

English edition

## Legislation

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## I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 1222/2001**  
**of 21 June 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 <sup>(1)</sup>, as last amended by Regulation (EC) No 1498/98 <sup>(2)</sup>, 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 22 June 2001.

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

Done at Brussels, 21 June 2001.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 337, 24.12.1994, p. 66.

<sup>(2)</sup> OJ L 198, 15.7.1998, p. 4.

## ANNEX

**to the Commission Regulation of 21 June 2001 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	052	77,7
	999	77,7
0707 00 05	052	79,1
	999	79,1
0709 90 70	052	79,8
	204	50,7
	624	86,4
	999	72,3
0805 30 10	388	68,2
	528	67,0
	999	67,6
0808 10 20, 0808 10 50, 0808 10 90	388	91,1
	400	102,5
	404	117,5
	508	92,1
	512	88,1
	524	65,5
	528	77,9
	720	108,3
	800	216,0
	804	96,8
	999	105,6
0809 10 00	052	210,9
	999	210,9
0809 20 95	052	327,4
	064	215,1
	066	177,1
	400	272,6
	616	287,5
	999	255,9

<sup>(1)</sup> 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 1223/2001**  
**of 21 June 2001**  
**amending Regulation (EC) No 713/2001 on the purchase of beef under Regulation (EC) No 690/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 690/2001 of 3 April 2001 on special market support measures in the beef sector <sup>(2)</sup>, and in particular Article 2(2),

Whereas:

- (1) Regulation (EC) No 690/2001 provides in its Article 2(2) in particular for the opening or the suspension of tendering for purchase of beef depending on the average market prices for the reference class during the two most recent weeks with price quotations preceding the tender.
- (2) The second subparagraph of Article 12 of the above-mentioned Regulation provides for a voluntary application of the tendering rules until 30 June 2001 in certain

Member States while the application is obligatory in others.

- (3) The application of Articles 2 and 12 referred to above results in the opening of purchase by tender in a number of Member States. Commission Regulation (EC) No 713/2001 <sup>(3)</sup>, as last amended by Regulation (EC) No 1009/2001 <sup>(4)</sup>, on the purchase of beef under Regulation (EC) No 690/2001 should be amended accordingly.
- (4) Since this Regulation should be applied immediately it is necessary to provide for its entry into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Annex to Regulation (EC) No 713/2001 is replaced by the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 22 June 2001.

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

Done at Brussels, 21 June 2001.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 21.

<sup>(2)</sup> OJ L 95, 5.4.2001, p. 8.

<sup>(3)</sup> OJ L 100, 11.4.2001, p. 3.

<sup>(4)</sup> OJ L 140, 24.5.2001, p. 29.

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ANEXO — BILAG — ANHANG — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO — BIJLAGE — ANEXO —  
LIITE — BILAGA

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Estado miembro

Medlemsstat

Mitgliedstaat

Κράτος μέλος

Member State

État membre

Stati membri

Lidstaat

Estado-Membro

Jäsenvaltiot

Medlemsstat

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Deutschland

France

Nederland

Ireland

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**COMMISSION REGULATION (EC) No 1224/2001**  
**of 21 June 2001**  
**on the issuing of export licences for wine-sector products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 883/2001 of 24 April 2001, laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 as regards trade with third countries in products in the wine sector <sup>(1)</sup>, and in particular Article 9(3) thereof,

Whereas:

- (1) Article 63(7) of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine <sup>(2)</sup> limits the grant of export refunds for wine-sector products to the volumes and expenditure contained in the Agreement on Agriculture concluded during the Uruguay Round multilateral trade negotiations.
- (2) Article 9 of Regulation (EC) No 883/2001 lays down the conditions under which the Commission may take specific measures to prevent an overrun of the quantity laid down or the budget available under the said Agreement.
- (3) On the basis of information on export licence applications available to the Commission on 20 June 2001, the quantity still available for the period until 30 June 2001, for zone (2) Asia, referred to in Article 9(5) of Regula-

tion (EC) No 883/2001, could be exceeded unless the issue of export licences with advance fixing of the refund is restricted. Therefore, a single percentage for the acceptance of applications submitted from 13 to 19 June 2001 should be applied and the submission of applications and the issue of licences suspended until 30 June 2001,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. Export licences with advance fixing of the refund for wine-sector products for which applications are submitted from 13 to 19 June 2001 under Regulation (EC) No 883/2001 shall be issued for 76,13 % of the quantities requested for zone (2) Asia.
2. The issue of export licences for wine-sector products referred to in paragraph 1 for which applications are submitted from 20 June 2001 and the submission of export licence applications from 22 June 2001 for zone (2) Asia shall be suspended until 30 June 2001.

*Article 2*

This Regulation shall enter into force on 22 June 2001.

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

Done at Brussels, 21 June 2001.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

<sup>(1)</sup> OJ L 128, 10.5.2001, p. 1.

<sup>(2)</sup> OJ L 179, 14.7.1999, p. 1.

**COMMISSION REGULATION (EC) No 1225/2001****of 21 June 2001****concerning tenders notified in response to the invitation to tender for the export of common wheat issued in Regulation (EC) No 943/2001**

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 <sup>(1)</sup>, as last amended by Regulation (EC) No 1666/2000 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals <sup>(3)</sup>, as last amended by Regulation (EC) No 602/2001 <sup>(4)</sup>, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of common wheat to all third countries, with the exclusion of Poland, was opened pursuant to Commission Regulation (EC) No 943/2001 <sup>(5)</sup>.
- (2) Article 7 of Regulation (EC) No 1501/95 allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92

and on the basis of the tenders notified, to make no award.

- (3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund should not be fixed.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

No action shall be taken on the tenders notified from 15 to 21 June 2001 in response to the invitation to tender for the refund for the export of common wheat issued in Regulation (EC) No 943/2001.

*Article 2*

This Regulation shall enter into force on 22 June 2001.

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

Done at Brussels, 21 June 2001.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 193, 29.7.2000, p. 1.

<sup>(3)</sup> OJ L 147, 30.6.1995, p. 7.

<sup>(4)</sup> OJ L 89, 29.3.2001, p. 16.

<sup>(5)</sup> OJ L 133, 16.5.2001, p. 3.



**COMMISSION REGULATION (EC) No 1226/2001**  
**of 21 June 2001**  
**amending the import duties in the cereals sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector<sup>(3)</sup>, as last amended by Regulation (EC) No 2235/2000<sup>(4)</sup>, and in particular Article 2(1) thereof,

Whereas:

- (1) The import duties in the cereals sector are fixed by Commission Regulation (EC) No 1189/2001<sup>(5)</sup>, as amended by Regulation (EC) No 1197/2001<sup>(6)</sup>.

- (2) Article 2(1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by EUR 5 per tonne from the duty fixed, a corresponding adjustment is to be made. Such a difference has arisen. It is therefore necessary to adjust the import duties fixed in Regulation (EC) No 1189/2001,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annexes I and II to Regulation (EC) No 1189/2001 are hereby replaced by Annexes I and II to this Regulation.

*Article 2*

This Regulation shall enter into force on 22 June 2001.

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

Done at Brussels, 21 June 2001.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 193, 29.7.2000, p. 1.

<sup>(3)</sup> OJ L 161, 29.6.1996, p. 125.

<sup>(4)</sup> OJ L 256, 10.10.2000, p. 13.

<sup>(5)</sup> OJ L 161, 16.6.2001, p. 35.

<sup>(6)</sup> OJ L 162, 19.6.2001, p. 16.

## ANNEX I

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

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (EUR/tonne)	Import duty by air or by sea from other ports <sup>(2)</sup> (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00	0,00
	medium quality <sup>(1)</sup>	0,00	0,00
1001 90 91	Common wheat seed	0,00	0,00
1001 90 99	Common high quality wheat other than for sowing <sup>(3)</sup>	0,00	0,00
	medium quality	23,20	13,20
	low quality	59,03	49,03
1002 00 00	Rye	52,05	42,05
1003 00 10	Barley, seed	52,05	42,05
1003 00 90	Barley, other <sup>(3)</sup>	52,05	42,05
1005 10 90	Maize seed other than hybrid	75,36	65,36
1005 90 00	Maize other than seed <sup>(3)</sup>	75,36	65,36
1007 00 90	Grain sorghum other than hybrids for sowing	52,05	42,05

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

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

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

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

<sup>(3)</sup> The importer may benefit from a flat-rate reduction of EUR 24 or 8 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

## ANNEX II

**Factors for calculating duties**

(period from 15 June to 20 June 2001)

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

Exchange quotations	Minneapolis	Kansas City	Chicago	Chicago	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	Medium quality (*)	US barley 2
Quotation (EUR/t)	136,20	130,76	108,49	86,59	201,95 (**)	191,95 (**)	109,39 (**)
Gulf premium (EUR/t)	—	18,45	4,88	10,46	—	—	—
Great Lakes premium (EUR/t)	28,17	—	—	—	—	—	—

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

(\*\*) Fob Duluth.

## 2. Freight/cost: Gulf of Mexico — Rotterdam: 19,34 EUR/t; Great Lakes — Rotterdam: 30,60 EUR/t.

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

**DIRECTIVE 2001/29/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 22 May 2001**

**on the harmonisation of certain aspects of copyright and related rights in the information society**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 47(2), 55 and 95 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(3)</sup>,

Whereas:

- (1) The Treaty provides for the establishment of an internal market and the institution of a system ensuring that competition in the internal market is not distorted. Harmonisation of the laws of the Member States on copyright and related rights contributes to the achievement of these objectives.
- (2) The European Council, meeting at Corfu on 24 and 25 June 1994, stressed the need to create a general and flexible legal framework at Community level in order to foster the development of the information society in Europe. This requires, *inter alia*, the existence of an internal market for new products and services. Important Community legislation to ensure such a regulatory framework is already in place or its adoption is well under way. Copyright and related rights play an important role in this context as they protect and stimulate the development and marketing of new products and services and the creation and exploitation of their creative content.
- (3) The proposed harmonisation will help to implement the four freedoms of the internal market and relates to compliance with the fundamental principles of law and especially of property, including intellectual property, and freedom of expression and the public interest.
- (4) A harmonised legal framework on copyright and related rights, through increased legal certainty and while providing for a high level of protection of intellectual property, will foster substantial investment in creativity and innovation, including network infrastructure, and lead in turn to growth and increased competitiveness of

European industry, both in the area of content provision and information technology and more generally across a wide range of industrial and cultural sectors. This will safeguard employment and encourage new job creation.

- (5) Technological development has multiplied and diversified the vectors for creation, production and exploitation. While no new concepts for the protection of intellectual property are needed, the current law on copyright and related rights should be adapted and supplemented to respond adequately to economic realities such as new forms of exploitation.
- (6) Without harmonisation at Community level, legislative activities at national level which have already been initiated in a number of Member States in order to respond to the technological challenges might result in significant differences in protection and thereby in restrictions on the free movement of services and products incorporating, or based on, intellectual property, leading to a refragmentation of the internal market and legislative inconsistency. The impact of such legislative differences and uncertainties will become more significant with the further development of the information society, which has already greatly increased transborder exploitation of intellectual property. This development will and should further increase. Significant legal differences and uncertainties in protection may hinder economies of scale for new products and services containing copyright and related rights.
- (7) The Community legal framework for the protection of copyright and related rights must, therefore, also be adapted and supplemented as far as is necessary for the smooth functioning of the internal market. To that end, those national provisions on copyright and related rights which vary considerably from one Member State to another or which cause legal uncertainties hindering the smooth functioning of the internal market and the proper development of the information society in Europe should be adjusted, and inconsistent national responses to the technological developments should be avoided, whilst differences not adversely affecting the functioning of the internal market need not be removed or prevented.
- (8) The various social, societal and cultural implications of the information society require that account be taken of the specific features of the content of products and services.

<sup>(1)</sup> OJ C 108, 7.4.1998, p. 6 and OJ C 180, 25.6.1999, p. 6.

<sup>(2)</sup> OJ C 407, 28.12.1998, p. 30.

<sup>(3)</sup> Opinion of the European Parliament of 10 February 1999 (OJ C 150, 28.5.1999, p. 171), Council Common Position of 28 September 2000 (OJ C 344, 1.12.2000, p. 1) and Decision of the European Parliament of 14 February 2001 (not yet published in the Official Journal). Council Decision of 9 April 2001.

- (9) Any harmonisation of copyright and related rights must take as a basis a high level of protection, since such rights are crucial to intellectual creation. Their protection helps to ensure the maintenance and development of creativity in the interests of authors, performers, producers, consumers, culture, industry and the public at large. Intellectual property has therefore been recognised as an integral part of property.
- (10) If authors or performers are to continue their creative and artistic work, they have to receive an appropriate reward for the use of their work, as must producers in order to be able to finance this work. The investment required to produce products such as phonograms, films or multimedia products, and services such as 'on-demand' services, is considerable. Adequate legal protection of intellectual property rights is necessary in order to guarantee the availability of such a reward and provide the opportunity for satisfactory returns on this investment.
- (11) A rigorous, effective system for the protection of copyright and related rights is one of the main ways of ensuring that European cultural creativity and production receive the necessary resources and of safeguarding the independence and dignity of artistic creators and performers.
- (12) Adequate protection of copyright works and subject-matter of related rights is also of great importance from a cultural standpoint. Article 151 of the Treaty requires the Community to take cultural aspects into account in its action.
- (13) A common search for, and consistent application at European level of, technical measures to protect works and other subject-matter and to provide the necessary information on rights are essential insofar as the ultimate aim of these measures is to give effect to the principles and guarantees laid down in law.
- (14) This Directive should seek to promote learning and culture by protecting works and other subject-matter while permitting exceptions or limitations in the public interest for the purpose of education and teaching.
- (15) The Diplomatic Conference held under the auspices of the World Intellectual Property Organisation (WIPO) in December 1996 led to the adoption of two new Treaties, the 'WIPO Copyright Treaty' and the 'WIPO Performances and Phonograms Treaty', dealing respectively with the protection of authors and the protection of performers and phonogram producers. Those Treaties update the international protection for copyright and related rights significantly, not least with regard to the so-called 'digital agenda', and improve the means to fight piracy world-wide. The Community and a majority of Member States have already signed the Treaties and the process of making arrangements for the ratification of the Treaties by the Community and the Member States is under way. This Directive also serves to implement a number of the new international obligations.
- (16) Liability for activities in the network environment concerns not only copyright and related rights but also other areas, such as defamation, misleading advertising, or infringement of trademarks, and is addressed horizontally in Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the internal market ('Directive on electronic commerce')<sup>(1)</sup>, which clarifies and harmonises various legal issues relating to information society services including electronic commerce. This Directive should be implemented within a timescale similar to that for the implementation of the Directive on electronic commerce, since that Directive provides a harmonised framework of principles and provisions relevant *inter alia* to important parts of this Directive. This Directive is without prejudice to provisions relating to liability in that Directive.
- (17) It is necessary, especially in the light of the requirements arising out of the digital environment, to ensure that collecting societies achieve a higher level of rationalisation and transparency with regard to compliance with competition rules.
- (18) This Directive is without prejudice to the arrangements in the Member States concerning the management of rights such as extended collective licences.
- (19) The moral rights of rightholders should be exercised according to the legislation of the Member States and the provisions of the Berne Convention for the Protection of Literary and Artistic Works, of the WIPO Copyright Treaty and of the WIPO Performances and Phonograms Treaty. Such moral rights remain outside the scope of this Directive.
- (20) This Directive is based on principles and rules already laid down in the Directives currently in force in this area, in particular Directives 91/250/EEC<sup>(2)</sup>, 92/100/EEC<sup>(3)</sup>, 93/83/EEC<sup>(4)</sup>, 93/98/EEC<sup>(5)</sup> and 96/9/EC<sup>(6)</sup>, and it develops those principles and rules and places them in the context of the information society. The provisions of this Directive should be without prejudice to the provisions of those Directives, unless otherwise provided in this Directive.

<sup>(1)</sup> OJ L 178, 17.7.2000, p. 1.

<sup>(2)</sup> Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs (OJ L 122, 17.5.1991, p. 42). Directive as amended by Directive 93/98/EEC.

<sup>(3)</sup> Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 346, 27.11.1992, p. 61). Directive as amended by Directive 93/98/EEC.

<sup>(4)</sup> Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (OJ L 248, 6.10.1993, p. 15).

<sup>(5)</sup> Council Directive 93/98/EEC of 29 October 1993 harmonising the term of protection of copyright and certain related rights (OJ L 290, 24.11.1993, p. 9).

<sup>(6)</sup> Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20).

- (21) This Directive should define the scope of the acts covered by the reproduction right with regard to the different beneficiaries. This should be done in conformity with the *acquis communautaire*. A broad definition of these acts is needed to ensure legal certainty within the internal market.
- (22) The objective of proper support for the dissemination of culture must not be achieved by sacrificing strict protection of rights or by tolerating illegal forms of distribution of counterfeited or pirated works.
- (23) This Directive should harmonise further the author's right of communication to the public. This right should be understood in a broad sense covering all communication to the public not present at the place where the communication originates. This right should cover any such transmission or retransmission of a work to the public by wire or wireless means, including broadcasting. This right should not cover any other acts.
- (24) The right to make available to the public subject-matter referred to in Article 3(2) should be understood as covering all acts of making available such subject-matter to members of the public not present at the place where the act of making available originates, and as not covering any other acts.
- (25) The legal uncertainty regarding the nature and the level of protection of acts of on-demand transmission of copyright works and subject-matter protected by related rights over networks should be overcome by providing for harmonised protection at Community level. It should be made clear that all rightholders recognised by this Directive should have an exclusive right to make available to the public copyright works or any other subject-matter by way of interactive on-demand transmissions. Such interactive on-demand transmissions are characterised by the fact that members of the public may access them from a place and at a time individually chosen by them.
- (26) With regard to the making available in on-demand services by broadcasters of their radio or television productions incorporating music from commercial phonograms as an integral part thereof, collective licensing arrangements are to be encouraged in order to facilitate the clearance of the rights concerned.
- (27) The mere provision of physical facilities for enabling or making a communication does not in itself amount to communication within the meaning of this Directive.
- (28) Copyright protection under this Directive includes the exclusive right to control distribution of the work incorporated in a tangible article. The first sale in the Community of the original of a work or copies thereof by the rightholder or with his consent exhausts the right to control resale of that object in the Community. This right should not be exhausted in respect of the original or of copies thereof sold by the rightholder or with his consent outside the Community. Rental and lending rights for authors have been established in Directive 92/100/EEC. The distribution right provided for in this Directive is without prejudice to the provisions relating to the rental and lending rights contained in Chapter I of that Directive.
- (29) The question of exhaustion does not arise in the case of services and on-line services in particular. This also applies with regard to a material copy of a work or other subject-matter made by a user of such a service with the consent of the rightholder. Therefore, the same applies to rental and lending of the original and copies of works or other subject-matter which are services by nature. Unlike CD-ROM or CD-I, where the intellectual property is incorporated in a material medium, namely an item of goods, every on-line service is in fact an act which should be subject to authorisation where the copyright or related right so provides.
- (30) The rights referred to in this Directive may be transferred, assigned or subject to the granting of contractual licences, without prejudice to the relevant national legislation on copyright and related rights.
- (31) A fair balance of rights and interests between the different categories of rightholders, as well as between the different categories of rightholders and users of protected subject-matter must be safeguarded. The existing exceptions and limitations to the rights as set out by the Member States have to be reassessed in the light of the new electronic environment. Existing differences in the exceptions and limitations to certain restricted acts have direct negative effects on the functioning of the internal market of copyright and related rights. Such differences could well become more pronounced in view of the further development of transborder exploitation of works and cross-border activities. In order to ensure the proper functioning of the internal market, such exceptions and limitations should be defined more harmoniously. The degree of their harmonisation should be based on their impact on the smooth functioning of the internal market.
- (32) This Directive provides for an exhaustive enumeration of exceptions and limitations to the reproduction right and the right of communication to the public. Some exceptions or limitations only apply to the reproduction right, where appropriate. This list takes due account of the different legal traditions in Member States, while, at the same time, aiming to ensure a functioning internal market. Member States should arrive at a coherent application of these exceptions and limitations, which will be assessed when reviewing implementing legislation in the future.
- (33) The exclusive right of reproduction should be subject to an exception to allow certain acts of temporary reproduction, which are transient or incidental reproductions, forming an integral and essential part of a technological process and carried out for the sole purpose of enabling either efficient transmission in a network between third parties by an intermediary, or a lawful use of a work or other subject-matter to be made. The acts of reproduction concerned should have no separate economic value on their own. To the extent that they meet these conditions, this exception should include acts which enable browsing as well as acts of caching to take place,

- including those which enable transmission systems to function efficiently, provided that the intermediary does not modify the information and does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information. A use should be considered lawful where it is authorised by the rightholder or not restricted by law.
- (34) Member States should be given the option of providing for certain exceptions or limitations for cases such as educational and scientific purposes, for the benefit of public institutions such as libraries and archives, for purposes of news reporting, for quotations, for use by people with disabilities, for public security uses and for uses in administrative and judicial proceedings.
- (35) In certain cases of exceptions or limitations, rightholders should receive fair compensation to compensate them adequately for the use made of their protected works or other subject-matter. When determining the form, detailed arrangements and possible level of such fair compensation, account should be taken of the particular circumstances of each case. When evaluating these circumstances, a valuable criterion would be the possible harm to the rightholders resulting from the act in question. In cases where rightholders have already received payment in some other form, for instance as part of a licence fee, no specific or separate payment may be due. The level of fair compensation should take full account of the degree of use of technological protection measures referred to in this Directive. In certain situations where the prejudice to the rightholder would be minimal, no obligation for payment may arise.
- (36) The Member States may provide for fair compensation for rightholders also when applying the optional provisions on exceptions or limitations which do not require such compensation.
- (37) Existing national schemes on reprography, where they exist, do not create major barriers to the internal market. Member States should be allowed to provide for an exception or limitation in respect of reprography.
- (38) Member States should be allowed to provide for an exception or limitation to the reproduction right for certain types of reproduction of audio, visual and audiovisual material for private use, accompanied by fair compensation. This may include the introduction or continuation of remuneration schemes to compensate for the prejudice to rightholders. Although differences between those remuneration schemes affect the functioning of the internal market, those differences, with respect to analogue private reproduction, should not have a significant impact on the development of the information society. Digital private copying is likely to be more widespread and have a greater economic impact. Due account should therefore be taken of the differences between digital and analogue private copying and a distinction should be made in certain respects between them.
- (39) When applying the exception or limitation on private copying, Member States should take due account of technological and economic developments, in particular with respect to digital private copying and remuneration schemes, when effective technological protection measures are available. Such exceptions or limitations should not inhibit the use of technological measures or their enforcement against circumvention.
- (40) Member States may provide for an exception or limitation for the benefit of certain non-profit making establishments, such as publicly accessible libraries and equivalent institutions, as well as archives. However, this should be limited to certain special cases covered by the reproduction right. Such an exception or limitation should not cover uses made in the context of on-line delivery of protected works or other subject-matter. This Directive should be without prejudice to the Member States' option to derogate from the exclusive public lending right in accordance with Article 5 of Directive 92/100/EEC. Therefore, specific contracts or licences should be promoted which, without creating imbalances, favour such establishments and the disseminative purposes they serve.
- (41) When applying the exception or limitation in respect of ephemeral recordings made by broadcasting organisations it is understood that a broadcaster's own facilities include those of a person acting on behalf of and under the responsibility of the broadcasting organisation.
- (42) When applying the exception or limitation for non-commercial educational and scientific research purposes, including distance learning, the non-commercial nature of the activity in question should be determined by that activity as such. The organisational structure and the means of funding of the establishment concerned are not the decisive factors in this respect.
- (43) It is in any case important for the Member States to adopt all necessary measures to facilitate access to works by persons suffering from a disability which constitutes an obstacle to the use of the works themselves, and to pay particular attention to accessible formats.
- (44) When applying the exceptions and limitations provided for in this Directive, they should be exercised in accordance with international obligations. Such exceptions and limitations may not be applied in a way which prejudices the legitimate interests of the rightholder or which conflicts with the normal exploitation of his work or other subject-matter. The provision of such exceptions or limitations by Member States should, in particular, duly reflect the increased economic impact that such exceptions or limitations may have in the context of the new electronic environment. Therefore, the scope of certain exceptions or limitations may have to be even more limited when it comes to certain new uses of copyright works and other subject-matter.

- (45) The exceptions and limitations referred to in Article 5(2), (3) and (4) should not, however, prevent the definition of contractual relations designed to ensure fair compensation for the rightholders insofar as permitted by national law.
- (46) Recourse to mediation could help users and rightholders to settle disputes. The Commission, in cooperation with the Member States within the Contact Committee, should undertake a study to consider new legal ways of settling disputes concerning copyright and related rights.
- (47) Technological development will allow rightholders to make use of technological measures designed to prevent or restrict acts not authorised by the rightholders of any copyright, rights related to copyright or the *sui generis* right in databases. The danger, however, exists that illegal activities might be carried out in order to enable or facilitate the circumvention of the technical protection provided by these measures. In order to avoid fragmented legal approaches that could potentially hinder the functioning of the internal market, there is a need to provide for harmonised legal protection against circumvention of effective technological measures and against provision of devices and products or services to this effect.
- (48) Such legal protection should be provided in respect of technological measures that effectively restrict acts not authorised by the rightholders of any copyright, rights related to copyright or the *sui generis* right in databases without, however, preventing the normal operation of electronic equipment and its technological development. Such legal protection implies no obligation to design devices, products, components or services to correspond to technological measures, so long as such device, product, component or service does not otherwise fall under the prohibition of Article 6. Such legal protection should respect proportionality and should not prohibit those devices or activities which have a commercially significant purpose or use other than to circumvent the technical protection. In particular, this protection should not hinder research into cryptography.
- (49) The legal protection of technological measures is without prejudice to the application of any national provisions which may prohibit the private possession of devices, products or components for the circumvention of technological measures.
- (50) Such a harmonised legal protection does not affect the specific provisions on protection provided for by Directive 91/250/EEC. In particular, it should not apply to the protection of technological measures used in connection with computer programs, which is exclusively addressed in that Directive. It should neither inhibit nor prevent the development or use of any means of circumventing a technological measure that is necessary to enable acts to be undertaken in accordance with the terms of Article 5(3) or Article 6 of Directive 91/250/EEC. Articles 5 and 6 of that Directive exclusively determine exceptions to the exclusive rights applicable to computer programs.
- (51) The legal protection of technological measures applies without prejudice to public policy, as reflected in Article 5, or public security. Member States should promote voluntary measures taken by rightholders, including the conclusion and implementation of agreements between rightholders and other parties concerned, to accommodate achieving the objectives of certain exceptions or limitations provided for in national law in accordance with this Directive. In the absence of such voluntary measures or agreements within a reasonable period of time, Member States should take appropriate measures to ensure that rightholders provide beneficiaries of such exceptions or limitations with appropriate means of benefiting from them, by modifying an implemented technological measure or by other means. However, in order to prevent abuse of such measures taken by rightholders, including within the framework of agreements, or taken by a Member State, any technological measures applied in implementation of such measures should enjoy legal protection.
- (52) When implementing an exception or limitation for private copying in accordance with Article 5(2)(b), Member States should likewise promote the use of voluntary measures to accommodate achieving the objectives of such exception or limitation. If, within a reasonable period of time, no such voluntary measures to make reproduction for private use possible have been taken, Member States may take measures to enable beneficiaries of the exception or limitation concerned to benefit from it. Voluntary measures taken by rightholders, including agreements between rightholders and other parties concerned, as well as measures taken by Member States, do not prevent rightholders from using technological measures which are consistent with the exceptions or limitations on private copying in national law in accordance with Article 5(2)(b), taking account of the condition of fair compensation under that provision and the possible differentiation between various conditions of use in accordance with Article 5(5), such as controlling the number of reproductions. In order to prevent abuse of such measures, any technological measures applied in their implementation should enjoy legal protection.
- (53) The protection of technological measures should ensure a secure environment for the provision of interactive on-demand services, in such a way that members of the public may access works or other subject-matter from a place and at a time individually chosen by them. Where such services are governed by contractual arrangements, the first and second subparagraphs of Article 6(4) should not apply. Non-interactive forms of online use should remain subject to those provisions.



- (54) Important progress has been made in the international standardisation of technical systems of identification of works and protected subject-matter in digital format. In an increasingly networked environment, differences between technological measures could lead to an incompatibility of systems within the Community. Compatibility and interoperability of the different systems should be encouraged. It would be highly desirable to encourage the development of global systems.
- (55) Technological development will facilitate the distribution of works, notably on networks, and this will entail the need for rightholders to identify better the work or other subject-matter, the author or any other rightholder, and to provide information about the terms and conditions of use of the work or other subject-matter in order to render easier the management of rights attached to them. Rightholders should be encouraged to use markings indicating, in addition to the information referred to above, *inter alia* their authorisation when putting works or other subject-matter on networks.
- (56) There is, however, the danger that illegal activities might be carried out in order to remove or alter the electronic copyright-management information attached to it, or otherwise to distribute, import for distribution, broadcast, communicate to the public or make available to the public works or other protected subject-matter from which such information has been removed without authority. In order to avoid fragmented legal approaches that could potentially hinder the functioning of the internal market, there is a need to provide for harmonised legal protection against any of these activities.
- (57) Any such rights-management information systems referred to above may, depending on their design, at the same time process personal data about the consumption patterns of protected subject-matter by individuals and allow for tracing of on-line behaviour. These technical means, in their technical functions, should incorporate privacy safeguards in accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and the free movement of such data<sup>(1)</sup>.
- (58) Member States should provide for effective sanctions and remedies for infringements of rights and obligations as set out in this Directive. They should take all the measures necessary to ensure that those sanctions and remedies are applied. The sanctions thus provided for should be effective, proportionate and dissuasive and should include the possibility of seeking damages and/or injunctive relief and, where appropriate, of applying for seizure of infringing material.
- (59) In the digital environment, in particular, the services of intermediaries may increasingly be used by third parties for infringing activities. In many cases such intermediaries are best placed to bring such infringing activities to an end. Therefore, without prejudice to any other sanctions and remedies available, rightholders should have the possibility of applying for an injunction against an intermediary who carries a third party's infringement of a protected work or other subject-matter in a network. This possibility should be available even where the acts carried out by the intermediary are exempted under Article 5. The conditions and modalities relating to such injunctions should be left to the national law of the Member States.
- (60) The protection provided under this Directive should be without prejudice to national or Community legal provisions in other areas, such as industrial property, data protection, conditional access, access to public documents, and the rule of media exploitation chronology, which may affect the protection of copyright or related rights.
- (61) In order to comply with the WIPO Performances and Phonograms Treaty, Directives 92/100/EEC and 93/98/EEC should be amended,

HAVE ADOPTED THIS DIRECTIVE:

#### CHAPTER I

#### OBJECTIVE AND SCOPE

##### Article 1

##### Scope

1. This Directive concerns the legal protection of copyright and related rights in the framework of the internal market, with particular emphasis on the information society.
2. Except in the cases referred to in Article 11, this Directive shall leave intact and shall in no way affect existing Community provisions relating to:
  - (a) the legal protection of computer programs;
  - (b) rental right, lending right and certain rights related to copyright in the field of intellectual property;
  - (c) copyright and related rights applicable to broadcasting of programmes by satellite and cable retransmission;
  - (d) the term of protection of copyright and certain related rights;
  - (e) the legal protection of databases.

<sup>(1)</sup> OJ L 281, 23.11.1995, p. 31.

## CHAPTER II

## RIGHTS AND EXCEPTIONS

## Article 2

**Reproduction right**

Member States shall provide for the exclusive right to authorise or prohibit direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part:

- (a) for authors, of their works;
- (b) for performers, of fixations of their performances;
- (c) for phonogram producers, of their phonograms;
- (d) for the producers of the first fixations of films, in respect of the original and copies of their films;
- (e) for broadcasting organisations, of fixations of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including by cable or satellite.

## Article 3

**Right of communication to the public of works and right of making available to the public other subject-matter**

1. Member States shall provide authors with the exclusive right to authorise or prohibit any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them.

2. Member States shall provide for the exclusive right to authorise or prohibit the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them:

- (a) for performers, of fixations of their performances;
- (b) for phonogram producers, of their phonograms;
- (c) for the producers of the first fixations of films, of the original and copies of their films;
- (d) for broadcasting organisations, of fixations of their broadcasts, whether these broadcasts are transmitted by wire or over the air, including by cable or satellite.

3. The rights referred to in paragraphs 1 and 2 shall not be exhausted by any act of communication to the public or making available to the public as set out in this Article.

## Article 4

**Distribution right**

1. Member States shall provide for authors, in respect of the original of their works or of copies thereof, the exclusive right to authorise or prohibit any form of distribution to the public by sale or otherwise.

2. The distribution right shall not be exhausted within the Community in respect of the original or copies of the work, except where the first sale or other transfer of ownership in the

Community of that object is made by the rightholder or with his consent.

## Article 5

**Exceptions and limitations**

1. Temporary acts of reproduction referred to in Article 2, which are transient or incidental [and] an integral and essential part of a technological process and whose sole purpose is to enable:

- (a) a transmission in a network between third parties by an intermediary, or
- (b) a lawful use

of a work or other subject-matter to be made, and which have no independent economic significance, shall be exempted from the reproduction right provided for in Article 2.

2. Member States may provide for exceptions or limitations to the reproduction right provided for in Article 2 in the following cases:

- (a) in respect of reproductions on paper or any similar medium, effected by the use of any kind of photographic technique or by some other process having similar effects, with the exception of sheet music, provided that the rightholders receive fair compensation;
- (b) in respect of reproductions on any medium made by a natural person for private use and for ends that are neither directly nor indirectly commercial, on condition that the rightholders receive fair compensation which takes account of the application or non-application of technological measures referred to in Article 6 to the work or subject-matter concerned;
- (c) in respect of specific acts of reproduction made by publicly accessible libraries, educational establishments or museums, or by archives, which are not for direct or indirect economic or commercial advantage;
- (d) in respect of ephemeral recordings of works made by broadcasting organisations by means of their own facilities and for their own broadcasts; the preservation of these recordings in official archives may, on the grounds of their exceptional documentary character, be permitted;
- (e) in respect of reproductions of broadcasts made by social institutions pursuing non-commercial purposes, such as hospitals or prisons, on condition that the rightholders receive fair compensation.

3. Member States may provide for exceptions or limitations to the rights provided for in Articles 2 and 3 in the following cases:

- (a) use for the sole purpose of illustration for teaching or scientific research, as long as the source, including the author's name, is indicated, unless this turns out to be impossible and to the extent justified by the non-commercial purpose to be achieved;
- (b) uses, for the benefit of people with a disability, which are directly related to the disability and of a non-commercial nature, to the extent required by the specific disability;

- (c) reproduction by the press, communication to the public or making available of published articles on current economic, political or religious topics or of broadcast works or other subject-matter of the same character, in cases where such use is not expressly reserved, and as long as the source, including the author's name, is indicated, or use of works or other subject-matter in connection with the reporting of current events, to the extent justified by the informatory purpose and as long as the source, including the author's name, is indicated, unless this turns out to be impossible;
- (d) quotations for purposes such as criticism or review, provided that they relate to a work or other subject-matter which has already been lawfully made available to the public, that, unless this turns out to be impossible, the source, including the author's name, is indicated, and that their use is in accordance with fair practice, and to the extent required by the specific purpose;
- (e) use for the purposes of public security or to ensure the proper performance or reporting of administrative, parliamentary or judicial proceedings;
- (f) use of political speeches as well as extracts of public lectures or similar works or subject-matter to the extent justified by the informatory purpose and provided that the source, including the author's name, is indicated, except where this turns out to be impossible;
- (g) use during religious celebrations or official celebrations organised by a public authority;
- (h) use of works, such as works of architecture or sculpture, made to be located permanently in public places;
- (i) incidental inclusion of a work or other subject-matter in other material;
- (j) use for the purpose of advertising the public exhibition or sale of artistic works, to the extent necessary to promote the event, excluding any other commercial use;
- (k) use for the purpose of caricature, parody or pastiche;
- (l) use in connection with the demonstration or repair of equipment;
- (m) use of an artistic work in the form of a building or a drawing or plan of a building for the purposes of reconstructing the building;
- (n) use by communication or making available, for the purpose of research or private study, to individual members of the public by dedicated terminals on the premises of establishments referred to in paragraph 2(c) of works and other subject-matter not subject to purchase or licensing terms which are contained in their collections;
- (o) use in certain other cases of minor importance where exceptions or limitations already exist under national law, provided that they only concern analogue uses and do not affect the free circulation of goods and services within the Community, without prejudice to the other exceptions and limitations contained in this Article.

4. Where the Member States may provide for an exception or limitation to the right of reproduction pursuant to paragraphs 2 and 3, they may provide similarly for an exception or

limitation to the right of distribution as referred to in Article 4 to the extent justified by the purpose of the authorised act of reproduction.

5. The exceptions and limitations provided for in paragraphs 1, 2, 3 and 4 shall only be applied in certain special cases which do not conflict with a normal exploitation of the work or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholder.

### CHAPTER III

## PROTECTION OF TECHNOLOGICAL MEASURES AND RIGHTS-MANAGEMENT INFORMATION

### Article 6

#### Obligations as to technological measures

1. Member States shall provide adequate legal protection against the circumvention of any effective technological measures, which the person concerned carries out in the knowledge, or with reasonable grounds to know, that he or she is pursuing that objective.

2. Member States shall provide adequate legal protection against the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services which:

- (a) are promoted, advertised or marketed for the purpose of circumvention of, or
- (b) have only a limited commercially significant purpose or use other than to circumvent, or
- (c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of,

any effective technological measures.

3. For the purposes of this Directive, the expression 'technological measures' means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject-matter, which are not authorised by the rightholder of any copyright or any right related to copyright as provided for by law or the *sui generis* right provided for in Chapter III of Directive 96/9/EC. Technological measures shall be deemed 'effective' where the use of a protected work or other subject-matter is controlled by the rightholders through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject-matter or a copy control mechanism, which achieves the protection objective.

4. Notwithstanding the legal protection provided for in paragraph 1, in the absence of voluntary measures taken by rightholders, including agreements between rightholders and other parties concerned, Member States shall take appropriate measures to ensure that rightholders make available to the beneficiary of an exception or limitation provided for in national law in accordance with Article 5(2)(a), (2)(c), (2)(d),

(2)(e), (3)(a), (3)(b) or (3)(e) the means of benefiting from that exception or limitation, to the extent necessary to benefit from that exception or limitation and where that beneficiary has legal access to the protected work or subject-matter concerned.

A Member State may also take such measures in respect of a beneficiary of an exception or limitation provided for in accordance with Article 5(2)(b), unless reproduction for private use has already been made possible by rightholders to the extent necessary to benefit from the exception or limitation concerned and in accordance with the provisions of Article 5(2)(b) and (5), without preventing rightholders from adopting adequate measures regarding the number of reproductions in accordance with these provisions.

The technological measures applied voluntarily by rightholders, including those applied in implementation of voluntary agreements, and technological measures applied in implementation of the measures taken by Member States, shall enjoy the legal protection provided for in paragraph 1.

The provisions of the first and second subparagraphs shall not apply to works or other subject-matter made available to the public on agreed contractual terms in such a way that members of the public may access them from a place and at a time individually chosen by them.

When this Article is applied in the context of Directives 92/100/EEC and 96/9/EC, this paragraph shall apply *mutatis mutandis*.

#### Article 7

#### Obligations concerning rights-management information

1. Member States shall provide for adequate legal protection against any person knowingly performing without authority any of the following acts:

- (a) the removal or alteration of any electronic rights-management information;
- (b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject-matter protected under this Directive or under Chapter III of Directive 96/9/EC from which electronic rights-management information has been removed or altered without authority,

if such person knows, or has reasonable grounds to know, that by so doing he is inducing, enabling, facilitating or concealing an infringement of any copyright or any rights related to copyright as provided by law, or of the *sui generis* right provided for in Chapter III of Directive 96/9/EC.

2. For the purposes of this Directive, the expression 'rights-management information' means any information provided by rightholders which identifies the work or other subject-matter referred to in this Directive or covered by the *sui generis* right provided for in Chapter III of Directive 96/9/EC, the author or any other rightholder, or information about the terms and conditions of use of the work or other subject-matter, and any numbers or codes that represent such information.

The first subparagraph shall apply when any of these items of information is associated with a copy of, or appears in connection with the communication to the public of, a work or other subject-matter referred to in this Directive or covered by the *sui generis* right provided for in Chapter III of Directive 96/9/EC.

#### CHAPTER IV

#### COMMON PROVISIONS

#### Article 8

#### Sanctions and remedies

1. Member States shall provide appropriate sanctions and remedies in respect of infringements of the rights and obligations set out in this Directive and shall take all the measures necessary to ensure that those sanctions and remedies are applied. The sanctions thus provided for shall be effective, proportionate and dissuasive.

2. Each Member State shall take the measures necessary to ensure that rightholders whose interests are affected by an infringing activity carried out on its territory can bring an action for damages and/or apply for an injunction and, where appropriate, for the seizure of infringing material as well as of devices, products or components referred to in Article 6(2).

3. Member States shall ensure that rightholders are in a position to apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right.

#### Article 9

#### Continued application of other legal provisions

This Directive shall be without prejudice to provisions concerning in particular patent rights, trade marks, design rights, utility models, topographies of semi-conductor products, type faces, conditional access, access to cable of broadcasting services, protection of national treasures, legal deposit requirements, laws on restrictive practices and unfair competition, trade secrets, security, confidentiality, data protection and privacy, access to public documents, the law of contract.

#### Article 10

#### Application over time

1. The provisions of this Directive shall apply in respect of all works and other subject-matter referred to in this Directive which are, on 22 December 2002, protected by the Member States' legislation in the field of copyright and related rights, or which meet the criteria for protection under the provisions of this Directive or the provisions referred to in Article 1(2).

2. This Directive shall apply without prejudice to any acts concluded and rights acquired before 22 December 2002.

### Article 11

#### Technical adaptations

1. Directive 92/100/EEC is hereby amended as follows:

(a) Article 7 shall be deleted;

(b) Article 10(3) shall be replaced by the following:

'3. The limitations shall only be applied in certain special cases which do not conflict with a normal exploitation of the subject-matter and do not unreasonably prejudice the legitimate interests of the rightholder.'

2. Article 3(2) of Directive 93/98/EEC shall be replaced by the following:

'2. The rights of producers of phonograms shall expire 50 years after the fixation is made. However, if the phonogram has been lawfully published within this period, the said rights shall expire 50 years from the date of the first lawful publication. If no lawful publication has taken place within the period mentioned in the first sentence, and if the phonogram has been lawfully communicated to the public within this period, the said rights shall expire 50 years from the date of the first lawful communication to the public.

However, where through the expiry of the term of protection granted pursuant to this paragraph in its version before amendment by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (\*) the rights of producers of phonograms are no longer protected on 22 December 2002, this paragraph shall not have the effect of protecting those rights anew.

(\*) OJ L 167, 22.6.2001, p. 10.'

### Article 12

#### Final provisions

1. Not later than 22 December 2004 and every three years thereafter, the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Directive, in which, *inter alia*, on the basis of specific information supplied by the Member States, it shall examine in particular the application of Articles 5, 6 and 8 in the light of the development of the digital market. In the case of Article 6, it shall examine in particular whether that Article confers a sufficient level of protection and whether acts which are permitted by law are being adversely affected by the use of effective technological measures. Where necessary, in particular to ensure the functioning of the internal market pursuant to Article 14 of the Treaty, it shall submit proposals for amendments to this Directive.

2. Protection of rights related to copyright under this Directive shall leave intact and shall in no way affect the protection of copyright.

3. A contact committee is hereby established. It shall be composed of representatives of the competent authorities of the Member States. It shall be chaired by a representative of the Commission and shall meet either on the initiative of the chairman or at the request of the delegation of a Member State.

4. The tasks of the committee shall be as follows:

(a) to examine the impact of this Directive on the functioning of the internal market, and to highlight any difficulties;

(b) to organise consultations on all questions deriving from the application of this Directive;

(c) to facilitate the exchange of information on relevant developments in legislation and case-law, as well as relevant economic, social, cultural and technological developments;

(d) to act as a forum for the assessment of the digital market in works and other items, including private copying and the use of technological measures.

### Article 13

#### Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 22 December 2002. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

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

### Article 14

#### Entry into force

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

### Article 15

#### Addressees

This Directive is addressed to the Member States.

Done at Brussels, 22 May 2001.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

M. WINBERG

## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 4 April 2001

**concerning the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Republic of Chile adding a Protocol on mutual administrative assistance in customs matters to the Framework Cooperation Agreement between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part**

(2001/473/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with the first sentence of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) To allow mutual administrative assistance in customs matters between the two parties, as provided for in Article 7(3) of the Framework Cooperation Agreement leading ultimately to the establishment of a political and economic association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part <sup>(1)</sup>, a Protocol should be added to that Agreement.
- (2) Negotiations to that effect have taken place with Chile and have led to an Agreement in the form of an Exchange of Letters which is in the Community's interest to approve,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Agreement in the form of an Exchange of Letters between the European Community and the Republic of Chile adding a Protocol on mutual administrative assistance in customs

matters to the Framework Cooperation Agreement is hereby approved on behalf of the Community.

The text of the Agreement in the form of an Exchange of Letters is attached to this Decision.

*Article 2*

The President of the Council is hereby authorised to designate the persons empowered to sign the Agreement in order to bind the Community <sup>(2)</sup>.

*Article 3*

The President of the Council shall, on behalf of the Community, give the notification provided for by the Agreement in the form of an Exchange of Letters.

Done at Luxembourg, 4 April 2001.

*For the Council*

*The President*

B. ROSENGREN

<sup>(1)</sup> OJ L 42, 16.2.1999, p. 46.

<sup>(2)</sup> The date of entry into force of the Protocol will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

**AGREEMENT**

**in the form of an Exchange of Letters between the European Community and the Republic of Chile adding a Protocol on mutual administrative assistance in customs matters to the Framework Cooperation Agreement between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part**

*A. Letter from the European Community*

Brussels, 13 June 2001

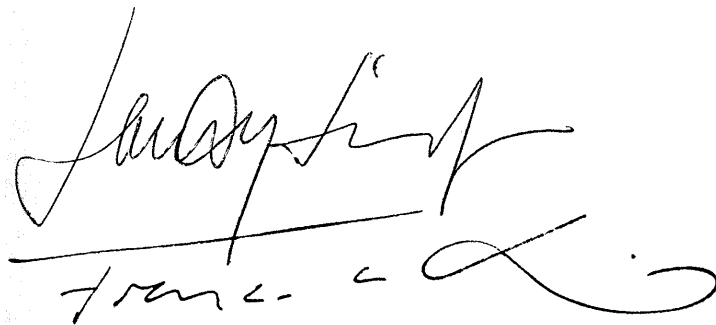
Sir,

I have the honour to refer to the negotiations held between the representatives of the European Community and the Republic of Chile with a view to concluding a Protocol on mutual administrative assistance in customs matters within the institutional framework provided for in the Framework Agreement which was signed in Florence on 21 June 1996 and entered into force on 1 February 1999.

This Protocol, the text of which is attached, will form an integral part of the abovementioned Framework Agreement and will enter into force on the first day of the second month following the date of notification that the necessary procedures have been accomplished.

I should be obliged if you would confirm that your Government is in agreement with the foregoing.

Please accept, sir, the assurance of my highest consideration.

*On behalf of the European Community*

Francis Ferrero

*B. Letter from the Republic of Chile*

Brussels, 13 June 2001

Sir,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

'I have the honour to refer to the negotiations held between the representatives of the European Community and the Republic of Chile with a view to concluding a Protocol on mutual administrative assistance in customs matters within the institutional framework provided for in the Framework Agreement which was signed in Florence on 21 June 1996 and entered into force on 1 February 1999.

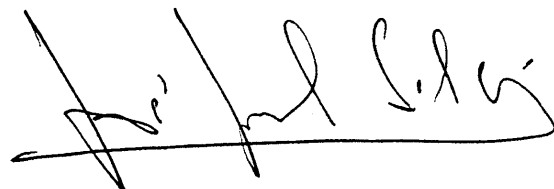
This Protocol, the text of which is attached, will form an integral part of the abovementioned Framework Agreement and will enter into force on the first day of the second month following the date of notification that the necessary procedures have been accomplished.

I should be obliged if you would confirm that your Government is in agreement with the foregoing.'

I am able to confirm that my Government is in agreement with the contents of your letter.

Please accept, sir, the assurance of my highest consideration.

*For the Government of the Republic of Chile*



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**PROTOCOL**  
**on mutual administrative assistance in customs matters**

*Article 1*

**Definitions**

For the purposes of this Protocol:

'customs legislation' shall mean any legal or regulatory provisions adopted by the Community or by Chile governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures of prohibition, restriction and control;

'applicant authority' shall mean a competent administrative authority which has been designated by a Contracting Party for this purpose and which makes a request for assistance on the basis of this Protocol;

'requested authority' shall mean a competent administrative authority which has been designated by a Contracting Party for this purpose and which receives a request for assistance on the basis of this Protocol;

'personal data' shall mean all information relating to an identified or identifiable individual;

'operation in breach of customs legislation' shall mean any violation or attempted violation of customs legislation;

'information' shall mean all data, documents, certified report copies or corresponding certified copies or other communications whatever the support may be.

*Article 2*

**Scope**

1. The Contracting Parties shall assist each other, in the areas within their competence, in the manner and under the conditions laid down in this Protocol, to ensure the correct application of the customs legislation, in particular by preventing, investigating and combating operations in breach of that legislation.

2. Assistance in customs matters, as provided for in this Protocol, shall apply to any administrative authority of the Contracting Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of a judicial authority, except where communication of such information is authorised by that authority.

3. Without prejudice to Article 10, all assistance given in the framework of this Protocol shall be executed in accordance with the legal and regulatory provisions of each Contracting Party.

4. Assistance to recover duties, taxes or fines is not covered by this Protocol.

*Article 3*

**Assistance on request**

1. At the request of the applicant authority, the requested authority shall provide it with all relevant information which may enable it to ensure that customs legislation is correctly applied, including information regarding activities noted or planned which are, or could be, operations in breach of customs legislation.

2. At the request of the applicant authority, the requested authority shall inform it of:

- (a) whether goods exported from the territory of one of the Contracting Parties have been properly imported into the territory of the other Contracting Party, specifying, where appropriate, the customs procedure applied to the goods;
- (b) whether goods imported into the territory of one of the Contracting Parties have been properly exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.

3. At the request of the applicant authority, the requested authority shall, within the framework of its legal or regulatory provisions, take the necessary steps to ensure special surveillance of:

- (a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;
- (b) places where stocks of goods have been, or may be, assembled in such a way that there are reasonable grounds for believing that these goods are intended to be used in operations in breach of customs legislation;
- (c) goods that are, or may be, transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation;
- (d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.

*Article 4*

**Spontaneous assistance**

The Contracting Parties shall assist each other, at their own initiative and in accordance with their legal or regulatory provisions, if they consider that to be necessary for the correct application of customs legislation, particularly by providing information obtained pertaining to:

- activities which are, or appear to be, operations in breach of customs legislation and which may be of interest to the other Contracting Party;

- new means or methods employed in carrying out operations in breach of customs legislation;
- goods known to be subject to operations in breach of customs legislation;
- natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;
- means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation.

#### Article 5

##### Delivery, notification

At the request of the applicant authority, the requested authority shall, in accordance with legal or regulatory provisions applicable to the latter, take all necessary measures in order:

- to deliver any documents, or
- to notify any decisions,

emanating from the applicant authority and falling within the scope of this Protocol, to an addressee residing or established in the territory of the requested authority.

Requests for delivery of documents or notification of decisions shall be made in writing in an official language of the requested authority or in a language acceptable to that authority.

#### Article 6

##### Form and substance of requests for assistance

1. Requests pursuant to this Protocol shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing within seven days, failing which they shall be considered null and void.

2. Requests pursuant to paragraph 1 shall include the following information:

- (a) the applicant authority;
- (b) the measure requested;
- (c) the object of, and the reason for, the request;
- (d) the legal or regulatory provisions and other legal elements involved;
- (e) indications as exact and comprehensive as possible on the natural or legal persons who are the target of the investigations;
- (f) a summary of the relevant facts and of the enquiries already carried out.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority. This requirement shall not apply to any documents that accompany the request under paragraph 1.

4. If a request does not meet the formal requirements set out above, its correction or completion may be requested; in the meantime precautionary measures may be ordered.

#### Article 7

##### Execution of requests

1. In order to comply with a request for assistance, the requested authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Contracting Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out. This provision shall also apply to any other authority to which the request has been addressed by the requested authority when the latter cannot act on its own.

2. Requests for assistance shall be executed in accordance with the legal or regulatory provisions of the requested Contracting Party.

3. Duly authorised officials of a Contracting Party may, with the agreement of the other Contracting Party and subject to the conditions laid down by the latter, be present to obtain in the offices of the requested authority or any other authority concerned in accordance with paragraph 1, information relating to activities that are, or may be, operations in breach of customs legislation which the applicant authority needs for the purposes of this Protocol.

4. Duly authorised officials of a Contracting Party may, with the agreement of the other Contracting Party and subject to the conditions laid down by the latter, be present at enquiries carried out in the latter's territory.

5. The reply to the request for assistance shall be sent within two months of its receipt. When the requested authority is not in position to comply with a request for assistance within this period, it shall inform the applicant authority indicating when it foresees that it might comply with the request.

#### Article 8

##### Form in which information is to be communicated

1. The requested authority shall communicate results of enquiries to the applicant authority in writing together with relevant documents, certified copies or other items.

2. This information may be in computerised form.

3. Original documents shall be transmitted only upon request in cases where certified copies would be insufficient. These originals shall be returned at the earliest opportunity.

#### Article 9

##### Exceptions to the obligation to provide assistance

1. Assistance may be refused or may be subject to the satisfaction of certain conditions or requirements in cases where a Party is of the opinion that assistance under this Protocol would:

- (a) be likely to prejudice the sovereignty of Chile or that of a Member State which has been requested to provide assistance under this Protocol; or
- (b) be likely to prejudice public policy, security or other essential interests, in particular in the cases referred to under Article 10(2); or
- (c) violate an industrial, commercial or professional secret.

2. Assistance may be postponed by the requested authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested authority shall consult with the applicant authority to determine if assistance can be given subject to such terms or conditions as the requested authority may require.

3. Where the applicant authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.

4. For the cases referred to in paragraphs 1 and 2, the decision of the requested authority and the reasons therefore must be communicated to the applicant authority without delay.

#### Article 10

##### Information exchange and confidentiality

1. Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential or restricted nature, depending on the rules applicable in each of the Contracting Parties. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws of the Contracting Party that received it and the corresponding provisions applying to the Community authorities.

2. Personal data may be exchanged only where the Contracting Party which may receive them undertakes to protect such data in at least an equivalent way to the one applicable to that particular case in the Contracting Party that may supply them. To that end, contracting parties shall communicate to each other information on their applicable rules, including, where appropriate, legal provisions in force in the Member States.

3. The use, in judicial or administrative proceedings instituted in respect of operations in breach of customs legislation, of information obtained under this Protocol, is considered to be for the purposes of this Protocol. Therefore, the Contracting Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Protocol. The competent authority which supplied that information or gave access to those documents shall be notified of such use.

4. Information obtained shall be used solely for the purposes of this Protocol. Where one of the Contracting Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the authority which

provided the information. Such use shall then be subject to any restrictions laid down by that authority.

#### Article 11

##### Experts and witnesses

An official of a requested authority may be authorised to appear, within the limitations of the authorisation granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol, and produce such objects, documents or certified copies thereof, as may be needed for the proceedings. The request for appearance must indicate specifically before which judicial or administrative authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

#### Article 12

##### Assistance expenses

The Contracting Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol, except, as appropriate, for expenses to experts and witnesses, and those to interpreters and translators who are not public service employees.

#### Article 13

##### Implementation

1. The implementation of this Protocol shall be entrusted on the one hand to the customs authorities of Chile and on the other hand to the competent services of the Commission of the European Communities and the customs authorities of the Member States as appropriate. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration the rules in force in particular in the field of data protection. They may recommend to the competent bodies amendments which they consider should be made to this Protocol.

2. The Contracting Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Protocol. In particular, they shall exchange annually the list of competent authorities authorised to intervene in accordance with this Protocol.

#### Article 14

##### Other agreements

1. Taking into account the respective competencies of the Community and the Member States, the provisions of this Protocol shall:

- not affect the obligations of the Contracting Parties under any other international agreement or convention;
- be deemed complementary to agreements on mutual assistance which have been or may be concluded between individual Member States and Chile and shall

— not affect the Community provisions governing the communication between the competent services of the Commission of the European Communities and the customs authorities of the Member States of any information obtained under this Protocol which could be of interest to the Community.

2. Notwithstanding the provisions of paragraph 1, the provisions of this Protocol shall take precedence over the provisions of any bilateral agreement on mutual assistance which has been or may be concluded between individual

Member States and Chile in so far as the provisions of the latter are incompatible with those of this Protocol.

3. In respect of questions relating to the applicability of this Protocol, the Contracting Parties shall consult each other to resolve the matter in the framework of the Joint Committee, set up under Article 35 of the Framework Agreement of Cooperation.

4. A Working Party shall be set up to assist the Joint Committee in the management of this Protocol.

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## COMMISSION

## COMMISSION DECISION

of 8 May 2001

**on the clearance of the accounts of Member States' expenditure financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, for the 2000 financial year**

(notified under document number C(2001) 1192)

(2001/474/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

expenditure incurred by the Member States between 16 October 1999 and 15 October 2000.

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy <sup>(1)</sup>, as last amended by Regulation (EC) No 1287/95 <sup>(2)</sup>, and in particular Article 5(2)(b) thereof,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy <sup>(3)</sup> and in particular Article 7(3) thereof,

After consulting the Fund Committee,

Whereas:

- (1) Under Article 5(2)(b) of Regulation (EEC) No 729/70 and Article 7(3) of Regulation (EC) No 1258/1999, the Commission, on the basis of the annual accounts submitted by the Member States, accompanied by the information required for clearance and a certificate regarding the veracity, completeness, and accuracy of the accounts transmitted clears the accounts of the paying agencies referred to in Article 4(1) of those Regulations.
- (2) With regard to Article 7(1) of Regulation (EC) No 296/96 of 16 February 1996 on data to be transmitted by the Member States and the monthly booking of expenditure financed under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) and laying down certain detailed rules of application for Council Regulation (EC) No 1259/1999 <sup>(4)</sup>, as last amended by Regulation (EC) No 2785/2000 <sup>(5)</sup> account is taken for the 2000 financial year of

- (3) The time limits granted to the Member States for the submission to the Commission of the documents referred to in Article 5(1)(b) of Regulation (EEC) No 729/70 and Article 6(1)(b) of Regulation (EC) No 1258/1999 and in Article 4(1), (3) and (4) of Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of accounts of the EAGGF Guarantee Section <sup>(6)</sup>, as last amended by Regulation (EC) No 2245/1999 <sup>(7)</sup>, have expired.

- (4) The Commission has checked the information submitted and communicated to the Member States before the 31 March 2001 the results of its verifications with the necessary amendments.

- (5) Under the first subparagraph of Article 7(1) of Regulation (EC) No 1663/95, the accounts clearance decision referred to in Article 5(2)(b) of Regulation (EEC) No 729/70 and Article 7(3) of Regulation (EC) No 1258/1999 must determine, without prejudice to decisions taken subsequently in accordance with Articles 5(2)(c) and 7(4) of the respective Regulations, the amount of expenditure effected in each Member State during the financial year in question recognised as being chargeable to the EAGGF Guarantee Section, on the basis of the accounts referred to in Article 5(1)(b) and 6(1)(b) of the abovementioned Regulations and the reductions and suspensions of advances for the financial year concerned, including the reductions referred to in the second subparagraph of Article 4(3) of Regulation (EC) No 296/96. Under Article 102 of the Financial Regula-

<sup>(1)</sup> OJ L 94, 28.4.1970, p. 13.

<sup>(2)</sup> OJ L 125, 8.6.1995, p. 1.

<sup>(3)</sup> OJ L 160, 26.6.1999, p. 103.

<sup>(4)</sup> OJ L 39, 17.2.1996, p. 5.

<sup>(5)</sup> OJ L 323, 20.12.2000, p. 3.

<sup>(6)</sup> OJ L 158, 8.7.1995, p. 6.

<sup>(7)</sup> OJ L 273, 23.10.1999, p. 5.

- tion of 21 December 1977 <sup>(1)</sup> applicable to the general budget of the European Communities, as last amended by Regulation (EC, ECSC, Euratom) No 2673/1999 <sup>(2)</sup>, the outcome of the clearance decision, that is to say, any discrepancy which may occur between the total expenditure booked to the accounts for a financial year pursuant to Articles 100 and 101 and the total expenditure taken into consideration by the Commission in this Decision, is to be booked, under a single article, as additional expenditure or a reduction in expenditure.
- (6) For certain paying agencies, the annual accounts and the accompanying documents permit the Commission to take a decision on the completeness, accuracy and veracity of the accounts submitted. In the light of the verifications made some of the accounts do not fulfil this condition and therefore part of the expenditure concerned cannot be recognised as chargeable to the EAGGF Guarantee Section. Annex I lists the amounts cleared by Member State. The details of these amounts have been described in the Summary Report that has been presented to the Fund Committee at the same time as the present Decision.
- (7) In the light of the verifications made, the information submitted by certain other paying agencies requires additional inquiries and their accounts cannot be cleared in this Decision. Annex II lists the paying agencies concerned.
- (8) Article 4(2) of Regulation (EC) No 296/96, in liaison with Article 14 of Council Regulation (EC) No 2040/2000 of 26 September 2000 on budgetary discipline <sup>(3)</sup> lays down that advances against booking are to be reduced for expenditure effected by the Member States after the limits or deadlines laid down. However, pursuant to Article 4(3) of Regulation (EC) No 296/96, any overrun of deadlines during September and October are to be taken into account in the accounts clearance Decision except where noted before the last Decision of the financial year relating to advances. Part of the expenditure claimed by certain Member States during the abovementioned period and for the measures for which the Commission did not accept any extenuating circumstances was effected after the limits or deadlines laid down. This Decision should therefore lay down the relevant reductions. A decision will be taken at a later date, in accordance with Article 5(2)(c) of Regulation (EEC) No 729/70 and Article 7(4) of Regulation (EC) No 1258/1999, definitively fixing the expenditure for which Community financing will not be granted regarding those reductions and any other expenditure which may be found to have been effected after the limits or deadlines laid down;
- (9) The Commission, in accordance with Article 13 of Council Decision 94/729/EC of 31 October 1994 on budgetary discipline <sup>(4)</sup>, Article 14 of Council Regulation (EC) No 2040/2000 and Article 4(2) of Regulation (EC) No 296/96, reduced or suspended a number of monthly advances on entry into the accounts of expenditure for the 2000 financial year and proceeds in this Decision to the reductions laid down in Article 4(3) of Regulation (EC) No 296/96. In the light of the above, to avoid any premature or even only temporary reimbursement of the amounts in question, they should not be recognised in this Decision, without prejudice to further examination according to Article 5(2)(c) of Regulation (EEC) No 729/70 and Article 7(4) of Regulation (EC) No 1258/1999.
- (10) The second subparagraph of Article 7(1) of Regulation (EC) No 1663/95, lays down that the amounts that, in accordance with the accounts clearance Decision referred to in the first subparagraph, are recoverable from, or payable to, each Member State shall be determined by deducting advances paid during the financial year in question, i.e. 2000, from expenditure recognised for that year in accordance with the first subparagraph. Such amounts are to be deducted from, or added to, advances against expenditure from the second month following that in which the accounts clearance Decision is taken. Annex I lists the amounts cleared for each Member States.
- (11) In accordance with the final subparagraph of Article 5(2)(b) of Regulation (EEC) No 729/70, Article 7(3) of Regulation (EC) No 1258/1999 and Article 7(1) of Regulation (EC) No 1663/95, this Decision, adopted on the basis of accounting information, does not prejudice decisions taken subsequently by the Commission excluding from Community financing expenditure not effected in accordance with Community rules,

HAS ADOPTED THIS DECISION:

#### *Article 1*

With the exception of the paying agencies referred to in Article 2 the accounts of the paying agencies of the Member States concerning expenditure financed by the EAGGF Guarantee Section in respect of the 2000 financial year are hereby cleared. The amounts which are recoverable from, or payable to, each Member State in accordance with the present Decision are determined in Annex I.

#### *Article 2*

For the 2000 financial year, the accounts of the paying agencies shown in Annex II are disjoined from this Decision and shall be the subject of a future clearance Decision.

<sup>(1)</sup> OJ L 356, 31.12.1977, p. 1.

<sup>(2)</sup> OJ L 326, 18.12.1999, p. 1.

<sup>(3)</sup> OJ L 244, 29.9.2000, p. 27.

<sup>(4)</sup> OJ L 293, 12.11.1994, p. 14.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 8 May 2001.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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## ANNEX I

## Clearance of the paying agencies' accounts

Financial year 2000

Amount to be recovered from or paid to the Member State in national currency

MS	2000 — Expenditure for the paying agencies for which the accounts are:		Total a + b	Reductions and suspensions for the whole financial year	Total including reductions and suspensions	Advances paid to the Member State for the financial year	Amount to be recovered from (-) or paid to (+) the Member State
	cleared	disjoined					
	= expenditure declared in the annual declaration	= total of the expenditure in the monthly declarations	c = a + b	d	e = c + d	f	g = e - f
	a	b					
AT (*)	1 018 678 799,26	0,00	1 018 678 799,26	0,00	1 018 678 799,26	1 018 678 799,57	- 0,31
BE	38 533 547 541,00	0,00	38 533 547 541,00	- 956 071,00	38 532 591 470,00	38 509 213 253,00	23 378 217,00
DE	11 087 837 848,33	0,00	11 087 837 848,33	- 175 918,00	11 087 661 930,33	11 090 397 880,31	- 2 735 949,98
DK	9 973 480 387,25	0,00	9 973 480 387,25	- 226 961 687,66	9 746 518 699,59	9 746 518 699,59	0,00
ES	100 232 972 425,00	811 730 343 369,00	911 963 315 794,00	- 1 349 447 322,00	910 613 868 472,00	911 114 796 786,00	- 500 928 314,00
FI	4 325 759 146,21	0,00	4 325 759 146,21	- 16 221,24	4 325 742 924,97	4 325 838 465,82	- 95 540,85
FR	59 029 243 485,38	0,00	59 029 243 485,38	- 5 413 288,88	59 023 830 196,50	59 045 641 935,13	- 21 811 738,63
GR	0,00	889 719 853 835,00	889 719 853 835,00	- 28 084 903 742,00	861 634 950 093,00	861 634 816 581,00	133 512,00
IE	1 324 188 999,60	0,00	1 324 188 999,60	- 171 166,29	1 324 017 833,31	1 324 137 087,23	- 119 253,92
IT (*)	5 451 554 283,64	0,00	5 451 554 283,64	- 390 095 793,36	5 061 458 490,28	5 031 866 320,07	29 592 170,21
LU	832 474 469,00	0,00	832 474 469,00	0,00	832 474 469,00	832 474 469,00	0,00
NL	3 099 027 835,42	0,00	3 099 027 835,42	- 55 910,47	3 098 971 924,95	3 097 107 035,74	1 864 889,21
PT	135 029 932 852,00	0,00	135 029 932 852,00	- 4 301 296 642,00	130 728 636 210,00	130 713 479 798,00	15 156 412,00
SE	6 796 940 721,36	0,00	6 796 940 721,36	0,00	6 796 940 721,36	6 796 940 721,36	0,00
UK	2 492 692 582,02	0,00	2 492 692 582,02	- 64 846,52	2 492 627 735,50	2 501 771 584,05	- 9 143 848,55

(\*) For Austria and Italy all amounts are in euro. For other Member States all amounts are in national currency.

(<sup>1</sup>) For the calculation of the amount to be recovered from or paid to the Member State the amount taken into account is, the total of the annual declaration for the expenditure cleared (column a) or, the total of the monthly declarations for the expenditure disjoined (column b).

(<sup>2</sup>) The reductions and suspensions are those taken into account in the advance system, to which are added in particular the corrections for the non-respect of payment deadlines established in September and October 2000.



## ANNEX II

## Clearance of the Paying Agencies' accounts

Financial year 2000

## List of Paying Agencies for which the accounts are disjoined and are subject of a later clearance decision

Member State	Paying Agency
Spain	Andalucía
Spain	Aragón
Spain	Asturias
Spain	Canarias
Spain	Cantabria
Spain	Castilla-La Mancha
Spain	Castilla y Leon
Spain	Cataluña
Spain	Extremadura
Spain	Galicia
Spain	Rioja
Spain	Madrid
Spain	Murcia
Spain	Navarra
Spain	País Vasco
Spain	Valencia
Greece	GEDIDAGEP

## COMMISSION DECISION

of 12 June 2001

## on the inventory of wine production potential presented by Italy pursuant to Council Regulation (EC) No 1493/1999

(notified under document number C(2001) 1581)

(Only the Italian text is authentic)

(2001/475/EC)

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 <sup>(1)</sup>, as amended by Regulation (EC) No 2826/2000 <sup>(2)</sup>, and in particular Article 23(4) thereof,

Whereas:

- (1) Article 16 of Regulation (EC) No 1493/1999 provides for the presentation of an inventory of wine production potential. Access to the regularisation of unlawfully planted areas, the increase in planting rights and support for restructuring and conversion are subject to prior presentation of this inventory.
- (2) Article 19 of Commission Regulation (EC) No 1227/2000 of 31 May 2000 laying down detailed rules for the application of Council Regulation (EC) No 1493/1999 on the common organisation of the market in wine, as regards production potential <sup>(3)</sup> sets out details of the information to be included in the inventory.
- (3) By letters of 31 July 2000, 28 September 2000, 20 November 2000, 18 December 2000, 12 and 29 January 2001, 10, 13, 23 and 24 April 2001 and 2 May 2001, Italy sent the Commission the information referred to in Article 16 of Regulation (EC) No 1493/1999. Examination of this information shows that Italy has compiled the inventory for the regions listed in Article 1.
- (4) This Decision does not entail recognition by the Commission of the accuracy of the information contained in the inventory or of the compatibility of the legislation referred to in the inventory with Community law. It is without prejudice to any future Commission decision on these points.

- (5) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS DECISION:

*Article 1*

The Commission notes that Italy has compiled the inventory referred to in Article 16 of Regulation (EC) No 1493/1999 for the following regions and autonomous provinces:

- |                          |                   |
|--------------------------|-------------------|
| 1. Abruzzo               | 12. Piedmont      |
| 2. Basilicata            | 13. Apulia        |
| 3. Calabria              | 14. Sardinia      |
| 4. Campania              | 15. Sicily        |
| 5. Emilia-Romagna        | 16. Tuscany       |
| 6. Friuli-Venezia Giulia | 17. Trento        |
| 7. Lazio                 | 18. Umbria        |
| 8. Liguria               | 19. Veneto        |
| 9. Lombardy              | 20. Valle d'Aosta |
| 10. Marche               | 21. Bolzano.      |
| 11. Molise               |                   |

*Article 2*

This Decision is addressed to the Italian Republic.

Done at Brussels, 12 June 2001.

*For the Commission*

Franz FISCHLER

*Member of the Commission*<sup>(1)</sup> OJ L 179, 14.7.1999, p. 1.<sup>(2)</sup> OJ L 328, 23.12.2000, p. 2.<sup>(3)</sup> OJ L 143, 16.6.2000, p. 1.

**CORRIGENDA****Corrigendum to Commission Regulation (EC) No 1189/2001 of 15 June 2001 fixing the import duties in the cereals sector**

*(Official Journal of the European Communities L 161 of 16 June 2001)*

Page 36, Annex I, against CN code 1001 90 99 and 'medium quality', in the last column:

for: '14,17',

read: '4,17'.

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**Corrigendum to the Guideline (ECB/2001/3) of the European Central Bank of 26 April 2001 on a Trans-European Automated Real-Time Gross Settlement Express Transfer System (TARGET)**

*(Official Journal of the European Communities L 140 of 24 May 2001)*

Throughout the complete legal Act and Annexes:

*for:* 'Target',

*read:* 'TARGET';

in Article 3(d)(1):

*for:* 'TARGET as a whole shall be closed on Saturdays, Sundays, New Year's Day, Good Friday (according to the calendar applicable at the seat of the ECB), Easter Monday (according to the calendar applicable at the seat of the ECB), 1 May (Labour Day), Christmas Day and on 26 December',

*read:* 'TARGET as a whole shall be closed on Saturdays, Sundays, New Year's Day, Good Friday (according to the calendar applicable at the seat of the ECB), Easter Monday (according to the calendar applicable at the seat of the ECB), 1 May (Labour Day), Christmas Day, 26 December and in the year 2001 also on 31 December';

in Article 3(f)(3), paragraph 1, last sentence:

*for:* '... as defined in Article 1(26) of Directive 2000/12/EC, as applied for monetary policy operations.',

*read:* '... as defined in Article 1(26) of Directive 2000/12/EC and as applied for monetary policy operations.';

in Annex I, in the title:

*for:* 'NATIONAL RIGS SYSTEMS',

*read:* 'NATIONAL RTGS SYSTEMS';

in Annex I, second column, seventh line:

*for:* 'Banca d'Italia Regolamento Lordo (BI-REL)',

*read:* 'Sistema di regolamento lordo BI-REL'.

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