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

COUNCIL COMMON POSITION
of 26 February 2001
concerning additional restrictive measures against the Taliban and amending Common Position
96/746/CFSP

(2001/154/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) On 17 December 1996, the Council adopted Common Position 96/746/CFSP concerning the imposition of an embargo on arms, munitions and military equipment on Afghanistan ⁽¹⁾.
- (2) On 15 November 1999, the Council adopted Common Position 1999/727/CFSP concerning restrictive measures against the Taliban ⁽²⁾.
- (3) On 19 December 2000 the United Nations Security Council adopted Resolution 1333 (2000), hereinafter referred to as UNSCR 1333 (2000), setting out measures to be imposed against the Afghan faction known as the Taliban, which also calls itself the Islamic Emirate of Afghanistan and against Usama Bin Laden and individuals and entities associated with him.
- (4) UNSCR 1333 (2000) provides for measures to be applied to the territory controlled by the Taliban as designated by the UN Sanctions Committee.
- (5) On 22 January 2001, the Council adopted Common Position 2001/56/CFSP on Afghanistan ⁽³⁾.
- (6) Common Position 96/746/CFSP should be amended to ensure an exemption from the arms embargo in respect of supplies of non-lethal military equipment as provided for in UNSCR 1333 (2000).
- (7) Action by the Community is needed in order to implement certain measures,

HAS ADOPTED THIS COMMON POSITION:

Article 1

In addition to those measures taken pursuant to Common Position 96/746/CFSP and Common Position 1999/727/CFSP

and which continue to apply to the entire territory of Afghanistan, the measures set out below shall apply.

Article 2

1. The direct or indirect supply, sale and transfer of arms and related material of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned to the territory of Afghanistan under Taliban control as designated by the UN Sanctions Committee, by nationals of Member States or from the territories of the Member States, under the conditions set out in UNSCR 1333 (2000), shall be prohibited.
2. The direct or indirect supply, sale and transfer to the territory of Afghanistan under Taliban control, as designated by the UN Sanctions Committee, of technical advice, assistance, or training related to the military activities of the armed personnel under the control of the Taliban, by nationals of Member States or from the territories of the Member States, under the conditions set out in UNSCR 1333(2000), will be prohibited.
3. Any officials, agents, advisers and military personnel of Member States in Afghanistan to advise the Taliban on military and related security matters shall be withdrawn.
4. Paragraphs 1 and 2 shall not apply to 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 UN Sanctions Committee, nor shall they apply to protective clothing, including flak jackets and military helmets, exported to Afghanistan by United Nations personnel, representatives of the media and humanitarian workers for their personal use.

Article 3

All offices of the Taliban and of Ariana Afghan Airlines in the European Union will be closed.

⁽¹⁾ OJ L 342, 31.12.1996, p. 1.

⁽²⁾ OJ L 294, 16.11.1999, p. 1.

⁽³⁾ OJ L 21, 23.1.2001, p. 1.

Article 4

Funds and other financial assets of Usama Bin Laden and individuals and entities associated with him as designated by the UN Sanctions Committee, will be frozen, and funds or other financial resources will not be made available to Usama Bin Laden and individuals or entities associated with him as designated by the UN Sanctions Committee, under the conditions set out in UNSCR 1333 (2000).

Article 5

The sale, supply or transfer of the chemical acetic anhydride by nationals from Member States or from their territory to any person in the territory of Afghanistan under Taliban control as designated by the UN Sanctions Committee or to any person for the purpose of an activity carried on in, or operated from, the territory under Taliban control as designated by that Committee, will be prohibited.

Article 6

Permission to fly to and from the Community, or to overfly the territory of the Member States, for aircraft having taken off from, or destined to land at, a place in the territory of Afghanistan under Taliban control as designated by the UN Sanctions Committee, will be refused under the conditions set out in UNSCR 1333 (2000).

Article 7

Member States shall take steps to restrict entry into, or transit through their territory of all senior officials of the rank of Deputy Minister or higher in the Taliban, the equivalent rank of armed personnel under the control of the Taliban and other

senior advisers and dignitaries of the Taliban under the conditions set out in UNSCR 1333 (2000).

Article 8

The following Article shall be inserted after Article 1 in Common Position 96/746/CFSP:

'Article 1(a)

Article 1 shall not apply to 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 UN Sanctions Committee, nor shall it apply to protective clothing, including flak jackets and military helmets, exported to Afghanistan by United Nations personnel, representatives of the media and humanitarian workers for their personal use.'

Article 9

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

Article 10

This Common Position shall be published in the Official Journal.

Done at Brussels, 26 February 2001.

For the Council

The President

A. LINDH

COUNCIL COMMON POSITION**of 26 February 2001****amending Common Position 2000/696/CFSP on the maintenance of specific restrictive measures directed against Mr Milosevic and persons associated with him and repealing Common Position 98/725/CFSP**

(2001/155/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) Common Position 2000/696/CFSP ⁽¹⁾ maintained specific restrictive measures directed against the former President of the Federal Republic of Yugoslavia (FRY), Mr Slobodan Milosevic and persons associated with him while lifting all other sanctions against the FRY imposed since 1998.
- (2) In its conclusions of 22 January 2001, the Council welcomed the free and fair conditions in which the legislative elections in Serbia in December were held. Their outcome confirms the determination of the people of Serbia to continue the consolidation of democracy in their country.
- (3) Restrictive measures should therefore be confined to the former President of the FRY, Mr Slobodan Milosevic, his family and persons indicted by the International Criminal Tribunal for the Former Yugoslavia ('ICTY').
- (4) Common Position 2000/696/CFSP should be amended accordingly.
- (5) Common Position 98/725/CFSP of 14 December 1998 on restrictive measures to be taken against persons in the Federal Republic of Yugoslavia acting against the independent media ⁽²⁾ should be repealed,

HAS ADOPTED THIS COMMON POSITION:

Article 1

Common Position 2000/696/CFSP is amended as follows:

1. Article 1 shall be replaced by the following:

'Article 1

1. The ban on the issue of visas referred to in Article 4 of Common Position 98/240/CFSP and Article 1 of Common Position 1999/318/CFSP shall be confined to the former President of the Federal Republic of Yugoslavia (FRY), Mr Slobodan Milosevic, his family and persons indicted by the ICTY resident in the FRY, as identified in the Annex.
2. Exemptions may be made in cases where the issuing of a visa is necessary for the indictee to appear before the ICTY.
3. The list of persons identified in the Annex shall be updated by means of a Council implementing decision.'

2. The Annex shall be replaced by the following:

'ANNEX

List of persons referred to in Article 1:

Milosevic Slobodan	Former President of FRY, born 20 August 1941
Gajic-Milosevic, Milica	Daughter-in-law, born 1970
Markovic, Mirjana	Wife, born 10 July 1942
Milosevic, Borislav	Brother, born 1936

⁽¹⁾ OJ L 287, 14.11.2000, p. 1.

⁽²⁾ OJ L 345, 19.12.1998, p. 1. Common Position as amended by Common Position 2000/696/CFSP.

Milosevic, Marija	Daughter, born 1965
Milosevic, Marko	Son, born 2 July 1974
Milutinovic, Milan	President of Serbia, born 19 December 1942
Ojdanic, Dragoljub	Former Minister of Defence, born 1 June 1941
Sainovic, Nikola	Former Deputy Prime Minister, born 7 December 1948
Stojilkovic, Vljako	Former Minister of the Interior, born 1937
Mrksic, Mile	IT-95-13a, born 20 July 1947
Radic, Miroslav	IT-95-13a, born 1 January 1961
Sljivancanin, Veselin	IT-95-13a, born 13 June 1953'.

Article 2

Common Position 98/725/CFSP shall be repealed.

Article 3

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

Article 4

This Common Position shall be published in the Official Journal.

Done at Brussels, 26 February 2001.

For the Council
The President
A. LINDH

I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 381/2001
of 26 February 2001
creating a rapid-reaction mechanism**

THE COUNCIL OF THE EUROPEAN UNION,

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

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

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

Whereas:

- (1) Community policies in several of the world's regions cover development aid, macrofinancial aid, aid for economic, regional and technical cooperation, aid for reconstruction, aid for refugees and displaced persons and aid for operations to support the consolidation of democracy and the rule of law, respect for human rights and fundamental freedoms.
- (2) The aims of aid and cooperation programmes and/or the conditions for their proper execution may be jeopardised or directly affected by, *inter alia*, the emergence of situations of crisis or conflict, by impending or ongoing threats to law and order, to the security and safety of individuals.
- (3) In the report which it adopted on developing the European Union's non-military crisis-management capability, the European Council meeting in Helsinki on 10 and 11 December 1999 stressed in particular that rapid financing mechanisms such as the creation by the Commission of a Rapid Reaction Fund should be set up to allow the acceleration of the provision of finance to support EU activities, to contribute to operations run by other international organisations and to fund non-governmental organisation (NGO) activities, as appropriate.
- (4) Accordingly, it is important that provision be made for a mechanism that will underpin existing Community policies and programmes and enable the Community to take urgent action to help re-establish or safeguard normal conditions for the execution of the policies undertaken, in order to preserve their effectiveness.

- (5) Such a mechanism must in particular, in accordance with accelerated decision-making procedures, facilitate the mobilisation and rapid deployment of specific financial resources.
- (6) The Council and the Commission are responsible for ensuring the coherence of the external activities conducted by the European Union in the context of its external relations, security, economic, social and development policies. In the abovementioned report, the European Council also emphasised that in order to be able to respond more rapidly and more effectively to emerging crisis situations, the Union needs to strengthen the responsiveness and efficiency of its resources and tools, as well as their synergy.
- (7) Activities covered by Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid ⁽³⁾, ('ECHO Regulation') should not be funded under this Regulation.
- (8) There is a need for maximum transparency in all matters concerning the implementation of the Community's financial assistance as well as proper control of the use of appropriations.
- (9) The protection of the Community's financial interests and the fight against fraud and irregularities are taken account of in this Regulation.
- (10) The Treaty does not provide, for the adoption of this Regulation, powers other than those of Article 308,

HAS ADOPTED THIS REGULATION:

Article 1

A mechanism is created, hereinafter referred to as 'the Rapid Reaction Mechanism', designed to allow the Community to respond in a rapid, efficient and flexible manner, to situations of urgency or crisis or to the emergence of crisis, under the conditions defined by this Regulation.

⁽¹⁾ OJ C 311 E, 31.10.2000, p. 213.

⁽²⁾ Opinion delivered on 17 January 2001 (not yet published in the Official Journal).

⁽³⁾ OJ L 163, 2.7.1996, p. 1.

Article 2

1. The Rapid Reaction Mechanism builds upon all the existing Community legal instruments listed in the Annex to this Regulation.

2. Actions which under normal circumstances fall within all the regulations and programmes listed in the Annex may be undertaken in the context of this Regulation if:

- (a) the action is intended to be immediate and cannot be launched within a reasonable time limit under the existing legal instruments, in view of the need to act rapidly;
- (b) the action is limited in time, as in accordance with the provisions of Article 8.

3. By derogation from paragraph 2, the activities covered by the ECHO Regulation, and eligible for funding thereunder, may not be funded under this Regulation.

In particular security or crisis-management circumstances, the Commission may, however, decide that intervention by means of the Rapid Reaction Mechanism is more appropriate if combined with ECHO action, as necessary. In such cases, close coordination shall be established in order to achieve optimal overall coherence.

4. The Council may, acting by qualified majority on a proposal from the Commission, amend the Annex.

Article 3

1. The Rapid Reaction Mechanism may be triggered when in the beneficiary countries concerned there occur situations of crisis or emerging crisis, situations posing a threat to law and order, the security and safety of individuals, situations threatening to escalate into armed conflict or to destabilise the country and where such situations are likely to jeopardise the beneficial effects of assistance and cooperation policies and programmes, their effectiveness and/or conditions for their proper implementation.

2. Actions of a civilian nature which fall within the scope of all areas of intervention of legal instruments listed in the Annex may be undertaken under the Rapid Reaction Mechanism to preserve or re-establish in situations of crisis or emerging crisis, the conditions of stability essential to the proper implementation and success of these aid, assistance and cooperation policies and programmes.

Article 4

1. Action under the Rapid Reaction Mechanism shall be decided by the Community in accordance with the provisions of this Regulation.

It shall be implemented by the Commission in accordance with the budgetary and other procedures in force, including those laid down in Articles 116 and 118 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities⁽¹⁾.

⁽¹⁾ OJ L 356, 31.12.1977, p. 1. Regulation as last amended by Regulation (EC, ECSC, Euratom) No 2673/1999 (OJ L 326, 18.12.1999, p. 1).

2. Where the Commission intends to take action under this Regulation, and before taking a decision, it shall inform the Council thereof forthwith. In its subsequent implementation of the action, the Commission shall duly take into account the approach adopted by the Council, in the interests of the cohesion of EU external activities.

Article 5

1. Community financing under this Regulation shall take the form of grants.

2. The interventions covered by this Regulation shall be exempt from taxes, charges, duties and customs duties.

Article 6

1. Implementing partners eligible under this Regulation may include authorities of the Member States or of beneficiary countries and their agencies, regional and international organisations and their agencies, NGOs and public and private operators with appropriate specialised expertise and experience.

2. The Commission may conclude financial agreements or framework agreements with relevant government agencies, international organisations, NGOs and public or private operators on the basis of their ability to carry out rapid interventions in crisis management. In situations where unique personal expertise is needed, or where the credibility of the operation and the confidence of the parties is linked to a specific person or organisation, the Commission may sign contracts with individual organisations or operators, even if no framework agreement has been previously concluded.

3. After a financing Decision has been taken by the Commission in accordance with Article 4 and as soon as practically possible, a financial agreement shall be concluded with NGOs and public and/or private operators which have been chosen for conducting the intervention, on the basis of the respective framework agreements.

4. Non-governmental organisations eligible for financial agreements with a view to the implementation of interventions under this Regulation shall meet the following criteria:

- (a) be non-profit-making autonomous organisations;
- (b) have their main headquarters in a Community Member State or in the third country in receipt of Community aid.

In exceptional cases, their headquarters may be located in another third country.

5. When determining a private operator's or NGO's suitability for Community funding, account shall be taken of the following factors:

- (a) its administrative and financial management capacities;
- (b) its technical and logistical capacity in relation to the urgency of planned operations;
- (c) its experience in the field in question;
- (d) its readiness to take part, if need be, in any specific coordination system to be set up for conducting the intervention;
- (e) its record and guarantee of impartiality in the implementation of the tasks assigned to it.

Article 7

1. All financing contracts or agreements concluded under this Regulation shall provide for the Commission and the Court of Auditors to conduct on-the-spot checks according to the rules in force.

2. The Commission may carry out on-the-spot checks and inspections in conformity with Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽¹⁾. The measures taken by the Commission shall provide for adequate protection of the financial interests of the Community in conformity with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995, on the protection of the European Communities' financial interests ⁽²⁾.

Article 8

1. Each year the budgetary authority shall set an overall annual ceiling for the funding of interventions provided for under this Regulation, within the limits of the financial perspective.

2. The implementation period of any action under this Regulation shall be for a limited period which may not exceed six months.

3. In exceptional cases, in view of the specific nature of the crisis concerned or its intensity, the Commission may decide on supplementary action. This supplementary action shall comply with the same requirements as the initial action.

Article 9

1. The Commission shall inform the Council forthwith, following its decision, of the approved actions and projects, notably by indicating the amounts involved, their nature and the partners concerned. In addition, the Commission shall keep the Council informed of the implementation of these actions and projects and, where required, of their follow-up.

2. At the end of the six month period referred to in Article 8(2) and no later than their completion, the Commission shall assess the actions under this Regulation to establish whether

the objectives have been achieved and if necessary to adopt guidelines for improving the effectiveness of future intervention. Where required, this assessment shall also cover the follow-up to the actions in the context of existing Community regulations and programmes. The Commission shall inform the Council of the results of this assessment without delay.

Article 10

1. The Commission shall ensure that action taken under the Rapid Reaction Mechanism is effectively coordinated, including on-the-spot coordination, with action by the Member States, in order to increase the coherence, complementarity and effectiveness of the interventions. To that end, the Commission and the Member States shall exchange between themselves all useful information on the actions they implement or intend to implement.

2. The Commission shall promote coordination and cooperation with international and regional organisations. It shall ensure that the action taken under the Rapid Reaction Mechanism is coordinated and consistent with that of the international and regional organisations and agencies.

3. The necessary measures will be taken to give visibility to the Community's contribution.

Article 11

Before 31 December 2005, the Council shall review this Regulation. To that end, and at the latest six months beforehand, the Commission shall present to the Council an overall evaluation report of its implementation, together with any proposals for the future of the Regulation, where required, and, if needed, any proposals for amendments to it.

Article 12

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

It shall apply until 31 December 2006.

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

Done at Brussels, 26 February 2001.

For the Council

The President

A. LINDH

⁽¹⁾ OJ L 292, 15.11.1996, p. 2.

⁽²⁾ OJ L 312, 23.12.1995, p. 1.

ANNEX

'Geographical' Regulations/Decisions

- Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to the Republic of Hungary and the Polish People's Republic ⁽¹⁾.
- Council Regulation (EEC) No 443/92 of 25 February 1992 on financial and technical assistance to, and economic cooperation with, the developing countries in Asia and Latin America ⁽²⁾.
- Council Regulation (EC) No 1734/94 of 11 July 1994 on financial and technical cooperation with the West Bank and the Gaza Strip ⁽³⁾.
- Council Regulation (EC) No 1488/96 of 23 July 1996 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership ⁽⁴⁾.
- Council Regulation (EC, Euratom) No 99/2000 of 29 December 1999 concerning the provision of assistance to the partner States in Eastern Europe and Central Asia ⁽⁵⁾.
- Regulation (EC) No 1726/2000 of the European Parliament and of the Council of 29 June 2000 on development cooperation with South Africa ⁽⁶⁾.
- Council Regulation No 2666/2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia, and the Former Yugoslav Republic of Macedonia, repealing Regulation (EC) No 1628/96 and amending Regulations (EEC) No 3906/89 and (EEC) No 1360/90 and Decisions 97/256/EC and 1999/311/EC ⁽⁷⁾.
- ACP Partnership Agreement signed in Cotonou on 23 June 2000 (pending ratification)
- Fourth ACP-EEC Convention ⁽⁸⁾: (text of the Agreement, Financial Protocol, Protocols 1 to 9 and Declarations)

'Sectoral' Regulations and Decisions (food aid, reconstruction, NGOs, etc.)

- Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security ⁽⁹⁾.
- Council Regulation (EC) No 2258/96 of 22 November 1996 on rehabilitation and reconstruction operations in developing countries ⁽¹⁰⁾.
- Council Regulation (EC) No 443/97 of 3 March 1997 on operations to aid uprooted people in Asian and Latin American developing countries ⁽¹¹⁾.
- Council Regulation (EC) No 1658/98 of 17 July 1998 on co-financing operations with European non-governmental development organisations (NGOs) in fields of interest to developing countries ⁽¹²⁾.
- Council Regulation (EC) No 1659/98 of 17 July 1998 on decentralised cooperation ⁽¹³⁾.
- Council Decision 1999/25/Euratom of 14 December 1998 adopting a multiannual programme (1998 to 2002) of actions in the nuclear sector, relating to the safe transport of radioactive materials and to safeguards and industrial cooperation to promote certain aspects of the safety of nuclear installations in the countries currently participating in the TACIS programme ⁽¹⁴⁾.
- Council Regulation (EC) No 975/1999 of 29 April 1999 laying down the requirements for the implementation of development cooperation operations which contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms ⁽¹⁵⁾.

⁽¹⁾ OJ L 375, 23.12.1989, Regulation as last amended by Regulation (EC) No 2666/2000 (OJ L 306, 7.12.2000, p. 1).

⁽²⁾ OJ L 52, 27.2.1992, p. 1.

⁽³⁾ OJ L 182, 16.7.1994, p. 4. Regulation as last amended by Regulation (EC) No 2840/98 (OJ L 354, 30.12.1998, p. 14).

⁽⁴⁾ OJ L 189, 30.7.1996, p. 1. Regulation as last amended by Regulation (EC) No 2698/2000 (OJ L 311, 12.12.2000, p. 1).

⁽⁵⁾ OJ L 12, 18.1.2000, p. 1.

⁽⁶⁾ OJ L 198, 4.8.2000, p. 1.

⁽⁷⁾ OJ L 306, 7.12.2000, p. 1.

⁽⁸⁾ OJ L 229, 17.8.1991, p. 3. Convention as last amended by the Agreement signed at Mauritius on 4 November 1995 (OJ L 156, 29.5.1998, p. 3).

⁽⁹⁾ OJ L 166, 5.7.1996, p. 1.

⁽¹⁰⁾ OJ L 306, 28.11.1996, p. 1.

⁽¹¹⁾ OJ L 68, 8.3.1997, p. 1. Regulation as last amended by Regulation (EC) No 1880/2000 (OJ L 227, 7.9.2000, p. 1).

⁽¹²⁾ OJ L 213, 30.7.1998, p. 1.

⁽¹³⁾ OJ L 213, 30.7.1998, p. 6.

⁽¹⁴⁾ OJ L 7, 13.1.1999, p. 31.

⁽¹⁵⁾ OJ L 120, 8.5.1999, p. 1.

- Council Regulation (EC) No 976/1999 of 29 April 1999 laying down the requirements for the implementation of Community operations, other than those of development cooperation, which, within the framework of Community cooperation policy, contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms in third countries ⁽¹⁾.
 - Council Regulation (EC) No 1080/2000 of 22 May 2000 on support for the United Nations Interim Mission in Kosovo (UNMIK) and the Office of the High Representative in Bosnia and Herzegovina (OHR) ⁽²⁾.
 - Council Decision 2000/474/EC of 17 July 2000 concerning the Community contribution to the International Fund 'Clearance of the Fairway of the Danube' ⁽³⁾.
 - Regulation (EC) No 2493/2000 of the European Parliament and of the Council of 7 November 2000 on measures to promote the full integration of the environmental dimension in the development process of developing countries ⁽⁴⁾.
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⁽¹⁾ OJ L 120, 8.5.1999, p. 8.

⁽²⁾ OJ L 122, 24.5.2000, p. 27.

⁽³⁾ OJ L 187, 26.7.2000, p. 45.

⁽⁴⁾ OJ L 288, 15.11.2000, p. 1.

COUNCIL REGULATION (EC) No 382/2001**of 26 February 2001****concerning the implementation of projects promoting cooperation and commercial relations between the European Union and the industrialised countries of North America, the Far East and Australasia and repealing Regulation (EC) No 1035/1999**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 and Article 308 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) The promotion of cooperation and commercial relations with the industrialised countries should be pursued where it is in the mutual interest of the Community and the partner country concerned.
- (2) The European Parliament has adopted various resolutions on relations between the European Union and the United States of America in 1994, 1998 and 1999. The European Union and the United States of America agreed to strengthen their relationship in the Transatlantic Declaration of 1990, the New Transatlantic Agenda of 1995, the Transatlantic Economic Partnership of 1998 and the Bonn Declaration of 1999. The common commercial policy should be complemented by further dissemination of general knowledge through more intensive dialogue between the actors in EU-US relations.
- (3) The European Parliament has adopted a resolution and the Economic and Social Committee an opinion on relations between the European Union and Canada in 1996, calling for closer relations with Canada. The European Communities and Canada signed a Framework Agreement for commercial and economic cooperation ⁽²⁾ in 1976 and a Declaration on EC-Canada relations in 1990, and agreed to strengthen their relationship in the Joint Action Plan and the Joint Political Declaration of 1996. EU-Canada relations have become more diversified and Canada is a key partner in multilateral trade areas and in issues relating to global challenges and the Common Foreign and Security Policy. It is therefore necessary to further strengthen these relations by means of an intensified process of consultation and cooperation on an increasing number of issues.
- (4) Activities covered by specific instruments, such as the Agreements between the Community and the United States of America and between the Community and Canada establishing programmes for cooperation in higher education and training, shall be complemented and not affected by this Regulation.

- (5) The European Union and Japan decided to intensify their dialogue and to strengthen their cooperation and partnership in the Joint Declaration of 1991. The European Parliament has adopted a Resolution on the Communication from the Commission to the Council on 'Europe and Japan: the next steps' ⁽³⁾. The Council's conclusions to the Commission's Communication on Japan recognised the distinct and specific problems of market access in Japan. The Council considered that priority should be given to improving access to the Japanese market. In the light of this, the Council adopted Council Regulation (EC) No 1035/1999 of 11 May 1999 on implementation by the Commission of a programme of specific measures and actions to improve access of European Union goods and cross-border services to Japan ⁽⁴⁾. This Regulation will expire on 31 December 2001. The results evaluating the Commission programme described above have shown the usefulness and effectiveness of the programme. It is therefore deemed necessary to continue implementing the Commission programmes described in the said Regulation. This Regulation is without prejudice to the Council Decision 92/278/EEC of 18 May 1992 on the consolidation of the EC-Japan Centre for Industrial-Cooperation ⁽⁵⁾ which remains valid. Regulation (EC) No 1035/1999 should be repealed and replaced by this Regulation.
- (6) Bilateral cooperation in economic and other areas with the Republic of Korea should be enhanced in accordance with the principles of the Framework Agreement on Trade and Cooperation with Korea, the European Parliament's opinion, and the Council's Conclusions on the Korean Peninsula. The European Union should support market principles in Korea and promote the removal of existing barriers to trade and investment.
- (7) The European Union and Australia agreed to strengthen their relationship and to cooperate across the many areas in which they have shared interests in the Joint Declaration of 1997. With a view to further strengthen these relations, an intensified process of consultation and cooperation on an increasing number of bilateral and international issues is necessary.
- (8) The European Union and New Zealand agreed in the Joint Declaration of 1999 to strengthen their relationship and cooperation based on broadly shared interest to the mutual benefit of their peoples, and to endow their mutual relations with a long term perspective.

⁽¹⁾ Opinion delivered on 31 January 2001 (not yet published in the Official Journal).

⁽²⁾ OJ L 260, 24.9.1976, p. 2.

⁽³⁾ OJ C 304, 6.10.1997, p. 119.

⁽⁴⁾ OJ L 127, 21.5.1999, p. 1.

⁽⁵⁾ OJ L 144, 26.5.1992, p. 19.

- (9) There are currently a large number of small budget lines from which the various Community actions with regard to the promotion of cooperation and commercial relations vis-à-vis the industrialised countries referred to in this Regulation are financed. Some budgetary appropriations were made available under these different budget lines for the financing of pilot schemes and preparatory actions. After two years experience with these pilot schemes and preparatory actions the measures implemented up to now have proved their usefulness and demonstrated the need for continuation as regular activities. The Community must have the necessary means at its disposal on a regular basis to be able to implement such measures in the future. It is therefore deemed necessary, for the sake of efficiency, rationalisation and continuation, to establish a single budget line for funding the activities referred to in this Regulation. This must not, however, affect the transparency of the use of these budget lines necessary for the monitoring procedures of the European Parliament.
- (10) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.
- (11) It is the primary responsibility of Member States to design and implement programmes of measures and actions to support the efforts of their exporters to build up a commercial presence in foreign markets.
- (12) Member States' activities in promoting their exports of goods and cross-border services to third country markets should not be affected by this Regulation.
- (13) The Commission should cooperate with Member States to implement a specific, coherent and targeted programme of measures and actions that complement and bring added value to the efforts undertaken by Member States in the Japanese market.
- (14) Part of the activities falling within the scope of this Regulation are covered by Article 133 of the Treaty; for the other activities, the Treaty does not provide for powers other than those in Article 308 thereof.
- (15) This Regulation is to expire on 31 December 2005,

HAS ADOPTED THIS REGULATION:

Article 1

The Community shall continue to implement actions to promote cooperation and commercial relations between the Community and the industrialised countries of North America, the Far East and Australasia.

For the purpose of this Regulation, the industrialised countries of North America, the Far East and Australasia shall comprise of the United States, Canada, Japan, the Republic of Korea

(hereinafter referred to as 'Korea'), Australia and New Zealand, hereinafter referred to as 'the partner countries'.

Article 2

The amount of Community funding deemed necessary for the implementation of the actions identified in this Regulation will be established by the budget authority on an annual basis.

Article 3

Cooperation

Actions to promote cooperation shall be used to support the objectives laid down in the various bilateral instruments in this field between the European Union and the partner countries, in order to create a more favourable environment for the conduct and further development of the relations between the European Union and the partner countries.

Article 4

Community financing in the field of cooperation shall cover, in particular, the following types of activities:

- (a) education and information of the public on the bilateral relations between the European Union and the partner countries, with particular reference to decision makers, opinion formers and other multipliers;
- (b) strengthening cultural, academic and people-to-people links;
- (c) promotion of the dialogue between political, economic and social partners and non-governmental organisations (NGOs) in various relevant sectors;
- (d) research work and studies destined to provide input to the Commission's work, with a view to further develop bilateral relations;
- (e) cooperative projects in science and technology, energy, transport and environmental matters;
- (f) enhancing customs cooperation between the European Union and the partner countries;
- (g) enhancing the visibility of the European Union in the partner countries;
- (h) pilot schemes, which could subsequently lead to new regular activities to be financed.

Article 5

The financing of cooperation projects will be made from the Community's budget either in totality or will take the form of co-financing with other sources in the partner countries and/or the European Union. When implementing Article 4, the Commission shall ensure that the cooperation projects are legally and substantially coherent with activities financed under other relevant policies of the Community.

⁽¹⁾ OJ L 184, 17.7.1999, p. 3.

*Article 6***Commercial relations**

1. In cooperation with Member States, who are primarily responsible for the design and implementation of programmes and actions to promote the exports of Community goods and cross-border services in third country markets, the Community shall implement a specific, coherent and targeted programme of measures and actions that complement and bring added value to the efforts undertaken by Member States and other European Union public bodies in the Japanese market.

The activities of Member States to draw up and implement policies, programmes and arrangements to promote their exports of goods and cross-border services to third country markets shall not be affected by this Regulation.

2. Community financing in this field shall cover, in particular, the recruitment, training, pre-mission preparation and participation of groups of European business executives, notably from small and medium-sized enterprises (SMEs), to participate in actions in Japan aimed at improving their commercial presence on the Japanese market (the 'Gateway to Japan' campaign).

3. In addition to the measure referred to in paragraph 2, support may be given to the following actions and measures, where appropriate:

- (a) the collection of information and policy advice on trade related issues with Japan;
- (b) conferences and seminars to promote trade and investment relations between the European Union and Japan;
- (c) high-level business missions to address specific market access issues in Japan;
- (d) special actions that facilitate access to the Japanese market by Community enterprises, notably SMEs.

4. When implementing paragraph 3, the Commission shall ensure the full compatibility of specific activities with the policies of the Community and the Member States.

Article 7

Community financing shall continue to cover training programmes to build up pools of European executives able to communicate and operate in the Japanese and Korean business environments ('Executive Training Programmes').

Article 8

The measures necessary for the implementation of Articles 6 and 7 shall be adopted in accordance with the advisory procedure set out in Article 9.

*Article 9***Implementing procedures**

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.

3. The Committee shall adopt its rules of procedure.

4. The European Parliament shall be briefed on a regular basis by the Commission about the work of the Committee. To this end, it will receive the agendas of the meetings of the Committee, the draft measures put to the Committee for the implementation of the projects, the results of votes and the summaries of discussions in the meetings.

Article 10

1. The Commission shall provide, on request by any actor in the Community and in the partner countries, comprehensive documentation and all necessary information on programmes and on the conditions of participation.

2. The results of the invitation to tender including information on the number of received tenders, the date of the award of the contract, the name and the address of the successful tenderers, shall be published on the Internet. They will also be communicated on a regular basis to the European Parliament.

Article 11

The Commission shall submit to the European Parliament and the Council every two years a report on the implementation of this Regulation. The report shall set out the results of implementation of the budget and present the actions and programmes financed during the year.

In addition, the Commission shall evaluate actions and programmes financed under this Regulation in order to establish whether they have achieved their objectives. This evaluation shall be made within three years of the entry into force of the Regulation. Where necessary, evaluation reports shall also take account of contractual obligations and principles of sound management and shall include the results of a cost effectiveness analysis.

A limited proportion of the annual budget shall be used to finance evaluation studies of the actions and programmes undertaken within the framework of this Regulation.

Article 12

1. Regulation (EC) No 1035/1999 is hereby repealed.

2. Any reference to the repealed Regulation shall be deemed to be a reference to this Regulation.

Article 13

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

It shall expire on 31 December 2005.

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

Done at Brussels, 26 February 2001.

For the Council

The President

A. LINDH

COMMISSION REGULATION (EC) No 383/2001
of 26 February 2001
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 27 February 2001.

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

Done at Brussels, 26 February 2001.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 26 February 2001 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	91,6
	204	47,1
	212	94,4
	624	113,7
	999	86,7
0707 00 05	052	111,6
	068	133,9
	628	144,3
	999	129,9
0709 10 00	220	162,6
	999	162,6
0709 90 70	052	103,1
	204	59,6
	999	81,3
0805 10 10, 0805 10 30, 0805 10 50	052	64,4
	204	49,3
	212	47,7
	220	49,4
	624	57,2
	999	53,6
0805 20 10	204	77,1
	999	77,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	60,9
	204	58,2
	600	86,8
	624	70,0
	999	69,0
0805 30 10	052	54,1
	600	63,3
	999	58,7
0808 10 20, 0808 10 50, 0808 10 90	039	91,2
	388	109,8
	400	91,0
	404	71,7
	720	103,1
	728	94,5
	999	93,5
0808 20 50	388	84,4
	400	98,0
	512	75,5
	528	84,7
	999	85,6

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

COMMISSION REGULATION (EC) No 384/2001
of 26 February 2001
amending Regulation (EC) No 2636/1999 as regards the communication of data on the average
price for each group of varieties of raw tobacco

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco ⁽¹⁾, as last amended by Regulation (EC) No 1336/2000 ⁽²⁾, and in particular Article 21 thereof,

Whereas:

- (1) In the interests of sound administration, the Member States should be asked to communicate the data on the average price actually paid by the first processing enterprises, weighted by the quantities delivered per lot of raw tobacco.

- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Raw Tobacco,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Commission Regulation (EC) No 2636/1999 ⁽³⁾ is replaced by the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 26 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 215, 30.7.1992, p. 70.

⁽²⁾ OJ L 154, 27.6.2000, p. 2.

⁽³⁾ OJ L 323, 15.12.1999, p. 4.

ANNEX

ANNEX II

Information to be communicated monthly to the Commission from 30 September of the year of harvest concerned

Cumulative figures for the harvest concerned.

Summary to be communicated to the Commission no later than 30 June of the year following the year of harvest.

Harvest:

Declarant Member State:

Group of varieties:

Situation on the last day of the month preceding this communication.

Month concerned:

	Member State of production (declarant)	Member State of production Name:	Member State of production Name:	Member State of production Name:
1. Quantity delivered (in tonnes)				
1.1. Total quantity of raw tobacco of the minimum quality standard and moisture content referred to in Annex IV to Regulation (EC) No 2848/98 delivered to first processing enterprises				
1.2. Total quantity of raw tobacco of the minimum quality standard and moisture content referred to in Annex IV to Regulation (EC) No 2848/98 delivered to first processing enterprises by producer groups				
2. Actual quantity of raw tobacco (in tonnes) of the minimum quality standard delivered before adjustment of the weight on the basis of the moisture content				
3. Estimated quantity remaining to be delivered (in tonnes)				
4. Average price (per kg), weighted ⁽¹⁾ by the quantities delivered, excluding taxes and other levies, paid by the first processing enterprises	(in national currency)	(¹)	(¹)	(¹)

⁽¹⁾ For contracts between two Member States, specify the currency in which they were concluded.

⁽²⁾ Calculation method: $[\text{sum}(\text{QL} \times \text{PP})]/\text{QT}$ = weighted average price.

QL stands for the quantity delivered per lot and PP the purchase price for each lot of the group concerned. QT is the total amount of a group of varieties delivered to the first processing enterprises.

COMMISSION REGULATION (EC) No 385/2001**of 26 February 2001****amending Regulation (EC) No 2848/98 in the raw tobacco sector as regards the moisture content allowed on delivery of certain varieties of tobacco and the recognised production areas**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco ⁽¹⁾, as last amended by Regulation (EC) No 1336/2000 ⁽²⁾, and in particular Article 7 thereof,

Whereas:

(1) The first subparagraph of Article 15(2) of Commission Regulation (EC) No 2848/98 of 22 December 1998 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 as regards the premium scheme, production quotas and the specific aid to be granted to producer groups in the raw tobacco sector ⁽³⁾, as last amended by Regulation (EC) No 1249/2000 ⁽⁴⁾, lays down that the fixed part of the premium and the quantity to be set off against the production quota statement are to be calculated on the basis of the weight of leaf tobacco. The second subparagraph of that Article lays down that the weight is to be adjusted on the basis of the moisture content laid down in Annex IV for the variety concerned up to a maximum of 4 %. Certain varieties of tobacco in groups II and III, cured by traditional air-drying methods in traditional dryers, are produced in regions which can have high levels of precipitation during the delivery period. Under these circumstances it is difficult to monitor the moisture content in traditional air-cured tobacco on delivery. The maximum moisture content for those varieties of tobacco should therefore be amended.

(2) Article 8 of Regulation (EC) No 2848/98 lays down that the production areas referred to in Article 5(a) of Regulation (EEC) No 2075/92 are as laid down in Annex II to Regulation (EC) No 2848/98. Portugal has asked the Commission to include the region of Beiras in the list of traditional recognised production areas for the produc-

tion of tobaccos in group I. Beiras is a recognised traditional production area for varieties in group II. Annex II to Regulation (EC) No 2848/98 should therefore be amended to include this region as a recognised production area for group I.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2848/98 is amended as follows:

1. Article 15(2) is replaced by the following:

'2. The fixed part of the premium to be paid either to producer groups for distribution in full to each member of the group or to individual producers who are not members of a group and the quantity to be set off against the production quota statement of the party concerned shall be calculated on the basis of the weight of leaf tobacco of the group of varieties concerned corresponding to the minimum quality required and taken over by the first processor.

Where the moisture content differs from the level laid down in Annex IV for the variety concerned, the weight shall be adjusted for each percentage point of difference, within the tolerances laid down in that Annex.'

2. Annex II is replaced by Annex I to this Regulation.

3. Annex III is replaced by Annex II to this Regulation.

4. Annex IV is replaced by Annex III to this Regulation.

Article 2

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

⁽¹⁾ OJ L 215, 30.7.1992, p. 70.

⁽²⁾ OJ L 154, 27.6.2000, p. 2.

⁽³⁾ OJ L 358, 31.12.1998, p. 17.

⁽⁴⁾ OJ L 142, 16.6.2000, p. 3.

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

Done at Brussels, 26 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

ANNEX II

RECOGNISED PRODUCTION AREAS

Group of varieties in accordance with the Annex to Regulation (EEC) No 2075/92	Member State	Production areas
I. Flue cured	Germany	Schleswig-Holstein, Lower Saxony, Bavaria, Rheinland-Pfalz, Baden-Württemberg, Hessen, Saarland, Brandenburg, Mecklenburg-Pomerania, Saxony, Saxony-Anhalt, Thuringia
	Greece	Thrace, Eastern Macedonia, Central Macedonia, Western Macedonia, Thessaly, Epirus, Eastern Sterea Hellas, Peloponnese
	France	Aquitaine, Midi-Pyrénées, Auvergne, Limousin, Champagne-Ardenne, Alsace, Lorraine, Rhône-Alpes, Franche-Comté, Provence-Alpes-Côte d'Azur, Loire Region, Centre, Poitou-Charentes, Brittany, Languedoc-Roussillon, Normandy, Burgundy, Nord-pas-de-Calais, Picardy, Île-de-France
	Italy	Friuli, Veneto, Lombardy, Piedmont, Tuscany, Marche, Umbria, Lazio, Abruzzi, Molise, Campania, Basilicata, Apulia, Calabria
	Spain	Extremadura, Andalusia, Castile-Leon, Castile-La Mancha
	Portugal	Beiras, Ribatejo Oeste, Alentejo, Autonomous Region of the Azores
	Austria	Burgenland, Lower Austria, Upper Austria, Styria
II. Light air-cured	Belgium	Flanders, Hainaut, Namur, Luxembourg
	Germany	Rheinland-Pfalz, Baden-Württemberg, Hessen, Saarland, Bavaria, Brandenburg, Mecklenburg-Pomerania, Saxony, Saxony-Anhalt, Thuringia
	Greece	Eastern Macedonia, Central Macedonia, Western Macedonia, Thessaly
	France	Aquitaine, Midi-Pyrénées, Languedoc-Roussillon, Auvergne, Limousin, Poitou-Charentes, Brittany, Loire Region, Centre, Rhône-Alpes, Provence-Alpes-Côte d'Azur, Franche-Comté, Alsace, Lorraine, Champagne-Ardenne, Picardy, Nord-Pas-de-Calais, Upper Normandy, Lower Normandy, Burgundy, Réunion, Île-de-France
	Italy	Veneto, Lombardy, Piedmont, Umbria, Emilia-Romagna, Lazio, Abruzzi, Molise, Campania, Basilicata, Apulia, Sicily, Friuli, Tuscany, Marche
	Spain	Extremadura, Andalusia, Castile-Leon, Castile-La Mancha
	Portugal	Beiras, Ribatejo Oeste, Entre Douro e Minho, Trás-os-Montes, Autonomous Region of the Azores
	Austria	Burgenland, Lower Austria, Upper Austria, Styria
III. Dark air-cured	Belgium	Flanders, Hainaut, Namur, Luxembourg
	Germany	Rheinland-Pfalz, Baden-Württemberg, Hessen, Saarland, Bavaria, Brandenburg, Mecklenburg-Pomerania, Saxony, Saxony-Anhalt, Thuringia
	France	Aquitaine, Midi-Pyrénées, Languedoc-Roussillon, Auvergne, Limousin, Poitou-Charentes, Brittany, Loire Region, Centre, Rhône-Alpes, Provence-Alpes-Côte d'Azur, Franche-Comté, Alsace, Lorraine, Champagne-Ardenne, Picardy, Nord-Pas-de-Calais, Upper Normandy, Lower Normandy, Burgundy, Réunion

Group of varieties in accordance with the Annex to Regulation (EEC) No 2075/92	Member State	Production areas
	Italy	Friuli, Trentino, Veneto, Tuscany, Lazio, Molise, Campania, Apulia, Sicily
	Spain	Extremadura, Andalusia, Castile-Leon, Castile-La Mancha, Valencia (Autonomous Community), Navarre, Rioja, Catalonia, Madrid, Galicia, Asturia, Cantabria, area of Compezo in the Basque Country, La Palma (Canary Islands)
	Austria	Burgenland, Lower Austria, Upper Austria, Styria
IV. Fire-cured	Italy	Veneto, Tuscany, Umbria, Lazio, Campania, Marche
	Spain	Extremadura, Andalusia
V. Sun-cured	Greece	Western Macedonia, Thessaly, Epirus, Eastern Sterea Hellas, Western Sterea Hellas, Peloponnese, Thrace and islands
	Italy	Lazio, Abruzzi, Molise, Campania, Basilicata, Apulia, Sicily
VI. Basmás	Greece	Thrace, Eastern Macedonia, Central Macedonia, Western Macedonia, Thessaly, Western Sterea Hellas
VII. Katerini and similar varieties	Greece	Eastern Macedonia, Central Macedonia, Western Macedonia, Thessaly, Epirus, Eastern Sterea Hellas, Western Sterea Hellas
	Italy	Lazio, Abruzzi, Campania, Basilicata, Apulia
VIII. Kaba Koulak classic, Elassona, Myrodata Agrinion, Zichnomyrodata	Greece	Eastern Macedonia, Central Macedonia, Western Macedonia, Thessaly, Epirus, Eastern Sterea Hellas, Western Sterea Hellas, Peloponnese and islands, Thrace'

ANNEX II

'ANNEX III

MINIMUM QUALITY REQUIREMENTS

Tobacco eligible for the premium referred to in Article 3 of Regulation (EEC) No 2075/92 must be of sound and fair merchantable quality having regard to the typical characteristics of the variety concerned and must not contain any of the following:

- (a) pieces of leaf;
 - (b) leaf badly worn by hail;
 - (c) leaf with serious damage on more than one third of the surface;
 - (d) leaf diseased or attacked by insects on more than 25 % of the surface;
 - (e) leaves marked by pesticides;
 - (f) leaf which is unripe or distinctly green in colour;
 - (g) leaf damaged by frost;
 - (h) leaf attacked by mould or rot;
 - (i) leaf with uncured veins, moist or attacked by rot or with pulpy or prominent stems;
 - (j) leaf from suckers or side-shoots;
 - (k) leaf having an unusual odour for the variety in question;
 - (l) leaf with soil still adhering;
 - (m) leaf with a moisture content exceeding the tolerances laid down in Annex IV.'
-

ANNEX III

‘ANNEX IV

MOISTURE CONTENT REFERRED TO IN ARTICLE 15

Group of varieties		Moisture content (%)	Tolerances (%)
I.	Flue-cured	16	4
II.	Lighed air-cured		
	Germany, France, Belgium, Austria, Portugal — Autonomous Region of the Azores	22	4
	Other Member States and other recognised production areas in Portugal	20	6
III.	Dark air-cured		
	Belgium, Germany, France, Austria	26	4
	Other Member States	22	6
IV.	Fire-cured	22	4
V.	Sun-cured	16	4
VI.	Basmas	16	4
VII.	Katerini	16	4
VIII.	Kaba Koulak classic, Elassona, Myrodata Agrinion, Zichnomyrodata	16	4'

COMMISSION REGULATION (EC) No 386/2001**of 26 February 2001****fixing the export refunds on rice and broken rice and suspending the issue of export licences**

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 ⁽¹⁾, as last amended by Regulation (EC) No 1667/2000 ⁽²⁾, and in particular the second subparagraph of Article 13(3) and (15) thereof,

Whereas:

- (1) Article 13 of Regulation (EC) No 3072/95 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Article 13(4) of Regulation (EC) No 3072/95, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other. The same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market with limits resulting from agreements concluded in accordance with Article 300 of the Treaty.
- (3) Commission Regulation (EEC) No 1361/76 ⁽³⁾ lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum.
- (4) Export possibilities exist for a quantity of 14 119 tonnes of rice to certain destinations. The procedure laid down in Article 7(4) of Commission Regulation (EC) No 1162/95 ⁽⁴⁾, as last amended by Regulation (EC) No 2110/2000 ⁽⁵⁾ should be used. Account should be taken of this when the refunds are fixed.
- (5) Article 13(5) of Regulation (EC) No 3072/95 defines the specific criteria to be taken into account when the export refund on rice and broken rice is being calculated.
- (6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.
- (7) A separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets.
- (8) The refund must be fixed at least once a month; whereas it may be altered in the intervening period.
- (9) It follows from applying these rules and criteria to the present situation on the market in rice and in particular to quotations or prices for rice and broken rice within the Community and on the world market, that the refund should be fixed as set out in the Annex hereto.
- (10) For the purposes of administering the volume restrictions resulting from Community commitments in the context of the WTO, the issue of export licences with advance fixing of the refund should be restricted.
- (11) 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 export refunds on the products listed in Article 1 of Regulation (EC) No 3072/95 with the exception of those listed in paragraph 1(c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

With the exception of the quantity of 14 119 tonnes provided for in the Annex, the issue of export licences with advance fixing of the refund is suspended.

Article 3

This Regulation shall enter into force on 1 March 2001.

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 193, 29.7.2000, p. 3.

⁽³⁾ OJ L 154, 15.6.1976, p. 11.

⁽⁴⁾ OJ L 117, 24.5.1995, p. 2.

⁽⁵⁾ OJ L 250, 5.10.2000, p. 23.

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

Done at Brussels, 26 February 2001.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 26 February 2001 fixing the export refunds on rice and broken rice and suspending the issue of export licences

Product code	Destination	Unit of measurement	Amount of refunds (¹)	Product code	Destination	Unit of measurement	Amount of refunds (¹)
1006 20 11 9000	R01	EUR/t	178,00	1006 30 65 9100	R01	EUR/t	223,00
1006 20 13 9000	R01	EUR/t	178,00		R02	EUR/t	226,00
1006 20 15 9000	R01	EUR/t	178,00		R03	EUR/t	231,00
1006 20 17 9000	—	EUR/t	—		064	EUR/t	181,00
1006 20 92 9000	R01	EUR/t	178,00		A97	EUR/t	226,00
1006 20 94 9000	R01	EUR/t	178,00		021 and 023	EUR/t	226,00
1006 20 96 9000	R01	EUR/t	178,00	1006 30 65 9900	R01	EUR/t	223,00
1006 20 98 9000	—	EUR/t	—		064	EUR/t	181,00
1006 30 21 9000	R01	EUR/t	178,00		A97	EUR/t	226,00
1006 30 23 9000	R01	EUR/t	178,00	1006 30 67 9100	021 and 023	EUR/t	226,00
1006 30 25 9000	R01	EUR/t	178,00		064	EUR/t	181,00
1006 30 27 9000	—	EUR/t	—	1006 30 67 9900	064	EUR/t	181,00
1006 30 42 9000	R01	EUR/t	178,00	1006 30 92 9100	R01	EUR/t	223,00
1006 30 44 9000	R01	EUR/t	178,00		R02	EUR/t	226,00
1006 30 46 9000	R01	EUR/t	178,00		R03	EUR/t	231,00
1006 30 48 9000	—	EUR/t	—		064	EUR/t	181,00
1006 30 61 9100	R01	EUR/t	223,00		A97	EUR/t	226,00
	R02	EUR/t	226,00		021 and 023	EUR/t	226,00
	R03	EUR/t	231,00	1006 30 92 9900	R01	EUR/t	223,00
	064	EUR/t	181,00		A97	EUR/t	226,00
	A97	EUR/t	226,00		064	EUR/t	181,00
	021 and 023	EUR/t	226,00	1006 30 94 9100	R01	EUR/t	223,00
1006 30 61 9900	R01	EUR/t	223,00		R02	EUR/t	226,00
	A97	EUR/t	226,00		R03	EUR/t	231,00
	064	EUR/t	181,00		064	EUR/t	181,00
1006 30 63 9100	R01	EUR/t	223,00		A97	EUR/t	226,00
	R02	EUR/t	226,00		021 and 023	EUR/t	226,00
	R03	EUR/t	231,00	1006 30 94 9900	R01	EUR/t	223,00
	064	EUR/t	181,00		A97	EUR/t	226,00
	A97	EUR/t	226,00		064	EUR/t	181,00
	021 and 023	EUR/t	226,00	1006 30 96 9100	R01	EUR/t	223,00
1006 30 63 9900	R01	EUR/t	223,00		R02	EUR/t	226,00
	064	EUR/t	181,00		R03	EUR/t	231,00
	A97	EUR/t	226,00		064	EUR/t	181,00
	021 and 023	EUR/t	226,00		A97	EUR/t	226,00
	R01	EUR/t	223,00	1006 30 96 9900	021 and 023	EUR/t	226,00
	064	EUR/t	181,00		R01	EUR/t	223,00
	A97	EUR/t	226,00		A97	EUR/t	226,00
					064	EUR/t	181,00
				1006 30 98 9100	021 and 023	EUR/t	226,00
				1006 30 98 9900	—	EUR/t	—
				1006 40 00 9000	—	EUR/t	—

(¹) The procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 applies to licences applied for under that Regulation for the following quantities, depending on destination:

Destination R01: 2 054 t

Destinations R02, R03: 2 850 t

Destinations 021 and 023: 420 t

Destination 064: 8 495 t

Destination A97: 300 t

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

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

The other destinations are defined as follows:

R01 Switzerland, Liechtenstein, communes of Livigno and Campione d'Italia.

R02 Morocco, Algeria, Tunisia, Malta, Egypt, Israel, Lebanon, Libya, Syria, Ex-Spanish Sahara, Cyprus, Jordan, Iraq, Iran, Yemen, Kuwait, United Arab Emirates, Oman, Bahrain, Qatar, Saudi Arabia, Eritrea, West Bank/Gaza Strip, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovenia, Slovakia, Norway, Faroe Islands, Iceland, Russia, Belarus, Bosnia and Herzegovina, Croatia, Yugoslavia, Former Yugoslav Republic of Macedonia, Albania, Romania, Bulgaria, Georgia, Armenia, Azerbaijan, Moldova, Ukraine, Kazakstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan.

R03 Colombia, Ecuador, Peru, Bolivia, Chile, Argentina, Uruguay, Paraguay, Brazil, Venezuela, Canada, Mexico, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, Cuba, Bermuda, South Africa, Australia, New Zealand, Hong Kong SAR, Singapore, A40, A11 except Suriname, Guyana, Madagascar.

COMMISSION REGULATION (EC) No 387/2001**of 26 February 2001****setting the amounts of aid for the supply of rice products from the Community to the Canary Islands**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Canary Islands ⁽¹⁾, as last amended by Regulation (EC) No 2826/2000 ⁽²⁾, and in particular Article 3 thereof,

Whereas:

- (1) Pursuant to Article 3 of Regulation (EEC) No 1601/92, the requirements of the Canary Islands for rice are to be covered in terms of quantity, price and quality by the mobilisation, on disposal terms equivalent to exemption from the levy, of Community rice, which involves the grant of an aid for supplies of Community origin. This aid is to be fixed with particular reference to the costs of the various sources of supply and in particular is to be based on the prices applied to exports to third countries.
- (2) Commission Regulation (EC) No 2790/94 ⁽³⁾, as last amended by Regulation (EC) No 1620/1999 ⁽⁴⁾, lays down common detailed rules for implementation of the

specific arrangements for the supply of certain agricultural products, including rice, to the Canary Islands.

- (3) As a result of the application of these detailed rules to the current market situation in the rice sector, and in particular to the rates of prices for these products in the European part of the Community and on the world market, the aid for supply to the Canary Islands should be set at the amounts given in the Annex.
- (4) 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

Pursuant to Article 3 of Regulation (EEC) No 1601/92, the amount of aid for the supply of rice of Community origin under the specific arrangements for the supply of the Canary Islands shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 March 2001.

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

Done at Brussels, 26 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27.6.1992, p. 13.

⁽²⁾ OJ L 328, 23.12.2000, p. 2.

⁽³⁾ OJ L 296, 17.11.1994, p. 23.

⁽⁴⁾ OJ L 192, 24.7.1999, p. 19.

ANNEX

**to the Commission Regulation of 26 February 2001 setting the amounts of aid for the supply of rice products
from the Community to the Canary Islands**

(EUR/t)

Product (CN code)	Amount of aid
Milled rice (1006 30)	234,00
Broken rice (1006 40)	51,00

COMMISSION REGULATION (EC) No 388/2001**of 26 February 2001****setting the amounts of aid for the supply of rice products from the Community to the Azores and Madeira**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Azores and Madeira ⁽¹⁾, as last amended by Regulation (EC) No 2826/2000 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) Pursuant to Article 10 of Regulation (EEC) No 1600/92, the requirements of the Azores and Madeira for rice are to be covered in terms of quantity, price and quality by the mobilization, on disposal terms equivalent to exemption from the levy, of Community rice, which involves the grant of an aid for supplies of Community origin. This aid is to be fixed with particular reference to the costs of the various sources of supply and in particular is to be based on the prices applied to exports to third countries.
- (2) Commission Regulation (EEC) No 1696/92 ⁽³⁾, as last amended by Regulation (EEC) No 2596/93 ⁽⁴⁾, lays down common detailed rules for implementation of the specific arrangements for the supply of certain agricultural products, including rice, to the Azores and Madeira. Commission Regulation (EEC) No 1983/92 of 16 July 1992 laying down detailed rules for implementation of the specific arrangements for the supply of rice

products to the Azores and Madeira and establishing the forecast supply balance for these products ⁽⁵⁾, as last amended by Regulation (EC) No 1683/94 ⁽⁶⁾, lays down detailed rules which complement or derogate from the provisions of the aforementioned Regulation.

- (3) As a result of the application of these detailed rules to the current market situation in the rice sector, and in particular to the rates of prices for these products in the European part of the Community and on the world market the aid for supply to the Azores and Madeira should be set at the amounts given in the Annex.
- (4) 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

Pursuant to Article 10 of Regulation (EEC) No 1600/92, the amount of aid for the supply of rice of Community origin under the specific arrangements for the supply of the Azores and Madeira shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 March 2001.

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

Done at Brussels, 26 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27.6.1992, p. 1.

⁽²⁾ OJ L 328, 23.12.2000, p. 2.

⁽³⁾ OJ L 179, 1.7.1992, p. 6.

⁽⁴⁾ OJ L 238, 23.9.1993, p. 24.

⁽⁵⁾ OJ L 198, 17.7.1992, p. 37.

⁽⁶⁾ OJ L 178, 12.7.1994, p. 53.

ANNEX

**to the Commission Regulation of 26 February 2001 setting the amounts of aid for the supply of rice products
from the Community to the Azores and Madeira**

(EUR/t)

Product (CN code)	Amount of aid	
	Destination	
	Azores	Madeira
Milled rice (1006 30)	234,00	234,00

COMMISSION REGULATION (EC) No 389/2001**of 26 February 2001****fixing the production refund for olive oil used in the manufacture of certain preserved foods**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats ⁽¹⁾, as last amended by Regulation (EC) No 2826/2000 ⁽²⁾, and in particular Article 20a thereof,

Whereas:

- (1) Article 20a of Regulation No 136/66/EEC provides for the granting of a production refund for olive oil used in the preserving industry. Under paragraph 6 of that Article, and without prejudice to paragraph 3 thereof, the Commission shall fix this refund every two months.
- (2) By virtue of Article 20a(2) of the abovementioned Regulation, the production refund must be fixed on the basis of the gap between prices on the world market and on the Community market, taking account of the import

charge applicable to olive oil falling within CN subheading 1509 90 00 and the factors used for fixing the export refunds for those olive oils during the reference period. It is appropriate to take as a reference period the two-month period preceding the beginning of the term of validity of the production refund.

- (3) The application of the above criteria results in the refund being fixed as shown below,

HAS ADOPTED THIS REGULATION:

Article 1

For the months of March and April 2001, the amount of the production refund referred to in Article 20a(2) of Regulation No 136/66/EEC shall be EUR 44,00/100 kg.

Article 2

This Regulation shall enter into force on 1 March 2001.

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

Done at Brussels, 26 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ 172, 30.9.1966, p. 3025/66.

⁽²⁾ OJ L 328, 23.12.2000, p. 2.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 19 July 2000

on the State aid implemented by Spain in favour of the maritime transport sector (new maritime public service contract)

(notified under document number C(2000) 2447)

(Only the Spanish text is authentic)

(Text with EEA relevance)

(2001/156/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 establishing the European Economic Area, and in particular Article 62(1)(a) thereof,

Having, pursuant to the abovementioned Articles, given notice to the parties concerned to submit their comments ⁽¹⁾, and having regard to their comments,

Whereas:

I. PROCEDURE

- (1) In a complaint received on 8 January 1998, the Commission was informed that Spain had issued an invitation to tender for the performance of maritime services involving public service obligations (hereinafter PSOs) between the Spanish mainland and the Spanish islands. By letter dated 26 January 1998, the Commission informed the Spanish authorities of its concerns regarding the contract and the way it had been awarded.
- (2) By letter dated 5 March 1998, the Commission informed Spain of its decision to initiate the procedure laid down in Article 88(2) of the Treaty in respect of the abovementioned contract, concluded between Spain and Compañía Trasmediterránea (hereinafter 'Trasmed') on 20 January 1998. The Commission gave the Spanish authorities one month in which to reply to the concerns raised on the basic substantive issues at stake and at the same time requested them to confirm within 10 working days of notification of the letter that State aid payments had been suspended.
- (3) The Commission's decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽²⁾. The Commission invited interested third parties to submit their comments on the contract.

⁽¹⁾ OJ C 147, 13.5.1998, p. 10.

⁽²⁾ See footnote 1.

- (4) The Commission received comments from interested parties. It forwarded them to Spain, which was given the opportunity to react, and received comments from Spain in letters dated 18 March, 7 April and 23 July 1998. Several meetings also took place, including a meeting on 3 June 1999.

II. DETAILED DESCRIPTION OF THE AID

THE DECREE

- (5) By letter dated 30 July 1997 the Spanish authorities notified the Commission, pursuant to Article 9 of Council Regulation (EEC) No 3577/92 ⁽³⁾, of their intention to alter the regime applying to maritime cabotage in Spain. The Spanish authorities were informed that the Commission's services had a number of problems both with the concepts behind the draft decree amending the regime and with the phrasing used. The Spanish authorities did revise some of the articles, but on 19 September 1997 they proceeded to adopt Royal Decree 1466/97 ⁽⁴⁾ without re-consulting the Commission. This being considered a failure to comply with obligations, a letter was sent to the Spanish authorities on 22 October 1997, to which they replied on 9 December 1997. A letter of formal notice was sent to them on 20 April 1998, replies to which were received in letters dated 27 May and 8 July 1998.
- (6) The Decree establishes an authorisation scheme for scheduled maritime cabotage lines with and between the non-peninsular territories; provision of these services requires prior authorisation, the validity of which is conditional upon compliance with the PSOs (as specified in Article 4 of Regulation (EEC) No 3577/92) which the Spanish maritime authorities may see fit to impose upon a carrier. The Decree also establishes that, should the authorisation scheme not ensure a sufficient level of service on the abovementioned scheduled cabotage lines, the Spanish authorities may conclude the necessary public service contracts while leaving these lines open to other interested operators.

THE CONTRACT

- (7) In a letter dated 2 October 1997, the Spanish authorities provided the Commission services with a copy of the administrative and technical specifications to be used in awarding a contract to provide PSO services on nine lines with the non-peninsular territories. The 20-year PSO contract with Trasméd, still in force at that time, was set to expire on 31 December 1997 ⁽⁵⁾.
- (8) A series of meetings were held on 10, 15 and 16 October 1997 to discuss the issues of both the revised Decree and the new PSO contract. As there was disagreement on the compatibility of both the Royal Decree and the new PSO arrangement, the Commission services sent a series of questions to the Spanish authorities and a number of meetings took place to discuss and clarify these matters more fully.
- (9) In a letter dated 27 November 1997 addressed to the Spanish Minister for Internal development, the Commission stated that if the Spanish authorities were not in a position to use the procedure for PSO contracts set out in the Community guidelines on State aid to maritime transport ⁽⁶⁾ then they were obliged to notify any new PSO contract as a State aid. The Spanish authorities did not follow up this request.
- (10) The main features of the contract as concluded were as follows:
- the contract was for the provision of scheduled passenger and accompanying car maritime transport services on routes (nine compensated and one non-compensated) between Barcelona-Valencia and the Balearic Islands, Cadiz and the Canary Islands, Almería-Málaga and Melilla, and Algeciras and Ceuta (the latter indicated to be without compensation),

⁽³⁾ OJ L 364, 12.12.1992, p. 7.

⁽⁴⁾ BOE 226, 20.9.1997, p. 27712.

⁽⁵⁾ In connection with this contract, the Commission decided, on 5 November 1997, to propose to the Spanish authorities, under Article 93(1) of the Treaty, that they take appropriate measures to bring the arrangements governing financial aid to Trasméd into line with Community law. This was communicated to the Spanish authorities in a letter dated 3 December 1997 (ref. 10045).

⁽⁶⁾ OJ C 205, 5.7.1997, p. 5.

- a compensation budget was established of ESP 6 600 million for a six-year period beginning in 1998,
 - the contract was 'packaged', all lines to be offered by tender to a single operator. However, this did not imply exclusivity on the routes, which would be open to other operators. These other operators would have to meet conditions in order to qualify for authorisation; these conditions were indicated as being in the form of PSOs,
 - the contract was indicated to be for a duration of six + two + two (10) years, the second extension being subject to prior consultation of the Commission.
- (11) The invitation to tender was published in the *Boletín Oficial del Estado* (Spanish Official State Gazette) of 17 December 1997 and, in summarised form, in Lloyd's List on 23 December 1997. The closing date for bids was 31 December 1997. On 8 January 1998 the Commission received a complaint from an aggrieved operator which felt it had not been given enough time to prepare its bid.
- (12) As, in the opinion of the Spanish administration, the contract was in line with the guidelines on aid to maritime transport, it was not notified under Article 88(3) of the Treaty as a State aid.
- (13) In initiating the procedure, the Commission, on the basis of the information at its disposal, expressed serious doubts as to the measure's compatibility with the common market in respect both of the substance of the contract and of the manner in which it was awarded. The Commission had concerns regarding the following:
1. publicity and the absence of a proper tendering procedure: given the size, duration and importance of the contract, the publicity given to the invitation to tender and the time allowed for submission of tenders were insufficient;
 2. the conditions applicable to other service providers operating on the same lines in parallel and in competition with the compensated PSO provider were not set out adequately and in advance;
 3. the Algeciras-Ceuta line: this route is currently served by a number of private operators working on a commercial basis. The contract reserved the right for a State financial contribution to be granted to the successful bidder for the PSO contract in the future should there be an instability in the service on this line. In effect, there would be no real invitation to tender for this service and hence no adequate method of determining the appropriate level of State financial compensation for any PSOs;
 4. duration: the contract duration was set at six years, with the possibility of two extensions of two years each. The first two-year extension was to be elected if, on at least five of the 10 lines covered by the contract, no commercially parallel supply of services has appeared. The second extension would take place after notification of the Commission. The period between invitations to tender (minimum effective contract duration) would thus be between six and 10 years. In the Commission's opinion this was overlong and would unnecessarily hinder the development of the market. Furthermore, concerns were expressed regarding the packaging/globalisation of the contract meaning that, in practice, only the biggest of companies or a group of companies could apply.
- (14) With respect both to its duration and to the packaging of all the routes, the contract as formulated effectively counteracted the implementation of the right of freedom to provide cabotage services between the Spanish islands as of 1 January 1999 as provided for in Regulation (EEC) No 3577/92.

III. COMMENTS FROM INTERESTED PARTIES

COMPañÍA TRASMEDITERRÁNEA

- (15) In its submission to the Commission dated 11 June 1998, Tramed disputed the existence of any effect on trade between Member States, in that the market for maritime transport of passengers and ferries and for insular cabotage in Spain was not yet liberalised. Article 6 of Regulation (EEC) No 3577/92 exempted Spain (among other Member States) from the obligation to liberalise maritime

cabotage until the beginning of 1999, meaning that there was no competition between Spanish maritime transport companies and shipowners established in other Member States having their ships registered in other Member States in the market in question. Therefore, trade between the Member States had not in any way been affected. It referred to the case-law of the Court of Justice of the European Communities, which has pointed out that subsidies granted to undertakings producing goods or services in a sector in which no intra-Community trade takes place do not fall within the scope of Article 87 of the Treaty (judgment of 21 January 1976 in Case 40/75, *Produits Bertrand SA v Commission*, and judgment of 3 February 1977 in Case 52/76, *Benedetti v Munari*) ⁽⁷⁾.

- (16) It also argued that the steps taken by Spain were perfectly in line with the guidelines on aid to maritime transport. As regards the duration of the contract, the guidelines invoked the general principle of reasonableness and set an indicative time limit, thereby granting a certain margin of discretion to the Member States.
- (17) Regarding the extensions to the contract duration, the first extension depended on the fulfilment of certain conditions; non-emergence of a parallel offer in commercial terms for five of the 10 lines covered by the contract. The possibility of a second extension was contingent and exceptional, it could be applied only for reasons of public interest and had to be notified to the Commission, which could oppose it.
- (18) On the question of the publicity and the invitation to tender, Trasmed stated that in its opinion neither the guidelines nor Regulation (EEC) No 3577/92 (maritime cabotage) lay down requirements regarding the publicising or contents of public invitations to tender issued by the Member States. It was therefore up to the Member States to determine the conditions of such publicity.
- (19) It pointed out that the publicity requirements laid down by Spanish legislation were suitably adapted to the Community rules and that 'the time limit of 13 days provided for in the Spanish legislation for urgent procedures is not as short and discriminatory as the Commission seems to claim. Indeed, even though not applicable to the present case, it is worth mentioning Article 20' of Council Directive 92/50/EC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts ⁽⁸⁾, as last amended by Directive 97/52/EC of the European Parliament and of the Council ⁽⁹⁾. In Trasmed's opinion, the payment at issue was not a State aid within the meaning of Article 87(1) of the Treaty, but rather a PSO which Spain was obliged to compensate.
- (20) Regarding the application of Article 86(2) of the Treaty, Trasmed repeated its willingness to provide the Commission with information on the costs incurred in providing these public services on each of the maritime lines in the contract, which would prove to the Commission that the compensation awarded by Spain did not exceed these extra costs. It pointed out that the Court of Justice, in its judgment of 19 March 1991 in Case 202/88, *France v Commission* ⁽¹⁰⁾, held that two conditions have to be met for the derogation provided for under Article 86(2) to be applied: (a) application of the competition rules would obstruct the undertaking in question in the performance of its task and (b) trade between Member States is not affected to an extent contrary to the Community interest.
- (21) In the present case, it considered that the compensation paid by the State under the contract was for the provision of necessary services and that application of the competition rules would prevent those services being provided, and, since Trasmed did not operate in sectors open to Community competition ⁽¹¹⁾, that trade between Member States was not affected.
- (22) In the decision initiating the procedure, the Commission asked the Spanish authorities to confirm that payments of compensation had been suspended. Trasmed pointed out that total and automatic suspension of the payment of such compensation would seriously threaten the continuity of the service.

⁽⁷⁾ [1976] ECR, p. 1 and [1977] ECR, p. 163, respectively.

⁽⁸⁾ OJ L 209, 24.7.1992, p. 1.

⁽⁹⁾ OJ L 328, 28.11.1997, p. 1.

⁽¹⁰⁾ [1991] ECR I, p. 1223.

⁽¹¹⁾ Until 1 January 1999 only Community shipowners having their vessels registered in Spain had the right of access to provide the services in question.

ANAVE (SPANISH SHIPOWNERS' ASSOCIATION)

- (23) ANAVE pointed out that, by virtue of Article 6(1) of Regulation (EEC) No 3577/92, the Regulation was not applicable to the market in question. They also pointed out that the five-year period for the duration of a PSO contract was given merely as a guideline: the text actually said 'normally in the order of five years', so that a duration of six years seemed entirely reasonable and consistent with the guidelines.
- (24) ANAVE complained that the Commission had made no distinction between the part of the compensation which might possibly be described as State aid and the public service compensation part, and that it had failed to evaluate the two components. Without this compensation Trasméd would face economic problems such as would prevent it providing the service to the requisite standards of continuity, regularity and quality.
- (25) It also pointed out that the same companies which had complained to the Commission about this contract went to the ANAVE Scheduled Lines Committee (made up of 21 shipping companies, many of which compete with Trasméd for freight or passenger traffic) and raised the possibility of the Association bringing an appeal against the contract before the Spanish courts. The Committee had looked at the matter in detail, found no basis for such an appeal and so rejected the proposal.

FRED OLSEN SA

- (26) Fred Olsen SA is a Spanish maritime operator and a competitor of Trasméd on inter-Canary Island routes (though not on any of the routes covered by the contract in question). In the opinion of Fred Olsen SA, the best and most efficient way for Spain to disburse State aid for maritime transport links would be by subsidising ticket prices irrespective of the carrier used, as this would avoid price distortion between carriers. Fred Olsen SA has taken an action against Spain in the Spanish courts in respect of the contract at issue.

ASEMAR (ASSOCIATION OF SHIPPING COMPANIES)

- (27) Asemar is an association of Spanish private commercial companies including shipowners, tugboat operators and other providers of maritime services.
- (28) With reference to the publicity, deadlines and due form of the invitation to tender, it pointed out that 13 calendar days coinciding with the Christmas holiday period was quite insufficient, as evidenced by the fact that apart from the incumbent no other operator had submitted its tender on time. Further, hardly any publicity had been given to this tendering procedure outside Spain. All that was published was a brief summary in Lloyd's List on 23 December 1997.
- (29) Asemar considered that the Spanish authorities should have allowed a reasonable minimum period of time, and in any case not less than one month, for bidders to prepare and submit their tenders, especially since the contract in question covered 10 shipping lines. It also pointed out that the invitation to tender (published in the Spanish Official State Gazette and in summary form in Lloyd's List on 23 December 1997) contained no contractual details but simply a reference to the contract specifications document — which, moreover, had to be obtained from the Directorate-General for Merchant Shipping.
- (30) Asemar considered that three separate invitations to tender should have been issued for the existing services, namely mainland/Balearic Islands, mainland/Canary Islands and mainland/North Africa. This would have enabled groups or consortiums to be formed for the purposes of submitting bids. The group making the best offer could then have been awarded one or more of the contracts, considered independently, which would have encouraged competition and given consumers a greater choice.

- (31) In its opinion, the duration of the abovementioned contract, namely six years plus a two-year extension and a further exceptional two-year extension, was unacceptable under the guidelines then in force on aid to maritime transport and had serious effects on free competition within the relevant cabotage market, which was due to be completely liberalised on 1 January 1999.
- (32) Further, it alleged that the Directorate-General for Merchant Shipping, in exercising its responsibility for regulating the tendering process, lacked the necessary objectivity and independence, which were vital for ensuring fair competition. The Directorate-General was directly involved in the management of Trasméd.
- (33) Asemar pointed out that as Article 86(2) provides for an exception to the application of the competition rules, it must be interpreted in a restrictive manner. In Asemar's view, Spain had never proved conclusively that the services in question could not be provided on a commercial basis without compensation.
- (34) Asemar stated that it had taken an action against the Spanish authorities in the Spanish courts in respect of the contract at issue in the present case as, in its opinion, the invitation to tender and award procedure infringed Spanish law.

FLEBASA

- (35) Flebasa, a provider of maritime transport services on the Spanish market, pointed out, with reference to the 'geographical market' for scheduled maritime cabotage lines in Spain, that this market was composed of three geographical reference markets comprising maritime cabotage between (a) mainland Spain/Balearic Islands, (b) Strait/North Africa, and (c) mainland Spain/Canary Islands. In its opinion, therefore, it was illogical to contend that the tender contract formed a single package and award all the lines to a single company. Flebasa accordingly considered that the public tender should, as a minimum, be divided into single lots for each of the geographical reference markets indicated, this being the appropriate split in view of the possibility of using other transport modes. In the markets of the Balearic Islands and Canary Islands, consumers had a choice between sea transport and air transport in most cases. They did not have this choice in the case of North Africa, where the only option available was sea transport.
- (36) Flebasa also contended that the regulatory body in Spain (the Directorate-General for Merchant Shipping) lacked the necessary independence in a system of fair competition.
- (37) In its opinion the conditions applicable to other economic operators needed to be objective and non-discriminatory, and it was not clear what criteria the Spanish maritime authorities would use for authorising other companies wishing to operate lines in parallel with those operated by the successful bidder. Before entering the market, economic operators in the 'non-reserved' sectors needed to know what their tasks and obligations would involve and these had to be transparent, objective and non-discriminatory. This was not the case at present, where the authorities could impose requirements at their discretion.
- (38) Flebasa pointed to further indications of the existence of the three geographical reference markets in the scheduled maritime cabotage sector in Spain which could also be inferred from Trasméd's company report, where economic results related to the three trades it designates 'Balearic Islands', 'Strait' and 'Canary Islands'.

IV. COMMENTS FROM SPAIN

- (39) The Spanish authorities indicated that the Commission's request for all State aid payments under the contract to be suspended would not be possible for practical and legal reasons. They took the view that the sums payable to Trasméd under the contract were compensation for a public service and did not constitute State aid. Even if State aid were involved, the Commission had not indicated or provided any assistance to determine what portion of the payment constituted such aid. Further, if the State was to suspend payment under the contract, Trasméd would be entitled to suspend the services under the contract, which were life-line services to outlying non-peninsular territories which the State was legally obliged to provide.
- (40) The Spanish authorities referred to a series of meetings and an exchange of letters which took place between Commission departments and the Spanish Ministry of Internal Development, and the contention that the Spanish authorities had always sought to cooperate in this matter.

- (41) In the opinion of the Spanish authorities, as the Community guidelines on State aid to maritime transport did not lay down precise rules for publicising public service contracts, stating only that 'adequate publicity must be given to the call for tender', and given that the contract was awarded in accordance with the rules laid down in Articles 72 and 79 of Law No 13/1995 of 18 May on public administration contracts ⁽¹²⁾ (a law specifically incorporating Council Directives 92/50/EEC ⁽¹³⁾, 93/36/EEC ⁽¹⁴⁾ and 93/37/EEC ⁽¹⁵⁾ on public procurement, as last amended by Directive 97/52/EC), the legal deadlines required by both Community and domestic law had been complied with in this case.
- (42) Recourse had to be made to the emergency procedure provided for in the Spanish legislation as the preceding contract was due to expire and the Spanish authorities wished to avoid a gap in the provision of services, which would have had extremely serious consequences.
- (43) On the question of the Algeciras-Ceuta route, the Spanish authorities felt the Commission had failed to appreciate the real purpose of this measure, which was a precautionary one designed to provide a minimum level of service on this route. It arose from the fact that one of the three private operators currently serving the route had recently experienced technical difficulties while another had had financial problems. This clause was, in the opinion of the Spanish authorities, 'a hypothetical possibility, it is not a tangible and real situation'.
- (44) Following further contacts with the Commission services the Spanish authorities undertook to remove this line from those covered by the contract, and should the need arise to have a compensated service on this route at some stage in the future, this will only be put in place following a full open public tender in accordance with the procedure set out in the State aid guidelines.
- (45) On the question of the conditions applicable to other operators within the context of Royal Decree 1466/1997, the Spanish authorities confirmed in their letter of 7 April 1998 that these conditions 'will be less stringent than those required of the lines served by this contract'. A series of meetings was held with the Spanish authorities to resolve the outstanding issues regarding the Decree. Having sent a written undertaking in December 1998 that the aforementioned Royal Decree would be amended to take account of the Commission's objections, the Spanish authorities submitted a revised draft Decree, which is being examined under the relevant infringement procedure.
- (46) As to the duration of the contract, as the State aid guidelines stated that the duration of the contract should be limited to 'a reasonable period, normally in the order of five years', the Spanish authorities felt this meant there might be grounds which made it reasonable to impose a longer period. However, following discussions with the Commission services the Spanish authorities have undertaken to limit the duration of the contract to 42 months, meaning that the contract will run until 26 July 2001.
- (47) On the question of the packaging or globalisation of the contract, the Spanish authorities indicated that the choice of routes in the contract respected the rules laid down in Regulation (EEC) No 3577/92. Once the routes had been selected, an exhaustive study was launched with the aim of determining the level of supply and frequency of services which had to be guaranteed to satisfy the expected demand. An economic analysis of the three viable alternatives for the contract was then carried out, with the options as follows: (a) individual contracts for each route; (b) maritime range contracts, meaning 3 separate contracts for traffic to the Balearic Islands, Ceuta and Melilla, and the Canary Islands respectively; and (c) a global package contract. Once all the alternatives were examined it was concluded that a single contract would prove to be the lowest burden on State resources.
- (48) The Spanish authorities took issue with what they saw as the indeterminate character of the Commission's imputation of State aid, since it did not distinguish or indicate what part of the sum paid to Trasméd could be construed as State aid. Nor did they accept that the payments made to Trasméd would place the company in an advantageous position with regard to others. In their opinion, the content of the contract placed it in the category of a non-notifiable contract in the public interest.

⁽¹²⁾ BOE 119, 19.5.1995, p. 14601.

⁽¹³⁾ See footnotes 8 and 9.

⁽¹⁴⁾ OJ L 199, 9.8.1993, p. 1.

⁽¹⁵⁾ OJ L 199, 9.8.1993, p. 54.

- (49) In accordance with the procedure laid down in Article 88(2) of the Treaty, the Spanish authorities were given the opportunity to comment on the observations made by the interested third parties.

V. ASSESSMENT OF THE AID

- (50) The main points discussed in initiating investigation procedure C 10/98 were the publicity and the absence of a proper tendering procedure, the Algeciras-Ceuta line, the conditions applicable to other service providers, the duration of the contract and the packaging/globalisation of the contract.

EXISTENCE OF AID

Publicity and the absence of a proper tendering procedure

- (51) The Community guidelines on State aid to maritime transport state that 'adequate publicity must be given ... to ensure that all Community carriers with the right of access ... have had an equal chance to bid'. In addition, Regulation (EEC) No 3577/92 states that 'whenever a Member State concludes public service contracts or imposes public service obligations, it shall do so on a non-discriminatory basis in respect of all Community shipowners' (second subparagraph of Article 4(1)) and 'where applicable, any compensation for public service obligations must be available to all Community shipowners' (second subparagraph of Article 4(2)).
- (52) The invitation to tender for the contract was published in the *Boletín Oficial del Estado* of 17 December 1997 and, in summarised form, in the shipping newspaper Lloyd 's List on 23 December 1997. The closing date for bids was 31 December 1997.
- (53) In initiating the procedure the Commission expressed the view that, given the size, duration and importance of the contract, the time given for bidders to apply was insufficient. The procedure adopted was insufficient both as regards operators inside Spain and other Community operators.
- (54) The Spanish administration and Trasmed have both pointed out that the guidelines on aid to maritime transport do not lay down precise rules for publicising public service contracts. They further point out that the invitation to tender took place in accordance with the rules laid down in Spanish law, which specifically incorporates Directives 92/50/EEC, 93/36/EEC and 93/37/EEC. The Spanish Government and Trasmed both feel the invitation to tender was publicised in accordance with the relevant applicable law.
- (55) They further feel that the urgency of the award procedure was fully justified, the previous contract having expired on 31 December 1997. In publishing the invitation to tender on 17 December 1997 the Spanish authorities had wished to avoid a hiatus in the provision of services, which they felt would have occurred rapidly with extremely serious consequences.
- (56) The notice given was too short for operators to prepare their bids properly. The fact that no offers were received from any party other than the incumbent supports the Commission's view that the tendering procedure was inadequate in terms of the insufficient publicity and time for interested parties to prepare their bids.
- (57) The Commission takes note of the Spanish authorities' argument that they were forced to use this procedure to avoid a suspension of these 'life-line' services. Nevertheless, it cannot agree on this point, since the Spanish authorities could have initiated the procedure sufficiently in advance to allow for tendering without jeopardising the abovementioned services.
- (58) Accordingly, and for the reasons stated above, it is the Commission's opinion that the procedure followed in publicising the invitation to tender and awarding the contract is not in conformity with the guidelines on State aid.

The Algeciras-Ceuta line

- (59) In initiating the procedure the Commission noted that Spain had reserved the right to grant Tramed a compensated PSO on this route for reasons and at a price which were within its own discretion and without a public tender. This despite the fact that the route is currently served by three operators other than Tramed.
- (60) Though this route was not included in the invitation to tender, in the specifications of the contract it was included in the list of PSO routes to be covered by the service provider, though the latter is currently obliged to provide a given level of service on this route without compensation.
- (61) The Spanish authorities have taken note of the concerns expressed by the Commission and removed this line from those included in the contract. They have also informed the Commission that Tramed is operating the line without any financial compensation. The Commission considers this aspect of the case to be closed.

The conditions applicable to other service providers

- (62) In initiating the procedure the Commission noted that the conditions applicable to other service providers operating on the same lines in parallel competition with the compensated PSO provider had not been set out adequately.
- (63) Following a number of meetings on this point, the Spanish authorities undertook to revise the legal framework in this area (Royal Decree 1466/1997) in order to take account of the concerns expressed by the Commission services. A revised draft of the text, which in principle is in conformity with Regulation (EEC) No 3577/92, has been submitted to the Commission services. The Commission has nevertheless temporarily postponed an infringement procedure concerning the Spanish Royal Decree, in the light of the preliminary ruling pending before the Court of Justice concerning the same issue ⁽¹⁶⁾.
- (64) Therefore, as regards the above points, and in particular that concerning publicity and the absence of a proper tendering procedure, it must be noted that not all of the relevant conditions set out by the Community guidelines on State aid to maritime transport have been met in the current case. The procedure followed falls short of the requirements, particularly regarding the level of publicity given to the invitation to tender. In addition, the notice given to interested parties to prepare their bids was too short.
- (65) It must be borne in mind that the public service contract entered into force at the beginning of 1998, that is, prior to the full liberalisation of cabotage in Spain pursuant to Regulation (EEC) No 3577/92. However, it must also be taken into account that Tramed was not only engaged in cabotage operations but also provided international maritime services (such as those for passengers and cargo on the line between Algeciras in Spain and Tangiers in Morocco). As international maritime services had already been liberalised before 1998 ⁽¹⁷⁾, such trade was necessarily open to competition from other Community operators during that year.
- (66) Accordingly, on the basis of the Order of the Court of Justice of 25 March 1998 in Case C-174/97, *FFSA and others v Commission (La Poste)* ⁽¹⁸⁾, which dismissed the appeal against the judgment of the Court of First Instance of 27 February 1997 in Case T-106/95 ⁽¹⁹⁾, it is considered that Spain has granted State resources (as a consequence of incorrect application of the procedure) which threaten to distort competition by favouring a certain undertaking (Tramed), thus affecting trade between Member States since the beginning of 1998. Consequently, the abovementioned contract constitutes State aid within the meaning of Article 87(1) of the Treaty. Such aid must be notified in accordance with Article 88 for assessment under the general rules on State aid. In this respect, the contract in question was concluded without prior notification by the Spanish authorities and as such is in breach of Article 88(3) of the Treaty.

⁽¹⁶⁾ Case C-205/99; reference to the Court under Article 234 of the Treaty by the Spanish Supreme Court, dated 12 May 1999, for a preliminary ruling on the proceedings pending before the Court, concerning Royal Decree 1466/1997.

⁽¹⁷⁾ Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries (OJ L 378, 31.12.1986, p. 1).

⁽¹⁸⁾ [1998] ECR I, p. 1303.

⁽¹⁹⁾ [1997] ECR II, p. 229.

COMPATIBILITY

- (67) Though it falls under Article 87(1) of the Treaty, it must be examined whether the aid may qualify for derogation or exception under Article 87(2) or (3) or Article 86(2) of the Treaty.
- (68) The aid in question cannot be considered to be covered by Article 87(2) of the Treaty as it is not aid of a social character granted to individual consumers, nor was it put in place to make good the damage caused by a natural disaster nor is it aid granted to compensate for the effects of the division of Germany.
- (69) Article 87(3) of the Treaty states that certain aid may be considered compatible with the common market. Compatibility with the Treaty must be determined in the context of the Community as a whole and not in the context of a single Member State. To ensure the proper functioning of the common market, and having regard to the principle embodied in Article 3(g) of the Treaty, the exceptions provided for in Article 87(3) must be construed narrowly when any aid scheme or individual aid award is scrutinised. Not to do so would be to confer advantages on industries or firms of certain Member States whose financial position would be artificially strengthened and to affect trade between Member States and distort competition without any justification based on the common interest as required by Article 87(3).
- (70) Article 87(3)(a) exempts aid which promotes the economic development of areas where the standard of living is abnormally low or where there is serious underemployment. Although several parts of Spain are eligible for regional aid under Article 87(3)(a), the aid in question was not granted under an aid scheme designed primarily to promote regional development. In any case, Article 87(3)(a) does not authorise aid schemes which, as in the present case, are not in line with the Community guidelines on aid to specific sensitive sectors such as maritime transport.
- (71) With regard to the exception provided for in Article 87(3)(b), the aid at issue is not intended to promote the execution of an important project of common interest nor to remedy a serious disturbance in the Spanish economy, nor does it have any of the features of such projects.
- (72) As to the exception provided for in Article 87(3)(c) relating to aid to facilitate the development of certain economic activities, the aid under examination is not considered to qualify for this as it is in the nature of operating aid.
- (73) Thus the aid under examination does not qualify for an exception, nor have the Spanish authorities invoked any of these exceptions in their contacts with the Commission.
- (74) In any event, even if it were to fall under one of these categories this would not obviate the need to notify the aid to the Commission under Article 88 before bringing the aid scheme into effect, and this has not been done by the Spanish authorities.

The Article 86(2) exception**Service of general economic interest**

- (75) In initiating the procedure the Commission stated that it did not have enough elements to decide whether Article 86(2) of the Treaty applied to the contract under examination.

(76) Article 86(2) provides that:

'Undertakings entrusted with the operation of services of general economic interest ...shall be subject to the rules in this Treaty, in particular the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them ⁽²⁰⁾.'

(77) The Court of Justice pointed out in its judgment of 10 December 1991 in Case C-179/90 *Merci convenzionali porto di Genova* ⁽²¹⁾, that 'it does not appear either from the documents supplied by the national court or from the observations submitted by the national court or from the observations submitted to the Court of Justice that dock work is of general economic interest exhibiting special characteristics as compared with the general economic interest of other economic activities or, even if it were, that the application of the rules of the Treaty, in particular those relating to competition and freedom of movement, would be such as to obstruct the performance of such tasks.'

(78) In the present case the contract put out to tender provides for a whole series of particular tasks to be fulfilled by the bidder. These criteria are either specific to the different lines operated or to the winter or summer season, or are general criteria regarding vessel requirements. It must also be indicated that the public service contract concerns passenger/car traffic. The following table lists some of the main specific conditions to be fulfilled by the company entrusted with carrying out the public service contract:

Table 1

Line	No trips week		Capacity: No passengers/week (60 % cabin)		Capacity: No vehicles/week		Maximum price (in ESP)			± 24 hour vessel replacement
	Low	High	Low	High	Low	High	Seat	Cabin	Vehicle	
Barcelona - Palma de Mallorca	7	7	4 000	6 500	600	1 650	6 500	10 900	17 500	Required
Barcelona - Ibiza	3	6	1 000	4 750	250	1 225	6 500	10 900	17 500	Required
Barcelona - Mahon	2	6	450	5 200	100	1 300	6 500	10 900	17 500	Required
Valencia - Palma de Mallorca	6	6	1 100	3 000	210	700	6 500	10 900	17 500	Required
Valencia - Ibiza	1	3	200	2 250	25	500	6 500	10 900	17 500	Required
Valencia - Mahon	1	1	100	500	30	130	6 500	10 900	17 500	Required
Malaga - Melilla	6	7	1 200	7 000	180	1 300	3 600	6 200	18 400	Required
Almeria - Melilla	6	7	1 800	11 500	270	2 300	3 600	6 200	18 400	Required
Cadiz - SC de Tenerife - Las Palmas	1	1	350 (100 % cabin)	350 (100 % cabin)	170	170	non	23 900	28 200	Required

⁽²⁰⁾ The Court of Justice indicated, in Case 127/73, *BRT-II*, ([1974] ECR, p. 313) that Article 86(2) only applies if the undertaking has actually been entrusted by an act of the public authority with a task of general economic interest. The Court has provided some indications of what constitutes a service of general economic interest: in Case C-66/86 *Ahmed Saeed Flugreisen* ([1989] ECR, p. 803) it held that the operation of air routes that are not commercially viable constitutes such a service.

⁽²¹⁾ [1991] ECR I, p. 5889.

- (79) Following the reasoning of the abovementioned Case C-179/90 *Merci convenzionali porto di Genova*, the first question is to what extent the public service contract tasks entrusted to Tramed can be described as services of general economic interest.
- (80) It was submitted by the Spanish authorities that, in the absence of compensation, market forces would not furnish the level of service needed to guarantee the provision of life-line maritime transport services under specific conditions of regularity, continuity, capacity, quality and price on a year-round basis.
- (81) The Community guidelines on State aid to maritime transport define public service obligations as 'any obligation imposed upon a carrier to ensure the provision of a service satisfying fixed standards of continuity, regularity, capacity and pricing, which standards the carrier would not assume if it were solely considering its economic interest. PSOs may be imposed for scheduled services ... in cases where the operation of market forces would not ensure a sufficient service level.'
- (82) On the basis of the information available to it ⁽²²⁾, the Commission found that the competition faced by Tramed on the lines in question is in fact that of cargo carriers, which do not come within the scope of the public service contract and whose ships in any case do not meet the criteria for passenger capacity set out therein. Furthermore, it should be recalled that in the course of the procedure none of Tramed's potential competitors claimed to be able to meet the minimum criteria set out in the contract concluded with Spain without receiving compensation.
- (83) The Spanish authorities provided the Commission with a study ⁽²³⁾ carried out by an independent party, the Universidad Politécnica de Madrid, on the extra costs incurred in fulfilling the public service contract.
- (84) According to this analysis, the two main disadvantages entailing extra costs which the shipping company would not incur if these public service obligations were not applied are:
- the obligation for the contractor to run the service all year round throughout the period for which it is awarded the lines, with the variations in service specified in the invitation to tender between the high and the low season, and
 - the need to replace, within a minimum period of time, any vessel no longer fit for service (not because of normal fleet maintenance but because of breakdown, accident, etc.); the maximum time allowed for making the replacement is the full round-trip time, if this is over 24 hours, or 24 hours if the round trip is shorter.
- (85) According to information from the Spanish authorities, all the lines put out to tender are highly seasonal, with an enormous concentration of passengers and accompanying vehicles in the high season. Analysis of the numbers of passengers and vehicles carried on the lines in question in 1993, 1994, 1995 and 1996 — the period studied before going out to tender — shows that 55 to 60 % of annual demand for passenger and vehicle services is generated in the high season, mainly during the summer holidays ⁽²⁴⁾, leaving 40 to 45 % of demand for the rest of the year (i.e. around seven months). This explains the low occupancy rates during most of the year.
- (86) But this is not all: in economic terms, the traffic is even more seasonal in that average fares outside the high season are far lower than those charged during the massive surge of passengers and vehicles. The cumulative effect in terms of revenue is that 60 to 65 % of total annual revenue is concentrated in the summer, leaving 35 to 40 % for the rest of the year.

⁽²²⁾ Compared with data from the study, The impact of liberalisation of maritime cabotage in the Member States of the European Union (Regulation (EEC) No 3577/92); Third Report, October 1998 (*Bilbao Plaza Marítima*, SL; *Escuela Técnica Superior de Ingenieros Navales Universidad Politécnica de Madrid*).

⁽²³⁾ Letter dated 30 March 1999 from the Permanent Representation of Spain to the Directorate-General for Energy and Transport.

⁽²⁴⁾ The study made by the University of Madrid on which the figures presented are based suggests that the high season lasts around five months. This estimation is comparatively more cautious in respect of the duration of high and low season than the tender, which qualifies the high season as lasting three months starting on 15 June and ending on 15 September each year. Of course, the shorter the (unprofitable) low season, the less State compensation is expected.

- (87) It follows that there is no significant competitor covering passenger/car traffic on the lines in question who could offer a service satisfying the criteria of frequency, capacity and continuity all year round and the ability to provide a replacement vessel in around 24 hours (hereinafter the 'core constraints') as required by the public service contract.
- (88) The Commission therefore accepts the argument that the abovementioned core constraints differentiate the public service offered by Tramed under the contract from services offered under market conditions (e.g. by competitors). The additional constraints on Tramed can therefore be described as services of general economic interest.
- (89) The core constraints, as well as the other constraints (maximum price, etc.) which must necessarily be carried out along with the core constraints as an intrinsic part of the public service contract, apply only to the company entrusted to carry out that contract, in the present case Tramed.
- (90) The costs incurred in fulfilling all these particular criteria in addition to the service offered under market conditions constitute the extra cost of the public service obligations imposed by the public service contract.
- (91) In conclusion, in the absence of significant competitors providing passenger/car services on the lines in question, the Commission considered that the extra costs calculated by the expert, for which Tramed needs to be compensated, are the extra costs incurred in providing the service during the low season (taking into account fulfilment of the core and other constraints) and the extra costs of providing for replacement vessels in around 24 hours.

Necessity — Equivalence

- (92) In the absence of a proper tendering procedure (see recitals 51 to 58), the compensation paid to Tramed cannot be presumed to be equivalent to the price which would have been established by market forces under the same conditions. It must therefore be verified whether the compensation awarded exceeds the amount necessary to compensate for the cost of the PSOs in the framework of the public service contract.
- (93) In the abovementioned judgment in the 'La Poste' case ⁽²⁵⁾, the Court of Justice held that 'the grant of State aid may, under Article 86(2) of the Treaty, escape the prohibition laid down in Article 87 of that Treaty provided that the sole purpose of the aid in question is to offset the extra costs incurred in performing the particular task assigned to an undertaking entrusted with the operation of a service of general economic interest and that the grant of the aid is necessary in order for that undertaking to be able to perform its public service obligations under conditions of economic equilibrium.'
- (94) It should be recalled that the Spanish authorities published the invitation to tender for the public service contract on 17 December 1999, allowing for a maximum budget of ESP 1 100 million (around EUR 6 600 000) per annum. Tramed responded with a contract bid of ESP 950 million (EUR 5 700 000) per annum.
- (95) With the specific nature of the PSOs under the public service contract established, it has further to be verified to what extent such service needs to be subsidised and whether such compensation may unduly hinder the development of Community trade.
- (96) According to the aforementioned expert study, the method used to estimate the minimum necessary compensation is based on the extra costs incurred in ensuring compliance with the PSOs during the

⁽²⁵⁾ See footnotes 18 and 19.

low season. The low season is the time span during which significant operating losses are deemed to take place as a result of the abovementioned PSOs (extra service during the low season while fulfilling the other constraints and ability to provide replacement vessels in around 24 hours) imposed by the public service contract ⁽²⁶⁾.

- (97) On the basis of these explanations, the expert indicated in the first column of the table below the extra costs for the seven lines (out of nine) he considered to be incurring an annual deficit. The other two columns reflect Trasmed's actual results in 1998-1999, either on all the lines or on those subject to a net annual deficit.

Table 2

Line	Public service contract extra costs in ESP million (estimation by expert)	Trasmed actual operating results (revenue-costs) all lines		Trasmed actual results (revenue-costs) only loss-making lines	
		Approach chosen by Trasmed			
		1998	1999	1998	1999
Variable costs	Extra VC	including FC + VC	including FC + VC	including FC + VC	including FC + VC
Barcelona - Palma de Mallorca		[...] (*)	[...]	[...]	[...]
Barcelona - Ibiza	96	[...]	[...]	[...]	[...]
Barcelona - Mahón	59	[...]	[...]	[...]	[...]
Valencia - Palma de Mallorca		[...]	[...]	[...]	[...]
Valencia - Ibiza	24	[...]	[...]	[...]	[...]
Valencia - Mahón	46	[...]	[...]	[...]	[...]
Malaga - Melilla	180	[...]	[...]	[...]	[...]
Almería - Melilla	106	[...]	[...]	[...]	[...]
Cadiz - Canary Islands	188	[...]	[...]	[...]	[...]
Subtotal	699	[...]	[...]	[...]	[...]

⁽²⁶⁾ The expert analysis was conducted primarily with a view to determining the costs which the State would have had to cover in various contract scenarios for the nine lines covered by the public service contract. Only in a second stage, on the basis of the existing cost-benefit concept, was the analysis pursued with a view to establishing the minimum extra costs associated with the public service contract during the low season. Tables 2 and 3 show the extra costs and revenue incurred in fulfilling the PSOs imposed by the public service contract. Calculation of these costs and revenues is based on the concept of a 'standard ship' (e.g. 'standard ferry') having the basic features corresponding to the operational and technical requirements. Revenue has been established on the basis of the average income received on the lines in question on such a 'standard ferry' during the past two years, taking into account observed trends. The different revenue elements considered were: passengers, accompanying cars, service level on board and freight. Direct costs (DC) result from passengers, vehicles, service provision on board and freight. Variable costs (VC) are the parts of fuel and port dues in proportion to navigation time and port calls. Fixed costs (FC) of the vessel were calculated on the basis of operating time of 5 400 hours in the year (350 days), except for amortisation, financial costs and insurance, which were calculated on the natural year (365 days). The FC incurred by independent operation of the various lines are calculated on the basis of the abovementioned 'standard ferry'. The FC of all lines taken together are proportional to the minimum number of port calls required by the technical description on each line. Costs for a replacement vessel to guarantee continuity of service was estimated on the basis of a stand-by vessel. Several options were calculated, reflecting whether such a vessel is owned or chartered, leading to an average result of ESP 631 million per year.

Line	Public service contract extra costs in ESP million (estimation by expert)	Trasmed actual operating results (revenue-costs) all lines		Trasmed actual results (revenue-costs) only loss-making lines	
		Approach chosen by Trasmed			
		1998	1999	1998	1999
	Extra FC	[...]	[...]	[...]	[...]
Fixed costs	631	[...]	[...]	[...]	[...]
Subtotal	631	[...]	[...]	[...]	[...]
Total extra costs	1 330	[...]	[...]	[...]	[...]
Total extra costs + VAT (16 %)		[...]	[...]	[...]	[...]
Bid made by Trasmed	950	[...]	[...]	[...]	[...]

(*) Certain parts of this act have been amended to ensure that confidential information is not divulged; the said parts are contained within square brackets.

- (98) The Commission takes note that certain of the lines are not subject to a net annual deficit. Nevertheless, even on these lines the public service contract imposes an additional burden in terms of continuity, frequency and capacity which generates costs and reduces the company's profits. Even if these lines cannot be described as subject to PSOs, they serve to alleviate the total financial burden of Trasmed, and thus the amount of State resources needed for compensation.
- (99) In this context, even though no exclusive market access rights have been granted to Trasmed, it is useful to refer to the judgment of the Court of Justice of 19 May 1993 in Case C-320/91 ('Corbeau') ⁽²⁷⁾, in which the Court established that the obligation on the part of the undertaking entrusted with [the] task to perform its services in conditions of economic equilibrium presupposes that it will be possible to offset less profitable sectors against the profitable sectors and hence justifies a restriction of competition from individual undertakings where the economically profitable sectors are concerned.
- (100) Indeed to authorise individual undertakings to compete with the holder of the exclusive rights in the sectors of their choice corresponding to those rights would make it possible for them to concentrate on the economically profitable operations and to offer more advantageous tariffs than those adopted by the holders of the exclusive rights since, unlike the latter, they are not bound for economic reasons to offset losses in the unprofitable sectors against profits in the more profitable sectors.
- (101) Taking into account cross-subsidies between lines, it is apparent from the above table that the State aid granted to Trasmed does not go beyond the minimum compensation necessary to compensate the extra costs incurred in fulfilling the public service contract's core constraints. The total actual deficit incurred by Trasmed in 1998 and 1999 was ESP 931 million and ESP 1 002 million respectively. These amounts are (roughly) matched by the ESP 950 million in State aid received each year and are less than the expected total extra costs of ESP 1 330 million, as calculated by the expert.
- (102) The figures of the above table also show that the method chosen by Trasmed for calculating the losses incurred — taking into account the results of all the lines in the package — requires fewer State resources (less compensation) than a mechanism based on line-by-line compensation, which would not take advantage of the profits made on the two profitable lines.
- (103) At the Commission's request, with a view to verifying the results obtained under the method followed in table 2, the expert provided an overall estimate of the total costs and revenue incurred by a company fulfilling the public service contract (taking account of overall activity on the lines in question, including freight traffic) during the low and high seasons ⁽²⁸⁾.

⁽²⁷⁾ ECR 1993, p. I-2533.

⁽²⁸⁾ Letter from Spain dated 10 June 1999: 'Memorandum relating to the meeting with DG VII in Brussels on the contract to provide scheduled maritime cabotage passenger and accompanying car services'.

Table 3

	(million ESP)		
	Low season (7 months)	High season (5 months)	Full year (12 months)
Passengers/cars			
Revenue	3 775	6 287	10 062
Direct costs	- 1 325	- 1 943	- 3 268
Gross sales margin (subtotal 1)	2 450	4 344	6 794
FC	- 5 950	- 3 967	- 9 917
VC	- 700	- 1 708	- 2 408
FC + VC (subtotal 2)	- 6 650	- 5 675	- 12 325
Operating result passengers/cars (1 + 2)	- 4 200	- 1 331	- 5 531
Additional Freight			
Revenue	4 081	2 721	6 802
Direct costs	- 1 684	- 1 123	- 2 807
Gross sales margin	2 397	1 598	3 995
Operating result additional freight	2 397	1 598	3 995
Operating result passengers/cars + freight	- 1 803	267	- 1 536

- (104) As can be seen from table 3, the operating results of pure passenger/car crossings (covered by the public service contract) are negative during both the low and the high season. Nevertheless, taking into account full tragic flows ⁽²⁹⁾, this deficit is to a large extent offset by simultaneous provision of freight service (not included in the public service contract), which still leads to a low-season deficit (ESP - 1 803 million) but to a high-season surplus (ESP 267 million). This confirms the pronounced seasonality of ferry traffic under the public service contract, as outlined above.
- (105) To calculate under this approach the extra costs of the PSO element of the public service contract, it must be recalled that low-season passenger/car traffic produces a deficit of ESP 4 200 million. Though reduced by positive freight results, the overall deficit is still ESP 1 803 million during the low season. Offsetting the low season's deficit against the high season's profit produces an overall loss of ESP 1 536 million. Since this amount only reflects losses made by passenger/car traffic in particular during the low season as offset by all other results over the full year, the operating loss of ESP 1 536 million can be qualified as the extra cost corresponding to the PSO element of the public service contract.
- (106) It can therefore be concluded that both the method followed in table 2 and that followed in table 3 lead to comparable results in terms of extra PSO costs: ESP 1 300 million and ESP 1 536 million.
- (107) Since both the expert's calculations are consistent with each other and since the second method — which takes account of total costs and revenue during low and high seasons — confirms the validity of the somewhat more pragmatic line chosen in the first method, the Commission can accept the expert's analysis. It should be noted that no interested party presented any comparative study of this type during the procedure.

⁽²⁹⁾ Ferries able to carry passengers and their cars can also take on board lorries and a certain amount of other freight even if the public service contract does not require the provision of such services.

- (108) It has further to be recalled that Trasméd submitted a bid of ESP 950 million, which was accepted by the Spanish authorities and which lies below the expert's lowest result of ESP 1 300 million.
- (109) Therefore, since the Commission agrees with the method used to estimate the extra costs incurred under the public service contract, it can be concluded that the ESP 950 million granted to Trasméd does not exceed the minimum amount necessary to fulfil the PSO in its core constraints and in the other constraints attached to it in the framework of the public service contract.
- (110) It can further be concluded that the public service contract under examination does not include elements of overcompensation and, hence, that the mechanism of compensation does not permit for cross-subsidisation to other routes (not covered by the public service contract) operated by Trasméd.
- (111) Thus, although the aid has not been granted following a proper tendering procedure as already mentioned, it is needed to ensure the provision of a life-line service and is proportionate to its objectives, as demonstrated above.

IMPACT ON INTER-STATE TRADE

- (112) Furthermore, as stipulated by Article 86(2) of the Treaty, any derogation, in particular to competition rules, must not affect the development of trade to an extent as would be contrary to the interests of the Community. Regarding the effect on the development of trade, the Commission takes note of the following elements.

— *First year of the contract (1998)*: During the first year of the contract, the lines in question are or were reserved to vessels flying the Spanish flag, in accordance with Regulation (EEC) No 3577/92⁽³⁰⁾.

— *Duration*: In initiating the procedure the Commission pointed out that, in the invitation to tender, the duration of the contract was set out as being six years, with the possibility of two extensions of two years each. In the contract specifications the second extension (after eight years) is made contingent on prior consultation of the Commission. Such a contract duration would have impeded the liberalisation of maritime cabotage as set out in Regulation (EEC) No 3577/92. [...] Furthermore, this is at variance with the provisions of the guidelines on State aid to maritime transport as these relate to PSOs. Under the guidelines, contract duration 'should be limited to a reasonable and not overlong period (normally in the order of five years) ... After expiration of the contract period, such contracts should be subject to re-tendering in accordance with the procedure described above.'

The Spanish authorities have therefore undertaken to adjust the contract duration so that the contract does not extend beyond 26 July 2001 (42 months). Any contract replacing it will enter into force when the current contract ends and will have to comply with the relevant Community legislation (a tendering procedure would therefore be subject to the principles of publicity, transparency and non-discrimination). The Spanish authorities have undertaken to cease to pay aid in respect of this contract on or before this date.

— *Packaging/globalisation of the contract*: In initiating the procedure the Commission pointed out that the Spanish authorities had failed to show satisfactorily why all nine (or ten) lines had to be packaged and tendered under a single contract which entailed the risk that, in practice, liberalisation of maritime cabotage (as laid down by Regulation (EEC) No 3577/92) might be obstructed.

The Commission submits that, in seeking to reach a balance between public budget considerations and the requirements of access to the market, Member States have a margin of appreciation in deciding to tender contracts relating to PSOs on a route-by-route basis or to combine certain

⁽³⁰⁾ Regulation (EEC) No 3577/92 applies the principle of freedom to provide services to maritime transport within Member States. Article 6 stipulates that scheduled passenger and ferry services carried out, for example, in the Mediterranean and along the coast of Spain were exempted from the implementation of the Regulation until 1 January 1999.

routes in a package. As the Commission indicated in initiating the procedure, it was concerned that the contract as then formulated, both with respect to its duration and the packaging of the routes into one contract, was liable to obstruct liberalisation of cabotage and minimise competition⁽³¹⁾. However, as the contract is now limited to 42 months' duration, the risk of it having an adverse effect on the development of trade and competition is minimised and the Commission has decided not to pursue this point further.

- The Spanish authorities have also undertaken that any successor contract will take account of the relevant Community requirements (i.e. not exceed five years, satisfactory unbundling of routes and strict respect of the requirement not to overcompensate/not to cross-subsidise towards competitive activities) and that it must only enter into force once adequate time and publicity have been given to allow all Community shipping companies a fair opportunity to prepare their bids.
 - The Spanish authorities have agreed that the route between Algeciras and Ceuta, which Tramed operates without financial compensation, will be withdrawn from the present contract immediately.
- (113) Moreover, the Commission notes that it will take some time to fully enact the abovementioned undertakings. The contract at issue therefore will be allowed to continue until 26 July 2001 (giving the contract a duration of 42 months). This time lag was chosen so as to permit the regulatory framework and successor contracts to be fully drawn up in consultation with the Commission services and with the maritime industry. It will also allow adequate time to potential bidders to prepare their bids for the successor contracts.
- (114) Furthermore, the aid period has been substantially shortened with a view to ensuring its limitation in time. The transitional character of the aid will also allow for a change to the system formerly prevailing in Spain (which ensured the island services) and a proper system of public tendering for any future contract.
- (115) Given that the core and other constraints (PSOs) imposed on Tramed under the public service contract can be qualified as a 'service of general economic interest', given that the public financing of the contract corresponds to the extra costs incurred by the operator and that this contract does not therefore entail elements of overcompensation, and given that its duration, and therefore its possible effect on the development of trade, have been severely curtailed, the compensation can be said not to have hindered the development of Community trade to an extent contrary to the Community interest, as required in the context of Article 86(2) of the Treaty.

VI. CONCLUSIONS

- (116) The Commission finds that Spain has unlawfully implemented a State aid in favour of Compañía Trasmediterránea in breach of Article 88(3) of the Treaty. The compensation, while falling under Article 87(1) and not eligible for an exception under Article 87(2) or (3), may nevertheless be authorised under Article 86(2).
- (117) The scope of this Decision is restricted to State aid aspects and is without prejudice to the application of other Community rules,

HAS ADOPTED THIS DECISION:

Article 1

Spain has unlawfully implemented a State aid in favour of Compañía Trasmediterránea contrary to Article 88(3) of the Treaty. The compensation may nevertheless be authorised under Article 86(2) provided that the conditions laid down in Article 2 are met.

Article 2

Spain shall terminate the current contract on or before 26 July 2001, suspending any payment of aid on or before that date.

⁽³¹⁾ With regard to Tramed's share of the total Spanish passenger and ferry service market, the abovementioned cabotage report (see table 3) indicates that Tramed operates 25 out of a total of 68 ships, corresponding to 179 102 GT operated by Tramed out of a market total of 287 160 GT.

Any successor contract must meet the relevant Community requirements (the contract must not exceed five years, routes must be unbundled and the obligation not to provide overcompensation or allow cross-subsidising of competitive activities must be strictly observed). Such a contract may enter into force only after adequate time and publicity have been given to allow all Community shipping companies a fair opportunity to prepare their bids.

The line between Algeciras and Ceuta does not form part of the current contract and Compañía Trasmediterránea may not receive financial compensation in respect thereof.

Article 3

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 19 July 2000.

For the Commission

Pedro SOLBES MIRA

Member of the Commission

COMMISSION DECISION
of 12 February 2001
amending Decision 98/488/EC establishing the ecological criteria for the award of the Community
Eco-label to soil improvers

(notified under document number C(2001) 345)

(Text with EEA relevance)

(2001/157/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Article 3 of Regulation (EC) No 1980/2000 provides that the eco-label may be awarded to a product possessing characteristics which enable it to contribute significantly to improvements in relation to key environmental aspects.
- (2) Article 4 of Regulation (EC) No 1980/2000 provides that specific Eco-label criteria shall be established according to product groups.
- (3) Article 4 of Regulation (EC) No 1980/2000 provides that the review of the Eco-label criteria as well as of the assessment and verification requirements related to the criteria shall take place in due time before the end of the period of validity of the criteria specified for each product group and shall result in a proposal for prolongation, withdrawal or revision.
- (4) By Decision 98/488/EC ⁽²⁾, the Commission established ecological criteria for the award of the Community Eco-label have been made for this product group.
- (5) Several awards for the use of the community Eco-label have been made for this product group.

- (6) It is appropriate to prolong the period of validity of the definition of the product group and the ecological criteria without change, for a period of eighteen months.
- (7) The measures set out in this Decision have been developed and adopted under the procedures for the setting of Eco-label criteria as laid down in Article 6 of Regulation (EC) No 1980/2000.
- (8) The measures set out in this Decision are in accordance with the opinion of the committee set up under Article 17 of Regulation (EC) No 1980/2000,

HAS ADOPTED THIS DECISION:

Article 1

Article 3 of Decision 98/488/EC shall be replaced by the following text:

'Article 3

The product group definition and the criteria for the product group shall be valid from 1 April 1998 until 30 September 2002.'

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 12 February 2001.

For the Commission

Margot WALLSTRÖM

Member of the Commission

⁽¹⁾ OJ L 237, 21.9.2000, p. 1.

⁽²⁾ OJ L 219, 7.8.1998, p. 39.

COMMISSION DECISION

of 12 February 2001

amending Decision 94/278/EC drawing up a list of third countries from which Member States authorise imports of certain products subject to Council Directive 92/118/EEC, with respect to imports of honey

(notified under document number C(2001) 348)

(Text with EEA relevance)

(2001/158/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A(I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC ⁽¹⁾, as last amended by Decision 1999/724/EC ⁽²⁾, and in particular Article 10(2)(a) thereof,

Whereas:

- (1) Article 1 of Commission Decision 94/278/EC of 18 March 1994 drawing up a list of third countries from which Member States authorise imports of certain products subject to Council Directive 92/118/EEC ⁽³⁾, as last amended by Decision 98/597/EC ⁽⁴⁾, establishes that Member States shall authorise from any third country imports of honey. Commission Decision 2000/159/EC ⁽⁵⁾ as last amended by Decision 2001/31/EC ⁽⁶⁾ on the provisional approval of residue plans of third countries according to Council Directive 96/23/EC ⁽⁷⁾, indicates in its Annex the third countries which have submitted a plan, setting out the guarantees which it offers as regards the monitoring of the groups of residues and substances referred to in Annex I of Directive 96/23/EC. Therefore, it is appropriate to authorise imports of honey only from third countries which comply with Directive 96/23/EC, concerning the approval of residue plans. Decision 94/278/EC should be amended accordingly.
- (2) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

Decision 94/278/EC is amended as follows:

- in the third indent of Article 1, the words 'and honey' are deleted;
- in the Annex, the following is added:

'Part XIV

List of third countries from which Member States authorise imports of honey

- (AR) Argentina
(AU) Australia
(BG) Bulgaria
(BR) Brazil
(CA) Canada
(CL) Chile
(CN) China
(CU) Cuba
(CY) Cyprus
(CZ) Czech Republic
(EE) Estonia
(GT) Guatemala
(HR) Croatia
(HU) Hungary
(IL) Israel
(IN) India
(LT) Lithuania
(MT) Malta
(MX) Mexico
(NI) Nicaragua
(NZ) New Zealand
(RO) Romania
(SI) Slovenia
(SK) Slovakia
(SV) El Salvador
(TR) Turkey
(US) United States
(UY) Uruguay
(VN) Vietnam'.

⁽¹⁾ OJ L 62, 15.3.1993, p. 49.⁽²⁾ OJ L 290, 12.11.1999, p. 32.⁽³⁾ OJ L 120, 11.5.1994, p. 44.⁽⁴⁾ OJ L 286, 23.10.1998, p. 59.⁽⁵⁾ OJ L 51, 24.2.2000, p. 30.⁽⁶⁾ OJ L 8, 12.1.2001, p. 40.⁽⁷⁾ OJ L 125, 25.5.1996, p. 10.

Article 2

This Decision shall apply from 1 March 2001.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 12 February 2001.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION
of 12 February 2001
amending for the fifth time Decision 95/473/EC establishing the list of approved fish farms in
France

(notified under document number C(2001) 352)

(Text with EEA relevance)

(2001/159/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) The Member States may obtain the status of approved farms free of certain fish diseases for fish farms located in non-approved zones in respect of infectious haematopoietic necrosis (IHN) and/or viral haemorrhagic septicaemia (VHS).
- (2) The list of approved fish farms with regards to VHS and IHN in France was established by Commission Decision 95/473/EC ⁽³⁾, as last amended by Decision 2000/172/EC ⁽⁴⁾.
- (3) Only farms meeting the requirements of Article 6 of Directive 91/67/EEC can be approved.
- (4) France has notified an outbreak of IHN in the approved farm 'Pisciculture de Sangheen, 62102 Calais (Pas-de-Calais)', situated in the region 'Artois-Picardie'.
- (5) Therefore this farm does not, with regard to IHN, meet the requirements of Article 6 of Directive 91/67/EEC anymore.

(6) This farm shall, with regard to IHN, be deleted from the list of approved farms as established in the Annex, point 2 ARTOIS-PICARDIE, third indent, to Decision 95/473/EC.

(7) This farm shall still be approved with regard to VHS.

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

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 95/473/EC is replaced by the Annex hereto.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 12 February 2001.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 46, 19.2.1991, p. 1.

⁽²⁾ OJ L 189, 3.7.1998, p. 12.

⁽³⁾ OJ L 269, 11.11.1995, p. 31.

⁽⁴⁾ OJ L 55, 29.2.2000, p. 71.

ANNEX

I. FISH FARMS IN FRANCE APPROVED WITH REGARD TO IHN AND VHS

1. ADOUR-GARONNE

- Pisciculture de Sarrance
F-64490 Sarrance (Pyrénées-Atlantiques)
- Pisciculture des Sources
F-12540 Cornus (Aveyron)
- Pisciculture de Pissos
F-40410 Pissos (Landes)
- Pisciculture de Tambareau
F-40000 Mont-de-Marsan (Landes)
- Pisciculture 'Les Fontaines d'Escot'
F-64490 Escot (Pyrénées-Atlantiques)
- Pisciculture de la Forge
F-47700 Casteljaloux (Lot-et-Garonne)

2. ARTOIS-PICARDIE

- Pisciculture du Moulin du Roy
F-62156 Rémy (Pas-de-Calais)
- Pisciculture du Bléquin
F-62380 Sényinghem (Pas-de-Calais)

3. LOIRE-BRETAGNE

- SCEA 'Truites du lac de Cartravers'
Bois-Boscher
F-22460 Merleac (Côtes d'Armor)
- Pisciculture du Thélöhier
F-35190 Cardroc (Ille-et-Vilaine)
- Pisciculture de Plainville
F-28400 Marolles-les-Buis (Eure-et-Loir)

4. RHIN-MEUSE

- Pisciculture du ruisseau de Dompierre
F-55300 Lacroix-sur-Meuse (Meuse)
- Pisciculture de la source de la Deüe
F-55500 Cousances-aux-Bois (Meuse)

5. SEINE-NORMANDIE

- Pisciculture du Vaucheron
F-55130 Gondrecourt-le-Château (Meuse)

6. RHÔNE-MÉDITERRANÉE-CORSE

- Pisciculture Charles Murgat
Les Fontaines
F-38270 Beaufort (Isère)

II. FISH FARMS IN FRANCE APPROVED WITH REGARD TO VHS

1. ARTOIS-PICARDIE

- Pisciculture de Sangheen
F-62102 Calais (Pas-de-Calais)
-

COMMISSION DECISION

of 15 February 2001

on 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 in relation to Cyprus

(notified under document number C(2001) 371)

(Text with EEA relevance)

(2001/160/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 ⁽¹⁾, as last amended by Directive 90/232/EEC ⁽²⁾ and in particular Articles 2(2) and 7(3) thereof,

Whereas:

- (1) The present relationships between the national insurers' bureaux of the Member States, Norway, Switzerland, Hungary, the Czech Republic, Slovakia, Iceland, Slovenia and Croatia 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 those countries, are governed by agreements supplementary to the Uniform Agreement on the Green Card System between national insurers' bureaux of 2 September 1951 ('Supplementary Agreements').
- (2) The Commission subsequently adopted Decisions 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 the non-member countries concerned and which are the subject of the supplementary agreements.
- (3) 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.

- (4) The Commission subsequently adopted Decision 91/323/EEC ⁽³⁾ 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 the non-member countries concerned replacing those supplementary agreements by the Multilateral Guarantee Agreement as from 1 June 1991.
- (5) Cyprus signed the Multilateral Guarantee Agreement on 9 September 1999,

HAS ADOPTED THIS DECISION:

Article 1

As from 1 January 2001, each Member State shall refrain from making checks on insurance against civil liability in respect of vehicles which are normally based in the territory of Cyprus 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, 15 February 2001.

For the Commission

Frederik BOLKESTEIN

Member of the Commission

⁽¹⁾ OJ L 103, 2.5.1972, p. 1.

⁽²⁾ OJ L 129, 19.5.1990, p. 35.

⁽³⁾ OJ L 177, 5.7.1991, p. 25.