

English edition

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 146/2003**of 27 January 2003****repealing Regulation (EC) No 1705/98 regarding the interruption of certain economic relations with Angola in connection with the activities of the 'União Nacional para a Independência Total de Angola' (UNITA)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Council Common Position 2002/991/CFSP of 19 December 2002 ⁽¹⁾,

Having regard to the proposal from the Commission,

Whereas:

- (1) On 9 December 2002, the United Nations Security Council, acting under Chapter VII of the Charter of the United Nations, decided in its Resolution 1448(2002) that measures imposed by paragraph 19 of Resolution 864(1993), paragraph 4(c) and (d) of Resolution 1127(1997) and paragraphs 11 and 12 of Resolution 1173(1998) should cease to have effect from that date.
- (2) On 19 December 2002, the Council adopted Common Position 2002/991/CFSP lifting restrictive measures against the União Nacional para a Independência Total de Angola (UNITA) and repealing Common Positions 97/759/CFSP and 98/425/CFSP.

- (3) Therefore Council Regulation (EC) No 1705/98 of 28 July 1998 concerning the interruption of certain economic relations with Angola in order to induce the 'União Nacional para a Independência Total de Angola' (UNITA) to fulfil its obligations in the peace process, and repealing Regulation (EC) No 2229/97 ⁽²⁾, should be repealed,

HAS ADOPTED THIS COMMON POSITION:

Article 1

Regulation (EC) No 1705/98 is hereby repealed.

Article 2

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

It shall apply from 20 December 2002.

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

Done at Brussels, 27 January 2003.

For the Council

The President

G. PAPANDREOU

⁽¹⁾ OJ L 348, 21.12.2002, p. 1.

⁽²⁾ OJ L 215, 1.8.1998, p. 1. Regulation as last amended by Commission Regulation (EC) No 689/2002 (OJ L 106, 23.4.2002, p. 8).

COUNCIL REGULATION (EC) No 147/2003
of 27 January 2003
concerning certain restrictive measures in respect of Somalia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Council Common Position 2002/960/CFSP of 10 December 2002 concerning restrictive measures against Somalia ⁽¹⁾,

Having regard to the proposal from the Commission,

Whereas:

- (1) On 23 January 1992 the United Nations Security Council adopted resolution 733 (1992), imposing a general and complete embargo on all deliveries of weapons and military equipment to Somalia (hereinafter referred to as 'the arms embargo').
- (2) On 19 June 2001 the United Nations Security Council adopted resolution 1356 (2001), permitting certain exemptions to the arms embargo.
- (3) On 22 July 2002 the United Nations Security Council adopted resolution 1425 (2002), extending the arms embargo by prohibiting the direct or indirect supply to Somalia of technical advice, financial and other assistance, and training related to military activities.
- (4) Certain of these measures fall under the scope of the Treaty and, therefore, notably with a view to avoiding distortion of competition, Community legislation is necessary to implement the relevant decisions of the Security Council as far as the territory of the Community is concerned. For the purpose of this Regulation, the territory of the Community is deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.
- (5) The Commission and the Member States should inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation, and cooperate with the Committee established by paragraph 11 of Resolution 733 (1992), in particular by supplying information to it.
- (6) Violations of the provisions of this Regulation should be subject to sanctions and Member States should impose appropriate sanctions to that end. It is, moreover, desirable that sanctions for violations of the provisions of this Regulation can be imposed on the date of entry into force of this Regulation and that Member States institute

proceedings against any persons, entities or bodies under their jurisdiction that have violated any of the provisions,

HAS ADOPTED THIS REGULATION:

Article 1

Without prejudice to the powers of the Member States in the exercise of their public authority, it shall be prohibited:

- to provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of arms and related materiel, directly or indirectly to any person, entity or body in Somalia,
- to grant, sell, supply or transfer technical advice, assistance or training related to military activities, including in particular training and assistance related to the manufacture, maintenance and use of arms and related materiel of all types, directly or indirectly to any person, entity or body in Somalia.

Article 2

The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to in Article 1 shall be prohibited.

Article 3

1. Article 1 shall not apply to:

- the provision of financing and financial assistance for the sale, supply, transfer or export of non-lethal military equipment intended solely for humanitarian or protective use, or for material intended for institution building programmes of the Union, Community or Member States, including in the field of security, carried out within the framework of the Peace and Reconciliation Process,
- the provision of technical advice, assistance or training related to such non-lethal equipment,

if such activities have been approved in advance by the Committee established by paragraph 11 of Resolution 751 (1992) of the Security Council of the United Nations.

2. Article 1 shall not apply either to protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only.

⁽¹⁾ OJ L 334, 11.12.2002, p. 1.

3. Article 2 shall not apply to the participation in activities the object or effect of which is to promote activities that have been approved by the Committee established by paragraph 11 of Resolution 751 (1992) of the Security Council of the United Nations.

Article 4

Without prejudice to the rights and obligations of the Member States under the Charter of the United Nations, the Commission shall maintain all necessary contacts with the Security Council Committee mentioned in Article 3(1) for the purpose of the effective implementation of this Regulation.

Article 5

The Commission and the Member States shall immediately inform each other of the measures taken under this Regulation and shall supply each other with relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgments handed down by national courts.

Article 6

This Regulation shall apply notwithstanding any rights conferred or obligations imposed by any international agreement signed or any contract entered into or any licence or permit granted before the entry into force of this Regulation.

Article 7

1. Each Member State shall determine the sanctions to be imposed where the provisions of this Regulation are infringed. Such sanctions shall be effective, proportionate and dissuasive.

Pending the adoption, where necessary, of any legislation to this end, the sanctions to be imposed where the provisions of this Regulation are infringed shall, where relevant, be those determined by the Member States in order to give effect to Article 7 of Council Regulation (EC) No 1318/2002 of 22 July 2002 concerning certain restrictive measures in respect of Liberia ⁽¹⁾.

2. Each Member State shall be responsible for bringing proceedings against any natural or legal person, entity or body under its jurisdiction, in cases of violation of any of the prohibitions laid down in this Regulation by such person, entity or body.

Article 8

This Regulation shall apply

- within the territory of the Community, including its airspace,
- on board any aircraft or any vessel under the jurisdiction of a Member State,
- to any person elsewhere who is a national of a Member State, and
- to any legal person, entity or body which is incorporated or constituted under the law of a Member State.

Article 9

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

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

Done at Brussels, 27 January 2003.

For the Council
The President
G. PAPANDREOU

⁽¹⁾ OJ L 194, 23.7.2002, p. 1.

COMMISSION REGULATION (EC) No 148/2003
of 28 January 2003
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1947/2002 ⁽²⁾, and in particular Article 4(1) thereof,

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 29 January 2003.

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

Done at Brussels, 28 January 2003.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 299, 1.11.2002, p. 17.

ANNEX

to the Commission Regulation of 28 January 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	96,1
	204	71,9
	212	118,7
	999	95,6
0707 00 05	052	119,3
	204	114,7
	628	151,4
	999	128,5
0709 10 00	220	43,3
	999	43,3
0709 90 70	052	134,8
	204	177,6
	999	156,2
0805 10 10, 0805 10 30, 0805 10 50	052	57,1
	204	53,2
	212	41,4
	220	51,8
	624	86,1
	999	57,9
0805 20 10	204	80,4
	999	80,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	62,3
	204	60,1
	220	56,4
	464	138,3
	600	76,1
	624	78,9
	999	78,7
0805 50 10	052	66,4
	220	94,9
	600	64,0
	999	75,1
0808 10 20, 0808 10 50, 0808 10 90	060	43,3
	400	101,0
	404	107,3
	720	127,6
	999	94,8
0808 20 50	388	112,9
	400	110,1
	720	46,2
	999	89,7

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

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 18 September 2002

on the State aid which the United Kingdom is planning to implement for Vauxhall Motors (UK) Ltd

(notified under document number C(2002) 3340)

(Only the English text is authentic)

(Text with EEA relevance)

(2003/62/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁾,

Having called on interested parties to submit their comments pursuant to those provisions,

Whereas:

Procedure

- (1) By letter dated 23 August 2001 the United Kingdom authorities notified the proposed aid to the Commission, pursuant to Article 88(3) of the Treaty. On 23 October 2001 the Commission asked additional questions, to which the United Kingdom replied by letter dated 16 November 2001.
- (2) By letter dated 28 January 2002, the Commission informed the United Kingdom that it had decided to initiate the procedure provided for in Article 88(2) of the Treaty in respect of the aid.
- (3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities*. The Commission called on interested parties to submit their comments. The Commission received no comments from interested parties.

- (4) By letter dated 1 March 2002, the United Kingdom submitted comments on the opening of the investigation procedure. The United Kingdom sent additional information on 9 July 2002.

Detailed description of the proposed aid

- (5) The recipient of the aid would be Vauxhall Motors (UK) Ltd, which is a wholly-owned subsidiary of the General Motors Corporation. The aid in question is regional investment aid for the transformation of the Ellesmere Port car plant from a single-model production facility to a two-model plant capable of switching production between the two models according to demand. After the investment, the plant would be able to produce a mix of Astras and of the new replacement Vectra passenger car models. According to the information provided by the United Kingdom in the notification, the project would safeguard 771 jobs at Vauxhall Motors and create approximately 530 jobs in the supply chain.
- (6) General Motors Europe considered two alternative sites for the project, Ellesmere Port and Antwerp. The final decision in favour of Ellesmere Port was part of a major restructuring within General Motors Europe, with the objective of returning that company to profitability. As part of that plan, passenger car production in Luton was to cease at the end of the life of the current Vectra

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

model at the end of the first quarter of 2002. From then on, the remaining Luton facilities would concentrate on commercial and off-road vehicles, while passenger car production would be concentrated at Ellesmere Port. Ellesmere Port would continue to produce the Astra, incorporate the next-generation Vectra and transform the facility into a two-model flexi plant.

- (7) The replacement Vectra is designed to compete in the upper-medium segment of the European passenger car market. The main geographical markets for both the current Astra model and the replacement Vectra model are Germany, the United Kingdom, France, Italy, the Netherlands and Spain, although other smaller Western and Central European passenger car markets are also supplied.
- (8) The total amount of eligible investments amounts to GBP 156,198 million. The net present value of the eligible investments is GBP 153,814 million. These investments are divided into building/construction/land improvements (GBP 8,352 million), machinery and equipment (GBP 131,343 million) and tools and dies (GBP 14,119 million).
- (9) Aid amounting to GBP 10 million (net present value: GBP 9,847 million) would be provided as Regional Selective Assistance, which is an approved scheme based on the 1982 Industrial Development Act. The notified aid intensity is 6,4 %.
- (10) The Ellesmere Port plant is located in the Westminster ward of Ellesmere Port and Neston in Cheshire. This region was recognised by the Commission as a regionally assisted area for the purposes of Article 87(3)(c) of the Treaty, under the regional aid map for the period 2000 to 2006, with a regional ceiling of 15 % net grant equivalent (nge).

Decision of the Commission to initiate the procedure provided for in Article 88(2) of the Treaty

- (11) By letter dated 28 January 2002, the Commission informed the United Kingdom that it had decided to initiate the procedure provided for in Article 88(2) of the Treaty, since it had doubts as to whether the aid was either necessary or proportionate.
- (12) As regards the necessity of the aid, the Commission needed to verify that the Ellesmere Port project concerned a transformation, involving a radical change in production structures on an existing site. Secondly, it needed to determine whether Antwerp was a real alternative in terms of the technical feasibility of carrying out the project there.
- (13) As regards the proportionality of the aid, the Commission expressed doubts on certain elements in the cost benefit analysis (CBA). In particular, the Commission questioned the assumption that training costs in Antwerp would be lower; the estimated inward transport

costs and procurement pattern; and the anticipated repercussions, including sales losses, on the Vauxhall brand image in the United Kingdom, should the project be located at Antwerp.

Comments from interested parties

- (14) The Commission did not receive any comments from interested parties.

Comments from the United Kingdom

- (15) By letter dated 1 March 2002, the United Kingdom submitted to the Commission its comments on the opening of the procedure. By letter dated 9 July 2002, the United Kingdom provided further information. These comments have been taken into account.
- (16) The United Kingdom provided a detailed break-down of the training costs at Antwerp and Ellesmere Port. The main differences are that, by contrast with Ellesmere Port, the Antwerp plant is already Andon trained; it is already familiar with operating as a flexible plant, producing two models on shared facilities; it has recent experience of producing the Vectra, so the learning curve is shorter there; the Antwerp plant and its workforce are already GBOP (Global Bill of Process) ⁽¹⁾ compliant.
- (17) As regards the procurement and inward transportation costs, the United Kingdom explained that the costs in the CBA were based on the figures used by the GM Europe Strategy Board (ESB) when the decision was taken to locate the replacement Vectra project at Ellesmere Port. In the interim period, Vauxhall undertook further calculations based upon actual production volumes at Luton and Ellesmere Port in 2001 and on revised budget volume projections for Ellesmere Port for 2002. Comparison of the estimated CBA figures with those based upon actual production volumes gives a variance of less than 1 %.
- (18) Finally, the United Kingdom provided its comments regarding the possible effects on Vauxhall sales in the United Kingdom, had a location decision been taken in favour of Antwerp. It also commented on the possibility of additional costs resulting from industrial action at the Ellesmere Port plant as a consequence of such a decision.
- (19) As regards potential sales losses, the ESB had considered at the time of the decision that failure to locate new Vectra production at Ellesmere Port might have had a detrimental effect on United Kingdom sales. However, the effect would have been very limited, a view which was confirmed in a GM study provided to the Commission. To mitigate the loss of sales of Vectra models in the United Kingdom market if the project had been awarded to Antwerp, additional marketing costs would have been necessary.

⁽¹⁾ GBOP is a set of common planning specifications and build processes, that enables consistency to be achieved across model platforms in both architecture and equipment.

(20) As regards the potential threat of industrial action in the United Kingdom if Ellesmere Port had lost a shift of production on top of the Luton closure announcement, the United Kingdom considered it very difficult to estimate the scale of such action. The Luton plant closure had resulted in a one-day stoppage. That was in response to the *complete closure* of the Luton plant and the threat of compulsory redundancies. More disruptive and widespread industrial action was avoided by the voluntary redundancy packages agreed with the unions and Vauxhall. The financial inducement in those packages was far higher than the minimum set by United Kingdom law and the costs entailed have been included in the CBA. Bearing in mind that Ellesmere Port would still have been an ongoing two-shift Astra plant if Antwerp had won the Vectra project, the United Kingdom considers it plausible to assume that a half-day stoppage would have resulted. The total additional costs resulting from the above effects are estimated at GBP 171 000.

Assessment of the aid

- (21) The measure notified by the United Kingdom for Vauxhall Motors (UK) Ltd constitutes State aid within the meaning of Article 87(1) of the Treaty. It would be financed by the State or through State resources. Furthermore, as it constitutes a significant proportion of the funding of the project, the aid is liable to distort competition in the Community by giving Vauxhall Motors (UK) Ltd an advantage over competitors not receiving aid. Lastly, there is extensive trade between Member States in the automobile market.
- (22) The aid in question is intended for an undertaking which manufactures and assembles cars. The undertaking is therefore part of the motor vehicle industry for the purposes of the Community framework for State aid to the motor vehicle industry (hereinafter the relevant Community guidelines) ⁽¹⁾.
- (23) The relevant Community guidelines specify that aid which the public authorities plan to grant to an individual project under an authorised aid scheme for an undertaking operating in the motor vehicle industry must, in accordance with Article 88(3) of the Treaty, be notified before being granted if the total cost of the project amounts to EUR 50 million or if the total gross aid for the project, whether from the State or the Community, amounts to EUR 5 million. In the case covered by this Decision, both the total cost of the project and the amount of aid exceed the notification threshold. Thus, by notifying the proposed aid for Vauxhall Motors (UK) Ltd, the United Kingdom has complied with the requirements of Article 88(3) of the Treaty.
- (24) In view of the character and purpose of the aid, and the geographic location of the investment, the Commission considers that the aid at issue is not covered by Article

87(2). Article 87(3) specifies other forms of aid which may be regarded as compatible with the common market. However, compatibility must be assessed from the standpoint of the Community as a whole and not in a purely domestic context. Moreover, in order to maintain the proper functioning of the common market and having regard to the principle in Article 3(g) of the Treaty, the exceptions provided for in Article 87(3) must be construed narrowly. With regard to points (b) and (d) of Article 87(3), it is clear that the aid in question is not intended for an important project of common European interest or to remedy a serious disturbance in the United Kingdom economy, or to promote culture and heritage conservation. As regards Article 87(3)(a) and (c), the Commission notes that the investment project is to be carried out in a region which qualifies for assistance under point (c). According to the regional map for the United Kingdom for the period 2000 to 2006 the project is located in an area with a regional aid ceiling for large companies of 15 % nge.

- (25) In order to decide whether regional aid is compatible with the common market under Article 87(3)(c) of the Treaty, the Commission must check whether the conditions specified in the relevant Community guidelines have been met.
- (26) In order to authorise aid in accordance with those guidelines, the Commission must, after checking that the region in question is eligible for aid under Community law, verify that the investor could have chosen an alternative site for its project, so as to demonstrate the need for aid in terms of the mobility of the project.
- (27) The Commission has studied the geographic mobility of the project. In order to demonstrate geographic mobility, the automotive group in favour of which the aid is proposed must prove in a clear and convincing way that there is an economically viable alternative location for its project. The United Kingdom authorities have asserted that such a location is available at the car plant in Antwerp, Belgium, which currently produces the Astra model and, until 1998, produced the Vectra model. The Commission notes that, in considering the two alternative sites for the project, General Motors Europe carried out a location study comparing the incremental costs of producing the new Vectra in both locations. That study, as well as other documents from the decision-making procedure of General Motors Europe, were provided to the Commission. In addition, the Commission, together with its external automotive expert, verified, on site, the feasibility of carrying out the project in Antwerp. Until 1998 the Antwerp plant produced the Astra and the previous Vectra model on the same two assembly lines and it still has sufficient space available where the bodies of the previous Vectra model were built. It can therefore be concluded that the

⁽¹⁾ OJ C 279, 15.9.1997, p. 1.

project is mobile in character. Consequently, it may be considered eligible for regional aid, since the aid is necessary to attract the investment to the assisted region.

(28) The Commission and its external automotive expert have verified the nature of the investment on the basis of plant layouts submitted by the United Kingdom and of a visit to the site. The project in question concerns a transformation, involving a radical change in production structures on an existing site with the aim of transforming the site from a single-model production facility to a flexible two-model plant. The investment project is therefore eligible for regional aid.

(29) Together with the notification, the United Kingdom authorities have provided a CBA comparing the costs of the two locations. The CBA indicates a net cost handicap of GBP 18,116 million for the Ellesmere Port location as compared with the Antwerp location. The handicap intensity of the project would be 11,8 %.

(30) With the help of its external automotive expert, the Commission has evaluated the notified CBA, on the basis of the exchange rate at the time of the location decision, with a view to ascertaining to what extent the proposed regional aid is in proportion to the regional problems it seeks to solve. Following the opening of the procedure, the United Kingdom clarified some elements in the CBA on which doubts were raised.

(31) As regards the training cost handicap in the CBA, the Commission received a detailed breakdown of costs at both locations. The regional handicap for training costs in Ellesmere Port amounts to GBP 1,7 million. The Commission considers that the significantly higher training costs in Ellesmere Port can be considered plausible. The difference can be explained by the fact that, in contrast to Ellesmere Port, the plant in Antwerp:

- already had recent experience of producing the Vectra model,
- was already familiar with operating as a flexible two-model plant,
- was already Andon trained and GBOP (Global Bill of Process) compliant.

(32) As the assumptions in the CBA concerning procurement and inward transportation costs have in the meantime been confirmed by data based upon actual production at the Ellesmere Port plant, there is no longer any reason to doubt them.

(33) However, the Commission's doubts have not been dispelled as regards the possible effects on United Kingdom sales of carrying out the project in Antwerp or as regards the possibility of industrial action.

(34) As regards the possible sales losses, the United Kingdom acknowledged that additional marketing costs would have been necessary to mitigate lost sales of Vectra models in the United Kingdom market if the project had

been awarded to Antwerp. However, the Commission considers that such a decision, in combination with the preceding Luton plant closure, would have had a detrimental effect on the Vauxhall brand, affecting United Kingdom sales not only of Vectra models but of all Vauxhall models. It has therefore based its calculation on potential sales losses of all Vauxhall models during 2002. The Commission estimated the necessary additional marketing costs on the basis of its external experts' assessment at GBP 1.284 million. The Commission agrees with the assumption that such an effect would be limited in time and scope, as the 'emotional' customer reaction to a location decision in favour of Antwerp would be dissipated over time.

(35) As regards the possibility of industrial action in the United Kingdom if Ellesmere Port had lost a shift of production, the United Kingdom considers it plausible to assume that a half-day stoppage could have resulted (as the earlier Luton plant closure resulted in only one day of stoppage). That corresponds to the loss of one shift. However, it is difficult to accept that exactly half the workforce would decide for industrial action and the other half against it. It is therefore prudent to assume that there would have been a full-day stoppage at the plant, resulting in costs of GBP 300 000.

(36) If that modification is made to the analysis, the cost-benefit result differs slightly from the one initially notified. Total additional costs if the Vectra were produced in Antwerp, resulting from the two above effects, are estimated at GBP 1,584 million. Consequently, the net present value of the regional handicap amounts to GBP 16,532 million at Ellesmere Port. The net present value of the eligible costs at Ellesmere Port amounts to GBP 153,814 million, giving the project a regional handicap ratio of 10,7 %, compared with Antwerp.

(37) Finally, the question of a 'top-up' remains to be addressed, that is to say, a modification of the regional handicap ratio of between -2 and +4 percentage points, linked to variations in production capacity on the relevant market in the group concerned, and the assistance area status of the region. In this particular case, the results of the cost-benefit analysis obviate the need for this as the difference between the regional handicap ratio (10,7 %) and the planned aid intensity (6,4 %) is 4,3 percentage points, while the highest possible reduction according to the relevant Community guidelines would be -2 percentage points in Article 87(3)(c) regions.

Conclusion

(38) Thus the project is mobile and the aid is necessary for the realisation of the project. The aid intensity of the project (6,4 %) is lower than both the regional handicap ratio identified by the cost-benefit analysis (10,7 %) and the regional aid ceiling (15 % nge). The regional aid of

GBP 9,847 million (net present value) that the United Kingdom plans to grant for Vauxhall Motors Ltd is therefore compatible with the common market under Article 87(3)(c) of the Treaty.

- (39) According to the relevant Community guidelines, handicaps for which a specific aid will be granted under a different objective, such as training, may not be taken into account in the CBA. As a training cost handicap has been taken into account in the CBA, no further, specific training aid may be granted to the project,

HAS ADOPTED THIS DECISION:

Article 1

The State aid amounting to GBP 9,847 million (net present value), which the United Kingdom is planning to grant to Vauxhall Motors (UK) Ltd for investment in its plant at Ellesmere Port, is compatible with the common market within the meaning of Article 87(3)(c) of the Treaty.

Implementation of the aid is accordingly authorised.

Article 2

No further, specific training aid may be granted to the project.

Article 3

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 18 September 2002.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 28 January 2003

authorising Member States to provide for temporary derogations from Council Directive 2000/29/EC in respect of potatoes, other than potatoes intended for planting, originating in certain provinces of Cuba*(notified under document number C(2003) 338)*

(2003/63/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Directive 2002/89/EC⁽²⁾, and in particular Article 15(1) thereof,

Having regard to the request made by the United Kingdom,

Whereas:

- (1) Under Directive 2000/29/EC, potatoes, other than potatoes intended for planting, originating in Cuba, may in principle not be introduced into the Community. However, that Directive permits derogations from that rule, provided that there is no risk of spreading harmful organisms.
- (2) The early growing in Cuba of potatoes, other than potatoes intended for planting, from seed potatoes supplied by Member States has become an established practice. Part of the early supply of potatoes in the Community has been ensured by imports of such potatoes from Cuba.
- (3) Since 1987 by a succession of Decisions, the most recent being Commission Decision 2001/99/EC⁽³⁾, derogations from certain provisions of Directive 2000/29/EC, in respect of potatoes, other than potatoes intended for planting, originating in certain provinces of Cuba, have been authorised for limited periods and subject to specific conditions.
- (4) The circumstances justifying those derogations are still valid. There is no new information giving cause for revision of the specific conditions.
- (5) The Member States should therefore be authorised to grant derogations, for certain limited periods and subject to specific conditions.

(6) That authorisation to grant derogations should be terminated if it is established that the specific conditions laid down in this Decision are not sufficient to prevent the introduction of harmful organisms into the Community or have not been complied with.

(7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

By derogation from Article 4(1) of Directive 2000/29/EC with regard to the prohibitions referred to in Part A, point 12 of Annex III, Member States may permit the introduction into their territory of potatoes, other than potatoes intended for planting, originating in Cuba, under the conditions laid down in the Annex to this Decision.

Article 2

The Member States of importation shall inform the other Member States and the Commission by means of the notification referred to in point 2(b) of the Annex of any use made of the authorisation provided for in Article 1.

The Member States of importation shall provide the Commission and the other Member States, before 1 September 2003, 1 September 2004 and 1 September 2005, with the information on the quantities imported pursuant to this Decision and with a detailed technical report of the official examination referred to in point 2(f) of the Annex. Copies of each phytosanitary certificate shall be transmitted to the Commission.

Article 3

Article 1 shall apply to potatoes, other than potatoes intended for planting, that are introduced into the Community, in the periods:

- (i) between 1 February 2003 and 31 May 2003;
- (ii) between 1 January 2004 and 31 May 2004;
- (iii) between 1 January 2005 and 31 May 2005.

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

⁽²⁾ OJ L 355, 30.12.2002, p. 45.

⁽³⁾ OJ L 36, 7.2.2001, p. 5.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 28 January 2003.

For the Commission
David BYRNE
Member of the Commission

ANNEX

SPECIFIC CONDITIONS APPLYING TO POTATOES, ORIGINATING IN CUBA, BENEFITING FROM THE DEROGATION PROVIDED FOR IN ARTICLE 1 OF THIS DECISION

1. Potatoes, other than potatoes intended for planting, introduced pursuant to Article 1, shall satisfy the following conditions, in addition to the requirements laid down in Annexes I, II and IV to Directive 2000/29/EC:
 - (a) either be immature, i.e. 'unsuberised' potatoes with loose skin, or have been treated for the suppression of their faculty of germination;
 - (b) have been grown in the provinces Ciego de Ávila, La Habana, Matanzas or Pinar del Río in areas where *Ralstonia solanacearum* (Smith) Yabuuchi et al. is known not to occur;
 - (c) belong to varieties of the seed potatoes which were imported into Cuba only from Member States or from any other country for which the entry into the Community of potatoes intended for planting is not prohibited pursuant to Annex III to Directive 2000/29/EC;
 - (d) have been grown in one of the provinces referred to in (b) directly from seed potatoes certified in one of the Member States or, from seed potatoes certified in any other country for which the entry into the Community of potatoes intended for planting is not prohibited pursuant to Annex III to Directive 2000/29/EC; or from the first direct progeny of such seed potatoes, which have been grown in the provinces referred to in (b), officially certified and qualified as seed potatoes in accordance with the current rules applicable in Cuba;
 - (e) have been grown either on farms which have not grown potatoes of varieties other than those specified in (c) during the previous five years, or, in the case of State farms, on parcels of land which are kept separate from other land where potatoes of varieties other than those specified in (c) have been grown during the last five years;
 - (f) have been handled by machinery which is reserved for handling such potatoes or which has been disinfected in an appropriate manner after each use for other purposes;
 - (g) not have been in store-houses where potatoes of varieties other than those specified in (c) have been stored;
 - (h) be packed either in new bags or in containers which have been disinfected in an appropriate manner; and an official label shall be applied to each bag or container, bearing the information specified in point 3;
 - (i) prior to export, have been cleaned free from soil, leaves and other plant debris;
 - (j) be accompanied by a phytosanitary certificate issued in Cuba in accordance with Articles 7 and 13 of Directive 2000/29/EC, on the basis of the examination laid down therein, in particular certifying freedom from the harmful organism mentioned in (b).

The certificate shall state:

- under 'Additional declaration':
 - a statement 'In accordance with EC requirements laid down in Decision 2003/63/EC',
 - name of variety,
 - identification number or name of the farm where the potatoes have been grown and its location,
 - reference allowing the identification of seed lot used in accordance with (d),
 - under 'Disinfestation and/or disinfection treatment', all information related to the possible treatments referred to in (a) second option and/or (h).
2. (a) The potatoes shall be introduced through points of entry designated for the purpose of the authorisation referred to in Article 1 by the Member State in which they are situated; these points of entry and the name and address of the responsible official body referred to in Directive 2000/29/EC in charge of each point of entry shall be notified sufficiently in advance by the Member State to the Commission and shall be made available on request to other Member States. If the introduction into the Community takes place in a Member State other than the Member State making use of the authorisation referred to in Article 1, the responsible official bodies of the Member State of introduction shall inform and cooperate with the responsible official bodies of the Member States making use of such authorisation to ensure that the provisions of this Decision are complied with;
 - (b) prior to introduction into the Community, the importer shall be officially informed of the conditions laid down in paragraphs 1(a) to (j), and 2(a) to (e); the said importer shall notify details of each introduction sufficiently in advance to the responsible official bodies in the Member State of introduction indicating:
 - the type of potatoes,
 - the quantity of potatoes,

- the declared date of introduction and point of entry into the Community,
- the premises referred to in (d).

The importer shall inform the responsible official bodies concerned of any changes to the above advance notification as soon as they are known and in any case prior to the time of importation of the potatoes.

The Member State concerned shall inform the Commission of the above details, and details of any changes to them without delay;

- (c) the inspections including testing, as appropriate, required pursuant to Article 13 of Directive 2000/29/EC and in accordance with provisions laid down in the present Decision, shall be made by the responsible official bodies, referred to in the said Directive; of these inspections, the plant health checks shall be carried out by the Member State making use of the authorisation referred to in Article 1.

Furthermore during the said plant health check that(those) Member State(s) shall also inspect and where appropriate test for all other harmful organisms. Without prejudice to the monitoring referred to in the second indent of Article 21(3), first possibility of the said Directive, the Commission shall determine to which extent the inspections referred to in the second indent of Article 21(3), second possibility of the said Directive shall be integrated into the inspection programme in accordance with the third subparagraph of Article 21(5) of that Directive;

- (d) the potatoes shall be packed and repacked only at premises which have been authorised and registered by the said responsible official bodies;
- (e) the potatoes shall be packed or repacked in closed packages that are ready for direct delivery to retailers or to final consumers, and which do not exceed a weight common in the Member State of introduction for that purpose, up to a maximum of 25 kilograms; the packaging shall bear the number of the registered premises referred to in (d), and that of the Cuban origin;
- (f) Member States making use of the authorisation referred to in Article 1 shall, where appropriate, in cooperation with the Member State of introduction ensure that at least two samples of 200 tubers shall be drawn from each consignment of 50 tonnes or part thereof, of imported potatoes pursuant to this Decision, for official examination in respect of *Ralstonia solanacearum* (Smith) Yabuuchi et al. and *Clavibacter michiganensis* ssp. *sepedonicus* (Spieckermann et Kotthoff) Davis et al., in accordance with the Community established methods for the detection and diagnosis of those harmful organisms. The tubers shall also be officially examined for potato spindle tuber viroid using the return-PAGE method, or c-DNA hybridisation procedure.

Moreover, the tubers shall be officially examined for the presence of *Meloidogyne chitwoodi* Golden et al. (all populations) or *Meloidogyne fallax* Karssen.

In the case of suspicion of the presence of any of the harmful organisms referred to in the first subparagraph, the lots shall remain separate under official control and may not be marketed or used until it has been established that the presence of those harmful organisms was not detected in those examinations.

3. As referred to in point 1(h), each bag or container shall bear the following information:
- (a) name of the authority issuing the label;
 - (b) name of the exporter's organisation, if available;
 - (c) mark stating: 'potatoes other than potatoes intended for planting of Cuban origin';
 - (d) variety;
 - (e) province of production;
 - (f) size of the potatoes;
 - (g) declared net weight of the potatoes;
 - (h) statement: 'In accordance with EU requirements laid down in Decision 2003/63/EC'.
 - (i) a mark printed or stamped on behalf of the Cuban plant protection authority.
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COMMISSION DECISION

of 28 January 2003

on provisional measures to prevent the introduction into and the spread within the Community of pepino mosaic virus as regards tomato plants, intended for planting*(notified under document number C(2003) 339)*

(2003/64/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Directive 2002/89/EC⁽²⁾, and in particular the third sentence of Article 16(3) thereof,

Whereas:

- (1) In late 1999 and early 2000, Germany, France, the Netherlands and the United Kingdom informed the other Member States and the Commission of outbreaks of pepino mosaic virus on tomato crops in their respective countries and of the measures taken to control it.
- (2) By Commission Decision 2001/536/EC⁽³⁾, Member States were provisionally required to take measures against the introduction into and the spread within the Community of pepino mosaic virus as regards tomato plants, intended for planting, other than seeds.
- (3) In official surveys carried out by Member States pursuant to Decision 2001/536/EC, new outbreaks have been detected. Moreover, pepino mosaic virus is present in several third countries.
- (4) Pepino mosaic virus is currently not listed in Annex I or Annex II to Directive 2000/29/EC. However, a preliminary pest risk analysis carried out by several Member States based on available scientific information has demonstrated that pepino mosaic virus and its damaging effects could be of significant plant health concern to the Community, in particular for protected tomato production. The risk to out-door production of tomatoes and of other solanaceae crops, especially potatoes, has not yet fully been established. The Commission has asked the Member States to continue scientific research work and to deliver an opinion on the risk of pepino mosaic virus to out-door production of tomatoes and of other solanaceae crops. At this stage, the scientific work performed on the pepino mosaic virus has not provided sufficient clarification to revise that preliminary pest risk analysis.

- (5) Accordingly, as Decision 2001/536/EC has expired, it is necessary to provide for provisional measures against pepino mosaic virus.
- (6) The source of contamination on premises involved in tomato fruit production has not been identified to date. The Member States should therefore conduct official surveys to determine the sources of contamination as well as the pathway of introduction.
- (7) Although the role of tomato seed as source of infection is not yet fully clarified, it is likely that seed plays an important role. Consequently the measures set out in this Decision should also apply to tomato seeds.
- (8) Those measures should apply to the introduction or the spread within the Community of pepino mosaic virus, the inspection of tomato plants intended for planting, originating in third countries and the movement of tomato plants, intended for planting. They should also include more general monitoring for the presence of pepino mosaic virus in the Member States.
- (9) It is appropriate that the results of such measures be continually assessed, and possible subsequent measures be considered in the light of the results of that assessment. The subsequent measures should also take into account the information to be provided and the scientific opinion to be delivered by the Member States.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

The introduction into and movement within the Community of plants of tomato, *Lycopersicon lycopersicum* (L.) Karsten ex Farw., intended for planting, contaminated by pepino mosaic virus shall be prohibited.

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

⁽²⁾ OJ L 355, 30.12.2002, p. 45.

⁽³⁾ OJ L 193, 17.7.2001, p. 26.

Article 2

Plants of tomato, intended for planting, originating in third countries, shall meet the conditions laid down in points 1 or 2 of the Annex. They shall be inspected on entry into the Community for the presence of pepino mosaic virus, in accordance with Article 13(1)(a) of Directive 2000/29/EC, *mutatis mutandis*.

Article 3

1. Plants of tomato, intended for planting, may not be moved from their place of production unless they meet the conditions laid down in points 3 or 4 of the Annex.

2. The first paragraph shall not apply to movement of plants intended for sale to final consumers not involved in professional plant production, provided that the packaging of the plants or other indications clearly show that they are intended for sale to such consumer.

Article 4

Member States shall conduct official surveys at least on premises involved in the production of tomato plants and tomato fruit, for the presence of pepino mosaic virus.

Without prejudice to Article 16(2) of Directive 2000/29/EC, the results of the surveys provided for in the first paragraph shall be notified to the Commission and to the other Member States by 30 September 2003.

Article 5

The Commission shall review the operation of this Decision by 31 October 2003 at the latest.

Article 6

This Decision shall cease to apply on 31 January 2004.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 28 January 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX

CONDITIONS REFERRED TO IN ARTICLES 2 AND 3

1. Without prejudice to the provisions of point 13 of Annex III of Directive 2000/29/EC, plants of tomato, intended for planting, other than seeds, originating in third countries shall be accompanied by a phytosanitary certificate referred to in Article 7 or 8 of Directive 2000/29/EC, stating that:
 - (a) they originate in areas in which pepino mosaic virus is known not to occur, or
 - (b) (i) no symptoms of pepino mosaic virus have been found at the place of production during inspections carried out at least once during the period the plants have been present at the place of production, or, where pepino mosaic virus had been found at the place of production, appropriate procedures have been implemented aiming at eradicating pepino mosaic virus, and subsequently the place of production has been found free from pepino mosaic virus in official inspections including random testing, and monitoring during an appropriate period, or
 - (ii) no pepino mosaic virus has been found by testing of leaf samples taken from plants, produced, grown or held at the place of production, at least once during a period of four weeks, or, where pepino mosaic virus had been found at the place of production, additional testing on each lot has been carried out and has found the lots free from pepino mosaic virus,and, in the case the said plants were grown on premises involved both in the production of tomato plants and tomato fruit, evidence is available that the production and packing of fruit has clearly been separated from production and packing of plants to avoid contamination.
 2. Seeds of tomato, originating in third countries shall be accompanied by a phytosanitary certificate as referred to in Article 7 or 8 of Directive 2000/29/EC, stating that they have been obtained by means of an appropriate acid extraction method, and
 - (a) that they originate in areas in which pepino mosaic virus is known not to occur, or
 - (b) that no symptoms of pepino mosaic virus have been observed on the plants at the place of production during their complete cycle of vegetation, or
 - (c) that they have undergone official testing for pepino mosaic virus, on a representative sample and using appropriate methods, and have been found, in these tests, free from pepino mosaic virus.
 3. Plants of tomato, intended for planting, other than seeds, originating in the Community may be moved from the place of production only:
 - (a) if they originate in areas in which pepino mosaic virus is known not to occur, or
 - (b) (i) if no symptoms of pepino mosaic virus have been found at the place of production during inspections carried out at least once during the period the plants have been present at the place of production, or, where pepino mosaic virus had been found at the place of production, after appropriate procedures have been implemented aiming at eradicating pepino mosaic virus, and subsequently the place of production has been found free from pepino mosaic virus in official inspections including random testing, and monitoring during an appropriate period, or
 - (ii) if no pepino mosaic virus has been found by testing of leaf samples taken from plants, produced, grown or held at the place of production, at least once during a period of four weeks, or, where pepino mosaic virus had been found at the place of production, after additional testing on each lot has been carried out and has found the lots free from pepino mosaic virus,and, in the case the said plants were grown on premises involved both in the production of tomato plants and tomato fruit, evidence is available that the production and packing of fruit has clearly been separated from production and packing of plants to avoid contamination.
 4. Seeds of tomato, originating in the Community, may be moved from the place of production only if they have been obtained by means of an appropriate acid extraction method and
 - (a) that they originate in areas in which pepino mosaic virus is known not to occur; or
 - (b) that no symptoms of pepino mosaic virus have been observed on the plants at the place of production during their complete cycle of vegetation; or
 - (c) that they have undergone official testing for pepino mosaic virus, on a representative sample and using appropriate methods, and have been found, in these tests, free from pepino mosaic virus.
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CORRIGENDA**Corrigendum to Commission Regulation (EC) No 1832/2002 of 1 August 2002 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff**

(Official Journal of the European Communities L 290 of 28 October 2002)

On page 465, in additional note 1, under 'Tool steel', fourth indent, third line:

for: '3,8 % Dot;or more ...',

read: '3,8 % or more ...'.

On page 753, in Annex 2, CN code 0809 20 05:

against the text 'Less than € 42,2 ⁽¹⁾':

in the third column:

for: '12,5 + 27,4 €/100 kg/net',

read: '12 + 27,4 €/100 kg/net'.

NOTE TO READERS

In accordance with point 38 of Article 2 of the Treaty of Nice which amends Article 254 of the Treaty establishing the European Community, the *Official Journal of the European Communities* will be known, as from the entry into force of the Treaty of Nice, namely 1 February 2003, as the *Official Journal of the European Union*.