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## Legislation

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## I

*(Acts whose publication is obligatory)*

**DECISION No 276/1999/EC OF THE EUROPEAN PARLIAMENT AND OF  
THE COUNCIL**

**of 25 January 1999**

**adopting a multiannual Community action plan on promoting safer use of the  
Internet by combating illegal and harmful content on global networks**

THE EUROPEAN PARLIAMENT AND THE COUNCIL  
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European  
Community, and in particular Article 129a(2),

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

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

Having regard to the opinion of the Committee of the  
Regions <sup>(3)</sup>,

Acting in accordance with the procedure laid down in  
Article 189b of the Treaty <sup>(4)</sup>,

- (1) Whereas the Internet offers positive benefits in particular in education, by empowering consumers, lowering the barriers to the creation and distribution of content and offering wide access to even richer sources of digital information, as recognised by the Council and the representatives of the Governments of the Member States, meeting within the Council on 17 February 1997 in their resolution on illegal and harmful content on the Internet <sup>(5)</sup>;
- (2) Whereas, however, the amount of harmful and illegal content carried over the Internet, while limited, could adversely affect the establishment of the necessary favourable environment for initiatives and undertakings to flourish;
- (3) Whereas it is essential, in order to ensure that consumers make full use of the Internet, that a safer environment for its use is created by

combating illegal use of the technical possibilities of the Internet in particular for offences against children and trafficking in human beings or for the dissemination of racist and xenophobic ideas;

- (4) Whereas consumers should be afforded a high level of protection; whereas the Community should contribute thereto by specific action which supports and supplements the policy pursued by the Member States regarding information for consumers on the safer use of the Internet;
- (5) Whereas promotion of industry self-regulation and content-monitoring schemes, development of filtering tools and rating systems provided by the industry and increased awareness of industry services as well as fostering international cooperation between all parties concerned will play a crucial role in consolidating that safer environment and contribute to removing obstacles to the development and competitiveness of the industry concerned;
- (6) Whereas on 24 April 1996 the Council requested the Commission to produce a summary of problems posed by the rapid development of the Internet and to assess, in particular, the desirability of Community or international regulation;
- (7) Whereas on 23 October 1996 the Commission transmitted a communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on illegal and harmful content on the Internet and a Green Paper on the protection of minors and human dignity in audiovisual and information services;

<sup>(1)</sup> OJ C 48, 13. 2. 1998, p. 8, and OJ C 324, 22. 10. 1998, p. 6.

<sup>(2)</sup> OJ C 214, 10. 7. 1998, p. 29.

<sup>(3)</sup> OJ C 251, 10. 8. 1998, p. 51.

<sup>(4)</sup> Opinion of the European Parliament of 2 July 1998 (OJ C 226, 20. 7. 1998, p. 33), Council common position of 24 September 1998 (OJ C 360, 23. 11. 1998, p. 83) and Decision of the European Parliament of 17 November 1998 (OJ C 379, 7. 12. 1998). Council Decision of 21 December 1998.

<sup>(5)</sup> OJ C 70, 6. 3. 1997, p. 1.

- (8) Whereas the Council and the representatives of the Governments of the Member States, meeting within the Council, in their abovementioned resolution of 17 February 1997 welcomed the report of the Commission working party on illegal and harmful content on the Internet and requested Member States and the Commission to undertake a number of actions;
- (9) Whereas, in its resolution of 24 April 1997 on the Commission communication on illegal and harmful content on the Internet<sup>(1)</sup>, the European Parliament called on the Member States to strengthen administrative cooperation on the basis of joint guidelines and on the Commission to propose, after consulting the European Parliament, a common framework for self-regulation at European Union level;
- (10) Whereas in the ministerial declaration adopted during the International Ministerial Conference entitled 'Global information networks: Realising the potential', held in Bonn on 6 to 8 July 1997 at the initiative of the German Government, Ministers stressed the role which the private sector can play in protecting the interests of consumers and in promoting and respecting ethical standards, through properly functioning systems of self-regulation in compliance with and supported by the legal system; whereas they encouraged industry to implement open, platform-independent content rating systems, and to propose rating services which meet the needs of different users and take account of Europe's cultural and linguistic diversity; whereas ministers further recognised that it is crucial to build trust and confidence in global information networks by ensuring that basic human rights are respected and by safeguarding the interests of society in general, including producers and consumers;
- (11) Whereas on 24 September 1998 the Council adopted a recommendation on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity<sup>(2)</sup>, hereinafter designated recommendation on the protection of minors and human dignity; whereas this action plan will be implemented in close coordination with the Council recommendation;
- (12) Whereas cooperation from the industry in setting up voluntary systems of self-regulation can efficiently help to limit the flow of illegal content on the Internet;
- (13) Whereas European coordination of representative and self-regulating bodies is essential for the Europe-wide effectiveness of such systems; whereas, to this effect, industry self-regulatory systems including representative bodies for Internet service providers, consumers and users, and effective codes of conduct should be encouraged within the regulatory framework in force; if necessary hot-line reporting mechanisms which allow users to report content which they consider illegal should be made available to the public;
- (14) Whereas any hot-line reporting mechanisms should support and promote measures taken by the Member States; whereas duplication of work should be avoided; whereas possible hot-line reporting mechanisms could be established in cooperation with the law-enforcement authorities of the Member States; whereas the responsibility for prosecuting and punishing those responsible for illegal content should remain with the national law-enforcement authorities;
- (15) Whereas it is necessary to promote on a European level the provision to consumers of filtering tools and the setting up of rating systems, for example the platform for Internet content selection (PICS) standard launched by the international World Wide Web consortium with Community support;
- (16) Whereas awareness activities which are performed in the Member States and which should have an additional European value should be encouraged so that users understand not only the opportunities but also the drawbacks of the Internet, in order to increase use of services provided by industry; whereas parents, educators and consumers, in particular, should be sufficiently informed so as to be able to take full advantage of parental control software and rating systems; whereas there should be a multiannual action plan on promoting safer use of the Internet ('action plan');
- (17) Whereas it is essential to engage in cooperation activities with international organisations and third countries for the purpose of implementing this action plan and extending its reach beyond the European Union, given the global character of the problems encountered on the Internet, requiring global solutions;

<sup>(1)</sup> OJ C 150, 19. 5. 1997, p. 38.

<sup>(2)</sup> OJ L 270, 7. 10. 1998, p. 48.

- (18) Whereas any content policy actions should be complementary to ongoing national and Community initiatives, as outlined notably in the Commission's action plan 'Europe's way to the information society: an action plan', and should be performed in synergy with other Community activities in the field such as the INFO 2000 programme<sup>(1)</sup>, with Community research programmes (programmes concerned with advanced technology, advanced communications services and telematics) and with Community education, training, cultural and SME actions and initiatives, and with the Structural Funds;
- (19) Whereas the activities under this action plan should take account of the work accomplished in the field of justice and home affairs;
- (20) Whereas the progress of this action plan should be continuously and systematically monitored with a view to adapting it, where appropriate, to developments in the audiovisual and multimedia content market; whereas in due course there should be an independent assessment of the progress of the action plan so as to provide the background information needed in order to determine the objectives for subsequent content policy actions; whereas at the end of this action plan there should be a final assessment of results obtained compared with the objectives set out in this Decision;
- (21) Whereas, in conformity with the principle of subsidiarity as expressed in Article 3b of the Treaty, the objectives of the proposed actions cannot be sufficiently achieved by the Member States owing to the transnational character of the issues at stake and can, therefore, by reason of the pan-European effects of the proposed action be better achieved by the Community;
- (22) Whereas this action plan should be of four years duration in order to allow sufficient time for actions to be implemented to achieve the objectives set;
- (23) Whereas this Decision lays down, for the entire duration of the action plan, a financial framework constituting the principal point of reference, within the meaning of point 1 of the Declaration by the European Parliament, the Council and Commis-

sion of 6 March 1995<sup>(2)</sup>, for the budgetary authority during the annual budgetary procedure,

HAVE ADOPTED THIS DECISION:

#### *Article 1*

1. The multiannual Community action plan on promoting safer use of the Internet ('the action plan'), as described in Annex I, is hereby adopted.
2. The action plan shall cover a period of four years from 1 January 1999 to 31 December 2002.
3. The financial framework for the implementation of the action plan for the period from 1 January 1999 to 31 December 2002 is hereby set at EUR 25 million.

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

An indicative breakdown of expenditure is given in Annex II.

#### *Article 2*

The action plan has the objective of promoting safer use of the Internet and of encouraging, at European level, an environment favourable to the development of the Internet industry.

#### *Article 3*

In order to attain the objective referred to in Article 2, the following actions supporting and promoting measures to be taken in the Member States shall be undertaken under the guidance of the Commission, in accordance with the action lines set out in Annex I and the means for implementing the action plan set out in Annex III:

- promotion of industry self-regulation and content-monitoring schemes (for example, dealing with content such as child pornography or content which incites hatred on grounds of race, sex, religion, nationality or ethnic origin),
- encouraging industry to provide filtering tools and rating systems, which allow parents or teachers to select content appropriate for children in their care while allowing adults to decide what legal content they wish to access, and which take account of linguistic and cultural diversity,
- increasing awareness of services provided by industry among users, in particular parents, teachers and children, so that they can better understand and take advantage of the opportunities of the Internet,

<sup>(1)</sup> Council Decision 96/339/EC of 20 May 1996 adopting a multiannual Community programme to stimulate the development of a European multimedia content industry and to encourage the use of multimedia content in the emerging information society (INFO 2000) (OJ L 129, 30. 5. 1996, p. 24).

<sup>(2)</sup> OJ C 102, 4. 4. 1996, p. 4.

- support actions such as assessment of legal implications,
- activities fostering international cooperation in the areas enumerated above,
- other actions furthering the objective set out in Article 2.

#### *Article 4*

1. The Commission shall be responsible for the implementation of the action plan.
2. The procedure laid down in Article 5 shall apply to:
  - the work programme including any expenditure on activities described in Annex III, point 9,
  - the breakdown of the budgetary expenditure,
  - the criteria and content of calls for proposals,
  - the assessment of the projects proposed under calls for proposals for Community funding and the estimated amount of the Community contribution for each project where this is equal to or more than EUR 300 000,
  - the measures for programme evaluation,
  - any departure from the rules set out in Annex III,
  - participation in any project by legal entities from third countries and international organisations referred to in Article 7(3),
  - other actions which could be undertaken under the terms of the last indent of Article 3.
3. Where, pursuant to the fourth indent of paragraph 2, the amount of the Community contribution is less than EUR 300 000, the Commission shall inform the committee referred to in Article 5 of the projects and of the outcome of their assessment.
4. The Commission shall regularly inform the committee referred to in Article 5 of progress with the implementation of the programme as a whole.

#### *Article 5*

The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

#### *Article 6*

1. In order to ensure that Community aid is used efficiently, the Commission shall ensure that actions under this Decision are subject to effective prior appraisal, monitoring and subsequent evaluation.
2. During implementation of projects and after their completion the Commission shall evaluate the manner in which they have been carried out and the impact of their implementation in order to assess whether the original objectives have been achieved.
3. The selected beneficiaries shall submit an annual report to the Commission.
4. At the end of two years and at the end of the action plan, the Commission shall submit to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, once the committee referred to in Article 5 has examined it, an evaluation report on the results obtained in implementing the action lines set out in Annex I. Reference shall also be made to general findings applicable to all categories of illegal content. The Commission may present, on the basis of those results, proposals for adjusting the orientation of the action plan.

#### *Article 7*

1. Participation in this action plan may be opened to legal entities established in EFTA States which are members of the European Economic Area (EEA) in accordance with the provisions of the Agreement on the EEA.

2. Participation may be opened to legal entities established in associated central and eastern European countries in accordance with the conditions, including financial arrangements, agreed to in the additional protocols to the Association Agreements, including participation in Community programmes.

Participation may be opened to legal entities established in Cyprus on the basis of additional appropriations in accordance with the same rules as those applied to the EFTA States that are members of the EEA, in accordance with procedures to be agreed on with that country.

3. Participation may be opened, in accordance with the procedure laid down in Article 5, without financial support by the Community under this action plan, to legal entities established in other third countries and to international organisations, where such participation contributes effectively to the implementation of the action plan and taking into account the principle of mutual benefit.

*Article 8*

This Decision is addressed to the Member States.

Done at Brussels, 25 January 1999.

*For the European Parliament*

*The President*

J. M. GIL-ROBLES

*For the Council*

*The President*

J. FISCHER

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*ANNEX I***MULTIANNUAL COMMUNITY ACTION PLAN ON PROMOTING SAFER USE OF THE INTERNET****ACTION LINES**

The action lines, in conjunction with the recommendation on protection of minors and human dignity, are a means of implementing a European approach to safer use of the Internet, based on industry self-regulation, filtering and rating and awareness. Strong support has been expressed for this approach at the level of the European Parliament and of the Council and Member States, as well as in the wider European context of the Bonn Declaration agreed to by ministers from 29 European States.

The action lines have the following objectives:

- to incite the actors (industry, users) to develop and implement adequate systems of self regulation,
- to pump-prime developments by supporting demonstrations and stimulating application of technical solutions,
- to alert and inform parents and teachers, in particular through their relevant associations,
- to foster cooperation and exchange of experiences and best practices at European and international levels,
- to promote coordination across Europe and between actors concerned,
- to ensure compatibility between the approach taken in Europe and elsewhere.

**1. Action line 1. Creating a safer environment**

Cooperation from the industry and a fully functioning system of self-regulation are essential elements in limiting the flow of illegal content on the Internet.

**1.1. *Creating a European network of hot-lines***

An effective way to restrict circulation of illegal material is to set up a European network of centres (known as hot-lines) which allow users to report content which they come across in the course of their use of the Internet and which they consider to be illegal. Responsibility for prosecuting and punishing those responsible for illegal content remains with the national law-enforcement authorities, while the hot-line aims at revealing the existence of illegal material with a view to restricting its circulation. Differences in national legal systems and culture must also be respected.

So far, hot-lines exist only in a limited number of Member States. Their creation needs to be stimulated so that there are hot-lines operating covering the Union both geographically and linguistically. Mechanisms for exchange of information between the national hot-lines, and between the European network and hot-lines in third countries need to be put in place.

In order for this network to develop its full potential, it is necessary to improve cooperation between industry and law-enforcement authorities, ensure Europe-wide coverage and cooperation, and increase effectiveness through exchange of information and experience.

This action will take the form of a call for proposals for participating organisations (20-25) to establish a European network of hot-lines, and links between this network and hot-lines in third countries, develop common approaches and stimulate transfer of know-how and best practice.

The participating organisations will be supported by a cross-section of industry actors (access and service providers, telecoms operators, national hot-line operators) and users. They will have to demonstrate a forward-looking and innovative approach, in particular in their relationship with national law-enforcement authorities.



### 1.2. *Encouraging self-regulation and codes of conduct*

For the industry to contribute effectively to restricting the flow of illegal and harmful content, it is also important to encourage enterprises to develop a self-regulatory framework through cooperation between them and the other parties concerned. The self-regulatory mechanism should provide a high level of protection and address questions of traceability.

In view of the transnational nature of communications networks, the effectiveness of self-regulation measures will be strengthened, at European Union level, by coordination of national initiatives between the bodies responsible for their implementation.

Under this action line, guidelines at European level will be developed for codes of conduct, to build consensus for their application and support their implementation. This action will be carried out through a call for tender to select organisations that can assist self-regulatory bodies in developing and implementing codes of conduct. In connection with the establishment of codes of conduct, a system of visible 'quality-site labels' will be encouraged to assist users in identifying Internet service providers that adhere to codes of conduct. Measures will be taken carefully to monitor progress. This will be done in close coordination with the promotion of common guidelines for the implementation, at national level, of a self-regulation framework as advocated by the Council recommendation on protection of minors and human dignity.

## 2. **Action line 2. Developing filtering and rating systems**

To promote safer use of the Internet, it is important to make content easier to identify. This can be done through a rating system which describes the content in accordance with a generally recognised scheme (for instance, where items such as sex or violence are rated on a scale) and by filtering systems which empower the user to select the content he/she wishes to receive. Ratings may be attached by the content provider or provided by a third-party rating service. There are a number of possible filtering and rating systems. However, their level of sophistication is still low and none has yet reached the 'critical mass' where users can be sure that content in which they are interested and content which they wish to avoid will be rated appropriately and that perfectly innocuous content will not be blocked. Uptake of rating systems by European content providers and users remains low.

The measures under this action line will focus on demonstrating the potential and the limitations of filtering and rating systems in a real world environment, with the objective of encouraging the establishment of European systems and familiarising users with their use. Filtering and rating systems must be internationally compatible and interoperable and developed with full cooperation of representatives of industry, consumers and users.

### 2.1. *Demonstrating the benefits of filtering and rating*

Rating systems will be stimulated which should be internationally compatible and are relevant to European requirements and which ensure that filtering and rating is implemented in a way which provides workable options in practice for users, parents and teachers. In order to build critical mass, a wide coverage of sites should be obtained. Action will therefore be taken to stimulate use of rating by content providers. Rating carried out by independent third parties ensures a standard approach to content rating and deals with cases where the content provider fails to rate properly. There is a need to meet specific requirements of business, institutional or educational users as well as those of end users not met by the content provider's rating system.

Following a call for proposals, projects will be selected to validate rating systems in relation to European content, to encourage integration of rating into the content creation process and to demonstrate benefits of these technical solutions. Emphasis will be placed on usefulness and practicality in 'real-world' situations involving a large cross-section of typical users. This could also include tests as to the security of filtering software against attempts to bypass or deactivate it.

A second call for proposals will particularly target the validation and demonstration of third-party rating systems.

In order to obtain maximum benefit from the demonstration projects, it is necessary to assess their impact and to ensure European-wide dissemination of their results. Evaluation of the demonstration projects and dissemination of their results will be the subject of a call for tenders.

The demonstration projects under this Action line can make an important contribution to the awareness actions to be carried out under action line 3.

The demonstration projects will involve industry (self-regulatory bodies, access and service providers, content providers, network operators, software houses), user, consumer and citizens rights groups and government bodies involved in industry regulation and law enforcement.

## *2.2. Facilitating international agreement on rating systems*

International cooperation between operators and other concerned parties in the European Union and their partners in other regions of the world is particularly necessary in the field of rating, in order to ensure interoperability.

Work is already under way in a number of bodies dealing with protocols and with the design of a rating system to deal with the various requirements. It is essential that Europe's voice be heard in international discussions and concertation meetings will be organised to ensure this.

## **3. Action line 3. Encouraging awareness actions**

The public is increasingly engaging in Internet activity and reaping the benefits of the new services. At the same time, there is a degree of uncertainty as to how to deal with every aspect of network communication; parents, teachers and children need to be made aware of the potential of the Internet and its drawbacks and do not always have sufficient knowledge about the means to protect children from undesirable content. Awareness actions contribute to the trust and confidence of parents and teachers in safer use of the Internet by children.

Awareness is also the necessary complement of action lines 1 and 2, since the actions of industry to implement self-regulation and filtering and rating will bear fruit only if users and potential users are aware of them.

The European Parliament has called for the implementation of a European campaign and an information and awareness action programme, to be funded by the EU budget, to inform parents and all people dealing with children (teachers, social workers, etc.) on the best way (including technical aspects) to protect minors against exposure to content that could be harmful to their development, so as to ensure their well-being.

European action, on the basis of actions undertaken by the Member States, will contribute to reinforcement of synergy, in particular through exchange of information and experience. The action plan will initiate awareness actions that will build on the dissemination of information from access providers to customers, and also develop material for use in the education sector.

The awareness initiatives will take advantage of the awareness actions carried out under other programmes, in particular the MIDAS-NET established under INFO 2000. If there is more than one equal option for distributing information to target groups, the most cost-effective one shall be chosen. Whenever possible and useful, electronic distribution should be given priority.

This action will be carried out in two stages. In the first stage the best means of achieving the objectives will be identified and in the second stage multiplier organisations in the Member States — such as consumer bodies and other relevant associations — will be assisted to implement actions nationally.

### *3.1. Preparing the ground for awareness actions*

In the first phase a call for proposals will be launched for a preparatory action which will identify multiplier organisations and the most appropriate channels, media and content to reach the target audience, prepare basic material, adapt it for linguistic and cultural specificities and take account of the results of demonstration projects under action line 2, which will make an important contribution to the content of awareness actions. An implementation plan will be prepared.

The target audience is parents and teachers, and the action will involve industry (Internet service providers, content providers) and multipliers, e.g. consumer associations and the education sector.

### 3.2. *Encouraging implementation of full-scale awareness actions*

A second call for proposals will select initiatives for Community support for follow-up action in all Member States using the multiplier organisations and the channels, media and content identified in the preparatory action. The purpose of the action is to make adults (parents and teachers) aware of the potential and the drawbacks of the Internet, and of the means to identify useful content and how to block harmful content.

Actions will be appropriate for the needs of Member States and may differ according to their size, population, degree of Internet use, etc. Actions will be of two types: those focused on teachers and the education sector and those with a broader focus aimed at the general public (parents and children).

Actions aimed at teachers could include workshops and preparation of specific printed and multimedia material for distribution to a large cross-section of members of the profession. Special 'netdays' (a series of special events aimed at increasing user awareness) can be organised in collaboration with the 'Learning in the information society action plan', which has wide support from industry. Typical actions aimed at the general public would include: creation of websites and distribution of information material in schools, through access providers and through shops and other outlets selling computers, distribution of CD-ROMs on computer magazines. More specific information can be given in connection with the purchase of equipment or software designed to access networks, or by Internet access providers to new subscribers. Traditional media (press, television) would also be used to stimulate awareness through publicity campaigns and information packs for journalists. Using the platform of the European network of schools, which is being set up with the support of the education ministries of Member States, special webpages will be created and maintained.

The purpose of the Community support is to pump-prime large-scale awareness actions and to provide overall coordination and exchange of experience so that lessons can be drawn from the results of the action on an ongoing basis (for instance by adapting the material distributed). Community funding will in general not exceed one third of eligible costs. The use of existing networks will permit cost saving, but additional financing is required to produce the relevant content.

## 4. **Action line 4. Support actions**

### 4.1. *Assessing legal implications*

The Internet operates on a global basis. The law operates on a territorial basis — national or, in the case of Community law, covering the European Union. It will contribute to the effectiveness of the other action lines by considering legal questions not dealt with by other Community initiatives, in particular including questions of applicable law and procedure.

If necessary, a call for tenders could be organised for an assessment of legal questions raised by the content or the use of Internet, in accordance with the procedure laid down in Article 5.

### 4.2. *Coordination with similar international initiatives*

The recommendation on protection of minors and human dignity calls on the Commission to promote international cooperation in the various fields covered by that recommendation, particularly through the sharing of experience and good practices between operators and other concerned parties in the European Union and their partners in other regions of the world. It is therefore necessary to ensure coherence between European action and similar initiatives in other parts of the world. Regular concertation meetings will help to achieve this.

An international conference, agreed in accordance with the procedure laid down in Article 5, might allow the experience gained through the action lines to be shared with actors concerned both in Europe and more widely. This could deal with all of the issues addressed by the action plan and bring together industry (self-regulatory bodies, access and service providers, content providers, network operators, software houses), user, consumer and citizens rights groups and government bodies involved in industry regulation and law enforcement. Such a conference could also be instrumental in disseminating the results of the action plan.

The Conference would build on the results of other conferences on related themes and thus avoid duplication of efforts.

The Commission will consult the committee referred to in Article 5 before organising such a conference.

#### 4.3. *Evaluating the impact of Community measures*

It is obviously important to make an in-depth evaluation whether the objectives of the action plan and the recommendation have been achieved. Possible further measures which should be taken by industry, Community institutions, Member States or consumer representatives could also be identified in that way. The evaluation will be carried out in liaison with evaluating the measures taken to protect minors and human dignity foreseen by the recommendation on protection of minors and human dignity and will be launched through a call for tenders.

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### ANNEX II

#### INDICATIVE BREAKDOWN OF EXPENDITURE

1. Creating a safer environment	26-30 %
2. Developing filtering and rating systems	32-38 %
3. Encouraging awareness actions	30-36 %
4. Support actions	3-5 %
TOTAL:	100 %

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## ANNEX III

## THE MEANS FOR IMPLEMENTING THE ACTION PLAN

1. The Commission will implement the action plan in accordance with the technical content specified in Annex I.
  2. The action plan will be performed through indirect action and wherever possible on a shared-cost basis. The Community's financial contribution should not exceed the minimum considered necessary for a project and shall be granted, in principle, only if the project meets financial obstacles which cannot otherwise be overcome. In addition, the Community's financial contribution shall not normally exceed 50 % of the cost of the project, except in duly justified cases.
  3. The selection of shared-cost projects will normally be based on the usual procedure of calls for proposals published in the *Official Journal of the European Communities*. The content of the calls for proposals will be defined in close consultation with the relevant experts and according to the procedures referred to in the Decision. The main criterion for supporting projects through calls for proposals will be their potential contribution to achieving the objectives of the action plan.
  4. Applications for Community support should provide, where appropriate, a financial plan listing all the components of the funding of the projects, including the financial support requested from the Community, and any other requests for or grants of support from other sources.
  5. The Commission may also implement a funding scheme more flexible than the call for proposals in order to provide incentives for the creation of partnerships, in particular involving SMEs and organisations in less favoured regions, and for the establishment of long-term measures against illegal and harmful content on the Internet. This scheme might be operated on a permanent basis.
  6. The Commission will make provision for considering in exceptional cases unsolicited project proposals which involve a particularly urgent measure following technological changes that call for change of action.
  7. The detailed arrangements for the procedures referred to under points 5 and 6 will be implemented in accordance with Article 5 of this Decision and the Commission's financial regulations. They will be published in the *Official Journal of the European Communities*.
  8. Projects fully financed by the Commission within the framework of study and services contracts will be implemented through calls for tenders in accordance with the financial provisions. Transparency will be achieved by consulting external groups of experts (the Internet Working Party and the Legal Advisory Board) as well as actively using the information services of the Commission in connection with the awareness measures.
  9. In the course of the action plan, the Commission will also undertake preparatory, accompanying and support activities designed to achieve the general objectives of the action plan and the specific aims of each action line. This includes activities such as: studies in support of the general goals of the action plan; preliminary actions in preparation of future activities; measures aimed at facilitating participation in measures under the action plan as well as facilitating access to the results produced by action plan initiatives.
  10. All projects receiving financial support will be required to display an acknowledgement of the support received.
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**COMMISSION REGULATION (EC) No 277/1999**  
**of 5 February 1999**  
**establishing the standard import values for determining the entry price of certain**  
**fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

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

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy <sup>(3)</sup>, as last amended by Regulation (EC) No 150/95 <sup>(4)</sup>, and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commis-

sion fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

Whereas, 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 6 February 1999.

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

Done at Brussels, 5 February 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 337, 24. 12. 1994, p. 66.

<sup>(2)</sup> OJ L 198, 15. 7. 1998, p. 4.

<sup>(3)</sup> OJ L 387, 31. 12. 1992, p. 1.

<sup>(4)</sup> OJ L 22, 31. 1. 1995, p. 1.

## ANNEX

to the Commission Regulation of 5 February 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	052	55,0
	204	45,1
	999	50,0
0707 00 05	052	134,3
	068	116,3
	999	125,3
0709 10 00	220	205,2
	999	205,2
0709 90 70	052	140,1
	204	187,1
	999	163,6
0805 10 10, 0805 10 30, 0805 10 50	052	50,3
	204	43,1
	212	39,4
	600	44,4
	624	51,2
	999	45,7
0805 20 10	204	70,9
	624	82,3
	999	76,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	59,4
	204	64,8
	464	94,1
	600	70,5
	624	85,1
	999	74,8
0805 30 10	052	55,7
	600	85,0
	999	70,4
0808 10 20, 0808 10 50, 0808 10 90	039	76,4
	060	49,2
	400	75,7
	404	75,2
	728	78,5
	999	71,0
	052	140,6
0808 20 50	388	95,5
	400	86,5
	624	56,3
	999	94,7

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 278/1999****of 5 February 1999****fixing the maximum export refund on wholly milled long grain rice in connection with the invitation to tender issued in Regulation (EC) No 2566/98**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice <sup>(1)</sup>, as amended by Regulation (EC) No 2072/98 <sup>(2)</sup>, and in particular Article 13 (3) thereof,

Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2566/98 <sup>(3)</sup>;

Whereas, Article 5 of Commission Regulation (EEC) No 584/75 <sup>(4)</sup>, as last amended by Regulation (EC) No 299/95 <sup>(5)</sup>, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

Whereas the application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

The maximum export refund on wholly milled long grain rice falling within CN code 1006 30 67 to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2566/98 is hereby fixed on the basis of the tenders submitted from 1 to 4 February 1999 at EUR 308,00 per tonne.

*Article 2*

This Regulation shall enter into force on 6 February 1999.

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

Done at Brussels, 5 February 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 329, 30. 12. 1995, p. 18.

<sup>(2)</sup> OJ L 265, 30. 9. 1998, p. 4.

<sup>(3)</sup> OJ L 320, 28. 11. 1998, p. 49.

<sup>(4)</sup> OJ L 61, 7. 3. 1975, p. 25.

<sup>(5)</sup> OJ L 35, 15. 2. 1995, p. 8.



## COMMISSION REGULATION (EC) No 279/1999

of 5 February 1999

fixing the maximum subsidy for the export of husked long grain rice to the island of Réunion referred to in Regulation (EC) No 2563/98

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice <sup>(1)</sup>, as last amended by Regulation (EC) No 2072/98 <sup>(2)</sup>, and in particular Article 10(1) thereof,Having regard to Commission Regulation (EEC) No 2692/89 of 6 September 1989 laying down detailed rules for exports of rice to Réunion <sup>(3)</sup>, and in particular Article 9(1) thereof,Whereas Commission Regulation (EC) No 2563/98 <sup>(4)</sup> opens an invitation to tender for the subsidy on rice exported to Réunion;

Whereas Article 9 of Regulation (EEC) No 2692/89 allows the Commission to decide, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum subsidy;

Whereas the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2692/89 should be taken into account when fixing this maximum subsidy; whereas successful tenderers shall be those bids at or below the level of the maximum subsidy;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

A maximum subsidy on exports to Réunion of husked long grain rice falling within CN code 1006 20 98 is hereby set on the basis of the tenders lodged from 1 to 4 February 1999 at EUR 283 per tonne pursuant to the invitation to tender referred to in Regulation (EC) No 2563/98.

*Article 2*

This Regulation shall enter into force on 6 February 1999.

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

Done at Brussels, 5 February 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*<sup>(1)</sup> OJ L 329, 30. 12. 1995, p. 18.<sup>(2)</sup> OJ L 265, 30. 9. 1998, p. 4.<sup>(3)</sup> OJ L 29, 7. 9. 1989, p. 8.<sup>(4)</sup> OJ L 320, 28. 11. 1998, p. 40.

**COMMISSION REGULATION (EC) No 280/1999****of 5 February 1999****fixing the maximum export refund on wholly milled medium round grain and long grain A rice in connection with the invitation to tender issued in Regulation (EC) No 2565/98**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice <sup>(1)</sup>, as last amended by Regulation (EC) No 2072/98 <sup>(2)</sup>, and in particular Article 13(3) thereof,

Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2565/98 <sup>(3)</sup>;

Whereas Article 5 of Commission Regulation (EEC) No 584/75 <sup>(4)</sup>, as last amended by Regulation (EC) No 299/95 <sup>(5)</sup>, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

Whereas the application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

The maximum export refund on wholly milled medium round grain and long grain A rice to be exported to certain third countries of Europe pursuant to the invitation to tender issued in Regulation (EC) No 2565/98 is hereby fixed on the basis of the tenders submitted from 1 to 4 February 1999 at EUR 112,00 per tonne.

*Article 2*

This Regulation shall enter into force on 6 February 1999.

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

Done at Brussels, 5 February 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 329, 30. 12. 1995, p. 18.

<sup>(2)</sup> OJ L 265, 30. 9. 1998, p. 4.

<sup>(3)</sup> OJ L 320, 28. 11. 1998, p. 46.

<sup>(4)</sup> OJ L 61, 7. 3. 1975, p. 25.

<sup>(5)</sup> OJ L 35, 15. 2. 1995, p. 8.

**COMMISSION REGULATION (EC) No 281/1999****of 5 February 1999****fixing the maximum export refund on wholly milled round grain, medium grain and long grain A rice in connection with the invitation to tender issued in Regulation (EC) No 2564/98**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice <sup>(1)</sup>, as last amended by Regulation (EC) No 2072/98 <sup>(2)</sup>, and in particular Article 13(3) thereof,

Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2564/98 <sup>(3)</sup>;

Whereas Article 5 of Commission Regulation (EEC) No 584/75 <sup>(4)</sup>, as last amended by Regulation (EC) No 299/95 <sup>(5)</sup>, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

Whereas the application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

The maximum export refund on wholly milled round grain, medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2564/98 is hereby fixed on the basis of the tenders submitted from 1 to 4 February 1999 at EUR 108,00 per tonne.

*Article 2*

This Regulation shall enter into force on 6 February 1999.

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

Done at Brussels, 5 February 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 329, 30. 12. 1995, p. 18.

<sup>(2)</sup> OJ L 265, 30. 9. 1998, p. 4.

<sup>(3)</sup> OJ L 320, 28. 11. 1998, p. 43.

<sup>(4)</sup> OJ L 61, 7. 3. 1975, p. 25.

<sup>(5)</sup> OJ L 35, 15. 2. 1995, p. 8.

**COMMISSION REGULATION (EC) No 282/1999**  
**of 5 February 1999**  
**on the supply of agricultural products to Russia under Council Regulation (EC)**  
**No 2802/98**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2802/98 of 17 December 1998 on a programme to supply agricultural products to the Russian Federation <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 111/1999 of 18 January 1999 laying down general rules for the application of Council Regulation (EC) No 2802/98 on a programme to supply agricultural products to the Russian Federation <sup>(2)</sup> and, in particular, Article 6(2) thereof,

Whereas, for the purpose of applying Regulation (EC) No 2802/98, the Commission opened invitations to tender to establish the costs of supplying wholly milled rice, skimmed-milk powder, beef, pigmeat, and common wheat and rye of bread-making quality by Regulations (EC) No 155/1999 <sup>(3)</sup> and (EC) No 156/1999 <sup>(4)</sup>, (EC) No 157/1999 <sup>(5)</sup>, (EC) No 158/1999 <sup>(6)</sup>, (EC) No 190/1999 <sup>(7)</sup> and (EC) No 159/1999 <sup>(8)</sup> respectively;

Whereas Article 6(2) of Regulation (EC) No 111/1999 stipulates that, on the basis of the tenders submitted, it may be decided, for each lot, not to award any contract for supply or to award the supply contract as appropriate on the basis of the price or quantity offered; whereas paragraph 3 of that Article stipulates that the Commission must notify the successful tenderer and the intervention agency that received the accepted tender of the award of the contract as soon as possible;

Whereas, because of the need to resolve in cooperation with the Russian authorities certain problems which have arisen in finalising the supply arrangements, it has been found necessary to take the appropriate measures to ensure the successful execution of the operations; whereas, therefore, no contract should be awarded in respect of the tenders communicated by the intervention agencies at the end of the first period for the submission

of tenders and the dates initially set for the second period should be postponed;

Whereas in the light of information received from Member States it is deemed necessary to use the opportunity offered by the decision not to award contracts to improve operators' awareness of the conditions governing the admissibility of the tenders;

Whereas this Regulation must enter into force on the day of its publication in the *Official Journal of the European Communities*;

Whereas the measures provided for in this Regulation are in accordance with the opinion of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

*Article 1*

In respect of the invitations to tender opened under Regulations (EC) No 155/1999 and (EC) No 156/1999 (wholly milled rice), (EC) No 157/1999 (skimmed-milk powder), (EC) No 158/1999 (beef) and (EC) No 159/1999 (common wheat and rye of bread-making quality), no contract shall be awarded for the tenders submitted during the period ending on 2 February 1999.

*Article 2*

1. In respect of the invitations to tender mentioned in Article 1, no tenders need to be submitted for the second period ending on 9 February 1999.

2. In respect of the invitation to tender opened under Regulation (EC) No 190/1999, for the mobilisation of pigmeat on the Community market, no tenders need to be submitted for the two periods set in Article 4(4) of that Regulation.

*Article 3*

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

<sup>(1)</sup> OJ L 349, 24. 12. 1998, p. 12.

<sup>(2)</sup> OJ L 14, 19. 1. 1999, p. 3.

<sup>(3)</sup> OJ L 18, 23. 1. 1999, p. 19.

<sup>(4)</sup> OJ L 18, 23. 1. 1999, p. 24.

<sup>(5)</sup> OJ L 18, 23. 1. 1999, p. 28.

<sup>(6)</sup> OJ L 18, 23. 1. 1999, p. 33.

<sup>(7)</sup> OJ L 21, 28. 1. 1999, p. 14.

<sup>(8)</sup> OJ L 18, 23. 1. 1999, p. 42.

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

Done at Brussels, 5 February 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 11 December 1998

**concerning the conclusion on behalf of the European Coal and Steel Community and the European Atomic Energy Community of the Interim Agreement on trade and trade-related matters between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Azerbaijan, of the other part**

*(notified under document number C(1998) 4008)*

**(Text with EEA relevance)**

**(1999/101/ECSC, Euratom)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular the first paragraph of Article 95 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Whereas, pending the entry into force of the partnership and cooperation Agreement signed in Luxembourg on 22 April 1996, it is necessary to approve the Interim Agreement signed in Brussels on 8 October 1997 between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Azerbaijan, of the other part, on trade and trade-related matters;

Whereas the conclusion of the Interim Agreement is necessary to attain the objectives of the Community set out in Articles 2 and 3 of the Treaty establishing the European Coal and Steel Community and whereas the Treaty did not make provision for all the cases covered by this Decision;

Having consulted the Consultative Committee and with the assent and approval of the Council, given on 13 October 1998,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Interim Agreement between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Azerbaijan of the other part, on trade and trade-related matters, together with the Protocol and the declarations, is hereby approved on behalf of the European Coal and Steel Community and the European Atomic Energy Community.

These text are attached to this Decision<sup>(1)</sup>,

*Article 2*

The President of the Commission shall give the notification provided for in Article 32 of the Interim Agreement on behalf of the European Coal and Steel Community and the European Atomic Energy Community.

Done at Brussels, 11 December 1998.

*For the Commission*

Hans VAN DEN BROEK

*Member of the Commission*

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<sup>(1)</sup> OJ L 285, 22. 10. 1998, p. 2, *et seq.*

## COMMISSION DECISION

of 25 January 1999

concerning a dispute between the Netherlands and France and Italy concerning  
authorisation of a regular passenger service by coach

*(notified under document number C(1999) 111)*

(Only the Danish, Dutch, English, French, German, Italian and Spanish versions are  
authentic)

(Text with EEA relevance)

(1999/102/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European  
Community,

Having regard to Council Regulation (EEC) No 684/92 of  
16 March 1992 on common rules for the international  
carriage of passengers by coach and bus <sup>(1)</sup>, as amended by  
Regulation (EC) No 11/98 <sup>(2)</sup>, and in particular Article 7(7)  
thereof,

Whereas:

## I. FACTS

- (1) On 17 March 1998 the Dutch company Atlas Reizen BV submitted to the competent Dutch authorities, hereinafter referred to as the 'authorising authority', an application for the authorisation of a regular service by coach through various Member States, namely Belgium, Denmark, Germany, Spain, France, Italy, the Netherlands, Austria and the United Kingdom.
- (2) The service proposed by Atlas Reizen BV is aimed only at non-European tourists, who reserve a full tour which is payable in advance to a travel agency, the price covering the whole tour and the ticket being valid for the entire season. The route can be taken only once. Tourists may be set down at one of the predetermined stops in one of the Member States and continue their trip a few days later in another coach of the same service. Coaches stop every other day to collect passengers at special stops, usually near hotels. The tour operates from April to October.
- (3) In accordance with the authorisation procedure set out in Article 7(1) of Regulation (EEC) No 684/92, authorisation is issued in agreement with all the Member States in whose territories passengers are picked up or set down; whereas in a letter dated 25 March 1998, the Dutch authorities transmitted the

application with a favourable opinion to all the Member States concerned. Belgium, Denmark, Germany, Spain, Austria and the United Kingdom endorsed the application but France and Italy rejected it.

- (4) On 10 April 1998 the French authorities stated that they were opposed to the application on the basis that it differed only slightly from a previous application submitted by the Dutch company Vermaat's Autobedrijf BV in a letter dated 12 August 1997, which the French authorities rejected on 10 October 1997 on the grounds that it was not possible, from the application, to define the category of service (regular, special regular or occasional), that it was aimed at the most lucrative market since it was offered only during the tourist season, and it constituted unauthorised cabotage within the meaning of Council Regulation (EEC) No 2454/92 of 23 July 1992 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State <sup>(3)</sup>, as amended by the Act of Accession of Austria, Finland and Sweden.
- (5) On 21 April 1998 the Italian authorities informed the Dutch authorities that they would endorse the application on condition that no services would be provided between two or more towns on Italian territory, thus effectively refusing authorisation of the service as presented.
- (6) On 16 June 1998 the dispute in question was referred to the Commission under Article 7(6) of Regulation (EEC) No 684/92, which states that 'If the procedure for reaching the agreement referred to in paragraph 1 does not enable the authorising authority to decide on an application, the matter may be referred to the Commission within the time limit laid down in paragraph 3', that is three months from submission of the application.

<sup>(1)</sup> OJ L 74, 20. 3. 1992, p. 1.<sup>(2)</sup> OJ L 4, 8. 1. 1998, p. 1.<sup>(3)</sup> OJ L 251, 29. 8. 1992, p. 1.

## II. LEGAL ASSESSMENT

- (7) Despite the fact that at the time of the adoption of this Decision the amendments made by Regulation (EC) No 11/98 have become applicable, the type of service for which authorisation is requested must be assessed in accordance with the rules and definitions applicable when the application was submitted.
- (8) The service in question has certain characteristics of a regular service as defined by Article 2(1) of Regulation (EEC) No 684/92 in that it carries passengers at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points. However, in this instance the service cannot be said to be open to all, since it is available solely to non-European tourists who reserve and pay for their ticket before arriving in Europe, where the service is not marketed. It cannot, therefore, be called a regular service within the meaning of Article 2(1.1) of Regulation (EEC) No 684/92.
- (9) A service can be called a special regular service under Article 2(1.2) of Regulation (EEC) No 684/92 if it carries a specified category of passengers to the exclusion of other passengers, and the fact that passengers are non-European is sufficient to constitute a specified category of passengers.
- (10) The Court of Justice of the European Communities established in its judgment in Case C-47/97 *Clarke & Sons and Ferne*<sup>(1)</sup> that 'the term "specified categories of passengers" within the meaning of Regulation (EEC) No 684/92 must be understood as referring to passengers sharing the same status. That interpretation stems from the examples given in Article 2(1.2) of Regulation (EEC) No 684/92 which refers, *inter alia*, to the carriage of workers, school pupils, students and soldiers. It is not sufficient, on the other hand, for there merely to be a group of passengers assembled in advance (...). In the case in the main proceedings, the transport service is on each occasion carried out for a different group of passengers, the only common element being that they all made reservations for a journey with the same tour operator. Such passengers do not therefore belong to a single specified category'.
- (11) In this instance, the passengers are non-Europeans who reserved their trip through the same tour operator, which does not mean that they share the same status as defined by the Court of Justice. Furthermore, the passengers do not make the journey regularly in the same way as specified categories of

passengers such as students, soldiers or workers who travel between their home and place of activity. In the present instance, passengers take the coach service in one direction, once only in the season, stopping off as they please for a few days at one of the stopping points and subsequently taking another coach of the same service to another destination, so that at no time can the group be considered homogenous. It must therefore be concluded that this service does not fall into the category of a special regular service.

- (12) It is then necessary to examine whether this service could be called a shuttle service within the meaning of Article 2(2) of Regulation (EEC) No 684/92. Such services are defined as services whereby groups assembled in advance are carried from a single area of departure to a single area of destination by means of repeated outward and return journeys. These groups, made up of passengers who have completed the outward journey, are carried back to the place of departure in the course of a subsequent journey.

The terms 'area of departure' and 'area of destination' mean the place where the journey begins and the place where the journey ends, together with, in each case, localities within a radius of 50 kilometres. Outside the areas of departure and destination, groups may be picked up and set down respectively at up to three different places.

For the purpose of shuttle services, a group assembled in advance is a group for which a body or person responsible in accordance with the rules of the state of establishment has taken charge of conclusion of the contract or collective payment of the service or has received all reservations and payments before departure.

The service proposed by Atlas Reizen BV does not meet these criteria, since it comprises a tour and not several outward and return journeys, there are more than three stops, payment is not collective since each person reserves and pays for the trip independently, and the group is not assembled in advance. Classification under shuttle services with accommodation, defined in Article 2(2.2), requires the additional condition of accommodation at the place of destination for at least 80 % of the passengers, which is not the case for the service in question, as it offers some accommodation but in various destination areas. It can therefore be concluded that the service offered by Atlas Reizen BV cannot be classified as a shuttle service within the meaning of Regulation (EEC) No 684/92.

<sup>(1)</sup> [1998] ECR I-2147, paras 21, 22 and 23.



- (13) Regulation (EEC) No 684/92 defines occasional services as services falling neither within the definition of regular services nor within the definition of shuttle services.
- (14) The service proposed by Atlas Reizen BV cannot fall within the category of tours referred to in Article 2(3.1)(a), where the same vehicle is used to carry out a tour with one or more groups of passengers previously assembled. In the present instance, the conditions of the same vehicle carrying out the tour and previously assembled group are not met since, as already noted, each passenger decides where to stop off and for how long. For the same reasons the service cannot be classified in the category of services carrying groups of passengers previously assembled and providing accommodation for these groups as defined in Article 2(3.1)(b). Neither can it be considered a service organised on the occasion of special events such as seminars, conferences and cultural or sporting events as referred to in Article 2(3.1)(c), or as a service within the meaning of Article 2(3.1)(d), that is a closed-door tour or a laden journey followed by an empty journey to the vehicle's place of departure or an empty journey followed by a laden return journey. However, it can be considered a residual occasional service as defined in Article 2(3.1)(e), which defines these services as those which do not meet the criteria in (a) to (d).
- (15) Moreover, Article 2(3.3) of Regulation (EEC) No 684/92 states that 'The services referred to in recital 3 shall not cease to be occasional services solely because they are provided at certain intervals'. In the case in question a coach comes to pick up passengers every other day. It must be concluded that the service offered by Atlas Reizen BV can be classified as a residual occasional service within the meaning of Article 2(3.1)(e) of Regulation (EEC) No 684/92.
- (16) Under Article 4(4) of Regulation (EEC) No 684/92, residual occasional services are subject to authorisation and the reasons for refusing such authorisation are the same as the reasons for refusing authorisation of regular services. Those reasons for refusal are set out in Article 7(4) of Regulation (EEC) No 684/92. Consequently, it must be examined whether the reasons given by France and Italy for refusing authorisation are well-founded.
- (17) The justification given by France for refusing authorisation in their correspondence of 10 April 1998 was that the application was similar to a previous application submitted by another Dutch company, Vermaat's Autobedrijf BV, in a letter dated 12 August 1997, which the French authorities rejected on 10 October 1997. Since the current application for authorisation was submitted by another company, Atlas Reizen BV, France cannot plead similarity to an application from another company as a ground for rejecting the application within the meaning of Regulation (EEC) No 684/92. Article 7 of Regulation (EEC) No 684/92 gives a list of grounds for rejecting an application and this list must be interpreted restrictively in order to guarantee legal certainty. The justification put forward by France cannot be considered as a ground for refusal within the meaning of Regulation (EEC) No 684/92. France should have reconsidered the grounds for refusal previously drawn up in order to reject the application for authorization. Moreover, it has not been established that such grounds could have been accepted in this case and as the file now stands these grounds cannot be taken into account.
- (18) The Italian authorities endorsed the application on condition that no links were provided between two or more towns on Italian territory, on the grounds that this would constitute unauthorised cabotage within the meaning of Regulation (EEC) No 2454/92. They thus effectively refused authorisation. However, this condition cannot be taken into account inasmuch as cabotage has been liberalised for all occasional services with effect from 1 January 1996.
- (19) The Member States concerned were consulted on 28 October 1998. It emerged from this consultation that the majority of Member States present support the draft decision submitted by the Commission, including the classification as a residual occasional service. However, France remains opposed to such classification as a residual occasional service. Several Member States have expressed the view that the parts of the journey effected on the same national territory could be considered to be cabotage within the meaning of Regulation (EEC) No 2454/92.
- (20) The amendments made by Regulation (EC) No 11/98, which are applicable from 11 December 1998, do not call in question the classification of the service offered by Atlas Reizen BV as an occasional service, as has been shown. However, the new rules change the market access of that type of service since occasional services are now grouped in a single category and are no longer subject to authorisation pursuant to the new Article 4(1),

HAS DECIDED AS FOLLOWS:

*Article 3*

*Article 1*

The service carried out by Atlas Reizen BV, Heemskerk, the Netherlands, between Belgium, Denmark, Germany, Spain, France, Italy, the Netherlands, Austria and the United Kingdom is classified as a residual occasional service within the meaning of Article 2(3.1)(e) of Regulation (EEC) No 684/92. From the date on which the provisions of Regulation (EC) No 11/98 amending Regulation (EEC) No 684/92 became applicable, that service is no longer subject to an authorisation.

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Italian Republic, the Kingdom of the Netherlands, the Republic of Austria and the United Kingdom.

Done at Brussels, 25 January 1999.

*Article 2*

This Decision shall take effect 30 days after notification to the Member States concerned.

*For the Commission*

Neil KINNOCK

*Member of the Commission*

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## COMMISSION DECISION

of 26 January 1999

**relating to the application of Council Directive 72/166/EEC on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and to the enforcement of the obligation to insure against such liability**

*(notified under document number C(1999) 109)*

**(Text with EEA relevance)**

(1999/103/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and to the enforcement of the obligation to insure against such liability<sup>(1)</sup>, as last amended by Directive 90/232/EEC<sup>(2)</sup>, and in particular Articles 2(2) and 7(3) thereof,

Whereas the present relationships between the national insurers' bureaux of the Member States, Norway, Switzerland, Hungary, the Czech Republic, Slovakia, Iceland and Slovenia as defined in Article 1(3) of Directive 72/166/EEC (bureaux), which collectively provide for the practical means to abolish insurance inspection in the case of vehicles normally based in the territories of the nineteen countries, are governed by the following agreements supplementary to the Uniform Agreement on the Green Card System between national insurers' bureaux of 2 September 1951 (Supplementary Agreements) which were concluded:

- on 12 December 1973 between the bureaux of the nine Member States and those of Austria, Finland, Norway, Sweden and Switzerland and extended on 15 March 1986 to the bureaux of Portugal and Spain and on 9 October 1987 to the bureau of Greece,
- on 22 April 1974 between the fourteen original signatories of the Supplementary Agreement of 12 December 1973 and the bureau of Hungary,
- on 22 April 1974 between the fourteen original signatories of the Supplementary Agreement of 12 December 1973 and the bureau of Czechoslovakia,
- on 14 March 1986 between the bureau of Greece and those of Czechoslovakia and Hungary;

<sup>(1)</sup> OJ L 103, 2. 5. 1972, p. 1.

<sup>(2)</sup> OJ L 129, 19. 5. 1990, p. 35.

Whereas the Commission subsequently adopted Decisions 74/166/EEC<sup>(3)</sup> and 74/167/EEC<sup>(4)</sup> of 6 February 1974, 75/23/EEC<sup>(5)</sup> of 13 December 1974, 86/218/EEC<sup>(6)</sup>, 86/219/EEC<sup>(7)</sup> and 86/220/EEC<sup>(8)</sup> of 16 May 1986 and 88/367/EEC<sup>(9)</sup>, 88/368/EEC<sup>(10)</sup> and 88/369/EEC<sup>(11)</sup> of 18 May 1988 relating to the application of Directive 72/166/EEC requiring each Member State to refrain from making checks on insurance against civil liability in respect of vehicles which are normally based in the European territory of another Member State or in the territories of Hungary, Czechoslovakia, Sweden, Finland, Norway, Austria and Switzerland and which are the subject of the Supplementary Agreements;

Whereas the bureaux have reviewed and unified the texts of the Supplementary Agreements and replaced them by a single agreement (the Multilateral Guarantee Agreement) which was concluded on 15 March 1991 in accordance with the principles laid down in Article 2(2) of Directive 72/166/EEC;

Whereas the Commission subsequently adopted Decision 91/323/EEC<sup>(12)</sup> of 30 May 1991 annulling the Supplementary Agreements requiring Member States to refrain from making checks on insurance against civil liability on vehicles which are normally based in the European territory of another Member State or in the territories of Hungary, Czechoslovakia, Sweden, Finland, Norway, Austria and Switzerland, replacing those Supplementary Agreements by the Multilateral Guarantee Agreement as from 1 June 1991;

<sup>(3)</sup> OJ L 87, 30. 3. 1974, p. 13.

<sup>(4)</sup> OJ L 87, 30. 3. 1974, p. 14.

<sup>(5)</sup> OJ L 6, 10. 1. 1975, p. 33.

<sup>(6)</sup> OJ L 153, 7. 6. 1986, p. 52.

<sup>(7)</sup> OJ L 153, 7. 6. 1986, p. 53.

<sup>(8)</sup> OJ L 153, 7. 6. 1986, p. 54.

<sup>(9)</sup> OJ L 181, 12. 7. 1988, p. 45.

<sup>(10)</sup> OJ L 181, 12. 7. 1988, p. 46.

<sup>(11)</sup> OJ L 181, 12. 7. 1988, p. 47.

<sup>(12)</sup> OJ L 177, 5. 7. 1991, p. 25.

Whereas the Commission adopted Decision 93/43/EEC <sup>(1)</sup> requiring each Member State, as from 1 January 1993, to refrain from making checks on insurance against civil liability in respect of vehicles which are normally based in the territory of Iceland and which are the subject of the Multilateral Guarantee Agreement between national insurers' bureaux of 15 March 1991;

Whereas the bureaux amended, on the basis of the addendum of 17 September 1993, the Multilateral Agreement so as to include the Czech Republic and the Slovak Republic;

Whereas the Commission subsequently adopted Decision 97/828/EC <sup>(2)</sup> of 27 October 1997, pursuant to which application of the Multilateral Guarantee Agreement was extended to Slovenia as from 1 November 1997;

Whereas Croatia signed the Multilateral Guarantee Agreement on 17 September 1998,

HAS ADOPTED THIS DECISION:

*Article 1*

As from 1 February 1999, each Member State shall refrain from making checks on insurance against civil liability in respect of vehicles which are normally based in the ter-

ritory of Croatia and which are the subject of the Multilateral Guarantee Agreement between national insurers' bureaux of 15 March 1991.

*Article 2*

Member States shall forthwith inform the Commission of measures taken to apply this Decision.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 26 January 1999.

*For the Commission*

Mario MONTI

*Member of the Commission*

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<sup>(1)</sup> OJ L 16, 25. 1. 1993, p. 51.

<sup>(2)</sup> OJ L 343, 13. 12. 1997, p. 25.

## COMMISSION DECISION

of 26 January 1999

amending Decision 98/83/EC recognising certain third countries and certain areas of third countries as being free of *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus)

(notified under document number C(1999) 121)

(1999/104/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

in Florida as being free of *Xanthomonas campestris* (all strains pathogenic to Citrus);

Having regard to the Treaty establishing the European Community,

Whereas, from recently available scientific literature it became apparent that the organism *Guignardia citricarpa* Kiely, strain pathogenic to Citrus has been recorded in Citrus growing areas of Argentina and Brazil; whereas therefore the said countries should be deleted from the list of countries recognised in South America as being free of *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus);

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community<sup>(1)</sup>, as last amended by Commission Directive 98/2/EC<sup>(2)</sup>, and in particular Annex IV, Part A, Section I, points 16.2, 16.3 and 16.3(a) thereof,

Whereas specific arrangement should be made for goods in transit for which the official statement foreseen by Annex IV, Part A, Section I, points 16.2, 16.3 and 16.3(a) of Directive 77/93/EEC was issued in accordance with Decision 98/83/EC;

Whereas Annex IV, Part A, Section I, points 16.2, 16.3 and 16.3(a) contain a reference to fruits of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf., and their hybrids, originating in third countries where *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus) are known to occur;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Standing Committee on Plant Health,

Whereas under Commission Decision 98/83/EC<sup>(3)</sup>, certain third countries were recognised as being free of *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus) and certain areas free of those harmful organisms in the third countries where they are known to occur, where determined;

HAS ADOPTED THIS DECISION:

*Article 1*

Decision 98/83/EC is hereby amended as follows:

Whereas the Animal and Plant Health Inspection Service of the United States Department of Agriculture informed the Commission that a new infestation of *Xanthomonas campestris*, strains pathogenic to Citrus was detected in the Collier County, Florida; whereas therefore the Collier County should be deleted from the list of areas recognised

- (1) In Article 2, fourth indent, the text 'Florida (with the exception of Dade County and Manatee County)', is replaced by 'Florida (with the exception of Collier County, Dade County and Manatee County)'.
- (2) In Article 4, first indent, the text 'all citrus-growing third countries in North, Central and South America, the Caribbean and Europe', is replaced by 'all citrus-growing third countries in North, Central and South America (with the exception of Argentina and Brazil), the Caribbean and Europe'.

<sup>(1)</sup> OJ L 26, 31. 1. 1977, p. 20.

<sup>(2)</sup> OJ L 15, 21. 1. 1998, p. 34.

<sup>(3)</sup> OJ L 15, 21. 1. 1998, p. 41.

*Article 2*

The present Decision does not apply to citrus fruits for which the official statement foreseen by Annex IV, Part A, Section I, points 16.2, 16.3 and 16.3(a) of Directive 77/93/EEC was issued in accordance with Decision 98/83/EC and which were exported before the competent authorities of the third countries of origin were informed of the present Decision.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 26 January 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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