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Legislation

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COUNCIL REGULATION (EC) No 2302/2001

of 15 November 2001

on the detailed rules for applying Article 12(2) of the Agreement in the form of an Exchange of Letters between the European Economic Community and the Principality of Andorra

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the Agreement in the form of an Exchange of Letters between the European Economic Community and the Principality of Andorra [1], and in particular Article 12(2) thereof,

Whereas:

(1) In accordance with Article 12(2) of the said Agreement, products covered by heading Nos 2402 and 2403 of the Harmonised System which are manufactured in the Community from raw tobacco and which meet the conditions of Article 3(1) of the said Agreement are eligible, when imported into the Principality of Andorra, for a preferential rate corresponding to 60 % of the rate applied, in the Principality of Andorra, for the same products vis-à-vis third countries.

(2) Detailed rules for the application of Article 12(2) should be laid down in order to ensure uniform interpretation and application of that Article,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

The products referred to in Article 12(2) of the Agreement in the form of an Exchange of Letters between the European Economic Community and the Principality of Andorra, hereinafter referred to as the 'Agreement', shall be eligible for the preferential rate when imported into the Principality of Andorra on presentation of the certificate set out in the Annex.

Article 2

General conditions for issue

1. The certificate shall be issued by the customs authorities of the exporting state on application having been made by the exporter or, under the exporter's responsibility, by his authorised representative. For this purpose, the exporter or his authorised representative shall fill out the certificate, a specimen of which appears in the Annex, in one of the languages in which the Agreement is drawn up.

2. A certificate shall be issued by the customs authorities of a Community Member State if the products covered by heading Nos 2402 and 2403 of the Harmonised System are manufactured in the Community from raw tobacco in free circulation in the Community.

3. The issuing customs authorities shall take all steps necessary to verify compliance with the requirements. For this purpose, they shall have the right to call for any evidence and to make any check considered appropriate. The issuing customs authorities shall also ensure that the form is duly completed.

4. The exporter applying for the issue of a certificate must be prepared to submit at any time, at the request of the customs authorities of the exporting state where the certificate is issued, all appropriate documents proving the necessary working and the Community status of the goods as required by Article 12(2) of the Agreement.

5. The certificate shall be issued by the customs authorities and made available to the exporter as soon as actual exportation has been effected or ensured. The issuing authority shall keep a copy of the certificate.

6. The issuing customs authorities shall give a number to each certificate. Copies shall bear the same number as the original.

Article 3

Prohibition of drawback of, or exemption from, customs duties

1. Raw tobacco in free circulation used in the manufacture of goods for which a certificate is issued or drawn up in accordance with Article 2 shall not be subject in the Community to drawback of, or exemption from, customs duties of whatever kind.

[1] OJ L 374, 31.12.1990, p. 14. Agreement amended by the 1994 Act of Accession.

2. The exporter of products covered by a certificate must be prepared to submit at any time, at the request of the Community customs authorities concerned, all appropriate documents proving that no drawback has been obtained in respect of the imported raw tobacco used in the manufacture of the products concerned and that all customs duties or charges having equivalent effect applicable to the raw tobacco have actually been paid.

Article 4

Certificates issued retroactively

1. Notwithstanding Article 2(5), a certificate may in exceptional circumstances be issued after exportation of the products to which it relates within a maximum of three months from the date of export.

2. For the purposes of implementing paragraph 1, the exporter shall indicate in his application the place and date of export of the products to which his application relates together with the reasons for his application.

3. Certificates issued retroactively must bear one of the following endorsements in Box 8:

ESPEDIDO A POSTERIORI, UDSTEDT EFTERFØLGENDE, NACHTRÄGLICH AUSGESTELLT, ΕΚΔΟΘΕΝ ΕΚ ΤΩΝ ΥΣΤΕΡΩΝ, ISSUED RETROACTIVELY, DÉLIVRÉ A POSTERIORI, RILASCIATO A POSTERIORI, ACHTERAF AFGEGEVEN, EMITIDO A POSTERIORI, ANNETTU JÄLKIKÄTEEN, UTFÄRDAT I EFTERHAND, EMES A POSTERIORI.

Article 5

Issue of a duplicate of the certificate

1. In the event of the theft, loss or destruction of a certificate, the exporter may apply to the customs authorities which issued it for a duplicate to be made on the basis of the export documents in their possession.

2. The duplicate shall bear one of the following endorsements in Box 8 of the duplicate:

DUPLICADO, DUPLIKAT, DUPLICATE, DUPLICATA, DUPLICATO, DUPLICAAT, SEGUNDA VIA, KAKSOISKAPPALE, DUPLICAT.

3. The duplicate, which shall bear the date of the original certificate, shall take effect on that date.

Article 6

Validity of certificate

1. A certificate shall be valid for four months from the date of issue in the exporting country and must be submitted within the said period to the customs authorities of the importing country.

2. Certificates submitted to the customs authorities of the Principality of Andorra after the expiry of the time limit for presentation specified in paragraph 1 may be accepted for the purpose of applying the preference provided for in Article 12(2) of the Agreement where the failure to comply with the time limit is due to exceptional circumstances or where the products were submitted to them before the expiry of the said time limit.

Article 7

Production of certificate

1. Application of the preferential rate must be requested by the importer at the time when the customs debt is incurred.

2. Certificates shall be submitted to the customs authorities of the Principality of Andorra in support of the customs declaration giving rise to the customs debt. The authorities shall have the right to request a translation of a certificate.

Article 8

Supporting documents

The documents referred to in Article 2(4) intended to establish that the products covered by the certificate are eligible for the preferential rate provided for in Article 12(2) of the Agreement and meet the other conditions of this Regulation may be submitted in the following forms:

(a) proof of the Community status of the raw tobacco used, established in accordance with the relevant Community provisions;

(b) direct evidence of the processes carried out by the exporter or the supplier to obtain the products concerned, contained for example in his accounts or internal bookkeeping.

Article 9

Preservation of certificates and supporting documents

1. An exporter applying for the issue of a certificate shall keep for at least three years the documents referred to in Article 2(4).

2. The customs authorities of the Principality of Andorra shall keep for at least three years the certificates submitted to them.

Article 10

Mutual assistance

1. The customs authorities of the Member States of the Community shall communicate, via the Commission, specimens of the stamps used in their offices for the issue of certificates and the addresses of the customs authorities responsible for verifying the certificates.

2. In order to ensure the proper application of this Regulation, the customs authorities of the Member States of the Community and Andorra shall mutually assist one another in checking the authenticity and accuracy of the documents and the regularity of the procedures set out in the previous Articles.

Article 11

Subsequent verification

1. The subsequent verification of the certificates shall be carried out at random or whenever the customs authorities of the Principality of Andorra have reasonable doubts as to the authenticity of the documents, the working required and the Community status of the goods concerned or the fulfilment of the other requirements of this Regulation.

2. For the purposes of implementing the provisions of paragraph 1, the customs authorities of the Principality of Andorra shall return the certificate to the customs authorities of the exporting state, where appropriate giving the reasons of form or substance for an inquiry. In support of their request for subsequent verification, they shall provide all the documents or all the information obtained suggesting that the particulars given on the certificate are inaccurate.

3. The verification shall be carried out by the customs authorities of the exporting country. For this purpose they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check they consider appropriate.

4. The customs authorities requesting the verification shall be informed of the results of the verification as soon as possible. These results shall indicate clearly whether the documents are authentic and whether the products concerned fulfil the requirements of Article 12(2).

5. In cases of reasonable doubt where there is no reply within 10 months of the date of the verification request or where the reply does not contain sufficient information to determine the authenticity of the document in question, the working required or the Community status of the raw tobacco used, the customs authorities of the Principality of Andorra shall refuse entitlement to the preferences.

Article 12

Penalties

Penalties shall be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining a preferential rate for a product as provided for in Article 12(2) of the Agreement.

Article 13

Final provisions

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

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

Done at Brussels, 15 November 2001.

For the Council

The President

M. AELVOET

ANNEX

CERTIFICATE FOR THE PURPOSES OF ARTICLE 12(2) OF THE EC/ANDORRA CUSTOMS UNION AGREEMENT

<table>
<tr><td>1. Exporter (Name, full address, country)</td><td colspan="2">CERTIFICATE FOR THE EXPORT OF TOBACCO PRODUCTS OF HEADINGS 2402 AND 2403 TO ANDORRA

No ..... ORIGINAL .....</td></tr>
<tr><td>3. Consignee (Name, full address, country)</td><td colspan="2">2. Last date for presentation of the certificate to the customs authorities of the Principality of Andorra</td></tr>
<tr><td colspan="2">NOTES:
A. This certificate must be made out in one original and one copy.
B. The original and the copy of the certificate must be submitted, for endorsement, to the customs office at which the customs export formalities are completed.
C. The endorsed original must be presented to the customs authorities of Andorra.</td><td>4. Invoice(s) No(s)</td></tr>
<tr><td>5. Marks, number and kind of packages</td><td>6. Gross weight (kg)</td><td>7. Net weight (kg)</td></tr>
<tr><td colspan="3">8. Remarks</td></tr>
<tr><td>9. CUSTOMS ENDORSEMENT
Declaration certified
Export document Stamp
Form ..... no .....
of .....
Customs office: .....
Issuing country: .....
.....
Place ..... , date .....
.....
(Signature)</td><td colspan="2">10. DECLARATION BY THE EXPORTER
I, the undersigned, declare that the tobacco products of headings 2402 and/or 2403 described above have been manufactured entirely from raw tobacco which has been in free circulation in the European Community. The goods described above meet the conditions required for the issue of this certificate.

Place ....., date .....
.....
(Signature)</td></tr>
</table>

11. **Request for verification, to:**

Verification of the authenticity and accuracy of this certificate is requested.

Place ..... , date .....

Stamp

.....
(Signature)

12. **RESULT OF VERIFICATION**

Verification carried out shows that this certificate (*)

☐ was issued by the customs office indicated and that the information contained therein is accurate.

☐ does not meet the requirements as to authenticity and accuracy (see remarks appended).

Place ..... , date .....

Stamp

.....
(Signature)

(*) Insert X in the appropriate box.

COUNCIL REGULATION (EC) No 2303/2001

of 15 November 2001

on the conclusion of two Agreements in the form of Exchanges of Letters concerning the extension of the Protocol establishing the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Senegal on fishing off the coast of Senegal for the periods 1 May 2001 to 31 July 2001 and 1 August 2001 to 31 December 2001

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 in conjunction with Article 300(2) and the first subparagraph of Article 300(3) thereof,

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

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

Whereas:

(1) The European Community and the Republic of Senegal have entered into negotiations to determine the amendments or additions to be made to the Agreement between the European Economic Community and the Government of the Republic of Senegal on fishing off the coast of Senegal [3] at the end of the period of application of the Protocol thereto.

(2) During the negotiations, the two Parties decided to extend the current Protocol for two consecutive periods of three months and five months, from 1 May 2001 to 31 July 2001 and from 1 August 2001 to 31 December 2001, by means of Exchanges of Letters initialled on 23 April 2001 and 1 June 2001, pending the conclusions of the negotiations on the amendments to be made to the Protocol.

(3) It is in the Community's interest to approve the two extensions.

(4) The method of allocating the fishing opportunities for trawlers and tuna vessels among the Member States under the expired Protocol and the method of allocating the obligation on Community shipowners to land tuna directly in Senegal, provided for in point C of Annex I to the Protocol, should be defined,

HAS ADOPTED THIS REGULATION:

Article 1

The two Agreements in the form of Exchanges of Letters concerning the extension of the Protocol establishing the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Senegal on fishing off the coast of Senegal for the periods 1 May 2001 to 31 July 2001 and 1 August 2001 to 31 December 2001 are hereby approved on behalf of the Community.

The texts of the two Agreements are attached to Council Decision 2001/795/EC [4] of 29 October 2001 concerning their signature and provisional application.

Article 2

The fishing opportunities for trawlers and tuna vessels established *pro rata temporis* by Article 1 shall be allocated among the Member States as follows:

Category 1:	331 GRT	Greece
Category 2:	3 750 GRT	Spain
Category 3:	1 800 GRT	
	800 GRT	Italy
	1 000 GRT	Spain
Category 4:	4 119 GRT	
	3 749 GRT	Spain
	370 GRT	Portugal
Category 5:	5 vessels	Spain
	7 vessels	France
Category 6:	23 vessels	Spain
	18 vessels	France
Category 7:	20 vessels	Spain
	3 vessels	Portugal.

If licence applications from these Member States do not cover all the fishing opportunities fixed by the Protocol, the Commission may take into consideration licence applications from any other Member State.

[1] OJ C 304 E, 30.10.2001, p. 188.
[2] Opinion delivered on 25 October 2001 (not yet published in the Official Journal).
[3] OJ L 226, 29.8.1980, p. 17.
[4] OJ L 300, 16.11.2001, p. 41.

Article 3

The percentage of the catch that owners of Community freezer tuna seiners are obliged to land directly in accordance with point C of Annex I to the Protocol establishing the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Senegal on fishing off the coast of Senegal for the periods 1 May 2001 to 31 July 2001 and 1 August 2001 to 31 December 2001 shall be *pro rata temporis* as follows:

— vessels flying the French flag: 44 %

— vessels flying the Spanish flag: 56 %.

Article 4

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

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

Done at Brussels, 15 November 2001.

For the Council

The President

M. AELVOET

COMMISSION REGULATION (EC) No 2304/2001

of 27 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 28 November 2001.

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

Done at Brussels, 27 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 27 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	78,7
	204	77,6
	999	78,2
0707 00 05	052	157,0
	999	157,0
0709 90 70	052	139,6
	999	139,6
0805 20 10	052	60,8
	204	73,1
	999	66,9
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	60,9
	204	62,3
	464	173,9
	999	99,0
0805 30 10	052	51,0
	388	63,0
	524	50,5
	600	56,2
	999	55,2
0808 10 20, 0808 10 50, 0808 10 90	052	30,2
	060	33,6
	400	85,3
	404	88,8
	720	114,1
	999	70,4
0808 20 50	052	101,0
	064	73,8
	400	111,0
	720	99,4
	999	96,3

(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 2305/2001

of 27 November 2001

opening and providing for the management of a tariff quota for rice originating in the least developed countries for the marketing year 2001/02

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2820/98 of 21 December 1998 applying a multiannual scheme of generalised tariff preferences for the period 1 July 1999 to 31 December 2001 [1], as last amended by Regulation (EC) No 416/2001 [2], and in particular Article 6(6) thereof,

Whereas:

(1) Article 6(5) of Regulation (EC) No 2820/98 lays down that, until Common Customs Tariff (CCT) duties are entirely suspended in accordance with the provisions of paragraph 3, a global tariff quota at zero duty shall be opened for every marketing year for products of tariff heading 1006, originating in the least developed countries listed in Annex IV. The initial tariff quota for the marketing year 2001/02 is to be equal to 2 517 tonnes, husked rice equivalent, for products of CN code 1006.

(2) The quantities of rice benefiting from the global tariff quota should be imported under the fairest possible conditions of competition and in order to avoid disturbances on the Community market.

(3) For opening and managing the import quota, it is necessary to provide detailed rules. The rules should aim at ensuring that economic benefits arising from the existence of quotas ('quota rent' effect) will accrue to the beneficiary countries and in particular their agricultural sector.

(4) The detailed rules governing the opening and management of the quota should be valid for only one marketing year. They shall be reviewed at the end of this period, and rules for a longer period may subsequently be established in the light of the experience gained.

(5) The provisions concerning the proof of origin set out in Articles 67 to 97 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [3], as last amended by Regulation (EC) No 993/2001 [4], establish the definition of the concept of originating products to be used for the purposes of generalised tariff preferences.

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

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down the rules for opening and managing the tariff quota for rice referred to in Article 6(5) of Regulation (EC) No 2820/98, for the marketing year 2001/02.

Article 2

1. A global tariff quota of 2 517 tonnes of products of CN code 1006, expressed as husked rice equivalent, shall be opened for imports originating in the least developed countries listed in Annex IV to Regulation (EC) No 2820/98. The conversion rate between husked rice and the other products (paddy rice, semi-milled or wholly-milled rice) shall be as defined in Article 1 of Commission Regulation (EEC) No 467/67 [5], as last amended by Regulation (EEC) No 2325/88 [6]. The quota shall bear the order number 09.4171.

2. All common customs tariff duties on imports under the quota referred to in paragraph 1 are suspended.

3. The quota referred to in paragraph 1 shall be open until 31 August 2002.

Article 3

1. Imports under the quota referred to in Article 2 shall require an import licence.

2. The provisions of Commission Regulation (EC) No 1291/2000 [7], as last amended by Regulation (EC) No 1095/2001 [8], concerning licences shall apply to licences referred to in paragraph 1, save as otherwise provided in this Regulation.

[1] OJ L 357, 30.12.1998, p. 1.
[2] OJ L 60, 1.3.2001, p. 43.
[3] OJ L 253, 11.10.1993, p. 1.
[4] OJ L 141, 28.5.2001, p. 1.
[5] OJ L 204, 24.8.1967, p. 1.
[6] OJ L 202, 27.7.1988, p. 41.
[7] OJ L 152, 24.6.2000, p. 1.
[8] OJ L 150, 6.6.2001, p. 25.

3. On the day on which licence applications are lodged, the Member States shall inform the Commission by fax or e-mail of the quantities broken down by six-digit CN codes, by country of origin for which import licences have been applied for and the names and addresses of the applicants.

4. Import licences shall be issued on the 11th working day following that on which the application was lodged provided that the quantity specified in Article 2(1) is not reached.

5. On the day on which the quantities applied for exceed the quota referred to in Article 2(1), the Commission shall set a single percentage reduction in the quantities requested and notify this to the Member States within 10 working days of the day on which applications were lodged.

6. Where the quantity for which the licence is required is less than 20 tonnes following the application of the percentage reduction, the licence application may be withdrawn within a period of two working days from the date of notification of the percentage reduction. The security shall be released immediately.

7. If the quantity for which the import licence is issued is less than the quantity applied for, the amount of the security referred to in Article 4(4) shall be reduced proportionately.

8. Notwithstanding Article 9 of Regulation (EC) No 1291/2000, the rights deriving from import licences shall not be transferable.

Article 4

1. Import licences referred to in Article 3 shall be valid for 6 months.

2. Applications for licences shall be submitted by the operator to the authorities of the Member State where the applicant is listed in a public register.

3. Import licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the product is imported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is only carried out partially, within that period.

4. By derogation of Article 10 of Commission Regulation (EC) No 1162/95 [1], the security relating to the licences as referred to in paragraph 3 shall be EUR 46 per tonne of rice.

5. Applications for import licences shall be accompanied by:

— proof that the applicant is a natural or legal person who has carried out a commercial activity in the rice sector for at least 12 months and who is registered in the Member State in which the application is submitted,

— a written declaration by the applicant stating that he has submitted one application only. Where an applicant submits more than one application for an import licence, all his applications shall be rejected.

6. The tolerance provided in Article 8(4) of Regulation (EC) No 1291/2000 shall not apply.

7. Import licence applications and licences themselves shall include the following entry, in section 20:

'Rice originating in … (name of the country or countries referred to in Annex IV to Regulation (EC) No 2820/98) imported pursuant to Article 6(5) of Regulation (EC) No 2820/98.'

8. The country of origin shall be entered in section 8 of licence applications and of the import licences and the word 'yes' shall be marked with a cross.

Article 5

1. Proof of the originating status of the imports under the quota referred to in Article 2 shall be furnished by a certificate of origin Form A issued in accordance with Articles 67 to 97 of Regulation (EEC) No 2454/93.

2. The certificate of origin Form A shall bear, in box 4:

— the phrase 'Quota — Regulation (EC) No …/…',

— the date of loading of the rice in the exporting beneficiary country, and the marketing year in respect of which delivery is being made,

— CN code 1006 (broken down by six-digit CN codes).

Article 6

Member States shall notify to the Commission by fax or email:

(a) within two working days following issue, the quantities for which licences have been issued, specifying date, country of origin and name and address of holder;

(b) if a licence is cancelled, within two working days following cancellation, the quantities for which licences have been cancelled and the names and addresses of the holders of the cancelled licences;

(c) on the last working day of the following month, the quantities by country of origin actually entered for free circulation during each month.

The above information must be notified in the same way but separately from information on other import licence applications in the rice sector.

[1] OJ L 117, 24.5.1995, p. 2.

Article 7

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

It shall apply from that day until 31 August 2002.

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

Done at Brussels, 27 November 2001.

For the Commission

Pascal LAMY

Member of the Commission

COMMISSION REGULATION (EC) No 2306/2001
of 27 November 2001
on the issuing of export licences for products processed from 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 1429/95 of 23 June 1995 on implementing rules for export refunds on products processed from fruit and vegetables other than those granted for added sugars [1], as last amended by Regulation (EC) No 1962/2001 [2], and in particular Article 4(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 2029/2001 [3] specifies the quantities which may be covered by applications submitted for export licences with advance fixing of the refund other than those applied for in connection with food aid.

(2) Article 4 of Regulation (EC) No 1429/95 lays down the conditions under which special measures may be taken by the Commission to prevent an overrun in the quantities for which export licence applications may be submitted.

(3) In view of the information available to the Commission as of today, the quantity of 300 tonnes of orange juice with a sugar content of not less than 10° Brix but less than 22° Brix in the Annex to Regulation (EC) No 2029/2001, reduced or increased by the quantities referred to in Article 4(1) of Regulation (EC) No 1429/95, would be exceeded if licences were issued with advanced fixing of refunds without restriction in response to applications submitted since 22 November 2001. A reducing factor should accordingly be applied to the quantities applied for on 22 November 2001, and applications for export licences with advance fixing of refunds submitted subsequently with a view to such licences being issued during the current period should be rejected,

HAS ADOPTED THIS REGULATION:

Article 1

Export licences with advance fixing of the refund for orange juice with a sugar content of not less than 10° Brix but less than 22° Brix for which applications were submitted on 22 November 2001 pursuant to Article 1 of Regulation (EC) No 2029/2001 shall be issued for 88,9 % of the quantities applied for.

Applications for export licences with advance fixing of refunds for the above product submitted after 22 November 2001 and before 22 February 2002 shall be rejected.

Article 2

This Regulation shall enter into force on 28 November 2001.

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

Done at Brussels, 27 November 2001.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 141, 24.6.1995, p. 28.
[2] OJ L 268, 9.10.2001, p. 19.
[3] OJ L 274, 17.10.2001, p. 11.

COMMISSION REGULATION (EC) No 2307/2001
of 27 November 2001
on the issue of system B export licences in the fruit and vegetables sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1961/2001 of 8 October 2001 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables [1], and in particular Article 6(6) thereof,

Whereas:

(1) Commission Regulation (EC) No 2102/2001 [2] fixes the indicative quantities for system B export licences other than those sought in the context of food aid.

(2) In the light of the information available to the Commission today, there is a risk that the indicative quantities laid down for the current export period for table grapes will shortly be exceeded. This overrun will prejudice the proper working of the export refund scheme in the fruit and vegetables sector.

(3) To avoid this situation, applications for system B licences for table grapes exported after 28 November 2001 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for system B export licences for table grapes submitted pursuant to Article 1 of Regulation (EC) No 2102/2001, export declarations for which are accepted after 28 November 2001 and before 15 January 2002, are hereby rejected.

Article 2

This Regulation shall enter into force on 28 November 2001.

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

Done at Brussels, 27 November 2001.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 268, 9.10.2001, p. 8.
[2] OJ L 283, 27.10.2001, p. 3.

COMMISSION REGULATION (EC) No 2308/2001

of 27 November 2001

correcting Regulation (EC) No 2300/2001 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 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 Gaza Strip [1], as last amended by Regulation (EC) No 1300/97 [2], and in particular Article 5(2)(a) thereof,

Whereas:

Information which has been notified late has shown that the figures given for carnations produced in the Community must be amended. The Annex to Commission Regulation (EC) No 2300/2001 [3] must therefore be corrected,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 2300/2001 is replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 28 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, 27 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 308, 27.11.2001, p. 21.

ANNEX

to the Commission Regulation of 27 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
	13,81	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 2309/2001

of 27 November 2001

re-establishing the preferential customs duty on imports of uniflorous (standard) 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 and Morocco and the West Bank and the Gaza Strip [1], as last amended by Regulation (EC) No 1300/97 [2], and in particular Article 5(2)(b) thereof,

Whereas:

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

(2) Council Regulation (EC) No 747/2001 [3] opens and provides for the administration of Community tariff quotas for certain products originating in Cyprus, Egypt, Israel, Malta, Morocco, the West Bank and the Gaza Strip, Tunisia and Turkey, and provides detailed rules for extending and adapting these tariff quotas.

(3) Commission Regulation (EC) No 2300/2001 [4], as amended by Regulation (EC) No 2308/2001 [5], fixed Community producer and import prices for carnations and roses for application of the arrangements for importation from the countries in question.

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

(5) The preferential customs duty fixed for uniflorous (standard) carnations originating in Morocco by Regulation (EC) No 747/2001 was suspended by Commission Regulation (EC) No 2301/2001 [8].

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

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For imports of uniflorous (standard) carnations (CN code ex 0603 10 20) originating in Morocco the preferential customs duty set by Regulation (EC) No 747/2001 is reintroduced.

2. Regulation (EC) No 2301/2001 is hereby repealed.

Article 2

This Regulation shall enter into force on 28 November 2001.

It shall apply from 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 308, 27.11.2001, p. 21.
[5] See page 15 of this Official Journal.
[6] OJ L 72, 18.3.1988, p. 16.
[7] OJ L 289, 22.10.1997, p. 1.
[8] OJ L 308, 27.11.2001, p. 23.

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

Done at Brussels, 27 November 2001.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION DIRECTIVE 2001/101/EC

of 26 November 2001

amending Directive 2000/13/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs [1], and, in particular, the second paragraph of the first indent of the second subparagraph of Article 6(6) thereof,

Whereas:

(1) Council Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat [2], as last amended by Directive 95/23/EC [3], contains a definition of meat which was drawn up for the purposes of hygiene and the protection of public health. This definition covers all parts of animals which are fit for human consumption. It does not correspond, however, to the consumer's perception of meat and does not inform the consumer as to the real nature of the product designated by the term 'meat'.

(2) Several Member States have adopted a definition of the term 'meat' for the labelling of products that contain meat. However, the diversity of the national approaches has led to difficulties which adversely affect the operation of the internal market and make it necessary to prepare a harmonised definition.

(3) Annex I to Directive 2000/13/EC defines certain categories of ingredients which may be designated by the name of the category rather than by the specific name of the ingredient considered for inclusion in the list of ingredients.

(4) The category 'meat' is not defined in that Annex, which creates difficulties in implementing Directive 2000/13/EC, notably as regards indication of the list of ingredients and the quantitative declaration of the ingredients. There is a need, therefore, for a harmonised definition corresponding to the category name '… meat' in order to apply Directive 2000/13/EC.

(5) In view of the right of consumers to be well and clearly informed so that they can choose what to eat and assess differences in selling prices, the name of the species used should be an element of the reference to the category name.

(6) The definition applies exclusively to the labelling of products which contain meat as an ingredient. It does not apply, therefore, to the labelling of meat cuts and anatomical parts which are sold without further processing.

(7) Mechanically recovered meat differs significantly from 'meat' as perceived by consumers. It should therefore be excluded from the scope of the definition.

(8) Consequently, it should be designated by its specific name, 'mechanically recovered meat', and by the name of the species, in compliance with the rule set out in Article 6(6) of Directive 2000/13/EC. This labelling rule applies to the products covered by the Community definition of 'mechanically recovered meat'.

(9) Other animal parts which are fit for human consumption but which do not fall under the definition of the term 'meat' for labelling purposes should also be designated by their specific name in accordance with the same principle.

(10) In order to determine the 'meat' content of products in a uniform manner, maximum limits should be established for the fat and connective tissue content of products which may be designated by the category name '… meat'. These limits are without prejudice to the specific provisions governing minced meat and meat preparations laid down in Council Directive 94/65/EC of 14 December 1994 laying down the requirements for the production and placing on the market of minced meat and meat preparations [4].

(11) If these maximum limits are exceeded, but all other criteria for the definition of 'meat' are satisfied, the '… meat' content should be adjusted downwards accordingly and the list of ingredients should mention, in addition to the term '… meat', the presence of fat and/or connective tissue.

(12) It also appears necessary to establish a harmonised method for determining the connective tissue content.

[1] OJ L 109, 6.5.2000, p. 29.
[2] English Special Edition, 1963-64 (II), p. 175.
[3] OJ L 243, 11.10.1995, p. 7.
[4] OJ L 368, 31.12.1994, p. 10.

(13) Directive 2000/13/EC should therefore be amended accordingly.

(14) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee for Food,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 2000/13/EC is amended in accordance with the text set out in the Annex to this Directive.

Article 2

1. Member States shall authorise trade in products that are in conformity with Directive 2000/13/EC, as amended by this Directive, by 31 December 2002 at the latest.

2. Member States shall prohibit, with effect from 1 January 2003, trade in products which are not in conformity with Directive 2000/13/EC, as amended by this Directive.

However, products which are not in conformity with the Directive and which were labelled before 1 January 2003 shall be authorised while stocks last.

Article 3

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2002 at the latest. They shall immediately inform the Commission thereof.

The provisions adopted by the Member States shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 26 November 2001.

For the Commission

David BYRNE

Member of the Commission

ANNEX

In Annex I to Directive 2000/13/EC, the following text is added:

Definition

'Skeletal muscles (**) of mammalian and bird species recognised as fit for human consumption with naturally included or adherent tissue, where the total fat and connective tissue content does not exceed the values indicated below and where the meat constitutes an ingredient of another foodstuff. The products covered by the Community definiton of "mechanically recovered meat" are excluded from this definition.

Maximum fat and connective tissue contents for ingredients designated by the term "… meat".

Species	Fat (%)	Connective tissue (1) (%)
Mammals (other than rabbits and porcines) and mixtures of species with mammals predominating	25	25
Porcines	30	25
Birds and rabbits	15	10

(1) The connective tissue content is calculated on the basis of the ratio between collagen content and meat protein content. The collagen content means the hydroxyproline content multiplied by a factor of 8.

If these maximum limits are exceeded, but all other criteria for the definition of "meat" are satisfied, the "… meat" content must be adjusted downwards accordingly and the list of ingredients must mention, in addition to the term "… meat", the presence of fat and/or connective tissue.

Designation

"… meat" and the name(s) (*) of the animal species from which it comes.

(*) For labelling in English, this designation may be replaced by the generic name of the ingredient for the animal species concerned.

(**) The diaphragm and the masseters are part of the skeletal muscles, while the heart, tongue, the muscles of the head (other than the masseters), the muscles of the carpus, the tarsus and the tail are excluded.'

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION
of 28 March 2001
on the State aid which Italy is planning to grant to Ferriere Nord SpA

(notified under document number C(2001) 1010)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2001/829/EC, ECSC)

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 Treaty establishing the European Coal and Steel Community, and in particular Article 4(c) thereof,

Having regard to Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry [1], and in particular Article 6(5) 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 pursuant to the provisions cited above [2] and having regard to their comments,

Whereas:

I. PROCEDURE

(1) By letter dated 19 February 1999, the Italian authorities notified the Commission in accordance with Article 6(1) of Commission Decision No 2496/96/ECSC that they intended to grant environmental aid to the ECSC steel company Ferriere Nord SpA under Section VI of Regional Law No 47 of 3 June 1978, as amended by Regional Law No 2 of 2 January 1992 [3], which had been approved by the Commission (letter SG(92)D 18803 of 22 December 1992). The notification concerned aid to investments in a continuous casting plant and a new rolling line for the production of electrowelded wire mesh.

(2) By letter dated 3 June 1999, the Commission informed the Italian Government of its decision to initiate proceedings under Article 6(5) of Decision No 2496/96/ECSC in respect of the abovementioned aid and invited it to submit its comments. The decision was published in the *Official Journal of the European Communities* [4]. The Commission invited interested parties to submit their comments on the aid.

(3) The Commission received comments from Ferriere Nord and from the European Independent Steelworks Association (EISA). It forwarded them to the Italian Govern-

[1] OJ L 338, 28.12.1996, p. 42.
[2] OJ C 288, 9.10.1999, p. 39, and OJ C 315, 4.11.2000, p. 4.
[3] Article 15(1) of the Law provides that the regional authorities may grant aid of up to 20 % gross grant equivalent of eligible costs to firms in operation for at least two years, that intend to introduce or modify production installations and processes aimed at reducing not only the quantity and danger of residuals, waste and emissions produced but also noise levels or securing a qualitative improvement of the working environment in line with new standards established by sectoral laws.
[4] OJ C 288, 9.10.1999, p. 39.

ment, which was given the opportunity to react; its comments were received by letter dated 24 December 1999.

(4) By letter dated 21 July 2000, Ferriere Nord informed the Commission that it had decided to forgo the State aid for the part relating to ECSC investments. By letter dated 25 July 2000, the Italian authorities withdrew the part of the notification regarding aid for investments in the plant manufacturing ECSC products but maintained the part of the notification regarding aid for investments in the plant for producing electrowelded wire mesh.

(5) By letter dated 14 August 2000, the Commission informed the Italian Government of its decision to initiate the procedure in Article 88(2) of the EC Treaty in respect of the aid to the plant for producing electrowelded mesh. The decision was published in the *Official Journal of the European Communities* [1]. The Commission invited interested parties to submit their comments on the aid.

(6) The Commission received comments from Ferrière Nord and the United Kingdom Steel Association. The comments were forwarded to Italy, which responded by letter dated 15 January 2001.

II. **DETAILED DESCRIPTION OF THE AID**

(7) Following the partial withdrawal of the notification referred to in point 4, the aid concerned by this decision consists of a grant of 15 % towards some of the costs of investment in new plant for the production of electrowelded wire mesh, which, unlike the traditional plant, eliminates the cold-drawing phase. According to the application made by Ferriere Nord to the Italian authorities on 27 March 1996, the construction of the plant should be finished in March 1998. The eligible costs amount to ITL 11 billion (EUR 5,68 million) and the aid to ITL 1 650 million (EUR 852 154).

(8) Ferriere Nord is owned by the Pittini Group and produces both ECSC products (wire rods and bars) and products covered by the EC Treaty (electrowelded wire mesh for walls and floors, lattice girders, etc.). Its turnover in 1999 was ITL 408,1 billion (210,8 million), of which 84 % was achieved in Italy, 11 % in the European Union and 5 % in the rest of the world. Ferriere Nord is one of the main European producers of electrowelded wire mesh.

(9) Electrowelded wire mesh is a prefabricated reinforcement product made from smooth or ribbed cold-drawn reinforcing steel wires joined together by right-angle spot welding to form a network. There is substantial trade in welded mesh between Member States [2].

(10) In its abovementioned decisions to initiate proceedings, the Commission took the view that the new rolling line was aimed chiefly at replacing or increasing Ferriere Nord's production capacity for electrowelded wire mesh and at reducing, in relation to the existing plant, the number of operations required to obtain the end product. It is a brand new line whose main objective is to produce welded steel mesh more competitively. The Commission accordingly concluded that the effects on working conditions or the environment were simply side effects of the investment. The Commission noted that the Italian authorities had not provided any evidence that the main objective of the new plant was environmental protection or an improvement in working conditions.

III. **COMMENTS FROM INTERESTED PARTIES**

(11) By letter dated 5 November 1999, Ferriere Nord submitted that the investment in the new rolling line should not be assessed under the ECSC rules since electrowelded mesh was covered by the EC Treaty rather than the ECSC Treaty. The rest of Ferriere Nord's arguments were basically the same as those advanced by the Italian authorities in their letter of 13 August 1999 (see recitals 18 to 20).

(12) By letter dated 4 November 1999, the European Independent Steelworks Association (EISA) stated that the firm had already made huge investments in the production of high-ductility electrowelded wire mesh (a non-ECSC product), that demand for this product was increasing, that there was no overcapacity in the sector and that it was essential to the construction industry, particularly in high-risk seismic territory. EISA also considered that the investments would make a significant contribution to the protection of the environment.

[1] OJ C 315, 4.11.2000, p. 4.

[2] See Commission Decision 89/515/EEC of 2 August 1989 relating to a proceeding under Article 85 of the EEC Treaty (IV/31.533 — Welded steel mesh) (OJ L 260, 6.9.1989, p. 1).

(13) In its letter dated 10 November 2000, Ferriere Nord submitted that, from a physical ([1]), industrial, manufacturing, technological and commercial viewpoint, there was a clear dividing line between the ECSC plant and the new plant for the manufacture of electrowelded wire mesh. It also pointed out that there was a clear financial and accounting separation between the ECSC and the EC investments. As to the compatibility of the aid with the Community guidelines, Ferriere Nord stated that the previous production plant for electrowelded mesh had been built in the 1970s and that, being based on the conventional stages of cold-wire drawing, straightening, cutting and electric welding, it had given rise to serious environmental pollution problems. The firm claimed that, as a radical solution to these environmental problems, it had designed and built an innovative pilot plant using an original production process, the only one of its kind in Europe.

(14) The pollution caused by the new plant would remain below the limits imposed by Legislative Decree No 372 of 4 August 1999, which transposed into Italian law Directive 96/61/EC concerning integrated pollution prevention and control. The environmental improvements obtained using the new process are shown in the table below:

Environmental impact: old plant	Legal limit	Environmental impact: new plant
Smoke and dust in air: 14 mg/m^3 Dust of iron oxide mixed with stearate: 3 100 t/year	Dust: 10 mg/Nm^3	Smoke and dust in air: none Waste dust of iron oxide mixed with stearate: none
Noise in the workplace: 97 dBA	Noise: 85 dBA	Noise in the workplace: 85 dBA
Noise at boundary of plant, in industrial area: 80 dBA	Noise: 70 dBA	Noise at boundary of plant, in industrial area: 70 dBA

(15) According to Ferriere Nord, the Community guidelines on State aid for environmental protection (OJ C 72, 1994) prohibit only the authorisation of investment in new plant which does not lead to any environmental improvement. If a new investment does produce an environmental improvement, the aid becomes legitimate, in proportion of course to the expenditure for that purpose (paragraph 3.2.1, p. 6). The firm claims that the regional authorities have already stated that the costs of structural works and specific items of plant (ITL 9 billion) are ineligible, the remaining ITL 11 billion being the environmental part of the cost of building the plant.

(16) As to the aid intensity, Ferriere Nord claims that the grant of ITL 1 650 million is equivalent to 15 % of the eligible costs, which is well below the maximum authorised for aid to encourage firms to improve on mandatory environmental standards or aid granted in the absence of mandatory standards.

(17) By letter dated 4 December 2000, the United Kingdom Iron and Steel Association stated that the aid should be assessed under the ECSC rules since there was no adequate legal and accounting separation between the EC activities and the ECSC activities. It added that the purpose of the investment was clearly an economic one and that therefore the aid should not be allowed.

IV. **COMMENTS FROM ITALY**

(18) The Italian authorities noted in their letter of 3 August 1999 that the new rolling line manufactures electrowelded wire mesh, a product not covered by the ECSC Treaty, and that the investment in it is aimed not only at reducing noise levels but also and essentially at cutting the amount of waste in the form of iron oxide (about 3 000 tonnes/year).

(19) The Italian authorities also argued that the reduction of noise levels for the workers is in line with one of the objectives of Community environmental policy as defined by Article 174 of the EC Treaty, namely, the protection of human health. They contended that, according to Table 12 of the European Community programme of policy and action in relation to the environment and sustainable development ([2]), 'No person should be exposed to noise levels which endanger health and quality of life'. They also claimed that the fact that there is a Council Directive on the protection of workers from the risks related to exposure to noise at work ([3]) does not mean that measures to reduce the level of noise for workers are not environmental measures.

([1]) The new plant is located in an industrial area of its own, with its own entrances for the incoming raw material (coiled steel rod) and the outgoing finished product (electrowelded wire mesh).

([2]) Resolution of the Council and the Representatives of the Governments of the Member States, meeting within the Council of 1 February 1993, on a Community programme of policy and action in relation to the environment and sustainable development. A European Community programme of policy and action in relation to the environment and sustainable development (OJ C 138, 17.5.1993, p. 1).

([3]) Council Directive 86/188/EEC of 12 May 1986 on the protection of workers from the risks related to exposure to noise at work (OJ L 137, 24.5.1986, p. 28).

(20) As to the compatibility of the aid with the Community rules, the Italian authorities considered that the aid is in line with paragraph 3.2.1 of the Community guidelines on State aid for environmental protection since the new plant is not intended to create or replace the production capacity of existing plant but solely to enable an innovative production process which considerably reduces noise and eliminates waste in the form of iron oxide; on the other hand, some of the expenses (structural and general equipment) have already been considered by the Region of Friuli-Venezia Giulia as not being eligible for aid.

(21) Lastly, the Italian authorities argued in their letters of 17 November 1999 and 26 April 2000 that, under the scheme established by Regional Law No 47/78, which was approved by the Commission, aid aimed at a qualitative improvement in the working environment can be regarded as eligible.

(22) The Italian authorities did not submit any comments on the decision initiating proceedings under Article 88 of the EC Treaty referred to in recital 5. By letter of 15 January 2001, they responded only to the comments made by the United Kingdom Iron and Steel Association, insisting that the aid should be assessed under the EC Treaty.

V. **ASSESSMENT OF THE AID**

(23) Although Ferriere Nord is an undertaking within the meaning of Article 80 of the ECSC Treaty because it manufactures products listed in Annex I to the ECSC Treaty, the Commission acknowledged in Decision No 1999/720/ECSC of 8 July 1999 on State aid granted by Germany to Gröditzer Stahlwerke GmbH and its subsidiary Burg GmbH [1] that 'the EC Treaty may apply to aid to non-ECSC activities carried on by an ECSC undertaking, provided they are clearly separate from the same undertaking's ECSC activities'.

(24) Electrowelded wire mesh is not covered by Annex I to the ECSC Treaty.

(25) In the present case, the Commission notes that, although Ferriere Nord SpA is a single firm which does not keep separate accounts for its various activities [2], the aided investment consists of specific plant which is clearly identified and physically separate from the other plant used for the production of ECSC products. The products manufactured by that unit are downstream of the ECSC products and belong to a clearly separate market (see recital 9).

(26) Accordingly, in line with the abovementioned Decision 1999/720/ECSC (see recital 23), the Commission considers that there is no risk that the aid might benefit Ferriere Nord SpA's ECSC activities and that it should therefore be assessed in the light of the EC Treaty.

(27) The non-repayable grant constitutes State aid within the meaning of Article 87(1) of the EC Treaty since it strengthens Ferrière Nord's position in relation to other competitors on the intra-Community market. As for its compatibility with the common market, the following considerations apply.

(28) When it assesses new investments with environmental aspects, the Commission has to take a strict approach in order to prevent firms from receiving aid apparently intended for environmental expenditure but which in fact is used to finance investments which would have been carried out in any event. As recalled above (see recital 10), it was mainly the Commission's doubts as to the purpose of the investment that prompted it to initiate the proceedings.

(29) In this respect, although Ferriere Nord has stated that the old plant presented certain problems and that the new investment would improve on environmental or working conditions (see recital 13), simply claiming that environmental protection was the main aim of the investment is not enough to dispel the Commission's doubts, in particular as regards the fact that it is a brand new plant that will at least replace Ferriere Nord's production capacity, which dates back to the 1970s, and enhance its competitiveness (the new line, compared with the traditional electrowelding lines, eliminates the cold-drawing phase, increases automation, reduces the number of manipulations of products and eliminates the cost of dumping the waste).

[1] OJ L 292, 13.11.1999, p. 27, paragraph 33.

[2] The accounting separation referred to by the firm (see point 13) relates only to investments.

(30) The Commission considers that, in the absence of mandatory standards ([1]), the claim that environmental or human health grounds were taken into account when the decision to build the new line was adopted should be substantiated by the internal documents drawn up by Ferriere Nord when it designed the industrial-scale prototype that it built prior to the investment for which the aid is intended. The claim could also be substantiated by other evidence contemporary with the decision to carry out the investment for which the aid is intended. However, not a single piece of such evidence has been provided either by the Italian authorities or by Ferriere Nord, although the Commission had pointed out that no evidence had been provided on this matter. The Commission therefore concludes that the positive effects on working conditions or the environment are simply side effects of the investment which were not even taken into account when the investment decision was taken.

(31) On this point, the current Community guidelines on State aid for environmental protection ([2]) define environmental protection as 'any action designed to remedy or prevent damage to our physical surroundings or natural resources' (point 6). Accordingly, they require that investments in buildings, plant and equipment be intended to reduce or eliminate pollution and nuisances (point 36) and that eligible costs be confined strictly to the extra investment costs necessary to meet the environmental objectives (point 37) ([3]). As stated above, the Commission considers that Ferriere Nord's investment was driven only by economic considerations and that any environmental improvement is simply a necessary consequence of the firm's choice of production process. For the rest, it is normal for new plant to be more efficient environmentally than plant that is at least 25 years older.

(32) In any case, if it was accepted that the protection of the environment was the main aim of the investment, the argument put forward by the Italian authorities that the aid is proportional to the improvement in the environment cannot be accepted because, with the exception of structural and general equipment, this would imply that the entire investment cost is eligible for aid. According to point 37 of the current Community guidelines on State aid for environmental protection, 'eligible costs must be confined strictly to the extra investment costs necessary to meet the environmental objectives'. Where the cost of investment in environmental protection cannot be easily identified in the total cost, as Ferriere Nord claims, the Commission should take into account 'the cost of a technically comparable investment that does not, though, provide the same degree of environmental protection'. It does not seem possible, however, to calculate that cost as the limited environmental benefits are intrinsic to this innovative and original plant and any other electrowelding plant that eliminates the cold-drawing phase would obtain the same environmental results. Nor has any deduction been made for the savings generated by the investment (not even the elimination of the costs of dumping the waste). The aid cannot therefore be regarded as complying with the current Community guidelines on State aid for environmental protection.

(33) As regards the benefits to the health and safety of workers in the form of noise reduction, they cannot be regarded as inherent in environmental protection as they are mainly related to worker protection. In any event, although action taken within plants or other production units to improve safety or hygiene is important and may be eligible for certain types of aid ([4]), in the present case the benefits for the health and safety of workers are only a marginal consequence of a productive investment which would have been carried out in any event and for which State aid does not therefore appear to be justified.

(34) As regards the argument put forward by the Italian authorities that the scheme had been approved by it, the Commission notes that, under the approved scheme, aid can be granted in order to comply with new standards established by sectoral laws (see footnote 3). The Italian authorities acknowledged both in the notification and in their letter of 4 May 2000 that there are no mandatory environmental standards. The aid cannot therefore be regarded as an individual application of an approved scheme.

([1]) Contrary to the company's contentions in its letter of 10 November 2000 (see point 14), no specific legal limits exist for this kind of plant.

([2]) OJ C 37, 3.2.2001, p. 3. They are applicable to the present case by virtue of point 82.

([3]) These criteria do not differ from those in paragraph 3.2 of the Community guidelines on State aid for environmental protection in force when the Commission decided to initiate proceedings, which excluded from their scope aid ostensibly intended for environmental protection measures but which is in fact for general investment (OJ C 72, 10.3.1994).

([4]) Point 6 of the current Community guidelines on State aid for environmental products.

(35) Lastly, the Commission notes that the area where the investment is carried out is not eligible for regional aid and the firm is not an SME. The measure therefore does not qualify for any of the exceptions in Article 87 of the EC Treaty.

VI. **CONCLUSION**

(36) Accordingly, the State aid that Italy intends to grant to Ferriere Nord for investments in a new plant for electrowelded wire mesh is incompatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The State aid of ITL 1 650 million which Italy is planning to grant to Ferriere Nord for investments in new plant for the production of electrowelded wire mesh is incompatible with the common market.

The aid measure may accordingly not be implemented.

Article 2

Italy shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply herewith.

Article 3

The procedure initiated under Article 6(5) of Decision No 2496/96/ECSC in respect of aid C 35/99 — Italy — Ferriere Nord is hereby terminated.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 28 March 2001.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 20 November 2001

concerning a request for exemption submitted by Germany pursuant to Article 8(2)(c) of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(notified under document number C(2001) 3651)

(Only the German text is authentic)

(2001/830/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers [1], as last amended by Directive 2000/40/EC of the European Parliament and of the Council [2], and in particular Article 8(2)(c) thereof,

Whereas:

(1) The request for exemption submitted by Germany on 7 December 2000, which reached the Commission on 18 December 2000, contained the information required by Article 8(2)(c) of Directive 70/156/EEC. The request concerns the production and fitting of hinges for side doors in the rear lateral part of a type of M1 class vehicle.

(2) The reasons set out in the request, according to which such hinges and fitting of the same, do not meet the requirements of the relevant Directive, namely Council Directive 70/387/EEC of 27 July 1970 on the approximation of the laws of the Member States relating to doors of motor vehicles and their trailers [3], as last amended by Commission Directive 98/90/EC [4], are well-founded.

(3) The fitting of these hinges complies with certain additional provisions demonstrating an equivalent level of safety as is provided by the requirements of Directive 70/387/EEC.

(4) The Community Directive concerned will be amended in order to permit the production and fitting of such hinges and to ensure compatibility with the technical requirements of Directive 70/387/EEC.

(5) The measure provided for by this Decision is in accordance with the opinion of the Committee on Adaptation to Technical Progress set up by Directive 70/156/EEC,

HAS ADOPTED THIS DECISION:

Article 1

The request submitted by Germany for an exemption concerning the production and fitting of hinges for side doors and installation of the same in the rear lateral part of a type of motor vehicles is hereby approved.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 20 November 2001.

For the Commission

Erkki LIIKANEN

Member of the Commission

[1] OJ L 42, 23.2.1970, p. 1.
[2] OJ L 203, 10.8.2000, p. 9.
[3] OJ L 176, 10.8.1970, p. 5.
[4] OJ L 337, 12.12.1998, p. 29.

COMMISSION DECISION

of 27 November 2001

prolonging the period of validity of Decision 1999/178/EC establishing the ecological criteria for the award of the Community eco-label to textile products

(notified under document number C(2001) 3680)

(Text with EEA relevance)

(2001/831/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Regulation (EC) No 1980/2000 provides for the award of an eco-label to a product possessing characteristics which enable it to contribute significantly to improvements in relation to key environmental aspects.

(2) According to Article 4 of Regulation (EC) No 1980/2000, specific eco-label criteria should be established according to product groups, and a review of the eco-label criteria as well as of the assessment and verification requirements related to the criteria should take place in due time before the end of the period of validity of the criteria specified for each product group, resulting in a proposal for prolongation, withdrawal or revision.

(3) By Decision 1999/178/EC [2] the Commission established ecological criteria for the award of the Community eco-label to textile products, which, according to Article 3 thereof, expire on 28 February 2002.

(4) Following the review, it is considered appropriate to prolong the period of validity of the definition of the product group and the ecological criteria, unchanged, for a period of eighteen months, in particular to allow those companies that have been awarded the eco-label to continue using the eco-label at least until the revision of Decision 1999/178/EC is completed.

(5) The period of validity set out in Article 3 of Decision 1999/178/EC should therefore be extended.

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

HAS ADOPTED THIS DECISION:

Article 1

The period of validity set out in Article 3 of Decision 1999/178/EC for the product group definition and the criteria of the product group bearing the administrative code number 016 is prolonged until 31 August 2003.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 27 November 2001.

For the Commission

Margot WALLSTRÖM

Member of the Commission

[1] OJ L 237, 21.9.2000, p. 1.
[2] OJ L 57, 5.3.1999, p. 21.

COMMISSION DECISION

of 27 November 2001

prolonging the period of validity of Decision 1999/179/EC establishing the ecological criteria for the award of the Community eco-label to footwear

(notified under document number C(2001) 3681)

(Text with EEA relevance)

(2001/832/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Regulation (EC) No 1980/2000 provides for the award of an eco-label to a product possessing characteristics which enable it to contribute significantly to improvements in relation to key environmental aspects.

(2) According to Article 4 of Regulation (EC) No 1980/2000, specific eco-label criteria should be established according to product groups, and a review of the eco-label criteria as well as of the assessment and verification requirements related to the criteria should take place in due time before the end of the period of validity of the criteria specified for each product group, resulting in a proposal for prolongation, withdrawal or revision.

(3) By Decision 1999/179/EC [2] the Commission established ecological criteria for the award of the Community eco-label to footwear, which, according to Article 3 thereof, expire on 28 February 2002.

(4) Following the review, it is considered appropriate to prolong the period of validity of the definition of the product group and the ecological criteria, unchanged, for a period of eighteen months, in particular to allow those companies that have been awarded the eco-label to continue using the eco-label at least until the revision of Decision 1999/179/EC is completed.

(5) The period of validity set out in Article 3 of Decision 1999/179/EC should therefore be extended.

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

HAS ADOPTED THIS DECISION:

Article 1

The period of validity set out in Article 3 of Decision 1999/179/EC for the product group definition and the criteria of the product group bearing the administrative code number 017 is prolonged until 31 August 2003.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 27 November 2001.

For the Commission

Margot WALLSTRÖM

Member of the Commission

[1] OJ L 237, 21.9.2000, p. 1.
[2] OJ L 57, 5.3.1999, p. 31.

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 16 November 2001

amending Guideline ECB/2000/1 on the management of the foreign reserve assets of the European Central Bank by the national central banks and the legal documentation for operations involving the foreign reserve assets of the European Central Bank

(ECB/2001/12)

(2001/833/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community and in particular to the third indent of Article 105(2) thereof and to the third indent of Article 3.1 and Article 12.1, Article 14.3 and Article 30.6 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute'),

Whereas:

(1) Pursuant to Guideline ECB/2000/1 of 3 February 2000 on the management of the foreign reserve assets of the European Central Bank by the national central banks and the legal documentation for operations involving the foreign reserve assets of the European Central Bank [1], as amended by Guideline ECB/2001/5 [2], each national central bank of a participating Member State shall carry out operations involving the foreign reserve assets of the European Central Bank (ECB) as an agent of the ECB.

(2) The ECB considers that the Master Agreement for Financial Transactions sponsored by the Banking Federation of the European Union in cooperation with the European Savings Banks Group and the European Association of Cooperative Banks is an appropriate master agreement for all collateralised operations involving the foreign reserve assets of the ECB comprising repurchase agreements, reverse repurchase agreements, buy/sell-back agreements and sell/buy-back agreements with counterparties organised or incorporated under the laws of the jurisdictions of the European Union and Switzerland.

(3) In accordance with Article 12.1 and Article 14.3 of the Statute, ECB guidelines form an integral part of Community law,

[1] OJ L 207, 17.8.2000, p. 24.
[2] OJ L 190, 12.7.2001, p. 26.

HAS ADOPTED THIS GUIDELINE:

Article 1

Footnote 1 of Annex 1 to Guideline ECB/2000/1 shall be replaced as follows:

'The original text of this annex is drafted in the English, French, German, Italian, Portuguese and Spanish languages and is incorporated into master agreements drawn up in the English, French, German, Italian, Portuguese and Spanish languages. The translation of this annex into other languages is for illustrative purposes only and shall not be legally binding.'

Article 2

Annex 3 to Guideline ECB/2000/1 shall be replaced as follows:

'*ANNEX 3*

Standard agreements for collateralised and over-the-counter derivatives operations

1. All collateralised operations involving the foreign reserve assets of the ECB comprising repurchase agreements, reverse repurchase agreements, buy/sell-back agreements and sell/buy-back agreements are to be documented under the following standard agreements, in such form as may be approved or amended by the ECB from time to time: for counterparties organised or incorporated under the laws of the jurisdictions of the European Union or under Swiss law, the FBE Master Agreement for Financial Transactions; for counterparties organised or incorporated under the laws of a jurisdiction outside the European Union, Switzerland or the United States, the "TBMA/ISMA Global Master Repurchase Agreement, 2000 version"; and for counterparties organised or incorporated under US federal or state laws, "The Bond Market Association Master Repurchase Agreement".

2. All over-the-counter derivative operations involving the foreign reserve assets of the ECB are to be documented under the following standard agreements, in such form as may be approved or amended by the ECB from time to time; for counterparties organised or incorporated under French law, the *"Convention-cadre relative aux opérations de marché à terme"*; for counterparties organised or incorporated under German law, the *"Rahmenvertrag für Finanztermingeschäfte"*; for counterparties organised or incorporated under the laws of a jurisdiction outside France, Germany or the United States, the "1992 International Swaps and Derivatives Association Master Agreement" (Multi-currency — cross-border, English law version); and for counterparties organised or incorporated und US federal or state laws, the "1992 International Swaps and Derivatives Association Master Agreement" (Multi-currency — cross-border, New York law version).'

Article 3

Final provisions

This Guideline is addressed to the national central banks of participating Member States.

This Guideline shall enter into force on 23 November 2001.

This Guideline shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 16 November 2001.

On behalf of the Governing Council of the ECB

Willem F. DUISENBERG