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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1662/2003

of 22 September 2003

amending Regulation (EC) No 1030/2003 concerning certain restrictive measures in respect of Liberia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 301 thereof,

Having regard to Common Position 2003/666/CFSP of 22 September 2003 amending Common Position 2001/357/CFSP concerning restrictive measures against Liberia [1],

Having regard to the proposal from the Commission,

Whereas:

(1) United Nations Security Council Resolution 1497 (2003) of 1 August 2003 (hereinafter referred to as UNSCR 1497 (2003)) authorised Member States of the United Nations to establish a multinational force in Liberia to support the implementation of the 17 June 2003 cease-fire agreement, and to exempt the supply of arms and related material, as well as the provision of technical training or assistance, to the multinational force from the arms embargo imposed by United Nations Security Council Resolution 1343 (2001) of 7 March 2001.

(2) Common Position 2001/357/CFSP [2] and Regulation (EC) No 1030/2003 [3] imposed restrictive measures against Liberia. Common Position 2003/666/CFSP makes provision for an amendment of the current regime in order to align it with UNSCR 1497 (2003).

(3) Regulation (EC) No 1030/2003 which, *inter alia*, prohibits providing Liberia with technical training or assistance related to arms and related materiel of all types, should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Regulation (EC) No 1030/2003 shall be replaced by the following:

'2. The prohibition referred to in paragraph 1 shall not apply:

(a) to the provision of such technical training and assistance intended solely for support of and use by the multinational force in Liberia, if an authorisation in advance for such activities has been granted by the competent authorities, as listed in Annex I, of the Member State where the provider of such technical training and assistance is established;

(b) to any other provision of such technical training and assistance for which the Committee established by paragraph 14 of United Nations Security Council Resolution 1343 (2001) has granted an exemption in advance. Such exemptions shall be obtained through the competent authorities of the Member States listed in Annex I to this Regulation.'

Article 2

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

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(1) See page 28 of this Official Journal.
(2) OJ L 126, 8.5.2001, p. 1. Common Position as last amended by Common Position 2003/365/CFSP (OJ L 124, 20.5.2003, p. 49).
(3) OJ L 150, 18.6.2003, p. 1.

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

Done at Brussels, 22 September 2003.

For the Council

The President

R. BUTTIGLIONE

COMMISSION REGULATION (EC) No 1663/2003

of 22 September 2003

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 1947/2002 [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 23 September 2003.

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

Done at Brussels, 22 September 2003.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

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(1) OJ L 337, 24.12.1994, p. 66.
(2) OJ L 299, 1.11.2002, p. 17.

ANNEX

to the Commission Regulation of 22 September 2003 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	129,9
	060	108,2
	092	107,3
	096	72,9
	999	104,6
0709 90 70	052	115,6
	999	115,6
0805 50 10	382	58,3
	388	64,0
	524	69,7
	528	54,9
	999	61,7
0806 10 10	052	89,1
	064	61,2
	999	75,2
0808 10 20, 0808 10 50, 0808 10 90	388	79,0
	400	71,6
	508	112,5
	512	98,0
	720	71,2
	800	167,5
	804	97,9
	999	99,7
0808 20 50	052	104,6
	064	61,3
	388	82,0
	720	91,0
	999	84,7
0809 30 10, 0809 30 90	052	117,1
	624	145,1
	999	131,1
0809 40 05	052	62,0
	060	59,0
	066	75,3
	624	94,4
	999	72,7

(1) Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1664/2003
of 22 September 2003
prohibiting fishing for hake by vessels flying the flag of Belgium

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy (1), as last amended by Regulation (EC) No 806/2003 (2), and in particular Article 21(3) thereof,

Whereas:

(1) Council Regulation (EC) No 2341/2002 of 20 December 2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required (3), as last amended by Commission Regulation (EC) No 1407/2003 (4), lays down quotas for hake for 2003.

(2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated.

(3) According to the information received by the Commission, catches of hake in the waters of ICES divisions VIII a, b, d and e, by vessels flying the flag of Belgium or registered in Belgium have exhausted the quota allocated for 2003. Belgium has prohibited fishing for this stock from 1 September 2003. This date should be adopted in this Regulation also,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of hake in the waters of ICES divisions VIII a, b, d and e, by vessels flying the flag of Belgium or registered in Belgium are hereby deemed to have exhausted the quota allocated to Belgium for 2003.

Fishing for hake in the waters of ICES divisions VIII a, b, d and e, by vessels flying the flag of Belgium or registered in Belgium is hereby prohibited, as are the retention on board, transhipment and landing of this stock caught by the above vessels after the date of application of this Regulation.

Article 2

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

It shall apply from 1 September 2003.

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

Done at Brussels, 22 September 2003.

For the Commission
Jörgen HOLMQUIST
Director-General for Fisheries

(1) OJ L 261, 20.10.1993, p. 1.
(2) OJ L 122, 16.5.2003, p. 1.
(3) OJ L 356, 31.12.2002, p. 12.
(4) OJ L 201, 8.8.2003, p. 3.

COMMISSION REGULATION (EC) No 1665/2003

of 22 September 2003

supplementing the Annex to Regulation (EC) No 2400/96 (Clementine del Golfo di Taranto, Mela Val di Non and Clementinas de las Tierras del Ebro or Clementines de les Terres de l'Ebre)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ([1]), as last amended by Commission Regulation (EC) No 692/2003 ([2]), and in particular Article 6(3) and (4),

Whereas:

(1) In accordance with Article 5 of Regulation (EEC) No 2081/92, Italy sent the Commission an application for the registration as a geographical indication of the name 'Clementine del Golfo di Taranto' and for the registration as a designation of origin of the name 'Mela Val di Non' and Spain sent the Commission an application for the registration as a geographical indication of the name 'Clementinas de las Tierras del Ebro' or 'Clementines de les Terres de l'Ebre'.

(2) It has been found, in accordance with Article 6(1) of the Regulation, that the applications are in conformity, and include in particular all the particulars provided for in Article 4.

(3) No statement of objection, within the meaning of Article 7 of Regulation (EEC) No 2081/92, has been sent to the Commission following the publication in the *Official Journal of the European Union* ([3]) of the names listed in the Annex to this Regulation.

(4) The names consequently qualify for inclusion in the 'Register of protected designations of origin and protected geographical indications' and to be protected at Community level as protected designations or protected geographical indications.

(5) The Annex to this Regulation supplements the Annex to Commission Regulation (EC) No 2400/96 ([4]), as last amended by Regulation (EC) No 1491/2003 ([5]),

HAS ADOPTED THIS REGULATION:

Article 1

The names listed in the Annex to this Regulation are hereby added to the Annex to Regulation (EC) No 2400/96 and entered in the 'Register of protected designations of origin and protected geographical indications' as protected designations of origin (PDO) or protected geographical indications (PGI), provided for in Article 6(3) of Regulation (EEC) No 2081/92.

Article 2

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

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

Done at Brussels, 22 September 2003.

For the Commission

Franz FISCHLER

Member of the Commission

([1]) OJ L 208, 24.7.1992, p. 1.
([2]) OJ L 99, 17.4.2003, p. 1.
([3]) OJ C 11, 17.1.2003, p. 7 (Clementine del Golfo di Taranto).
OJ C 30, 8.2.2003, p. 15 (Mela Val di Non).
OJ C 22, 19.1.2003, p. 5 (Clementinas de las Tierras del Ebro or Clementines de les Tierres de l'Ebre).
([4]) OJ L 327, 18.12.1996, p. 11.
([5]) OJ L 214, 26.8.2003, p. 6.

ANNEX

PRODUCTS LISTED IN ANNEX I TO THE TREATY INTENDED FOR HUMAN CONSUMPTION

Unprocessed fruits and vegetables

ITALY

Clementine del Golfo di Taranto (PGI)

Mela Val di Non (PDO)

SPAIN

Clementinas de las Tierras del Ebro or Clementines de les Terres de l'Ebre (PGI)

COMMISSION REGULATION (EC) No 1666/2003

of 22 September 2003

correcting Regulation (EC) No 1555/96 as regards the volume of lemons, table grapes, pears, apricots, peaches/nectarines, and plums which will trigger additional duties

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ([1]), as last amended by Commission Regulation (EC) No 47/2003 ([2]), and in particular Article 33(4) thereof,

Whereas:

(1) The Annex to Commission Regulation (EC) No 1555/96 of 30 July 1996 on rules of application for additional import duties on fruit and vegetables ([3]) was last amended by Commission Regulation (EC) No 1487/2003 ([4]).

(2) A check has shown that the trigger volumes set therein are incorrect as regards lemons, table grapes, pears, apricots, peaches/nectarines, and plums. The said Annex should therefore be corrected.

(3) Since Regulation (EC) No 1487/2003 comes into force on 1 September 2003, this correction should enter into force on the same date to preserve the coherence of the system.

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1555/96 is hereby replaced by the Annex to this Regulation.

Article 2

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

It shall apply from 1 September 2003.

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

Done at Brussels, 22 September 2003.

For the Commission

Franz FISCHLER

Member of the Commission

([1]) OJ L 297, 21.11.1996, p. 1.
([2]) OJ L 7, 11.1.2003, p. 64.
([3]) OJ L 193, 3.8.1996, p. 1.
([4]) OJ L 213, 23.8.2003, p. 7.

ANNEX

'ANNEX

Without prejudice to the rules governing the interpretation of the Combined Nomenclature, the description of the product is deemed to be indicative only. The scope of the additional duties for the purposes of this Annex is determined by the scope of the CN codes as they exist at the time of the adoption of this Regulation. Where "ex" appears before the CN code, the scope of the additional duties is determined both by the scope of the CN code and by the corresponding trigger period.

Serial No	CN code	Description	Trigger period	Trigger level (tonnes)
78.0015 78.0020	ex 0702 00 00	Tomatoes	— from 1 October to 31 March — from 1 April to 30 September	190 815 17 676
78.0065 78.0075	ex 0707 00 05	Cucumbers	— from 1 May to 31 October — from 1 November to 30 April	7 037 4 555
78.0085	ex 0709 10 00	Artichokes	— from 1 November to 30 June	1 109
78.0100	0709 90 70	Courgettes	— from 1 January to 31 December	50 201
78.0110	ex 0805 10 10 ex 0805 10 30 ex 0805 10 50	Oranges	— from 1 December to 31 May	331 166
78.0120	ex 0805 10 50	Clementines	— from 1 November to end February	81 509
78.0130	ex 0805 20 30 ex 0805 20 50 ex 0805 20 70 ex 0805 20 90	Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids	— from 1 November to end February	85 422
78.0155 78.0160	ex 0805 50 10	Lemons	— from 1 June to 31 December — from 1 January to 31 May	183 211 63 096
78.0170	ex 0806 10 10	Table grapes	— from 21 July to 20 November	62 108
78.0175 78.0180	ex 0808 10 20 ex 0808 10 50 ex 0808 10 90	Apples	— from 1 January to 31 August — from 1 September to 31 December	642 617 42 076
78.0220 78.0235	ex 0808 20 50	Pears	— from 1 January to 30 April — from 1 July to 31 December	212 016 84 984
78.0250	ex 0809 10 00	Apricots	— from 1 June to 31 July	24 312
78.0265	ex 0809 20 95	Cherries, other than sour cherries	— from 21 May to 10 August	62 483
78.0270	ex 0809 30	Peaches, including nectarines	— from 11 June to 30 September	113 101
78.0280	ex 0809 40 05	Plums	— from 11 June to 30 September	18 236'

DIRECTIVE 2003/41/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 3 June 2003

on the activities and supervision of institutions for occupational retirement provision

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47(2), Article 55 and Article 95(1) thereof,

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

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

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

Whereas:

(1) A genuine internal market for financial services is crucial for economic growth and job creation in the Community.

(2) Major achievements have already been made in the establishment of this internal market, allowing financial institutions to operate in other Member States and ensuring a high level of protection for the consumers of financial services.

(3) The communication from the Commission 'Implementing the framework for financial markets: action plan' identifies a series of actions that are needed in order to complete the internal market for financial services, and the European Council, at its meeting in Lisbon on 23 and 24 March 2000, called for the implementation of this action plan by 2005.

(4) The action plan for financial services stresses as an urgent priority the need to draw up a directive on the prudential supervision of institutions for occupational retirement provision, as these institutions are major financial institutions which have a key role to play in ensuring the integration, efficiency and liquidity of the financial markets, but they are not subject to a coherent Community legislative framework allowing them to benefit fully from the advantages of the internal market.

(5) Since social-security systems are coming under increasing pressure, occupational retirement pensions will increasingly be relied on as a complement in future. Occupational retirement pensions should therefore be developed, without, however, calling into question the importance of social-security pension systems in terms of secure, durable and effective social protection, which should guarantee a decent standard of living in old age and should therefore be at the centre of the objective of strengthening the European social model.

(6) This Directive thus represents a first step on the way to an internal market for occupational retirement provision organised on a European scale. By setting the 'prudent person' rule as the underlying principle for capital investment and making it possible for institutions to operate across borders, the redirection of savings into the sector of occupational retirement provision is encouraged, thus contributing to economic and social progress.

(7) The prudential rules laid down in this Directive are intended both to guarantee a high degree of security for future pensioners through the imposition of stringent supervisory standards, and to clear the way for the efficient management of occupational pension schemes.

(8) Institutions which are completely separated from any sponsoring undertaking and which operate on a funded basis for the sole purpose of providing retirement benefits should have freedom to provide services and freedom of investment, subject only to coordinated prudential requirements, regardless of whether these institutions are considered as legal entities.

(9) In accordance with the principle of subsidiarity, Member States should retain full responsibility for the organisation of their pension systems as well as for the decision on the role of each of the three 'pillars' of the retirement system in individual Member States. In the context of the second pillar, they should also retain full responsibility for the role and functions of the various institutions providing occupational retirement benefits, such as industry-wide pension funds, company pension funds and life-assurance companies. This Directive is not intended to call this prerogative into question.

(10) National rules concerning the participation of self-employed persons in institutions for occupational retirement provision differ. In some Member States, institutions for occupational retirement provision can operate on the basis of agreements with trade or trade groups whose members act in a self-employed capacity or directly with self-employed and employed persons. In some Member States a self-employed person can also become a member of an institution when the self-employed person acts as employer or provides his professional services to an undertaking. In some Member States self-employed persons cannot join an institution for occupational retirement provision unless certain requirements, including those imposed by social and labour law, are met.

(1) OJ C 96 E, 27.3.2001, p. 136.
(2) OJ C 155, 29.5.2001, p. 26.
(3) Opinion of the European Parliament of 4 July 2001 (OJ C 65 E, 14.3.2002, p. 135), Council common position of 5 November 2002 (not yet published in the Official Journal) and decision of the European Parliament of 12 March 2003 (not yet published in the Official Journal) and decision of the Council of 13 May 2003.

(11) Institutions managing social-security schemes, which are already coordinated at Community level, should be excluded from the scope of this Directive. Account should nevertheless be taken of the specificity of institutions which, in a single Member State, manage both social-security schemes and occupational pension schemes.

(12) Financial institutions which already benefit from a Community legislative framework should in general be excluded from the scope of this Directive. However, as these institutions may also in some cases offer occupational pension services, it is important to ensure that this Directive does not lead to distortions of competition. Such distortions may be avoided by applying the prudential requirements of this Directive to the occupational pension business of life-assurance companies. The Commission should also carefully monitor the situation in the occupational pensions market and assess the possibility of extending the optional application of this Directive to other regulated financial institutions.

(13) When aiming at ensuring financial security in retirement, the benefits paid by institutions for occupational retirement provision should generally provide for the payment of a lifelong pension. Payments for a temporary period or a lump sum should also be possible.

(14) It is important to ensure that older and disabled people are not placed at risk of poverty and can enjoy a decent standard of living. Appropriate cover for biometrical risks in occupational pension arrangements is an important aspect of the fight against poverty and insecurity among elderly people. When setting up a pension scheme, employers and employees, or their respective representatives, should consider the possibility of the pension scheme including provisions for the coverage of the longevity risk and occupational disability risks as well as provision for surviving dependants.

(15) Giving Member States the possibility to exclude from the scope of national implementing legislation institutions managing schemes which together have less than 100 members in total can facilitate supervision in some Member States, without undermining the proper functioning of the internal market in this field. However, this should not undermine the right of such institutions to appoint for the management of their investment portfolio and the custody of their assets investment managers and custodians established in another Member State and duly authorised.

(16) Institutions such as 'Unterstützungskassen' in Germany, where the members have no legal rights to benefits of a certain amount and where their interests are protected by a compulsory statutory insolvency insurance, should be excluded from the scope of the Directive.

(17) In order to protect members and beneficiaries, institutions for occupational retirement provision should limit their activities to the activities, and those arising therefrom, referred to in this Directive.

(18) In the event of the bankruptcy of a sponsoring undertaking, a member faces the risk of losing both his/her job and his/her acquired pension rights. This makes it necessary to ensure that there is a clear separation between that undertaking and the institution and that minimum prudential standards are laid down to protect members.

(19) Institutions for occupational retirement provision operate and are supervised with significant differences in Member States. In some Member States, supervision can be exercised not only over the institution itself but also over the entities or companies which are authorised to manage these institutions. Member States should be able to take such specificity into account as long as all the requirements laid down in this Directive are effectively met. Member States should also be able to allow insurance entities and other financial entities to manage institutions for occupational retirement provision.

(20) Institutions for occupational retirement provision are financial service providers which bear a heavy responsibility for the provision of occupational retirement benefits and therefore should meet certain minimum prudential standards with respect to their activities and conditions of operation.

(21) The huge number of institutions in certain Member States means a pragmatic solution is necessary as regards prior authorisation of institutions. However, if an institution wishes to manage a scheme in another Member State, a prior authorisation granted by the competent authority of the home Member State should be required.

(22) Each Member State should require that every institution located in its territory draw up annual accounts and annual reports taking into account each pension scheme operated by the institution and, where applicable, annual accounts and annual reports for each pension scheme. The annual accounts and annual reports, reflecting a true and fair view of the institution's assets, liabilities and financial position, taking into account each pension scheme operated by an institution, and duly approved by an authorised person, are an essential source of information for members and beneficiaries of a scheme and the competent authorities. In particular, they enable the competent authorities to monitor the financial soundness of an institution and assess whether the institution is able to meet all its contractual obligations.

(23) Proper information for members and beneficiaries of a pension scheme is crucial. This is of particular relevance for requests for information concerning the financial soundness of the institution, the contractual rules, the benefits and the actual financing of accrued pension entitlements, the investment policy and the management of risks and costs.

(24) The investment policy of an institution is a decisive factor for both security and affordability of occupational pensions. The institutions should therefore draw up and, at least every three years, review a statement of investment principles. It should be made available to the competent authorities and on request also to members and beneficiaries of each pension scheme.

(25) To fulfil their statutory function, the competent authorities should be provided with adequate rights to information and powers of intervention with respect to institutions and the persons who effectively run them. Where an institution for occupational retirement provision has transferred functions of material importance such as investment management, information technology or accounting to other companies (outsourcing), it should be possible for the rights to information and powers of intervention to be enlarged so as to cover these outsourced functions in order to check whether those activities are carried out in accordance with the supervisory rules.

(26) A prudent calculation of technical provisions is an essential condition to ensure that obligations to pay retirement benefits can be met. Technical provisions should be calculated on the basis of recognised actuarial methods and certified by qualified persons. The maximum interest rates should be chosen prudently according to any relevant national rules. The minimum amount of technical provisions should both be sufficient for benefits already in payment to beneficiaries to continue to be paid and reflect the commitments that arise out of members' accrued pension rights.

(27) Risks covered by institutions vary significantly from one Member State to another. Home Member States should therefore have the possibility of making the calculation of technical provisions subject to additional and more detailed rules than those laid down in this Directive.

(28) Sufficient and appropriate assets to cover the technical provisions protect the interests of members and beneficiaries of the pension scheme if the sponsoring undertaking becomes insolvent. In particular in cases of cross-border activity, the mutual recognition of supervisory principles applied in Member States requires that the technical provisions be fully funded at all times.

(29) If the institution does not work on a cross-border basis, Member States should be able to permit underfunding provided that a proper plan is established to restore full funding and without prejudice to the requirements of Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer ([1]).

(30) In many cases, it could be the sponsoring undertaking and not the institution itself that either covers any biometric risk or guarantees certain benefits or investment performance. However, in some cases, it is the institution itself which provides such cover or guarantees and the sponsor's obligations are generally exhausted by paying the necessary contributions. In these circumstances, the products offered are similar to those of life-assurance companies and the institutions concerned should hold at least the same additional own funds as life-assurance companies.

(31) Institutions are very long-term investors. Redemption of the assets held by these institutions cannot, in general, be made for any purpose other than providing retirement benefits. Furthermore, in order to protect adequately the rights of members and beneficiaries, institutions should be able to opt for an asset allocation that suits the precise nature and duration of their liabilities. These aspects call for efficient supervision and an approach towards investment rules allowing institutions sufficient flexibility to decide on the most secure and efficient investment policy and obliging them to act prudently. Compliance with the 'prudent person' rule therefore requires an investment policy geared to the membership structure of the individual institution for occupational retirement provision.

(32) Supervisory methods and practices vary among Member States. Therefore, Member States should be given some discretion on the precise investment rules that they wish to impose on the institutions located in their territories. However, these rules must not restrict the free movement of capital, unless justified on prudential grounds.

(33) As very long-term investors with low liquidity risks, institutions for occupational retirement provision are in a position to invest in non-liquid assets such as shares as well as in risk capital markets within prudent limits. They can also benefit from the advantages of international diversification. Investments in shares, risk capital markets and currencies other than those of the liabilities should therefore not be restricted except on prudential grounds.

([1]) OJ L 283, 28.10.1980, p. 23. Directive as last amended by Directive 2002/74/EC of the European Parliament and of the Council (OJ L 270, 8.10.2002, p. 10).

(34) However, if the institution works on a cross-border basis, it may be asked by the competent authorities of the host Member State to apply limits for investment in shares and similar assets not admitted to trading on a regulated market, in shares and other instruments issued by the same undertaking or in assets denominated in non-matching currencies provided such rules also apply to institutions located in the host Member State.

(35) Restrictions regarding the free choice by institutions of approved asset managers and custodians limit competition in the internal market and should therefore be eliminated.

(36) Without prejudice to national social and labour legislation on the organisation of pension systems, including compulsory membership and the outcomes of collective bargaining agreements, institutions should have the possibility of providing their services in other Member States. They should be allowed to accept sponsorship from undertakings located in other Member States and to operate pension schemes with members in more than one Member State. This would potentially lead to significant economies of scale for these institutions, improve the competitiveness of the Community industry and facilitate labour mobility. This requires mutual recognition of prudential standards. Proper enforcement of these prudential standards should be supervised by the competent authorities of the home Member State, unless specified otherwise.

(37) The exercise of the right of an institution in one Member State to manage an occupational pension scheme contracted in another Member State should fully respect the provisions of the social and labour law in force in the host Member State insofar as it is relevant to occupational pensions, for example the definition and payment of retirement benefits and the conditions for transferability of pension rights.

(38) When a scheme is ring-fenced, the provisions of this Directive apply individually to that scheme.

(39) It is important to make provision for cooperation between the competent authorities of the Member States for supervisory purposes and between those authorities and the Commission for other purposes. For the purposes of carrying out their duties and of contributing to the consistent and timely implementation of this Directive, competent authorities should provide each other with the information necessary to apply the provisions of the Directive. The Commission has indicated its intention to set up a committee of supervisors in order to encourage cooperation, coordination and exchanges of views between national competent authorities, and to promote the consistent implementation of this Directive.

(40) Since the objective of the proposed action, namely to create a Community legal framework covering institutions for occupational retirement provision, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved by the Community, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THE FOLLOWING DIRECTIVE:

Article 1

Subject

This Directive lays down rules for the taking-up and pursuit of activities carried out by institutions for occupational retirement provision.

Article 2

Scope

1. This Directive shall apply to institutions for occupational retirement provision. Where, in accordance with national law, institutions for occupational retirement provision do not have legal personality, Member States shall apply this Directive either to those institutions or, subject to paragraph 2, to those authorised entities responsible for managing them and acting on their behalf.

2. This Directive shall not apply to:

(a) institutions managing social-security schemes which are covered by Regulation (EEC) No 1408/71 [1] and Regulation (EEC) No 574/72 [2];

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[1] Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social-security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ L 149, 5.7.1971, p. 2). Regulation as last amended by Regulation (EC) No 1386/2001 of the European Parliament and of the Council (OJ L 187, 10.7.2001, p. 1).

[2] Council Regulation (EEC) No 574/72 of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social-security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ L 74, 27.3.1972, p. 1). Regulation as last amended by Commission Regulation (EC) No 410/2002 (OJ L 62, 5.3.2002, p. 17).

(b) institutions which are covered by Directive 73/239/EEC [1], Directive 85/611/EEC [2], Directive 93/22/EEC [3], Directive 2000/12/EC [4] and Directive 2002/83/EC [5];

(c) institutions which operate on a pay-as-you-go basis;

(d) institutions where employees of the sponsoring undertakings have no legal rights to benefits and where the sponsoring undertaking can redeem the assets at any time and not necessarily meet its obligations for payment of retirement benefits;

(e) companies using book-reserve schemes with a view to paying out retirement benefits to their employees.

Article 3

Application to institutions operating social-security schemes

Institutions for occupational retirement provision which also operate compulsory employment-related pension schemes which are considered to be social-security schemes covered by Regulations (EEC) No 1408/71 and (EEC) No 574/72 shall be covered by this Directive in respect of their non-compulsory occupational retirement provision business. In that case, the liabilities and the corresponding assets shall be ring-fenced and it shall not be possible to transfer them to the compulsory pension schemes which are considered as social-security schemes or vice versa.

Article 4

Optional application to institutions covered by Directive 2002/83/EC

Home Member States may choose to apply the provisions of Articles 9 to 16 and Articles 18 to 20 of this Directive to the occupational-retirement-provision business of insurance undertakings which are covered by Directive 2002/83/EC. In that case, all assets and liabilities corresponding to the said business shall be ring-fenced, managed and organised separately from the other activities of the insurance undertakings, without any possibility of transfer.

In such case, and only as far as their occupational retirement provision business is concerned, insurance undertakings shall not be subject to Articles 20 to 26, 31 and 36 of Directive 2002/83/EC.

The home Member State shall ensure that either the competent authorities, or the authorities responsible for supervision of insurance undertakings covered by Directive 2002/83/EC, as part of their supervisory work, verify the strict separation of the relevant occupational retirement provision business.

Article 5

Small pension institutions and statutory schemes

With the exception of Article 19, Member States may choose not to apply this Directive, in whole or in part, to any institution located in their territories which operates pension schemes which together have less than 100 members in total. Subject to Article 2(2), such institutions should nevertheless be given the right to apply this Directive on a voluntary basis. Article 20 may be applied only if all the other provisions of this Directive apply.

Member States may choose not to apply Articles 9 to 17 to institutions where occupational retirement provision is made under statute, pursuant to legislation, and is guaranteed by a public authority. Article 20 may be applied only if all the other provisions of this Directive apply.

Article 6

Definitions

For the purposes of this Directive:

(a) 'institution for occupational retirement provision', or 'institution', means an institution, irrespective of its legal form, operating on a funded basis, established separately from any sponsoring undertaking or trade for the purpose of providing retirement benefits in the context of an occupational activity on the basis of an agreement or a contract agreed:

— individually or collectively between the employer(s) and the employee(s) or their respective representatives, or

— with self-employed persons, in compliance with the legislation of the home and host Member States,

and which carries out activities directly arising therefrom;

(b) 'pension scheme' means a contract, an agreement, a trust deed or rules stipulating which retirement benefits are granted and under which conditions;

(c) 'sponsoring undertaking' means any undertaking or other body, regardless of whether it includes or consists of one or more legal or natural persons, which acts as an employer or in a self-employed capacity or any combination thereof and which pays contributions into an institution for occupational retirement provision;

[1] First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3). Directive as last amended by Directive 2002/13/EC of the European Parliament and of the Council (OJ L 77, 20.3.2002, p. 17).

[2] Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 375, 31.12.1985, p. 3). Directive as last amended by Directive 2001/108/EC of the European Parliament and of the Council (OJ L 41, 13.2.2002, p. 35).

[3] Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11.6.1993, p. 27). Directive as last amended by Directive 2000/64/EC of the European Parliament and of the Council (OJ L 290, 17.11.2000, p. 27).

[4] Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking-up and pursuit of the business of credit institutions (OJ L 126, 26.5.2000, p. 1). Directive as amended by Directive 2000/28/EC (OJ L 275, 27.10.2000, p. 37).

[5] Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (OJ L 345, 19.12.2002, p. 1).

(d) ‘retirement benefits’ means benefits paid by reference to reaching, or the expectation of reaching, retirement or, where they are supplementary to those benefits and provided on an ancillary basis, in the form of payments on death, disability, or cessation of employment or in the form of support payments or services in case of sickness, indigence or death. In order to facilitate financial security in retirement, these benefits usually take the form of payments for life. They may, however, also be payments made for a temporary period or as a lump sum.

(e) ‘member’ means a person whose occupational activities entitle or will entitle him/her to retirement benefits in accordance with the provisions of a pension scheme;

(f) ‘beneficiary’ means a person receiving retirement benefits;

(g) ‘competent authorities’ means the national authorities designated to carry out the duties provided for in this Directive;

(h) ‘biometrical risks’ mean risks linked to death, disability and longevity;

(i) ‘home Member State’ means the Member State in which the institution has its registered office and its main administration or, if it does not have a registered office, its main administration;

(j) ‘host Member State’ means the Member State whose social and labour law relevant to the field of occupational pension schemes is applicable to the relationship between the sponsoring undertaking and members.

Article 7

Activities of an institution

Each Member State shall require institutions located within its territory to limit their activities to retirement-benefit related operations and activities arising therefrom.

When, in accordance with Article 4, an insurance undertaking manages its occupational retirement provision business by ring-fencing its assets and liabilities, the ring-fenced assets and liabilities shall be restricted to retirement-benefit related operations and activities directly arising therefrom.

Article 8

Legal separation between sponsoring undertakings and institutions for occupational retirement provision

Each Member State shall ensure that there is a legal separation between a sponsoring undertaking and an institution for occupational retirement provision in order that the assets of the institution are safeguarded in the interests of members and beneficiaries in the event of bankruptcy of the sponsoring undertaking.

Article 9

Conditions of operation

1. Each Member State shall, in respect of every institution located in its territory, ensure that:

(a) the institution is registered in a national register by the competent supervisory authority or authorised; in the case of cross-border activities referred to in Article 20, the register shall also indicate the Member States in which the institution is operating;

(b) the institution is effectively run by persons of good repute who must themselves have appropriate professional qualifications and experience or employ advisers with appropriate professional qualifications and experience;

(c) properly constituted rules regarding the functioning of any pension scheme operated by the institution have been implemented and members have been adequately informed of these rules;

(d) all technical provisions are computed and certified by an actuary or, if not by an actuary, by another specialist in this field, including an auditor, according to national legislation, on the basis of actuarial methods recognised by the competent authorities of the home Member State;

(e) where the sponsoring undertaking guarantees the payment of the retirement benefits, it is committed to regular financing;

(f) the members are sufficiently informed of the conditions of the pension scheme, in particular concerning:

   (i) the rights and obligations of the parties involved in the pension scheme;

   (ii) the financial, technical and other risks associated with the pension scheme;

   (iii) the nature and distribution of those risks.

2. In accordance with the principle of subsidiarity and taking due account of the scale of pension benefits offered by the social-security regimes, Member States may provide that the option of longevity and disability cover, provision for surviving dependants and a guarantee of repayment of contributions as additional benefits be offered to members if employers and employees, or their respective representatives, so agree.

3. A Member State may make the conditions of operation of an institution located in its territory subject to other requirements, with a view to ensuring that the interests of members and beneficiaries are adequately protected.

4. A Member State may permit or require institutions located in its territory to entrust management of these institutions, in whole or in part, to other entities operating on behalf of those institutions.

5. In the case of cross-border activity as referred to in Article 20, the conditions of operation of the institution shall be subject to a prior authorisation by the competent authorities of the home Member State.

Article 10

Annual accounts and annual reports

Each Member State shall require that every institution located in its territory draw up annual accounts and annual reports taking into account each pension scheme operated by the institution and, where applicable, annual accounts and annual reports for each pension scheme. The annual accounts and the annual reports shall give a true and fair view of the institution's assets, liabilities and financial position. The annual accounts and information in the reports shall be consistent, comprehensive, fairly presented and duly approved by authorised persons, according to national law.

Article 11

Information to be given to the members and beneficiaries

1. Depending on the nature of the pension scheme established, each Member State shall ensure that every institution located in its territory provides at least the information set out in this Article.

2. Members and beneficiaries and/or, where applicable, their representatives shall receive:

(a) on request, the annual accounts and the annual reports referred to in Article 10, and, where an institution is responsible for more than one scheme, those relating to their particular pension scheme;

(b) within a reasonable time, any relevant information regarding changes to the pension-scheme rules.

3. The statement of investment policy principles, referred to in Article 12, shall be made available to members and beneficiaries and/or, where applicable, to their representatives on request.

4. Each member shall also receive, on request, detailed and substantial information on:

(a) the target level of the retirement benefits, if applicable;

(b) the level of benefits in case of cessation of employment;

(c) where the member bears the investment risk, the range of investment options, if applicable, and the actual investment portfolio as well as information on risk exposure and costs related to the investments;

(d) the arrangements relating to the transfer of pension rights to another institution for occupational retirement provision in the event of termination of the employment relationship.

Members shall receive every year brief particulars of the situation of the institution as well as the current level of financing of their accrued individual entitlements.

5. Each beneficiary shall receive, on retirement or when other benefits become due, the appropriate information on the benefits which are due and the corresponding payment options.

Article 12

Statement of investment policy principles

Each Member State shall ensure that every institution located in its territory prepares and, at least every three years, reviews a written statement of investment-policy principles. This statement is to be revised without delay after any significant change in the investment policy. Member States shall provide that this statement contains, at least, such matters as the investment risk measurement methods, the risk-management processes implemented and the strategic asset allocation with respect to the nature and duration of pension liabilities.

Article 13

Information to be provided to the competent authorities

Each Member State shall ensure that the competent authorities, in respect of any institution located in its territory, have the necessary powers and means:

(a) to require the institution, the members of its board of directors and other managers or directors or persons controlling the institution to supply information about all business matters or forward all business documents;

(b) to supervise relationships between the institution and other companies or between institutions, when institutions transfer functions to those other companies or institutions (outsourcing), influencing the financial situation of the institution or being in a material way relevant for effective supervision;

(c) to obtain regularly the statement of investment-policy principles, the annual accounts and the annual reports, and all the documents necessary for the purposes of supervision. These may include documents such as:

(i) internal interim reports;

(ii) actuarial valuations and detailed assumptions;

(iii) asset-liability studies;

(iv) evidence of consistency with the investment-policy principles;

(v) evidence that contributions have been paid in as planned;

(vi) reports by the persons responsible for auditing the annual accounts referred to in Article 10;

(d) to carry out on-site inspections at the institution's premises and, where appropriate, on outsourced functions to check if activities are carried out in accordance with the supervisory rules.

Article 14

Powers of intervention and duties of the competent authorities

1. The competent authorities shall require every institution located in their territories to have sound administrative and accounting procedures and adequate internal control mechanisms.

2. The competent authorities shall have the power to take any measures including, where appropriate, those of an administrative or financial nature, either with regard to any institution located in their territories or against the persons running the institution, which are appropriate and necessary to prevent or remedy any irregularities prejudicial to the interests of the members and beneficiaries.

They may also restrict or prohibit the free disposal of the institution's assets when, in particular:

(a) the institution has failed to establish sufficient technical provisions in respect of the entire business or has insufficient assets to cover the technical provisions;

(b) the institution has failed to hold the regulatory own funds.

3. In order to safeguard the interests of members and beneficiaries, the competent authorities may transfer the powers which the persons running an institution located in their territories hold in accordance with the law of the home Member State wholly or partly to a special representative who is fit to exercise these powers.

4. The competent authorities may prohibit or restrict the activities of an institution located in their territories in particular if:

(a) the institution fails to protect adequately the interests of members and beneficiaries;

(b) the institution no longer fulfils the conditions of operation;

(c) the institution fails seriously in its obligations under the rules to which it is subject;

(d) in the case of cross-border activity, the institution does not respect the requirements of social and labour law of the host Member State relevant to the field of occupational pensions.

Any decision to prohibit the activities of an institution shall be supported by precise reasons and notified to the institution in question.

5. Member States shall ensure that decisions taken in respect of an institution under laws, regulations and administrative provisions adopted in accordance with this Directive are subject to the right to apply to the courts.

Article 15

Technical provisions

1. The home Member State shall ensure that institutions operating occupational pension schemes establish at all times in respect of the total range of their pension schemes an adequate amount of liabilities corresponding to the financial commitments which arise out of their portfolio of existing pension contracts.

2. The home Member State shall ensure that institutions operating occupational pension schemes, where they provide cover against biometric risks and/or guarantee either an investment performance or a given level of benefits, establish sufficient technical provisions in respect of the total range of these schemes.

3. The calculation of technical provisions shall take place every year. However, the home Member State may allow a calculation once every three years if the institution provides members and/or the competent authorities with a certification or a report of adjustments for the intervening years. The certification or the report shall reflect the adjusted development of the technical provisions and changes in risks covered.

4. The calculation of the technical provisions shall be executed and certified by an actuary or, if not by an actuary, by another specialist in this field, including an auditor, according to national legislation, on the basis of actuarial methods recognised by the competent authorities of the home Member State, according to the following principles:

(a) the minimum amount of the technical provisions shall be calculated by a sufficiently prudent actuarial valuation, taking account of all commitments for benefits and for contributions in accordance with the pension arrangements of the institution. It must be sufficient both for pensions and benefits already in payment to beneficiaries to continue to be paid, and to reflect the commitments which arise out of members' accrued pension rights. The economic and actuarial assumptions chosen for the valuation of the liabilities shall also be chosen prudently taking account, if applicable, of an appropriate margin for adverse deviation;

(b) the maximum rates of interest used shall be chosen prudently and determined in accordance with any relevant rules of the home Member State. These prudent rates of interest shall be determined by taking into account:

— the yield on the corresponding assets held by the institution and the future investment returns and/or

— the market yields of high-quality or government bonds;

(c) the biometric tables used for the calculation of technical provisions shall be based on prudent principles, having regard to the main characteristics of the group of members and the pension schemes, in particular the expected changes in the relevant risks;

(d) the method and basis of calculation of technical provisions shall in general remain constant from one financial year to another. However, discontinuities may be justified by a change of legal, demographic or economic circumstances underlying the assumptions.

5. The home Member State may make the calculation of technical provisions subject to additional and more detailed requirements, with a view to ensuring that the interests of members and beneficiaries are adequately protected.

6. With a view to further harmonisation of the rules regarding the calculation of technical provisions which may be justified — in particular the interest rates and other assumptions influencing the level of technical provisions — the Commission shall, every two years or at the request of a Member State, issue a report on the situation concerning the development in cross-border activities.

The Commission shall propose any necessary measures to prevent possible distortions caused by different levels of interest rates and to protect the interest of beneficiaries and members of any scheme.

Article 16

Funding of technical provisions

1. The home Member State shall require every institution to have at all times sufficient and appropriate assets to cover the technical provisions in respect of the total range of pension schemes operated.

2. The home Member State may allow an institution, for a limited period of time, to have insufficient assets to cover the technical provisions. In this case the competent authorities shall require the institution to adopt a concrete and realisable recovery plan in order to ensure that the requirements of paragraph 1 are met again. The plan shall be subject to the following conditions:

(a) the institution shall set up a concrete and realisable plan to re-establish the required amount of assets to cover fully the technical provisions in due time. The plan shall be made available to members or, where applicable, to their representatives and/or shall be subject to approval by the competent authorities of the home Member State;

(b) in drawing up the plan, account shall be taken of the specific situation of the institution, in particular the asset/liability structure, risk profile, liquidity plan, the age profile of the members entitled to receive retirement benefits, start-up schemes and schemes changing from non-funding or partial funding to full funding;

(c) in the event of termination of a pension scheme during the period referred to above in this paragraph, the institution shall inform the competent authorities of the home Member State. The institution shall establish a procedure in order to transfer the assets and the corresponding liabilities to another financial institution or a similar body. This procedure shall be disclosed to the competent authorities of the home Member State and a general outline of the procedure shall be made available to members or, where applicable, to their representatives in accordance with the principle of confidentiality.

3. In the event of cross-border activity as referred to in Article 20, the technical provisions shall at all times be fully funded in respect of the total range of pension schemes operated. If these conditions are not met, the competent authorities of the home Member State shall intervene in accordance with Article 14. To comply with this requirement the home Member State may require ring-fencing of the assets and liabilities.

Article 17

Regulatory own funds

1. The home Member State shall ensure that institutions operating pension schemes, where the institution itself, and not the sponsoring undertaking, underwrites the liability to cover against biometric risk, or guarantees a given investment performance or a given level of benefits, hold on a permanent basis additional assets above the technical provisions to serve as a buffer. The amount thereof shall reflect the type of risk and asset base in respect of the total range of schemes operated. These assets shall be free of all foreseeable liabilities and serve as a safety capital to absorb discrepancies between the anticipated and the actual expenses and profits.

2. For the purposes of calculating the minimum amount of the additional assets, the rules laid down in Articles 27 and 28 of Directive 2002/83/EC shall apply.

3. Paragraph 1 shall, however, not prevent Member States from requiring institutions located in their territory to hold regulatory own funds or from laying down more detailed rules provided that they are prudentially justified.

Article 18

Investment rules

1. Member States shall require institutions located in their territories to invest in accordance with the 'prudent person' rule and in particular in accordance with the following rules:

(a) the assets shall be invested in the best interests of members and beneficiaries. In the case of a potential conflict of interest, the institution, or the entity which manages its portfolio, shall ensure that the investment is made in the sole interest of members and beneficiaries;

(b) the assets shall be invested in such a manner as to ensure the security, quality, liquidity and profitability of the portfolio as a whole.

Assets held to cover the technical provisions shall also be invested in a manner appropriate to the nature and duration of the expected future retirement benefits;

(c) the assets shall be predominantly invested on regulated markets. Investment in assets which are not admitted to trading on a regulated financial market must in any event be kept to prudent levels;

(d) investment in derivative instruments shall be possible insofar as they contribute to a reduction of investment risks or facilitate efficient portfolio management. They must be valued on a prudent basis, taking into account the underlying asset, and included in the valuation of the institution's assets. The institution shall also avoid excessive risk exposure to a single counterparty and to other derivative operations;

(e) the assets shall be properly diversified in such a way as to avoid excessive reliance on any particular asset, issuer or group of undertakings and accumulations of risk in the portfolio as a whole.

Investments in assets issued by the same issuer or by issuers belonging to the same group shall not expose the institution to excessive risk concentration;

(f) investment in the sponsoring undertaking shall be no more than 5 % of the portfolio as a whole and, when the sponsoring undertaking belongs to a group, investment in the undertakings belonging to the same group as the sponsoring undertaking shall not be more than 10 % of the portfolio.

When the institution is sponsored by a number of undertakings, investment in these sponsoring undertakings shall be made prudently, taking into account the need for proper diversification.

Member States may decide not to apply the requirements referred to in points (e) and (f) to investment in government bonds.

2. The home Member State shall prohibit the institution from borrowing or acting as a guarantor on behalf of third parties. However, Member States may authorise institutions to carry out some borrowing only for liquidity purposes and on a temporary basis.

3. Member States shall not require institutions located in their territory to invest in particular categories of assets.

4. Without prejudice to Article 12, Member States shall not subject the investment decisions of an institution located in their territory or its investment manager to any kind of prior approval or systematic notification requirements.

5. In accordance with the provisions of paragraphs 1 to 4, Member States may, for the institutions located in their territories, lay down more detailed rules, including quantitative rules, provided they are prudentially justified, to reflect the total range of pension schemes operated by these institutions.

In particular, Member States may apply investment provisions similar to those of Directive 2002/83/EC.

However, Member States shall not prevent institutions from:

(a) investing up to 70 % of the assets covering the technical provisions or of the whole portfolio for schemes in which the members bear the investment risks in shares, negotiable securities treated as shares and corporate bonds admitted to trading on regulated markets and deciding on the relative weight of these securities in their investment portfolio. Provided it is prudentially justified, Member States may, however, apply a lower limit to institutions which provide retirement products with a long-term interest rate guarantee, bear the investment risk and themselves provide for the guarantee;

(b) investing up to 30 % of the assets covering technical provisions in assets denominated in currencies other than those in which the liabilities are expressed;

(c) investing in risk capital markets.

6. Paragraph 5 shall not preclude the right for Member States to require the application to institutions located in their territory of more stringent investment rules also on an individual basis provided they are prudentially justified, in particular in the light of the liabilities entered into by the institution.

7. In the event of cross-border activity as referred in Article 20, the competent authorities of each host Member State may require that the rules set out in the second subparagraph apply to the institution in the home Member State. In such case, these rules shall apply only to the part of the assets of the institution that corresponds to the activities carried out in the particular host Member State. Furthermore, they shall only be applied if the same or stricter rules also apply to institutions located in the host Member State.

The rules referred to in the first subparagraph are as follows:

(a) the institution shall not invest more than 30 % of these assets in shares, other securities treated as shares and debt securities which are not admitted to trading on a regulated market, or the institution shall invest at least 70 % of these assets in shares, other securities treated as shares, and debt securities which are admitted to trading on a regulated market;

(b) the institution shall invest no more than 5 % of these assets in shares and other securities treated as shares, bonds, debt securities and other money and capital-market instruments issued by the same undertaking and no more than 10 % of these assets in shares and other securities treated as shares, bonds, debt securities and other money and capital market instruments issued by undertakings belonging to a single group;

(c) the institution shall not invest more than 30 % of these assets in assets denominated in currencies other than those in which the liabilities are expressed.

To comply with these requirements, the home Member State may require ring-fencing of the assets.

Article 19

Management and custody

1. Member States shall not restrict institutions from appointing, for the management of the investment portfolio, investment managers established in another Member State and duly authorised for this activity, in accordance with Directives 85/611/EEC, 93/22/EEC, 2000/12/EC and 2002/83/EC, as well as those referred to in Article 2(1) of this Directive.

2. Member States shall not restrict institutions from appointing, for the custody of their assets, custodians established in another Member State and duly authorised in accordance with Directive 93/22/EEC or Directive 2000/12/EC, or accepted as a depositary for the purposes of Directive 85/611/EEC.

The provision referred to in this paragraph shall not prevent the home Member State from making the appointment of a depositary or a custodian compulsory.

3. Each Member State shall take the necessary steps to enable it under its national law to prohibit, in accordance with Article 14, the free disposal of assets held by a depositary or custodian located within its territory at the request of the institution's home Member State.

Article 20

Cross-border activities

1. Without prejudice to national social and labour legislation on the organisation of pension systems, including compulsory membership and the outcomes of collective bargaining agreements, Member States shall allow undertakings located within their territories to sponsor institutions for occupational retirement provision authorised in other Member States. They shall also allow institutions for occupational retirement provision authorised in their territories to accept sponsorship by undertakings located within the territories of other Member States.

2. An institution wishing to accept sponsorship from a sponsoring undertaking located within the territory of another Member State shall be subject to a prior authorisation by the competent authorities of its home Member State, as referred to in Article 9(5). It shall notify its intention to accept sponsorship from a sponsoring undertaking located within the territory of another Member State to the competent authorities of the home Member State where it is authorised.

3. Member States shall require institutions located within their territories and proposing to be sponsored by an undertaking located in the territory of another Member State to provide the following information when effecting a notification under paragraph 2:

(a) the host Member State(s);

(b) the name of the sponsoring undertaking;

(c) the main characteristics of the pension scheme to be operated for the sponsoring undertaking.

4. Where a competent authority of the home Member State is notified under paragraph 2, and unless it has reason to doubt that the administrative structure or the financial situation of the institution or the good repute and professional qualifications or experience of the persons running the institution are compatible with the operations proposed in the host Member State, it shall within three months of receiving all the information referred to in paragraph 3 communicate that information to the competent authorities of the host Member State and inform the institution accordingly.

5. Before the institution starts to operate a pension scheme for a sponsoring undertaking in another Member State, the competent authorities of the host Member State shall, within two months of receiving the information referred to in paragraph 3, inform the competent authorities of the home Member State, if appropriate, of the requirements of social and labour law relevant to the field of occupational pensions under which the pension scheme sponsored by an undertaking in the host Member State must be operated and any rules that are to be applied in accordance with Article 18(7) and with paragraph 7 of this Article. The competent authorities of the home Member State shall communicate this information to the institution.

6. On receiving the communication referred to in paragraph 5, or if no communication is received from the competent authorities of the home Member State on expiry of the period provided for in paragraph 5, the institution may start to operate the pension scheme sponsored by an undertaking in the host Member State in accordance with the host Member State's requirements of social and labour law relevant to the field of occupational pensions, and any rules that are to be applied in accordance with Article 18(7) and with paragraph 7 of this Article.

7. In particular, an institution sponsored by an undertaking located in another Member State shall also be subject, in respect of the corresponding members, to any information requirements imposed by the competent authorities of the host Member State on institutions located in that Member State, in accordance with Article 11.

8. The competent authorities of the host Member State shall inform the competent authorities of the home Member State of any significant change in the host Member State's requirements of social and labour law relevant to the field of occupational pension schemes which may affect the characteristics of the pension scheme insofar as it concerns the operation of the pension scheme sponsored by an undertaking in the host Member State and in any rules that have to be applied in accordance with Article 18(7) and with paragraph 7 of this Article.

9. The institution shall be subject to ongoing supervision by the competent authorities of the host Member State as to the compliance of its activities with the host Member State's requirements of labour and social law relevant to the field of occupational pension schemes referred to in paragraph 5 and with the information requirements referred to in paragraph 7. Should this supervision bring irregularities to light, the competent authorities of the host Member State shall inform the competent authorities of the home Member State immediately. The competent authorities of the home Member State shall, in coordination with the competent authorities of the host Member State, take the necessary measures to ensure that the institution puts a stop to the detected breach of social and labour law.

10. If, despite the measures taken by the competent authorities of the home Member State or because appropriate measures are lacking in the home Member State, the institution persists in breaching the applicable provisions of the host Member State's requirements of social and labour law relevant to the field of occupational pension schemes, the competent authorities of the host Member State may, after informing the competent authorities of the home Member State, take appropriate measures to prevent or penalise further irregularities, including, insofar as is strictly necessary, preventing the institution from operating in the host Member State for the sponsoring undertaking.

Article 21

Cooperation between Member States and the Commission

1. Member States shall ensure, in an appropriate manner, the uniform application of this Directive through regular exchanges of information and experience with a view to developing best practices in this sphere and closer cooperation, and by so doing, preventing distortions of competition and creating the conditions required for unproblematic cross-border membership.

2. The Commission and the competent authorities of the Member States shall collaborate closely with a view to facilitating supervision of the operations of institutions for occupational retirement provision.

3. Each Member State shall inform the Commission of any major difficulties to which the application of this Directive gives rise.

The Commission and the competent authorities of the Member States concerned shall examine such difficulties as quickly as possible in order to find an appropriate solution.

4. Four years after the entry into force of this Directive, the Commission shall issue a report reviewing:

(a) the application of Article 18 and the progress achieved in the adaptation of national supervisory systems, and

(b) the application of the second subparagraph of Article 19(2), in particular the situation prevailing in Member States regarding the use of depositaries and the role played by them where appropriate.

5. The competent authorities of the host Member State may ask the competent authorities of the home Member State to decide on the ring-fencing of the institution's assets and liabilities, as provided for in Article 16(3) and Article 18(7).

Article 22

Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 23 September 2005. They shall forthwith inform the Commission thereof.

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

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

3. Member States may postpone until 23 September 2010 the application of Article 17(1) and (2) to institutions located in their territory which at the date specified in paragraph 1 of this Article do not have the minimum level of regulatory own funds required pursuant to Article 17(1) and (2). However, institutions wishing to operate pension schemes on a cross-border basis, within the meaning of Article 20, may not do so until they comply with the rules of this Directive.

4. Member States may postpone until 23 September 2010 the application of Article 18(1)(f) to institutions located in their territory. However, institutions wishing to operate pension schemes on a cross-border basis, within the meaning of Article 20, may not do so until they comply with the rules of this Directive.

Article 23

Entry in force

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

Article 24

Addressees

This Directive is addressed to the Member States.

Done at Luxembourg, 3 June 2003.

For the European Parliament	*For the Council*
The President	*The President*
P. COX	N. CHRISTODOULAKIS

II

(Acts whose publication is not obligatory)

COUNCIL

PERMANENT REPRESENTATIVES COMMITTEE DECISION

of 4 September 2003

setting up the Ad hoc Group to prepare the creation of an intergovernmental agency in the field of defence capabilities development, research, acquisition and armaments (Ad hoc Preparation Group)

(2003/664/EC)

THE COMMITTEE OF PERMANENT REPRESENTATIVES,

Having regard to Article 19(3) of the Council Rules of Procedure,

Whereas:

(1) The European Council meeting at Thessaloniki on 19 and 20 June 2003 invited the Presidency, in association with the Secretary-General/High Representative, to take the work forward on the creation of an intergovernmental agency within the EU in the field of defence capabilities development, research, acquisition and armaments, taking into account the work of the Convention and the Intergovernmental Conference.

(2) The Political and Security Committee is responsible, under the auspices of the Council, for the political direction of the development of military capabilities.

(3) The Presidency has put forward a work plan to carry out this mandate and will, in the course of that work, take full account of the work of the Informal Advisory Group of representatives of the Ministers of Defence.

(4) The conclusions of the Thessaloniki European Council state that the Agency should be subject to the Council's authority and that the necessary actions to establish it in the course of 2004 should be prepared by the appropriate bodies of the Council.

(5) This work would benefit from a comprehensive approach involving expertise in all the areas foreseen by the conclusions of the Thessaloniki European Council on the Agency and that, for that purpose, it is necessary to institute an Ad hoc Group,

HAS DECIDED AS FOLLOWS:

Article 1

1. An Ad hoc Group to prepare the creation of the intergovernmental agency in the field of defence capabilities development, research, acquisition and armaments (hereafter the Ad hoc Preparation Group) is hereby established in order to undertake the necessary actions towards creating, in the course of 2004, an intergovernmental agency in the field of defence capabilities development, research, acquisition and armaments.

2. The Ad hoc Preparation Group shall work in close coordination with the Political and Security Committee, respecting the responsibilities given to this Committee, under the auspices of the Council, for the political direction of the development of military capabilities, and, through the Political and Security Committee, with the EU Military Committee.

3. The Ad hoc Preparation Group shall report to Coreper.

Article 2

1. The Ad hoc Preparation Group shall be composed of national representatives of the Member States. Member States shall ensure the effective involvement of their Ministries of Defence.

The Commission shall participate in the work of the Ad hoc Preparation Group.

The Ad hoc Preparation Group may, also, meet at the level of national representatives with expertise in the areas of the Agency's aims as set out by the European Council at Thessaloniki, namely: 'developing defence capabilities in the field of crisis management, promoting and enhancing European armaments cooperation, strengthening the European defence industrial and technological base and creating a competitive European defence equipment market, as well as promoting, in liaison with the Community's research activities where appropriate, research aimed at leadership in strategic technologies for future defence and security capabilities, thereby strengthening Europe's industrial potential in this domain'.

The Ad hoc Preparation Group shall also take into account the work of the Convention and the Intergovernmental Conference.

2. The Ad hoc Preparation Group will be reinforced, as appropriate, by representatives from the EU Military Committee and the Polarm Working Party, who may meet, in support of Agency's aims, also at the level of National Armaments Directors or their representatives.

Article 3

The Ad hoc Preparation Group shall cease to exist upon completion of its tasks as defined in Article 1(1).

Article 4

This Decision shall take effect on the day of its adoption. It shall be published in the *Official Journal of the European Union*.

Done at Brussels, 4 September 2003.

For the Committee of Permanent Representatives

The Chairman

U. VATTANI

COMMISSION

COMMISSION DECISION

of 13 May 2003

on the State aid which Belgium plans to grant to Volvo Cars NV in Gent

(notified under document number C(2003) 1485)

(Only the French and Dutch texts are authentic)

(Text with EEA relevance)

(2003/665/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 pursuant to the provisions cited above [1],

Whereas:

PROCEDURE

(1) The planned aid was notified to the Commission by letter dated 15 May 2002. The Commission requested further information by letters dated 25 June 2002 and 20 August 2002, to which Belgium replied on 23 July 2002 and 18 September 2002.

(2) The Commission decided on 27 November 2002 to initiate proceedings pursuant to Article 88(2) of the Treaty (decision to open the formal investigation procedure), as it had doubts as to the compatibility of the aid with the common market. Belgium submitted its comments in response to the opening of proceedings by letter dated 28 January 2003.

(3) The Commission decision to initiate proceedings was published in the *Official Journal of the European Communities* [2], with an invitation to interested parties to submit their comments on the aid. However, no comments from interested parties were received.

DETAILED DESCRIPTION OF THE AID

(4) The beneficiary of the aid would be Volvo Cars NV, which is located in Gent and is owned by Ford Motor Company. The Volvo Gent plant currently assembles the Volvo S60 and S 70 models. As of 2003, Volvo intends to produce the new Volvo V40 and S40 models in the plant. Volvo intends to spend around EUR 27,58 million on training existing and 1 400 newly-employed staff in the period 2002 to 2004.

(5) The eligible training cost, taking into account that the trainees' personnel costs may not exceed the total of the other eligible costs, amounts to EUR 15 180 393. According to Belgium, the eligible investment includes elements of specific training amounting to EUR 4 294 532. The general training cost amounts to EUR 10 885 861.

(6) Belgium proposes to grant training aid of around EUR 6,51 million (net present value EUR 5,88 million) over a period of three years, from 2003 to 2005. The proposed aid is to be granted as ad hoc aid from the Vlaamse Gemeenschap for specific training (approximately EUR 1,07 million) and general training (approximately EUR 5,44 million).

(7) With a view to the new investment in the plant, the major departments at Volvo Cars — the welding plant, the paint shop, the final assembly plant, the logistics department and the engineering department — drew up a project aimed at improving the skills both of new employees and of employees already working for the company. The training scheme can be divided into 11 training sub-units: knowledge of machines, knowledge specific to posts or tasks, PC training (MS Office etc.), technical knowledge (electricity, electronics, mechanics, robotics etc.), quality (ISO, auditing, etc.), costs, maintenance tools, improvement tools (six sigma, TPM, etc.), safety, personal skills, environment.

[1] OJ C 2, 7.1.2003, p. 2.
[2] See footnote 1.

GROUNDS FOR INITIATING THE PROCEDURE

(8) In its decision of 27 November 2002 to initiate proceedings, the Commission expressed doubts about the way the Belgian authorities interpreted the definition of general versus specific training. It could not be ruled out that an excessively broad definition of general training had been applied to the project.

(9) The Commission considered that simply because a module includes a general training component does not prevent the chief aim of the module from being to provide specific training. The Commission had too little information on the precise content of certain training modules to determine their general training character. On the basis of the data submitted to the Commission it was not possible to separate the specific from the general training components within the eleven training modules. The Commission needed more specific information on the training modules providing general and specific training. Information was also required on which of the eleven training modules is recognised, certified or validated by public authorities.

COMMENTS FROM BELGIUM

(10) In its comments of 28 January 2003 on the initiation of proceedings, Belgium provided detailed information on each of the eleven training modules of the project. This additional information includes data on the content, purpose, participants and length of the main individual training courses. Belgium also clarified that training for employees in the paint shop contains both general and specific training. The specific training costs in this area had not been taken into account as these data were not available at the time of the notification.

(11) In addition, Belgium provided documents from several public training bodies (e.g. Katholieke Hogeschool Sint Lieven, Hoger Technisch Instituut Sint Antonius, Edugo Campus Glorieux), explicitly confirming the general training character of a number of courses, in particular with regard to the training modules 'knowledge of machines' and 'technical knowledge (electricity, mechanics, robotics, etc.)'.

ASSESSMENT OF THE AID

(12) According to Article 87(1) of the EC Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market. Pursuant to the established case law of the Court of Justice of the European Communities, the criterion of trade being affected is met if the recipient firm carries out an economic activity involving trade between Member States.

(13) The Commission notes that the notified training aid is granted through State resources to an individual company and favours it by reducing the costs it would normally have to bear for its employees to acquire new skills through the notified training programme. Moreover, the aid recipient, Volvo Cars NV, is a company that designs, manufactures and sells motor vehicles, which is an economic activity involving trade between Member States. The training aid in question is therefore covered by Article 87(1) of the EC Treaty.

(14) Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid [1] (the Regulation), which applies to training aid in all sectors, provides that aid fulfilling all the conditions is considered compatible with the common market and is exempt from the notification requirement of Article 88(3) EC, provided that the measure contains an express reference to the Regulation.

(15) Article 5 of the Regulation provides that the notification requirement continues to apply if the amount of aid granted to one enterprise for a single training project exceeds EUR 1 million. The Commission notes that the notified aid in this case amounts to approximately EUR 6,51 million, that it is to be paid to one firm, and that the training project is a single project. It also notes that the notification relates to an individual aid measure that is not granted under an approved scheme. It therefore considers that the notification requirement applies to the proposed aid and, in accordance with the fourth recital of the Regulation, that the notification must be assessed by the Commission, in particular in the light of the criteria set out in the Regulation.

(16) Under Article 3(1) of the Regulation, individual aid is compatible with the common market within the meaning of Article 87(3)(c) if it fulfils all of the conditions of the Regulation.

(17) The Commission notes that the distinction between specific training and general training is drawn under Article 4 of the Regulation. Specific training is defined in Article 2 as training involving tuition directly and principally applicable to the employee's present or future position in the assisted firm and providing qualifications which are not, or only to a limited extent, transferable to other firms or fields of work.

[1] OJ L 10, 13.1.2001, p. 20.

(18) General training is defined in Article 2 as training involving tuition which is not solely or principally applicable to the employees' present or future position in the assisted firm, but which provides qualifications that are largely transferable to other firms or fields of work and thereby substantially improve the employability of the employee. It is linked to the overall activities of the firm and provides qualifications which are largely transferable to other firms or to other fields of work. Training is regarded as general if, for example, it is jointly organised by different independent firms, or is available to the employees of different firms, or if it is recognised, certified or validated by public authorities or bodies or institutions on which a Member State or the Community has conferred the necessary powers.

(19) Eligible costs in a plan to grant training aid are listed in Article 4(7) of the Regulation. As regards trainees' personnel costs, Belgium confirmed that only the hours during which trainees actually participate in the training are taken into account. In accordance with Article 4(7)(f) of the Regulation, these were the only costs taken into account, up to the amount of the total of the other eligible costs referred to in Article 4(7)(a) to (e). On the basis of the information provided by Belgium, the Commission notes that the total eligible cost of the training programme amounts to EUR 15,18 million.

(20) Article 4(2) and (3) provides that training aid is compatible with the common market if it complies with the aid intensities set out therein, in relation to eligible costs. The Regulation specifies that the maximum aid intensities that can be authorised for the project in question, which is carried out by a large firm, are 25 % for specific training and 50 % for general training.

(21) In its decision to initiate proceedings, the Commission expressed doubts concerning the Belgian authorities' interpretation of the definition of general versus specific training. It was possible that an overly broad definition of general training had been applied to the project as the Commission had too little information on the exact content of certain courses to determine its general training character. Information was also required on which of the eleven training modules was recognised, certified or validated by the public authorities.

(22) In its comments of 28 January 2003 on the initiation of proceedings, Belgium provided detailed information on each of the eleven training modules. The additional information includes data on the content, purpose, participants and length of the main individual training courses. Belgium also clarified that training for employees in the paint shop contains both general and specific training. The specific training costs in this area had not been taken into account as these data were not available at the time of the notification.

(23) The additional documents supplied to the Commission enabled it to establish the general training character of the courses containing both specific and general training. The number of hours earmarked for general training amounts to 455 756 (71,71 % of the total). The hours earmarked for specific training amount to 179 762 (28,29 % of the total). The training is relevant not only to an employee's present or future position in the assisted firm but provides qualifications which are largely transferable to other firms or fields of work and thereby substantially improve the employability of the employee.

(24) In addition, Belgium provided documents from several public training bodies (e.g. Katholieke Hogeschool Sint Lieven, Hoger Technisch Instituut Sint Antonius, Edugo Campus Glorieux), explicitly confirming the general training character of a number of courses, in particular with regard to the training modules ‘knowledge of machines’ and ‘technical knowledge (electricity, mechanics, robotics, etc.)’.

(25) On the basis of the documents provided by Belgium, the Commission concludes that the cost of general training amounts to EUR 10 885 861 and that of specific training to EUR 4 294 532. The applicable aid intensity ceiling for specific training is 25 % of the eligible costs and the applicable aid intensity ceiling for general training is 50 % of eligible costs.

(26) The eligible aid amounts to EUR 1 073 633 for specific training (25 % of eligible costs) and to EUR 5 442 930 for general training (50 % of eligible costs). The total allowable aid for the project is EUR 6 516 563 and will be paid in three equal, yearly instalments during the period 2003 to 2005.

(27) Under Article 6(2) of the Regulation, aid exempted by the Regulation cannot be cumulated with other State aid or with other Community funding in relation to the same eligible costs if such cumulation results in an aid intensity exceeding that fixed by the Regulation.

(28) The Commission notes that the Belgian authorities' explanation that Volvo Cars Gent submitted an application for aid totalling EUR 321 775 for training measures under the European Social Fund (Objective 3, Priority 4). In addition, 200 training vouchers (opleidingscheques) with a total value of EUR 6 000 were purchased from the Ministry of the Flemish Community for a total price of EUR 3 000. Belgium has assured the Commission that there will not in either case be any cumulation of aid in relation to the same eligible costs that would produce a higher aid intensity than that laid down in the Regulation.

CONCLUSION

(29) In view of the above, the training aid amounting to a nominal EUR 6 516 563, to be paid in three equal, yearly instalments in the period 2003 to 2005, is compatible with the common market pursuant to Article 87(3)(c) of the EC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The State aid for training amounting to a nominal EUR 6 516 563 which Belgium plans to grant to Volvo Cars NV to be paid in three equal, yearly instalments in the period 2003 to 2005, is compatible with the common market within the meaning of Article 87 of the Treaty.

Article 2

This Decision is addressed to Belgium.

Done at Brussels, 13 May 2003.

For the Commission

Mario MONTI

Member of the Commission

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

COUNCIL COMMON POSITION 2003/666/CFSP

of 22 September 2003

amending Common Position 2001/357/CFSP concerning restrictive measures against Liberia

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

(1) On 7 May 2001 the Council adopted Common Position 2001/357/CFSP concerning restrictive measures against Liberia [1] so as to implement UNSC Resolution 1343 (2001) setting out measures to be imposed against Liberia, adopted on 7 March 2001 by the United Nations Security Council, (hereinafter referred to as UNSCR 1343 (2001)).

(2) On 1 August 2003 the United Nations Security Council adopted UNSCR 1497 (2003) authorising the establishment of a multinational force in Liberia to support the implementation of the Liberian ceasefire agreement signed in Accra on 17 June 2003 and providing for an exception to the existing arms embargo against Liberia in support of that multinational force.

(3) Common Position 2001/357/CFSP should be amended accordingly.

(4) Action by the Community is needed in order to implement certain measures,

HAS ADOPTED THIS COMMON POSITION:

Article 1

Article 1 of Common Position 2001/357/CFSP shall be replaced by the following:

'*Article 1*

1. The supply or sale of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned to Liberia by nationals of Member States or from the territories of Member States, or using their flag vessels or aircraft, under the conditions set out in UNSCR 1343 (2001), shall be prohibited whether originating or not in their territories.

2. The provision to Liberia of technical training or assistance related to the provision, manufacture, maintenance or use of the items mentioned in paragraph 1 by nationals of Member States or from the territories of the Member States, shall be prohibited.

3. Paragraphs 1 and 2 shall not apply to:

(a) supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee established by paragraph 14 of UNSCR 1343 (2001), nor shall they apply to protective clothing, including flak jackets and military helmets, temporarily exported to Liberia by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only;

nor to

(b) supplies of arms and related materiel and technical training and assistance intended solely for support of and use by the Multinational Force in Liberia established to support the implementation of the Liberian ceasefire agreement signed in Accra on 17 June 2003.'

Article 2

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

It shall be applicable from 1 August 2003.

[1] OJ L 126, 8.5.2001, p. 1. Common Position as last amended by Common Position 2003/365/CFSP (OJ L 124, 20.5.2003, p. 49).

Article 3

This Common Position shall be published in the *Official Journal of the European Union*.

Done at Brussels, 22 September 2003.

For the Council

The President

R. BUTTIGLIONE