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Legislation

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EN

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

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EN

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2292/2001
of 20 November 2001
amending Regulation (EEC) No 2262/84 laying down special measures in respect of olive oil

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],

Whereas:

(1) In accordance with the last subparagraph of Article 1(5) of Council Regulation (EEC) No 2262/84 [3], the Council, on a proposal from the Commission, is to decide before 1 January 2001 on any financing of the expenditure of the agencies after the 2001/02 marketing year.

(2) By means of Council Regulation (EC) No 1513/2001 of 23 July 2001 amending Regulations No 136/66/EEC and (EC) No 1638/98 as regards the extension of the period of validity of the aid scheme and the quality strategy for olive oil [4], the Council has decided to introduce a new aid scheme from 1 November 2004. The current aid scheme remains in force up to and including the 2003/04 marketing year. Under these circumstances, provision should be made to continue the Community contribution to the expenditure incurred by the agencies carrying out certain checks in connection with the olive oil production aid scheme up to and including the 2003/04 marketing year. Provision should also be made to continue this contribution to the expenditure incurred by the agencies during the 2004/05 marketing year in order to allow them to carry out the necessary complementary verifications relating to the previous marketing year and also to guarantee the continuity of the system of controls provided for under Article 1(2) of Regulation (EEC) No 2262/84. In 2003, the Commission should consider the need to continue the Community contribution to the expenditure of the agencies after the 2004/05 marketing year in the context of the proceedings planned for the reform of the common market organisation in the sector in question.

(3) In view of amendments to the text of the Treaty establishing the European Community, it is necessary to replace the reference to Article 43(2) of the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2262/84 is amended as follows:

1. in the penultimate subparagraph of Article 1(5), 'three years' shall be replaced by 'six years';

2. the last subparagraph of Article 1(5) shall be replaced by the following:

'In 2003 the Commission shall examine the need to maintain the Community contribution in the agencies' expenditure and, where appropriate, shall present a proposal to the Council in the context of the decision on the common organisation of the market provided for in Article 3(2) of Regulation (EC) No 1638/98. In accordance with the procedure provided for in Article 37(2) of the Treaty, the Council shall decide on any financing of the expenditure in question in the context of the said decision.'

Article 2

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

[1] OJ C 213 E, 31.7.2001, p. 1.
[2] Opinion delivered on 23 October 2001 (not yet published in the Official Journal).
[3] OJ L 208, 3.8.1984, p. 11. Regulation as last amended by Regulation (EC) No 150/1999 (OJ L 18, 23.1.1999, p. 7).
[4] OJ L 201, 26.7.2001, p. 4.

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

Done at Brussels, 20 November 2001.

For the Council
The President
A. NEYTS-UYTTEBROECK

COMMISSION REGULATION (EC) No 2293/2001

of 26 November 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 27 November 2001.

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

Done at Brussels, 26 November 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 26 November 2001 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	052	75,4
	204	70,2
	999	72,8
0707 00 05	052	157,0
	999	157,0
0709 90 70	052	128,5
	999	128,5
0805 20 10	052	60,8
	204	73,0
	999	66,9
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	59,6
	204	62,3
	464	173,9
	999	98,6
0805 30 10	052	48,2
	388	63,0
	524	50,5
	600	56,4
	999	54,5
0808 10 20, 0808 10 50, 0808 10 90	052	30,2
	060	35,7
	096	10,2
	400	83,9
	404	84,6
	720	90,7
	999	55,9
0808 20 50	052	102,4
	064	70,5
	400	117,1
	720	99,4
	999	97,3

(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 2294/2001

of 26 November 2001

fixing certain indicative quantities and individual ceilings for the issue of licences for imports of bananas into the Community for the first quarter of 2002 under the tariff quotas

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas [1], as last amended by Regulation (EC) No 216/2001 [2], and in particular Article 20 thereof,

Whereas:

(1) Article 14(1) of Commission Regulation (EC) No 896/2001 of 7 May 2001 laying down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the arrangements for importing bananas into the Community [3], as amended by Regulation (EC) No 1613/2001 [4], provides for the possibility of fixing an indicative quantity, expressed as the same percentage of available quantities from each of the tariff quotas, for the purposes of issuing import licences for the first three quarters of the year.

(2) An analysis of the data on quantities of bananas marketed in the Community in 2001, and in particular on actual imports during the first quarter of that year, and on the outlook for supply and consumption on the Community market during the first quarter of 2002 indicates that, with a view to satisfactory supplies for the Community as a whole, for the A and B tariff quotas, an indicative quantity of 27 % of the total of those two tariff quotas should be fixed and, under the C tariff quota, an indicative quantity of 26 % of the share of the quota allocated to traditional operators and 8 % of the share allocated to non-traditional operators should be fixed. This measure will enable trade flows between the production and marketing networks to continue.

(3) On the basis of that same data, the maximum quantity for which each operator may submit licence applications for the first quarter of 2002 should be laid down, pursuant to Article 14(2) of Regulation (EC) No 896/01.

(4) These indicative quantities and maximum quantities also take account of the change in the volume of tariff quotas likely to be adopted by the Council with effect from 1 January 2002.

(5) The provisions of this Regulation are without prejudice to any measures to be adopted in the future, either by the Council or the Commission, and cannot be pleaded by operators as a basis for legitimate expectations.

(6) This Regulation must enter into force without delay, before the start of the period for the submission of licence applications for the first quarter of 2002.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the first quarter of 2002 the indicative quantity referred to in Article 14(1) of Regulation (EC) No 896/2001 for imports of bananas under the tariff quotas provided for in Article 18 of Regulation (EEC) No 404/93 shall be:

— 27 % of the quantities available for traditional operators and non-traditional operators under the A and B tariff quotas,

— 26 % of the quantities available for traditional operators under the C quota,

— 8 % of the quantities available for non-traditional operators under the C quota.

Article 2

1. For the first quarter of 2002 the quantity authorised for each traditional operator under the A and B tariff quotas as referred to in Article 14(2) of Regulation (EC) No 896/2001 shall be 27 % of the reference quantity determined pursuant to Articles 4 and 5 of that Regulation.

[1] OJ L 47, 25.2.1993, p. 1.
[2] OJ L 31, 2.2.2001, p. 2.
[3] OJ L 126, 8.5.2001, p. 6.
[4] OJ L 214, 8.8.2001, p. 19.

2. For the first quarter of 2002 the quantity authorised for each non-traditional operator under the A and B tariff quotas as referred to in Article 14(2) of Regulation (EC) No 896/2001 shall be 27 % of the reference quantity determined and notified to him pursuant to Article 9(3) of that Regulation.

3. For the first quarter of 2002 the quantity authorised for each traditional operator under the C tariff quota as referred to in Article 14(2) of Regulation (EC) No 896/2001 shall be 26 % of the reference quantity determined pursuant to Articles 4 and 5 of that Regulation.

4. For the first quarter of 2002 the quantity authorised for each non-traditional operator under the C tariff quota as referred to in Article 14(2) of Regulation (EC) No 896/2001 shall be 8 % of the reference quantity determined and notified to him pursuant to Article 9(3) of that Regulation.

Article 3

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

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

Done at Brussels, 26 November 2001.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 2295/2001
of 26 November 2001
on the supply of broad beans as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) The abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage.

(2) Following the taking of a number of Decisions on the allocation of food aid, the Commission has allocated broad beans to certain beneficiaries.

(3) It is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied pursuant to Council Regulation (EC) No 1292/96 as Community food aid [2]. It is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

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

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

Article 2

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

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

Done at Brussels, 26 November 2001.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 166, 5.7.1996, p. 1.

[2] OJ L 346, 17.12.1997, p. 23.

ANNEX

LOTS A, B, C, D and E

1. **Action Nos:** 70/01 (A); 71/01 (B); 72/01 (C); 73/01 (D); 74/01 (E)
2. **Beneficiary** [2]**:** UNRWA, Supply division, Amman Office, PO Box 140157, Amman, Jordan; telex 21170 UNRWA JO; tel. (962-6) 586 41 26; fax 586 41 27
3. **Beneficiary's representative:** UNRWA Field Supply and Transport Officer
   A+E: PO Box 19149, Jerusalem, Israel [tel. (972-2) 589 05 55; telex 26194 UNRWA IL; fax 581 65 64]
   B: PO box 947, Beirut, Lebanon [tel. (961-1) 840 461-6; fax 840 467]
   C: PO box 4313, Damascus, Syria [tel. (963-11) 613 30 35; telex 412006 UNRWA SY; fax 613 30 47]
   D: PO box 484, Amman, Jordan [tel. (962-6) 474 19 14/477 22 26; telex 23402 UNRWAJFO JO; fax 474 63 61]
4. **Country of destination:** A, E: Israel (A: Gaza; E: West Bank); B: Lebanon; C: Syria; D: Jordan
5. **Product to be mobilised:** broad beans
6. **Total quantity (tonnes net):** 649
7. **Number of lots:** 5 (A: 233 tonnes; B: 124 tonnes; C: 82 tonnes; D: 128 tonnes; E: 82 tonnes)
8. **Characteristics and quality of the product** [3]**:** see OJ C 312, 31.10.2000, p. 1 (B.4)
9. **Packaging** [5]**:** see OJ C 267, 13.9.1996, p. 1 (4.0, A 1.c, 2.c and B.4)
10. **Labelling or marking** [4]**:** see OJ C 114, 29.4.1991, p. 1 (IV.A(3))
    — language to be used for the markings: English
    — supplementary markings: 'NOT FOR SALE'
    the month and year of packing
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage** [6]**:** A, C, E: free at port of landing — container terminal
    B, D: free at destination
13. **Alternative delivery stage:** free at port of shipment
14. a) **Port of shipment:** —
    b) **Loading address:** —
15. **Port of landing:** A, E: Ashdod; C: Lattakia
16. **Place of destination:** UNRWA warehouse in: Beirut (B); Amman (D)
    — port or warehouse of transit: —
    — overland transport route: —
17. **Period or deadline of supply at the specified stage:**
    — first deadline: A, B, C, E: 27.1.2002; D: 3.2.2002
    — second deadline: A, B, C, E: 17.2.2002; D: 24.2.2002
18. **Period or deadline of supply at the alternative stage:**
    — first deadline: 1-13.1.2002
    — second deadline: 21.1-3.2.2002
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
    — first deadline: 11.12.2001
    — second deadline: 8.1.2002
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** [1]**:** Bureau de l'aide alimentaire, Attn. Mr T. Vestergaard, Bâtiment Loi 130, Bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel; telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund:** —

Notes:

(1) Supplementary information: Torben Vestergaard (tel. (32-2) 299 30 50); fax (32-2) 296 20 05.

(2) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.

(3) On delivery, the supplier shall provide the beneficiary or his representative with:

— a phytosanitary certificate,

— a certificate from an official entity confirming that the nuclear radiation standards in force have not been exceeded in the Member State where the product is mobilised. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.

Lot C: The certificates must be signed and stamped by a Syrian Consulate, including the statement that consular fees and charges have been paid.

(4) Notwithstanding OJ C 114, 29.4.1991, point IV(A)(3)(c) is replaced by the following: 'the words "European Community"'.

(5) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.

(6) Shipment to take place in 20-foot containers: Lots A, C and E. The contracted shipping terms shall be considered full liner terms free port of landing container yard and is understood to cover 15 days — Saturdays, Sundays and official public and religious holidays excluded — free of container detention charges at the port of discharge taken from the day/time of the arrival of the vessel. The 15 day period should be clearly marked on the bill of lading. *Bona fide* detention charges levied in respect of container detention(s) in excess of the said 15 days as detailed above will be borne by UNRWA. UNRWA shall not pay/not be charged any container deposit fees.

After take-over of the goods at the delivery stage, the recipient will bear all costs of shifting the containers for destuffing outside the port area and of returning them to the container yard.

COMMISSION REGULATION (EC) No 2296/2001
of 26 November 2001
on the supply of vegetable oil as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) The abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage.

(2) Following the taking of a number of decisions on the allocation of food aid, the Commission has allocated vegetable oil to certain beneficiaries.

(3) It is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid [2]. It is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

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

The supply shall cover the mobilisation of vegetable oil produced in the Community. Mobilisation may not involve a product manufactured and/or packaged under inward processing arrangements.

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

Article 2

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

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

Done at Brussels, 26 November 2001.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 166, 5.7.1996, p. 1.
[2] OJ L 346, 17.12.1997, p. 23.

ANNEX

LOTS A, B, C, D and E

1. **Action Nos:** 65/01 (A); 66/01 (B); 67/01 (C); 68/01 (D); 69/01 (E)
2. **Beneficiary** [2]**:** UNRWA, Supply division, Amman Office, PO Box 140157, Amman, Jordan; telex 21170 UNRWA JO; tel. (962-6) 586 41 26; fax 586 41 27
3. **Beneficiary's representative:** UNRWA Field Supply and Transport Officer
   A+E: PO Box 19149, Jerusalem, Israel [tel. (972-2) 589 05 55; telex 26194 UNRWA IL; fax 581 65 64]
   B: PO Box 947, Beirut, Lebanon [tel. (961-1) 840 461-6; fax 840 467]
   C: PO Box 4313, Damascus, Syria [tel. (963-11) 613 30 35; telex 412006 UNRWA SY; fax 613 30 47]
   D: PO Box 484, Amman, Jordan [tel. (962-6) 474 19 14/477 22 26; telex 23402 UNRWAJFO JO; telefax 474 63 61]
4. **Country of destination:** A, E: Israel (A: Gaza; E: West Bank); B: Lebanon; C: Syria; D: Jordan
5. **Product to be mobilised:** refined sunflower oil
6. **Total quantity (tonnes net):** 1 095
7. **Number of lots:** 5 (A: 391 tonnes; B: 208 tonnes; C: 137 tonnes; D: 216 tonnes; E: 143 tonnes)
8. **Characteristics and quality of the product** [3] [4] [7]**:** see OJ C 312, 31.10.2000, p. 1 (D.2)
9. **Packaging** [6] [8]**:** see OJ C 267, 13.9.1996, p. 1 (10.1 A, B and C.2)
10. **Labelling or marking** [5]**:** see OJ C 114, 29.4.1991, p. 1 (III.A.(3))
    — language to be used for the markings: English
    — supplementary markings: 'NOT FOR SALE'
    lot D: 'Expiry date …' (date of manufacture plus 2 years)
11. **Method of mobilisation of the product:** mobilisation of refined sunflower oil produced in the Community. The mobilisation may not involve a product manufactured and/or packaged under inward-processing arrangements.
12. **Specified delivery stage:** A, C, E: free at port of landing — container terminal
    B, D: free at destination
13. **Alternative delivery stage:** free at port of shipment
14. a) **Port of shipment:** —
    b) **Loading address:** —
15. **Port of landing:** A, E: Ashdod; C: Lattakia
16. **Place of destination:** UNRWA warehouse in Beirut (B) and Amman (D)
    — port or warehouse of transit: —
    — overland transport route: —
17. **Period or deadline of supply at the specified stage:**
    — first deadline: A, B, C, E: 3.2.2002; D: 10.2.2002
    — second deadline: A, B, C, E: 24.2.2002; D: 3.3.2002
18. **Period or deadline of supply at the alternative stage:**
    — first deadline: 7-20.1.2002
    — second deadline: 28.1-10.2.2002
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
    — first deadline: 11.12.2001
    — second deadline: 8.1.2002
20. **Amount of tendering guarantee:** EUR 15 per tonne
21. **Address for submission of tenders and tendering guarantees** [1]**:** Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel; tlx 25670 AGREC B; fax (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund:** —

Notes:

([1]) Supplementary information: Torben Vestergaard (tel. (32-2) 299 30 50; fax (32-2) 296 20 05).

([2]) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.

([3]) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.

([4]) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— health certificate (including 'production date: …').

([5]) Notwithstanding OJ C 114, point III.A(3)(c) is replaced by the following: 'the words "European Community"'.

([6]) Shipment to take place in 20-foot containers: Lots A, C and E: the contracted shipping terms shall be considered full liner terms free port of landing container yard and is understood to cover 15 days — Saturdays, Sundays and official public and religious holidays excluded — free of container detention charges at the port of discharge taken from the day/time of the arrival of the vessel. The 15 day period should be clearly marked on the bill of lading. Bona fide detention charges levied in respect of container detention(s) in excess of the said 15 days as detailed above will be borne by UNRWA. UNRWA shall not pay/not be charged any container deposit fees.

After take-over of the goods at the delivery stage, the recipient will bear all costs of shifting the containers for destuffing outside the port area and of returning them to the container yard.

([7]) Lot C: the health certificate and the certificate of origin must be signed and stamped by a Syrian Consulate, including the statement that consular fees and charges have been paid.

([8]) Notwithstanding OJ C 267, 13.9.1996 — Weight of the empty bottle: 24 g minimum.

COMMISSION REGULATION (EC) No 2297/2001
of 26 November 2001
on the supply of white sugar as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) The abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage.

(2) Following the taking of a number of decisions on the allocation of food aid, the Commission has allocated white sugar to certain beneficiaries.

(3) It is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied pursuant to Council Regulation (EC) No 1292/96 as Community food aid [2]. It is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

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

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

Article 2

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

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

Done at Brussels, 26 November 2001.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 166, 5.7.1996, p. 1.

[2] OJ L 346, 17.12.1997, p. 23.

ANNEX

LOTS A, B, C, D and E

1. **Action Nos:** 76/01 (A); 77/01 (B); 78/01 (C); 79/01 (D); 80/01 (E)
2. **Beneficiary** [2]**:** UNRWA, Supply division, Amman Office, PO Box 140157, Amman - Jordan; telex 21170 UNRWA JO; tel. (962-6) 586 41 26; fax 586 41 27
3. **Beneficiary's representative:** UNRWA Field Supply and Transport Officer
   A+E: PO Box 19149, Jerusalem, Israel [tel. (972-2) 589 05 55; telex 26194 UNRWA IL; fax 581 65 64]
   B: PO Box 947, Beirut, Lebanon [tel. (961-1) 840 461-6; fax 840 467]
   C: PO Box 4313, Damascus, Syria [tel. (963-11) 613 30 35; telex 412006 UNRWA SY; fax 613 30 47]
   D: PO Box 484, Amman, Jordan [tel. (962-6) 474 19 14/477 22 26; telex 23402 UNRWAJFO JO; fax 474 63 61]
4. **Country of destination:** A, E: Israel (A: Gaza; E: West Bank); B: Lebanon; C: Syria; D: Jordan
5. **Product to be mobilised:** white sugar ('A' or 'B' sugar)
6. **Total quantity (tonnes net):** 1 920
7. **Number of lots:** 5 (A: 665 tonnes; B: 295 tonnes; C: 240 tonnes; D: 450 tonnes; E: 270 tonnes)
8. **Characteristics and quality of the product** [3] [5] [9]**:** see OJ C 312, 31.10.2000, p. 1 (C.1)
9. **Packaging** [7]**:** see OJ C 267, 13.9.1996, p. 1 (11.2 A 1.b, 2.b and B.4)
10. **Labelling or marking** [6]**:** see OJ C 114, 29.4.1991, p. 1 (V.A(3))
    — language to be used for the markings: English
    — supplementary markings: 'NOT FOR SALE'
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage** [8]**:** A, C, E: free at port of landing — container terminal
    B, D: free at destination
13. **Alternative delivery stage:** free at port of shipment
14. a) **Port of shipment:** —
    b) **Loading address:** —
15. **Port of landing:** A, E: Ashdod; C: Lattakia
16. **Place of destination:** UNRWA warehouse in Beirut (B) and Amman (D)
    — port or warehouse of transit: —
    — overland transport route: —
17. **Period or deadline of supply at the specified stage:**
    — first deadline: A, B, C, E: 3.2.2002; D: 10.2.2002
    — second deadline: A, B, C, E: 24.2.2002; D: 3.3.2002
18. **Period or deadline of supply at the alternative stage:**
    — first deadline: 7-20.1.2002
    — second deadline: 28.1-10.2.2002
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
    — first deadline: 11.12.2001
    — second deadline: 8.1.2002
20. **Amount of tendering guarantee:** EUR 15 per tonne
21. **Address for submission of tenders and tendering guarantees** [1]**:** Bureau de l'aide alimentaire, Attn. Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel; telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** [4]**:** refund applicable on 21.11.2001, fixed by Commission Regulation (EC) No 2211/2001 (OJ L 300, 16.11.2001, p. 6)

Notes:

([1]) Supplementary information: Torben Vestergaard (tel. (32-2) 299 30 50; fax (32-2) 296 20 05).

([2]) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.

([3]) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.

([4]) Commission Regulation (EC) No 259/98 (OJ L 25, 31.1.1998, p. 39), is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that indicated in point 22 of this Annex.

The supplier's attention is drawn to the last subparagraph of Article 4(1) of the above Regulation. The photocopy of the export licence shall be sent as soon as the export declaration has been accepted (fax: (32-2) 296 20 05)).

([5]) The supplier shall supply to the beneficiary or its representative, on delivery, the following documents:
— health certificate (including 'production date:...').

([6]) Notwithstanding OJ C 114, point V.A(3)(c) is replaced by the following, 'the words "European Community"'.

([7]) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.

([8]) Shipment to take place in 20-foot containers: Lots A, C and E: The contracted shipping terms shall be considered full liner terms free port of landing container yard and is understood to cover 15 days — Saturdays, Sundays and official public and religious holidays excluded — free of container detention charges at the port of discharge taken from the day/time of the arrival of the vessel. The 15 day period should be clearly marked on the bill of lading. Bona fide detention charges levied in respect of container detention(s) in excess of the said 15 days as detailed above will be borne by UNRWA. UNRWA shall not pay/not be charged any container deposit fees.

After take-over of the goods at the delivery stage, the recipient will bear all costs of shifting the containers for destuffing outside the port area and of returning them to the container yard.

([9]) Lot C: The health certificate and the certificate of origin must be signed and stamped by a Syrian Consulate, including the statement that consular fees and charges have been paid.

COMMISSION REGULATION (EC) No 2298/2001
of 26 November 2001
laying down detailed rules for the export of products supplied as food aid

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 9(2) and Article 13(11) thereof, and the corresponding provisions of the other Regulations on the common organisation of the markets in agricultural products,

Whereas:

(1) For the purpose of applying Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security [3], as amended by Regulation (EC) No 1726/2001 of the European Parliament and of the Council [4], Commission Regulation (EC) No 2519/97 [5] lays down general rules for the mobilisation of products to be supplied as Community food aid.

(2) The above mobilisation rules involve the application of export refunds in the event of mobilisation within the Community. However, it is necessary to lay down special rules governing certain aspects by derogation from Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products [6], as last amended by Regulation (EC) No 90/2001 [7]. To guarantee that the competitive conditions which apply to deliveries at the time of submission of tenders are not changed after the award of the contracts as a result of the application of certain techniques which can adjust export refunds as a function of the date of export, provision should be made to waive certain rules applying to trade in agricultural products and granting an export refund which is the same for all tenderers and which remains unaltered regardless of the actual date of export.

(3) To guarantee that the above provisions are applied correctly, administrative rules relating to export licences should be laid down which derogate from Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [8], as last amended by Regulation (EC) No 1095/2001 [9]. To that end, the delivery guarantee lodged by the successful tenderer for the food-aid operation as an assurance that he meets his supply obligations in accordance with Article 10 of Regulation (EC) No 2519/97 should be considered as sufficient also to guarantee respect of the obligations deriving from those licences.

(4) Supplies carried out under Regulation (EC) No 2519/97 are to be considered as food aid within the meaning of Article 10(4) of the Agreement on Agriculture within the context of the Uruguay Round.

(5) With regard to national food aid, this Regulation is to apply solely to aid meeting the conditions laid down in Article 10(4) of the Agreement on Agriculture within the context of the Uruguay Round. The same derogations to Regulations (EC) No 800/1999 and (EC) No 1291/2000 should apply to those operations as apply to Community food aid.

(6) Export refunds for Community food aid are paid only for quantities exported in compliance with Regulation (EC) No 800/1999 and only if they are taken over in compliance with Regulation (EC) No 2519/97.

(7) As regards the rate of refund for national food aid, the rule provided for in Article 13(2) of Commission Regulation (EC) No 174/1999 of 26 January 1999 laying down special detailed rules for the application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case of milk and milk products [10], as last amended by Regulation (EC) No 1923/2001 [11], and in Article 11(a) of 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 [12], as last amended by Regulation (EC) No 409/2001 [13], whereby the refund applicable is that fixed and published prior to the submission of tenders, should be applied.

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 166, 5.7.1996, p. 1.
[4] OJ L 234, 1.9.2001, p. 10.
[5] OJ L 346, 17.12.1997, p. 23.
[6] OJ L 102, 17.4.1999, p. 11.
[7] OJ L 14, 18.1.2001, p. 22.
[8] OJ L 152, 24.6.2000, p. 1.
[9] OJ L 150, 6.6.2001, p. 25.
[10] OJ L 20, 27.1.1999, p. 8.
[11] OJ L 261, 29.9.2001, p. 53.
[12] OJ L 117, 24.5.1995, p. 2.
[13] OJ L 60, 1.3.2001, p. 27.

(8) The adoption of horizontal provisions relating to the rate of refund applicable to national food-aid actions means that the existing sectoral provisions should be deleted.

(9) Commission Regulation (EC) No 259/98 of 30 January 1998 laying down detailed rules for the export of products supplied as Community food aid [1] should be replaced in order for the necessary changes to be made and for the purposes of clarity and administrative efficiency.

(10) The measures provided for in this Regulation are in accordance with the opinion of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Without prejudice to exceptional provisions adopted by the Commission for special operations, this Regulation shall apply to exports of products covered by the regulations on the common organisation of the markets listed in Article 1 of Regulation (EC) No 1291/2000 where the products are supplied as Community food aid under Regulation (EC) No 1292/96 and mobilised in the Community in accordance with the general rules of Regulation (EC) No 2519/97.

It shall apply *mutatis mutandis* where the products referred to in the preceding paragraph are supplied as national food aid implemented by the Member States, subject however to specific national measures on organising and assigning these operations.

Article 2

1. By way of derogation from Article 5(2) of Regulation (EC) No 800/1999, the export refund to be paid shall be that applicable on the date specified in the legal instrument laying down the special conditions under which the Community food-aid operation is to be carried out (hereinafter referred to as the 'tender notice').

In the case of the national food aid referred to in Article 1, the applicable refund rate shall be that applying on the day the Member State opens the invitation to tender for the supply in question.

2. In the case of supply ex works or free carrier and free at port of shipment, the time limit within which the products must leave the customs territory of the Community, laid down in the first subparagraph of Article 7(1) and in Article 34(1) of Regulation (EC) No 800/1999, shall not apply.

3. By way of derogation from the provisions laying down a readjustment of amounts fixed in advance, the refund referred to in paragraph 1 shall not be subject to any adjustment or correction.

[1] OJ L 25, 31.1.1998, p. 39.

Article 3

1. Eligibility for the refund shall be conditional upon the presentation of an export licence, comprising advance fixing of the refund referred to in Article 2(1), applied for to carry out the food-aid operation concerned. The licence shall be valid only for the export to be carried out in this context.

By way of derogation from Article 40 of Regulation (EC) No 1291/2000, the period of validity of the licence may be extended by the competent authority at the written and justified request of the successful tenderer (hereinafter referred to as 'the supplier').

The export licence shall be valid only for the quantity indicated in box 17 of the licence and for which the applicant has been declared the supplier. Box 19 of the licence shall contain the figure '0'.

2. Applications for licences shall be accompanied by proof that the applicant is the supplier of the Community food aid. Such proof shall be provided by a copy of the communication sent to him by the Commission informing him that he is the supplier of the food aid in question and, if required by the issuing agency, a copy of the tender notice.

Licences shall be issued only if proof is provided that the delivery guarantee referred to in Article 10 of Regulation (EC) No 2519/97 has been lodged. The lodging of that guarantee shall be deemed to constitute the lodging of the licence security. The word 'exempted' shall accordingly be entered in box 11 of the licence.

3. In the document used to apply for the refund as referred to in Article 5(4) of Regulation (EC) No 800/1999 and, in addition to the requirements of Article 16 of Regulation (EC) No 1291/2000, in box 20 of the application for licences and the export licence itself, one of the following entries shall be included:

— Ayuda alimentaria comunitaria — Acción nº ..../.. o Ayuda alimentaria nacional

— Fællesskabets fødevarehjælp — Aktion nr. ..../.. eller National fødevarehjælp

— Gemeinschaftliche Nahrungsmittelhilfe — Maßnahme Nr. ..../.. oder Nationale Nahrungsmittelhilfe

— Κοινοτική επισιτιστική βοήθεια — Δράση αριθ. ..../.. ή Εθνική επισιτιστική βοήθεια

— Community food aid — Action No ..../.. or National food aid

— Aide alimentaire communautaire — Action nº ..../.. ou Aide alimentaire nationale

— Aiuto alimentare comunitario — Azione n. ..../.. o Aiuto alimentare nazionale

— Communautaire voedselhulp — Actie nr. ..../.. of Nationale voedselhulp

— Ajuda alimentar comunitária — Acção n.º ..../.. ou Ajuda alimentar nacional

— Yhteisön elintarvikeapu — Toimi nro ..../.. tai Kansallinen elintarvikeapu

— Livsmedelsbistånd från gemenskapen — Aktion nr ..../.. eller Nationellt livsmedelsbistånd.

The action number to be indicated is that specified in the tender notice. In addition, the country of destination shall be indicated in box 7 of both the licence application and the licence.

Article 4

1. Without prejudice to the provisions of Article 2, payment of the export refund in connection with Community food aid shall be made in accordance with the provisions of Regulation (EC) No 800/1999 and, by way of derogation from Article 16 of that Regulation, on production of a copy of the taking-over certificate or the delivery certificate referred to in Article 17(3) and (4) of Regulation (EC) No 2519/97, certified as a true copy by the Commission office to which the tenders are sent in accordance with the tender notice.

Payment of the refund referred to in Article 2(1) shall be made in respect of the net quantity accepted which appears in the taking-over or delivery certificate.

2. The provisions of Article 51(1) of Regulation (EC) No 800/1999 shall not apply where the refund requested is higher than the refund due for the relevant exportation as a result of circumstances or events beyond the control of the supplier which occur after the completion of the supply operation in accordance with Article 12(5), Article 13(7), Article 14(11) or Article 15(5) of Regulation (EC) No 2519/97.

Where the country of destination is changed by the aid beneficiary, the reduction referred to in the second indent of Article 18(3)(b) of Regulation (EC) No 800/1999 shall not apply.

Article 5

Article 13(2) of Regulation (EC) No 174/1999 and Article 11(a) of Regulation (EC) No 1162/95 are hereby deleted.

Article 6

Regulation (EC) No 259/98 is hereby repealed. However, it shall continue to apply to Community food-aid supplies for which the tender notice was published before the date of entry into force of this Regulation.

Article 7

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

It shall apply to Community food-aid supplies for which the tender notice was published on or after the date of entry into force of this Regulation.

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

Done at Brussels, 26 November 2001.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 2299/2001

of 26 November 2001

amending Regulation (EC) No 800/1999 laying down common detailed rules for the application of the system of export refunds on agricultural products, and Regulation (EC) No 1291/2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural 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 Commission Regulation (EC) No 1666/2000 ([2]), and in particular Article 9(2) and Article 13(11) thereof, and to the corresponding provisions of the other regulations on the common organisation of the markets in agricultural products,

Whereas:

(1) Article 3 of Commission Regulation (EC) No 2298/2001 of 26 November 2001 laying down detailed rules for the export of products supplied as food aid ([3]), stipulates that an export licence with advance fixing of the refund must be presented for exports in the context of food-aid operations for which a refund is sought. The relevant provisions of Commission Regulation (EC) No 800/1999 ([4]), as last amended by Regulation (EC) No 90/2001 ([5]), and Commission Regulation (EC) No 1291/2000 ([6]), as last amended by Regulation (EC) No 1095/2001 ([7]), should therefore be amended.

(2) Article 5(1) of Regulation (EC) No 1291/2000 excludes certain operations from the requirement to produce a licence, including the operations covered by Articles 36, 40 and 44 of Regulation (EC) No 800/1999. The reference made in Article 24(1) of Regulation (EC) No 1291/2000 to the licences for these operations does not therefore apply and must be deleted as a result.

(3) The measures provided for in this Regulation are in accordance with the opinions of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Article 4(1) of Regulation (EC) No 800/1999 is replaced by the following:

'Entitlement to the refund shall be conditional upon the presentation of an export licence with advance fixing of the refund, except in the case of exports of goods.

However, no licence shall be required to obtain a refund:

— where the quantities exported per export declaration are less than or equal to the quantities set out in Annex III to Regulation (EC) No 1291/2000,

— in cases covered by Articles 6, 36, 40, 44, 45 and Article 46(1),

— for deliveries to Member States' armed forces stationed in non-member countries.'

Article 2

Regulation (EC) No 1291/2000 is amended as follows:

1. Article 16 is replaced by the following text:

'*Article 16*

Applications for licences and licences with advance fixing of the refund which are drawn up in connection with a food-aid operation within the meaning of Article 10(4) of the Agreement on Agriculture concluded as part of the Uruguay Round of multilateral trade negotiations shall contain in section 20 at least one of the following wordings:

— Certificado GATT — Ayuda alimentaria

— GATT-licens — fødevarehjælp

— GATT-Lizenz, Nahrungsmittelhilfe

— Πιστοποιητικό GATT — επισιτιστική βοήθεια

— Licence under GATT — food aid

— Certificat GATT — aide alimentaire

— Titolo GATT — Aiuto alimentare

— GATT-certificaat — Voedselhulp

— Certificado GATT — ajuda alimentar

— GATT-todistus — elintarvikeapu

— GATT-licens — livsmedelsbistånd.

The country of destination shall be indicated in Section 7. This licence shall be valid only for exports in the context of such food-aid operations.'

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 193, 29.7.2000, p. 1.
([3]) See page 16 of this Official Journal.
([4]) OJ L 102, 17.4.1999, p. 11.
([5]) OJ L 14, 18.1.2001, p. 22.
([6]) OJ L 152, 24.6.2000, p. 1.
([7]) OJ L 150, 6.6.2001, p. 25.

2. Article 24(1)(b) is replaced by the following:

'(b) in the case of an export licence or certificate of advance fixing of the refund, the declaration relating to:

— export, or

— the placing of products under one of the arrangements provided for in Articles 4 and 5 of Regulation (EEC) No 565/80.'

Article 3

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, 26 November 2001.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 2300/2001

of 26 November 2001

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 27 November 2001.

It shall apply from 28 November to 11 December 2001.

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

Done at Brussels, 26 November 2001.

For the Commission

Franz FISCHLER

Member of the Commission

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

ANNEX

to the Commission Regulation of 26 November 2001 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

(EUR/100 pieces)

Period: from 28 November to 11 December 2001

Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	19,31	12,11	40,47	16,75
Community import prices	**Uniflorous (bloom) carnations**	**Multiflorous (spray) carnations**	**Large-flowered roses**	**Small-flowered roses**
Israel	—	—	12,51	12,72
Morocco	15,77	13,28	—	—
Cyprus	—	—	—	—
Jordan	—	—	—	—
West Bank and Gaza Strip	—	—	—	—

COMMISSION REGULATION (EC) No 2301/2001

of 26 November 2001

suspending the preferential customs duties and re-establishing the Common Customs Tariff duty on imports of uniflorous (bloom) carnations originating in Morocco

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

(2) Council Regulation (EC) No 747/2001 [3] opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Egypt, Israel, Malta, Morocco, the West Bank and the Gaza Strip.

(3) Commission Regulation (EEC) No 700/88 [4], as last amended by Regulation (EC) No 2062/97 [5], lays down the detailed rules for the application of the arrangements.

(4) Commission Regulation (EC) No 2300/2001 [6] fixes the Community producer and import prices for carnations and roses for the application of the import arrangements.

(5) On the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2(3) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for uniflorous (bloom) carnations originating in Morocco. The Common Customs Tariff duty should be re-established.

(6) The quota for the products in question covers the period 15 October 2001 to 31 May 2002. As a result, the suspension of the preferential duty and the reintroduction of the Common Customs Tariff duty apply up to the end of that period at the latest.

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

HAS ADOPTED THIS REGULATION:

Article 1

For imports of uniflorous (bloom) carnations (CN code ex 0603 10 20) originating in Morocco, the preferential customs duty fixed by Regulation (EC) No 747/2001 is hereby suspended and the Common Customs Tariff duty is hereby re-established.

Article 2

This Regulation shall enter into force on 28 November 2001.

[1] OJ L 382, 31.12.1987, p. 22.
[2] OJ L 177, 5.7.1997, p. 1.
[3] OJ L 109, 19.4.2001, p. 2.
[4] OJ L 72, 18.3.1988, p. 16.
[5] OJ L 289, 22.10.1997, p. 1.
[6] See page 21 of this Official Journal.

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

Done at Brussels, 26 November 2001.

For the Commission
Franz FISCHLER
Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 16 November 2001

on a further contribution of the European Community to the European Bank for Reconstruction and Development for the Chernobyl Shelter Fund

(2001/824/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

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

Having regard to the opinion of the European Parliament [2],

Whereas:

(1) The Community, in pursuance of a clear policy of supporting Ukraine in its efforts to eliminate the consequences of the nuclear accident which occurred on 26 April 1986 at the Chernobyl Nuclear Power Plant, has already contributed to the Chernobyl Shelter Fund, established at the European Bank for Reconstruction and Development (EBRD) EUR 90,5 million over the years 1999-2000, in accordance with Council Decision 98/381/EC, Euratom [3].

(2) The EBRD, as administrator of the Chernobyl Shelter Fund, confirmed in anticipation of the pledging conference held in Berlin on 5 July 2000 that the initial scheduled rate of disbursements was still valid and that a replenishment of the Fund was therefore needed by 2000/2001. Consequently, the Community pledged at that conference a further contribution of EUR 100 million over the years 2001-2004.

(3) Council Regulation (EC, Euratom) No 99/2000 of 29 December 1999 concerning the provision of assistance to partner States in Eastern Europe and Central Asia [4], in Article 2(5)(c), includes as a priority in the area of nuclear safety the contribution 'to relevant EU supported international initiatives such as the G7/EU initiative on the closure of Chernobyl'.

(4) In accordance with the Communication of 6 September 2000 from the Commission to the European Parliament and the Council, Community financial support for nuclear safety in the Newly Independent States and the countries of Central and Eastern Europe should be taken from existing Tacis credits or from a separate budget line for assistance to those partner states.

(5) EBRD procurement rules apply to grants made from the resources of the Chernobyl Shelter Fund, on the understanding that procurement should in principle be limited to goods and services produced in or supplied from the countries of the contributors or the countries of EBRD operations. Those rules are not identical to those applied to operations directly financed through the Tacis programme, which cannot consequently cover the contribution which is the subject of this Decision.

(6) It is, however, appropriate to ensure that, with regard to procurement arrangements made pursuant to the EBRD's Rules of the Chernobyl Shelter Fund, there is no discrimination between individual Member States, irrespective of whether they have concluded individual Contribution Agreements with the EBRD or not.

(7) The Treaties do not provide, for the adoption of this Decision, powers other than those of Article 308 of the EC Treaty and Article 203 of the Euratom Treaty,

[1] OJ C 240 E, 28.8.2001, p. 157.
[2] Opinion delivered on 24 October 2001 (not yet published in the Official Journal).
[3] OJ L 171, 17.6.1998, p. 31.
[4] OJ L 12, 18.1.2000, p. 1.

HAS DECIDED AS FOLLOWS:

Article 1

The Community shall make to the European Bank for Reconstruction and Development ('EBRD') a contribution of EUR 100 million over the years 2001-2004 for the Chernobyl Shelter Fund.

The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 2

1. The Commission shall administer the contribution to the Chernobyl Shelter Fund in accordance with the Financial Regulation applicable to the general budget of the European Communities, having particular regard to the principles of sound and efficient management.

The Commission shall forward all relevant information to the Court of Auditors and shall request from the EBRD any supplementary information that the Court of Auditors may wish to receive, as regards the aspects of the operation of the Chernobyl Shelter Fund that relate to the Community's contribution.

2. The Commission shall ensure that, with respect to procurement arrangements relating to grants made from the resources of the Fund, there is no discrimination between the Member States.

Article 3

In accordance with Article II, Section 2.02 of the Rules of the Chernobyl Shelter Fund, the Community contribution shall be the subject of a formal Contribution Agreement in the form of an exchange of letters between the Commission and the EBRD.

Those letters shall follow the models set out in the Annex.

Article 4

The Commission shall submit to the European Parliament and to the Council, on a yearly basis, a progress report on the implementation of the Chernobyl Shelter Fund.

Done at Brussels, 16 November 2001.

For the Council

The President

M. VERWILGHEN

ANNEX

Model exchange of letters constituting the Contribution Agreement between the Commission of the European Communities and the European Bank for Reconstruction and Development (EBRD)

Letter from the authorised Member of the Commission to the EBRD President

Dear President,

I am pleased to confirm on behalf of the Commission that the European Community will make a new contribution of EUR 100 million to the Chernobyl Shelter Fund in accordance with Article II, Section 2.02 of the Rules of the Fund.

The new contribution will be made up of four annual contributions over the years 2001-2004, subject to the necessary authorisations of the budgetary authority.

As was the case for the first contribution agreement, I would ask the EBRD to confirm its agreement to the following provisions which will form an integral part of this Contribution Agreement:

1. The Commission will forward all relevant information to the Court of Auditors and may request from the EBRD supplementary information that the Court of Auditors may wish to obtain concerning those aspects of the operation of the Chernobyl Shelter Fund that relate to the Community's contribution.
2. The Court of Auditors may also be given the possibility of performing missions to the EBRD with a view to verifying pertinent information that relates to the Community's contribution and on the basis of practice established in the context of the Nuclear Safety Account.
3. As concerns the procurement arrangements pursuant to the Rules of the Fund, the Commission and the EBRD share the common understanding that, upon conclusion of the Contribution Agreement, there will be no discrimination between individual Member States, irrespective of whether they have concluded individual Contribution Agreements with the EBRD or not, as far as the award of procurement contracts for services or supplies concluded in the course of operation of the Chernobyl Shelter Fund is concerned.

I confirm that the terms used herein have the meaning attributed to them in the Fund Rules. I understand the present letter and the EBRD's confirmation of its content to constitute the Contribution Agreement pursuant to the Fund Rules.

Member of the Commission of the European Communities

Reply from the EBRD President

Dear Commissioner,

Thank you for your letter of … 2001 concerning the European Community's contribution to the Chernobyl Shelter Fund in the amount of EUR 100 million.

This is to confirm that the EBRD will be pleased to accept this contribution for inclusion in the Fund pursuant to the rules governing the Fund.

The EBRD also confirms that all the provisions set out in your letter are acceptable to the EBRD and form part of this Contribution Agreement.

President of the European Bank for Reconstruction and Development

COMMISSION

COMMISSION DECISION

of 25 July 2001

on State aid C 67/99 (ex NN 148/98) implemented by Germany for the Dampfkesselbau Hohenturm group, Germany

(notified under document number C(2001) 2382)

(Only the German text is authentic)

(Text with EEA relevance)

(2001/825/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having called on interested parties to submit their comments [1] pursuant to Article 88(2) of the EC Treaty and pursuant to Article 6(1) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty [2],

Whereas:

I. PROCEDURE

(1) By letter dated 27 December 1996, the Commission notified Germany of its decision to approve aid totalling DEM 32,5 million in connection with the privatisation and restructuring of Dampfkesselbau Hohenturm GmbH [3]. That decision stipulates that annual restructuring reports have to be provided to the Commission. By letter dated 20 November 1998, Germany presented the 1997 report on the progress of the company's restructuring.

(2) In that communication Germany informed the Commission about the failure of the original restructuring plan approved by the Commission and about a substantial modification of the plan involving new restructuring measures which potentially contained state aid elements of up to DEM 13,825 million. By letter dated 31 March 1999, Germany provided the Commission with further information.

(3) By letter dated 25 October 1999, the Commission informed Germany that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid. The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* [4]. The Commission invited other interested parties to submit their comments on the aid, but it received no comments.

(4) After Germany had delivered its comments on the opening of procedure by letter dated 27 January 2000, the Commission requested additional information by letter dated 22 February, which was answered by Germany by letter dated 14 April. At a meeting in Brussels on 16 May, the Commission informed Germany of its misgivings in the matter. Germany provided additional information by letter dated 22 November. Final questions were raised by the Commission in a letter dated 8 January 2001. These questions were answered by letter dated 15 February.

[1] OJ C 379, 31.12.1999, p. 4.
[2] OJ L 83, 27.3.1999, p. 1.
[3] State aid N 729/96; Commission letter dated 27.12.1996 (SG (96) D/11702).
[4] See footnote 1.

II. **DETAILED DESCRIPTION OF THE AID**

1. **The recipient**

(5) The recipient of the aid is the Dampfkessel Hohenturm group, an economic unit consisting of several legal persons each separately constituted under German company law ([5]). This economic unit comprises the companies continuing the business of Dampfkessel Hohenturm GmbH, a formerly state-owned East German company. The privatisation and restructuring of the Dampfkessel group was approved by a decision of the Commission in 1996 (hereinafter referred to as the '1996 Decision') ([6]).

(6) At the time, the key element of the restructuring of the former Dampfkessel Hohenturm GmbH was to split the company up into a new holding company DH Industrieholding GmbH ('DH Holding') and to establish five operational units. All assets taken over from the former Dampfkessel Hohenturm GmbH remained with the holding company. The operational units were then to hire these facilities from DH Holding according to their business needs.

(7) Accordingly, the following five operational subsidiaries were hived off from the former Dampfkessel Hohenturm GmbH: DH Dampfkesselbau GmbH & Co. KG ('DHD'), DH Kraftwerksservice GmbH & Co. KG ('DHKS'), DH Werkstoffprüfung GmbH & Co. KG ('DHW'), DH Schweißtechnik & Service GmbH ('DHSS') and DH Bio-Energieanlagen GmbH ('DHBio'). A 50 % stake which DH Holding had initially held in DHBio has in the meantime been sold. The other subsidiaries were originally 100 %-owned by DH Holding.

(8) The activities of the Dampfkessel Hohenturm group comprised the development, manufacture, assembly and marketing of power plant equipment and installations, environmental products and piping construction as well as the corresponding repair and maintenance work. In 1998 the companies, which belonged to a group of private investors, employed some 160 workers and had an annual turnover of some DEM 28 million. The companies, even considered jointly as a group, qualify as an SME.

(9) In May 1998 DH Holding's main subsidiary, DHD, had to apply for bankruptcy. In order to continue the business activities of this bankrupt subsidiary, a new subsidiary of DH Holding, DH Dampfkessel- und Behälterbau Hohenturm GmbH ('DHDB'), was set up in August 1998. DHDB took over some 50 of DHD's former workforce of 80 employees.

(10) In April 2000 Germany informed the Commission that the investors were planning to sell DHDB to another industrial group, DIM Industriemontagen ('DIM'). According to Germany, this sale will be conducted under market conditions, subject to control by outside experts. The sale is to take effect once the Commission has approved the restructuring measures, but it will be retroactive from 1 January 2000. This operation resembles that involving another of DH Holding's former subsidiaries, DHKS, which was sold to DIM in 1999.

(11) DIM is controlled directly and indirectly by the same private investors who own a majority stake in DH Holding. Through its numerous subsidiaries, DIM offers a large variety of industrial services, including the production of complete machinery for specific industrial purposes. In 1999 DIM had a workforce of over 700, generated a turnover of DEM 125 million and expected to boost this figure to DEM 150 million in 2000. It is not therefore an SME.

(12) DIM itself forms part of a larger industrial conglomerate controlled by the same investors, the Hydraulik Nord GmbH group, which employs some 1 700 workers and generated a turnover of some DEM 400 million in 1999. The group is active via its many subsidiaries in construction, mechanical engineering and industrial services. It also holds some risk-capital participations. It is not an SME.

(13) The private investors controlling all these companies have on various occasions in the past demonstrated their ability to restructure successfully former state-owned East German companies.

(14) The companies belonging to the Dampfkessel Hohenturm group are located in Hohenturm, in the Land of Saxony Anhalt, a region with high unemployment (20,4 %). Saxony-Anhalt qualifies as a region eligible for aid under Article 87(3)(a) of the EC Treaty.

2. **The restructuring plan approved in 1996**

(15) The original restructuring plan, approved in 1996, envisaged the Dampfkessel Hohenturm group as a provider of complete plants and machinery for small and medium-sized power plants and boilers. The group thus had to meet the estimated demands of municipal and medium-sized plant operators.

([5]) According to the case law of the Court of Justice and the Court of First Instance of the European Communities, the term 'undertaking' in competition law must be understood as designating an economic unit even if that economic unit consists of several natural or legal persons (Case 170/83 Hydrotherm v Compact [1984] ECR 2999 and Case T-234/95 DSG Dradenauer Stahlgesellschaft v Commission [2000] ECR II-2603, at 124).

([6]) See footnote 3.

(16) In connection with the implementation of this initial restructuring plan, the Commission approved restructuring aid totalling DEM 32,5 million in its 1996 Decision. Apart from the splitting-up of the former Dampfkessel Hohenturm GmbH, the key elements of this restructuring plan were substantial investment in new production facilities and various cost-reduction measures. It was assumed at the time that the restructured group would return to viability at the very latest by 1999.

3. **The failure of the 1996 restructuring plan**

(17) Germany has referred to a number of factors which are supposed to have led to the failure of the original restructuring plan and thus to the bankruptcy of DHD. The crucial shortcoming of the 1996 plan was identified as being the misguided conception of the group as a one-stop-shop provider of complete small and medium-sized power plants and machinery. From the start, the group lacked not only the necessary technical know-how and commercial expertise but also the financial resources required to provide successfully all the services associated with such complex contracts.

(18) The general market for plant and machinery since 1995/96 has also experienced a downturn and undergone structural change. These developments are attributed to the Asian economic crisis, on the one hand, and to the uncertain prospects for energy plants against the background of energy market liberalisation, on the other. These market changes have obliged a number of larger suppliers of power plants (such as Babcock, Steinmüller, Lentjes and EVT) to restructure or merge and to reposition themselves. Traditionally, these larger competitors specialised in larger power plants. Now, however, they are having to move into the markets for relatively small plants, which the Dampfkessel Hohenturm group tried to enter after its restructuring. As a result, competitive pressures on the group's target market were much stronger than at the time the restructuring plan was drawn up.

(19) Before buying Dampkessel Hohenturn GmbH, the investors had had the opportunity to execute a due diligence examination of the company. However, according to Germany, they had to rely on statements by the company for lack of time. Some of the figures obtained turned out later to be misleading or even incorrect.

(20) After the privatisation, the private investors realised that the volume of offers indicated by the company exceeded effective market opportunities. Out of placed offers totalling more than DEM 180 million, only contracts worth some DEM 1 million were signed. In addition, the private investors had to cope with unexpected losses resulting from old contracts signed by Dampkessel Hohenturn GmbH before privatisation. Execution of these contracts led to losses of some DEM 5,5 million. The investors also stated that they were originally misinformed about pending claims for damages against Dampkessel Hohenturn GmbH under old contracts.

(21) Lastly, as far as turnover and profit are concerned, the situation in December 1998 differs markedly from what had been envisaged in the approved restructuring plan. About 80 % of the losses incurred since privatisation by the whole Dampfkessel group — DM 24 million — can be attributed to the plant building sector. The bankruptcy of the group's main subsidiary on this market, DHD, in May 1998 was a result of this situation.

4. **The modified restructuring plan**

(22) In the light of these difficulties, the private investors controlling the Dampfkessel Hohenturm group decided in 1998 to modify their restructuring plan substantially in order to reflect more accurately both the — limited — capabilities of the DH group and the changed market conditions.

4.1. *Internal measures*

(23) Since experience has shown that the Dampfkessel Hohenturm group was ill-equipped to provide one-stop-shop solutions for complete power plants, the key element of the new restructuring plan was to re-focus the group. The original ambition to compete as a provider of complete plants was abandoned.

(24) The Dampfkessel Hohenturm group now operates as a subcontractor to larger companies. This re-focusing will reduce considerably the demands on both the group's engineering capabilities and its financial resources, and this will be more in line with the size of the group. Moreover, the group will increasingly act as a supplier of components and services in the market for power plants. An effort will also be made to offer in future increasingly customised solutions such as repair work and modifications of existing plants. The larger companies, which tend to offer standardised products, are less present in this market segment.

(25) An important development in this connection was the setting up of a new company, DHDB, to continue the business of the bankrupt DHD. The private investors provided it with start-up capital of DEM 1 million. Since all the assets which the predecessor company DHD had used for its operations had remained with DH Holding, the newly created DHDB could take over only the workforce and not the assets. No price was paid for this transaction.

(26) However, the private investors came to realise that, despite these measures, DHDB would still not be able to operate profitably within the Dampfkessel Hohenturm group. They thus decided to integrate DHDB into the profitable DIM group, also under their control. They hoped that this operation would generate substantial synergy effects, with DHDB being able to benefit from the group's know-how and contacts in the general industrial services sector. This know-how is of decisive importance at both the management and the engineering level. The DIM group will in the future also ensure adequate financing of DHDB's operations.

(27) Of the remaining subsidiaries of DH Holding, DHSS was reported to be developing a new melting technology due to be launched on the market by 2000. DHW made a loss in 1999 but expects to break even in 2000.

4.2. *Financial measures*

(28) The modified restructuring plan, presented to the Commission in 1998, also envisaged three new measures to be implemented by the State in favour of the Dampfkessel Hohenturm group. These measures potentially contain state aid elements.

4.2.1. DEM 3 million guarantee from the BvS (successor to the Treuhand privatisation agency)

(29) In its initial communication, Germany had stated that the BvS would provide the new company DHDB with a DEM 3 million guarantee *(Avalbürgschaft)*. Pending the final decision of the Commission in this case, this measure had not yet been implemented.

(30) Germany now states that the pending integration of DHDB into the much larger DIM group has rendered this measure unnecessary. DIM will henceforth be able to provide the required financing of DEM 3 million itself. Therefore, by letter dated 22 November 2000, Germany formally withdrew this part of its notification.

4.2.2. Public capital participation

(31) The second measure for the Dampfkessel group consists of a public capital participation of DEM 825 000 by the Land of Saxony-Anhalt that has already been granted to the new company DHDB. It was intended to build up the current assets of DHDB, which had difficulty in obtaining finance on the private capital market on account of the group's economic situation. According to Germany, the public capital participation is covered by an approved aid scheme ([7]).

4.2.3. Modification and extension of an existing guarantee

(32) The third measure under the modified restructuring plan consists of various structural changes and extensions to an existing guarantee. According to the information supplied by Germany, the relevant East German privatisation agency had granted this guarantee in 1995 to the company prior to privatisation. This measure was authorised by the Commission under an approved aid scheme ([8]). The revolving guarantee initially covered a maximum risk of DEM 15 million. Its terms were subsequently altered on several occasions:

(33) Firstly, under the terms of the original privatisation agreement, the private investors buying the Dampfkessel group were obliged to assume responsibility for all the remaining risks covered by the guarantee by 1998 at the latest. The privatisation agreement also provided for penalties in the event of non-compliance and stipulated that a final tranche of DEM 5 million of the aid previously authorised ([9]) was to be paid out only if, on the agreed date, the investors assumed full responsibility for the risks covered by the guarantee. Otherwise, the remaining tranche of DEM 5 million could be used by the BvS to redeem the guarantee from the banks, thereby substantially reducing its exposure.

(34) In 1998, however, the investors were able to provide only DEM 5 million to redeem part of the guarantee. The remaining part, covering risks of up to DEM 10 million, was therefore temporarily retained by the BvS. By two subsequent agreements, the deadline for the investors to redeem the guarantee was extended until the end of 2000. In its last communication of 15 February 2001, Germany confirmed that the guarantee had in the meantime been fully redeemed by the investors.

([7]) See footnote 14.
([8]) State aid N 768/94, 'Third Treuhand regime' approved by Commission letter SG(95) D/1062 of 1.2.1995.
([9]) By the Commission Decision referred to in footnote 3.

(35) The Commission notes that the condition for payment of the last tranche of aid under the privatisation contract, namely that the investors take over the risks covered by the guarantee, was not met at the relevant moment. BvS nonetheless decided to pay out that aid tranche to the investors, instead of using it to reduce its own exposure under the guarantee, as provided for by the privatisation contract [10]. According to Germany, the risk covered by the guarantee amounted to DEM 9,961 million at the beginning of 1998.

(36) Secondly, the structure of the guarantee was subsequently altered. Initially, the guarantee had been provided as a revolving guarantee. Accordingly, within the limits of its maximum amounts, it covered at all times all the obligations, including any new ones, which the Dampfkessel Hohenturm group entered into at any given moment. By an agreement of September 1998, the revolving nature of the guarantee was abandoned. This was intended to ensure that no new obligations would be covered by the guarantee provided by the BvS. As a result, the risk that recourse would be had to the guarantee would decline steadily.

(37) Thirdly, a further agreement of December 1998 altered the guarantee in another way. Initially, the BvS guarantee was structured as a deficiency guarantee *(Ausfallbürgschaft)*. Hence, creditors had a claim only against the guarantor (i.e. BvS) if they failed to enforce it against the principal debtor. This had the following implications: the group's creditors had a claim against the BvS only if they had previously requested payment from the Dampfkessel group. In the light of the group's constant lack of liquidity, such a request would inevitably have lead to the group's bankruptcy. In December 1998 the guarantee still covered risks totalling some DEM 6,3 million.

(38) In order to avoid the scenario of Dampfkessel's bankruptcy, which would have been costly for the BvS on account of its guarantee, the structure of the guarantee as a deficiency guarantee was modified in December 1998 so that the group's creditors could have direct recourse to the BvS up to an amount of DEM 5 million without first having to request payment from the Dampfkessel group. This direct claim was, however, permissible only if the liquidity of the DH group would otherwise be put at risk. Under this new agreement, the BvS directly settled claims totalling DEM 2,55 million, thereby avoiding the bankruptcy of the Dampfkessel group.

(39) As compensation for this modification, the BvS and the private investors agreed on a repayment scheme for the payments effected by the BvS on the basis of the guarantee. Under this scheme, the Dampfkessel Hohenturm group would pay to the BvS a third of its annual cash flow in 2001 and two thirds in the following years *(Besserungsscheinregelung)*. The scheme would remain in force until the Dampfkessel group had repaid to the BvS the total amount paid out by it in claims under the guarantee.

4.2.4. Investor contribution

(40) Under the modified restructuring plan, the private investors have already provided the newly created DHDB with equity capital totalling DEM 1 million. Moreover, they contributed a DEM 3,5 million shareholder's loan *(Gesellschafterdarlehen)* to the capital of DH Holding. Of this amount, DH Holding used DEM 1,6 million to compensate the other subsidiaries of the Dampfkessel Hohenturm group for losses incurred in the course of DHD's bankruptcy. In addition, DIM will grant a DEM 3 million guarantee to DHDB once it has been sold to the DIM group.

5. **Reasons for opening the formal investigation**

(41) When opening the formal investigation, the Commission expressed its misgivings regarding the restoration of viability on the back of the modified restructuring plan. In particular, it wondered whether the new subsidiary DHDB would be in a position to receive enough resources within the Dampfkessel group. The Commission also stated that there was at the time insufficient information to justify an exception to the principle that aid should be granted only once. Lastly, it was doubtful whether Germany, in granting the earlier restructuring aid, had complied with the terms of the 1996 Decision.

III. **ASSESSMENT OF THE AID**

1. **Applicability of Article 87(1) of the EC Treaty**

(42) Under Article 87(1) of the EC Treaty, state aid granted to individual undertakings is incompatible with the common market in so far as it affects trade between Member States and distorts or threatens to distort competition.

[10] In its communication dated 15.2.2001, Germany confirms that this would have been legally possible.

1.1. *Measures in relation to the BvS guarantee*

(43) After the predecessor of the BvS had granted a guarantee of DEM 15 million to Dampfkessel Hohenturm GmbH in 1995, the BvS subsequently modified it on several occasions. According to Germany, this reduced the BvS' exposure. It was therefore claimed that these measures did not constitute state aid. In order to assess whether these measures do constitute state aid within the meaning of Article 87(1) of the EC Treaty, they have to be analysed individually.

(44) According to the case law of the Court of Justice, a measure by a public body does not constitute state aid if the public body acted like a private creditor in seeking to obtain payments of sums owed to it by a debtor in financial difficulties ([11]). Therefore, it has to be ascertained whether the measures implemented by the BvS from 1997 onwards were designed to reduce its exposure under the guarantee.

(45) The Commission notes first of all that, under the 1995 privatisation agreement, the final tranche (DEM 5 million) of the restructuring aid authorised by the 1996 Decision was to be paid out to the investors only on condition that they had fully redeemed the guarantee, originally amounting to DEM 15 million, by 1998. This condition was not met as the private investors were able to redeem an amount of only DEM 5 million. Although the condition laid down in the privatisation agreement was not met, the BvS decided to pay out the remaining aid of DEM 5 million none the less. It thereby refrained from substantially reducing its exposure under the guarantee.

(46) Germany explained that, without this payment, the Dampfkessel group would have gone bankrupt. Against this background its creditors would have resorted to the guarantee issued by the BvS, which would have had to settle outstanding obligations amounting to DEM 9,961 million at the time. Germany also stated that, if the Dampfkessel group had been driven into liquidation, the BvS would have recovered an estimated DEM 3,9 million from the assets.

(47) The BvS was thus faced with the choice of paying out the DEM 5 million or using this sum to redeem the guarantee, thereby substantially reducing its exposure under the guarantee. A comparison between these two options leads to the conclusion that the BvS, by paying out the DEM 5 million, did not opt for an arrangement which would have reduced its exposure more effectively: with the payment to the investors, the BvS' exposure under the guarantee remained at around DEM 10 million. The BvS would otherwise have been able to reduce its exposure by DEM 5 million. Moreover, it would have been able to meet at least some of its claims from out of Dampfkessel's assets.

(48) The BvS' decision to pay out the DEM 5 million aid tranche was motivated by the desire to keep the Dampfkessel group afloat and did not seek primarily to reduce its own exposure. To this extent, the BvS did not act like a private creditor.

(49) Furthermore, the Commission notes that the decision to pay out this final tranche of DEM 5 million is not in accordance with the terms of the 1996 Decision. Germany itself states ([12]) that this payment was intended to rebuild the current assets of the Dampfkessel group. This payment therefore constituted liquidity aid and not investment aid in any event.

(50) The Commission recalls in this connection that the 1996 Decision approved the DEM 32,5 million restructuring aid on the understanding that some DEM 11,9 million of this sum would be invested in the former Dampfkessel Hohenturm Gmb with a view to financing restructuring measures. However, Germany stated ([13]) that an amount of only DEM 6,2 million was used for this purpose. The remaining restructuring aid was essentially devoted to strengthening the liquidity of the Dampfkessel group. However, the 1996 Decision does not authorise additional liquidity assistance of DEM 5 million.

(51) Secondly, it has to be ascertained whether the BvS' decision to extend the deadline by which the private investors had to redeem the remaining guarantee constitutes new state aid. This guarantee was originally granted under an approved aid scheme. Germany has demonstrated to the Commission in particular that, without this measure, the BvS would not have been able to recover a substantial sum under its guarantee in view of the Dampfkessel group's imminent liquidation. Notwithstanding the general issue of whether such behaviour can ever be regarded as that of a private investor in such circumstances, Germany has not demonstrated to the Commission that a private guarantor in such a situation would really have extended the deadline without requiring some financial compensation. Hence the Commission cannot say that the BvS, in extending the deadline, acted like a private guarantor seeking to minimise its exposure over the medium term.

([11]) Case C-342/96 *Spain v Commission* [1999] ECR I-2459, at 46, and Case C-256/97 *DMT* [1999] ECR I-3913, at 24.

([12]) In its communication dated 15.2.2001.

([13]) In its communication dated 27.1.2000.

(52) A similar reasoning applies to the agreement of December 1998, whereby the deficiency guarantee was abandoned and Dampfkessel's creditors thus given the opportunity to exercise a direct claim against the BvS. Although this agreement again helped to avert the group's bankruptcy and an immediate call on the BvS' full guarantee, there is no evidence that a private creditor in a comparable situation would have take such a measure without any quid pro quo. This measure too is therefore deemed to contain an aid element.

(53) Against this, the agreement of September 1998, whereby the revolving nature of the guarantee was abandoned, does not constitute state aid. This measure effectively reduced the BvS' exposure without granting any economic advantage to the Dampfkessel group or its creditors.

1.2. *The capital participation of the Land of Saxony-Anhalt*

(54) The DM 825 000 capital participation of the Land of Saxony-Anhalt conferred an economic advantage on the aid beneficiary. Given its economic difficulties at the time, the company would not have received such a participation from private sources.

(55) Germany claims that this measure was granted in accordance with an aid scheme approved [14] under Article 87(3)(a) (formerly Article 92(3)(a)) of the EC Treaty, namely the *Richtlinie über Konsolidierungsbeteiligungen im Mittelstand des Landes Sachsen-Anhalt*. However, the Commission must point out that one of the conditions of its approval for that scheme has not been met in that it had given its approval on the explicit condition that the aid would not be combined with other forms of restructuring aid [15]. In the present case, the participation of the Land Saxony-Anhalt was received together with the payment of the DEM 5 million following extension of the deadline for redeeming the guarantee, an arrangement which, as stated above, constitutes state aid. Accordingly, the scheme in question cannot be applicable in this case, and the measure has to be examined in light of Article 87 of the EC Treaty.

(56) The aforementioned measures are likely to distort competition. Given the nature of the payments and the existence of intra-Community trade on the markets on which the Dampfkessel group is active, the following measures are caught by Article 87(1) of the EC Treaty:

(a) the payment by the BvS of the final aid tranche of DEM 5 million;

(b) the on-time extension of the deadline for the private investors; however the aid element of this measure may not extend to the nominal coverage of the guarantee at the time;

(c) the modification to the BvS' guarantee agreed in December 1998 and enabling Dampfkessel's creditors to have direct recourse to the BvS;

(d) the DEM 825 000 capital participation of the Land of Saxony-Anhalt.

2. **Compatibility of the aid measures with the Treaty**

(57) Measures caught by Article 87(1) of the EC Treaty are generally incompatible with the common market unless they qualify for one of the derogations in Article 87(2) or (3). In any event, Member States are obliged under Article 88(3) to inform the Commission of such aid beforehand.

(58) In the present case Article 87(3), which allows the Commission to approve state aid in certain specified circumstances, is applicable. Under Article 87(3)(c), aid to facilitate the development of certain economic activities or certain economic areas may be approved provided that it does not adversely affect trading conditions to an extent contrary to the common interest. In its 1994 guidelines on rescue and restructuring aid [16] (the '1994 guidelines'), the Commission spelled out in detail the conditions for the positive exercise of its discretion under Article 87(3)(c).

(59) Article 87(3)(a) of the EC Treaty also empowers the Commission to approve state aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment. The new German *Länder* are such areas. In the present case, however, the main purpose of the aid is to restructure a company in difficulty rather than to promote the economic development of an area. Even if a successfully restructured company can contribute to the development of an area, the aid should be assessed under Article 87(3)(c) rather than under Article 87(3)(a).

(60) The conditions of eligibility for restructuring aid are set out in Section 3.2 of the rescue and restructuring guidelines. The aid measures mentioned in recital 56 satisfy all of those conditions:

[14] State aid N 337/97, Commission letter SG(97) D/6876 of 12.8.1997.
[15] See Section 7 of the Commission's approval in state aid case N 337/97.
[16] OJ C 368, 23.12.1994. These guidelines were revised in 1999 (OJ C 288, 9.10.1999, p. 2). The 1999 version does not apply to the present case because the aid measures were granted prior to its publication (see Section 7 of the 1999 guidelines).

2.1. *Eligibility of the aid beneficiary*

(61) According to the 1994 guidelines, restructuring aid may be granted only to companies in difficulty. A newly founded company is, in principle, not eligible for aid as new companies do not generally rank as companies in difficulty. This rule also applies to new companies set up following the liquidation of a predecessor company. The only exception to this rule concerns companies which receive aid from the BvS within the framework of its remit to privatise formerly state-owned East German companies. This exception, which takes account of the unique situation in eastern Germany, is applicable only to privatisations carried out by the BvS before the end of 1999 ([17]).

(62) In the present case, all the aid measures in favour of the Dampfkessel group were implemented before the end of 1999. In view of its continuing financial difficulties, the Dampfkessel group, including its newly created subsidiary DHDB, can be considered a company in difficulty which is eligible for restructuring aid.

(63) According to point 3.2.2(i) of the 1994 guidelines, restructuring aid should normally be granted only once. In the present case, under the modified restructuring plan the Dampfkessel group received a second aid package following the aid measures which were the subject of the 1996 Decision. However, account has also to be taken of the economic context in eastern Germany, which underwent profound changes throughout the 1990s. The principle that aid should normally be granted only once need not therefore be applied with the same rigour ([18]).

2.2. *Restoration of long-term viability*

(64) A crucial precondition for the application of the 1994 guidelines is that the long-term viability of the company is restored within a reasonable timescale and on the basis of realistic assumptions. The restructuring plan addresses the problems previously faced by DHD. This — now bankrupt — predecessor company did not possess the technical and financial resources or the management qualities necessary to carry out successfully contracts for complete power plants. The new successor company DHDB is focusing on a market segment where it has significantly better market opportunities. It will in future act as a subcontractor for other builders of power plants and as a provider of services and maintenance. Such contracts require expertise and financial resources on a more limited scale. For the rest, the focus on more customised solutions will help DHDB to avoid the competitive pressures exerted by larger competitors, which generally tend to offer standardised products.

(65) As the main remaining subsidiary of the Dampfkessel group, DHDB will also profit considerably from its integration into the DIM group, which will provide it with the necessary experience as well as access to customers. This integration into a larger company which is successfully operating in several related markets can be expected to generate significant synergies. Moreover, DIM will provide its new subsidiary with the finance necessary to win and carry out contracts in the manufacturing industry.

(66) For the rest, the Commission would recall that the investors behind the DIM group have in the past demonstrated their capacity to privatise successfully formerly state-owned manufacturing companies in related sectors in East Germany. A series of special circumstances contributed decisively to the failure of the initial restructuring plan. DHDB's pending integration into the DIM group renders superfluous the Commission's concerns — as also expressed when the formal investigation was opened — about the resources that could be made available to DHDB by the Dampfkessel group.

2.3. *No undue distortion of competition*

(67) Aid beneficiaries may not use aid to increase capacity and must reduce capacity in the event of sectoral overcapacity. Although this rule is, in principle, also applicable to restructuring in assisted areas, a more flexible approach is permissible in such cases ([19]). This applies particularly to aid granted to SMEs since this has less effect on trading conditions than aid to large firms and since any harm to competition is more likely to be offset by the economic benefits ([20]).

(68) On the basis of the information in its possession, the Commission notes that the state aid measures under the modified restructuring plan will not lead to any increase in capacity. As DHDB has only taken over some 50 of the 80 former employees of DHD, a more limited capacity can even be expected. However, given the nature of the group's activities (construction of power plants and the provision of related customised services), the capacity of the Dampfkessel group is difficult to quantify.

([17]) See footnote 10 to the 1999 guidelines.
([18]) The 1999 guidelines are explicitly more flexible as regards the principle that aid should normally be granted only once where the restructuring operations in eastern Germany notified before the end of 2000 are concerned.
([19]) See Section 3.2.3. of the 1994 guidelines.
([20]) See Section 3.2.4. of the 1994 guidelines.

(69) Finally, the Commission would point out that the Dampfkessel group faces competition from much larger firms on the market for the construction of power plants. The aid to the group is likely, therefore, to have only insignificant distortive effects on competition. Given the benefits of the restructuring aid, the measures will not result in any undue distortion of competition. The 1994 guidelines have thus been complied with in this respect.

2.4. *Proportionality of the aid*

(70) The aid must be limited to the minimum required to carry out the restructuring and must be in an appropriate relationship to the overall restructuring costs. The beneficiary must make a significant contribution to the costs of restructuring the Dampfkessel group.

(71) In this connection, the Commission notes that the private investors have now themselves assumed responsibility for one of the originally planned state aid measures (i.e. the DEM 3 million guarantee). This contribution is to be seen in the light of the substantial financial resources which the investors have already made available to the Dampfkessel group under the modified restructuring plan. The investors provided DHDB with capital of DEM 1 million and granted a new shareholder's loan of DEM 3,5 million to DH Holding. In all, the new capital provided to the companies of the Dampfkessel group from private sources thus amounts to some DEM 7,5 million. This stands in an appropriate relationship to the public funds provided to the company, i.e. DEM 5,825 million plus aid in the form of the extension of the deadline for redeeming the BvS' guarantee. The Commission is satisfied therefore that the investors are making a significant contribution to the costs of the restructuring.

2.5. *Full implementation of the restructuring plan*

(72) The company in receipt of the restructuring aid must fully implement the restructuring plan approved by the Commission. Implementation of the plan will be monitored on the basis of annual reports communicated by Germany to the Commission.

IV. **CONCLUSIONS**

(73) The Commission notes that Germany has withdrawn its notification as regards the planned DEM 3 million guarantee for the Dampfkessel Hohenturm group.

(74) It also finds that the measures in favour of the Dampfkessel group listed in recital 56 constitute state aid. Germany has unlawfully implemented those measures in breach of Article 88(3) of the EC Treaty. Nevertheless, the measures, although unlawfully implemented, satisfy the criteria laid down in the 1994 guidelines and are therefore compatible with the common market pursuant to Article 87(3)(c),

HAS ADOPTED THIS DECISION:

Article 1

The Commission notes that Germany has withdrawn its notification as regards the planned DEM 3 million guarantee for the Dampfkessel Hohenturm group.

Article 2

The ad hoc restructuring aid in the form of:

(a) a DEM 5 million grant by the *Bundesanstalt für vereinigungsbedingte Sonderaufgaben* (BvS);

(b) an extension by the BvS of the deadline by which the investors were to have redeemed its guarantee;

(c) the modification to the BvS' guarantee in December 1998 whereby Dampfkessel's creditors can have a direct claim against the BvS, and

(d) a DEM 825 000 capital participation by the Land of Saxony-Anhalt,

which Germany granted to the Dampfkessel Hohenturm group in 1998 and 1999 is compatible with the common market.

Article 3

1. The restructuring plan shall be fully implemented. All appropriate measures shall be taken to ensure that the plan is implemented.

2. Implementation of the plan shall be monitored on the basis of annual reports communicated by Germany to the Commission.

3. If the conditions laid down in this Article are not met, the derogation may be withdrawn.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 25 July 2001.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 23 November 2001

amending Decision 97/365/EC drawing up provisional lists of third country establishments from which Member States authorise imports of meat products

(notified under document number C(2001) 3701)

(Text with EEA relevance)

(2001/826/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 95/408/EEC on 22 June 1995 on the conditions for drawing up, for an interim period, provisional lists of third country establishments from which Member States are authorised to import certain products of animal origin, fishery products or live bi-valve molluscs [1], as last amended by Council Decision 2001/4/EC [2] and in particular Article 2(1) thereof,

Whereas:

(1) Commission Decision 97/222/EC [3] draws up a list of third countries from which the Member States authorise imports of meat products.

(2) For the countries on that list the animal health and veterinary certification requirements for importation of meat products have been laid down in Commission Decision 97/221/EC [4].

(3) Provisional lists of third country establishments from which the Member States authorise imports of products prepared from meat of bovine animals, swine, equidae and sheep and goats have been drawn up by Commission Decision 97/365/EC [5].

(4) The Commission has carried out a mission to Lithuania to inspect meat product establishments and recommended approval of certain establishments from which Member States may authorise imports of meat products into the Community, provided certain guarantees were received from the competent authority of Lithuania.

(5) The Commission has received from Lithuania a list of meat product establishments, with guarantees that they fully meet the appropriate Community health requirements and that should an establishment fail to do so, its export activities to the European Community would be suspended.

(6) A provisional list of establishments producing meat products may be drawn up in respect of Lithuania.

(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 text in the Annex to this Decision is added in the Annex to Commission Decision 97/365/EC.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 23 November 2001.

For the Commission

David BYRNE

Member of the Commission

[1] OJ L 243, 11.10.1995, p. 17.
[2] OJ L 2, 5.1.2001, p. 21.
[3] OJ L 89, 4.4.1997, p. 39.
[4] OJ L 89, 4.4.1997, p. 32.
[5] OJ L 154, 12.6.1997, p. 41.

ANNEX

LITHUANIA

1	2	3	4	5
55-03	1.1. JSC 'SKINJA'	Vezaiciai/Klaipeda		6
88-24	JSC 'VILKE'	Silgaliai/Taurage		6
61-01	JSC 'MAZEIKIU MESINE'	Mazeikiai/Telsiai		6

COMMISSION DECISION

of 23 November 2001

on the list of establishments in Lithuania approved for the purpose of importing fresh meat into the Community

(notified under document number C(2001) 3704)

(Text with EEA relevance)

(2001/827/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 72/462/EEC, on health and veterinary inspection problems upon importation of bovine, ovine, and caprine animals, and swine, and fresh meat or meat products from third countries [1], as last amended by Council Regulation (EC) No 1452/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the French overseas departments, amending Directive 72/462/EEC and repealing Regulations (EEC) No 525/77 and (EEC) No 3763/91 (Poseidom) [2], and in particular Article 4(1) and Article 18(1)(a) and (b) thereof,

Whereas:

(1) Establishments in third countries cannot be authorised to export fresh meat to the Community unless they satisfy the general and special conditions laid down in that Directive.

(2) Following a Community mission, it appears that the animal health situation in Lithuania compares favourably with that in the Member States particularly as regards disease transmission through meat, and that the operation of controls over the production of fresh meat is satisfactory.

(3) In accordance with Article 4(3) of Directive 72/462/EEC, Lithuania has forwarded a list of establishments authorised to export to the Community.

(4) Community on the spot inspections have shown that hygiene standards of these establishments are sufficient and that they may therefore be entered on a first list of establishments, drawn up in accordance with Article 4(1) of that Directive, from which imports of fresh meat may be authorised.

(5) Imports of fresh meat from the establishments on the list in the Annex hereto continue to be subject to provisions already laid down, the general provisions of the Treaty and in particular the other Community veterinary regulations regards health protection.

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

HAS ADOPTED THIS DECISION:

Article 1

1. The establishments in Lithuania listed in the Annex are hereby approved for the purposes of exporting fresh meat to the Community.

2. Imports from these establishments shall remain subject to the Community veterinary provisions laid down elsewhere, and in particular those concerning health protection.

Article 2

This Decision is addressed to Member States.

Done at Brussels, 23 November 2001.

For the Commission

David BYRNE

Member of the Commission

[1] OJ L 302, 31.12.1972, p. 28.
[2] OJ L 198, 21.7.2001, p. 11.

ANNEX

Country: Lithuania

Approval number	Establishment address	Town/Region	Category (*)							SR
			SL	CP	CS	B	S/G	P	SP	
55-03	JSC 'SKINJA'	Vezaiciai/Klaipeda	×		×	×				
88-24	JSC 'VILKE'	Silgaliai/Taurage	×		×	×				
61-01	JSC 'MAZEIKIU MESINE'	Mazeikiai/Telsiai	×		×	×				

(*) SL: Slaughterhouse
CP: Cutting Premises
CS: Cold Store
B: Bovine meat
S/G: Sheepmeat/Goatmeat
P: Pigmeat
SP: Meat from Solipeds
SR: Special Remarks

COMMISSION DECISION

of 23 November 2001

amending Decisions 92/260/EEC and 93/197/EEC with regard to imports of equidae vaccinated against West Nile Fever

(notified under document number C(2001) 3709)

(Text with EEA relevance)

(2001/828/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/426/EEC of 26 June 1990 on animal health conditions governing the movement and import from third countries of equidae [1], as last amended by Decision 2001/298/EC [2], and in particular Article 13(2)(a) and Article 19(i) thereof,

Whereas:

(1) Commission Decision 92/260/EEC [3], as last amended by Decision 2001/619/EC [4], laid down the animal health conditions and veterinary certification for temporary admission of registered horses.

(2) Commission Decision 93/197/EEC [5], as last amended by Decision 2001/619/EC, laid down the animal health conditions and veterinary certification for imports of registered equidae and equidae for breeding and production.

(3) The United States of America have recorded cases of West Nile Fever in equidae during the past two years. Recently a formaline-inactivated vaccine has received conditional approval by the competent authorities. Because equidae vaccinated against West Nile Virus infection do not present an animal or public health risk, imports into the Community of such equidae should be permitted, subject to certain conditions.

(4) In order to allow imports of equidae vaccinated against West Nile Virus from countries included in Group C of the relevant animal health requirements it is necessary to adapt the animal health conditions by modifying Decisions 92/260/EEC and 93/197/EEC accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

A new paragraph is inserted in Annex II(C)(III) to Decision 92/260/EEC:

'(m) it was not vaccinated against West Nile Virus [3], or

it was vaccinated against West Nile Virus with an inactivated vaccine on at least two occasions at an interval of between 21 to 42 days, the last vaccination being carried out not later than 30 days prior to dispatch on ..... [3] [4] [5].'

[1] OJ L 224, 18.8.1990, p. 42.
[2] OJ L 102, 12.4.2001, p. 63.
[3] OJ L 130, 15.5.1992, p. 67.
[4] OJ L 215, 9.8.2001, p. 55.
[5] OJ L 86, 6.4.1993, p. 16.

Article 2

A new paragraph is inserted in Annex II(C)(III) to Decision 93/197/EEC:

'(n) it was not vaccinated against West Nile Virus ([3]), or

it was vaccinated against West Nile Virus with an inactivated vaccine on at least two occasions at an interval of between 21 to 42 days, the last vaccination being carried out not later than 30 days prior to dispatch on ..... ([3]) ([4]).'

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 23 November 2001.

For the Commission

David BYRNE

Member of the Commission