

English edition

Legislation

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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 1456/2001
of 16 July 2001
amending Regulation (EC) No 2549/2000 establishing additional technical measures for the
recovery of the stock of cod in the Irish Sea (ICES Division VIIa)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas:

- (1) The conditions laid down in Regulation (EC) No 2549/2000 ⁽⁴⁾ are intended to ensure that the selectivity of fishing gears deployed in the Irish sea are such that few young cod are captured.
- (2) Article 2(1) and (2) stipulate that it is prohibited to use any demersal towed net other than beam trawls incorporating a cod/end and/or extension piece made entirely or partly of multiple twine netting materials and any demersal towed net other than beam trawls incorporating a cod-end and/or extension piece of which the thickness of the twine exceeds 6 mm.
- (3) However, recent scientific advice concurs with the opinion of fishermen that a cod-end and/or extension piece constructed of double twine of thickness no more than 4 mm is technically equivalent to a cod-end and/or extension piece as currently defined.

- (4) There is a requirement on the part of some fishermen to deploy double-twine cod-ends.
- (5) Article 3 of the current regulation refers to conditions which were relevant only during 2000 and it should therefore be replaced with provisions which set out the required amendment.
- (6) Regulation (EC) No 2549/2000 should accordingly be amended,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3 of Regulation (EC) No 2549/2000 shall be replaced by the following:

'Article 3

Notwithstanding the conditions laid down in Article 2(1) and (2), when fishing with towed gears in the Irish Sea, it shall be permitted to use a cod-end and/or extension piece constructed of double-twine netting material of which the thickness of any individual twine does not exceed 4 mm.'

Article 2

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

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

Done at Brussels, 16 July 2001.

For the Council
The President
L. MICHEL

⁽¹⁾ OJ C 180 E, 26.6.2001, p. 311.

⁽²⁾ Opinion delivered 5.7.2001 (not yet published in the Official Journal)

⁽³⁾ Opinion delivered 30.5.2001 (not yet published in the Official Journal)

⁽⁴⁾ OJ L 292, 21.11.2000, p. 5.

COMMISSION REGULATION (EC) No 1457/2001
of 17 July 2001
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 18 July 2001.

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

Done at Brussels, 17 July 2001.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 17 July 2001 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

| CN code | Third country code ⁽¹⁾ | Standard import value | |
|------------------------------------|-----------------------------------|-----------------------|------|
| 0702 00 00 | 064 | 60,0 | |
| | 091 | 53,1 | |
| | 092 | 53,1 | |
| | 999 | 55,4 | |
| 0707 00 05 | 052 | 65,3 | |
| | 628 | 126,4 | |
| | 999 | 95,8 | |
| 0709 90 70 | 052 | 69,1 | |
| | 999 | 69,1 | |
| 0805 30 10 | 388 | 73,4 | |
| | 524 | 76,6 | |
| | 528 | 67,0 | |
| | 999 | 72,3 | |
| 0808 10 20, 0808 10 50, 0808 10 90 | 388 | 88,6 | |
| | 400 | 86,3 | |
| | 508 | 98,9 | |
| | 512 | 83,9 | |
| | 524 | 100,8 | |
| | 528 | 72,1 | |
| | 720 | 143,5 | |
| | 804 | 105,7 | |
| | 999 | 97,5 | |
| | 0808 20 50 | 388 | 84,3 |
| | | 512 | 69,1 |
| 528 | | 68,6 | |
| 800 | | 67,4 | |
| 804 | | 118,3 | |
| 0809 10 00 | 999 | 81,5 | |
| | 052 | 172,1 | |
| | 064 | 133,4 | |
| 0809 20 95 | 999 | 152,8 | |
| | 052 | 324,6 | |
| | 400 | 241,9 | |
| 0809 30 10, 0809 30 90 | 999 | 283,3 | |
| | 052 | 186,2 | |
| | 999 | 186,2 | |
| 0809 40 05 | 064 | 122,1 | |
| | 624 | 284,4 | |
| | 999 | 203,3 | |

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

COMMISSION REGULATION (EC) No 1458/2001

of 17 July 2001

derogating from certain provisions of Regulations (EEC) No 2700/93 and (EC) No 2342/1999 as regards the application of the premium schemes in the sheepmeat and goatmeat and beef and veal sectors and amending Regulation (EC) No 2342/1999

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2467/98 of 3 November 1998 on the common organisation of the market in sheepmeat and goatmeat ⁽¹⁾, as amended by Regulation (EC) No 1669/2000 ⁽²⁾, and in particular Article 5(6) thereof,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽³⁾, and in particular Article 4(8), Article 6(7), Article 11(5), Article 13(5) and the second indent of Article 50 thereof,

Whereas:

- (1) Outbreaks of foot-and-mouth disease that have appeared in several Member States have triggered certain measures under Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽⁴⁾, as last amended by Directive 92/118/EEC ⁽⁵⁾, and Directive 85/511/EEC of 18 November 1985 introducing Community measures for the control of foot-and-mouth disease ⁽⁶⁾, as last amended by the Act of Accession of Austria, Finland and Sweden.
- (2) Those measures impose restrictions on movements of animals in certain regions. This might give rise to situations where the producers are no longer able to meet some of their obligations under Commission Regulation (EEC) No 2700/93 of 30 September 1993 on detailed rules for the application of the premium in favour of sheepmeat and goatmeat producers ⁽⁷⁾, as last amended by Regulation (EC) No 394/2001 ⁽⁸⁾, and Commission Regulation (EC) No 2342/1999 of 28 October 1999 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 on the common organisation of the market in beef and veal as regards premium schemes ⁽⁹⁾, as last amended by Regulation (EC) No 192/2001 ⁽¹⁰⁾. The Member States must therefore be allowed to derogate temporarily from certain rules applicable under normal circumstances to the extent necessary to ensure the effectiveness of the veter-

inary measures concerned. These derogations also apply to situations resulting from the application of the above measures where animals are slaughtered as a result of a veterinary decision taken on animal-welfare grounds.

- (3) As regards the premiums for ewes and she-goats provided for in Article 5 of Regulation (EC) No 2467/98, to take account of the special situation of producers one or more of whose animals have been slaughtered before the last day of the retention period as a result of the application of those veterinary measures, the premium on the animals concerned should be granted, provided that a check has shown that had the animals concerned not been slaughtered, they would have met the conditions for eligibility laid down in the definitions given in Article 1(4) and (5) of Council Regulation (EEC) No 3493/90 of 27 November 1990 laying down general rules for the granting of premiums to sheepmeat and goatmeat producers ⁽¹¹⁾, as last amended by Regulation (EC) No 2825/2000 ⁽¹²⁾.
- (4) As regards the special premium for male bovine animals and the suckler-cow premium provided for in respectively Articles 4 and 6 of Regulation (EC) No 1254/1999, to take account of the special situation of producers one or more of whose animals have been slaughtered during the retention period as a result of the application of the veterinary measures referred to above, the special premium and the suckler-cow premium should be granted on the animals covered by those measures.
- (5) As regards the extensification payment provided for in Article 13 of Regulation (EC) No 1254/1999, where animals are kept on the holding as a result of a ban on movement decided by the veterinary authorities because of an epizootic disease, a flat-rate correcting coefficient is to be applied to the number of livestock units recorded on the holding during the period concerned for as long as that decision applies with a view to determining the stocking density pursuant to Article 32(11) of Regulation (EC) No 2342/1999. In order to take account of the impact of the veterinary measures of extended duration on the number of livestock units, it should be made possible to increase the abovementioned flat-rate correcting coefficient after those measures have been in force beyond a given length of time.

⁽¹⁾ OJ L 312, 20.11.1998, p. 1.

⁽²⁾ OJ L 193, 29.7.2000, p. 8.

⁽³⁾ OJ L 160, 26.6.1999, p. 21.

⁽⁴⁾ OJ L 224, 18.8.1990, p. 29.

⁽⁵⁾ OJ L 62, 15.3.1993, p. 49.

⁽⁶⁾ OJ L 315, 26.11.1985, p. 11.

⁽⁷⁾ OJ L 245, 1.10.1993, p. 99.

⁽⁸⁾ OJ L 58, 28.2.2001, p. 9.

⁽⁹⁾ OJ L 281, 4.11.1999, p. 30.

⁽¹⁰⁾ OJ L 29, 31.1.2001, p. 27.

⁽¹¹⁾ OJ L 337, 4.12.1990, p. 7.

⁽¹²⁾ OJ L 328, 23.12.2000, p. 1.

- (6) As regards the slaughter premium provided for in Article 11 of Regulation (EC) No 1254/1999, the restrictions on movements of animals mean that producers are unable to keep within the maximum time allowed under Article 37(1) of Regulation (EC) No 2342/1999 from the end of the two-month minimum retention period to the date of slaughter. The Member States should be allowed to extend that time, depending on whether or not the animals can be dispatched to other Member States.
- (7) Once more as regards the slaughter premium provided for in Article 11 of Regulation (EC) No 1254/1999, the restrictions on movements of animals have led in certain cases to calves' remaining for longer on holdings, so that they no longer comply with the age and weight requirements laid down in paragraph 1(b) of that Article at the time of slaughter once those restrictions are lifted. In order to avoid penalising producers for animals that have become too heavy for reasons beyond their control, it should be possible for a limited period to grant the slaughter premium on calves that no longer meet the above age and weight requirements.
- (8) As regards the extensification payment provided for in Article 13 of Regulation (EC) No 1254/1999, where animals are kept on the holding longer than normal as a result of the exceptional market situation, a flat-rate correcting coefficient is to be applied for a limited period to the number of livestock units recorded on the holding during the period concerned with a view to determining the stocking density pursuant to Article 32(12) of Regulation (EC) No 2342/1999. In order to take account of the impact of restrictions on animal movements on the situation of producers as regards the period of application of the flat-rate correcting coefficient, that period should be extended by two months.
- (9) In view of the rate at which events are unfolding, this Regulation must enter into force immediately.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Joint Meeting of the Management Committee for Beef and Veal and the Management Committee for Sheep and Goats,

HAS ADOPTED THIS REGULATION:

Article 1

Derogations from Regulations (EEC) No 2700/93 and (EC) No 2342/1999 shall be authorised in order to ensure the effectiveness of measures taken under Directives 90/425/EEC and 85/511/EEC to combat and prevent the spread of foot-and-mouth disease and to mitigate the effects of the extended exceptional market situation resulting from these measures, subject to the conditions set out herein.

The derogations laid down in this Regulation shall also apply to situations resulting from the application of the measures referred to in the preceding paragraph where animals are slaughtered as a result of a veterinary decision to taken on animal-welfare grounds.

Article 2

Notwithstanding Article 3(2) of Regulation (EEC) No 2700/93, animals slaughtered as a result of the application of a measure covered by Article 1 before the last day of the retention period shall be deemed eligible for the ewe or she-goat premium. To that end, the competent authorities of the Member States shall ensure, on the basis of evidence available at the time of slaughter, that had the animals not been slaughtered, they would have complied with the conditions laid down in the definitions given in Article 1(4) and (5) of Regulation (EEC) No 3493/90.

Article 3

1. The slaughter of an animal during the retention period referred to in Article 5 of Regulation (EC) No 2342/1999 as a result of the application of a measure covered by Article 1 shall not prevent the producer from being granted the special premium.

2. The slaughter of an animal during the retention period referred to in Article 16 of Regulation (EC) No 2342/1999 as a result of the application of a measure covered by Article 1 shall not prevent the producer from being granted the suckler-cow premium.

Article 4

Notwithstanding Article 32(11) of Regulation (EC) No 2342/1999, where a measures covered by Article 1 prohibiting animals from leaving the production unit, other than for slaughter, applies for a period of more than three months in succession:

- the coefficient provided for in that Article shall be increased to 0,5 for the period for which the decision applies beyond the three months referred to above,
- the Member State may extend the period of 20 days to no more than 30 days.

Article 5

1. Notwithstanding Article 11(1)(b) of Regulation (EC) No 1254/1999, where as a result of the application of a measure covered by Article 1 calves have not been able to leave the production unit for slaughter, the slaughter premium shall be granted on calves aged more than one month but less than eight months and having a carcass weight of less than 175 kilograms, slaughtered from the date of lifting of the measure to 30 June 2001.

To that end, the competent authorities of the Member State shall ensure, on the basis of evidence available at the time of slaughter, that the animal complies with the conditions of eligibility for the premium.

2. Notwithstanding Article 37(1) of Regulation (EC) No 2342/1999, in the event of the application of a measure covered by Article 1 any Member State may extend the maximum time allowed under that Article between the end of the two-month minimum retention period and the date of slaughter by:

- up to two months less one day,
- up to three months where a ban on dispatch to other Member States is in force, provided for the Member State ensures that only one slaughter premium is granted per animal.

Article 6

In Article 32(12) of Regulation (EC) No 2342/1999, the date '15 March 2001' is replaced by '15 May 2001'.

Article 7

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

Articles 1 to 5 shall apply to aid applications lodged by 31 December 2001.

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

Done at Brussels, 17 July 2001.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 1459/2001
of 17 July 2001
repealing Regulation (EC) No 1046/2001 adopting exceptional support measures for the markets in
pigmeat and veal in the Netherlands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975, on the common organisation of the market in pigmeat ⁽¹⁾, as last amended by Regulation (EC) No 1365/2000 ⁽²⁾, and in particular Article 20 thereof,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽³⁾, and in particular Article 39 thereof,

Whereas:

- (1) Because of the outbreak of foot-and-mouth disease in certain production regions in the Netherlands, animal health measures were adopted by the Netherlands authorities pursuant to Article 9 of Council Directive 85/511/EEC of 18 November 1985 introducing Community measures for the control of foot-and-mouth disease ⁽⁴⁾, as last amended by the Act of Accession of Austria, Finland and Sweden. Exceptional support measures for the markets in pigmeat and veal were adopted

for this Member State by Commission Regulation (EC) No 1046/2001 ⁽⁵⁾.

- (2) In view of the progress achieved on the animal health side, the exceptional market support measures can now be closed; therefore, Regulation (EC) No 1046/2001 needs to be repealed.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Joint Meeting of Management Committees for Pigmeat and for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1046/2001 is repealed.

Article 2

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

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

Done at Brussels, 17 July 2001.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 1.

⁽²⁾ OJ L 156, 29.6.2000, p. 5.

⁽³⁾ OJ L 160, 26.6.1999, p. 21.

⁽⁴⁾ OJ L 315, 26.11.1985, p. 11.

⁽⁵⁾ OJ L 145, 31.5.2001, p. 31.

COMMISSION REGULATION (EC) No 1460/2001**of 17 July 2001****fixing the rates of the refunds applicable to eggs and egg yolks exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, as last amended by Commission Regulation (EC) No 1516/96 ⁽²⁾, and in particular Article 8(3) thereof,

Whereas:

- (1) Article 8(1) of Regulation (EEC) No 2771/75 provides that the difference between prices in international trade for the products listed in Article 1(1) of that Regulation and prices within the Community may be covered by an export refund where these goods are exported in the form of goods listed in the Annex to that Regulation. Whereas Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽³⁾, as amended by Regulation (EC) No 2390/2000 ⁽⁴⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in the Annex to Regulation (EEC) No 2771/75.
- (2) In accordance Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for a

period of the same duration as that for which refunds are fixed for the same products exported unprocessed.

- (3) Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lays down that the export refund for a product contained in a good may not exceed the refund applicable to that product when exported without further processing.
- (4) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1520/2000 and listed in Article 1(1) of Regulation (EEC) No 2771/75, exported in the form of goods listed in the Annex I to Regulation (EEC) No 2771/75, are hereby fixed as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 18 July 2001.

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

Done at Brussels, 17 July 2001.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 49.

⁽²⁾ OJ L 189, 30.7.1996, p. 99.

⁽³⁾ OJ L 177, 15.7.2000, p. 1.

⁽⁴⁾ OJ L 276, 28.10.2000, p. 3.

ANNEX

to the Commission Regulation of 17 July 2001 fixing the rates of the refunds applicable to eggs and egg yolks exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)

| CN code | Description | Destination ⁽¹⁾ | Rate of refund |
|---------------|---|----------------------------|----------------|
| 0407 00 | Birds' eggs, in shell, fresh, preserved or cooked: | | |
| | – Of poultry: | | |
| 0407 00 30 | -- Other: | | |
| | a) On exportation of ovalbumin of CN codes 3502 11 90 and 3502 19 90 | 02 | 8,00 |
| | | 03 | 8,00 |
| | | 04 | 4,00 |
| | b) On exportation of other goods | 01 | 4,00 |
| 0408 | Birds' eggs, not in shell and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter: | | |
| | – Egg yolks: | | |
| 0408 11 | -- Dried: | | |
| ex 0408 11 80 | ---- Suitable for human consumption: not sweetened | 01 | 30,00 |
| 0408 19 | -- Other: | | |
| | ---- Suitable for human consumption: | | |
| ex 0408 19 81 | ----- Liquid: not sweetened | 01 | 13,00 |
| ex 0408 19 89 | ----- Frozen: not sweetened | 01 | 13,00 |
| | – Other: | | |
| 0408 91 | -- Dried: | | |
| ex 0408 91 80 | ---- Suitable for human consumption: not sweetened | 01 | 33,00 |
| 0408 99 | -- Other: | | |
| ex 0408 99 80 | ---- Suitable for human consumption: not sweetened | 01 | 8,00 |

⁽¹⁾ The destinations are as follows:

01 Third countries,

02 Kuwait, Bahrain, Oman, Qatar, United Arab Emirates, Yemen, Hong Kong SAR and Russia,

03 South Korea, Japan, Malaysia, Thailand, Taiwan, the Philippines and Egypt,

04 All destinations except Switzerland and those of 02 and 03.

COMMISSION REGULATION (EC) No 1461/2001
of 17 July 2001
fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending
Regulation (EC) No 1484/95

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, as last amended by Commission Regulation (EC) No 1516/96 ⁽²⁾, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽³⁾, as last amended by Commission Regulation (EC) No 2916/95 ⁽⁴⁾, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin ⁽⁵⁾, as last amended by Regulation (EC) No 2916/95, and in particular Article 3(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 ⁽⁶⁾, as last amended by Regulation (EC) No 1150/2001 ⁽⁷⁾, fixes detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.

- (2) It results from regular monitoring of the information providing the basis for the verification of the import prices in the poultrymeat and egg sectors and for egg albumin that the representative prices for imports of certain products should be amended taking into account variations of prices according to origin. Therefore, representative prices should be published.
- (3) It is necessary to apply this amendment as soon as possible, given the situation on the market.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 18 July 2001.

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

Done at Brussels, 17 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 49.

⁽²⁾ OJ L 189, 30.7.1996, p. 99.

⁽³⁾ OJ L 282, 1.11.1975, p. 77.

⁽⁴⁾ OJ L 305, 19.12.1995, p. 49.

⁽⁵⁾ OJ L 282, 1.11.1975, p. 104.

⁽⁶⁾ OJ L 145, 29.6.1995, p. 47.

⁽⁷⁾ OJ L 156, 13.6.2001, p. 25.

ANNEX

to the Commission Regulation of 17 July 2001 fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

'ANNEX I

| CN code | Description | Representative price (EUR/100 kg) | Security referred to in Article 3(3) (EUR/100 kg) | Origin ⁽¹⁾ |
|------------|--|-----------------------------------|---|-----------------------|
| 0207 14 10 | Boneless cuts of fowl of the species <i>Gallus domesticus</i> , frozen | 289,5 | 3 | 01 |
| | | 285,4 | 4 | 02 |
| | | 250,0 | 15 | 03 |
| 0207 14 70 | Other parts of chicken, frozen | 270,0 | 4 | 01 |

(¹) Origin of imports:

- 01 Brazil
- 02 Thailand
- 03 China.'

COMMISSION REGULATION (EC) No 1462/2001
of 17 July 2001
fixing the export refunds on eggs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs ⁽¹⁾, as last amended by Commission Regulation (EC) No 1516/96 ⁽²⁾, and in particular Article 8(3) thereof,

Whereas:

- (1) Article 8 of Regulation (EEC) No 2771/75 provides that the difference between prices on the world market for the products listed in Article 1(1) of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) The present market situation in certain third countries and that regarding competition on particular third country markets make it necessary to fix a refund differentiated by destination for certain products in the egg sector.

(3) It follows from applying these rules and criteria to the present situation on the market in eggs that the refund should be fixed at an amount which would permit Community participation in world trade and would also take account of the nature of these exports and their importance at the present time.

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

HAS ADOPTED THIS REGULATION:

Article 1

The list of codes of products for which, when they are exported, the export refund referred to in Article 8 of Regulation (EEC) No 2771/75 is granted, and the amount of that refund shall be as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 18 July 2001.

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

Done at Brussels, 17 July 2001.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 49.

⁽²⁾ OJ L 189, 30.7.1996, p. 99.

ANNEX

to the Commission Regulation of 17 July 2001 fixing the export refunds on eggs

| Product code | Destination | Unit of measurement | Amount of refund |
|-----------------|-------------|---------------------|------------------|
| 0407 00 11 9000 | A02 | EUR/100 pcs | 2,15 |
| 0407 00 19 9000 | A02 | EUR/100 pcs | 1,00 |
| 0407 00 30 9000 | E01 | EUR/100 kg | 8,00 |
| | E03 | EUR/100 kg | 8,00 |
| | E05 | EUR/100 kg | 4,00 |
| 0408 11 80 9100 | E04 | EUR/100 kg | 30,00 |
| 0408 19 81 9100 | E04 | EUR/100 kg | 13,00 |
| 0408 19 89 9100 | E04 | EUR/100 kg | 13,00 |
| 0408 91 80 9100 | E06 | EUR/100 kg | 33,00 |
| 0408 99 80 9100 | E04 | EUR/100 kg | 8,00 |

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2032/2000 (OJ L 243, 28.9.2000, p. 14).

The other destinations are defined as follows:

E01 Kuwait, Bahrain, Oman, Qatar, the United Arab Emirates, Yemen, Hong Kong SAR and Russia

E03 South Korea, Japan, Malaysia, Thailand, Taiwan, the Philippines and Egypt

E04 all destinations except Switzerland and Estonia

E05 all destinations except Switzerland, Lithuania and those of E01 and E03

E06 all destinations except Switzerland, Estonia and Lithuania.

COMMISSION REGULATION (EC) No 1463/2001

of 17 July 2001

on import licences in respect of beef and veal products originating in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

ovine and caprine animals and swine, fresh meat or meat products from third countries ⁽³⁾, as last amended by Directive 97/79/CE ⁽⁴⁾,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1706/98 of 20 July 1998 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EEC) No 715/90 ⁽¹⁾, and in particular Article 30 thereof,

HAS ADOPTED THIS REGULATION:

Article 1

Having regard to Commission Regulation (EC) No 1918/98 of 9 September 1998 laying down detailed rules for the application in the beef and veal sector of Council Regulation (EC) No 1706/98 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States and repealing Regulation (EC) No 589/96 ⁽²⁾, and in particular Article 4 thereof,

The following Member States shall issue on 21 July 2001 import licences for beef and veal products, expressed as boned meat, originating in certain African, Caribbean and Pacific States, in respect of the following quantities and countries of origin:

United Kingdom:

- 850 tonnes originating in Botswana,
- 1 000 tonnes originating in Namibia,
- 920 tonnes originating in Zimbabwe;

Whereas:

Germany:

- 350 tonnes originating in Botswana.

(1) Article 1 of Regulation (EC) No 1918/98 provides for the possibility of issuing import licences for beef and veal products. However, imports must take place within the limits of the quantities specified for each of these exporting non-member countries.

Article 2

(2) The applications for import licences submitted between 1 and 10 July 2001, expressed in terms of boned meat, in accordance with Regulation (EC) No 1918/98, do not exceed, in respect of products originating from Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia, the quantities available from those States. It is therefore possible to issue import licences in respect of the quantities applied for.

Licence applications may be submitted, pursuant to Article 3(2) of Regulation (EC) No 1918/98, during the first 10 days of August 2001 for the following quantities of boned beef and veal:

| | |
|-------------|------------------|
| Botswana: | 8 426 tonnes, |
| Kenya: | 142 tonnes, |
| Madagascar: | 7 579 tonnes, |
| Swaziland: | 3 363 tonnes, |
| Zimbabwe: | 3 280,05 tonnes, |
| Namibia: | 7 464 tonnes. |

(3) The quantities in respect of which licences may be applied for from 1 August 2001 should be fixed within the scope of the total quantity of 52 100 tonnes.

(4) This Regulation is without prejudice to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine,

Article 3

This Regulation shall enter into force on 21 July 2001.

⁽¹⁾ OJ L 215, 1.8.1998, p. 12.

⁽²⁾ OJ L 250, 10.9.1998, p. 16.

⁽³⁾ OJ L 302, 31.12.1972, p. 28.

⁽⁴⁾ OJ L 24, 30.1.1998, p. 31.

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

Done at Brussels, 17 July 2001.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 1464/2001
of 17 July 2001
fixing the export refunds on pigmeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat⁽¹⁾, as last amended by Regulation (EC) No 1365/2000⁽²⁾, and in particular the second paragraph of Article 13(3) thereof,

Whereas:

(1) Article 13 of Regulation (EEC) No 2759/75 provides that the difference between prices on the world market for the products listed in Article 1(1) of that Regulation and prices for these products within the Community may be covered by an export refund.

(2) It follows from applying these rules and criteria to the present situation on the market in pigmeat that the refund should be fixed as set out below.

(3) In the case of products falling within CN code 0210 19 81, the refund should be limited to an amount which takes account of the qualitative characteristics of each of the products falling within these codes and of the foreseeable trend of production costs on the world market. It is important that the Community should continue to take part in international trade in the case of certain typical Italian products falling within CN code 0210 19 81.

(4) Because of the conditions of competition in certain third countries, which are traditionally importers of products falling within CN codes 1601 00 and 1602, the refund for these products should be fixed so as to take this situation into account. Steps should be taken to ensure

that the refund is granted only for the net weight of the edible substances, to the exclusion of the net weight of the bones possibly contained in the said preparations.

(5) Article 13 of Regulation (EEC) No 2759/75 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1(1) of Regulation (EEC) No 2759/75 according to destination.

(6) The refunds should be fixed taking account of the amendments to the refund nomenclature established by Commission Regulation (EEC) No 3846/87⁽³⁾, as last amended by Regulation (EC) No 1384/2001⁽⁴⁾.

(7) Refunds should be granted only on products that are allowed to circulate freely within the Community. Therefore, to be eligible for a refund, products should be required to bear the health mark laid down in Council Directive 64/433/EEC⁽⁵⁾, as last amended by Directive 95/23/EC⁽⁶⁾, Council Directive 94/65/EC⁽⁷⁾ and Council Directive 77/99/EEC⁽⁸⁾, as last amended by Directive 97/76/EC⁽⁹⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

The list of products on which the export refund specified in Article 13 of Regulation (EEC) No 2759/75 is granted and the amount of the refund shall be as set out in the Annex hereto.

The products concerned must comply with the relevant provisions on health marks laid down in:

- Chapter XI of Annex I to Directive 64/433/EEC,
- Chapter VI of Annex I to Directive 94/65/EC,
- Chapter VI of Annex B to Directive 77/99/EEC.

Article 2

This Regulation shall enter into force on 18 July 2001.

⁽¹⁾ OJ L 282, 1.11.1975, p. 1.

⁽²⁾ OJ L 156, 29.6.2000, p. 5.

⁽³⁾ OJ L 366, 24.12.1987, p. 1.

⁽⁴⁾ OJ L 186, 7.7.2001, p. 28.

⁽⁵⁾ OJ 121, 29.7.1964, p. 2012/64.

⁽⁶⁾ OJ L 243, 11.10.1995, p. 7.

⁽⁷⁾ OJ L 368, 31.12.1994, p. 10.

⁽⁸⁾ OJ L 26, 31.1.1977, p. 85.

⁽⁹⁾ OJ L 10, 16.1.1998, p. 25.

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

Done at Brussels, 17 July 2001.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 17 July 2001 fixing the export refunds on pigmeat

| Product code | Destination | Unit of measurement | Amount of refund |
|-----------------|-------------|---------------------|------------------|
| 0210 11 31 9110 | P05 | EUR/100 kg | 65,00 |
| 0210 11 31 9910 | P05 | EUR/100 kg | 65,00 |
| 0210 12 19 9100 | P05 | EUR/100 kg | 0,00 |
| 0210 19 81 9100 | P05 | EUR/100 kg | 68,00 |
| 0210 19 81 9300 | P05 | EUR/100 kg | 55,00 |
| 1601 00 91 9120 | P05 | EUR/100 kg | 20,00 |
| 1601 00 99 9110 | P05 | EUR/100 kg | 15,00 |
| 1602 41 10 9210 | P05 | EUR/100 kg | 45,00 |
| 1602 42 10 9210 | P05 | EUR/100 kg | 24,00 |
| 1602 49 19 9120 | P05 | EUR/100 kg | 0,00 |

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2032/2000 (OJ L 243, 28.9.2000, p. 14).

The other destinations are defined as follows:

P05 All destinations except the Czech Republic, the Slovak Republic, Hungary, Poland, Bulgaria, Latvia, Estonia, Lithuania.

COMMISSION REGULATION (EC) No 1465/2001**of 17 July 2001****altering the export refunds on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾, and in particular the fourth subparagraph of Article 13(2) thereof,

Whereas:

- (1) The export refunds on cereals and on wheat or rye flour, groats and meal were fixed by Commission Regulation (EC) No 1296/2001 ⁽³⁾, as amended by Regulation (EC) No 1425/2001 ⁽⁴⁾.
- (2) It follows from applying the detailed rules contained in Regulation (EC) No 1296/2001 to the information known to the Commission that the export refunds at

present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(a), (b) and (c) of Regulation (EEC) No 1766/92, exported in the natural state, as fixed in the Annex to Regulation (EC) No 1296/2001 are hereby altered as shown in the Annex to this Regulation in respect of the products set out therein.

Article 2

This Regulation shall enter into force on 18 July 2001.

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

Done at Brussels, 17 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 176, 29.6.2001, p. 52.

⁽⁴⁾ OJ L 191, 13.7.2001, p. 34.

ANNEX

to the Commission Regulation of 17 July 2001 amending the export refunds on cereals and on wheat or rye flour, groats and meal

| Product code | Destination | Unit of measurement | Amount of refunds | Product code | Destination | Unit of measurement | Amount of refunds |
|-----------------|-------------|---------------------|-------------------|-----------------|-------------|---------------------|-------------------|
| 1001 10 00 9200 | — | EUR/t | — | 1101 00 11 9000 | — | EUR/t | — |
| 1001 10 00 9400 | — | EUR/t | — | 1101 00 15 9100 | C01 | EUR/t | 0 |
| 1001 90 91 9000 | — | EUR/t | — | 1101 00 15 9130 | C01 | EUR/t | 0 |
| 1001 90 99 9000 | C01 | EUR/t | — | 1101 00 15 9150 | C01 | EUR/t | 0 |
| 1002 00 00 9000 | A00 | EUR/t | 0 | 1101 00 15 9170 | C01 | EUR/t | 0 |
| 1003 00 10 9000 | — | EUR/t | — | 1101 00 15 9180 | C01 | EUR/t | 0 |
| 1003 00 90 9000 | A00 | EUR/t | 0 | 1101 00 15 9190 | — | EUR/t | — |
| 1004 00 00 9200 | — | EUR/t | — | 1101 00 90 9000 | — | EUR/t | — |
| 1004 00 00 9400 | — | EUR/t | 0 | 1102 10 00 9500 | C01 | EUR/t | 42,50 |
| 1005 10 90 9000 | — | EUR/t | — | 1102 10 00 9700 | C01 | EUR/t | 33,50 |
| 1005 90 00 9000 | A00 | EUR/t | 0 | 1102 10 00 9900 | — | EUR/t | — |
| 1007 00 90 9000 | — | EUR/t | — | 1103 11 10 9200 | A00 | EUR/t | 0 ⁽¹⁾ |
| 1008 20 00 9000 | — | EUR/t | — | 1103 11 10 9400 | A00 | EUR/t | 0 ⁽¹⁾ |
| | | | | 1103 11 10 9900 | — | EUR/t | — |
| | | | | 1103 11 90 9200 | A00 | EUR/t | 0 ⁽¹⁾ |
| | | | | 1103 11 90 9800 | — | EUR/t | — |

⁽¹⁾ No refund is granted when this product contains compressed meal.

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The other destinations are as follows:

C01 All destinations except for Poland.

COMMISSION REGULATION (EC) No 1466/2001
of 17 July 2001
amending the import duties in the cereals sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

- (1) The import duties in the cereals sector are fixed by Commission Regulation (EC) No 1438/2001⁽⁵⁾, as amended by Regulation (EC) No 1445/2001⁽⁶⁾.

- (2) Article 2(1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by EUR 5 per tonne from the duty fixed, a corresponding adjustment is to be made. Such a difference has arisen. It is therefore necessary to adjust the import duties fixed in Regulation (EC) No 1438/2001,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 1438/2001 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 18 July 2001.

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

Done at Brussels, 17 July 2001.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 161, 29.6.1996, p. 125.

⁽⁴⁾ OJ L 256, 10.10.2000, p. 13.

⁽⁵⁾ OJ L 192, 14.7.2001, p. 17.

⁽⁶⁾ OJ L 193, 17.7.2001, p. 11.

ANNEX I

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

| CN code | Description | Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (EUR/tonne) | Import duty by air or by sea from other ports ⁽²⁾ (EUR/tonne) |
|------------|--|--|--|
| 1001 10 00 | Durum wheat high quality | 0,00 | 0,00 |
| | medium quality ⁽¹⁾ | 0,00 | 0,00 |
| 1001 90 91 | Common wheat seed | 0,00 | 0,00 |
| 1001 90 99 | Common high quality wheat other than for sowing ⁽³⁾ | 0,00 | 0,00 |
| | medium quality | 0,00 | 0,00 |
| | low quality | 15,22 | 5,22 |
| 1002 00 00 | Rye | 26,86 | 16,86 |
| 1003 00 10 | Barley, seed | 26,86 | 16,86 |
| 1003 00 90 | Barley, other ⁽³⁾ | 26,86 | 16,86 |
| 1005 10 90 | Maize seed other than hybrid | 64,03 | 54,03 |
| 1005 90 00 | Maize other than seed ⁽³⁾ | 64,03 | 54,03 |
| 1007 00 90 | Grain sorghum other than hybrids for sowing | 51,57 | 41,57 |

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

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

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

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

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

ANNEX II

Factors for calculating duties

(period from 13 July to 16 July 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) | 137,48 | 131,99 | 123,28 | 96,96 | 208,03 (**) | 198,03 (**) | 109,51 (**) |
| Gulf premium (EUR/t) | — | 16,32 | 7,74 | 9,18 | — | — | — |
| Great Lakes premium (EUR/t) | 24,07 | — | — | — | — | — | — |

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

(**) Fob Duluth.

2. Freight/cost: Gulf of Mexico — Rotterdam: 20,79 EUR/t; Great Lakes — Rotterdam: 31,78 EUR/t.

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

COMMISSION REGULATION (EC) No 1467/2001
of 17 July 2001
providing for the rejection of applications for export licences in relation to cereal products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1162/95 of 23 May 1995 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ⁽³⁾, as last amended by Regulation (EC) No 409/2001 ⁽⁴⁾, and in particular Article 7(3) thereof,

Whereas:

The quantity covered by applications for advance fixing of refunds for common wheat could give rise to speculation. It

has therefore been decided to reject all applications for export licences for this product made on 13, 16 and 17 July 2001,

HAS ADOPTED THIS REGULATION:

Article 1

In accordance with Article 7(3) of Regulation (EC) No 1162/95, applications for export licences with advance fixing of refunds for the product falling within CN code 1001 90 99 made on 13, 16 and 17 July 2001 shall be rejected.

Article 2

This Regulation shall enter into force on 18 July 2001.

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

Done at Brussels, 17 July 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 117, 24.5.1995, p. 2.

⁽⁴⁾ OJ L 60, 1.3.2001, p. 27.

COMMISSION REGULATION (EC) No 1468/2001
of 17 July 2001
amending the corrective amount applicable to the refund on cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 13(8) thereof,

Whereas:

- (1) The corrective amount applicable to the refund on cereals was fixed by Commission Regulation (EC) No 1297/2001 ⁽³⁾.
- (2) On the basis of today's cif prices and cif forward delivery prices, taking foreseeable developments on the market into account, the corrective amount at present applicable to the refund on cereals should be altered.

- (3) The corrective amount must be fixed according to the same procedure as the refund. It may be altered in the period between fixings,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 1(1)(a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to the export refunds fixed in advance in respect of the products referred to, except for malt, is hereby altered to the amounts set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 18 July 2001.

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

Done at Brussels, 17 July 2001.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 176, 29.6.2001, p. 54.

ANNEX

to the Commission Regulation of 17 July 2001 amending the corrective amount applicable to the refund on cereals

(EUR/t)

| Product code | Destination | Current 7 | 1st period 8 | 2nd period 9 | 3rd period 10 | 4th period 11 | 5th period 12 | 6th period 1 |
|-----------------|-------------|--------------|-----------------|-----------------|------------------|------------------|------------------|-----------------|
| 1001 10 00 9200 | — | — | — | — | — | — | — | — |
| 1001 10 00 9400 | — | — | — | — | — | — | — | — |
| 1001 90 91 9000 | — | — | — | — | — | — | — | — |
| 1001 90 99 9000 | C01 | — | — | — | — | — | — | — |
| 1002 00 00 9000 | A00 | 0 | 0,00 | 0,00 | 0,00 | 0,00 | — | — |
| 1003 00 10 9000 | — | — | — | — | — | — | — | — |
| 1003 00 90 9000 | A00 | 0 | -0,93 | -1,86 | -2,79 | -3,72 | — | — |
| 1004 00 00 9200 | — | — | — | — | — | — | — | — |
| 1004 00 00 9400 | A00 | 0 | -0,93 | -1,86 | -2,79 | -3,72 | — | — |
| 1005 10 90 9000 | — | — | — | — | — | — | — | — |
| 1005 90 00 9000 | A00 | 0 | -1,00 | -2,00 | 0,00 | -0,93 | — | — |
| 1007 00 90 9000 | — | — | — | — | — | — | — | — |
| 1008 20 00 9000 | — | — | — | — | — | — | — | — |
| 1101 00 11 9000 | — | — | — | — | — | — | — | — |
| 1101 00 15 9100 | C01 | 0 | -1,27 | -2,55 | -3,82 | -5,10 | — | — |
| 1101 00 15 9130 | C01 | 0 | -1,19 | -2,38 | -3,57 | -4,76 | — | — |
| 1101 00 15 9150 | C01 | 0 | -1,10 | -2,19 | -3,29 | -4,39 | — | — |
| 1101 00 15 9170 | C01 | 0 | -1,01 | -2,03 | -3,04 | -4,05 | — | — |
| 1101 00 15 9180 | C01 | 0 | -0,95 | -1,90 | -2,85 | -3,79 | — | — |
| 1101 00 15 9190 | — | — | — | — | — | — | — | — |
| 1101 00 90 9000 | — | — | — | — | — | — | — | — |
| 1102 10 00 9500 | C01 | 0 | 0,00 | 0,00 | 0,00 | 0,00 | — | — |
| 1102 10 00 9700 | C01 | 0 | 0,00 | 0,00 | 0,00 | 0,00 | — | — |
| 1102 10 00 9900 | — | — | — | — | — | — | — | — |
| 1103 11 10 9200 | A00 | 0 | -1,40 | -2,79 | -4,19 | -5,58 | — | — |
| 1103 11 10 9400 | A00 | 0 | -1,25 | -2,49 | -3,74 | -4,98 | — | — |
| 1103 11 10 9900 | — | — | — | — | — | — | — | — |
| 1103 11 90 9200 | A00 | 0 | -1,27 | -2,55 | -3,82 | -5,10 | — | — |
| 1103 11 90 9800 | — | — | — | — | — | — | — | — |

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2032/2000 (OJ L 243, 28.9.2000, p. 14).

The other destinations are as follows:

C01 All destinations except for Poland.

DIRECTIVE 2001/37/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 5 June 2001

on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 95 and 133 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽⁴⁾, in the light of the joint text approved by the Conciliation Committee on 5 April 2001,

Whereas:

(1) Council Directive 89/622/EEC of 13 November 1989 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products and the prohibition of the marketing of certain types of tobacco for oral use ⁽⁵⁾ was amended substantially by Directive 92/41/EEC ⁽⁶⁾. Since further amendments are to be made to that Directive, as well as to Council Directive 90/239/EEC of 17 May 1990 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the maximum tar yield of cigarettes ⁽⁷⁾, those Directives should be recast in the interests of clarity.

(2) There are still substantial differences between the Member States' laws, regulations and administrative provisions on the manufacture, presentation, and sale of tobacco products which impede the functioning of the internal market.

(3) Those barriers should be eliminated and, to this end, the rules relating to the manufacture, presentation and sale of tobacco products should be approximated, while leaving Member States the possibility of introducing, under certain conditions, such requirements as they

consider necessary in order to guarantee the protection of the health of individuals.

(4) In accordance with Article 95(3) of the Treaty, a high level of protection in terms of health, safety, environmental protection and consumer protection should be taken as a basis, regard being had, in particular, to any new developments based on scientific facts; in view of the particularly harmful effects of tobacco, health protection should be given priority in this context.

(5) Directive 90/239/EEC established maximum limits for the tar yield of cigarettes marketed in the Member States with effect from 31 December 1992. The carcinogenic nature of tar makes it necessary to reduce further the levels of tar in cigarettes.

(6) Directive 89/622/EEC established a general warning to be carried on the unit packaging of all tobacco products, together with additional warnings exclusively for cigarettes and, from 1992, extended the requirement for additional warnings to other tobacco products.

(7) Several Member States have indicated that, if measures establishing maximum carbon monoxide yields for cigarettes are not adopted at Community level, they will adopt such measures at national level. Differences in rules concerning carbon monoxide are likely to constitute barriers to trade and to impede the smooth operation of the internal market. In addition, cigarettes have been shown to produce amounts of carbon monoxide which are hazardous to human health and capable of contributing to heart disease and other ailments.

(8) A revision of the regulatory framework needs to evaluate evidence-based claims for tobacco products designed and/or marketed to 'reduce risk', or for which harm reduction is claimed by the manufacturers.

(9) There are differences between the laws, regulations and administrative provisions of the Member States on the limitation of the maximum nicotine yield of cigarettes. Such differences are liable to constitute barriers to trade and to impede the smooth operation of the internal market. Member States and scientific authorities have raised specific problems of public health in a field which has already been the subject of prior harmonisation measures, which the Commission has examined.

⁽¹⁾ OJ C 150 E, 30.5.2000, p. 43 and OJ C 337 E, 28.11.2000, p. 177.

⁽²⁾ OJ C 140, 18.5.2000, p. 24.

⁽³⁾ OJ C 226, 8.8.2000, p. 5.

⁽⁴⁾ Opinion of the European Parliament of 14 June 2000 (OJ C 67, 1.3.2001, p. 150), Council Common Position of 31 July 2000 (OJ C 300, 20.10.2000, p. 49.) and Decision of the European Parliament of 13 December 2000 (not yet published in the Official Journal). Decision of the European Parliament of 15 May 2001 and Decision of the Council of 14 May 2001.

⁽⁵⁾ OJ L 359, 8.12.1989, p. 1.

⁽⁶⁾ OJ L 158, 11.6.1992, p. 30.

⁽⁷⁾ OJ L 137, 30.5.1990, p. 36.

- (10) Those obstacles should accordingly be eliminated and to that end the release for free circulation, marketing and manufacture of cigarettes should be made subject to common rules not only concerning tar but also concerning maximum nicotine and carbon monoxide levels.
- (11) This Directive will also have consequences for tobacco products which are exported from the European Community. The export regime is part of the common commercial policy. Health requirements are, pursuant to Article 152(1) of the Treaty and the case law of the Court of Justice of the European Communities, to form a constituent part of the Community's other policies. Rules should be adopted in order to ensure that the internal market provisions are not undermined.
- (12) The provisions of this Directive are without prejudice to Community legislation governing the use and labelling of genetically modified organisms.
- (13) Internationally applicable standards for tobacco products are one of the subjects of the negotiations for the drafting of a World Health Organisation Framework Convention on Tobacco Control.
- (14) For measuring the tar, nicotine and carbon monoxide yields of cigarettes, reference should be made to ISO standards 4387, 10315 and 8454, which are the only internationally recognised standards, it being understood that subsequent research and technological progress to be promoted should make it possible to develop and use more precise and reliable measurement methods for cigarette yields and to develop measurement methods for the other tobacco products.
- (15) There are no internationally agreed standards or tests for quantifying and assessing the yields of constituents in cigarette smoke other than tar, nicotine and carbon monoxide. A procedure for development of such standards, in consultation with the International Standards Organisation, is therefore necessary.
- (16) In Directive 90/239/EEC, in view of particular socio-economic problems, Greece was granted a derogation from the time limits for the implementation of maximum tar yields. That derogation should be maintained for the period stipulated.
- (17) The application of tar, nicotine and carbon monoxide ceilings to exported cigarettes should be subject to transitional arrangements in order to allow more time to change product specifications and to allow for the establishment of internationally agreed standards.
- (18) Transitional periods should also be provided for in relation to other provisions of this Directive in order to allow the necessary modifications in production to take place and for disposal of stocks, particularly for products other than cigarettes. Use of irremovable labels should be allowed to facilitate the introduction of the labelling requirements of this Directive.
- (19) The presentation of warning labels and yields has continued to remain variable in the different Member States. As a consequence, consumers in one Member State may be better informed as to the risks of tobacco products than in another. Such differences are unacceptable and are liable to constitute a barrier to trade and to impede the operation of the internal market in tobacco products, and should therefore be eliminated. It is necessary to that end that the existing legislation be strengthened and clarified, while ensuring a high level of health protection.
- (20) Provision should be made for batches of tobacco products to be marked so that those products are traceable for the purposes of monitoring compliance with this Directive.
- (21) The direct and indirect socioeconomic costs of active and passive tobacco use should be regularly evaluated and made available to the public in the context of the appropriate Community programmes.
- (22) The situation varies in the different Member States regarding the ingredients and additives used in the manufacture of tobacco products. A number of Member States have neither existing legislation nor voluntary agreements in place on those substances. Several Member States in which such legislation or voluntary agreements exist receive no information from tobacco manufacturers on the quantities of such ingredients and additives present in particular tobacco products on a brand name by brand name basis. An approximation of the measures applicable in this field should be introduced, resulting in greater transparency.
- (23) The lack of information together with the lack of toxicological data prevents the relevant authorities in the Member States from assessing in any meaningful manner the toxicity of, and hazards posed to the health of the consumer by, tobacco products. This is inconsistent with the obligation placed on the Community to ensure a high level of protection for human health.
- (24) Member States should be able to adopt more stringent rules concerning tobacco products which they deem necessary to protect public health, in so far as the rules in the Directive are not prejudiced, and subject to the provisions of the Treaty.
- (25) Pending the establishment of the common list of ingredients referred to in Article 12, Member States may provide for the prohibition of the use of ingredients which have the effect of increasing the addictive properties of tobacco products, since the use of such ingredients may undermine the limits on nicotine levels laid down in this Directive.

- (26) Tobacco products have been shown to contain and emit many noxious substances and known carcinogens hazardous to human health when burnt. In recent years it has also been shown that passive smoking is dangerous in particular to unborn children and infants and that it can cause or aggravate respiratory problems in persons inhaling smoke. Moreover, 80 % of new smokers in the Community are below the age of 18. The greatest possible transparency of product information should be ensured, while ensuring that appropriate account is taken of the commercial and intellectual property rights of the tobacco manufacturers.
- (27) The use on tobacco product packaging of certain texts, such as 'low-tar', 'light', 'ultra-light', 'mild', names, pictures and figurative or other signs, may mislead the consumer into the belief that such products are less harmful and give rise to changes in consumption. Smoking behaviour and addiction, and not only the content of certain substances contained in the product before consumption, also determine the level of inhaled substances. This fact is not reflected in the use of such terms and so may undermine the labelling requirements set in this Directive. In order to ensure the proper functioning of the internal market, and given the development of proposed international rules, the prohibition of such use should be provided for at Community level, giving sufficient time for introduction of this rule.
- (28) Directive 89/622/EEC prohibited the sale in the Member States of certain types of tobacco for oral use. Article 151 of the Act of Accession of Austria, Finland and Sweden grants the Kingdom of Sweden a derogation from the provisions of that Directive in this regard.
- (29) Technical and scientific progress in the field of tobacco products calls for regular re-evaluation of the provisions and the application of this Directive in Member States. To that end provision should be made for a procedure for the Commission to draw up regular reports supported by scientific and technical data. Certain data ought to be examined with particular attention in this context.
- (30) In connection with the fixing of maximum yields, it ought to be considered whether, on the one hand, it is advisable at a later date to reduce the yields fixed and in particular how, if at all, they are connected and, on the other hand, whether standards on these matters should be developed for products other than cigarettes, in particular rolling tobacco.
- (31) As regards tobacco products other than cigarettes, standards and measurement methodologies need to be developed at Community level, and to this end the Commission should be requested to submit appropriate proposals.
- (32) As regards the other ingredients, including additives, the drawing up of a common list ought to be considered, with a view to subsequent harmonisation.
- (33) The size of the internal market in tobacco products and the increasing tendency of tobacco manufacturers to concentrate production for the whole of the Community in only a small number of production plants within the Member States, calls for legislative action to achieve the smooth operation of the internal market in tobacco products to be carried out at Community rather than national level.
- (34) The functioning of the common organisation of the market in raw tobacco is to be the subject of a Commission report to the European Parliament and Council in 2002 ⁽¹⁾. The Commission has indicated that such report will also examine the issue of integration of public health considerations, including the standards established in this Directive, in other Community policies, as required under Article 152 of the Treaty.
- (35) In applying this Directive, provision should be made for establishing time limits which allow, on the one hand, completion to a maximum degree of efficiency of the process of conversion already begun by Directive 90/239/EEC, and, on the other, consumers and manufacturers to adapt to products with a lower tar, nicotine and carbon monoxide yield.
- (36) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (37) This Directive should be without prejudice to the time limits within which the Member States must transpose and apply the Directives set out in Annex II,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Aim

The aim of this Directive is to approximate the laws, regulations and administrative provisions of the Member States concerning the maximum tar, nicotine and carbon monoxide yields of cigarettes and the warnings regarding health and other information to appear on unit packets of tobacco products, together with certain measures concerning the ingredients and the descriptions of tobacco products, taking as a basis a high level of health protection.

⁽¹⁾ Article 26 of Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco (OJ L 215, 30.7.1992, p. 70), as amended by Regulation (EC) 1636/98 of 20 July 1998 (OJ L 210, 28.7.1998, p. 23).

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

Article 2

Definitions

For the purposes of this Directive:

1. 'tobacco products' means products for the purposes of smoking, sniffing, sucking or chewing, inasmuch as they are, even partly, made of tobacco, whether genetically modified or not;
2. 'tar' means the raw anhydrous nicotine-free condensate of smoke;
3. 'nicotine' means nicotinic alkaloids;
4. 'tobacco for oral use' means all products for oral use, except those intended to be smoked or chewed, made wholly or partly of tobacco, in powder or in particulate form or in any combination of those forms, particularly those presented in sachet portions or porous sachets, or in a form resembling a food product;
5. 'ingredient' means any substance or any constituent except for tobacco leaf and other natural or unprocessed tobacco plant parts used in the manufacture or preparation of a tobacco product and still present in the finished product, even if in altered form, including paper, filter, inks and adhesives.

Article 3

Cigarettes: maximum tar, nicotine and carbon monoxide yields

1. From 1 January 2004, the yield of cigarettes released for free circulation, marketed or manufactured in the Member States shall not be greater than:
 - 10 mg per cigarette for tar,
 - 1 mg per cigarette for nicotine,
 - 10 mg per cigarette for carbon monoxide.
2. By way of derogation from the date referred to in paragraph 1, as regards cigarettes manufactured within, but exported from, the European Community, Member States may apply the yield limits laid down in this Article as from 1 January 2005 but shall in any event do so by 1 January 2007 at the latest.
3. For Greece, as a temporary derogation, the date of application of the maximum tar yield of cigarettes manufactured and marketed within its territory, as referred to in paragraph 1, shall be 1 January 2007.

Article 4

Measurement methods

1. The tar, nicotine and carbon monoxide yields of cigarettes shall be measured on the basis of ISO standards 4387 for tar, 10315 for nicotine, and 8454 for carbon monoxide.

The accuracy of the tar and nicotine indications on packets shall be verified in accordance with ISO standard 8243.

2. The tests referred to in paragraph 1 shall be carried out or verified by testing laboratories which are approved and monitored by the competent authorities of the Member States.

Member States shall send the Commission a list of approved laboratories, specifying the criteria used for approval and the methods of monitoring applied, by 30 September 2002, and whenever any change is made.

3. Member States may also require tobacco manufacturers or importers to carry out any other tests as may be laid down by the competent national authorities in order to assess the yield of other substances produced by their tobacco products on a brand-name-by-brand-name basis and type-by-type-basis and in order to assess the effects of those other substances on health, taking into account, *inter alia*, their addictiveness. Member States may also require that such tests be carried out or verified in approved testing laboratories as laid down in paragraph 2.

4. The results of tests carried out in accordance with paragraph 3 shall be submitted to the relevant national authorities on an annual basis. Member States may provide for less frequent disclosure of test results in cases where the product specifications have not varied. Member States shall be informed of changes in such product specifications

Member States shall ensure the dissemination, by any appropriate means, of information submitted in accordance with this Article with a view to informing consumers and in so doing shall take account, where appropriate, of any information which constitutes a trade secret.

5. Each year Member States shall communicate all data and information submitted pursuant to this Article to the Commission, which shall take account thereof when drawing up the report referred to in Article 11.

Article 5

Labelling

1. The tar, nicotine and carbon monoxide yields of cigarettes measured in accordance with Article 4 shall be printed on one side of the cigarette packet in the official language or languages of the Member State where the product is placed on the market, so that at least 10 % of the corresponding surface is covered.

That percentage shall be raised to 12 % for Member States with two official languages and to 15 % for Member States with three official languages.

2. Each unit packet of tobacco products, except for tobacco for oral use and other smokeless tobacco products must carry the following warnings:

(a) general warnings:

1. 'Smoking kills/Smoking can kill,' or
2. 'Smoking seriously harms you and others around you.'

The general warnings indicated above shall be rotated in such a way as to guarantee their regular appearance. The warning shall be printed on the most visible surface of the unit packet, and on any outside packaging, with the exception of additional transparent wrappers, used in the retail sale of the product; and

(b) an additional warning taken from the list set out in Annex I.

The additional warnings referred to above shall be rotated in such a way as to guarantee their regular appearance.

That warning shall be printed on the other most visible surface of the unit packet, and on any outside packaging, with the exception of additional transparent wrappers, used in the retail sale of the product.

Member States may determine the positioning of the warnings on those surfaces in order to accommodate language requirements.

3. The Commission shall, as soon as practicable and in any event not later than 31 December 2002, in accordance with the procedure laid down in Article 10(2), adopt rules for the use of colour photographs or other illustrations to depict and explain the health consequences of smoking, with a view to ensuring that internal market provisions are not undermined.

Where Member States require additional warnings in the form of colour photographs or other illustrations, these shall be in accordance with the abovementioned rules.

4. Tobacco products for oral use, where their marketing is permitted under Article 8, and smokeless tobacco products shall carry the following warning:

'This tobacco product can damage your health and is addictive.'

This warning shall be printed on the most visible surface of the unit packet and on any outside packaging, with the exception of additional transparent wrappers, used in the retail sale of the product.

Member States may determine the positioning of the warning on that surface in order to accommodate language requirements.

5. The general warning required pursuant to paragraph 2(a) and the warning for smokeless and oral tobacco products referred to in paragraph 4 shall cover not less than 30 % of the external area of the corresponding surface of the unit packet of tobacco on which it is printed. That proportion shall be increased to 32 % for Member States with two official languages and 35 % for Member States with three official languages. The additional warning required pursuant to paragraph 2(b) shall cover not less than 40 % of the external area of the corresponding surface of the unit packet of tobacco on

which it is printed. That proportion shall be increased to 45 % for Member States with two official languages and 50 % for Member States with three official languages.

However, in the case of unit packets intended for products other than cigarettes, the most visible surface of which exceeds 75 cm², the warnings referred to in paragraph 2 shall cover an area of at least 22,5 cm² on each surface. That area shall be increased to 24 cm² for Member States with two official languages and 26,25 cm² for Member States with three official languages.

6. The text of warnings and yield indications required under this Article shall be:

- (a) printed in black Helvetica bold type on a white background. In order to accommodate language requirements, Member States shall have the right to determine the point size of the font, provided that the font size specified in their legislation is such as to occupy the greatest possible proportion of the area set aside for the text required;
- (b) in lower-case type, except for the first letter of the message and where required by grammar usage;
- (c) centred in the area in which the text is required to be printed, parallel to the top edge of the packet;
- (d) for products other than those referred to in paragraph 4, surrounded by a black border not less than 3 mm and not more than 4 mm in width which in no way interferes with the text of the warning or information given;
- (e) in the official language or languages of the Member State where the product is placed on the market.

7. The printing of the texts required by this Article on the tax stamps of unit packets shall be prohibited. The texts shall be irremovably printed, indelible and shall in no way be hidden, obscured or interrupted by other written or pictorial matter or by the opening of the packet. In the case of tobacco products other than cigarettes, the texts may be affixed by means of stickers, provided that such stickers are irremovable.

8. Member States may stipulate that the warnings referred to in paragraphs 2 and 4 are to be accompanied by a reference, outside the box for warnings, to the issuing authority.

9. To ensure product identification and traceability, the tobacco product shall be marked in any appropriate manner, by batch numbering or equivalent, on the unit packet enabling the place and time of manufacture to be determined.

The technical measures to apply this provision shall be adopted in accordance with the procedure laid down in Article 10(2).

Article 6

Further product information

1. Member States shall require manufacturers and importers of tobacco products to submit to them a list of all ingredients, and quantities thereof, used in the manufacture of those tobacco products by brand name and type.

This list shall be accompanied by a statement setting out the reasons for the inclusion of such ingredients in those tobacco products. It shall indicate their function and category. The list shall also be accompanied by the toxicological data available to the manufacturer or importer regarding these ingredients in burnt or unburnt form as appropriate, referring in particular to their effects on health and taking into account, *inter alia*, any addictive effects. The list shall be established in descending order of the weight of each ingredient included in the product.

The information referred to in the first subparagraph shall be provided on a yearly basis and for the first time by 31 December 2002 at the latest.

2. Member States shall ensure the dissemination of the information provided in accordance with this article by any appropriate means, with a view to informing consumers. Due account shall nevertheless be taken of protection of any information on specific product formulae which constitutes a trade secret.

3. Member States shall ensure that the list of ingredients for each product, indicating tar, nicotine and carbon monoxide yields, is made public.

4. Each year Member States shall communicate all data and information submitted pursuant to this Article to the Commission, which shall take account thereof when drawing up the report referred to in Article 11.

Article 7

Product descriptions

With effect from 30 September 2003, and without prejudice to Article 5(1), texts, names, trade marks and figurative or other signs suggesting that a particular tobacco product is less harmful than others shall not be used on the packaging of tobacco products.

Article 8

Tobacco for oral use

Member States shall prohibit the placing on the market of tobacco for oral use, without prejudice to Article 151 of the Act of Accession of Austria, Finland and Sweden.

Article 9

Adaptations

The Commission shall, in accordance with the procedure laid down in Article 10(2), adapt to scientific and technical progress:

- (a) the measurement methods laid down in Article 4 and the definitions relating thereto;
- (b) the health warnings to be shown on unit packets of tobacco products as set out in Annex I and the frequency of rotation of the health warnings;
- (c) the marking for identification and tracing purposes of tobacco products.

Article 10

Regulatory procedure

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period referred to in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 11

Report

No later than 31 December 2004, and every two 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.

With a view to drafting the report referred to in the first paragraph, the Commission shall be assisted by scientific and technical experts in order to have all the necessary information available.

On submission of the first report, the Commission shall indicate in particular the features which should be reviewed or developed in the light of developments in scientific and technical knowledge, including the development of internationally agreed rules and standards on products, and shall pay special heed to:

- subsequent reduction of the maximum yields laid down in Article 3(1),
- possible links between these yields,
- improvements in health warnings, in terms of size, position and wording,
- new scientific and technical information regarding labelling and the printing on cigarette packets of photographs or other illustrations to depict and explain the health consequences of smoking,
- methodologies for more realistically assessing and regulating toxic exposure and harm,
- evaluation of the addictive effects of those ingredients which encourage addiction,
- evaluation of tobacco products which may have the potential to reduce harm,
- development of standardised testing methods to measure the yields of constituents in cigarette smoke other than tar, nicotine and carbon monoxide,
- toxicological data to be required from manufacturers on ingredients and the manner in which they should be tested in order to allow public health authorities to assess their use,
- development of standards concerning products other than cigarettes, in particular rolling tobacco.

The report shall also examine the links between the labelling requirements laid down in Article 5 and consumer behaviour. That report shall be accompanied by any proposals for amendments to this Directive which the Commission deems necessary to adapt it to developments in the field of tobacco products, to the extent necessary for the establishment and operation of the internal market, and to take into account any new development based on scientific facts and developments on internationally agreed product standards.

Article 12

Common list of ingredients

In the framework of the first report referred to in Article 11, at the latest by 31 December 2004, and with a view to the proper functioning of the internal market, the Commission is invited to submit, on the basis of the information provided under Article 6, a proposal providing for a common list of ingredients authorised for tobacco products, taking into account, *inter alia*, their addictiveness.

Article 13

Import, sale and consumption of tobacco products

1. Member States may not, for considerations relating to the limitation of the tar, nicotine or carbon monoxide yields of cigarettes, to health warnings and other indications or to other requirements of this Directive, prohibit or restrict the import, sale or consumption of tobacco products which comply with this Directive, with the exception of measures taken for the purposes of verifying the data provided under Article 4.

2. This Directive shall not affect the right of Member States to keep or introduce, in accordance with the Treaty, more stringent rules concerning the manufacture, import, sale and consumption of tobacco products which they deem necessary in order to protect public health, in-so-far as such rules do not prejudice the rules laid down in this Directive.

3. In particular, Member States may provide for the prohibition, pending the establishment of the common list of ingredients referred to in Article 12, of the use of ingredients which have the effect of increasing the addictive properties of tobacco products.

Article 14

Implementation

1. Without prejudice to the first paragraph of Article 15, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this

Directive by 30 September 2002 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, 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. Products which do not comply with the provisions of this Directive may continue to be marketed for one year after the date referred to in paragraph 1.

3. By way of derogation from paragraph 2, products other than cigarettes which do not comply with the provisions of this Directive may continue to be marketed for two years after the date referred to in paragraph 1.

4. 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 15

Repeal

Directives 89/622/EEC and 90/239/EEC are hereby repealed, without prejudice to the obligations of Member States concerning the time limits for transposition and application of the Directives listed in Annex II.

References to the Directives repealed shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex III.

Article 16

Entry into force

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

Article 17

Addressees

This Directive is addressed to the Member States.

Done at Luxembourg, 5 June 2001.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

L. ENGQVIST

ANNEX I

List of additional health warnings

(referred to in Article 5(2)(b))

1. Smokers die younger.
2. Smoking clogs the arteries and causes heart attacks and strokes.
3. Smoking causes fatal lung cancer.
4. Smoking when pregnant harms your baby.
5. Protect children: don't make them breathe your smoke.
6. Your doctor or your pharmacist can help you stop smoking.
7. Smoking is highly addictive, don't start.
8. Stopping smoking reduces the risk of fatal heart and lung diseases.
9. Smoking can cause a slow and painful death.
10. Get help to stop smoking: (telephone/postal address/internet address/consult your doctor/pharmacist).
11. Smoking may reduce the blood flow and causes impotence.
12. Smoking causes ageing of the skin.
13. Smoking can damage the sperm and decreases fertility.
14. Smoke contains benzene, nitrosamines, formaldehyde and hydrogen cyanide.

ANNEX II

Time-limits for transposition and implementation of repealed Directives

(referred to in Article 15)

| Directive | Time limits for transposition | Time limits for application |
|---|-------------------------------|--|
| 89/622/EEC (OJ L 359, 8.12.1989, p. 1) | 1 July 1990 | 31 December 1991 31 December 1992 31 December 1993 |
| 90/239/EEC (OJ L 137, 30.5.1990, p. 36) | 18 November 1991 | 31 December 1992 ⁽¹⁾ 31 December 1997 ⁽¹⁾ 31 December 1992 ⁽²⁾ 31 December 1998 ⁽²⁾ 31 December 2000 ⁽²⁾ 31 December 2006 ⁽²⁾ |
| 92/41/EEC (OJ L 158, 11.6.1992, p. 30) | 1 July 1992 | 1 July 1992 1 January 1994 31 December 1994 |

⁽¹⁾ For all Member States except Greece.⁽²⁾ Derogation applying to Greece only.

ANNEX III

CORRELATION TABLE

| This Directive | Directive 89/622/EEC as amended by Directive 92/41/EEC | Directive 90/239/EEC |
|---------------------------------------|---|----------------------|
| Article 1 | Article 1 | Article 1 |
| Article 2(1), (2) and (3) | Article 2(1), (2) and (3) | Article 2(1) |
| Article 2(4) | Article 2(4) | |
| Article 2(5) | | |
| Article 3(1) | | Article 2(2) |
| Article 3(3) | | Article 2(3) |
| Article 4(1), first subparagraph | Article 3(1) | Article 3 and 4 |
| Article 4(1), second subparagraph | Article 3(2) | |
| Article 4(2) to (5) | | |
| Article 5(1) | Article 3(3) | |
| Article 5(2), first subparagraph | Article 4(1) | |
| Article 5(2), first subparagraph, (a) | Annex I | |
| Article 5(2), first subparagraph, (b) | Article 4(2a)(a) | |
| Article 5(2), second subparagraph | | |
| Article 5(4) | | |
| Article 5(5), first subparagraph | Article 4(4) | |
| Article 5(5), second subparagraph | Article 4(4) | |
| Article 5(6) | | |
| Article 5(7) | Article 4(5) | |
| Article 5(8) | | |
| Article 5(9) | | |
| Article 6 | | |
| Article 7 | | |
| Article 8 | Article 8(a) | |
| Article 9 | | |
| Article 10 | | |
| Article 11 | | |
| Article 12 | | |
| Article 13(1) | Article 8(1) | Article 7(1) |
| Article 13(2) | Article 8(2) | Article 7(2) |
| Article 14(1) | Article 9(1) | Article 8(1) |
| Article 14(2) | Article 9(2) | Article 8(2) |
| Article 14(3) | Article 9(1) | Article 8(3) |
| Article 15 | | |
| Article 16 | | |
| Article 17 | Article 10 | Article 9 |
| Annex I | Annex I | |
| Annex II | | |
| Annex III | | |

COMMISSION STATEMENT**Recital 19**

The Commission will examine public health and consumer protection aspects of the sale of tobacco products through automatic vending machines on the basis of the provisions of Articles 152 and 153 of the Treaty. This matter is also the subject of negotiations for a World Health Organisation Framework Convention on Tobacco Control, currently under way.

**DIRECTIVE 2001/41/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 June 2001**

amending, for the twenty-first time, Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations, as regards substances classified as carcinogens, mutagens or substances toxic to reproduction

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

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

Whereas:

- (1) Article 14 of the Treaty provides for the establishment of an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured.
- (2) On 29 March 1996 the European Parliament and the Council adopted Decision 646/96/EC adopting an action plan to combat cancer within the framework for action in the field of public health (1996 to 2000) ⁽⁴⁾.
- (3) In order to improve health protection and consumer safety, substances classified as carcinogenic, mutagenic or toxic to reproduction, and preparations containing them should not be placed on the market for use by the general public.
- (4) Directive 94/60/EC of the European Parliament and of the Council of 20 December 1994 amending for the fourteenth time Directive 76/769/EEC ⁽⁵⁾ establishes, in the form of an Appendix concerning points 29, 30 and 31 of Annex I to Directive 76/769/EEC ⁽⁶⁾, a list containing substances classified as carcinogenic, mutagenic or toxic to reproduction in category 1 or 2. Such substances and preparations should not be placed on the market for use by the general public.
- (5) Directive 94/60/EC provides that the Commission will submit to the European Parliament and Council a proposal to extend this list not later than six months after publication of an adaptation to technical progress

of Annex I to Council Directive 67/548/EEC of 27 June 1967 relating to the classification, packaging and labelling of dangerous substances ⁽⁷⁾, which contains substances classified as carcinogenic, mutagenic or toxic to reproduction in category 1 or 2.

- (6) Commission Directive 97/69/EC of 5 December 1997 adapting for the twenty-third time Directive 67/548/EEC, and more particularly Annex I thereto, to technical progress, contains one substance newly classified as carcinogenic in category 2 and Commission Directive 98/73/EC ⁽⁸⁾ of 18 September 1998 adapting for the twenty-fourth time Directive 67/548/EEC ⁽⁹⁾, and more particularly Annex 1 thereto, to technical progress, contains one substance newly classified as carcinogenic in category 2 and one substance newly classified as toxic to reproduction in category 2. These substances should be added to the Appendix concerning points 29 and 31 of Annex I to Directive 76/769/EEC.
- (7) The risks and advantages of the substances newly classified, by Directives 97/69/EC and 98/73/EC, as carcinogenic in category 2 or toxic to reproduction in category 2 have been taken into account.
- (8) This Directive applies without prejudice to Community legislation laying down minimum requirements for the protection of workers contained in Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work ⁽¹⁰⁾, and individual directives based thereon, in particular Council Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work (Sixth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) ⁽¹¹⁾,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

The Appendix to Annex I to Directive 76/769/EEC shall be amended as follows:

⁽¹⁾ OJ C 116 E, 26.4.2000, p. 54.

⁽²⁾ OJ C 140, 18.5.2000, p. 1.

⁽³⁾ Opinion of the European Parliament of 14 November 2000 (not yet published in the Official Journal), Council Common Position of 12 March 2001 (OJ C 142, 15.5.2001, p. 1) and European Parliament Decision of 16 May 2001.

⁽⁴⁾ OJ L 95, 16.4.1996, p. 9.

⁽⁵⁾ OJ L 365, 31.12.1994, p. 1.

⁽⁶⁾ OJ L 262, 27.9.1976, p. 201. Directive as last amended by Commission Directive 1999/77/EC (OJ L 207, 6.8.1999, p. 18).

⁽⁷⁾ OJ 196 J, 16.8.1967, p. 1. Directive as last amended by Commission Directive 2000/33/EC (OJ L 136, 8.6.2000, p. 90).

⁽⁸⁾ OJ L 343, 13.12.1997, p. 19.

⁽⁹⁾ OJ L 305, 16.11.1998, p. 1.

⁽¹⁰⁾ OJ L 183, 29.6.1989, p. 1.

⁽¹¹⁾ OJ L 196, 26.7.1990, p. 1. Directive as last amended by Council Directive 1999/38/EC (OJ L 138, 1.6.1999, p. 66).

1. In the introduction, the Note R below shall be added:

'Note R:

The classification as a carcinogen need not apply to fibres with a length weighted geometric mean diameter, less two standard errors, greater than 6µm.'

2. The substances listed in the Annex to this Directive shall be added to those substances listed in the Appendix concerning points 29 and 31.

Article 2

1. The Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive not later than 18 July 2002. They shall forthwith inform the Commission thereof.

They shall apply those provisions from 18 January 2003.

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

Member States shall determine how such reference is to be made.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 19 June 2001.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

M. WINBERG

ANNEX

Point 29 — Carcinogens: category 2

| Substances | Index number | EC number | CAS number | Notes |
|--|--------------|-----------|------------|-------|
| 4-chloraniline | 612-137-00-9 | 203-401-0 | 106-47-8 | |
| Refractory ceramic fibres; Special Purpose Fibres, with the exception of those specified elsewhere in Annex I to Directive 67/548/EEC; [Man-made vitreous (silicate) fibres with random orientation with alkaline oxide and alkali earth oxide (Na ₂ O + K ₂ O + CaO + MgO + BaO) content less or equal to 18 % by weight] | 650-017-00-8 | | | R |

Point 31 — Toxic to reproduction: category 2

| Substances | Index number | EC number | CAS number | Notes |
|---|--------------|-----------|------------|-------|
| 6-(2-chloroethyl)-6(2-methoxyethoxy)-2,5,7,10-tetraoxa-6-silaundecane; etacelasil | 014-014-00-X | 253-704-7 | 37894-46-5 | |

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 5 April 2001

on the conclusion by the European Community of the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention)

(2001/539/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) It is beneficial for European Community air carriers to operate under uniform and clear rules regarding their liability for damage and that such rules should be the same as those applicable to carriers from third countries.
- (2) The Community took part in the International Diplomatic Conference on air law convened in Montreal from 10 to 28 May 1999, which resulted in the adoption of the Convention for the unification of certain rules for international carriage by air (the Montreal Convention), and it signed the said Convention on 9 December 1999.
- (3) Regional Economic Integration Organisations which have competence in respect of certain matters governed by the Montreal Convention may be parties to it.

- (4) The Community and its Member States share competence in the matters covered by the Montreal Convention and it is therefore necessary for them simultaneously to ratify it in order to guarantee uniform and complete application of its provisions within the European Union,

HAS DECIDED AS FOLLOWS:

Article 1

The Convention for the Unification of Certain Rules for International Carriage by Air ('the Montreal Convention') is hereby approved on behalf of the European Community.

The text of the Convention is attached to this Decision.

Article 2

The President of the Council shall deposit, on behalf of the European Community, the instrument provided for in Article 53(3) of the Montreal Convention with the International Civil Aviation Organisation, together with the Declaration of Competence.

The instrument shall be deposited simultaneously with the instruments of ratification of all the Member States.

Done at Luxembourg, 5 April 2001.

For the Council

The President

B. ROSENGREN

⁽¹⁾ OJ C 337 E, 28.11.2000, p. 225.

⁽²⁾ Opinion of 16 January 2001 (not yet published in the Official Journal).

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES FOR INTERNATIONAL CARRIAGE BY AIR

THE STATES PARTIES TO THIS CONVENTION,

RECOGNIZING the significant contribution of the Convention for the Unification of Certain Rules to International Carriage by Air signed in Warsaw on 12 October 1929, hereinafter referred to as the 'Warsaw Convention', and other related instruments to the harmonization of private international air law;

RECOGNIZING the need to modernize and consolidate the Warsaw Convention and related instruments;

RECOGNIZING the importance of ensuring protection of the interests of consumers in international carriage by air and the need for equitable compensation based on the principle of restitution;

REAFFIRMING the desirability of an orderly development of international air transport operations and the smooth flow of passengers, baggage and cargo in accordance with the principles and objectives of the Convention on International Civil Aviation, done at Chicago on 7 December 1944;

CONVINCED that collective State action for further harmonization and codification of certain rules governing international carriage by air through a new Convention is the most adequate means of achieving an equitable balance of interests,

HAVE AGREED AS FOLLOWS:

CHAPTER I

General provisions

Article 1

Scope of application

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention, the expression international carriage means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two States Parties, or within the territory of a single State Party if there is an agreed stopping place within the territory of another State, even if that State is not a State Party. Carriage between two points within the territory of a single State Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.

3. Carriage to be performed by several successive carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

4. This Convention applies also to carriage as set out in Chapter V, subject to the terms contained therein.

Article 2

Carriage performed by State and carriage of postal items

1. This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. In the carriage of postal items, the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.

3. Except as provided in paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

CHAPTER II

Documentation and duties of the Parties relating to the carriage of passengers, baggage and cargo

Article 3

Passengers and baggage

1. In respect of carriage of passengers, an individual or collective document of carriage shall be delivered containing:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.

2. Any other means which preserves the information indicated in paragraph 1 may be substituted for the delivery of the document referred to in that paragraph. If any such other means is used, the carrier shall offer to deliver to the passenger a written statement of the information so preserved.

3. The carrier shall deliver to the passenger a baggage identification tag for each piece of checked baggage.

4. The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage, and for delay.

5. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

Article 4

Cargo

1. In respect of the carriage of cargo, an air waybill shall be delivered.

2. Any other means which preserves a record of the carriage to be performed may be substituted for the delivery of an air waybill. If such other means are used, the carrier shall, if so requested by the consignor, deliver to the consignor a cargo receipt permitting identification of the consignment and access to the information contained in the record preserved by such other means.

Article 5

Contents of air waybill or cargo receipt

The air waybill or the cargo receipt shall include:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
- (c) an indication of the weight of the consignment.

Article 6

Document relating to the nature of the cargo

The consignor may be required, if necessary, to meet the formalities of customs, police and similar public authorities to deliver a document indicating the nature of the cargo. This provision creates for the carrier no duty, obligation or liability resulting therefrom.

Article 7

Description of air waybill

1. The air waybill shall be made out by the consignor in three original parts.

2. The first part shall be marked 'for the carrier'; it shall be signed by the consignor. The second part shall be marked 'for the consignee'; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier who shall hand it to the consignor after the cargo has been accepted.

3. The signature of the carrier and that of the consignor may be printed or stamped.

4. If, at the request of the consignor, the carrier makes out the air waybill, the carrier shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 8

Documentation for multiple packages

When there is more than one package:

- (a) the carrier of cargo has the right to require the consignor to make out separate air waybills;
- (b) the consignor has the right to require the carrier to deliver separate cargo receipts when the other means referred to in paragraph 2 of Article 4 are used.

Article 9

Non-compliance with documentary requirements

Non-compliance with the provisions of Articles 4 to 8 shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

Article 10

Responsibility for particulars of documentation

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by it or on its behalf in the air waybill or furnished by it or on its behalf to the carrier for insertion in the cargo receipt or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 4. The foregoing shall also apply where the person acting on behalf of the consignor is also the agent of the carrier.

2. The consignor shall indemnify the carrier against all damage suffered by it, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on its behalf.

3. Subject to the provisions of paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damage suffered by it, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on its behalf in the cargo receipt or in the record preserved by the other means referred to in paragraph 2 of Article 4.

Article 11

Evidentiary value of documentation

1. The air waybill or the cargo receipt is prima facie evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.

2. Any statements in the air waybill or the cargo receipt relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill or the cargo receipt to have been, checked by it in the presence of the consignor, or relate to the apparent condition of the cargo.

Article 12

Right of disposition of cargo

1. Subject to its liability to carry out all its obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. The consignor must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and must reimburse any expenses occasioned by the exercise of this right.

2. If it is impossible to carry out the instructions of the consignor, the carrier must so inform the consignor forthwith.

3. If the carrier carries out the instructions of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the cargo receipt delivered to the latter, the carrier will be liable, without prejudice to its right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the cargo receipt.

4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the

cargo, or cannot be communicated with, the consignor resumes its right of disposition.

Article 13

Delivery of the cargo

1. Except when the consignor has exercised its right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to it, on payment of the charges due and on complying with the conditions of carriage.

2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

Article 14

Enforcement of the rights of consignor and consignee

The consignor and the consignee can respectively enforce all the rights given to them by Articles 12 and 13, each in its own name, whether it is acting in its own interest or in the interests of another, provided that it carries out the obligations imposed by the contract of carriage.

Article 15

Relations of consignor and consignee or mutual relations of third parties

1. Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties, whose rights are derived either from the consignor or from the consignee.

2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the cargo receipt.

Article 16

Formalities of customs, police or other public authorities

1. The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, police and any other public authorities before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, its servants or agents.

2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III

Liability of the carrier and extent of compensation for damage*Article 17***Death and injury of passengers — damage to baggage**

1. The carrier is liable for damage sustained in case of death or bodily injury of a passenger upon condition only that the accident which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

2. The carrier is liable for damage sustained in case of destruction or loss of, or of damage to, checked baggage upon condition only that the event which caused the destruction, loss or damage took place on board the aircraft or during any period within which the checked baggage was in the charge of the carrier. However, the carrier is not liable if and to the extent that the damage resulted from the inherent defect, quality or vice of the baggage. In the case of unchecked baggage, including personal items, the carrier is liable if the damage resulted from its fault or that of its servants or agents.

3. If the carrier admits the loss of the checked baggage, or if the checked baggage has not arrived at the expiration of 21 days after the date on which it ought to have arrived, the passenger is entitled to enforce against the carrier the rights which flow from the contract of carriage.

4. Unless otherwise specified, in this Convention the term 'baggage' means both checked baggage and unchecked baggage.

*Article 18***Damage to cargo**

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the event which caused the damage so sustained took place during the carriage by air.

2. However, the carrier is not liable if and to the extent it proves that the destruction, or loss of, or damage to, the cargo resulted from one or more of the following:

- (a) inherent defect, quality or vice of that cargo;
- (b) defective packing of that cargo performed by a person other than the carrier or its servants or agents;
- (c) an act of war or an armed conflict;
- (d) an act of public authority carried out in connection with the entry, exit or transit of the cargo.

3. The carriage by air within the meaning of paragraph 1 of this Article comprises the period during which the cargo is in the charge of the carrier.

4. The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air. If a carrier, without the consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.

*Article 19***Delay**

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

*Article 20***Exoneration**

If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he or she derives his or her rights, the carrier shall be wholly or partly exonerated from its liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage. When by reason of death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from its liability to the extent that it proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger. This Article applies to all the liability provisions in this Convention, including paragraph 1 of Article 21.

*Article 21***Compensation in case of death or injury of passengers**

1. For damages arising under paragraph 1 of Article 17 not exceeding 100 000 Special Drawing Rights for each passenger, the carrier shall not be able to exclude or limit its liability.

2. The carrier shall not be liable for damages arising under paragraph 1 of Article 17 to the extent that they exceed for each passenger 100 000 Special Drawing Rights if the carrier proves that:

- (a) such damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents; or

(b) such damage was solely due to the negligence or other wrongful act or omission of a third party.

Article 22

Limits of liability in relation to delay, baggage and cargo

1. In the case of damage caused by delay as specified in Article 19 in the carriage of persons, the liability of the carrier for each passenger is limited to 4 150 Special Drawing Rights.

2. In the carriage of baggage, the liability of the carrier in the case of destruction, loss, damage or delay is limited to 1 000 Special Drawing Rights for each passenger unless the passenger has made, at the time when the checked baggage was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the passenger's actual interest in delivery at destination.

3. In the carriage of cargo, the liability of the carrier in the case of destruction, loss, damage or delay is limited to a sum of 17 Special Drawing Rights per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the consignor's actual interest in delivery at destination.

4. In the case of destruction, loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the destruction, loss, damage or delay of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, or the same receipt or, if they were not issued, by the same record preserved by the other means referred to in paragraph 2 of Article 4, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

5. The foregoing provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that such servant or agent was acting within the scope of its employment.

6. The limits prescribed in Article 21 and in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the

plaintiff, including interest. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

Article 23

Conversion of monetary units

1. The sums mentioned in terms of Special Drawing Right in this Convention shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgement. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgement, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that State.

2. Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 of this Article may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier prescribed in Article 21 is fixed at a sum of 1 500 000 monetary units per passenger in judicial proceedings in their territories; 62 500 monetary units per passenger with respect to paragraph 1 of Article 22; 15 000 monetary units per passenger with respect to paragraph 2 of Article 22; and 250 monetary units per kilogram with respect to paragraph 3 of Article 22. This monetary unit corresponds to 65,5 milligrams of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.

3. The calculation mentioned in the last sentence of paragraph 1 of this Article and the conversion method mentioned in paragraph 2 of this Article shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in Articles 21 and 22 as would result from the application of the first three sentences of paragraph 1 of this Article. State Parties shall communicate to the depositary the manner of calculation pursuant to paragraph 1 of this Article, or the result of the conversion in paragraph 2 of this Article as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

*Article 24***Review of limits**

1. Without prejudice to the provisions of Article 25 of this Convention and subject to paragraph 2 below, the limits of liability prescribed in Articles 21, 22 and 23 shall be reviewed by the Depositary at five-year intervals, the first such review to take place at the end of the fifth year following the date of entry into force of this Convention, or if the Convention does not enter into force within five years of the date it is first open for signature, within the first year of its entry into force, by reference to an inflation factor which corresponds to the accumulated rate of inflation since the previous revision or in the first instance since the date of entry into force of the Convention. The measure of the rate of inflation to be used in determining the inflation factor shall be the weighted average of the annual rates of increase or decrease in the Consumer Price Indices of the States whose currencies comprise the Special Drawing Right mentioned in paragraph 1 of Article 23.

2. If the review referred to in the preceding paragraph concludes that the inflation factor has exceeded 10 per cent, the Depositary shall notify States Parties of a revision of the limits of liability. Any such revision shall become effective six months after its notification to the States Parties. If within three months after its notification to the States Parties a majority of the States Parties register their disapproval, the revision shall not become effective and the Depositary shall refer the matter to a meeting of the States Parties. The Depositary shall immediately notify all States Parties of the coming into force of any revision.

3. Notwithstanding paragraph 1 of this Article, the procedure referred to in paragraph 2 of this Article shall be applied at any time provided that one-third of the States Parties express a desire to that effect and upon condition that the inflation factor referred to in paragraph 1 has exceeded 30 per cent since the previous revision or since the date of entry into force of this Convention if there has been no previous revision. Subsequent reviews using the procedure described in paragraph 1 of this Article will take place at five-year intervals starting at the end of the fifth year following the date of the reviews under the present paragraph.

*Article 25***Stipulation on limits**

A carrier may stipulate that the contract of carriage shall be subject to higher limits of liability than those provided for in this Convention or to no limits of liability whatsoever.

*Article 26***Invalidity of contractual provisions**

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision

does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

*Article 27***Freedom to contract**

Nothing contained in this Convention shall prevent the carrier from refusing to enter into any contract of carriage, from waiving any defences available under the Convention, or from laying down conditions which do not conflict with the provisions of this Convention.

*Article 28***Advance payments**

In the case of aircraft accidents resulting in death or injury of passengers, the carrier shall, if required by its national law, make advance payments without delay to a natural person or persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons. Such advance payments shall not constitute a recognition of liability and may be offset against any amounts subsequently paid as damages by the carrier.

*Article 29***Basis of claims**

In the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and such limits of liability as are set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. In any such action, punitive, exemplary or any other non-compensatory damages shall not be recoverable.

*Article 30***Servants, agents — aggregation of claims**

1. If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent, if they prove that they acted within the scope of their employment, shall be entitled to avail themselves of the conditions and limits of liability which the carrier itself is entitled to invoke under this Convention.

2. The aggregate of the amounts recoverable from the carrier, its servants and agents, in that case, shall not exceed the said limits.

3. Save in respect of the carriage of cargo, the provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

*Article 31***Timely notice of complaints**

1. Receipt by the person entitled to delivery of checked baggage or cargo without complaint is prima facie evidence that the same has been delivered in good condition and in accordance with the document of carriage or with the record preserved by the other means referred to in paragraph 2 of Article 3 and paragraph 2 of Article 4.

2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of checked baggage and 14 days from the date of receipt in the case of cargo. In the case of delay, the complaint must be made at the latest within 21 days from the date on which the baggage or cargo have been placed at his or her disposal.

3. Every complaint must be made in writing and given or dispatched within the times aforesaid.

4. If no complaint is made within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on its part.

*Article 32***Death of person liable**

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his or her estate.

*Article 33***Jurisdiction**

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before the court of the domicile of the carrier or of its principal place of business, or where it has a place of business through which the contract has been made or before the court at the place of destination.

2. In respect of damage resulting from the death or injury of a passenger, an action may be brought before one of the courts mentioned in paragraph 1 of this Article, or in the territory of a State Party in which at the time of the accident the passenger has his or her principal and permanent residence and to or from which the carrier operates services for the carriage of passengers by air, either on its own aircraft, or on another carrier's aircraft pursuant to a commercial agreement, and in which that carrier conducts its business of carriage of passengers by air from premises leased or owned by the carrier itself or by another carrier with which it has a commercial agreement.

3. For the purposes of paragraph 2,

(a) 'commercial agreement' means an agreement, other than an agency agreement, made between carriers and relating to the provision of their joint services for carriage of passengers by air;

(b) 'principal and permanent residence' means the one fixed and permanent abode of the passenger at the time of the accident. The nationality of the passenger shall not be the determining factor in this regard.

4. Questions of procedure shall be governed by the law of the court seised of the case.

*Article 34***Arbitration**

1. Subject to the provisions of this Article, the parties to the contract of carriage for cargo may stipulate that any dispute relating to the liability of the carrier under this Convention shall be settled by arbitration. Such agreement shall be in writing.

2. The arbitration proceedings shall, at the option of the claimant, take place within one of the jurisdictions referred to in Article 33.

3. The arbitrator or arbitration tribunal shall apply the provisions of this Convention.

4. The provisions of paragraphs 2 and 3 of this Article shall be deemed to be part of every arbitration clause or agreement, and any term of such clause or agreement which is inconsistent therewith shall be null and void.

*Article 35***Limitation of actions**

1. The right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

2. The method of calculating that period shall be determined by the law of the court seised of the case.

*Article 36***Successive carriage**

1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in paragraph 3 of Article 1, each carrier which accepts passengers, baggage or cargo is subject to the rules set out in this Convention and is deemed to be one of the parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under its supervision.

2. In the case of carriage of this nature, the passenger or any person entitled to compensation in respect of him or her can take action only against the carrier which performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

3. As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier which performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

Article 37

Right of recourse against third parties

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

CHAPTER IV

Combined carriage

Article 38

Combined carriage

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention shall, subject to paragraph 4 of Article 18, apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

CHAPTER V

Carriage by air performed by a person other than the contracting carrier

Article 39

Contracting carrier actual carrier

The provisions of this Chapter apply when a person (hereinafter referred to as 'the contracting carrier') as a principal makes a contract of carriage governed by this Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor, and another person (hereinafter referred to as 'the actual carrier') performs, by virtue of authority from the contracting carrier, the whole or part of the carriage, but is not with respect to such part a successive carrier within the meaning of this Convention. Such authority shall be presumed in the absence of proof to the contrary.

Article 40

Respective liability of contracting and actual carriers

If an actual carrier performs the whole or part of carriage which, according to the contract referred to in Article 39, is governed by this Convention, both the contracting carrier and the actual carrier shall, except as otherwise provided in this Chapter, be subject to the rules of this Convention, the former for the whole of the carriage contemplated in the contract, the latter solely for the carriage which it performs.

Article 41

Mutual liability

1. The acts and omissions of the actual carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.

2. The acts and omissions of the contracting carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the amounts referred to in Articles 21, 22, 23 and 24. Any special agreement under which the contracting carrier assumes obligations not imposed by this Convention or any waiver of rights or defences conferred by this Convention or any special declaration of interest in delivery at destination contemplated in Article 22 shall not affect the actual carrier unless agreed to by it.

Article 42

Addressee of complaints and instructions

Any complaint to be made or instruction to be given under this Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, instructions referred to in Article 12 shall only be effective if addressed to the contracting carrier.

Article 43

Servants and agents

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if they prove that they acted within the scope of their employment, be entitled to avail themselves of the conditions and limits of liability which are applicable under this Convention to the carrier whose servant or agent they are, unless it is proved that they acted in a manner that prevents the limits of liability from being invoked in accordance with this Convention.

*Article 44***Aggregation of damages**

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to that person.

*Article 45***Addressee of claims**

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against that carrier or the contracting carrier, or against both together or separately. If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seised of the case.

*Article 46***Additional jurisdiction**

Any action for damages contemplated in Article 45 must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before a court in which an action may be brought against the contracting carrier, as provided in Article 33, or before the court having jurisdiction at the place where the actual carrier has its domicile or its principal place of business.

*Article 47***Invalidity of contractual provisions**

Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Chapter or to fix a lower limit than that which is applicable according to this Chapter shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Chapter.

*Article 48***Mutual relations of contracting and actual carriers**

Except as provided in Article 45, nothing in this Chapter shall affect the rights and obligations of the carriers between themselves, including any right of recourse or indemnification.

CHAPTER VI

Other provisions*Article 49***Mandatory application**

Any clause contained in the contract of carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void.

*Article 50***Insurance**

States Parties shall require their carriers to maintain adequate insurance covering their liability under this Convention. A carrier may be required by the State Party into which it operates to furnish evidence that it maintains adequate insurance covering its liability under this Convention.

*Article 51***Carriage Performed in Extraordinary Circumstances**

The provisions of Articles 3 to 5, 7 and 8 relating to the documentation of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of a carrier's business.

*Article 52***Definition of days**

The expression 'days' when used in this Convention means calendar days, not working days.

CHAPTER VII

Final clauses*Article 53***Signature, ratification and entry into force**

1. This Convention shall be open for signature in Montreal on 28 May 1999 by States participating in the International Conference on Air Law held at Montreal from 10 to 28 May 1999. After 28 May 1999, the Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montreal until it enters into force in accordance with paragraph 6 of this Article.

2. This Convention shall similarly be open for signature by Regional Economic Integration Organisations. For the purpose of this Convention, a 'Regional Economic Integration Organisation' means any organisation which is constituted by sovereign States of a given region which has competence in respect of certain matters governed by this Convention and has been duly authorized to sign and to ratify, accept, approve or accede to this Convention. A reference to a 'State Party' or 'States Parties' in this Convention, otherwise than in paragraph 2 of Article 1, paragraph 1(b) of Article 3, paragraph (b) of Article 5, Articles 23, 33, 46 and paragraph (b) of Article 57, applies equally to a Regional Economic Integration Organisation. For the purpose of Article 24, the references to 'a majority of the States Parties' and 'one-third of the States Parties' shall not apply to a Regional Economic Integration Organisation.

3. This Convention shall be subject to ratification by States and by Regional Economic Integration Organisations which have signed it.

4. Any State or Regional Economic Integration Organisation which does not sign this Convention may accept, approve or accede to it at any time.

5. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depository.

6. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession with the Depository between the States which have deposited such instrument. An instrument deposited by a Regional Economic Integration Organisation shall not be counted for the purpose of this paragraph.

7. For other States and for other Regional Economic Integration Organisations, this Convention shall take effect 60 days following the date of deposit of the instrument of ratification, acceptance, approval or accession.

8. The Depository shall promptly notify all signatories and States Parties of:

- (a) each signature of this Convention and date thereof;
- (b) each deposit of an instrument of ratification, acceptance, approval or accession and date thereof;
- (c) the date of entry into force of this Convention;
- (d) the date of the coming into force of any revision of the limits of liability established under this Convention;

(e) any denunciation under Article 54.

Article 54

Denunciation

1. Any State Party may denounce this Convention by written notification to the Depository.
2. Denunciation shall take effect 180 days following the date on which notification is received by the Depository.

Article 55

Relationship with other Warsaw Convention Instruments

This Convention shall prevail over any rules which apply to international carriage by air:

1. between States Parties to this Convention by virtue of those States commonly being Party to
 - (a) the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929 (hereinafter called the 'Warsaw Convention');
 - (b) the Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929, done at The Hague on 28 September 1955 (hereinafter called The Hague Protocol);
 - (c) the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter called the Guadalajara Convention);
 - (d) the Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocol Done at The Hague on 28 September 1955 signed at Guatemala City on 8 March 1971 (hereinafter called the Guatemala City Protocol);
 - (e) Additional Protocol Nos 1 to 3 and Montreal Protocol No 4 to amend the Warsaw Convention as amended by The Hague Protocol or the Warsaw Convention as amended by both The Hague Protocol and the Guatemala City Protocol signed at Montreal on 25 September 1975 (hereinafter called the Montreal Protocols); or
2. within the territory of any single State Party to this Convention by virtue of that State being Party to one or more of the instruments referred to in subparagraphs (a) to (e) above.

*Article 56***States with more than one system of law**

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.
2. Any such declaration shall be notified to the Depositary and shall state expressly the territorial units to which the Convention applies.
3. In relation to a State Party which has made such a declaration:
 - (a) references in Article 23 to 'national currency' shall be construed as referring to the currency of the relevant territorial unit of that State; and
 - (b) the reference in Article 28 to 'national law' shall be construed as referring to the law of the relevant territorial unit of that State.

*Article 57***Reservations**

No reservation may be made to this Convention except that a State Party may at any time declare by a notification addressed to the Depositary that this Convention shall not apply to:

- (a) international carriage by air performed and operated directly by that State Party for non-commercial purposes in respect to its functions and duties as a sovereign State; and/or
- (b) the carriage of persons, cargo and baggage for its military authorities on aircraft registered in or leased by that State Party, the whole capacity of which has been reserved by or on behalf of such authorities.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Montreal on the 28th day of May of the year one thousand nine hundred and ninety-nine in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic. This Convention shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all States Parties to this Convention, as well as to all States Parties to the Warsaw Convention, The Hague Protocol, the Guadalajara Convention, the Guatemala City Protocol, and the Montreal Protocols.

COMMISSION

COMMISSION DECISION

of 9 July 2001

modifying Decision 98/634/EC establishing the ecological criteria for the award of the Community eco-label to bed mattresses

(notified under document number C(2001) 1610)

(Text with EEA relevance)

(2001/540/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community eco-label award scheme ⁽¹⁾, and in particular Articles 3, 4 and 6 thereof,

Whereas:

- (1) Article 3 of Regulation (EC) No 1980/2000 provides that the eco-label may be awarded to a product possessing characteristics which enable it to contribute significantly to improvements in relation to key environmental aspects.
- (2) Article 4 of Regulation (EC) No 1980/2000 provides that specific eco-label criteria shall be established according to product groups.
- (3) Article 4 of Regulation (EC) No 1980/2000 provides that the review of the eco-label criteria as well as of the assessment and verification requirements related to the criteria shall take place in due time before the end of the period of validity of the criteria specified for each product group and shall result in a proposal for prolongation, withdrawal or revision.
- (4) By Decision 98/634/EC ⁽²⁾, the Commission established ecological criteria for the award of the Community eco-label to bed mattresses, which, according to Article 3 thereof expire 1 October 2001.

(5) It is appropriate to prolong the period of validity of the definition of the product group and the ecological criteria without change, for a period of 18 months.

(6) The measures set out in this Decision have been developed and adopted under the procedures for the setting of eco-label criteria as laid down in Article 6 of Regulation (EC) No 1980/2000.

(7) The measures set out in this Decision are in accordance with the opinion of the committee set up under Article 17 of Regulation (EC) No 1980/2000,

HAS ADOPTED THIS DECISION:

Article 1

Article 3 of Commission Decision 98/634/EC shall be replaced by the following text:

'The product group definition and the criteria for the product group shall be valid from 2 October 1998 until 1 April 2003.'

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 9 July 2001.

For the Commission

Margot WALLSTRÖM

Member of the Commission

⁽¹⁾ OJ L 237, 21.9.2000, p. 1.

⁽²⁾ OJ L 302, 12.11.1998, p. 31.

COMMISSION DECISION
of 9 July 2001
amending for the ninth time Decision 95/124/EC establishing the list of approved fish farms in
Germany

(notified under document number C(2001) 1770)

(Text with EEA relevance)

(2001/541/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/67/EEC of 28 January 1991 concerning the animal health conditions governing the placing on the market of aquaculture animals and products ⁽¹⁾, as last amended by Directive 98/45/EC ⁽²⁾, and in particular Article 6 thereof,

Whereas:

- (1) The Member States may obtain the status of approved free of infectious haematopoietic necrosis (IHN) and viral haemorrhagic septicaemia (VHS) for fish farms located in zones which are non-approved in respect of IHN and VHS.
- (2) The list of approved fish farms in Germany was established by Commission Decision 95/124/EC ⁽³⁾, as last amended by Decision 2001/498/EC ⁽⁴⁾.
- (3) Germany has submitted to the Commission the justifications for obtaining the status of approved farm in a non-approved zone in respect of IHN and VHS for ten certain fish farms, as well as the national rules ensuring compliance with the requirements for maintenance of the approved status.
- (4) The Commission and the Member States examined the justifications notified by Germany for the ten farms concerned. The farms are situated in Baden-Württemberg.

- (5) The result of this examination is that these farms meet the requirements of Article 6 of Directive 91/67/EEC.
- (6) Therefore, these farms accordingly qualify for the status of approved farm situated in a non-approved zone and should be added to the list of approved farms.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 95/124/EC is hereby replaced by the Annex hereto.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 9 July 2001.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 46, 19.2.1991, p. 1.

⁽²⁾ OJ L 189, 3.7.1998, p. 12.

⁽³⁾ OJ L 84, 14.4.1995, p. 6.

⁽⁴⁾ OJ L 181, 4.7.2001, p. 32.

ANNEX

I FARMS IN LOWER SAXONY

- | | |
|--|--|
| <p>1. Jochen Moeller Fischzucht Harkenbleck D-30966 Hemmingen-Harkenbleck</p> <p>2. Versuchsgut Relliehausen der Universität Göttingen (nur die Brutanlage) D-37586 Dassel</p> <p>3. Dr. R. Rosengarten Forellenzucht Sieben Quellen D-49124 Georgsmarienhütte</p> <p>4. Klaus Kröger Fischzucht Klaus Kröger D-21256 Handeloh Wörme</p> <p>5. Ingeborg Riggert-Schlumbohm Forellenzucht W. Riggert D-29465 Schnega</p> | <p>6. Volker Buchtmann Fischzucht Nordbach D-21441 Garstedt</p> <p>7. Sven Kramer Forellenzucht Kaierde D-31073 Delligsen</p> <p>8. Hans-Peter Klusak Fischzucht Grönegau D-49328 Melle</p> <p>9. F. Feuerhake Forellenzucht Rheden D-31039 Rheden</p> |
|--|--|

II FARMS IN THURINGIA

- | | |
|--|---|
| <p>1. Firma Tautenhahn D-98646 Troststadt</p> <p>2. Thüringer Forstamt Leinefelde Fischzucht Worbis D-37327 Leinefelde</p> <p>3. Fischzucht Salza GmbH D-99734 Nordhausen-Salza</p> | <p>4. Fischzucht Kindelbrück GmbH D-99638 Kindelbrück</p> <p>5. Reinhardt Strecker Forellenzucht Orgelmühle D-37351 Dingelstadt</p> |
|--|---|

III FARMS IN BADEN-WÜRTTEMBERG

- | | |
|--|---|
| <p>1. Heiner Feldmann Riedlingen/Neufra D-88630 Pfullendorf</p> <p>2. Walter Dietmayer Forellenzucht Walter Dietmayer, Hettingen D-72501 Gammertingen</p> <p>3. Heiner Feldmann Bad Waldsee D-88630 Pfullendorf</p> <p>4. Heiner Feldmann Bergatreute D-88630 Pfullendorf</p> <p>5. Oliver Fricke Anlage Wuchzenhofen, Boschenmühle D-87764 Mariasteinbach Legau 13 1/2</p> <p>6. Peter Schmaus Fischzucht Schmaus, Steinental D-88410 Steinental/Hauerz</p> <p>7. Josef Schnetz Fenkenmühle D-88263 Horgenzell</p> <p>8. Erwin Steinhart Quellwasseranlage Steinhart, Hettingen D-72513 Hettingen</p> <p>9. Hugo Strobel Quellwasseranlage Otterswang, Sägmühle D-72505 Hausen am Andelsbach</p> <p>10. Reinhard Lenz Forsthaus, Gaimühle D-64759 Sensbachtal</p> | <p>11. Peter Hofer Sulzbach D-78727 Aistaig/Oberndorf</p> <p>12. Stephan Hofer Oberer Lautenbach D-78727 Aistaig/Oberndorf</p> <p>13. Stephan Hofer Unterer Lautenbach D-78727 Aistaig/Oberndorf</p> <p>14. Stephan Hofer Schelklingen D-78727 Aistaig/Oberndorf</p> <p>15. Hubert Schuppert Brutanlage: Obere Fischzucht Mastanlage: Untere Fischzucht D-88454 Unteressendorf</p> <p>16. Johannes Dreier Brunnentobel D-88299 Leutkich/Hebrachhofen</p> <p>17. Peter Störk Wagenhausen D-88348 Saulgau</p> <p>18. Erwin Steinhart Geislingen/St. D-73312 Geislingen/St</p> <p>19. Joachim Schindler Forellenzucht Lohmühle D-72275 Alpirsbach</p> |
|--|---|

20. **Heribert Wolf**
Forellenzucht Sohnius
D-72160 Horb-Diessen
21. **Claus Lehr**
Forellenzucht Reinerzau
D-72275 Alpirsbach-Reinerzau
22. **Hugo Hager**
Bruthausanlage
D-88639 Walbertsweiler
23. **Hugo Hager**
Waldanlage
D-88639 Walbertsweiler
24. **Gumpper und Stöll GmbH**
Forellenhof Rössle, Honau
D-72805 Liechtenstein
25. **Ulrich Ibele**
Pfrungen
D-88271 Pfrungen
26. **Hans Schmutz**
Brutanlage 1, Brutanlage 2, Brut- und Setzlingsanlage 3 (Hausanlage)
D-89155 Erbach
27. **Wilhelm Drafehn**
Obersimonswald
D-77960 Seelbach
28. **Wilhelm Drafehn**
Brutanlage Seelbach
D-77960 Seelbach
29. **Franz Schwarz**
Oberharmersbach
D-77784 Oberharmersbach
30. **Meinrad Nuber**
Langenenslingen
D-88515 Langenenslingen
31. **Anton Spieß**
Höhmühle
D-88353 Kisllegg
32. **Karl Servay**
Osterhofen
D-88339 Bad Waldsee
33. **Kreissportfischereiverein Biberach**
Warthausen
D-88400 Biberach
34. **Hans Schmutz**
Gossenzugen
D-89155 Erbach
35. **Reinhard Rösch**
Haigerach
D-77723 Gengenbach
36. **Harald Tress**
Unterlauchringen
D-79787 Unterlauchringen
37. **Alfred Tröndle**
Tiefenstein
D-79774 Albruck
38. **Alfred Tröndle**
Unteralpfen
D-79774 Unteralpfen
39. **Peter Hofer**
Schenkenbach
D-78727 Aistaig/Oberndorf
40. **Heiner Feldmann**
Bainders
D-88630 Pfullendorf
41. **Andreas Zordel**
Fischzucht Im Gänsebrunnen
D-75305 Neuenbürg
42. **Hans Fischböck**
Forellenzucht am Kocherursprung
D-73447 Oberkochen
43. **Hans Fischböck**
Fischzucht
D-73447 Oberkochen
44. **Josef Dürr**
Forellenzucht Igersheim
D-97980 Bad Mergentheim
45. **Kurt Englerth und Sohn GbR**
Anlage Berneck
D-72297 Seewald
46. **A. J. Kisslegg**
Anlage Rohrsee
47. **Staatliches Forstamt Wangen**
Anlage Karsee
48. **Simon Phillipson**
Anlage Weissenbronnen
D-88364 Wolfegg
49. **Hans Klaiber**
Anlage Bad Wildbad
D-75337 Enzklösterle
50. **Josef Hönig**
Forellenzucht Hönig
D-76646 Bruchsal-Heidelsheim
51. **Werner Baur**
Blitzenreute
D-88273 Fronreute-Blitzenreute
52. **Gerhard Weihmann**
Mägerkingen
D-72574 Bad Urach-Seeburg
53. **Hans und Hubert Belser GbR**
Dettingen
D-72401 Haigerloch-Gruol
54. **Staatliche Forstämter Ravensburg und Wangen**
Altdorfer Wald
D-88214 Ravensburg
55. **Anton Jung**
Bunkhoferweiher, Schanzwiesweiher and Häcklerweiher
D-88353 Kisslegg
56. **Hildegart Litke**
Holzweiher
D-88480 Achstetten
57. **Werner Wägele**
Ellerazhofer Weiher
D-88319 Aitrach
58. **Ernst Graf**
Hatzenweiler
Osterbergstr. 8
D-88239 Wangen-Hatzenweiler

59. **Fischbrutanstalt des Landes Baden-Württemberg**
Obereisenbach
Argenweg 50
D-88085 Langenargen
60. **Johann-Georg Huchler**
Gutenzell
Ochsenhauserstr. 17
D-88484 Gutenzell
61. **Meinrad Nuber**
Ochsenhausen
Obere Wiesen 1
D-88416 Ochsenhausen
62. **Bezirksfischereiverein Nagoldtal e.V.**
Kentheim
Lange Steige 34
D-75365 Calw

IV FARMS IN NORTH RHINE-WESTPHALIA

1. **Wolfgang Lindhorst-Emme**
Hirschquelle
D-33758 Schloss Holte-Stukenbrock
2. **Wolfgang Lindhorst-Emme**
Am Oelbach
D-33758 Schloss Holte-Stukenbrock
3. **Hugo Rameil und Söhne**
Sauerländer Forellenzucht
D-57368 Lennestadt-Gleierbrück
4. **Peter Horres**
Ovenhausen, Jätzer Mühle
D-37671 Hörter
5. **Wolfgang Middendorf**
Fischzuchtbetrieb Middendorf
D-46348 Raesfeld

V FARMS IN BAVARIA

1. **Gerstner Peter**
(Forellenzuchtbetrieb Juraquell)
Wellheim
D-97332 Volkach
2. **Werner Ruf**
Fischzucht Wildbad
D-86925 Fuchstal-Leeder
3. **Rogg**
Fisch Rogg
D-87751 Heimertingen

VI FARMS IN SAXONY

1. **Anglerverband Südsachsen 'Mulde/Elster' e.V.**
Forellenanlage Schlettau
D-09487 Schlettau
2. **H. und G. Ermisch GbR**
Forellen- und Lachszucht
D-01844 Langburkersdorf

VII FARMS IN HESSEN

1. **Hermann Rameil**
Fischzuchtbetriebe Hermann Rameil
D-34560 Fritzlar
-

(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL COMMON POSITION
of 16 July 2001
concerning a visa ban against extremists in FYROM

(2001/542/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

- (1) In its conclusions of 11 June 2001, the Council expressed its growing concern at the serious deterioration of the security situation in the Former Yugoslav Republic of Macedonia (FYROM) and condemned the continued terrorist actions by ethnic Albanian extremists.
- (2) In its conclusions of 25 June 2001, the Council continued to condemn all forms of terrorism in the Western Balkans region and remained committed to preventing such actions from undermining the democratic processes, including through restrictive measures such as a visa ban against extremists.
- (3) No visas should be issued to extremists endangering peace and stability in FYROM and threatening the sovereignty and territorial integrity of FYROM.
- (4) The EU considers the alignment of the Central and Eastern European countries associated with the EU, the associated countries Cyprus, Malta and Turkey, and the EFTA countries, members of the European Economic Area, to be important in order to maximise the impact of this Common Position,

HAS ADOPTED THIS COMMON POSITION:

Article 1

1. No visas shall be issued to extremists who endanger peace and stability in FYROM and threaten the sovereignty and territorial integrity of FYROM.

2. The list of persons falling within the scope of paragraph 1 shall be drawn up and updated by means of a Council implementing decision on the basis of recommendations by the HR.

Article 2

The Presidency will ask the Central and Eastern European countries associated with the EU, the associated countries Cyprus, Malta and Turkey, and the EFTA countries, members of the European Economic Area, to align themselves with this Common Position in order to maximise the impact of the visa ban.

Article 3

This Common Position will be kept under constant review.

Article 4

This Common Position shall take effect on the date of its adoption.

Article 5

This Common Position shall be published in the Official Journal.

Done at Brussels, 16 July 2001.

For the Council

The President

L. MICHEL

COUNCIL DECISION

of 16 July 2001

repealing Council Decision 1999/74/CFSP on the implementation of Joint Action 97/288/CFSP concerning the financing of a communication system to all members of the Nuclear Suppliers Group which are not Member States of the European Union

(2001/543/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 23(2),

Having regard to Joint Action 97/288/CFSP on the European Union's contribution to the promotion of transparency in nuclear-related export controls ⁽¹⁾,

Whereas:

- (1) On 25 January 1999, the Council adopted Decision 1999/74/CFSP concerning the financing of a communication system to all members of the Nuclear Suppliers Group which are not Member States of the European Union ⁽²⁾ which was intended to implement Joint Action 97/288/CFSP by financing a secure fax and telephone system for all NSG members which are not Member States of the European Union and for the NSG Point of Contact, fully compatible with the system in use in the European Community.
- (2) On 15 May 2001, the Commission informed the Council that due to lack of interest by the countries concerned, it was impossible to implement the European Union's offer of the secure fax and telephone system in accordance with Decision 1999/74/CFSP.
- (3) The total amount of the costs claimed by the supplier for preparatory work already conducted under the contract totals EUR 41 133,75.

(4) The management of the outstanding expenditure under Decision 1999/74/CFSP is subject to the procedures and rules of the Community applying to budget matters.

(5) Decision 1999/74/CFSP should accordingly be repealed,

HAS DECIDED AS FOLLOWS:

Article 1

Decision 1999/74/CFSP is hereby repealed.

Article 2

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

Article 3

This Decision shall be published in the Official Journal.

Done at Brussels, 16 July 2001.

*For the Council**The President*

L. MICHEL

⁽¹⁾ OJ L 120, 12.5.1997, p. 1.

⁽²⁾ OJ L 23, 30.1.1999, p. 4.