65 00; telex 23427 FEGA; fax (34) 915 21 98 32)

   Securities shall be for EUR 400 000.

TENDERING PROCEDURE No 294/2001 EC FOR THE SALE OF ALCOHOL EXCLUSIVELY FOR USE IN THIRD COUNTRIES IN THE FUEL SECTOR

I. **Place of storage, volume and characteristics of the alcohol put up for sale**

Member State	Location	Vat No	Volume in hectolitres of alcohol at 100 % vol.	Regulation (EEC) No 822/87 Article	Type of alcohol
PORTUGAL	Mealhada	M 2	5 725,42	35	raw
		M 3	8 077,05	35	raw
	Carregado	Inox 1	1 336,30	35	raw
		Inox 2	1 317,54	35	raw
		Inox 3	2 283,26	35	raw
		Inox 4	4 661,70	35	raw
		Inox 5	4 038,40	35	raw
	Bombarral	Inox 147	22 560,33	35	raw
	Total		50 000		

On application to the intervention agency concerned, interested parties may obtain samples of the alcohol put up for sale, taken by a representative of the intervention agency concerned, against payment of EUR 10 per litre.

II. **Destination and use of the alcohol**

The alcohol put up for sale is intended for export from the Community. It must he imported into and dehydrated in one of the third countries listed in Article 86 of Regulation (EC) No 1623/2000 exclusively for use in the fuel sector in a third country.

Proof of the destination and use of the alcohol shall be supplied to the intervention agency concerned by an international surveillance firm.

The cost of providing such proof shall be borne by the successful tenderer.

III. **Submission of tenders**

1. Tenders shall relate to 50 000 hectolitres of alcohol expressed in hectolitres of alcohol at 100 % vol.

   Tenders for smaller volumes shall not be eligible for consideration.

2. Tenders must:

   — either be sent by registered mail to the Commission of the European Communities, rue de la Loi/Wetstraat 200, B-1049 Brussels,

   — or delivered to the reception of building 'Loi 130' of the Commission of the European Communities, rue de la Loi/Wetstraat 130, B-1049 Brussels, between 11.00 and 12.00 on the date mentioned in point 4.

3. Tenders shall be submitted in a sealed double envelope, the inside envelope marked: 'Tender under procedure No 294/2001 EC, sale of alcohol, exclusively for use in the fuel sector in third countries — Alcohol, DG AGRI/E/2 — Not to be opened until the meeting of the group opening the tenders', the outer envelope addressed to the Commission.

4. Tenders must reach the Commission not later than 12 noon Brussels time on 22 February 2001.

5. Tenders must indicate the name and address of the tenderer and:

   (a) the reference number of the tendering procedure for the sale of alcohol exclusively for use in third countries in the fuel sector, i.e 294/2001 EC,

   (b) the price offered, expressed in euro per hectolitre of alcohol at 100 % vol,

   (c) all the undertakings, documents and statements provided for in Articles 88 and 97 of Regulation (EC) No 1623/2000 and in Annex II to this Regulation.

6. Tenders must be accompanied by a receipt certifying the lodging of a tendering security, issued by the following intervention agency.

   — IVV R, Mouzinho da Silveira 5, P-1200 Lisboa (tel. (351) 213 56 33 21; telex 18508 IVV P; fax (351) 213 52 08 76).

   Securities shall be for EUR 200 000.

ANNEX II

List of undertakings and documents to be supplied by tenderers when submitting their tenders:

1. Proof that the tendering security has been lodged with each intervention agency.
2. Indication of the place of final use of the alcohol and an undertaking by the tenderer to comply with that destination.
3. Proof, dated after the entry into force of this Regulation, that the tenderer has binding commitments to an operator in the fuel sector in one of the third countries listed in Article 86 of Regulation (EC) No 1623/2000. The operator concerned must undertake to dehydrate the awarded alcohol in one of those countries and to export it exclusively for use in the fuel sector.
4. Tenders must also give the name and address of the tenderer, the reference of the notice of invitation to tender and the price offered, expressed in euro per hectolitre of alcohol at 100 % vol.
5. An undertaking from the tenderer to comply with all the rules relating to the tendering procedure in question.
6. A statement by the tenderer waiving all claims in respect of the quality and characteristics of any alcohol awarded, agreeing to submit to any checks made on the destination and use of the alcohol and accepting responsibility for providing evidence that the alcohol is used as specified in this notice of invitation to tender.

ANNEX III

The only numbers to be used in Brussels are:

DG AGRI/E/2 (for the attention of Mr Chiappone or Mr Innamorati):

— telex 22037 AGREC B,
22070 AGREC B (Greek characters)

— fax (32-2) 295 92 52.

COMMISSION DECISION No 244/2001/ECSC

of 5 February 2001

amending Decision No 2136/97/ECSC on administering certain restrictions on imports of certain steel products from the Russian Federation

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular the first paragraph of Article 95 thereof,

After consulting the ECSC Consultative Committee and obtaining the unanimous agreement of the Council,

Whereas:

(1) Commission Decision No 2136/97/ECSC of 12 September 1997 on administering certain restrictions on imports of certain steel products from the Russian Federation [1], as last amended by Decision No 659/2000/ECSC [2], implements in Community law the provisions of the Agreement between the European Coal and Steel Community and the Russian Federation on trade in certain steel products [3] (hereinafter referred to as the 'Steel Agreement'). The Steel Agreement was concluded in the wider framework of the Agreement on partnership and cooperation (PCA) establishing a partnership between the European Communities and their Member States, of the one part, and the Russian Federation, of the other part, as specified in Article 21 thereto [4].

(2) Several declarations are attached to the Steel Agreement as integral parts thereof. Declaration No 3, in particular, states that 'in the context of the Agreement [...], the Parties agree that they shall not apply with respect to the other Party quantitative restrictions, customs duties, charges or any similar measures on the export of ferrous waste and scrap under the Combined Nomenclature heading 7204 [...]'.

(3) For the purposes of dispute settlement and trade sanctions, the relevant procedures in the PCA apply to areas covered by the Steel Agreement. In particular, Article 107(2) of the PCA states that, 'if either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Cooperation Council with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties'.

(4) On 16 April 1999, the Russian Government adopted a decree [5] imposing a 15 % customs duty (with a minimum charge of EUR 15/tonne) on exports of iron and steel scrap for a period of six months. According to the decree, this measure was intended to prevent diversion of the raw materials needed for steel production and to maintain minimum levels of production from Russian steel plants. On 28 October 1999 [6] the Russian Government extended the initial decree imposing a customs duty on exports of iron and steel scrap by an additional six months.

(5) The aim and effect of the above decrees is to restrict exports of the products concerned from the Russian Federation, and they are therefore indirectly prejudicial to the Community's steel industry.

(6) On several occasions, within the appropriate forums set up by the Steel Agreement and the PCA, the Community formally drew the attention of the Russian authorities to the incompatibility of the decree with the provisions of the Steel Agreement and demanded that the export tax on iron scrap be dropped forthwith.

(7) As these consultations failed to find a solution acceptable to either Party, the Community decided that appropriate trade counter-measures should be taken for as long as the Russian Federation maintained its persistent breach of the provisions of the Steel Agreement. In accordance with Article 107(2) of the PCA, the Community reduced for 2000 the quantitative limits applying to its import of certain steel products from the Russian Federation [7] by 12 % of the quantities provided for in Annex IV to Decision No 2136/97/ECSC. This reduction constituted a proportionate response to the abovementioned infringement.

(8) On 15 April 2000, the Russian Government extended the measure contested by the Community indefinitely [8].

[1] OJ L 300, 4.11.1997, p. 15.
[2] OJ L 80, 31.3.2000, p. 13.
[3] OJ L 300, 4.11.1997, p. 52.
[4] OJ L 327, 28.11.1997, p. 3.
[5] Decree No 441 of 16.4.1999 of the Government of the Russian Federation.
[6] Decree No 1198 of 28.11.1999 of the Government of the Russian Federation.
[7] Commission Decision No 659/2000/ECSC (OJ L 80, 31.3.2000, p. 13).
[8] Decision No 351 of 15.4.2000 of the Government of the Russian Federation.

(9) In view of the lack of progress towards settlement of the dispute, the Community should renew its countermeasure and therefore reduce the quantitative limits applying to its imports of certain steel imports from the Russian Federation for 2001 by 12 % of the amounts originally provided for in the Steel Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The quantitative limits for 2001 in Annex IV to Decision No 2136/97/ECSC are replaced by those set out in the Annex to this Decision.

Article 2

The Commission shall take appropriate measures to repeal this Decision once the Russian Federation has taken the necessary measures to meet its obligations under Declaration No 3, attached to the Agreement between the European Coal and Steel Community and the Russian Federation on trade in certain steel products.

Article 3

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

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

Done at Brussels, 5 February 2001.

For the Commission
Pascal LAMY
Member of the Commission

ANNEX

(tonnes)

Product		2001
SA.	**Flat products**	
SA1.	Coils	206 459
SA1a.	Hot-rolled coils for re-rolling	407 495
SA2.	Heavy plate	30 961
SA3.	Other flat products	28 125
SB.	**Long products**	
SB1.	Beams	11 941
SB2.	Wire rod	27 862
SB3.	Other long products	103 840

COMMISSION REGULATION (EC) No 245/2001

of 5 February 2001

laying down detailed rules for the application of Council Regulation (EC) No 1673/2000 on the common organisation of the markets in flax and hemp grown for fibre

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1673/2000 of 27 July 2000 on the common organisation of the markets in flax and hemp grown for fibre [1], and in particular Article 9 thereof,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro [2], and in particular Article 3 thereof,

Whereas:

(1) Regulation (EC) No 1673/2000 provides *inter alia* for measures relating to the internal market in flax and hemp grown for fibre, comprising aid to authorised primary processors of flax and hemp straw and to farmers who have straw processed on their own account, the detailed implementing rules for which must be laid down.

(2) The conditions governing authorisation of primary processors and the obligations to be met by farmers who have straw processed on their own account must be laid down. The information that must be shown in sale/purchase contracts, processing commitments and processing contracts covering straw as referred to in Article 2(1) of Regulation (EC) No 1673/2000 must also be specified.

(3) Some primary processors of flax straw mainly produce long flax fibre, together, as a sideline, with short flax fibre containing a high percentage of impurities and shives. Where they do not have suitable facilities for cleaning such secondary products, they may have the short fibre cleaned under contract by another operator. In such circumstances, the cleaning of fibre under contract should be regarded as an operation carried out by the primary processor authorised in respect of short flax fibre. The conditions to be met by the operators concerned, in particular with a view to controls, should accordingly be laid down.

(4) To ensure the eligibility of these products for aid, areas under flax or hemp grown for fibre from which processed straw comes must be able to be identified using the system for identifying agricultural parcels provided for in Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes [3], as last amended by Regulation (EC) No 1593/2000 [4]. To that end, a link must be established between straw eligible for processing aid and the areas for which 'area' aid applications as provided for in Article 4 of Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes [5], as last amended by Regulation (EC) No 2721/2000 [6], have been submitted in respect of the marketing year concerned.

(5) With a view to ensuring sound administrative management while adapting to the special conditions applying on the markets for flax and hemp, the period during which flax and hemp straw grown for fibre can be processed and, where applicable, marketed should be determined.

(6) Where Member States decide to grant aid on short flax fibre or hemp fibre containing more than 7,5 % impurities and shives, a method of calculation allowing the quantity produced to be expressed in terms of an equivalent quantity with a 7,5 % impurities and shives content should be laid down.

(7) With a view to helping to ensure that the stabiliser mechanism functions properly, provision should be made to limit the quantities of fibre on which processing aid can be granted in respect of a marketing year to the quantity arrived at by multiplying the number of hectares covered by contracts or processing commitments by a unit quantity per hectare. That unit quantity is to be determined by the Member State on the basis of the national guaranteed quantities established and of the hectares cultivated.

(8) Given the variations in the national guaranteed quantities that may result from the flexibility introduced by Article 3 of Regulation (EC) No 1673/2000, detailed rules should be laid down for establishing such national guaranteed quantities for each marketing year, taking account of any adjustments that may prove necessary with a view to apportioning the national guaranteed quantities suitably among the beneficiaries of the processing aid.

[1] OJ L 193, 29.7.2000, p. 16.
[2] OJ L 349, 24.12.1998, p. 1.
[3] OJ L 355, 5.12.1992, p. 1.
[4] OJ L 182, 21.7.2000, p. 4.
[5] OJ L 391, 31.12.1992, p. 36.
[6] OJ L 314, 14.12.2000, p. 8.

(9) Processing aid is to be granted subject to the conclusion of a contract or commitment as referred to in Article 2 of Regulation (EC) No 1673/2000. In addition, transfers between national guaranteed quantities and the unit quantities per hectare must be fixed in good time by the Member State on the basis of the areas covered by contracts or commitments. Provision should be made for the relevant information in such contracts or commitments to be forwarded by the operators to the competent authorities of the Member State at the start of processing operations. In order to permit some flexibility in the trade concerned, the possibilities for transferring contracts among authorised primary processors should be subject to a limit.

(10) With a view to sound management of the aid scheme, the information that must be forwarded by the operators to the competent authorities of the Member State and the notifications to be made to the Commission by the Member States must be stipulated.

(11) In order to manage a scheme based on aid granted on the basis of the quantities of fibre produced over a period of 22 months, provision should be made for the lodging, at the start of processing operations for a given marketing year, of aid applications covering fibre to be obtained, the quantities of which are to be indicated periodically thereafter.

(12) On account of the possible adjustments to the national guaranteed quantities and the unit quantities per hectare, the total quantities of fibre on which the aid can be granted are known only after processing is completed. Provision must accordingly be made for advances on the aid to be paid to authorised primary processors on the basis of the quantities of fibre obtained periodically. In order to ensure that amounts due where irregularities are observed are actually paid, such advance payments should be made subject to the lodging of a security. Such securities must comply with certain provisions of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products [1], as last amended by Regulation (EC) No 1932/1999 [2].

(13) Additional aid as provided for in Article 4 of Regulation (EC) No 1673/2000 is to be granted only in respect of areas the straw produced from which has qualified for aid for processing into long flax fibre. A minimum yield of long flax fibre produced per hectare covered by a contract or a commitment should accordingly be established so that the circumstances under which that condition is met can be determined.

(14) A system of administrative and on-the-spot checks is vital for the proper conduct of the operations. The items that must be checked and the minimum number of on-the-spot checks to be carried out per marketing year must be specified.

(15) The consequences of any irregularities observed must be laid down. They must be sufficiently severe as to discourage any unlawful use of Community aid while complying with the principle of proportionality.

(16) In order to bring the time when the fibre is obtained sufficiently close to the operative event for the exchange rate for advance payments and processing aid, that event must take place on the last day of each period for the notification of the quantities of fibre obtained.

(17) With a view to a smooth switchover to the new arrangements, transitional provisions must be laid down in the 2001/02 marketing year as regards the granting of authorisation to primary processors. The competent authorities must in particular know the exact quantities in storage at the time of application of the new aid scheme in order to prevent abuses and provision must therefore be made for a specific notification to that end to be made by the operators concerned.

(18) Regulation (EC) No 1673/2000 introduces a new common organisation of the markets in flax and hemp grown for fibre from the 2001/02 marketing year and repeals, as from 1 July 2001, the Council Regulations on the common organisation of the marker in force in that sector until the 2000/01 marketing year. As from the 2001/02 marketing year, Commission Regulations (EEC) No 1215/71 of 10 June 1971 on detailed rules concerning the outline provisions for contracts for the sale of flax and hemp straw [3], (EEC) No 1523/71 of 16 July 1971 on communications between Member States and the Commission on flax and hemp [4], (EEC) No 1524/71 of 16 July 1971 laying down detailed rules concerning private storage aid for flax and hemp fibres [5], (EEC) No 1164/89 of 28 April 1989 laying

[1] OJ L 205, 3.8.1985, p. 5.
[2] OJ L 240, 10.9.1999, p. 11.
[3] OJ L 127, 11.6.1971, p. 22.
[4] OJ L 160, 17.7.1971, p. 14.
[5] OJ L 160, 17.7.1971, p. 16.

down detailed rules concerning the aid for fibre flax and hemp [1], (EEC) No 1784/93 of 30 June 1993 fixing the adjustment coefficients for aid for fibre flax [2] and (EC) No 452/1999 of 1 March 1999 fixing the minimum yields for the granting of aid for the production of fibre flax and hemp [3] should accordingly be repealed.

(19) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Flax and Hemp,

HAS ADOPTED THIS REGULATION:

Article 1

Purpose

The detailed rules for the application of the common organisation of the markets in flax and hemp grown for fibre established by Regulation (EC) No 1673/2000 shall be as laid down herein.

Article 2

Definitions

For the purposes of this Regulation:

— 'persons treated as processors' means farmers who, in accordance with Article 2(1)(b) of Regulation (EC) No 1673/2000, have concluded contracts with an authorised primary processor to have straw belonging to them processed into fibre,

— there are three types of fibre as follows:

(a) 'long flax fibre' means flax fibres obtained by complete separation of the fibres and the woody parts of the stalk that are at least 50 cm long on average after scutching and are arranged in parallel strands in bundles, sheets or slivers;

(b) 'short flax fibre' means flax fibres other than as referred to in (a) that are obtained by at least partial separation of the fibres and the woody parts of the stalk;

(c) 'hemp fibre' means hemp fibres obtained by at least partial separation of the fibres and the woody parts of the stalk.

Article 3

Authorisation of primary processors

1. Primary processors must submit applications for authorisation to the competent authorities including at least:

(a) a description of the undertaking and of the full range of products obtained by processing flax and hemp straw;

(b) a description of the processing plant and equipment, giving details of their location and technical specifications covering:

— energy consumption and the maximum quantities of flax and hemp straw that can be processed per hour and per year,

— the maximum quantities of long flax fibre, short flax fibre and hemp fibre that can be obtained per hour and per year,

— the indicative quantities of flax and hemp straw required to obtain 100 kg of each product referred to in (a);

(c) a description of the storage facilities, giving details of their location and capacity in tonnes of flax and hemp straw and fibre.

The Member State may waive the requirement on primary processors approved for the 2000/01 marketing year under Article 3 of Council Regulation (EEC) No 619/71 [4] to submit information that is already available, provided that the primary processors in question declare that there has been no change in the situation.

2. Applications for authorisation shall include an undertaking applying from the date of submission to:

— store separately by marketing year of harvest of the straw concerned and by Member State of harvest, flax straw, hemp straw, long flax fibre, short flax fibre and hemp fibre:

(a) covered by all sale/purchase contracts and processing commitments combined,

(b) covered by each processing contract concluded with persons treated as processors,

(c) from all other suppliers combined and, where applicable, corresponding to batches of fibre obtained from straw falling within (a) but not to be covered by an aid application,

— keep daily records of stocks, linked regularly to financial accounts, and of the information specified in paragraph 4, together with supporting documents as specified by the Member State for the purpose of controls,

— notify the competent authority of any changes in the information covered by paragraph 1,

— undergo any checks required under the aid scheme provided for in Regulation (EC) No 1673/2000.

3. After an on-the-spot inspection to check that the information covered by paragraph 1 tallies with the facts, the competent authority shall grant primary processors authorisation covering the types of fibre meeting the conditions for eligibility for the aid which they may produce and shall allocate an authorisation number to each.

[1] OJ L 121, 29.4.1989, p. 4.
[2] OJ L 163, 6.7.1993, p. 7.
[3] OJ L 54, 2.3.1999, p. 11.
[4] OJ L 72, 26.3.1971, p. 2.

Authorisation shall be granted within two months of submission of applications.

Where there is a change in one or more items of information covered by paragraph 1, the competent authority shall confirm or adjust authorisations, where necessary after an on-the-spot check, in the month following that of notification of the change. However, any adjustment affecting the types of fibre covered by authorisations granted may take effect only from the following marketing year.

4. In connection with the authorisation of primary processors in respect of long flax fibre and simultaneously in respect of short flax fibre, the Member States may allow short flax fibre to be cleaned under the conditions laid down in this paragraph and if it considers the control arrangements to be satisfactory, so that the fibre complies with the impurity and shive limits laid down in Article 2(3)(b) of Regulation (EC) No 1673/2000.

In such cases primary processors shall state their intention to make use of the provisions of this paragraph in their applications for authorisation as provided for in paragraph 1.

Only one cleaner of short flax fibre may be granted authorisation per authorised primary processor per marketing year concerned.

Before 1 February in respect of each marketing year, authorised primary processors shall present the competent authorities with a contract for the cleaning of short flax fibre, including at least:

(a) the date of conclusion of the contract and the marketing year corresponding to the harvest of the straw from which the fibre concerned has been obtained;

(b) the primary processor's authorisation number and, in the case of cleaners of short flax fibre, their names, business names and addresses and the location of the plant;

(c) a statement to the effect that the cleaner of short flax fibre undertakes to:

(i) store cleaned and uncleaned short flax fibre separately by cleaning contract,

(ii) keep separately by cleaning contract, daily records of the quantities of uncleaned short flax fibre entering the undertaking, the quantities of cleaned short flax fibre obtained, and the quantities of each in storage,

(iii) keep supporting documents as specified by the Member State for the purposes of controls and undergo any checks required under this Regulation.

Cleaners' undertakings as referred to in point (c) shall be deemed to be undertakings of primary processors under their authorisations.

5. Stock records of authorised primary processors shall specify, by day and by category of straw or type of fibre stored separately:

(a) the quantities entering the undertaking and covered by each contract or commitment as referred to in Article 5 and, where applicable, from each other supplier;

(b) the quantities of straw processed and the quantities of fibre obtained;

(c) the estimated losses and the quantities destroyed, with justifications;

(d) the quantities leaving the undertaking, broken down by consignee;

(e) the quantities in each store.

Authorised primary processors must be in possession of certificates of delivery or take-over from the supplier or consignee concerned or other equivalent document accepted by the Member State covering all consignments of straw and fibre entering or leaving the undertaking and not covered by a contract or commitment as referred to in Article 5. Authorised primary processors shall keep a record of the names or business names and addresses of all suppliers and consignees.

Article 4

Obligations of persons treated as processors

Persons treated as processors must:

(a) be in possession of a contract with an authorised primary processor for the processing of straw into long flax fibre, short flax fibre and/or hemp fibre;

(b) keep a register showing the following from the beginning of the marketing year in question in respect of each day concerned:

— the quantities of flax and hemp straw grown for fibre obtained and delivered under each processing contract,

— the quantities of long flax fibre, short flax fibre and/or hemp fibre obtained,

— the quantities of long flax fibre, short flax fibre and/or hemp fibre sold or transferred, with the names and addresses of the consignees;

(c) keep the supporting documents stipulated by the Member State for the purpose of controls; and

(d) agree to undergo any checks provided for under this aid scheme.

Article 5

Contracts

1. Sale/purchase contracts covering straw, processing commitments and processing contracts as referred to in Article 2(1) of Regulation (EC) No 1673/2000 shall stipulate at least:

(a) the date of conclusion of the contract and the marketing year corresponding to the harvest concerned;

(b) the primary processor's authorisation number, the farmer's identification number under the integrated administration and control system provided for in Regulation (EEC) No 3508/92 and their names and addresses;

(c) details identifying the agricultural parcel(s) concerned in accordance with the system for identifying agricultural parcels provided for under the integrated administration and control system;

(d) the areas under flax grown for fibre and those under hemp grown for fibre.

2. Before 1 January of the marketing year concerned, sale/purchase or processing contracts covering straw may be transferred to an authorised primary processor other than the one who originally concluded the contract, with the signed agreement of the farmer and of the authorised primary processors transferring the contract between them.

After 1 January of the marketing year concerned, transfers of contracts as provided for in the first subparagraph may take place only under exceptional circumstances, backed up by duly justified supporting evidence and with the authorisation of the Member State.

Article 6

Information to be provided by operators

1. Before the date set by the Member State and by 20 September at the latest following the beginning of the marketing year in question, authorised primary processors and persons treated as processors shall provide the competent authorities with:

— a list of all sale/purchase contracts, processing commitments and processing contracts as referred to in Article 5 for that marketing year, broken down into flax and hemp and mentioning the farmer's identification number under the integrated administration and control system and the parcels concerned, and

— a declaration of the total areas under flax and the total areas under hemp covered by sale/purchase contracts, processing commitments and processing contracts.

However, the Member State may require a copy of all documents concerned instead of the list referred to in the first indent of the first subparagraph.

Where certain processing contracts or processing commitments relate to areas located in a Member State other than that in which the primary processor is authorised, the information specified in the first subparagraph relating to the areas concerned shall also be supplied by the party concerned to the Member State in which harvest takes place.

2. In respect of the first six months of the marketing year and each four-month period thereafter, authorised primary processors and persons treated as processors shall declare the following to the competent authorities by the end of the following month as regards each category of products stored separately:

(a) the quantities of fibre produced and covered by aid applications;

(b) the quantities of other fibres produced;

(c) the aggregate total quantity of straw that has entered the undertaking;

(d) the quantities in storage;

(e) where appropriate, a list drawn up in accordance with the first indent of paragraph 1 of sale/purchase contracts covering straw that have been transferred in accordance with the first subparagraph of Article 5(2), giving the names of transferees and of transferors.

For each period concerned, together with their declarations as provided for in the first subparagraph persons treated as processors shall submit supporting evidence concerning quantities of fibre placed on the market and covered by aid applications. Such supporting evidence shall be specified by the Member State and shall include at least copies of sales invoices covering flax and hemp fibre and an attestation from the authorised primary processor who has processed the straw certifying the quantities and types of fibre obtained.

After notifying the Member State, authorised primary processors and persons treated as processors may stop sending the declarations as provided for in this paragraph concerning quantities entering and leaving the undertaking and quantities processed where such operations have ceased definitively for the marketing year concerned.

3. Before 1 May following the marketing year in question, authorised primary processors shall inform the competent authorities of the main ways in which the fibre and other products obtained have been used.

Article 7

Entitlement to aid

1. Aid for processing flax and hemp straw as provided for in Article 2 of Regulation (EC) No 1673/2000 shall be payable on flax and hemp fibre only where it:

— comes from straw covered by sale/purchase contracts, processing commitments or processing contracts as referred to in Article 5 covering parcels under flax or hemp grown for fibre and by 'area' aid applications as referred to in Article 4 of Regulation (EEC) No 3887/92 submitted in respect of the marketing year concerned, and

— is obtained before l May following the end of the marketing year in question by an authorised primary processor and, in the case of persons treated as processors, is placed on the market before that date.

2. Where the Member State decides to grant aid on short flax fibre or hemp fibre containing more than 7,5 % impurities and shives, in accordance with Article 2(3)(b) of Regulation (EC) No 1673/2000 the quantity 'Q' on which the aid is granted shall be calculated by applying the formula:

$$Q = P * [(100 - x)/(100 - 7,5)]$$

where 'P' stands for the quantity of eligible fibre obtained with not more than the authorised percentage 'x' of impurities and shives.

Article 8

National guaranteed quantities

1. The 5 000 tonnes of short flax fibre and hemp fibre for apportioning as national guaranteed quantities in accordance with Article 3(2)(b) of Regulation (EC) No 1673/2000 shall be allocated before 16 November for the marketing year in progress on the basis of information forwarded to the Commission by the Member States concerned before 16 October and covering:

— the areas covered by sale/purchase contracts, processing commitments and processing contracts submitted in accordance with Article 6, and

— the estimated flax and hemp straw and fibre yields.

2. In order to establish the national quantities on which processing aid may be granted in respect of a given marketing year, before 1 January of the marketing year in question the Member States shall determine the transfers of national guaranteed quantities made in accordance with Article 3(5) of Regulation (EC) No 1673/2000.

However, for the purposes of applying paragraph 4 of this Article, before 1 August following the time limit laid down in the second indent of Article 7(1) the Member State may adjust the quantities transferred.

3. For the purposes of applying Article 2(4) of Regulation (EC) No 1673/2000, the quantity of long flax fibre, short flax fibre and hemp fibre on which processing aid may be granted in respect of a marketing year to an authorised primary processor or a person treated as a processor shall be limited to the number of hectares of parcels covered by a sale/purchase contract or a processing commitment or, as the case may be, a processing contract, multiplied by a unit quantity to be determined.

Before 1 January of the marketing year in progress the Member State shall determine the unit quantity referred to in the first subparagraph for the whole of its territory for each of the three types of fibre concerned.

4. Where the quantities of fibre on which aid is payable to certain authorised primary processors or certain persons treated as processors are below the limits applicable to them pursuant to paragraph 3, the Member State may, after receiving all declarations as provided for in Article 6(2)(a) in respect of the marketing year concerned, increase the unit quantities as referred to in paragraph 3 so as to reallocate the quantities available to the other authorised primary processors or persons treated as processors whose eligible quantities exceed the limits applicable to them.

5. The Commission shall publish the information forwarded by the Member States pursuant to Article 15 concerning the quantities referred to in paragraph 2 and the unit quantities as referred to in paragraphs 3 and 4 in the 'C' series of the *Official Journal of the European Communities*.

Article 9

Aid applications

1. Authorised primary processors shall submit applications for aid for processing straw to the competent authorities in respect of long flax fibre, short flax fibre and hemp fibre to be obtained from straw from the marketing year concerned before the time limit laid down in the second indent of Article 7(1). Such applications shall be submitted by the date laid down in Article 6(1) at the latest.

Where the fibre is to be obtained partly from straw produced in a Member State other than that in which the primary processor is authorised, the aid applications shall be submitted to the competent authority in the Member State where the straw is harvested and a copy shall be forwarded to the Member State where the primary processor is authorised.

2. Persons treated as processors shall submit applications for aid for processing straw to the competent authorities in respect of long flax fibre, short flax fibre and hemp fibre to be obtained from straw from the marketing year concerned and placed on the market before the time limit laid down in the second indent of Article 7(1). Such applications shall be submitted by the date laid down in Article 6(1) at the latest.

3. Aid applications shall include at least:

— the applicants' names, addresses and signatures and, where applicable, the authorisation numbers of primary processors or the identification numbers under the integrated administration and control system of persons treated as processors,

— a statement that the quantities of long flax fibre, short flax fibre and hemp fibre covered by the application will be covered by declarations as provided for in Article 6(2)(a).

For the purposes of granting the aid, declarations as provided for in Article 6(2)(a) shall form an integral part of aid applications.

Article 10

Advances on the aid

1. Where applications for advances are submitted with declarations of fibre obtained as provided for in Article 6(2)(a), the advances shall be paid to the authorised primary processors by the end of the month following that of submission of the declaration, provided that an aid application has been submitted in accordance with Article 9. Without prejudice to the limit laid down in Article 8(3), advances shall be equal to 80 % of the aid corresponding to the quantities of fibre declared.

2. Advances shall be paid only where no irregularity has been found to have been committed by the applicant in respect of the marketing year concerned under the controls provided for in Article 13 and where a security equal to 110 % of the advance has been lodged.

Securities shall be released as follows:

— 75 % of the security shall be released six months after the advance is paid, and

— the security shall be released in full between the first and the 10th day following that of granting of the aid.

However:

— where short flax fibre is cleaned under contract, the relevant security shall be released between the first and the 10th day following that of granting of the aid in proportion to the quantities on which the Member State has granted the processing aid,

— where irregularities are observed, the total securities available in respect of the authorised primary processor concerned and the marketing year in question shall be released between the first and the 10th day following that of granting of the aid in proportion to the total quantities on which the Member State has granted processing aid.

3. Article 3 and Titles II, III and VI of Regulation (EEC) No 2220/85 shall apply to securities as referred to in this Article.

Article 11

Additional aid

Additional aid as provided for in Article 4 of Regulation (EC) No 1673/2000 shall be granted to primary processors of long flax fibre who are authorised in respect of areas located in the zones listed in the Annex to that Regulation and covered by sale/purchase contracts and processing commitments submitted in accordance with Article 6(1) of this Regulation.

However, the area in respect of which additional aid is granted shall not exceed that corresponding to the quantity of long flax fibre meeting the conditions for eligibility for the processing aid and obtained in respect of the marketing year concerned, divided by a yield of 680 kg of long flax fibre per hectare.

Article 12

Payment of aid

1. Processing aid and, where appropriate, additional aid shall be granted once all the checks laid down have been performed and after the definitive quantities of fibre eligible for the aid have been determined in respect of the marketing year concerned.

2. Before 1 August following the time limit laid down in the second indent of Article 7(1), processing aid and, where appropriate, additional aid shall be paid by the Member State on whose territory the flax or hemp straw has been harvested.

Article 13

Controls

1. Controls shall be performed to ensure compliance with the conditions for granting the aid and shall in particular involve:

— checking compliance with the conditions for authorising primary processors and fulfilment of their obligations by persons treated as processors,

— comparing information on agricultural parcels referred to in sale/purchase contracts, processing commitments and processing contracts to see whether it tallies with that determined in accordance with Regulation (EC) No 1251/1999,

— checking information in support of quantities covered by aid applications from authorised primary processors and persons treated as processors.

Checks of authorised primary processors carried out by the competent authorities of Member States shall cover the processing of all flax and hemp straw grown for fibre produced in the Community.

2. On-the-spot inspections conducted for the purposes of controls as provided for in paragraph 1 shall be decided by the competent authorities, in particular on the basis of a risk analysis, with a view to checking at least 75 % of authorised primary processors and 10 % of persons treated as processors per marketing year. However, in no case may the number of on-the-spot inspections conducted in any Member State be less than the total number of hectares declared as under flax and hemp in that Member State, divided by 750.

On-the-spot inspections shall also cover all cleaners of short flax fibre who have concluded contracts with authorised primary processors for the cleaning of fibre.

3. On-the-spot inspections shall in particular involve checking:

— plant, stocks and fibre obtained,

— stock records and financial accounts,

— the energy consumed by the various means of production and documents relating to labour employed, and

— any commercial documents relevant to controls.

In the event of doubt as to the eligibility of fibre, and in particular as regards the impurities content of short flax fibre or hemp fibre, a representative sample shall be taken from the batches called into question and a precise determination carried out of the relevant characteristics. Where applicable and depending on the circumstances, the Member State shall determine the quantities that are not eligible among those covered by aid applications.

In cases as referred to in Article 3(3) of Regulation (EC) No 1673/2000, the Member State conducting the inspection shall send the findings immediately to the Member State that is to pay the aid.

Article 14

Penalties

1. Where checks show that undertakings entered into in authorisation applications are not fulfilled, authorisation shall be withdrawn immediately and, notwithstanding Article 3(3), primary processors whose authorisation has been withdrawn shall not be granted any further authorisation before the second marketing year beginning after the date of the check or the date on which any failure to fulfil such undertakings has been established.

2. Where a false declaration is made deliberately or as a result of serious negligence or where the primary processor has signed sale/purchase contracts covering straw or has entered into processing commitments covering a number of hectares which would normally provide a significantly higher output than can be processed in accordance with the technical specifications shown in his authorisation, the authorised primary processor or person treated as a processor shall not qualify for processing aid or, where applicable, for additional aid as provided for in Article 4 of Regulation (EC) No 1673/2000 in respect of the marketing year concerned and the following marketing year.

3. Where quantities of long flax fibre, short flax fibre or hemp fibre covered by aid applications are found to exceed those meeting the conditions for eligibility for the aid and actually obtained in respect of a period as referred to in Article 6(2), the aid that may be granted on each type of fibre shall, without prejudice to Article 8(3), be calculated on the basis of the quantities actually eligible in respect of the marketing year concerned, less twice the difference with those covered by aid applications.

4. Except in cases of *force majeure*, in the event of late submission of aid applications as provided for in Article 9 or of late submission or late declaration of information as provided for in Article 6, the aid applied for and which the party concerned would have been entitled to if the application had been submitted or declared by the deadline shall be reduced by 1 % per working day. Applications and information as provided for in Article 6(1) submitted more than 25 days late shall be inadmissible.

5. Where applicable, the additional aid referred to in Article 11 shall be reduced by the same percentage as that applied to the total processing aid granted in respect of the marketing year concerned.

Article 15

Notifications

1. In the second month following the end of each period as referred to in the first subparagraph of Article 6(2), the Member States shall notify the Commission of:

(a) the total quantities of long flax fibre, short flax fibre and hemp fibre, adjusted, where applicable, in accordance with Article 7(2), for which aid applications have been submitted in the period concerned;

(b) the quantities sold each month and the relevant prices that may be recorded on the most important markets at the production stage for the qualities of fibre of Community origin that are most representative of the market;

(c) a summary statement of the quantities of long flax fibre, short flax fibre and hemp fibre obtained from straw of Community origin in storage at the end of the period concerned, broken down by marketing year.

2. By 31 January at the latest and in respect of the marketing year in progress, the Member States shall notify the Commission of:

(a) transfers of national guaranteed quantities made in accordance with Article 3(5) of Regulation (EC) No 1673/2000 and the national guaranteed quantities resulting from such transfers;

(b) a summary statement of areas under flax and hemp grown for fibre and covered by contracts or commitments as referred to in Article 2(1) of Regulation (EC) No 1673/2000;

(c) the unit quantities determined in accordance with Article 8(3);

(d) estimated production of flax and hemp straw and fibre;

(e) the number of authorised processing undertakings and their total processing capacity in terms of the various types of fibre in respect of the marketing year in progress;

(f) where applicable, the number of contract cleaners of short flax fibre.

3. By 30 September of each year at the latest, the Member States shall send the Commission the following information relating to the next-to-last marketing year:

(a) a summary statement of the total quantities of long flax fibre, short flax fibre and hemp fibre covered by aid applications:

1. and recognised as eligible for processing aid as provided for in Article 2(1) of Regulation (EC) No 1673/2000;

2. but not recognised as eligible for processing aid, specifying the quantities not qualifying for the aid as a result of an overrun in the national guaranteed quantities determined pursuant to Article 8;

3. for which the securities provided for in Article 10 have been forfeited;

(b) the total quantities of short flax fibre and hemp fibre that are not eligible because they contain a percentage of impurities in excess of the limit laid down in Article 2(3)(b) of Regulation (EC) No 1673/2000 and that have been obtained by authorised primary processors and persons treated as processors;

(c) a summary statement of the number of hectares located respectively in zones I and II as defined in the Annex to Regulation (EC) No 1673/2000 and on which the additional aid provided for in Article 4 of that Regulation has been granted;

(d) where applicable, the national guaranteed quantities and unit amounts resulting from the adjustments provided for in the second subparagraph of Article 8(2) and Article 8(4);

(e) the number of penalties as provided for in Article 14(1), (2) and (3) that it has been decided to apply and those that are under consideration;

(f) where applicable, a report on the application of Article 3(4) and on the controls and quantities concerned.

4. Where the Member State decides pursuant to the second subparagraph of Article 2(3)(b) of Regulation (EC) No 1673/2000 to grant aid on short flax fibre or hemp fibre containing more than 7,5 % impurities and shives, it shall notify the Commission by no later than 31 January of the marketing year in progress, specifying the traditional outlets concerned.

In such cases, together with the information specified in paragraph 1(a) the Member State shall include a breakdown of the actual, unadjusted quantities of short flax fibre and hemp fibre containing more than 7,5 % impurities and shives and covered by aid applications.

Article 16

Operative event

For each period as referred to in Article 6(2), the operative event for the exchange rate for the euro for the purposes of converting the advance and the processing aid for the quantity concerned shall take place on the last day of that period.

Article 17

Transitional measures

1. The transitional measures covered by this Article shall apply for the 2001/02 marketing year.

2. Member States may grant authorisation within the meaning of Article 1(2) of Regulation (EC) No 1673/2000 to primary processors for flax and hemp fibre meeting the conditions for eligibility for the aid which they may produce where:

— they are approved under Article 3 of Regulation (EEC) No 619/71 for the 2000/01 marketing year,

— no irregularity involving them has been observed during the 1999/2000 and 2000/01 marketing years, and

— they have submitted an application for authorisation in accordance with Article 3 of this Regulation before 30 June 2001.

3. With a view to qualifying for aid under Regulation (EC) No 1673/2000, by 31 July 2001 at the latest, authorised primary processors and persons treated as processors shall declare the stocks of flax straw, hemp straw, long flax fibre, short flax fibre and hemp fibre from harvests from before the 2001/02 marketing year that they hold at 30 June 2001.

Article 18

Regulations repealed

Regulations (EEC) No 1215/71, (EEC) No 1523/71, (EEC) No 1524/71, (EEC) No 1164/89 and (EEC) No 1784/93 and (EC) No 452/1999 shall be repealed as from 1 July 2001.

Article 19

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

It shall apply from the 2001/02 marketing year.

Regulation (EEC) No 1164/89 shall continue to apply for the 1998/99, 1999/2000 and 2000/01 marketing years.

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

Done at Brussels, 5 February 2001.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 246/2001

of 5 February 2001

fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip [1], as last amended by Regulation (EC) No 1300/97 [2], and in particular Article 5(2) (a) thereof,

Whereas:

Pursuant to Article 2 (2) and Article 3 of abovementioned Regulation (EEC) No 4088/87, Community import and producer prices are fixed each fortnight for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses and apply for two-weekly periods. Pursuant to Article 1b of Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down detailed rules for the application of the arrangements for the import into the Community of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip [3], as last amended by Regulation (EC) No 2062/97 [4], those prices are determined for fortnightly periods on the basis of weighted prices provided by the Member States. Those prices should be fixed immediately so the customs duties applicable can be determined. To that end, provision should be made for this Regulation to enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

The Community producer and import prices for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses as referred to in Article 1b of Regulation (EEC) No 700/88 for a fortnightly period shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 6 February 2001.

It shall apply from 7 to 20 February 2001.

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

Done at Brussels, 5 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 382, 31.12.1987, p. 22.
[2] OJ L 177, 5.7.1997, p. 1.
[3] OJ L 72, 18.3.1988, p. 16.
[4] OJ L 289, 22.10.1997, p. 1.

ANNEX

to the Commission Regulation of 5 February 2001 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

(EUR/100 pieces)

Period: from 7 to 20 February 2001

Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	11,83	10,93	55,00	20,80
Community import prices	**Uniflorous (bloom) carnations**	**Multiflorous (spray) carnations**	**Large-flowered roses**	**Small-flowered roses**
Israel	10,32	19,64	16,00	17,72
Morocco	16,39	15,64	—	—
Cyprus	—	—	—	—
Jordan	—	—	—	—
West Bank and Gaza Strip	—	—	—	—

COMMISSION REGULATION (EC) No 247/2001

of 5 February 2001

re-establishing the preferential customs duty on imports of uniflorous (bloom) carnations originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco and the West Bank and the Gaza Strip [1], as last amended by Regulation (EC) No 1300/97 [2], and in particular Article 5 (2) (b) thereof,

Whereas:

(1) Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community.

(2) Council Regulation (EC) No 1981/94 [3], as last amended by Commission Regulation (EC) No 563/2000 [4], opens and provides for the administration of Community tariff quotas for certain products originating in Algeria, Cyprus, Egypt, Israel, Jordan, Malta, Morocco, the West Bank and the Gaza Strip, Tunisia and Turkey, and providing detailed rules for extending and adapting these tariff quotas.

(3) Commission Regulation (EC) No 246/2001 [5] fixed Community producer and import prices for carnations and roses for application of the arrangements for importation from the countries in question.

(4) Commission Regulation (EEC) No 700/88 [6], as last amended by Regulation (EC) No 2062/97 [7], laid down detailed rules for the application of these arrangements.

(5) The preferential customs duty fixed for uniflorous (bloom) carnations originating in Israel by Regulation (EC) No 1981/94 was suspended by Commission Regulation (EC) No 124/2001 [8].

(6) On the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in Article 2 (4) of Regulation (EEC) No 4088/87 is met for uniflorous (bloom) carnations originating in Israel. The preferential customs duty should be reintroduced.

(7) In between meetings of the Management Committee for Live Plants and Floriculture Products, the Commission must adopt such measures,

HAS ADOPTED THIS REGULATION:

Article 1

1. For imports of uniflorous (bloom) carnations (CN code ex 0603 10 20) originating in Israel the preferential customs duty set by Regulation (EC) No 1981/94 is reintroduced.

2. Regulation (EC) No 124/2001 is hereby repealed.

Article 2

This Regulation shall enter into force on 7 February 2001.

[1] OJ L 382, 31.12.1987, p. 22.
[2] OJ L 177, 5.7.1997, p. 1.
[3] OJ L 199, 2.8.1994, p. 1.
[4] OJ L 68, 16.3.2000, p. 46.
[5] See page 28 of this Official Journal.
[6] OJ L 72, 18.3.1988, p. 16.
[7] OJ L 289, 22.10.1997, p. 1.
[8] OJ L 21, 23.1.2001, p. 21.

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

Done at Brussels, 5 February 2001.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 248/2001

of 5 February 2001

re-establishing the preferential customs duty on imports of small-flowered roses originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco and the West Bank and the Gaza Strip [1], as last amended by Regulation (EC) No 1300/97 [2], and in particular Article 5(2)(b) thereof,

Whereas:

(1) Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community.

(2) Council Regulation (EC) No 1981/94 [3], as last amended by Commission Regulation (EC) No 563/2000 [4], opens and provides for the administration of Community tariff quotas for certain products originating in Algeria, Cyprus, Egypt, Israel, Jordan, Malta, Morocco, the West Bank and the Gaza Strip, Tunisia and Turkey, and providing detailed rules for extending and adapting these tariff quotas.

(3) Commission Regulation (EC) No 246/2001 [5] fixed Community producer and import prices for carnations and roses for application of the arrangements for importation from the countries in question.

(4) Commission Regulation (EEC) No 700/88 [6], as last amended by Regulation (EC) No 2062/97 [7], laid down detailed rules for the application of these arrangements.

(5) The preferential customs duty fixed for small-flowered roses originating in Israel by Regulation (EC) No 1981/94 was suspended by Commission Regulation (EC) No 35/2001 [8].

(6) On the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in Article 2 (4) of Regulation (EEC) No 4088/87 is met for small-flowered roses originating in Israel. The preferential customs duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

Article 1

1. For imports of small-flowered roses (CN code ex 0603 10 10) originating in Israel the preferential customs duty set by amended Regulation (EC) No 1981/94 is reintroduced.

2. Regulation (EC) No 35/2001 is hereby repealed.

Article 2

This Regulation shall enter into force on 7 February 2001.

[1] OJ L 382, 31.12.1987, p. 22.
[2] OJ L 177, 5.7.1997, p. 1.
[3] OJ L 199, 2.8.1994, p. 1.
[4] OJ L 68, 16.3.2000, p. 46.
[5] See page 28 of this Official Journal.
[6] OJ L 72, 18.3.1988, p. 16.
[7] OJ L 289, 22.10.1997, p. 1.
[8] OJ L 4, 9.1.2001, p. 15.

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

Done at Brussels, 5 February 2001.

For the Commission
Franz FISCHLER
Member of the Commission

DIRECTIVE 2001/1/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 22 January 2001

amending Council Directive 70/220/EEC concerning measures to be taken against air pollution by emissions from motor vehicles

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 95 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the Economic and Social Committee [2],

Acting in accordance with the procedure laid down in Article 251 of the Treaty [3],

Whereas:

(1) Council Directive 70/220/EEC of 20 March 1970 on the approximation of the laws of the Member States on measures to be taken against air pollution by emissions from motor vehicles [4], is one of the separate directives under the type-approval procedure laid down by Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers [5].

(2) Directive 70/220/EEC lays down the specifications for the testing of emissions of the motor vehicles falling within its scope. In view of the recent experience gained and the rapidly developing state of the art of on-board diagnostic systems, it is appropriate to adapt those specifications accordingly.

(3) On-board diagnostics (OBD) is at a less developed stage for vehicles equipped with positive-ignition engines which run permanently or part-time on liquefied petroleum gas (LPG) or natural gas (NG) and cannot be required on such new types of vehicles before 2003.

(4) Directive 70/220/EEC should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

In Annex I to Directive 70/220/EEC Section 8.1 shall be replaced by the following:

'8.1. **Vehicles with positive-ignition engines**

8.1.1. *Petrol fuelled engines*

With effect from 1 January 2000 for new types and from 1 January 2001 for all types, vehicles of category M1 — except vehicles the maximum mass of which exceeds 2 500 kg — and vehicles of category N1 class I, must be fitted with an OBD system for emission control in accordance with Annex XI.

With effect from 1 January 2001 for new types and from 1 January 2002 for all types, vehicles of category N1 classes II and III and vehicles of category M1, the maximum mass of which exceeds 2 500 kg, must be fitted with an OBD system for emission control in accordance with Annex XI.

8.1.2. *LPG and natural gas fuelled vehicles*

With effect from 1 January 2003 for new types and from 1 January 2004 for all types, vehicles of category M1 — except vehicles the maximum mass of which exceeds 2 500 kg — and vehicles of category N1 class I, running permanently or part-time on either LPG or natural gas fuel, must be fitted with an OBD system for emission control in accordance with Annex XI.

With effect from 1 January 2006 for new types and from 1 January 2007 for all types, vehicles of category N1 classes II and III and vehicles of category M1, the maximum mass of which exceeds 2 500 kg, running permanently or part-time on either LPG or natural gas fuel, must be fitted with an OBD system for emission control in accordance with Annex XI.'.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 6 February 2002. They shall forthwith inform the Commission thereof.

[1] OJ C 365 E, 19.12.2000, p. 268.
[2] OJ C 204, 18.7.2000, p. 1.
[3] Opinion of the European Parliament of 17 May 2000 (not yet published in the Official Journal), Council Common Position of 10 October 2000 (OJ C 329, 20.11.2000, p. 1) and Decision of the European Parliament of 13 December 2000 (not yet published in the Official Journal).
[4] OJ L 76, 6.4.1970, p. 1. Directive as last amended by Commission Directive 1999/102/EC (OJ L 334, 28.12.1999, p. 43).
[5] OJ L 42, 23.2.1970, p. 1. Directive as last amended by Directive 98/91/EC of the European Parliament and of the Council (OJ L 11, 16.1.1999, p. 25).

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of domestic law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 22 January 2001.

For the European Parliament	*For the Council*
The President	*The President*
N. FONTAINE	A. LINDH

II

(Acts whose publication is not obligatory)

COUNCIL

DECISION No 1/2001 OF THE EU-ROMANIA ASSOCIATION COUNCIL

of 4 January 2001

extending the double-checking system established by Decision No 3/97 of the Association Council for the period from 1 January to 31 December 2001

(2001/92/EC)

THE ASSOCIATION COUNCIL,

Whereas:

(1) The contact group referred to in Article 11 of Protocol 2 of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, which entered into force on 1 February 1995, met on 22 September 2000 and agreed to recommend to the Association Council established under Article 106 of the Agreement that the double-checking system introduced in 1998 by Decision No 3/97 of the Association Council [1], as last extended for the period from 1 January to 31 December 2000 by Decision No 1/2000 [2] thereof, should be extended for the period from 1 January to 31 December 2001.

(2) The Association Council, having been supplied with all relevant information, has agreed with this recommendation,

HAS DECIDED AS FOLLOWS:

Article 1

The double-checking system established by Decision No 3/97 shall continue to apply for the period from 1 January to 31 December 2001. In the preamble and Article 1(1) and (3) of the Decision, references to the period 1 January to 31 December 2000 shall be replaced by references to 1 January to 31 December 2001.

Article 2

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

It shall apply with effect from 1 January 2001.

Done at Brussels, 4 January 2001.

For the Association Council

The President

A. LINDH

[1] OJ L 13, 19.1.1998, p. 57.
[2] OJ L 67, 15.3.2000, p. 35.

DECISION No 1/2001 OF THE EU-CZECH REPUBLIC ASSOCIATION COUNCIL

of 5 January 2001

extending the double-checking system established by Decision No 3/97 of the Association Council for the period from 1 January to 31 December 2001

(2001/93/EC)

THE ASSOCIATION COUNCIL,

Whereas:

(1) The contact group referred to in Article 10 of Protocol 2 of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, which entered into force on 1 February 1995, met on 13 September 2000 and agreed to recommend to the Association Council established under Article 104 of the Agreement that the double-checking system introduced in 1998 by Decision No 3/97 of the Association Council [1], as last extended by Decision No 1/2000 [2] thereof for the period from 1 January to 31 December 2000, should be extended for the period from 1 January to 31 December 2001.

(2) The Association Council, having been supplied with all relevant information, has agreed with this recommendation,

HAS DECIDED AS FOLLOWS:

Article 1

The double-checking system established by Decision No 3/97 shall continue to apply for the period from 1 January to 31 December 2001. In the preamble and Article 1(1) and (3) of the Decision, references to the period 1 January to 31 December 2000 shall be replaced by references to 1 January to 31 December 2001.

Article 2

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

It shall apply with effect from 1 January 2001.

Done at Brussels, 5 January 2001.

For the Association Council

The President

A. LINDH

[1] OJ L 13, 19.1.1998, p. 57.
[2] OJ L 69, 17.3.2000, p. 53.

DECISION No 1/2001 OF THE EU-SLOVAKIA ASSOCIATION COUNCIL

of 18 January 2001

extending the double-checking system established by Decision No 3/97 of the Association Council for the period from 1 January to 31 December 2001

(2001/94/EC)

THE ASSOCIATION COUNCIL,

Whereas:

(1) The contact group referred to in Article 10 of Protocol 2 of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other part, which entered into force on 1 February 1995, met on 22 September 2000 and agreed to recommend to the Association Council established under Article 104 of the Agreement that the double-checking system introduced in 1998 by Decision No 3/97 of the Association Council [1], as last extended by Decision No 1/2000 [2] thereof for the period from 1 January to 31 December 2000 should be extended for the period from 1 January to 31 December 2001.

(2) The Association Council, having been supplied with all relevant information, has agreed with this recommendation,

HAS DECIDED AS FOLLOWS:

Article 1

The double-checking system established by Decision No 3/97 shall continue to apply for the period from 1 January to 31 December 2001. In the preamble and Article 1(1) and (3) of the Decision, references to the period 1 January to 31 December 2000 shall be replaced by references to 1 January to 31 December 2001.

Article 2

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

It shall apply with effect from 1 January 2001.

Done at Brussels, 18 January 2001.

For the Association Council

The President

A. LINDH

[1] OJ L 13, 19.1.1998, p. 57.
[2] OJ L 67, 15.3.2000, p. 36.

COMMISSION

COMMISSION DECISION

of 20 September 2000

on the aid scheme which Italy is planning to implement pursuant to Article 14 of the Sardinia Region Law of 4 February 1998 laying down rules for speeding up expenditure of EAGGF Guidance Section funds and on urgent measures for agriculture

(notified under document number C(2000) 2753)

(Only the Italian text is authentic)

(2001/95/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having called on interested parties to submit their comments pursuant to that Article and having regard to their comments [1],

Whereas:

I

Procedure

(1) By letter of 18 March 1998 Italy notified the Commission of the aid measures which it planned to grant pursuant to the Sardinia Regional Law of 4 February 1998 laying down rules for speeding up expenditure of EAGGF Guidance Section funds and on urgent measures for agriculture (hereinafter referred to as the Regional Law). By letters of 11 August and December 1998 and 4 March 1999 Italy forwarded further information to the Commission.

(2) By letter SG (99) D/3464 of 17 May 1999 the Commission informed Italy that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid measures provided for in Article 14 of the Regional Law. By the same letter the Commission took formal note of the Italian authorities' undertaking to repeal Articles 10 to 13 and 15, 17, 19 and 21 of the Regional Law and it informed Italy that it had no objections to the measures provided for in Articles 6, 16, 18, 20, 22 and 23.

(3) The Commission's decision to initiate the procedure was published in the *Official Journal of the European Communities* [2]. The Commission invited interested parties to submit their comments on the aid scheme concerned.

(4) The Commission received no comments from interested parties. Italy submitted its comments by letter of 22 June 1999.

[1] OJ C 220, 31.7.1999, p. 4.
[2] See footnote 1.

II

Description

(5) Under Article 14 of the Regional Law, by way of compensation for losses caused in the past by adverse climatic events and animal and plant diseases the Sardinia Region may grant direct aid of up to 100 % of the loss incurred. The Regional Law expressly provides that such aid may be paid to complement aid which has already been granted in respect of such occurrences. Where the funds do not suffice for all, priority is given to those who have or who are in the process of obtaining consolidation loans, i.e. loans to consolidate past instalments and arrears on interest, which they were not able to pay because of production losses caused by the disaster concerned.

(6) In their correspondence the Italian authorities state that the measure is intended to provide compensation for damage resulting from 24 climatic events that have occurred in Sardinia since 1988, as summarised in the table below, and to compensate for damage caused by outbreaks of animal disease that occurred between 1990 and 1997. The Italian authorities emphasise that the applications for compensation in respect of all the losses meet the conditions usually applied by the Commission to such aid and that they were submitted with suitable supporting documents at the time, but that aid could not be paid owing to a lack of budget resources.

Event	Legal Basis Law No 590, of 15 October 1981; Law No 185, of 14 February 1992; Law No 198 of 13 May 1985; Regional Law No 11 of 20 March 1989 (Aid measure No 91/89 approved by Commission) Regional Law No 12 of 10 June 1974; Regional Law No 28, of 10 April 1978
1. Drought — 1988/1989 (Sardinia)	Departmental Decree 2820/89
2. Drought — 1989/1990 (Sardinia)	Departmental Decree 48/91 — 378/91
3. Torrential rains — November 1989 (Cagliari)	Departmental Decree 1658/90
4. Violent winds — February 1990 (Cagliari)	Departmental Decree 1682/91
5. Violents winds — March 1990 (Nuoro)	Departmental Decree 1659/90
6. Hailstorm — August 1990 (Cagliari)	Departmental Decree 78/SI/91
7. Torrential rains — October 1990 (Cagliari)	Departmental Decree 81/SI/91
8. Hailstorm — October 1990 (Cagliari)	Departmental Decree 49/SI/91
9. Persistent rains — December 1990 (Sassari)	Departmental Decree 82/SI/91
10. Winds — April 1991 (Oristano)	Departmental Decree 115/SI/92
11. Frosts — April 1991 (Cagliari)	Departmental Decree 116/SI/92
12. Hailstorms — April and May 1991 (Cagliari)	Departmental Decree 114/SI/92
13. Torrential rains — November 1991 (Sassari)	Departmental Decree 19/SI/93
14. Violents winds — December 1991 (Oristano)	Departmental Decree 18/SI/93
15. Violent winds — December 1991 (Sassari)	Departmental Decree 20/SI/93
16. Frosts — December 1991/January 1992 (Cagliari)	Departmental Decree 17/SI/93
17. Freezing wind — February/March 1993 (Sassari)	Departmental Decree 161/SI/93
18. Violent winds — March 1993 (Cagliari)	Departmental Decree 160/SI/93

Event	Legal Basis Law No 590, of 15 October 1981; Law No 185, of 14 February 1992; Law No 198 of 13 May 1985; Regional Law No 11 of 20 March 1989 (Aid measure No 91/89 approved by Commission) Regional Law No 12 of 10 June 1974; Regional Law No 28, of 10 April 1978
19. Hailstorm — March 1993 (Cagliari)	Departmental Decree 165/SI/93
20. Torrential rains — October/November 1993 (Cagliari — Nuoro)	Departmental Decree 129/SI/94
21. Drought — 1994/1995 (Sardinia)	Departmental Decree 18/SI/96
22. Violent winds — April 1994 (Sassari)	Departmental Decree 191/SI/94
23. Violent winds — May 1995 (Sassari — Nuoro)	Departmental Decree 237/SI/95
24. Hailstorm — June 1996 (Cagliari)	Departmental Decree 306/SI/96

(7) Although neither Article 87(2)(b) of the Treaty nor the Commission's constant practice in respect of the payment of aid to compensate for adverse climatic events that are treated as natural disasters provide for precise time limits for paying the aid, in its decision to initiate the procedure the Commission took the view that it was implicit in those provisions that the aid should be paid within a reasonable period of time after the occurrence of the event concerned. In the Commission's view, where aid is paid several years (in the case in point up to 10 years) after the event concerned, there is a real risk that the aid will distort the conditions of competition. Where the producers concerned have managed to absorb the losses resulting from the adverse event, the belated payment of compensation will produce economic effects that are similar to the payment of operating aid. However, where the producers concerned have been unable to absorb the losses and they continue to endure financial difficulties, the Commission considered that vigilance must be exercised to avoid any risk of aid being granted in contravention of the strict conditions laid down in the Commission's Guidelines on State aid for rescue and restructuring firms in difficulty [3]. In this connection the Commission noted that in the case in point, if the appropriations available were not sufficient to cover all the losses, priority was to be given not to those who suffered the greatest losses but to those who had outstanding loans. In the Commission's opinion, in the light of this provision one could legitimately wonder whether the primary objective of the measure was not in fact to support producers in financial difficulty.

(8) Furthermore, in the case of direct aid paid to compensate producers for damage suffered as a result of animal diseases, it is constant Commission practice to make payment of aid subject to compliance with certain conditions. There should in particular be Community or national provisions allowing the competent authorities to take suitable measures to control the disease in question, either by taking steps to eradicate it, in particular by means of binding measures giving rise to compensation, or initially by setting up a monitoring and warning system. Accordingly, only outbreaks of infections of public concern and not cases where the farmers must reasonably take responsibility for themselves may trigger aid measures. In its decision to initiate the procedure the Commission took the view that the Italian authorities had not provided the information necessary to verify compliance with these conditions.

(9) The Commission decided to raise no objections to the application of Article 14 to compensate producers of table tomatoes for losses caused by the tomato yellow leaf curl virus in 1994/95, 1995/96 and 1996/97 on the grounds that such aid qualified under the derogation provided for in Article 87(3)(c) of the Treaty. However, in view of the general scope of Article 14 of the regional Law, the Commission emphasised that any other aid to compensate for losses caused by plant diseases should be notified separately in accordance with Article 88(3) of the Treaty.

[3] OJ C 288, 9.10.1999, p. 2.

III

Comments from Italy

(10) The Italian authorities forwarded their comments by letter of 22 June 1999. These comments were later supplemented by letter of 15 June 2000.

(11) In their letter of 22 June 1999 the Italian authorities welcomed the Commission's decision to raise no objections to the aid to compensate for damage caused by plant disease and declared that they were withdrawing the provisions concerning aid for losses caused by animal diseases. They made the following comments regarding compensation for losses due to adverse weather conditions.

(12) The planned assistance involves aid that is to be paid on top of compensation already paid for damage due to adverse climatic events where the compensation paid does not exceed the financial loss actually incurred by the farmers. In general terms the aid measure complies with the rules laid down by the Commission, which provide for compensation of up to 100 % for damage suffered ([4]). It is also in accordance with Article 87(2)(b) of the Treaty, which lays down no restrictions of any sort, apart from the implicit limit set by the actual amount of damage. Since it is a provision of the Treaty, its value should be regarded as equal to that of the Constitution within the national legal system and, having regard to the hierarchy of norms, as being even greater. The Sardinia Region therefore takes the view that Community legislation should not prevent a Member State from acting in the spirit of Article 87(2)(b) in so far as aid to make good up to 100 % of damage caused by natural disasters and exceptional events is compatible with the common market.

(13) Neither Article 87(2)(b) of the Treaty nor the Commission's practice to date provides for time limits on the payment of aid to compensate for damage caused by exceptional climatic events. The Italian authorities consider that any such limit should be set beforehand so as to put all the Member States on the same footing and to ensure legal certainty for all. Furthermore, the concept of a 'reasonable period' proposed by the Commission is subjective: it does not provide any legal certainty, may result in unequal treatment and entails a real risk that the Member States will act in different ways. This is shown by the fact that in the part of the same letter dealing with compensation for plant diseases, the Commission describes the period between the occurrence of the damage and the payment of the aid as 'not unreasonable'. The damage occurred in 1994/1995, 1995/1996 and 1996/1997. A measure concerning events that occurred from 1994 onwards is thus regarded by the Commission as 'reasonable'. Naturally the Italian authorities agree with the Commission's assessment of the compensation for damage caused by tomato yellow leaf curl. However, in all logic and also for the sake of equality of treatment, the Sardinia Region would have expected the supplementary aid granted for disasters occurring from 1994 to be declared compatible.

(14) The Italian authorities note, moreover, that Article 15 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ([5]) stipulates that the Commission's powers to recover unlawful aid are subject to a limitation period of 10 years, i.e. they lapse after 10 years. If it is felt that farms should suffer retrospectively the effects of unlawful aid for 10 years, there is no reason for them not to enjoy the positive effects of compatible aid for a similar period. The Region accordingly concludes that, in the light of the Commission's own evaluation, a recovery period of 10 years should be regarded as reasonable and that at all events such reasonableness cannot be impugned as regards the period from 1994 onwards.

(15) As regards the Commission's concerns about the effects of the belated payment of aid, the Italian authorities consider that the arguments used by the Commission would make it almost impossible to grant aid to cover natural disasters and would make Article 87(2)(b) completely superfluous. The problem arises with effect from the marketing year after the one in which the event occurred, i.e. when a judgment has to be made as to whether or not the losses have been absorbed. In neither

([4]) Working Paper for the Working Group on Conditions of Competition in Agriculture on rules governing the grant of national aids in the event of damage to agricultural production or the means of production (Doc. VI/5934/86 Rev. 2).
([5]) Now Article 88 (OJ L 83, 27.3.1999, p. 1).

case, however, could aid be granted to cover natural disasters since such aid would constitute either operating aid or aid to firms in difficulty. Moreover, from a practical point of view, the Italian authorities consider that accepting the Commission's interpretation would create major obstacles to the implementation of Article 87(2)(b) of the Treaty and would lead to an intolerable increase in the red tape involved. Except in cases where the aid is paid in the same production year as the damage is sustained, detailed checks would be required on each occasion to see whether or not the losses have been absorbed.

(16) Furthermore, the Italian authorities point out that aid in connection with bad weather tends to be paid some considerable time after the event causing the damage. Immediately after the event, which in some cases can be protracted, the agricultural experts of the 'Ente Regionale di Assistenza' (Ersat) evaluate the percentage damage in the geographical area affected and the percentage loss suffered by producers in terms of gross saleable agricultural production compared with normal levels in the three preceding years. The experts then draw up a report, which is sent to the Regional Department of Agriculture for evaluation. Where the legal requirements for recognising the climatic event as exceptional are felt to have been satisfied, within 60 days of the end of the event the Regional Department submits a proposal to the Regional Executive for a decision specifying the aid to be granted. The decision is then forwarded to the Ministry for Agricultural Policies, which, if it agrees with the proposal, adopts a decree for publication in the *Gazzetta Ufficiale della Repubblica Italiana*. At this point the Regional Department of Agriculture issues a further decree defining the recipients, the type of aid to be granted and the time limit for submitting applications, which is normally 60 days after publication of the decree in the Region's *Bollettino Ufficiale*. Once the deadline for submitting applications has expired the latter are assessed individually to determine whether they satisfy the subjective and objective requirements for entitlement to the aid and what the amount of aid should be. The departments processing the applications tend to be understaffed and are often called upon to deal with other agricultural aid measures. Where there are many applications to be processed (there may be several thousand following a widespread disaster) it may even take years to process them all. There is also the fact that disasters may overlap, that delays may occur in committing and allocating public funds, and that the proper documents are not always attached. Paying out aid may accordingly take years.

(17) On this point the Italian authorities conclude that in this particular case, while there may be doubts regarding operating aid and aid to firms in difficulty, the fact remains that the farms have suffered damage and have not been fully compensated.

(18) According to the Italian authorities it is against this background that one must gauge the risk of distortion of competition referred to by the Commission. After a disaster, farms that have not suffered any damage are, in objective terms, at an advantage and the conditions of competition improve in their favour. This involuntary distortion of competition will in theory be completely eliminated if there is full compensation for the damage. In cases of late compensation, farms that have not suffered any damage would, throughout the delay, enjoy a competitive advantage in relation to the situation at the outset. Where, on the other hand, compensation is only partial, farms that have not suffered any damage would, if only partially, consolidate their advantage. According to the Italian authorities, therefore, late payment of the aid, even after several years, can only be regarded as the late restoration of a balance that existed at the outset. If, since then, there has been a change in the conditions of competition, it can have been only at the expense of the farms hit by the disaster. To prevent compensation from taking place under the proposed measure would be tantamount to consolidating an unfairly acquired advantage. A time limit can of course be laid down; as mentioned above, the Italian authorities regard a period of 10 years as reasonable.

(19) The Italian authorities further argue that by its very nature, compensation pursuant to Article 87(2)(b) has nothing whatsoever to do with the economic and financial situation of the individual farmers. It is payable simply by virtue of the disaster that has occurred. The same rule must therefore apply to supplementary compensation schemes such as the one planned. According to the Italian authorities this also answers the points put forward by the Commission regarding the priority given to farmers taking part in consolidation operations at the regular rate where the appropriations

concerned are inadequate. This is a twofold problem: from an operational point of view there is no doubt that among what are likely to be thousands of applications, some will be processed at once and some several years later, depending on the workload of the staff concerned, on the time required to carry out checks and on whether or not the documentation is complete. On the question of the financial resources needed it is not known at this stage what funds the regional legislative body will be able to earmark as aid. It is likely, however, that a number of appropriations will be needed at different times in view of the current state of public finances. It is easy to see how, if the planned measure is funded in instalments, payment of the aid will be interrupted as soon as the first instalment runs out.

(20) The Italian authorities also observe that under the national legislation concerned, a whole swathe of farms is ineligible for compensation for damage resulting from exceptionally bad weather. In Italy the threshold for compensation is set at 35 % of the annual gross saleable production, i.e. of normal production. This requirement must first of all be satisfied throughout the geographical area concerned; it means that farms can suffer major damage and still not be entitled to compensation if the average damage in the area is less than 35 %. Secondly, farms may be located in the areas affected and have suffered damage to their production but in some cases their losses may not amount to the minimum of 35 % of gross saleable production because their production is diversified. Thirdly, compensation payments are invariably partial, both in the case of damage to capital stock (it is either 50 % or 100 %) and in the case of damage to production, which in the majority of cases may not exceed the low figure of ITL 3 million. Part of the damage, in some cases a substantial part, must accordingly be borne by the farmer.

(21) In view of all this it was decided to give priority to farmers taking part in consolidation operations at the regular rate. This approach was felt to be in line with the sort of bad weather and natural disasters that repeatedly hit Sardinia. Thus one possible solution for farms repeatedly facing natural disasters and late, partial compensation lay in access to medium- and long-term financing aimed at alleviating annual accounts by means of compatible financing. The fact that exceptionally bad weather is not being used as a pretext for granting aid is demonstrated by Sardinia's long history of such events, and in particular the seasonal or annual droughts and the resulting poor harvests the island has experienced. Moreover, apart from limited events, the poor and irregular rainfall invariably puts Sardinia at a constant disadvantage compared with more fortunate regions in Italy and in northern and central Europe. The existence of consolidation operations is thus a sign of the adverse effects of repeated bad weather. The Italian authorities therefore conclude that the issue of priority has no bearing on the matter. There are two possibilities: either the planned measure is compatible with the Treaty, in which case it is hard to see why priorities should be ruled out, or it is not, in which case the priorities must be ruled out. In the opinion of the Sardinia Region it is certainly not logical to make compatibility depend on whether or not there are priorities.

(22) The Italian authorities also say why at least part of the supplementary aid could not be paid in the years immediately after the damage occurred. They first recall that Italian provisions on natural disasters are much stricter than the corresponding Community provisions both as regards the qualifying thresholds and as regards the maximum compensation for damage to crops, which is in most cases ITL 3 million, rising to ITL 10 million in the case of protected crops. Compensation for damage to capital stock is, depending on the case, 50 % or 80 % of the eligible expenditure necessary for reconstituting the losses. In Sardinia these ceilings were raised for some crops by a regional Law in connection with the 1994/95 drought. The existing legal limits therefore need to be lifted, something which can be done by a legislative act only, hence the planned measure set out in Article 14. Unless that Article is approved by the Commission the compensation already granted cannot be paid as in the past.

(23) Secondly, account should be taken of the fact that the central government and regional appropriations available have never been able to meet the requirements of farms generally and of small farms in particular, i.e. those which would have been entitled to the full ITL 3 million. Accordingly the approach chosen for payments in respect of damage to crops has been based not on percentages of the compensation payable but on parameters representing a part of the damage suffered. As a result, the percentage compensation already paid cannot be given for each of the 24 measures where recovery is proposed.

(24) In conclusion, therefore, the Italian authorities ask the Commission to authorise the supplementary aid provided for in Article 14, without prejudice to the commitment of the Sardinia Region to review each individual case and to determine the difference between the amount granted and the damage suffered.

(25) In their letter of 15 June 2000 the Italian authorities proposed to adjust the conditions governing the aid and to limit the aid granted to compensate for production losses connected with the droughts in 1988/1989, 1989/1990 and 1994/1995 (events 1, 2 and 21 in point 6). The Italian authorities consider that in view of their scale and their long-lasting effects, these events meet the conditions in point 11.1.2. of the Community Guidelines for State aid in the agriculture sector ([6]), which they consider applicable to the case in point.

(26) According to the Italian authorities, the droughts affected the whole of Sardinia and had far-reaching effects on the overall value of agricultural production and in particular the productivity and organisation of the farms affected. The recurrent droughts not only greatly reduced the productivity of winter crops but also caused difficulties in the programming of irrigated crops, which normally achieve better results on marketing. Italy adds that the droughts that affected Sardinia caused damage recognised as amounting to ITL 1 178 billion, of which only ITL 433 billion has been compensated for.

IV

Assessment

(27) In accordance with Article 87(1) of the Treaty, any aid granted by a Member State or using State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States, incompatible with the common market. In the case in point the Commission considers that all the conditions for the application of Article 87(1) are fulfilled. Furthermore, the Commission notes that this is not disputed by the Italian authorities.

(28) Article 14 of the Regional Law provides for the use of State resources to compensate farmers within the Sardinia Region for losses incurred as a result of adverse climatic events. The aid is granted selectively solely to farmers whose losses exceed 35 % of their gross saleable agricultural production and it therefore favours those farmers over other farmers who do not qualify for the aid. In addition, the scheme distorts competition and affects trade between Member States. It provides a gratuitous advantage for the farmers who are in receipt of the aid over other farmers, and thereby strengthens their commercial position. Moreover, in the absence of information to the contrary from the Italian authorities, the Commission considers that it is entitled to assume that at least some of these farmers are active in sectors where substantial intra-Community trade takes place. In 1996 agri-food products consigned to Italy from the other Member States totalled ITL 28 734 billion, while Italian consignments to the other Member States amounted to ITL 17 821 billion ([7]).

([6]) OJ C 28, 1.2.2000, p. 2.
([7]) Source: Italian Ministry for Agricultural Policies.

(29) However, the prohibition on State aid contained in Article 87(1) is subject to exceptions. In reply to the Commission's letter of 17 May 1999 the Italian authorities stated that they regarded the measure as falling within the scope of the derogation provided for by Article 87(2)(b) of the Treaty. One should therefore begin by examining that argument.

(30) In accordance with Article 87(2)(b) of the Treaty, aid to make good the damage caused by natural disasters or exceptional occurrences is compatible with the common market.

(31) As a derogation from the general prohibition on State aid contained in Article 87(1) of the Treaty, Article 87(2)(b) must be interpreted restrictively. Adverse climatic events such as hail, frost, ice, drought, rain and wind do not of themselves constitute natural disasters within the meaning of Article 87(2)(b). However, it has been constant Commission practice in the agricultural sector, in accordance with the principles set out in Commission Working Paper VI/5934/86, to which the Italian authorities refer in their comments, to treat adverse climatic events of this type as natural disasters once the losses suffered by the beneficiary reach a certain rate. Thus the Commission has permitted aid to be paid under Article 87(2)(b) of the Treaty to compensate for losses caused by adverse climatic conditions such as hail, frost, ice, drought, rain and wind, provided that the losses suffered by the beneficiaries amount in normal regions to 30 % (and in less-favoured areas 20 %) of normal annual production, defined as the average production of the three years preceding that in which the damage occurred. Where productivity of capital stock is lost, the loss must exceed 10 % in the first year and the total loss, spread over several years, must exceed 30 % or 20 % of a normal year's production. The aid must not exceed the individual farmer's losses. This practice has recently been confirmed in the Community Guidelines for State aid in the agriculture sector ([8]).

(32) Initially the Italian authorities stated that Article 14 of the Regional Law was intended to permit aid to be paid to cover losses resulting from 24 instances of drought, rain, wind, hail and frost affecting the Sardinia Region between 1989 and 1996. They subsequently proposed to make compensation payable in respect of three droughts only between 1989 and 1995. They also emphasised that aid is only granted where losses of at least 35 % have occurred in the geographical area concerned and once the individual producer's losses reach at least 35 % of his gross saleable production, which is defined as the total annual production of the holding that can be put up for sale, based on normal production in the three previous years. That percentage loss is above the thresholds set by the Commission of 20 % for less-favoured areas and 30 % for other areas. Furthermore, payments of aid will only cover the amount determined at the time of the natural disaster, excluding interest.

(33) Accordingly, in its letter of 17 May 1999 initiating the procedure provided for in Article 88(2) of the Treaty, the Commission considered that all 24 events listed in point 6 of the table met the criteria it had previously applied when assessing aid to compensate for losses caused by adverse climatic events in accordance with Article 87(2)(b) of the Treaty. The Commission therefore decided to raise no objections to aid paid in the past on the basis of the legislative provisions cited in the second column opposite point 6 of the table.

(34) Article 14 of the Regional Law allows additional aid to be paid to those farmers who have already received compensation under earlier regional legislation. The Italian authorities have provided an assurance, which the Commission has recognised as valid, that the total aid paid under the previous regional legislation and under Article 14 will not exceed the total losses actually incurred by the farmers as determined by the officials of the regional administration at the time of the adverse event concerned.

([8]) See footnote 6.

(35) Nevertheless, the Commission considered it necessary to initiate the procedure laid down in Article 88(2) of the Treaty on account of doubts stemming from the period (of up to 10 years) elapsing since the adverse climatic events concerned had occurred and from the effects of belated payment of compensation on the conditions of competition in the sectors concerned.

(36) In their comments the Italian authorities suggest that the Commission should not take into consideration the time that has elapsed since the climatic events took place. Article 87(2)(b) lays down no such time limit for paying aid. Once it has been established that the farmer has suffered a loss that exceeds the minimum, aid should be payable irrespective of the time that has elapsed since the event. By setting a time limit for paying the aid the Commission is seeking to impose an additional condition not laid down in the Treaty.

(37) The Commission does not accept the validity of this argument. Article 87(2)(b) provides that 'aid to make good the damage caused by natural disasters or exceptional occurrences' is compatible with the common market. Two conditions must therefore be fulfilled before the aid can be authorised. First, the damage must have been caused by a natural disaster. Secondly, the aid must be paid in order to make good the damage it has caused. In the case in point the Commission recognises that the farmers have suffered damage as a result of the adverse climatic events concerned and it also accepts the assurances of the Italian authorities that the aid to be paid will not exceed the losses incurred. However, in its letter of 17 May 1999 the Commission said that checks must be carried out to see whether the aid was in fact paid to make good the damage caused by the adverse climatic events. In this connection the Commission identified two factors that raised doubts, i.e. the time elapsing since the events took place and the fact that farmers in financial difficulty, and not those suffering the greatest losses, were given priority for payment of the aid. By referring to the time elapsing since the events took place, the Commission is not seeking to impose an additional condition on top of those in the Treaty. The Commission accordingly maintains its position that if it is to be regarded as 'making good' damage caused by an exceptional occurrence, the aid must be paid within a reasonable period of time after the event which gave rise to the damage, taking all relevant factors into account.

(38) Italy also argues that the reference to a 'reasonable period of time' is too vague and subjective and that it gives rise to legal uncertainty. Any time limit should be for a defined period and laid down in advance.

(39) The Commission considers that these comments are based on a misunderstanding of its doubts concerning the aid measure. It does not object to the payment of the aid simply because a certain period has elapsed since the adverse climatic events concerned took place. Rather, the passage of time is just one of several factors that leads the Commission to doubt whether the purpose of the measure notified is in fact to make good the damage caused by the adverse climatic events. This factor, along with others, should be assessed in the light of the specific circumstances of the case in order to determine whether the aid falls within the scope of the derogation provided for in Article 87(2)(b).

(40) It was precisely for this reason that the Commission did not seek to define the period of time that may be considered reasonable. In accordance with its responsibility to keep under constant review all aid schemes in the Member States, the Commission states in point 11.1.2 of its new Guidelines for State aid in the agriculture sector that in the absence of a specific justification, resulting for example from the nature and extent of the event, or the delayed or continuing nature of the damage, it will not approve proposals for aid which are submitted more than three years after the occurrence of the event. In principle the Guidelines came into force on 1 January 2000, but for reasons of legal certainty and in order to preserve the right of defence (the Article 88(2) procedure was initiated on the basis of previous Commission practice), the Commission does not consider it appropriate to apply them retrospectively to the present case.

(41) Italy proposes that, by analogy with the 10-year limitation period for the recovery of unlawful aid laid down in Regulation (EC) No 659/1999, any time limit for the payment of aid should be 10 years. It also claims that the Commission is not being consistent in so far as it raised no objections to payment of aid in respect of damage caused by the tomato yellow leaf curl virus from the 1994/1995 marketing year, while some of the climatic events covered by Article 14 occurred after that date. In the Italian authorities' view, the Commission should therefore allow aid to be paid at least in respect of events occurring during or after 1994.

(42) Here too the Italian authorities' comments appear to arise from a misunderstanding of the doubts expressed by the Commission with regard to this measure. At all events the Commission does not accept the analogy drawn by the Italian authorities with the limitation period of 10 years for the recovery of unlawful aid laid down in Article 15 of Regulation (EC) No 659/1999. As recital 14 of the Regulation states, that period is established for reasons of legal certainty. The administrative nature of that time limit is also confirmed by Article 15(2), which provides that any action taken by the Commission with regard to the unlawful aid interrupts the limitation period.

(43) Similarly, the Commission rejects the charge that it has been inconsistent in allowing aid to be paid to compensate for losses caused by a plant disease from the 1994/95 marketing year onwards while expressing doubts about the payment of aid to make good the damage caused by adverse climatic events after that date. In the first instance, it should be remembered that according to the explanations provided by the Italian authorities, Article 14 of the Regional Law was initially intended to allow aid to be paid for a series of 24 adverse climatic events occurring between 1988 and June 1996, only four of which in fact occurred during or after 1994. Since all these events could be covered by the measure notified, the Commission considers that they must be looked at as a whole. Furthermore, if 1994/1995 were the cut-off date, this would disqualify from compensation two of the three droughts listed in the latest Italian proposal. Moreover, if the Commission were to attempt to fix an arbitrary cut-off date for individual events after which aid payments would be admissible, it would in effect be doing precisely what the Italian authorities consider it should not do, namely seeking to lay down an arbitrary time limit for the application of Article 87(2)(b).

(44) It should also be pointed out that the Commission does not generally consider outbreaks of animal and plant diseases as exceptional occurrences within the meaning of Article 87(2)(b) of the Treaty. The Commission therefore considered the aid measures in the light of the derogation provided for in Article 87(3)(c) of the Treaty, and concluded that the aid concerned could not be regarded as facilitating the development of certain economic activities or of certain economic areas without adversely affecting trading conditions to an extent contrary to the common market. The factors to be taken into consideration in such an assessment are quite different from those for determining whether an aid measure is intended to make good the damage caused by natural disasters or exceptional occurrences.

(45) According to the Italian authorities, problems of potential distortion of competition will arise whenever payment of aid to make good damage caused by adverse climatic events is delayed, even if only by one year, and the question of whether or not the loss has been absorbed by the farmer is not a practical criterion for payment of the aid. However, Italy does not dispute the Commission's view that the more payment of the aid is delayed the greater the potential distortion of competition. Furthermore, the Commission has never claimed that the question of whether or not the farmer is able to make good the losses himself from his own resources or by reducing his income should be a criterion for payment of the aid, so the Italian authorities' comments in this respect are misplaced.

(46) The Commission considers that the Italian authorities' proposal to limit compensation to farmers who have suffered periods of drought (three out of a total of 24 adverse climatic events) does not dispel its reservations regarding the measure's compatibility having regard to Article 87(2)(b). First, two of the three periods of drought date back to 1988/1989 and 1989/1990. Secondly, the Italian proposal introduces a new element of selectivity that could justifiably serve as a criterion for granting

compensation only if the damage caused by the drought could be regarded as of a lasting nature, unlike the effects of the other adverse climatic events. While the Commission agrees that the effects of drought on agricultural production may theoretically last longer than other events (such as torrential rain), it feels that the latter factor depends more on the seriousness of the damage than on its nature. The Italian authorities have simply provided a general description of the impact of the drought on the farms' economic situation without assessing its lasting economic effects, which could last up to 12 years.

(47) The Commission therefore accepts the Italian authorities' observation that it may take some time, possibly years, to process all the applications for aid to make good the damage caused by a natural disaster or an exceptional occurrence. However, as a rule the adoption of the general decision to grant aid and the setting-aside of the initial budget appropriations take place quite soon after the event concerned. Indeed, in the case in point the Commission notes that in 21 of the 24 events referred to by the Italian authorities, the regional measures providing for an initial grant of aid were adopted in the year in which the event took place or in the year that followed. The Commission's concern about the measure in question stems from the fact that up to 10 years after the events took place, a proposal is being made to grant additional aid exceeding the limits laid down by the law at the time the initial compensation was paid.

(48) As for the Commission's concern that priority is being given to farmers taking part in debt consolidation operations at the regular rate, the Italian authorities reply in substance that this is irrelevant, once it is established that the farmers concerned have suffered losses as a result of the adverse climatic events concerned. In any case, in view of the large number of beneficiaries and the likely limitations on the funds available, priority must be given to someone, and the regional authorities have taken the view that it should be given to farmers in debt.

(49) For the reasons given above the Commission does not agree that the farmers are entitled to the aid under Article 87(2)(b) simply because they have suffered damage at some time in the past. Furthermore, the Commission does not find the Italian authorities' explanations of the reasons for giving priority to farmers with debt consolidation loans to be entirely convincing. In their correspondence concerning this measure, the Italian authorities emphasised that the farmers submitted properly documented claims for compensation immediately after the adverse climatic events took place and that these were checked by the administration before the initial aid was paid. It would therefore appear to be a relatively straightforward task to verify the amount of losses not compensated for initially and to allocate the funds available on a pro-rata basis.

(50) In their observations the Italian authorities write:

'The fact that exceptionally bad weather is not being used as a pretext for awarding aid is demonstrated by past events in Sardinia, in particular the seasonal or annual droughts and the resulting poor harvests the island has experienced. Moreover, apart from limited events, the poor and irregular rainfall invariably puts Sardinia at a disadvantage compared with more fortunate regions in Italy and in northern and central Europe. The existence of consolidation operations (at the regular rate) is thus seen as a sign of the adverse effects of repeated bad weather.'

The Commission does not understand the link which is being made here between the debt consolidation operations and bad weather conditions, which are of course just one reason why farmers may go into debt. Furthermore, the reference to the general climatic conditions in Sardinia tends to reinforce the concern of the Commission that the measure is intended to help farmers in financial difficulty rather than to make good the damage caused by one-off adverse climatic events.

(51) Lastly, in reply to a question from the Commission the Italian authorities said that the reason why farmers were not fully compensated in the past was due partly to the limited availability of public funds and partly to the ceilings on compensation payable under the law in force at the time and which would be lifted by this measure. In so far as the Commission's policy is to allow aid of up to 100 % of the losses incurred once the relevant thresholds are met, the Commission has no objection to the lifting of the ceiling on compensation for losses in the future. However, the explanations provided by the Italian authorities do not dispel the Commission's doubts concerning the retrospective application of this measure in respect of aid to make good losses caused by adverse climatic events that happened over 10 years previously.

V

Conclusion

(52) For the reasons set out above, the Italian authorities' comments do not dispel the Commission's suspicions that Article 14 of the Regional Law should be considered as a means of providing aid to farmers in financial difficulty without meeting the conditions laid down in the Commission's Guidelines on the rescue and restructuring of firms in difficulty rather than as a measure to make good the damage caused by adverse climatic events, which, in accordance with constant Commission practice, may be treated as natural disasters within the meaning of Article 87(2)(b) of the Treaty. The Commission therefore holds that the measure cannot qualify under the derogation from the prohibition on State aid set out in that provision.

(53) In its written observations Italy has not suggested an alternative legal basis for approving the aid nor has the Commission been able to identify any such basis on its own initiative. The derogations contained in Article 87(2)(a) and (c) are manifestly inapplicable, as are those set out in Article 87(3)(b) and (d). Furthermore, in so far as the measure is sectoral aid designed simply to relieve the beneficiaries of their indebtedness without any *quid pro quo*, in the light of the decisions of the Court of Justice the measure would appear to be straightforward operating aid, which is prohibited in the agricultural sector ([9]). By its very nature, such aid is likely to interfere with the mechanisms of the common organisation of the markets, which take precedence over the competition rules laid down in the Treaty ([10]). In the absence of any evidence that the measure might be regarded as facilitating the development of certain economic activities or of certain economic regions, it cannot qualify under the derogations provided for in Article 87(3)(a) and (c),

HAS ADOPTED THIS DECISION:

Article 1

The State aid which Italy is planning to implement in accordance with Article 14 of the Sardinia Regional Law of 4 February 1998 laying down rules for speeding up expenditure of EAGGF Guidance Section funds and on urgent measures for agriculture in order to compensate for losses caused by past adverse climatic events is incompatible with the common market.

The aid may accordingly not be implemented.

([9]) Judgment of the Court of First Instance in Case T-459/93 *Siemens* v *Commission* [1995] ECR II-1675 and the case law cited therein.
([10]) Judgment of the Court of Justice in Case 177/78 *Pigs and Bacon Commission* v. *McCarren* [1979] ECR 2161.

Article 2

Within two months of notification of this Decision Italy shall inform the Commission of the measures taken to comply with it.

Article 3

This Decision is addressed to the Republic of Italy.

Done at Brussels, 20 September 2000.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 18 January 2001

amending for the second time Decision 93/455/EEC approving certain contingency plans for the control of foot-and-mouth disease

(notified under document number C(2001) 120)

(Text with EEA relevance)

(2001/96/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/423/EEC [1] of 26 June 1990 amending Directive 85/511/EEC introducing Community measures for the control of foot-and-mouth disease, Directive 64/432/EEC on animal health problems affecting intra-Community trade in bovine animals and swine and Directive 72/462/EEC on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat products from third countries, and in particular Article 5(4) thereof,

Whereas:

(1) By Decision 91/42/EEC [2] the Commission laid down criteria to be applied when drawing up contingency plans for the control of foot-and-mouth disease.

(2) By Decision 93/455/EEC [3], as last amended by Decision 95/194/EC [4], the Commission approved certain contingency plans for the control of foot-and-mouth diesease.

(3) After examination by Commission inspection missions of the national contingency plans for the control of foot-and-mouth disease of respectively Austria, Finland and Sweden these plans permit the desired objective to be attained and fulfil the criteria laid down in Decision 91/42/EEC.

(4) It appears therefore appropriate to approve these plans by amending Decision 93/455/EEC.

(5) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

Decision 93/455/EEC is hereby amended as follows:

The words 'Austria', 'Finland' and 'Sweden' are added to the list of Member States in the Annex.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 18 January 2001.

For the Commission

David BYRNE

Member of the Commission

[1] OJ L 224, 13.8.1990, p. 13.
[2] OJ L 23, 29.1.1991, p. 29.
[3] OJ L 213, 24.8.1993, p. 20.
[4] OJ L 124, 7.6.1995, p. 38.

COMMISSION DECISION

of 23 January 2001

terminating the examination procedure concerning measures affecting the trade of cognac in Brazil

(notified under document number C(2001) 129)

(2001/97/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organisation [1], as amended by Regulation (EC) No 356/95 [2], and in particular Articles 11(1) thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURAL BACKGROUND

(1) On 17 February 1997 the Bureau national interprofessionnel du cognac (hereinafter BNIC) lodged a complaint under Article 4 of Council Regulation (EC) No 3286/94 (hereinafter 'the Regulation') on behalf of those of its members which export to Brazil or wish to do so.

(2) The complainant alleged that Community sales of cognac in Brazil were hindered by three obstacles to trade within the meaning of Article 2(1) of the Regulation, i.e. 'a practice adopted or maintained by a third country and in respect of which international trade rules establish a right of action'. The alleged obstacles to trade were the following.

(i) Lack of protection of the cognac appellation of origin (AOC) and discrimination vis-à-vis other foreign and local geographical indications: the complainant alleged that the Brazilian legislation allowed Brazilian brandy and other types of spirits to be called cognac or *conhaque*, these being the terms officially and commercially used to define such spirits, regardless of their geographical origin. It was claimed that this practice was in breach of several provisions of the WTO Agreement in trade related aspects of intellectual property rights (TRIPs); ot the Paris Convention for the Protection of Industrial Property (Paris Convention); of the Madrid Agreement for the Repression of False or Deceptive Indications of Source of Goods (Madrid Agreement) as well as of the 1992 Framework Cooperation Agreement between the Community and Brazil (Framework Agreement).

(ii) Excessive administrative requirements for import: the complainant claimed that the requirements for the marketing of cognac in Brazil, such as the cumbersome registration procedure and the compulsory visit of a Brazilian agronomist to the production site in France at the exporter's expense are largely excessive and unique so as to constitute a disguised restriction to trade. It was claimed that these measures violate Articles III and VIII of GATT 1994 and to Articles 1 and 2 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS).

(iii) Discriminatory taxation: BNIC complained that the rate of tax on industrial products discriminates against Cognac vis-à-vis locally produced spirits. It was alleged that cognac is ex officio classified in the most heavily taxed category, while local spirits are never classified in that category. According to the complainant, this would be a breach of Article III.1 and III.2 of GATT 1994.

(3) The complainant also claimed that these practices were causing adverse trade effects within the meaning of Article 2(4) of the Regulation and that they were in danger of being more adversely affected in the near future, as they blocked the access of cognac to the Brazilian market, which represent an important export market to an industry which is substantially export oriented.

(4) The Commission decided therefore, after consultation of the Advisory Committee established by the Regulation, that there was sufficient evidence to justify initiating an examination procedure for the purpose of considering the legal and factual issues involved. Consequently, an examination procedure was initiated on 2 April 1997 [3].

[1] OJ L 349, 31.12.1994, p. 71.
[2] OJ L 41, 23.2.1995, p. 3.
[3] OJ C 103, 2.4.1997, p. 3.

B. **THE FINDINGS OF THE EXAMINATION PROCEDURE**

(5) On the lack of protection of the cognac AOC, the investigation confirmed the complainant's allegation that the cognac AOC was not protected and that the term *conhaque* was used to define locally produced spirits. According to the Brazilian laws regulating the market of alcoholic drinks ([1]), the term defines two kind of spirits, very different from each other: vine spirits or brandy (called *conhaque* or *conhaque fino* according to the length of the ageing process) and sugar cane spirits with different flavourings (*conhaque de…* according to the flavour added).

(6) Consequently, the alleged violations of the Framework Agreement as well as of the Madrid Agreement to the Paris Convention were confirmed. It should be noted that, at the time the investigation was carried out, Brazil was entitled, as a developing country according to Article 65.2 of the TRIP Agreement, to delay the implementation of, *inter alia*, Articles 22 to 24 of the TRIP Agreement until 1 January 2000. The compliance of the measures under examination with these provisions was therefore not examined at that stage.

(7) It was also confirmed that the lack of protection misleads consumers, so damaging the brand image of cognac; it therefore adversely affects trade of cognac in favour of Brazilian producers of spirits using the same name, cognac or *conhaque*.

(8) The excessive administrative requirements and the discriminatory taxation were confirmed by the investigation, but they were not found to have a material impact on the trade of cognac; it was therefore decided not to pursue these issues.

C. **DEVELOPMENTS AFTER THE END OF THE INVESTIGATION**

(9) In view of the entry into force of the TRIPs obligation on 1 January 2000, Brazil adopted Law No 9279 of 14 May 1996, known as *Lei da propriedade industrial* or LPI, which, among other things, introduced a register of geographical indications.

(10) Pursuant to LPI and following bilateral contacts betweeen the Commission and the Brazilian authorities, BNIC applied for registration of the cognac geographical indication. The application was accepted and the cognac geographical indication was registered on 11 April 2000, after a delay due to the opposition of the Brazilian producers' association. The registration gave to the French producers exclusive rights to the use of the name cognac. Consequently, no registration of trademarks containing the word cognac is allowed and existing registered trademarks containing the word cognac will expire within five years from registration. Furthermore, the term cognac cannot be used as a generic name.

(11) As regards the term *conhaque*, it remains, according to the Brazilian legislation on alcoholic drinks, a generic name as it was at the time of the investigation, and only as such it may be used, since, according to LPI, a generic name cannot be registered as a trademark. The geographical indication cognac will therefore have to coexist with the use of the generic term *conhaque*.

(12) Since 1 January 2000, TRIPs has to be fully implemented by Brazil. The Commission services have therefore analysed the compliance with TRIPs of the present level of protection of the cognac AOC.

(13) The analysis found that, being a geographical indication concerning a product of the vine, the cognac AOC, is covered by Article 23.1 TRIPs and as such has to be protected. As explained in recital 10, the registration of the cognac geographical indication entitles the A.O.C. to full protection in Brazil, and is therefore in accordance with Article 23.1.

(14) It should be noted that the protection of Article 23.1 extends to translations of the original geographical indication; it should therefore also cover the Portuguese version of the word (*conhaque*). However, the use of the term *conhaque* is likely to be covered by the exceptions granted by Article 24.4 and 24.6 of the TRIPs Agreement. It was therefore concluded that the present level of protection accorded to the cognac AOC complies with the relevant provisions of TRIPs.

(15) The coexistence of the protected geographical indication with the generic use of the Portuguese translation may still create some difficulties to the French exporters. However, the present Brazilian legal framework is likely to create, over time, a clear distinction in consumers' perception between cognac AOC and locally produced *conhaque*. The scope for consumers' confusion should therefore be substantially reduced, so creating a situation of fair competition on the Brazilian market and removing the adverse trade effects caused by the lack of protection.

(16) As explained in recital 6, the investigation had found violations of the Paris Convention and of the Madrid Agreement. However, as the new situation created by the registration is expected to remove the unfair competition and the adverse trade effects, the issue will not be pursued further.

([1]) Laws No 7678/88 and 8918/94.

D. **CONCLUSION AND RECOMMENDATIONS**

(17) In view of the above analysis, it is considered that the examination procedure has led to a satisfactory situation with regard to the obstacles that faced the trade of cognac in Brazil as alleged in the complaint lodged by BNIC. The examination procedure should therefore be terminated.

(18) Further protection of the geographical indication cognac against the generic name *conhaque* may be pursued, if appropriate, by negotiation in particular under Article 24.1 of the TRIPS Agreement,

HAS DECIDED:

Sole Article

The examination procedure concerning measures imposed by Brazil affecting the trade of cognac initiated on 2 April 1997 is hereby terminated.

Done at Brussels, 23 January 2001.

For the Commission

Pascal LAMY

Member of the Commission