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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 44/2000
of 10 January 2000
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 11 January 2000.

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

Done at Brussels, 10 January 2000.

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 10 January 2000 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	87,4
	204	62,2
	624	99,6
	999	83,1
0707 00 05	052	116,8
	628	132,5
	999	124,7
0709 90 70	052	129,0
	204	103,3
	999	116,2
0805 10 10, 0805 10 30, 0805 10 50	052	41,4
	204	39,6
	212	48,4
	220	26,4
	624	60,2
	999	43,2
0805 20 10	204	52,0
	999	52,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	83,4
	204	25,9
	464	110,3
	624	77,6
	999	74,3
0805 30 10	052	59,2
	624	91,6
	999	75,4
0808 10 20, 0808 10 50, 0808 10 90	400	83,7
	404	78,3
	720	95,1
	728	67,7
	999	81,2
0808 20 50	052	142,9
	064	64,8
	400	105,3
	720	89,9
	999	100,7

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2645/98 (OJ L 335, 10.12.1998, p. 22). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 45/2000
of 10 January 2000
on the issue of import licences for high-quality fresh, chilled or frozen beef and veal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 936/97 of 27 May 1997 opening and providing for the administration of tariff quotas for high-quality fresh, chilled and frozen beef and for frozen buffalo meat ⁽¹⁾, as last amended by Regulation (EC) No 134/1999 ⁽²⁾,

- (1) Whereas Regulation (EC) No 936/97 provides in Articles 4 and 5 the conditions for applications and for the issue of import licences for meat referred to in Article 2(f);
- (2) Whereas Article 2(f) of Regulation (EC) No 936/97 fixes the amount of high-quality fresh, chilled or frozen beef and veal originating in and imported from the United States of America and Canada which may be imported on special terms for the period 1 July 1999 to 30 June 2000 at 11 500 t;

- (3) Whereas it should be recalled that licences issued pursuant to this Regulation will, throughout the period of validity, be open for use only in so far as provisions on health protection in force permit,

HAS ADOPTED THIS REGULATION:

Article 1

1. All applications for import licences from 1 to 5 January 2000 for high-quality fresh, chilled or frozen beef and veal as referred to in Article 2(f) of Regulation (EC) No 936/97 shall be granted in full.
2. Applications for licences may be submitted, in accordance with Article 5 of Regulation (EC) No 936/97, during the first five days of February 2000 for 6 833,217 t.

Article 2

This Regulation shall enter into force on 11 January 2000.

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

Done at Brussels, 10 January 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 137, 28.5.1997, p. 10.

⁽²⁾ OJ L 17, 22.1.1999, p. 22.

COMMISSION REGULATION (EC) No 46/2000
of 10 January 2000
on the supply of split peas as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 ⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) The abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage;
- (2) Following the taking of a number of decisions on the allocation of food aid, the Commission has allocated split peas to certain beneficiaries;
- (3) It is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid ⁽²⁾; whereas it is necessary to specify the time limits and conditions of supply to determine the resultant costs;

- (4) In order to ensure that the supplies are carried out, provision should be made for tenderers to be able to mobilise either green split peas or yellow split peas,

HAS ADOPTED THIS REGULATION:

Article 1

Split peas shall be mobilised in the Community, as Community food aid for supply to the recipients listed in the Annex, in accordance with Regulation (EC) No 2519/97, and under the conditions set out in the Annex.

Tenders shall cover either green split peas or yellow split peas. Tenders shall be rejected unless they specify the type of peas to which they relate.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

This Regulation shall enter into force on the 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, 10 January 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOTS A and B

1. **Action Nos:** 26/99 (A); 27/99 (B)
2. **Beneficiary** ⁽²⁾: WFP, (World Food Programme), via Cristoforo Colombo 426, I-00145 Roma
tel. (39-6) 65 13 29 88; fax 65 13 28 44/3; telex 62 66 75 WFP I
3. **Beneficiary's representative:** to be designated by the recipient
4. **Country of destination:** A: Eritrea; B: Uganda
5. **Product to be mobilised** ⁽⁸⁾: split peas
6. **Total quantity (tonnes net):** 4 000
7. **Number of lots:** 2 (A: 2 000 tonnes; B: 2 000 tonnes)
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁴⁾ ⁽⁷⁾: —
9. **Packaging** ⁽⁵⁾: see OJ C 267, 13.9.1996, p. 1 (2.1 A 1.(a), 2. (a) and B. (4) or (4.0 A 1. c, 2. (c) and B. 4)
10. **Labelling or marking** ⁽⁶⁾: see OJ C 114, 29.4.1991, p. 1 (IV. A. (3))
— Language to be used for the markings: English
— Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market. The product must originate from the Community.
12. **Specified delivery stage:** free at port of shipment
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:** —
— port or warehouse of transit: —
— overland transport route: —
17. **Period or deadline of supply at the specified stage:**
— first deadline: 28.2 to 19.3.2000
— second deadline: 13.3 to 2.4.2000
18. **Period or deadline of supply at the alternative stage:**
— first deadline: —
— second deadline: —
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
— first deadline: 25.1.2000
— second deadline: 8.2.2000
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn. Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussels telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund:** —

Notes:

- (¹) Supplementary information: André Debongnie (tel. (32-2) 295 14 65),
Torben Vestergaard (tel. (32-2) 299 30 50).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— phytosanitary certificate.
- (⁵) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking following by a capital 'R'.
- (⁶) Notwithstanding OJ C 114, 29.4.1991, point IV. A(3)(c) is replaced by the following: 'the words European Community' and point IV.A(3)(b) by the following: 'Split peas'.
- (⁷) Tenders shall be rejected unless they specify the type of peas to which they relate.
- (⁸) Yellow or green peas (*Pisum sativum*) for human consumption of the most recent crop. The peas must not have been coloured artificially. The split peas must be steam-treated for at least two minutes or have been fumigated (*) and meet the following requirements:
— moisture: maximum 15 %,
— foreign matters: maximum 0,1 %,
— broken split peas: maximum 10 % (pea fragments passing through a sieve of circular mesh of 5 mm diameter).
— percentage of discoloured seeds or of different colour: maximum 1,5 % (yellow peas), maximum 15 % (green peas),
— cooking time: maximum 45 minutes (after soaking for 12 hours) or maximum 60 minutes (without soaking).
-

(*) The successful tenderer shall supply to the beneficiary or its representative, on delivery, a fumigation certificate.

COMMISSION REGULATION (EC) No 47/2000
of 10 January 2000
on the supply of vegetable oil as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 ⁽¹⁾, and in particular Article 24(1)(b) thereof,

- (1) Whereas the abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage;
- (2) Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated vegetable oil to certain beneficiaries;
- (3) Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid ⁽²⁾; whereas it is necessary to specify the time limits and conditions of supply to determine the resultant costs;
- (4) Whereas, in order to ensure that the supplies are carried out for a given lot, provision should be made for tenderers to be able to mobilise either rape-seed oil or sunflower oil; whereas the contract for the supply of

each such lot is to be awarded to the tenderer submitting the lowest tender,

HAS ADOPTED THIS REGULATION:

Article 1

Vegetable oil shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The supply shall cover the mobilisation of vegetable oil produced in the Community. Mobilisation may not involve a product manufactured and/or packaged under inward processing arrangements.

Tenders shall cover either rape-seed oil or sunflower oil. Tenders shall be rejected unless they specify the type of oil to which they relate.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

This Regulation shall enter into force on the 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, 10 January 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOT A

1. **Action No:** 25/99
2. **Beneficiary** ⁽²⁾: WFP (World Food Programme), via Cristoforo Colombo 426, I-00145 Roma
tel.: (39-6) 65 13 29 88; fax: 65 13 2844/3; telex 62 66 75 WFP I
3. **Beneficiary's representative:** to be designated by the recipient
4. **Country of destination:** Rwanda (via Dar-es-Salaam)
5. **Product to be mobilised:** refined rapeseed oil or refined sunflower oil
6. **Total quantity (tonnes net):** 1 136
7. **Number of lots:** 1
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁴⁾ ⁽⁵⁾: see OJ C 114, 29.4.1991, p. 1 (III.A.(1)(a) or (b))
9. **Packaging:** see OJ C 267, 13.9.1996, p. 1 (10.4A, B and C(2))
10. **Labelling or marking** ⁽⁵⁾: see OJ C 114, 29.4.1991, p. 1 (III.A(3))
 - Language to be used for the markings: French
 - Supplementary markings: —
11. **Method of mobilisation of the product:** mobilisation of refined vegetable oil produced in the Community. Mobilisation may not involve a product manufactured and/or packaged under inward-processing arrangements.
12. **Specified delivery stage:** free at port of shipment
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:** —
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 21.2 to 12.3.2000
 - second deadline: 6 to 26.3.2000
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: —
 - second deadline: —
19. **Deadline for the submission of tenders (12 noon, Brussels time):**
 - first deadline: 25.1.2000
 - second deadline: 8.2.2000
20. **Amount of tendering guarantee:** EUR 15 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn Mr T. Vestergaard Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel telex: 25670 AGREC B; fax: (32 2) 296 70 03/296 70 04 (exclusively)
22. **Export refund:** —

Notes:

- (¹) Supplementary information: André Debongnie (tel. (32 2) 295 14 65),
Torben Vestergaard (tel. (32 2) 299 30 50).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— health certificate.
- (⁵) Notwithstanding OJ C 114 of 29.4.1991, point IV.A(3)(c) is replaced by the following: 'the words "European Community"'.

- (⁶) Tenders shall be rejected unless they specify the type of peas to which they relate.

COMMISSION REGULATION (EC) No 48/2000
of 10 January 2000
on the supply of white sugar as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 ⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) the abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage;
- (2) following the taking of a number of decisions on the allocation of food aid, the Commission has allocated white sugar to certain beneficiaries;
- (3) it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied

pursuant to Council Regulation (EC) No 1292/96 as Community food aid ⁽²⁾; it is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

White sugar shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

This Regulation shall enter into force on the 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, 10 January 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOTS A, B, C

1. **Action No:** 32/99 (A1); 33/99 (A2); 34/99 (A3); 35/99 (B); 36/99 (C)
2. **Beneficiary** ⁽²⁾: WFP (World Food Programme), via Cristoforo Colombo 426, I-00145 Roma
tel. (39-6) 65 13 29 88; fax 65 13 28 44/3; telex 626675 WFP I
3. **Beneficiary's representative:** to be designated by the recipient
4. **Country of destination:** A1: Burundi; A2: Tanzania; A3: Rwanda; B: Azerbaijan; C: Georgia
5. **Product to be mobilised:** white sugar
6. **Total quantity (tonnes net):** 1 499
7. **Number of lots:** 3 (A: 500 tonnes (A1: 100 tonnes; A2: 200 tonnes; A3: 200 tonnes); B: 450 tonnes; C: 549 tonnes)
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁵⁾ ⁽⁸⁾: see OJ C 114, 29.4.1991, p. 1 (V.A(1))
9. **Packaging** ⁽⁷⁾: see OJ C 267, 13.9.1996, p. 1 (11.2.A 1.b, 2.b and B.4)
10. **Labelling or marking** ⁽⁶⁾: see OJ C 114, 29.4.1991, p. 1 (V.A(3))
— Language to be used for the markings: A1 to A3: French; B and C: English
— Supplementary markings: —
11. **Method of mobilisation of the product:** sugar produced in the Community in accordance with Article (1.2) of Council Regulation (EC) No 2038/1999 as follows: A or B sugar (points (e) and (f))
12. **Specified delivery stage:** free at port of shipment
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:** —
— port or warehouse of transit: —
— overland transport route: —
17. **Period or deadline of supply at the specified stage:**
— first deadline: 14.2 to 5.3.2000
— second deadline: 28.2 to 19.3.2000
18. **Period or deadline of supply at the alternative stage:**
— first deadline: —
— second deadline: —
19. **Deadline for the submission of tenders (12 noon, Brussels time):**
— first deadline: 25.1.2000
— second deadline: 8.2.2000
20. **Amount of tendering guarantee:** EUR 15 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Batiment Loi 130, bureau 7/46, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** ⁽⁴⁾: refund applicable to white sugar on 4.1.2000 fixed by Commission Regulation (EC) No 2813/1999 (OJ L 340, 31.12.1999, p. 89)

Notes:

- (¹) Supplementary information: André Debongnie (tel. (32-2) 295 14 65),
Torben Vestergaard (tel. (32-2) 299 30 50).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) Commission Regulation (EC) No 259/98 (OJ L 25, 31.1.1998, p. 39), is applicable as regards the export refund. The date referred to in Article 25 of the said Regulation is that indicated in point 22 of this Annex. The supplier's attention is drawn to the last subparagraph of Article 4(1) of the above Regulation. The photocopy of the export licence shall be sent as soon as the export declaration has been accepted (fax No (32-2) 296 20 05).
- (⁵) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— health certificate.
- (⁶) Notwithstanding OJ C 114 of 29.4.1991, point V.A.(3)(c) is replaced by the following: 'the words "European Community"'.

- (⁷) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁸) The rule provided at the second indent of Article 18(2)(a) of Commission Regulation (EEC) No 2103/77 (OJ L 246, 27.9.1977, p. 12), as last amended by Regulation (EC) No 260/96 (OJ L 34, 13.2.1996, p. 16), is binding for determination of the sugar category.

COMMISSION REGULATION (EC) No 49/2000**of 10 January 2000****amending Council Regulation (EC) No 1139/98 concerning the compulsory indication on the labelling of certain foodstuffs produced from genetically modified organisms of particulars other than those provided for in Directive 79/112/EEC**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs ⁽¹⁾, as last amended by Directive 97/4/EC of the European Parliament and of the Council ⁽²⁾, and in particular Article 4(2) thereof,

Whereas:

- (1) Council Regulation (EC) No 1139/98 ⁽³⁾ laid down the compulsory indication on the labelling of foods and food ingredients produced from genetically modified soya (*Glycine max* L.) covered by Commission Decision 96/281/EC ⁽⁴⁾ and genetically modified maize (*Zea mays* L.) covered by Commission Decision 97/98/EC ⁽⁵⁾, of particulars other than those provided for in Directive 79/112/EEC;
- (2) Council Regulation (EC) No 1139/98 acknowledged that adventitious contamination of foodstuffs with DNA or protein resulting from genetic modification cannot be excluded;
- (3) consequently, the Council, at the moment of adopting Council Regulation (EC) No 1139/98, invited the Commission to study the practicality of setting up *de minimis* thresholds for the presence of DNA or protein resulting from genetic modification in order to take account of the problem of adventitious contamination;
- (4) despite the fact that some operators avoid using genetically modified soya beans (*Glycine max* L.) or maize (*Zea mays* L.) or produce thereof as a source for their food ingredients, material derived from the said genetically modified organisms may be present in them as a result of adventitious contamination during e.g., cultivation, harvest, transport, storage and processing;
- (5) in the cases in which the presence of such material is adventitious and represents only a small proportion of a food ingredient considered, this food ingredient should not be subject to the labelling requirements of Regulation (EC) No 1139/98;
- (6) in order to achieve this objective, it is necessary to establish a *de minimis* threshold for the adventitious pres-

ence in food ingredients of material derived from the abovementioned genetically modified soya and maize;

- (7) for the purpose of clarity, it is appropriate to fix a threshold in terms of a single percentage value;
- (8) the value of 1 % best serves the purpose of establishing a tolerance level which simultaneously remains low and takes into account the necessary feasibility along the production chain. Detection methods already provide or shortly will, the necessary tools to implement this value. Nonetheless the 1 % value is to be seen as a maximum, and operators should therefore aim at achieving the lowest possible level of adventitious presence of the said material in practice;
- (9) it is appropriate to clarify that the 1 % value should be the tolerance level not only for the adventitious presence of material derived from the abovementioned genetically modified organisms, but for the combined adventitious presence of such material and any other material placed on the market pursuant to Regulation (EC) No 258/97 ⁽⁶⁾ derived from other genetically modified organisms;
- (10) the notion of material derived from the genetically modified organisms should be understood as referring to the part of each ingredient that is derived from the genetically modified organisms;
- (11) in order to establish that the presence of this material is adventitious, operators must be in a position to supply evidence to satisfy competent authorities that they have taken appropriate steps to avoid using as a source genetically modified soya beans (*Glycine max* L.) or maize (*Zea mays* L.), or any other additional genetically modified organisms whose derived material has been placed on the market pursuant to Regulation (EC) No 258/97, or produce thereof;
- (12) for the purposes of consistency with Directive 79/112/EEC, it is appropriate to apply the threshold at the level of food ingredients individually considered;
- (13) it should be clarified that the same approach is to be followed for the purpose of establishing a list of food ingredients not subject to the labelling requirements of Regulation (EC) No 1139/98 because of the absence of protein and DNA resulting from the genetic modification as specified in its Article 1(1);

⁽¹⁾ OJ L 33, 8.2.1979, p. 1.

⁽²⁾ OJ L 43, 14.2.1997, p. 21.

⁽³⁾ OJ L 159, 3.6.1998, p. 4.

⁽⁴⁾ OJ L 107, 30.4.1996, p. 10.

⁽⁵⁾ OJ L 31, 1.2.1997, p. 69.

⁽⁶⁾ OJ L 43, 14.2.1997, p. 1.

- (14) in any case, food ingredients are not subject to the labelling requirements of Regulation (EC) No 1139/98 when neither protein nor DNA resulting from the genetic modification as specified in Article 1(1) is present. In this light, it is appropriate to clarify that such list is not exhaustive;
- (15) in some cases foods comprise a single ingredient. It is therefore necessary to bring clarity as to how these foods should be considered for the purposes of establishing the abovementioned list and for the application of the threshold;
- (16) Directive 79/112/EEC applies to products which are delivered as such not only to the ultimate consumer, but also to mass caterers;
- (17) the measures provided for in this Regulation are in accordance with the opinion of the Standing Committee for foodstuffs,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1139/98 is modified as follows:

- 1. In Article 1(1), 'to the final consumer' is replaced by 'to the final consumer or mass caterers'.
- 2. Article 2 is modified as follows:
 - (a) Paragraph 2 is replaced by the following:

'2. The specified foodstuffs shall not be subject to the additional specific labelling requirements where:

 - (a) neither protein nor DNA resulting from genetic modification as specified in Article 1(1) is present in their food ingredients individually considered or the food comprising a single ingredient;

or

 - (b) material derived from the genetically modified organisms referred to in Article 1(1), together with any material placed on the market pursuant to

Regulation (EC) No 258/97 derived from other genetically modified organisms, is present in their food ingredients or the food comprising a single ingredient in a proportion no higher than 1 % of the food ingredients individually considered or food comprising a single ingredient, provided this presence is adventitious;

In order to establish that the presence of this material is adventitious, operators must be in a position to supply evidence to satisfy the competent authorities that they have taken appropriate steps to avoid using the genetically modified organisms (or produce thereof) referred to in the previous paragraph as a source.'

- (b) The following paragraph 2a is inserted:

'2a. In order to facilitate the application of paragraph 2(a), a non-exhaustive list of food ingredients or foods comprising a single ingredient in which neither protein nor DNA resulting from the genetic modification as specified in Article 1(1) is present, shall be drawn up under the procedure laid down in Article 17 of Directive 79/112/EEC, taking account of technical developments, the opinion of the Scientific Committee for food and any other relevant scientific advice.'

Article 2

The labelling requirements of Regulation (EC) No 1139/98 shall not apply to specified foodstuffs which are to be delivered as such to mass caterers which have been lawfully manufactured and labelled in the Community, or which have been lawfully imported into the Community and put into free circulation, before the entry into force of this Regulation.

Article 3

This Regulation shall enter into force on the ninetieth 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, 10 January 2000.

For the Commission

Erkki LIIKANEN

Member of the Commission

COMMISSION REGULATION (EC) No 50/2000**of 10 January 2000****on the labelling of foodstuffs and food ingredients containing additives and flavourings that have been genetically modified or have been produced from genetically modified organisms**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 99/112/EEC of 18 December 1998 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs ⁽¹⁾, as last amended by Directive 97/4/EC of the European Parliament and the Council ⁽²⁾, and in particular Article 4(2) thereof,

Whereas:

(1) Regulation (EC) No 258/97 of the European Parliament and of the Council concerning novel foods and novel food ingredients ⁽³⁾ does not apply to additives and flavourings intended to be used in foodstuffs as, for the purpose of testing these substances for their safety evaluation, they come under other Community provisions, namely Council Directive 89/107/EEC of 21 December 1988 on the approximation of the laws of the Member States concerning food additives authorised for use in foodstuffs intended for human consumption ⁽⁴⁾, as amended by Directive 94/34/EEC of the European Parliament and of the Council ⁽⁵⁾, and Council Directive 88/388/EEC of 22 June 1988 on the approximation of the laws of the Member States relating to flavourings for use in foodstuffs and to source materials for their production ⁽⁶⁾, as amended by Commission Directive 91/71/EEC ⁽⁷⁾;

(2) these additives and flavourings are also excluded from the scope of Council Regulation (EC) No 1139/98 of 26 May 1998 concerning the compulsory indication, on the labelling of certain foodstuffs produced from genetically modified organisms, of particulars other than those provided for in Directive 79/112/EEC ⁽⁸⁾;

(3) a consequence of this exclusion is that additives and flavourings that have been genetically modified or have been produced from genetically modified organisms and are used as ingredients in foodstuffs are not subject to the specific labelling provisions laid down in Article 8 of Regulation (EC) No 258/97 and the labelling provisions laid down in Article 2 of Regulation (EC) No 1139/98;

(4) it is important that consumers should also be informed of the use of additives or flavourings that have been genetically modified or have been produced through genetic engineering as they are already informed of the presence of other ingredients containing or produced from genetically modified organisms;

(5) some Member States have served notice of their intention to impose at national level indications on labelling informing consumers of the use of additives and/or flavourings produced from genetically modified organisms;

(6) such provisions are likely to create new obstacles to intra-Community trade;

(7) the Commission, in its Decision 98/613/EC of 21 October 1998 concerning a draft decree of the Republic of Austria concerning the identification of genetically modified additives and flavourings ⁽⁹⁾, took the view, with the agreement of the Member States, that the most satisfactory solution would be to draw up Community provisions on labelling;

(8) accordingly, it would be useful to make it obligatory to indicate on the labelling of the foodstuffs concerned that the additives or flavourings used are or contain genetically modified organisms or have been produced from such organisms, in accordance with the same principles as those laid down for the labelling of ingredients that are, contain, or are produced from genetically modified organisms;

(9) the provisions of this Regulation do not apply to additives and flavourings sold as such to the final consumer. Separate measures imposing similar obligatory labelling for additives and flavourings should be introduced;

(10) in particular, in accordance with the approach adopted in Article 8 of Regulation (EC) No 258/97, it is necessary to ensure that the final consumer is informed of any characteristic or food property such as composition, nutritional value or nutritional effects or the intended use of the food, which renders this food or food ingredient no longer equivalent to an existing food or food ingredient. To this end additives and flavourings that have been genetically modified or have been produced from genetically modified organisms that are not equivalent to their traditional counterparts must be subject to labelling requirements;

⁽¹⁾ OJ L 33, 8.2.1979, p. 1.

⁽²⁾ OJ L 43, 14.2.1997, p. 21.

⁽³⁾ OJ L 43, 14.2.1997, p. 1.

⁽⁴⁾ OJ L 40, 11.2.1989, p. 27.

⁽⁵⁾ OJ L 237, 10.9.1994, p. 1.

⁽⁶⁾ OJ L 184, 15.7.1988, p. 61.

⁽⁷⁾ OJ L 42, 15.2.1991, p. 25.

⁽⁸⁾ OJ L 159, 3.6.1998, p. 4.

⁽⁹⁾ OJ L 291, 30.10.1998, p. 35.

- (11) in accordance with the approach adopted in Article 8 of Regulation (EC) No 258/97, labelling requirements must be based on scientific assessment;
- (12) clear labelling rules should be formulated for the above-mentioned products so as to ensure that official inspections can be carried out on the basis of reliable, reproducible and practicable data;
- (13) care should also be taken to ensure that the labelling requirements are not excessively complex but nevertheless sufficiently detailed to provide consumers with the information they need;
- (14) Regulation (EC) No 1139/98 specifies the criterion according to which the labelling obligations become operative for food produced from genetically modified maize or soya;
- (15) the presence in additives and, flavourings used as ingredients in a foodstuff of protein or DNA resulting from genetic modification is, as matters stand, also the criterion that best meets the abovementioned requirements. Such an approach could be re-examined in the light of new scientific evidence;
- (16) in view of the scope and consequences of the proposed action, the Community measures introduced by this Regulation are not only necessary but indeed essential to achieve the objectives;
- (17) adventitious contamination of additives and flavourings with DNA or protein resulting from genetic modification cannot be excluded; it is useful to examine the possibility of setting up a threshold in order to avoid labelling as a result of such contamination;
- (18) the measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Foodstuffs,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation provides for specific additional labelling requirements for food and food ingredients intended for final consumers and mass caterers hereinafter referred to as 'specified foodstuffs') containing additives and/or flavourings as described in paragraph 2 (hereinafter referred to as 'specified additives and flavourings').
2. The following are specified additives and flavourings:
 - additives falling within the scope of Directive 89/107/EEC and/or
 - flavourings for use in foodstuffs falling within the scope of Directive 88/388/EEC

which are, contain or are produced from genetically modified organisms within the meaning of Council Directive 90/220/EEC⁽¹⁾.

Article 2

Without prejudice to the other requirements of Community legislation on food labelling, the labelling of the specified foodstuffs must inform final consumers and mass caterers of:

- (a) in accordance with Article 4(1), any characteristic or food property such as:
 - composition
 - nutritional value or nutritional effects
 - intended use of the additives, or flavourings
 as a result of which the specified additives or flavourings are no longer equivalent to existing additives or flavourings;
- (b) the presence in the specified additives or flavourings of material which is not present in existing equivalent additives or flavourings and which may affect the health of certain sections of the population;
- (c) the presence in the specified additives or flavourings of material which is not present in existing equivalent additives or flavourings and which gives rise to ethical concerns;
- (d) in accordance with Article 4(2), the presence of an additive or flavouring that is or contains an organism genetically modified by techniques of genetic modification, the non-exhaustive list of which is laid down in Annex I A, Part 1, of Directive 90/220/EEC.

Article 3

The specified additives or flavourings shall be deemed to be no longer equivalent within the meaning of Article 2(a) if scientific assessment, based upon an appropriate analysis of existing data, can demonstrate that the characteristics assessed are different in comparison with traditional additives or flavourings, having regard to the accepted limits of natural variations of such characteristics. This is the case where the specified additives or flavourings contain protein and/or DNA resulting from genetic modification.

Article 4

1. The additional specific labelling requirements with regard to the information referred to in Article 2(a) are as follows:

The words 'produced from genetically modified ...' shall appear in the list of ingredients provided for in Article 6 of Directive 79/112/EEC, in parentheses, immediately after the indication of the additive or flavouring in question.

Alternatively, this wording may appear in a prominently displayed footnote to the list of ingredients, linked to the additive or the flavouring concerned by an asterisk (*). It shall be printed in a font that is at least of the same size as that used for the list of ingredients itself.

⁽¹⁾ OJ L 117, 8.5.1990, p. 15.

For specified foodstuffs for which there is no list of ingredients, this wording shall appear clearly on the product's label.

2. The additional specific labelling requirements with regard to the information referred to in Article 2(d) are as follows:

The words 'genetically modified' shall appear in the list of ingredients immediately after the indication of the additive or flavouring in question.

Alternatively, this wording may appear in a prominently displayed footnote to the list of ingredients, linked to the additive or the flavouring concerned by an asterisk (*). It shall be printed in a font that is at least of the same size as that used for the list of ingredients itself.

For specified foodstuffs for which there is no list of ingredients, this wording shall appear clearly on the product's label.

Article 5

This Regulation shall not apply to specified foodstuffs lawfully manufactured and labelled in the Community or lawfully imported into the Community and put into free circulation before the entry into force of this Regulation.

Article 6

This Regulation shall enter into force 90 days 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, 10 January 2000.

For the Commission

Erkki LIIKANEN

Member of the Commission

COMMISSION REGULATION (EC) No 51/2000
of 10 January 2000
amending Commission Regulation (EC) No 1040/1999 adopting a protective measure applying to
imports of garlic originating in China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1257/1999 ⁽²⁾, and in particular Article 31(2) thereof,

Whereas:

- (1) Commission Regulation (EEC) No 1859/93 of 12 July 1993 on the application of the system of import licences for garlic imported from third countries ⁽³⁾, as amended by Regulation (EC) No 1662/94 ⁽⁴⁾, stipulates that the release for free circulation in the Community of garlic imported from third countries is subject to the presentation of import licences.
- (2) The fourth indent of the first subparagraph of Article 5(1) of Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽⁵⁾, as last amended by Regulation (EC) No 1127/1999 ⁽⁶⁾, lays down that 'a licence shall not be required and may not be produced for the purposes of operations relating to quantities such that the amount of the security for the corresponding licence would be EUR 5 or less'.
- (3) Article 1 of Commission Regulation (EC) No 1040/1999 of 20 May 1999 adopting a protective measure applying to imports of garlic originating in China ⁽⁷⁾, as last

amended by Regulation (EC) No 2555/1999 ⁽⁸⁾, lays down the conditions for issuing import licences for garlic originating in China for the period 1 June 1999 to 31 May 2000.

- (4) It is necessary to prevent possible abuse of the above provisions of Regulation (EEC) No 3719/88 by regular and repeated imports of small quantities of garlic from China which combine to circumvent the aim of this protective measure. To this end, the fourth indent of the first subparagraph of Article 5(1) of Regulation (EEC) No 3719/88 should not apply to releases for free circulation of garlic originating in that country,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph 4 is added to Article 1 of Regulation (EC) No 1040/1999:

'4. The fourth indent of the first subparagraph of Article 5(1) of Regulation (EEC) No 3719/88 shall not apply, during the period referred to in paragraph 1, to releases for free circulation of garlic originating in China.'

Article 2

This Regulation shall enter into force on the third 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, 10 January 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.

⁽²⁾ OJ L 160, 26.6.1999, p. 80.

⁽³⁾ OJ L 170, 13.7.1993, p. 10.

⁽⁴⁾ OJ L 176, 9.7.1994, p. 1.

⁽⁵⁾ OJ L 331, 2.12.1988, p. 1.

⁽⁶⁾ OJ L 135, 29.5.1999, p. 48.

⁽⁷⁾ OJ L 127, 21.5.1999, p. 10.

⁽⁸⁾ OJ L 275, 26.10.1999, p. 11.

COMMISSION REGULATION (EC) No 52/2000**of 10 January 2000****on the rate of interest to be used for calculating the costs of financing intervention measures comprising buying-in, storage and disposal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1883/78 of 2 August 1978 laying down general rules for the financing of interventions by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section ⁽¹⁾, as last amended by Regulation (EC) No 1259/96 ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Article 3 of Commission Regulation (EEC) No 411/88 of 12 February 1988 on the method and the rate of interest to be used for calculating the costs of financing intervention measures comprising buying-in, storage and disposal ⁽³⁾, as last amended by Regulation (EEC) No 2623/1999 ⁽⁴⁾, lays down that the uniform interest rate used for calculating the costs of financing intervention measures is to correspond to the three months' and twelve months' forward Euribor rates with a weighting of one third and two thirds respectively;
- (2) the Commission fixes this rate before the beginning of each EAGGF Guarantee Section accounting year on the basis of the rates recorded in the six months preceding fixing;
- (3) Article 4(1) of Regulation (EEC) No 411/88 lays down that if the rate of interest costs borne by a Member State is lower for at least six months than the uniform interest rate fixed for the Community a specific interest rate is to

be fixed for that Member State; the Member State notified these costs to the Commission before the end of the accounting year; where no costs are notified by a Member State, the rate to be applied is determined on the basis of the reference interest rates set out in the Annex to the said Regulation;

- (4) the interest rates for the 2000 accounting year must be set, in line with those provisions;
- (5) the measures provided for in this Regulation are in accordance with the opinion of the EAGGF Committee,

HAS ADOPTED THIS REGULATION:

Article 1

For expenditure incurred during the 2000 EAGGF Guarantee Section accounting year:

1. the interest rate referred to in Article 3 of Regulation (EEC) No 411/88 shall be 2,9 %;
2. the specific interest rate referred to in Article 4 of Regulation (EEC) No 411/88 shall be 2,6 % for Ireland, and 2,7 % for Austria.

Article 2

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

It shall apply from 1 October 1999.

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

Done at Brussels, 10 January 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 216, 5.8.1978, p. 1.

⁽²⁾ OJ L 163, 2.7.1996, p. 10.

⁽³⁾ OJ L 40, 13.2.1988, p. 25.

⁽⁴⁾ OJ L 318, 11.12.1999, p. 14.

COMMISSION REGULATION (EC) No 53/2000
of 10 January 2000
fixing the definitive aid for oranges for the 1998/1999 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits ⁽¹⁾, as amended by Regulation (EC) No 858/1999 ⁽²⁾, and in particular Article 6 thereof,

Whereas:

- (1) Article 5(1) of Regulation (EC) No 2202/96 establishes a processing threshold of 1 189 000 tonnes for oranges. Article 5(2) of that Regulation provides that, for each marketing year, any overrun of the processing threshold is to be assessed on the basis of the average quantity processed with benefit of the aid during the last three marketing years, including the current marketing year. Article 5(3) of that Regulation provides that where an overrun has been established, the aid fixed for the current marketing year in the Annex to that Regulation is to be reduced by 1 % per 11 890 tonnes of the overrun;
- (2) in accordance with Article 22(1)(b) of Commission Regulation (EC) No 1169/97 of 26 June 1997 laying down detailed rules for the application of Council Regulation (EC) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits ⁽³⁾, as last amended by Regulation (EC) No 1082/1999 ⁽⁴⁾, the Member States have notified the Commission of the

quantities of oranges delivered for processing in respect of the 1998/1999 marketing year under Regulation (EC) No 2202/96. On the basis of those figures and of the quantities processed with aid in the 1996/97 and 1997/98 marketing years, an overrun of the processing threshold of 381 106 tonnes has been established. The aid for oranges laid down in the Annex to Regulation (EC) No 2202/96 for the 1998/1999 marketing year should accordingly be reduced by 32 %;

- (3) the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for fruit and vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

For the 1998/1999 marketing year, the aid for oranges laid down in the tables in the Annex to Regulation (EC) No 2202/96 is reduced by 32 %.

When the aid is paid, account shall be taken of advances paid in accordance with Article 15 of Regulation (EC) No 1169/97.

Article 2

This Regulation shall enter into force on the third 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, 10 January 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 297, 21.11.1996, p. 49.

⁽²⁾ OJ L 108, 27.4.1999, p. 8.

⁽³⁾ OJ L 169, 27.6.1997, p. 15.

⁽⁴⁾ OJ L 131, 27.5.1999, p. 24.

COMMISSION REGULATION (EC) No 54/2000
of 10 January 2000
determining the world market price for ungin­ned cotton and the rate for the aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

differences in product quality and the nature of offers and quotations; whereas these adjustments are specified in Article 2 of Regulation (EEC) No 1201/89;

Having regard to the Treaty establishing the European Community,

(3) Whereas application of the above rules gives the world market price for ungin­ned cotton indicated hereunder;

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 on cotton, as last amended by Council Regulation (EC) No 1553/95 ⁽¹⁾,

(4) Whereas the first subparagraph of Article 5(3a) of Regulation (EC) No 1554/95 stipulates that the advance payment rate for the aid is to be the guide price less the world market price and less a further amount calculated by the formula applicable when the guaranteed maximum quantity based on the revised production estimate for ungin­ned cotton plus at least 7,5 %; Commission Regulation (EC) No 2606/1999 ⁽⁶⁾ fixes the production estimate for the 1999/2000 marketing year, and the relevant percentage increase; whereas the application of this method results in the fixing of the advance payment rate for each Member State at the levels set out below,

Having regard to Council Regulation (EC) No 1554/95 of 29 June 1995 ⁽²⁾ laying down general rules for the system of aid for cotton and repealing Regulation (EEC) No 2169/81, as last amended by Regulation (EC) No 1419/98 ⁽³⁾, and in particular Articles 3, 4 and 5 thereof,

(1) Whereas Article 3 of Regulation (EC) No 1554/95 requires a world market price for ungin­ned cotton to be periodically determined from the world market price determined for gin­ned cotton, using the historical relationship between the two prices as specified in Article 1 (2) of Commission Regulation (EEC) No 1201/89 of 3 May 1989 laying down rules for implementing the system of aid for cotton ⁽⁴⁾, as last amended by Regulation (EC) No 1624/1999 ⁽⁵⁾; whereas if it cannot be determined in this way it is to be based on the last price determined;

HAS ADOPTED THIS REGULATION:

Article 1

1. The world market price for ungin­ned cotton as indicated in Article 3 of Regulation (EC) No 1554/95 is set at 19,674 EUR/100 kg.

(2) Whereas Article 4 of Regulation (EC) No 1554/95 requires the world market price for gin­ned cotton to be determined for a product of specific characteristics using the most favourable offers and quotations on the world market of those considered representative of the real market trend; whereas to this end an average is to be calculated of offers and quotations on one or more European exchanges for a cif product to a North European port from the supplier countries considered most representative as regards international trade; whereas these rules for determination of the world market price for gin­ned cotton provide for adjustments to reflect

2. The advance payment of the aid referred to in Article 5(3a), first subparagraph, of Regulation (EC) No 1554/95 is fixed at:

- 50,165 EUR/100 kg in Spain,
- 46,232 EUR/100 kg in Greece,
- 86,626 EUR/100 kg in other Member States.

Article 2

This Regulation shall enter into force on 11 January 2000.

⁽¹⁾ OJ L 148, 30.6.1995, p. 45.

⁽²⁾ OJ L 148, 30.6.1995, p. 48.

⁽³⁾ OJ L 190, 4.7.1998, p. 4.

⁽⁴⁾ OJ L 123, 4.5.1989, p. 23.

⁽⁵⁾ OJ L 192, 24.7.1999, p. 39.

⁽⁶⁾ OJ L 316, 10.12.1999, p. 36.

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

Done at Brussels, 10 January 2000.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 55/2000**of 10 January 2000****fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5 (2) (a) thereof,

Whereas:

pursuant to Article 2 (2) and Article 3 of abovementioned Regulation (EEC) No 4088/87, Community import and producer prices are fixed each fortnight for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses and apply for two-weekly periods; pursuant to Article 1b of Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down detailed rules for the application of the arrangements for the import into the Community of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽³⁾, as last amended by Regulation (EC) No 2062/

97 ⁽⁴⁾, those prices are determined for fortnightly periods on the basis of weighted prices provided by the Member States; those prices should be fixed immediately so the customs duties applicable can be determined; whereas, to that end, provision should be made for this Regulation to enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

The Community producer and import prices for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses as referred to in Article 1b of Regulation (EEC) No 700/88 for a fortnightly period shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 11 January 2000.

It shall apply from 12 to 25 January 2000.

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

Done at Brussels, 10 January 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.

⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 72, 18.3.1988, p. 16.

⁽⁴⁾ OJ L 289, 22.10.1997, p. 1.

ANNEX

(EUR/100 pieces)

Period: from 12 to 25 January 2000				
Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	14,07	10,06	39,75	15,14
Community import prices	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
Israel	9,90	8,91	14,55	12,14
Morocco	14,82	13,21	—	—
Cyprus	—	—	—	—
Jordan	—	—	—	—
West Bank and Gaza Strip	—	—	—	—

COMMISSION REGULATION (EC) No 56/2000**of 10 January 2000****suspending the preferential customs duties and re-establishing the Common Customs Tariff duty on imports of uniflorous (bloom) carnations originating in Israel**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

down the detailed rules for the application of the arrangements;

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco and the West Bank and the Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5(2)(b) thereof,

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

(2) Whereas Council Regulation (EC) No 1981/94 ⁽³⁾, as last amended by Commission Regulation (EC) No 2530/1999 ⁽⁴⁾, opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Egypt, Israel, Malta, Morocco and the West Bank and the Gaza Strip;

(3) Whereas Commission Regulation (EC) No 55/2000 ⁽⁵⁾ fixes the Community producer and import prices for carnations and roses for the application of the import arrangements;

(4) Whereas Commission Regulation (EEC) No 700/88 ⁽⁶⁾, as last amended by Regulation (EC) No 2062/97 ⁽⁷⁾, lays

(5) Whereas, on the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2(2) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for uniflorous (bloom) carnations originating in Israel; whereas the Common Customs Tariff duty should be re-established;

(6) Whereas the quota for the products in question covers the period 1 January to 31 December 2000; whereas, as a result, the suspension of the preferential duty and the reintroduction of the Common Customs Tariff duty apply up to the end of that period at the latest;

(7) Whereas, in between meetings of the Management Committee, the Commission must adopt such measures,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of uniflorous (bloom) carnations (CN code ex 0603 10 20) originating in Israel, the preferential customs duty fixed by Regulation (EC) No 1981/94 is hereby suspended and the Common Customs Tariff duty is hereby re-established.

Article 2

This Regulation shall enter into force on 12 January 2000.

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.

⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 199, 2.8.1994, p. 1.

⁽⁴⁾ OJ L 306, 1.12.1999, p. 17.

⁽⁵⁾ See page 23 of this Official Journal.

⁽⁶⁾ OJ L 72, 18.3.1988, p. 16.

⁽⁷⁾ OJ L 289, 22.10.1997, p. 1.

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

Done at Brussels, 10 January 2000.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 57/2000
of 10 January 2000
suspending the preferential customs duties and re-establishing the Common Customs Tariff duty
on imports of large-flowered roses originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco and the West Bank and the Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5(2)(b) thereof,

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

(2) Whereas Council Regulation (EC) No 1981/94 ⁽³⁾, as last amended by Commission Regulation (EC) No 2530/1999 ⁽⁴⁾, opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Egypt, Israel, Malta, Morocco, the West Bank and the Gaza Strip respectively;

(3) Whereas Commission Regulation (EC) No 55/2000 ⁽⁵⁾ fixes the Community producer and import prices for carnations and roses for the application of the import arrangements;

(4) Whereas Commission Regulation (EEC) No 700/88 ⁽⁶⁾, as last amended by Regulation (EC) No 2062/97 ⁽⁷⁾, lays down the detailed rules for the application of the arrangements;

(5) Whereas, on the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2(2) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for large-flowered roses originating in Israel; whereas the Common Customs Tariff duty should be re-established;

(6) Whereas the quota for the products in question covers the period 1 January to 31 December 2000; whereas, as a result, the suspension of the preferential duty and the reintroduction of the Common Customs Tariff duty apply up to the end of that period at the latest;

(7) Whereas, in between meetings of the Management Committee, the Commission must adopt such measures,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of large-flowered roses (CN code ex 0603 10 10) originating in Israel, the preferential customs duty fixed by Regulation (EC) No 1981/94 is hereby suspended and the Common Customs Tariff duty is hereby re-established.

Article 2

This Regulation shall enter into force on 12 January 2000.

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.

⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 199, 2.8.1994, p. 1.

⁽⁴⁾ OJ L 306, 1.12.1999, p. 17.

⁽⁵⁾ See page 23 of this Official Journal.

⁽⁶⁾ OJ L 72, 18.3.1988, p. 16.

⁽⁷⁾ OJ L 289, 22.10.1997, p. 1.

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

Done at Brussels, 10 January 2000.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 58/2000**of 10 January 2000****suspending the preferential customs duties and re-establishing the Common Customs Tariff duty
on imports of small-flowered roses originating in Israel**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco and the West Bank and the Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5 (2) (b) thereof,

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

(2) Whereas Council Regulation (EC) No 1981/94 ⁽³⁾, as last amended by Commission Regulation (EC) No 2530/1999 ⁽⁴⁾, opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Egypt, Israel, Malta, Morocco and the West Bank and the Gaza Strip;

(3) Whereas Commission Regulation (EC) No 55/2000 ⁽⁵⁾ fixes the Community producer and import prices for carnations and roses for the application of the import arrangements;

(4) Whereas Commission Regulation (EEC) No 700/88 ⁽⁶⁾, as last amended by Regulation (EC) No 2062/97 ⁽⁷⁾, lays down the detailed rules for the application of the arrangements;

(5) Whereas, on the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2 (2) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for small-flowered roses originating in Israel; whereas the Common Customs Tariff duty should be re-established;

(6) Whereas the quota for the products in question covers the period 1 January to 31 December 2000; whereas, as a result, the suspension of the preferential duty and the reintroduction of the Common Customs Tariff duty apply up to the end of that period at the latest;

(7) Whereas, in between meetings of the Management Committee, the Commission must adopt such measures,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of small-flowered roses (CN code ex 0603 10 10) originating in Israel, the preferential customs duty fixed by Regulation (EC) No 1981/94 is hereby suspended and the Common Customs Tariff duty is hereby re-established.

Article 2

This Regulation shall enter into force on 12 January 2000.

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.

⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 199, 2.8.1994, p. 1.

⁽⁴⁾ OJ L 306, 1.12.1999, p. 17.

⁽⁵⁾ See page 23 of this Official Journal.

⁽⁶⁾ OJ L 72, 18.3.1988, p. 16.

⁽⁷⁾ OJ L 289, 22.10.1997, p. 1.

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

Done at Brussels, 10 January 2000.

For the Commission
Franz FISCHLER
Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 2 December 1999

concerning the conclusion of the Agreement for scientific and technological cooperation between the European Community and the Argentine Republic

(2000/15/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 170, in conjunction with Article 300(2), first sentence of the first subparagraph, and Article 300(3), first subparagraph, thereof,

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

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

Whereas:

- (1) A Framework Agreement for trade and economic cooperation between the European Economic Community and the Argentine Republic ⁽³⁾ was concluded on 2 April 1990;
- (2) The European Community and the Argentine Republic are pursuing specific RTD programmes in areas of common interest;
- (3) On the basis of past experience, both sides have expressed a desire to establish a deeper and broader framework for the conduct of collaboration in science and technology;
- (4) This Cooperation Agreement in the field of science and technology forms part of the global cooperation between the European Community and the Argentine Republic;
- (5) By its Decision of 25 January 1999, the Council authorised the Commission to negotiate an Agreement for scientific and technological cooperation between the European Community and the Argentine Republic;
- (6) By its Decision of 29 July 1999, the Council decided that the Agreement for scientific and technological

cooperation was to be signed on behalf of the European Community;

- (7) The Agreement for scientific and technological cooperation was signed on 20 September 1999;
- (8) The Agreement for scientific and technological cooperation between the European Community and the Argentine Republic should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement for scientific and technological cooperation between the European Community and the Argentine Republic is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

Pursuant to Article 11 of the Agreement, the President of the Council shall give notification that the procedures necessary for the entry into force of the Agreement have been completed on the part of the Community.

Done at Brussels, 2 December 1999.

For the Council

The President

E. TUOMIOJA

⁽¹⁾ OJ C 274 E, 28.9.1999, p. 1.

⁽²⁾ Opinion delivered on 4 November 1999 (not yet published in the Official Journal).

⁽³⁾ OJ L 295, 26.10.1990, p. 67.

AGREEMENT

for scientific and technological cooperation between the European Community and the Argentine Republic

The EUROPEAN COMMUNITY (hereinafter referred to as the 'Community'),

on the one part, and

The ARGENTINE REPUBLIC (hereinafter referred to as 'Argentina'),

on the other part,

hereinafter referred to as the 'Parties',

CONSIDERING the Framework Agreement for trade and economic cooperation between the European Economic Community and the Argentine Republic of 2 April 1990;

CONSIDERING the importance of science and technology for their economic and social development;

CONSIDERING the ongoing scientific and technological cooperation between the Community and Argentina;

CONSIDERING that the Community and Argentina are currently pursuing research and technological activities, including demonstration projects as defined in Article 2(d), in a number of areas of common interest and that participation in each other's research and development activities on a basis of reciprocity will provide mutual benefits;

DESIRING to establish a formal basis for cooperation in scientific and technological research which will extend and strengthen the implementation of cooperative activities in areas of common interest and encourage the application of the results of such cooperation to their economic and social benefit;

CONSIDERING that this Agreement for scientific and technological cooperation is within the context of the global cooperation between Argentina and the Community,

HAVE AGREED AS FOLLOWS:

Article 1

Purpose

The Parties shall encourage, develop and facilitate cooperative activities between the Community and Argentina in fields of common interest where they are pursuing research and development activities in science and technology.

Community and Argentina and is designated as joint research in writing by the Parties or their institutions and agencies implementing the scientific research programmes. In the case where there is funding by only one Party the designation is made by that Party and the participant in that project. 'Demonstration projects' are projects designed to prove the viability of new technologies which offer a potential economic advantage but which cannot be commercialised directly;

Article 2

Definitions

For the purpose of this Agreement:

- (a) 'cooperative activity' means any activity which the Parties undertake or support, pursuant to this Agreement, and includes joint research;
- (b) 'information' means scientific or technical data, results or methods of research and development stemming from joint research and any other data deemed necessary by the participants to cooperative activities; including, as necessary, by the Parties themselves;
- (c) 'intellectual property' shall have the meaning defined in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm, on 14 July 1967;
- (d) 'joint research' means research, technological development or demonstration that is implemented with or without financial support from one or both Parties and that involves collaboration by participants from both the

- (e) 'participant' or research 'entities' means any person moral or private, any research institute or any other legal entity or firm established in the Community or in Argentina involved in cooperative activities including the Parties themselves.

Article 3

Principles

Cooperative activities shall be conducted on the basis of the following principles:

- (a) mutual benefit based on an overall balance of advantages;
- (b) reciprocal access to the activities of research and technological development undertaken by each Party;
- (c) timely exchange of information which may affect cooperative activities;
- (d) appropriate protection of intellectual property rights.

*Article 4***Areas of cooperative activities**

Cooperation under this Agreement may cover all the activities of research, technological development and demonstration, hereinafter referred to as 'RTD', included in the first activity of the framework programme as described in Article 164 of the Treaty establishing the European Community and all similar RTD activities in Argentina in the corresponding scientific and technological fields.

This Agreement does not affect the participation of Argentina, as a developing country, in Community activities in the field of research for development.

*Article 5***Forms of cooperative activities**

- (a) The Parties shall foster the participation of research entities in cooperative activities under this Agreement in conformity with their internal policies and regulations, with a view to providing comparable opportunities for participation in their scientific and technological research and development activities.
- (b) Cooperative activities may take the following forms:
 - participation of Argentine research entities in RTD projects under the first activity of the framework programme and reciprocal participation of research entities established in the Community in Argentine projects in similar sectors of RTD. Such a participation is subject to the rules and procedures applicable in the RTD programmes of each Party,
 - pooling of RTD projects already implemented according to the procedures applicable in the RTD programmes of each Party,
 - visits and exchanges of scientists and technical experts,
 - joint organisation of scientific seminars, conferences, symposia and workshops, as well as participation of experts in those activities,
 - concerted actions,
 - exchanges and sharing of equipment and materials,
 - exchanges of information on practices, laws, regulations, and programmes relevant to cooperation under this Agreement,
 - any other modality that would be recommended by the Steering Committee as provided for in Article 6(b) and deemed to be in conformity with the policies and procedures applicable in both Parties.

The joint RTD projects shall be implemented when the participants have developed a technology management plan, as indicated in the Annex to this Agreement.

*Article 6***Coordination and facilitation of cooperative activities**

- (a) For the purposes of this Agreement, the Parties shall appoint the following appropriate authorities, acting as executive agents, for the coordination and facilitation of cooperative activities: on behalf of Argentina, the Secretariat of Science and Technology of the Ministry of Culture and Education, or such other authority as Argentina may at any time notify with prior written notice; and, on behalf of the Community, the representatives of the European Commission.
- (b) The Executive Agents shall establish a RTD Cooperation Steering Committee, hereinafter referred to as the 'Steering Committee' for the management of this Agreement; this Committee shall consist of a similar number of official representatives of each Party; it shall establish its own rules of procedure.
- (c) The functions of the Steering Committee shall include:
 1. promoting and overseeing the different cooperative activities as mentioned in Article 4 of this Agreement as well as those that would be implemented in the framework of RTD cooperation for development;
 2. identifying, pursuant to Article 5(b), first indent, among the potential sectors for RTD cooperation, those priority sectors or subsectors of mutual interest in which a cooperation is sought;
 3. proposing, pursuant to Article 5(b), second indent, to the scientists of both Parties the pooling of their projects which would be of mutual benefit and complementary;
 4. making recommendations pursuant to Article 5(b), seventh indent;
 5. advising the Parties on ways to enhance and improve cooperation consistent with the principles set out in this Agreement;
 6. reviewing the efficient functioning and implementation of this Agreement
 7. annually providing a report to the Parties on the status, the level reached and the effectiveness of cooperation undertaken under this Agreement. This report will be transmitted to the Joint Committee established under the Framework Agreement for trade and economic cooperation between the European Economic Community and the Argentine Republic of 2 April 1990.

- (d) The Steering Committee shall, as a general rule, meet annually, preferably before the meeting of the Joint Committee established under the Framework Agreement for trade and economic cooperation between the European Economic Community and the Argentine Republic of 2 April 1990, and according to a jointly agreed schedule and shall report to it; the meetings should be held alternatively in the Community and in Argentina. Extraordinary meetings may be organised at the request of either Party.
- (e) Each Party shall bear the costs of its participation in the meetings of the Steering Committee. The costs other than those for travel and accommodation which are directly associated with meetings of the Steering Committee shall be borne by the host Party.

Article 7

Funding

- (a) Cooperative activities shall be subject to the availability of appropriated funds and in conformity with the applicable laws and regulations, policies and programmes of the Parties. The costs incurred by the participants in the cooperative activities will not lead to any transfer of funds from one Party to the other.
- (b) When specific cooperative schemes of one Party provide for financial support to participants from the other Party, any such grants, financial or other contributions from one Party to the participants of the other Party in support of those activities shall be granted tax and customs exemption in accordance with the laws and regulations applicable in the territories of each Party.

Article 8

Entry of personnel and equipment

Each Party shall take all reasonable steps and use its best efforts, within laws and regulations applicable in the territories of each Party, to facilitate entry to, sojourn and exit from its territory of persons, material, data and equipment involved in or used in cooperative activities identified by the Parties under the provisions of this Agreement.

Article 9

Diffusion and utilisation of information

The research entities established in Argentina which are involved in Community RTD projects shall follow, as regards the ownership, the diffusion and the utilisation of information

and as regards the intellectual property stemming from this involvement, the rules of diffusion of research results stemming from the Community RTD specific programmes as well as the provisions of the Annex to this Agreement.

The research entities established in the Community which are involved in Argentine RTD projects have, as regards the ownership, the diffusion, and the utilisation of information and as regards the intellectual property stemming from this involvement, the same rights and the same obligations as the Argentine research entities and are subject to the provisions of the Annex to this Agreement.

The Annex on intellectual property rights forms an integral part of this Agreement.

Article 10

Territorial application

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, and, on the other hand, to the territory of the Argentine Republic.

Article 11

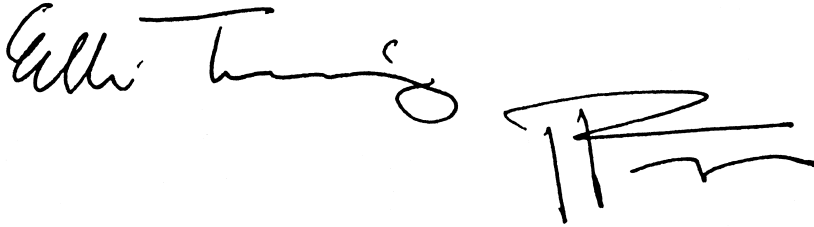
Entry into force, termination and dispute settlement

- (a) This Agreement shall enter into force on the date of the last of the written communications through which the Parties have notified each other that their respective internal procedures necessary for its entry into force have been completed.
- (b) This Agreement shall be concluded for an initial period of five years and may be tacitly renewed after evaluation during the penultimate year of each successive five-year period.
- (c) This Agreement may be amended by agreement of the Parties. Amendments shall enter into force under the same conditions as those defined in paragraph (a).
- (d) This Agreement may be terminated at any time by either Party upon six months' written notice via diplomatic channels. The expiration or termination of this Agreement shall not affect the validity or duration of any arrangements made under it, or any specific rights and obligations that have accrued in compliance with the Annex.
- (e) All questions or disputes related to the interpretation or implementation of this Agreement shall be settled by mutual agreement of the Parties.

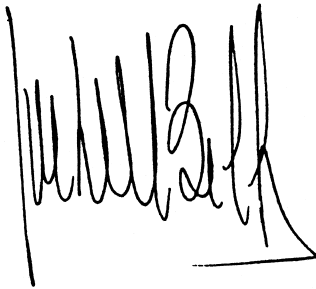
In witness whereof, the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Brussels on twentieth september nineteen ninety-nine, in duplicate, in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish languages, with each text being equally authentic.

For the European Community

The image shows two handwritten signatures. The first is a cursive signature that appears to be 'G. T.' followed by a long horizontal stroke. The second is a stylized signature consisting of several horizontal and vertical lines.

For the Argentine Republic

The image shows a handwritten signature consisting of several vertical and horizontal strokes, forming a stylized, somewhat abstract shape.

ANNEX

INTELLECTUAL PROPERTY RIGHTS

This Annex is an integral part of the 'Agreement for scientific and technological cooperation between the European Community and the Argentine Republic', hereinafter referred to as 'the Agreement'.

Rights to intellectual property created or furnished under the Agreement shall be allocated as provided in this Annex.

I. Application

This Annex is applicable to joint research undertaken pursuant to the Agreement, except as otherwise agreed by the Parties.

II. Ownership, allocation and exercise of rights

1. For purposes of this Annex 'intellectual property' (IP) is defined in Article 2(c) of the Agreement.
2. This Annex addresses the allocation of rights and interests of the Parties and their participants. Each Party and its participants shall ensure that the other Party and its participants may obtain the rights to intellectual property allocated to it in accordance with this Annex. This Annex does not otherwise alter or prejudice the allocation of rights, interests and royalties between a Party and its nationals or participants, which shall be determined by the laws and practices applicable to each Party.
3. The Parties shall also be guided by and contractual arrangements should provide for the following principles:
 - (a) effective protection of intellectual property. The Parties shall ensure that they and/or their participants notify one another within a reasonable time of the creation of any intellectual property arising under the Agreement of implementation arrangements and to seek protection for such intellectual property in a timely fashion;
 - (b) effective exploitation of results, taking into account the contributions of the Parties and their participants;
 - (c) non-discriminatory treatment of participants from the other Party as compared with the treatment given to its own participants;
 - (d) protection of Business-Confidential information.
4. The participants shall jointly develop a technology management plan (TMP) in respect of the ownership and use, including publication of information and intellectual property to be created in the course of joint research. The TMP shall be approved by the responsible funding agency or department of the Party involved in financing the research, before the conclusion of the specific research and development cooperation contracts to which they are attached. The TMP shall be developed within the rules and regulations in force at each Party taking into account the aims of the joint research, the relative financial or other contributions of the Parties and participants, the advantages and disadvantages of licensing by territory or for fields of use, the transfer of export-controlled data, goods or services, requirements imposed by the applicable laws and other factors deemed appropriate by the participants. The rights and obligations concerning the research generated by visiting researchers (i.e. researchers not coming from a Party or a participant) in respect of IP shall also be addressed in the joint technology management plans.

The TMP is a specific agreement to be concluded between the participants about the implementation of joint research and the respective rights and obligations of the participants.

With respect to IP, the TMP will normally address, among other things, ownership, protection, user rights for research and development purpose, exploitation and dissemination, including arrangements for joint publication, the rights and obligations of visiting researchers and dispute settlement procedures. The TMP may also address foreground and background information, licensing and deliverables.

5. Information or IP created in the course of joint research and not addressed in the technology management plan shall be allocated, with the approval of the Parties, according to the principles set out in the TMP. In case of disagreement, such information or IP shall be owned jointly by all the participants involved in the joint research from which the information or IP results. Each participant to whom this provision applies shall have the right to use such information or IP for his own commercial exploitation with no geographical limitation.
6. Each Party shall ensure that the other Party and its participants may have the rights to IP allocated to them in accordance with these principles.

7. While maintaining the condition of competition in areas affected by the Agreement, each Party shall endeavour to ensure that rights acquired pursuant to the Agreement and arrangements made under it are exercised in such a way as to encourage, in particular:
 - (i) the dissemination and use of information created, disclosed or otherwise made available, under the Agreement, and
 - (ii) the adoption and implementation of international standards.
8. Termination or expiry of the Agreement shall not affect rights or obligations under this Annex.

III. Copyright works and scientific literary works

Copyright belonging to the Parties or to their participants shall be accorded treatment consistent with the Berne Convention (Paris Act 1971). Copyright protection shall extend to expressions and not to ideas, procedures, methods of operation or mathematical concepts as such. Limitations or exceptions to exclusive rights will be confined to certain special cases which do not conflict with a normal exploitation of the work and do not reasonably prejudice the legitimate interests of the right holder.

Without prejudice to Section II, and unless otherwise agreed in the TMP, publication of results of research shall be made jointly by the Parties or participants to that joint research. Subject to the foregoing general rule, the following procedures shall apply:

1. In the case of publication by a Party or public bodies of that Party of scientific and technical journals, articles, reports, books, including video and software arising from joint research pursuant to the Agreement, the other Party shall be entitled to a world-wide, non-exclusive, irrevocable, royalty-free licence to translate, reproduce, adapt, transmit and publicly distribute such works.
2. The Parties shall ensure that literary works of a scientific character arising from joint research pursuant to the Agreement and published by independent publishers shall be disseminated as widely as possible.
3. All copies of a copyright work to be publicly distributed and prepared under this provision shall indicate the names of the author(s) of the work unless an author explicitly declines to be named. They shall also bear a clearly visible acknowledgement of the cooperative support of the Parties.

IV. Inventions, discoveries and other scientific and technological achievements

Inventions, discoveries and other scientific and technological achievements created under cooperative activities between the Parties themselves shall be owned by the Parties unless otherwise agreed by the Parties.

V. Undisclosed information

A. Documentary undisclosed information

1. Each Party, its agencies or its participants, as appropriate, shall identify at the earliest possible moment and preferably in the TMP the information that they wish to remain undisclosed in relation to the Agreement, taking into account *inter alia* the following criteria:
 - (a) secrecy of the information in the sense that it is not, as a body or in the precise configuration or assembly of its components, generally known among or readily accessible by lawful means to experts in the fields;
 - (b) the actual or potential commercial value of the information by virtue of its secrecy;
 - (c) previous protection of the information in the sense that it has been subject to steps that were reasonable under the circumstances by the person lawfully in control, to maintain its secrecy.

The Parties and their participants may in certain cases agree that, unless otherwise indicated, parts or all of the information provided, exchanged or created in the course of joint research pursuant to the Agreement may not be disclosed.

2. Each Party shall ensure that it and its participants clearly identify undisclosed information, for example by means of an appropriate marking or restrictive legend. This also applies to any reproduction of the said information, in whole or in part.

A Party receiving undisclosed information pursuant to the Agreement shall respect the privileged nature thereof. These limitations shall automatically terminate when this information is disclosed by the owner into the public domain.

3. Undisclosed information communicated under the Agreement may be disseminated by the receiving Party to persons within or employed by the receiving Party and other concerned departments or agencies in the receiving Party authorised for the specific purposes of the joint research under way, provided that any undisclosed information so disseminated shall be pursuant to an agreement of confidentiality and shall be readily recognisable as such, as set out above.

4. With the prior written consent of the Party providing undisclosed information, the receiving Party may disseminate such undisclosed information more widely than otherwise permitted in paragraph 3. The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party will grant such approval to the extent permitted by its domestic policies, regulations and laws.

B. *Non-documentary undisclosed information*

Non-documentary undisclosed or other confidential information provided in seminars and other meetings arranged under the Agreement, or information arising from the attachment of staff, use of facilities, or joint projects, shall be treated by the Parties or their participants according to the principles specified for documentary information in the Agreement; provided, however, that the recipient of such undisclosed or other confidential or privileged information has been made aware of the confidential character of the information communicated at the time such communication is made.

C. *Control*

Each Party shall endeavour to ensure that undisclosed information received by it under the Agreement shall be controlled as provided herein. If one of the Parties becomes aware that it will be, or may be reasonably expected to become, unable to meet the non-dissemination provisions of Sections A and B, it shall immediately inform the other Party. The Parties shall be thereafter consulted to define an appropriate course of action.

COUNCIL DECISION
of 2 December 1999
concluding the Agreement for scientific and technological cooperation between the European
Community and the Government of the People's Republic of China

(2000/16/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 170, in conjunction with Article 300(2), first sentence, and Article 300(3), first subparagraph, thereof,

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

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

Whereas:

- (1) The Community and the People's Republic of China are pursuing specific research and technological development (RTD) programmes in areas of common interest;
- (2) On the basis of past experience, both sides have expressed a desire to establish a deeper and broader framework for the conduct of collaboration in science and technology;
- (3) Cooperation in the field of science and technology forms part of the global cooperation between the Community and the People's Republic of China;
- (4) By its Decision of 22 June 1998, the Council authorised the Commission to negotiate an Agreement for scientific and technological cooperation between the Community and the Government of the People's Republic of China ('Agreement');
- (5) By its Decision of 22 December 1998, the Council decided that the Agreement be signed on behalf of the Community;

(6) The Agreement was signed on 22 December 1998;

(7) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement for scientific and technological cooperation between the European Community and the Government of the People's Republic of China is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

Pursuant to Article 11 of the Agreement, the President of the Council shall give the notification that the procedures necessary for the entry into force of the Agreement have been completed on the part of the Community ⁽³⁾.

Done at Brussels, 2 December 1999.

For the Council

The President

E. TUOMIOJA

⁽¹⁾ OJ C 247 E, 31.8.1999, p. 32.

⁽²⁾ Opinion delivered on 3 November 1999 (not yet published in the Official Journal).

⁽³⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

AGREEMENT

for scientific and technological cooperation between the European Community and the Government of the People's Republic of China

THE EUROPEAN COMMUNITY, hereinafter referred to as the 'Community',

on the one part, and

THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA,

on the other part,

hereinafter referred to as the 'Parties';

CONSIDERING the 1985 Agreement on trade and economic cooperation between the European Economic Community and the People's Republic of China;

CONSIDERING the importance of science and technology for their economic and social development;

CONSIDERING the ongoing scientific and technological cooperation between the Community and China;

CONSIDERING that the Community and China are currently pursuing research and technological activities, including demonstration activities, in a number of areas of common interest and that participation in each other's research and development activities on a basis of reciprocity will provide mutual benefits;

DESIRING to establish a formal basis for cooperation in scientific and technological research which will extend and strengthen the conduct of cooperative activities in areas of common interest and encourage the application of the results of such cooperation to their economic and social benefit;

CONSIDERING that this Agreement for scientific and technological cooperation is within the context of the global cooperation between China and the Community,

HAVE AGREED AS FOLLOWS:

Article 1

Purpose

The Parties shall encourage, develop and facilitate cooperative activities between the Community and China in fields of common interest where they are pursuing research and development activities in science and technology.

research programmes. In the case where there is funding by only one Party the designation is made by that Party and the participant in that project;

- (e) 'Participant' or 'research entities' means any person moral or private, any research institute or any other legal entity or firm established in the Community or in China involved in cooperative activities including the Parties themselves.

Article 2

Definition

For the purpose of this Agreement:

- (a) 'cooperative activity' means any activity which the Parties undertake or support, pursuant to this Agreement, and includes joint research;
- (b) 'information' means scientific or technical data, results or methods of research and development stemming from joint research and any other data deemed necessary by the participants to cooperative activities; including, as necessary, by the Parties themselves;
- (c) 'intellectual property' shall have the meaning defined in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm, 14 July 1967;
- (d) 'joint research' means research, technological development or demonstration that is implemented with or without financial support from one or both Parties and that involves collaboration by participants from both the Community and China and is designated as joint research in writing by the Parties or their scientific and technological organisations and agencies implementing the scientific

Article 3

Principles

Cooperative activities shall be conducted on the basis of the following principles:

- (a) mutual benefit based on an overall balance of advantages;
- (b) reciprocal access to the activities of research and technological development undertaken by each Party;
- (c) timely exchange of information which may affect cooperative activities;
- (d) appropriate protection of intellectual property rights.

Article 4

Areas of cooperative activities

Cooperation under this Agreement may cover all the activities of research, technological development and demonstration, hereinafter referred to as 'RTD', included in the first activity of the framework programme under Article 130g of the Treaty establishing the European Community and all similar RTD activities in China in the corresponding scientific and technological fields.

This Agreement does not affect the participation of China, as a developing country, in Community activities in the field of research for development.

Article 5

Forms of cooperative activities

- (a) Subject to their applicable laws, regulations and policies, the Parties shall foster, to the fullest extent practicable, the involvement of participants in cooperative activities under this Agreement with a view to providing comparable opportunities for participation in their scientific and technological research and development activities.
- (b) Cooperative activities may take the following forms:
 - participation of Chinese research entities to RTD projects under the first activity of the framework programme and reciprocal participation of research entities established in the Community to Chinese projects in similar sectors of RTD. Such a participation is subject to the rules and procedures applicable in each Party,
 - pooling of RTD projects already implemented according to the procedures applicable in the RTD programmes of each Party,
 - visits and exchanges of scientists and technical experts,
 - joint organisation of scientific seminars, conferences, symposia and workshops, as well as participation of experts to those activities,
 - concerted actions,
 - exchanges and sharing of equipment and materials,
 - exchanges of information on practices, laws, regulations and programmes relevant to cooperation under this Agreement,
 - any other modality that would be recommended by the Steering Committee and deemed in conformity with the policies and procedures applicable in both Parties.

The joint RTD projects shall be implemented when the participants have developed a technology management plan, as indicated in the Annex to this Agreement.

Article 6

Coordination and facilitation of cooperative activities

- (a) The coordination and facilitation of cooperative activities under this Agreement shall be accomplished on behalf of China, by the Ministry of Science and Technology and, on behalf of the Community, by the services of the Commission of the European Communities, acting as executive agents.
- (b) The executive agents shall establish a Steering RTD Cooperation Committee, hereinafter referred to as the 'Steering Committee' for the management of this Agreement; this Committee shall consist of an equal number of official representatives of each Party; it shall establish its own rules of procedure.
- (c) The functions of the Steering Committee shall include:

1. promoting and overseeing the different cooperative activities as mentioned in Article 4 as well as those that would be implemented in the framework of RTD cooperation for development;
 2. indicating, for the following year, pursuant to Article 5(b), first indent, among the potential sectors for RTD cooperation, those priority sectors or subsectors of mutual interest in which cooperation is sought;
 3. proposing, pursuant to Article 5(b), second indent, to the scientists of both Parties the pooling of their projects which would be of mutual benefit and complementary;
 4. making recommendations pursuant to Article 5 (b), seventh indent;
 5. advising the Parties on ways to enhance and improve cooperation consistent with the principles set out in this Agreement;
 6. reviewing the efficient functioning and implementation of this Agreement;
 7. annually providing a report to the Parties on the status, the level reached and the effectiveness of cooperation undertaken under this Agreement. This report will be transmitted to the Joint Committee established under the 1985 Agreement on trade and economic cooperation between the European Economic Community and the People's Republic of China.
- (d) The Steering Committee shall, as a general rule, meet annually, preferably before the meeting of the Joint Committee established under the 1985 Agreement on trade and economic cooperation between the European Economic Community and the People's Republic of China, and according to a jointly agreed schedule; the meetings should be held alternatively in the Community and in China. Extraordinary meetings may be organised at the request of either Party.
- (e) The costs incurred by the Steering Committee or in its name shall be borne by the Party to whom members relate. The costs other than those for travel and accommodation which are directly associated with meetings of the Steering Committee shall be borne by the host Party.

Article 7

Funding

- (a) Cooperative activities shall be subject to the availability of appropriated funds and to the applicable laws and regulations, policies and programmes of the Parties. The costs incurred by the participants to cooperative activities will not lead to any transfer of funds from one Party to the other.
- (b) When specific cooperative schemes of one Party provide for financial support to participants from the other Party, any such grants, financial or other contributions from one Party to the participants of the other Party in support of those activities shall be granted tax and customs exemption in accordance with the laws and regulations applicable in the territories of each Party.

*Article 8***Entry of personnel and equipment**

Each Party shall take all reasonable steps and use its best efforts, within the laws and regulations applicable in the territories of each Party, to facilitate entry to, sojourn and exit from its territory of persons, material, data and equipment involved in or used in cooperative activities identified by the Parties under the provisions of this Agreement.

*Article 9***Diffusion and utilisation of information**

The research entities established in China which are involved in Community RTD projects shall follow, as regards the ownership, diffusion and utilisation of information and as regards the intellectual property stemming from this involvement, the rules of diffusion of research results stemming from the Community RTD specific programmes as well as the provisions of the Annex to this Agreement.

The research entities established in the Community which are involved in Chinese RTD projects have, as regards the ownership, diffusion and utilisation of information and as regards the intellectual property stemming from this involvement, the same rights and the same obligations as the Chinese research entities and are subject to the provisions of the Annex to this Agreement.

The Annex on intellectual property rights is an integral part of this Agreement.

*Article 10***Territorial application**

This Agreement shall apply, on the one hand to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, and

on the other hand to the territory of the People's Republic of China. This shall not prevent the conduct of cooperative activities on the high seas, outer space, or the territory of third countries, in accordance with international law.

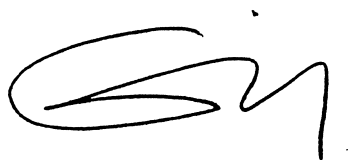
*Article 11***Entry into force, termination and dispute settlement**

- (a) This Agreement shall enter into force on the date on which the Parties have notified each other in writing that their respective internal procedures necessary for its entry into force have been completed.
- (b) This Agreement shall be concluded for an initial period of five years and may be renewed by common agreement between the Parties (tacit renewal) after evaluation during the penultimate year of each successive period.
- (c) This Agreement may be amended by agreement of the Parties. Amendments shall enter into force on the date on which the Parties have notified each other in writing that their respective internal procedures necessary for amending this Agreement have been completed.
- (d) This Agreement may be terminated at any time by either Party upon six months' written notice. The expiration or termination of this Agreement shall not affect the validity or duration of any arrangements made under it, or any specific rights and obligations that have accrued in compliance with the Annex.
- (e) All questions or disputes related to the interpretation or implementation of this Agreement shall be settled by mutual agreement between the Parties.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Agreement.

Done at, Brussels on 22 december 1998, in two copies, in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish, and Chinese languages, with each text being equally authentic.

For the Council of the European Union



For the Government of the People's Republic of China



ANNEX

INTELLECTUAL PROPERTY RIGHTS

Rights to intellectual property created or furnished under the Agreement shall be allocated as provided for in this Annex.

I. Application

This Annex is applicable to joint research undertaken pursuant to the Agreement, except as otherwise agreed by the Parties.

II. Ownership, allocation and exercise of rights

1. For purposes of this Annex 'intellectual property' is defined in Article 2(c) of the Agreement.
2. This Annex addresses the allocation of rights and interests of the Parties and their participants. Each Party and its participants shall ensure that the other Party and its participants may obtain the rights to intellectual property allocated to it in accordance with this Annex. This Annex does not otherwise alter or prejudice the allocation of rights, interests and royalties between a Party and its nationals or participants, which will be determined by the laws and practices applicable to each Party.
3. The Parties will also be guided by, and contractual arrangements should provide for, the following principles:
 - (a) effective protection of intellectual property. The Parties shall ensure that they and/or their participants notify one another within a reasonable time of the creation of any intellectual property arising under the Agreement, of implementation arrangements and seek protection for such intellectual property in a timely fashion;
 - (b) effective exploitation of results, taking into account the contributions of the Parties and their participants;
 - (c) non-discriminatory treatment of participants from the other Party as compared with the treatment given to its own participants;
 - (d) protection of business-confidential information.
4. The participants shall jointly develop a technology management plan (TMP) in respect of the ownership and use, including publication of information and intellectual property to be created in the course of joint research. The TMP will be approved by the responsible funding agency, or department of the Party involved in financing the research before the conclusion of the specific research and development cooperation contracts to which they are attached. The TMP shall be developed within the rules and regulations in force at each Party taking into account the aims of the joint research, the relative financial or other contributions of the Parties and participants, the advantages and disadvantages of licensing by territory or for fields of use, the transfer of export-controlled data, goods or services, requirements imposed by the applicable laws and other factors deemed appropriate by the participants. The rights and obligations concerning the research generated by visiting researchers (i.e. researchers not coming from a Party or a participant) in respect of intellectual property will also be addressed in the joint TMP.

The TMP is a specific agreement to be concluded between the participants about the implementation of joint research and the respective rights and obligations of the participants.

With respect to intellectual property, the TMP will normally address, among other things, ownership, protection, user rights for research and development purposes, exploitation and dissemination, including arrangements for joint publication, the rights and obligations of visiting researchers and dispute settlement procedures. The TMP may also address foreground and background information, licensing and deliverables.

5. Information or intellectual property created in the course of joint research and not addressed in the TMP will be allocated, with the approval of the Parties, according to the principles set out in the TMP. In case of disagreement, such information or intellectual property will be owned jointly by all the participants involved in the joint research from which the information or intellectual property results. Each participant to whom this provision applies will have the right to use such information or intellectual property for his own commercial exploitation with no geographical limitation.
6. Each Party will ensure that the other Party and its participants may have the rights to intellectual property allocated to them in accordance with these principles.

7. While maintaining the condition of competition in areas affected by the Agreement, each Party will endeavour to ensure that rights acquired pursuant to the Agreement and arrangements made under it are exercised in such a way as to encourage, in particular (i) the dissemination and use of information created, disclosed or otherwise made available, under the Agreement, and (ii) the adoption and implementation of international standards.
8. The termination or expiry of the Agreement will not affect rights or obligations under this Annex.

III. Copyright works and scientific literary works

Copyright belonging to the Parties or to their participants will be accorded treatment consistent with the Berne Convention (Paris Act 1971). Copyright protection will extend to expressions and not to ideas, procedures, methods of operation or mathematical concepts as such. Limitations or exceptions to exclusive rights will be confined to certain special cases which do not conflict with a normal exploitation of the work and do not reasonably prejudice the legitimate interests of the right holder.

Without prejudice to Section II, and unless otherwise agreed in the TMP, publication of results of research shall be made jointly by the Parties or participants to that joint research. Subject to the foregoing general rule, the following procedures shall apply

1. In the case of publication by a Party, or public bodies of that Party of scientific and technical journals, articles, reports, books, including video and software arising from joint research pursuant to the Agreement, the other Party will be entitled to a worldwide, non-exclusive, irrevocable, royalty-free licence to translate, reproduce, adapt, transmit and publicly distribute such works.
2. The Parties will ensure that literary works of a scientific character arising from joint research pursuant to the Agreement and published by independent publishers will be disseminated as widely as possible.
3. All copies of a copyright work to be publicly distributed and prepared under this provision shall indicate the names of the author(s) of the work unless an author explicitly declines to be named. They shall also bear a clearly visible acknowledgement of the cooperative support of the Parties.

IV. Inventions, discoveries and other science and technology achievements

Inventions, discoveries and other science and technology achievements created under cooperative activities between the Parties themselves will be owned by the Parties unless otherwise agreed by the Parties.

V. Undisclosed information

A. Documentary undisclosed information

1. Each Party, its agencies or its participants, as appropriate, will identify at the earliest possible moment and preferably in the TMP the information that they wish to remain undisclosed in relation to the Agreement, taking into account *inter alia* the following criteria:
 - (a) secrecy of the information in the sense that it is not, as a body or in the precise configuration or assembly of its components, generally known among or readily accessible by lawful means to experts in the fields;
 - (b) the actual or potential commercial value of the information by virtue of its secrecy;
 - (c) previous protection of the information in the sense that it has been subject to steps that were reasonable under the circumstances by the person lawfully in control, to maintain its secrecy.

The Parties and their participants may in certain cases agree that, unless otherwise indicated, parts or all of the information provided, exchanged or created in the course of joint research pursuant to the Agreement may not be disclosed.

2. Each Party shall ensure that it and its participants clearly identify undisclosed information, for example by means of an appropriate marking or restrictive legend. This also applies to any reproduction of the said information, in whole or in part.

A Party receiving undisclosed information pursuant to the Agreement will respect the privileged nature thereof. These limitations will automatically terminate when this information is disclosed by the owner into the public domain.

3. Undisclosed information communicated under the Agreement may be disseminated by the receiving Party to persons within or employed by the receiving Party and other concerned departments or agencies in the receiving Party authorised for the specific purposes of the joint research under way, provided that any undisclosed information so disseminated shall be pursuant to an agreement of confidentiality and shall be readily recognisable as such, as set out above.

4. With the prior written consent of the Party providing undisclosed information, the receiving Party may disseminate such undisclosed information more widely than otherwise permitted in point 3. The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party will grant such approval to the extent permitted by its domestic policies, regulations and laws.

B. Non-documentary undisclosed information

Non-documentary undisclosed or other confidential information provided in seminars and other meetings arranged under the Agreement, or information arising from the attachment of staff, use of facilities, or joint projects, shall be treated by the Parties or their participants according to the principles specified for documentary information in the Agreement; provided, however, that the recipient of such undisclosed or other confidential or privileged information has been made aware of the confidential character of the information communicated at the time such communication is made.

C. Control

Each Party shall endeavour to ensure that undisclosed information received by it under the Agreement will be controlled as provided herein. If one of the Parties becomes aware that it will be, or may be reasonably expected to become, unable to meet the non-dissemination provisions of Sections A and B, it shall immediately inform the other Party. The Parties will thereafter consult to define an appropriate course of action.

COMMISSION

COMMISSION DECISION

of 30 March 1999

on the aid for the project 'Process Integrated Gas Turbine at the Nerefco refinery' which the Netherlands is planning to implement in favour of Nerefco

(notified under document number C(1999) 904)

(Only the Dutch text is authentic)

(Text with EEA relevance)

(2000/17/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 93(2) thereof,

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

Having called on interested parties to submit their comments pursuant to that provision ⁽¹⁾,

Whereas:

I. PROCEDURE

- (1) By letter dated 10 October 1997, registered on 14 October 1997 by the Secretariat-General of the European Commission, the Netherlands, in accordance with Article 93(3) of the EC Treaty, notified an aid for the project 'Process Integrated Gas Turbine at the Nerefco refinery'.
- (2) The Commission has requested additional information by its letter dated 4 December 1997, to which the Netherlands replied by a letter dated 8 January 1998. A second letter for further information was sent on 26 January 1998 and a reply was received by a letter dated 9 March 1998. A third request for further information was sent on 8 April 1998 and a meeting between representatives of the Netherlands and the Commission was held on 25 May 1998. In response to this meeting the Netherlands authorities have transmitted a faxed message dated 28 May 1998.

- (3) By letter referenced SG(98) D/5699 dated 13 July 1998, the Commission informed the Netherlands Government of its decision to initiate the procedure laid down in Article 93(2) of the EC Treaty in respect of this aid.
- (4) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽¹⁾. The Commission called on interested parties and other Member States than the Netherlands to submit their comments.

II. DESCRIPTION OF THE AID

- (5) The project involving a process-integrated gas turbine at the Nerefco refinery forms part of a general CO₂ reduction plan launched by the Netherlands Government in the autumn of 1997. The Government's aim, through this plan, is to encourage projects that will lead to a significant reduction in CO₂ emissions, thus contributing to sustainable economic growth.
- (6) The purpose of the project is to help reduce CO₂ emissions. The project entails the construction of a gas turbine that is fully integrated with a process unit of a refinery, replacing conventional separate heat and electricity generation. The use of gas turbines in combined heat and power plants results in a substantial improvement in energy efficiency and lower CO₂ emissions than conventional, separate heat and power generation. However, gas turbines have not so far been used in process installations, because they are less reliable. Gas turbines tend to break down much more frequently than conventional equipment and require more maintenance. The installation of gas turbines also involves higher investment.

⁽¹⁾ OJ C 334, 31.10.1998, p. 3.

- (7) The project is being carried out at the Nerefco refinery at Rotterdam. The following companies are involved:

- Texaco Nederland BV,
- Eneco BV, a regional electricity provider,
- Nerefco, a joint venture of BP and Texaco.

The recipient is a joint venture, to be established between Eneco BV and Texaco Nederland BV.

- (8) Nerefco operates a refinery at Rotterdam Europoort. The refinery has two distillation towers for the primary distillation of crude oil. At present, the crude oil is heated to process temperature in two oil-fired furnaces. During the distillation process, Nerefco produces process heat (available capacity [...] (*) MW thermal energy), steam for the refinery in its own boilerhouse (available capacity [...] * kte/year) and part of its electricity requirements.

- (9) The installation of a process-integrated gas turbine will increase energy efficiency. The integrated gas turbine works as follows. Primarily, the gas turbine drives a generator. In a heat exchanger, the exhaust gases of the gas turbine directly heat the crude oil to process temperature (375 °C). Subsequently, the remaining heat in the exhaust gases is used to generate steam for the refinery. By directly heating the crude oil to a high temperature, a very high level of efficiency is obtained. The new installation will replace 40 % of the heating (to process temperature) capacity of crude oil, will replace 10 % of steam production and will produce 70 MW of extra electricity. Implementation of the project will not result in an increase in distillation capacity.

- (10) According to the Netherlands authorities, the integration of process unit and energy generation on this scale has never before been carried out in the Community. The advantages of such integration are as follows:

- (a) CO₂ emissions from the refinery will be reduced from 790 000 tpa (tonnes per annum) to 530 000 tpa, giving a reduction of 260 000 tpa. This means a reduction of 0,2 % for the Netherlands as a whole;
- (b) a number of other noxious emissions will be reduced. This is in particular the case with SO₂ and NO_x, which will be reduced by 16 % and 11 % respectively;
- (c) the energy consumption for the generation of electricity, steam and process heat, expressed in oil equivalent, will be reduced from 270 000 tonnes to

205 000 tonnes. This decrease corresponds to an increase in energy efficiency from 60 % to 80 %.

In order to increase the chances of follow-up projects, the companies are setting up a user group, in which interested people from other companies participate. The group will be directly involved in the preparation of the project.

- (11) The technical risks associated with the project are as follows:

- (a) the operational reliability of a gas turbine is less than that of a conventional furnace;
- (b) a reliable control system must be developed for the gas turbine, the heat exchangers and the furnace.

In order to limit the risks associated with the new unit and ensure continuous heat supply, the old energy-inefficient unit is to be kept as a back-up system.

- (12) The overall investment amounts to NLG 93 million (around EUR 42,2 million). This includes the construction of the gas turbine, a furnace and a residual-heat boiler.

- (13) At the time when the proceedings were initiated, the eligible costs were calculated by the Netherlands authorities as follows. In the first place, a correction was made to the anticipated saving in energy costs. Over a ten-year period, such saving was estimated at NLG 39 million (around EUR 17,7 million). These future savings were deducted from the total investment cost in determining the eligible costs. Subsequently, a correction was made to the replacement cost of the furnace and the maintenance costs of the old furnace of NLG 3,3 million (around EUR 1,5 million). The eligible costs of the project thus amounted to NLG 50,7 million (around EUR 23 million).

- (14) The aid proposed by the Netherlands authorities in notifying the project amounted to a maximum of NLG 15 million (around EUR 6,8 million) — equivalent to 29,6 % of the eligible costs.

In the notification, the construction period was expected to last from the end of 1997 to the beginning of 1999. However, the project has been postponed until there is greater certainty as to the admissibility of the aid. The construction period will be a little over one year.

- (15) There are no statutory environmental requirements that make it necessary for Nerefco to change the refinery's present energy-supply arrangements.

(*) Parts of this text have been edited to ensure that confidential information is not disclosed; those parts are enclosed in square brackets and marked with an asterisk.

III. REASONS FOR INITIATING PROCEEDINGS

(16) The Commission informed the Netherlands by letter dated 13 July 1998 that it was initiating proceedings because it had doubts as to whether the aid complied with the conditions laid down in the Community Guidelines on State aid for environmental protection⁽¹⁾. The doubts related to the determination of the amount of the extra investment costs. The Community Guidelines stipulate that the eligible costs must be strictly confined to the extra investment costs necessary to meet environmental objectives (point 3.2.1). The following are briefly the points at issue:

- (a) The replacement costs. It is the Commission's usual practice to calculate the extra investment costs by comparing the new, environmentally friendly investment with the costs of setting up similar production capacity using conventional technologies.

The Commission was unable to determine the extra investment costs on the basis of the information received, since information on the replacement costs was lacking. The Commission believes that the preservation of the old unit does not dispense the Netherlands authorities from the obligation of comparing the planned investment with the overall costs of a conventional unit calculated at current prices.

- (b) The 70 MW increase in electricity generation. It is stated in the notification that the project will result in an increase in electricity capacity. Total capacity for the Netherlands will be increased by some 0,3 %. When the proceedings were initiated, it was not clear to the Commission how this was taken into account in calculating the eligible costs.

(17) Lastly, the Commission noted that in calculating the eligible costs, cost savings were deducted at a discount rate of 10 %, after deduction of corporate taxes. Furthermore, these costs were calculated over a period of only ten years, which did not seem to tally with the amortisation period for the relevant investment. With a view to determining the eligible costs of the proposed aid, the Commission asked the Netherlands authorities to apply the Commission's current reference interest rate in discounting future costs and benefits. Furthermore, the Commission pointed out that, in order to be able to compare the calculated aid intensity with the aid intensities laid down under 3.2.3.B of the Community Guidelines mentioned in point 16, the relevant amounts should be gross (before tax). Finally, the period for the discounting of future benefits should be the same as the amortisation period.

IV. COMMENTS SUBMITTED BY INTERESTED THIRD PARTIES AND BY OTHER MEMBER STATES

(18) The Commission did not receive any comments from third parties nor from other Member States.

V. COMMENTS SUBMITTED BY THE NETHERLANDS

(19) The Netherlands responded to the initiation of proceedings by a letter dated 15 October 1998. The comments may be summarised as follows.

(20) In order to take account of the Commission's comments, the Netherlands applied a new approach in determining the eligible costs. According to the Netherlands authorities, the new approach complies with the principles and provisions of the Guidelines at point 16. Under the new approach, the increase in electricity production capacity (extra 70 MW) is entirely separated from the project. For this purpose, the eligible amount of investment is corrected by the investment amount that would be necessary to achieve the same extra electricity generation capacity at a small electricity plant. Such investment in conventional electricity capacity is estimated by the Netherlands authorities at NLG 43,9 million (around EUR 19,9 million). Consequently, in determining the eligible costs, the investment amount should be reduced by this sum.

(21) A second correction in determining the eligible costs is made by taking into account the benefit deriving from the operating costs of the heating part in comparison with conventional generation. This benefit is capitalised. In calculating this benefit, the Netherlands authorities have taken account of the current reference interest rate applied by the Commission, and gross amounts have been used in the calculation that is, before tax. The calculations have also been based on a realistic depreciation period of 15 years. The benefit amounts to NLG 2,6 million (around EUR 1,2 million). This benefit is deducted from the investment.

(22) The Netherlands authorities take the view that, following these corrections, the investment amount consists of the extra investment required to achieve the environmental improvement. They do not consider it necessary to make a correction in connection with partial replacement of the conventional unit. A number of arguments are adduced in this respect. In summary, the Netherlands argument boils down to the following.

(23) That part of the new installation that can be used for the production of process heat and steam is entirely necessary in order to achieve the environmental effects. The new installations will be built alongside the existing installations at the Nerefco refinery. Although the new installation will take over part of the production of process heat (40 %) and steam (10 %), there will still be a need to keep the old installations functional. The closure of the conventional installations would lead to an unacceptable reduction in the operability and reliability of the refinery installations. It must also be borne in mind

⁽¹⁾ OJ C 72, 10.3.1994, p. 3.

that what is involved here is a risky project. The reliability of the integrated gas turbine has still to be demonstrated in practice. Furthermore, the planned and unforeseen maintenance periods for gas turbines are more frequent than for the existing refinery installations. During such periods, the conventional installations will be used in full, so that whether or not the gas turbine installation is operating, this will not have any effect on refining activities. The Netherlands authorities take the view, therefore, that the investment here is entirely extra investment. In this connection, they also point out that there is no increase in the capacity of the refinery installations. Although the capacity for heating crude oil will increase, the capacity for processing crude oil will not. That will be determined by the distillation towers, whose capacity will remain unchanged.

- (24) On the basis of this line of argument, the Netherlands calculates the eligible costs as follows:

(Million NLG)	
Total investment	93,0
Correction for electricity production capacity	- 43,9
Correction for advantages in respect of lower variable costs	- 2,6
Total eligible investment costs	46,5

- (25) In the light of this, the Netherlands has reduced the proposed aid from NLG 15 million (around EUR 6,8 million) to NLG 13,91 (around EUR 6,33 million). This is equivalent to an aid intensity of 30 %, on the basis of the abovementioned eligible costs of NLG 46,5 million (around EUR 21,1 million).

VI. ASSESSMENT

- (26) The notified aid will favour a specific firm and therefore falls within the scope of Article 92(1) of the EC Treaty.

By notifying the aid measure, the Netherlands has fulfilled its obligation under Article 93(3) of the EC Treaty.

- (27) The Commission has to assess whether the aid can be considered to be compatible with the common market under Article 92(2) and (3) of the EC Treaty.

- (28) The provisions of Article 92(2)(a), (b) and (c) are not applicable in this instance, since the aid is not aid having a social character, aid to make good the damage caused by natural disasters or exceptional occurrences or aid granted to an area referred to in Article 92(2)(c).

- (29) Article 92(3)(a), (b) and (d) are not applicable, since the aid is not intended to promote the economic development of a disadvantaged area, to remedy a serious disturbance in the economy of a Member State or to promote culture and heritage conservation.

- (30) The only provision under which the aid may be accepted is Article 92(3)(c), which covers measures to facilitate the development of certain economic activities. The State aid in this case relates to an environmental objective. The Commission has accordingly assessed the project in the light of the Community Guidelines on State aid for environmental protection. If the aid meets the criteria laid down in the Guidelines, it can, under the derogation provided for in Article 92(3)(c) of the EC Treaty, be considered to be compatible with the common market.

- (31) The Commission notes that the notified aid is to be granted to help reduce CO₂ emissions, which is an important objective of the Community⁽¹⁾. Carrying out the project will substantially reduce the amount of CO₂ emitted and will also bring considerable energy savings and reduce other harmful emissions such as SO₂ and NO_x.

- (32) There are not as yet any national or Community mandatory standards requiring firms to reduce their CO₂ emissions. Consequently, the aid comes under heading 3.2.3.C of the Community Guidelines mentioned in point 16 ('Aid in the absence of mandatory standards'). Under heading 3.2.3.C of the Guidelines, firms undertaking investment that will significantly improve on their environmental performance are eligible for aid. The Commission notes that the project is to cut CO₂ emissions by 260 000 tonnes a year. The Commission takes the view that this is a significant improvement in environmental performance and that the result is sufficiently substantial to meet the criterion set out in 3.2.3.C.

- (33) Point 3.2.1 of the Community Guidelines stipulates that the eligible costs must be strictly confined to the extra investment costs necessary to meet environmental objectives.

⁽¹⁾ COM(97) 481 final: 'Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions — Climate Change — The EU Approach for Kyoto'; SEC(1998) 615: Energy policy options for responding to the climate change challenge: towards the definition of a 'post-Kyoto energy policy strategy'.

(34) The Commission's doubts regarding the way in which the Netherlands had determined the amount of eligible investment costs were the reason why the proceedings were initiated. The Commission's comments focused in particular on the way in which account had been taken of electricity production and of replacement costs. In its reaction to the initiation of proceedings, the Netherlands presented a new approach for determining the eligible costs. As was described in section V, total electricity production is separated from the project in the new approach. Investment in new production capacity is not eligible under the environmental guidelines. It is normal Commission practice to separate costs for new production capacity from eligible costs. The Commission takes the view that, through the exclusion from the total investment amount of the investment cost relating to electricity generation, an appropriate correction has been made to determine the eligible costs. The Commission therefore considers that the costs incurred in extending electricity generation capacity by 70 MW, namely NLG 43,9 million (around EUR 19,9 million), are not eligible.

(35) In the new approach, the Netherlands has made a correction to the eligible investment amount by taking account of the benefit stemming from the operating costs of the heat section as compared with conventional generation. The Commission takes the view that this correction of NLG 2,6 million (around EUR 1,2 million) by the Netherlands is appropriate. The future benefit does not exert any pressure on the investment burden, and a correction is therefore necessary in order to determine the actual extra investment. In calculating this benefit, the Netherlands has taken account of the current reference rate stipulated by the Commission and has based its calculations on gross amounts — pre-tax amounts — as was requested by the Commission in its letter of 13 July 1998. The actual amortisation period has also been taken into account.

(36) With regard to the replacement costs, the Netherlands argued, as was noted in points 22 and 23, that a correction was not necessary. However, the Commission takes the view that it is in fact necessary to take account of the replacement costs of a conventional unit. The Commission's normal practice is to calculate the amount of extra investment costs by comparing the environmental investment with the costs of establishing similar production capacity using conventional technologies. The fact that the capacity of the old plant is being maintained as a back-up for breakdowns or maintenance periods for the gas turbine integrated with the refinery process, is of no relevance. In fact, the new plant will be inseparably linked to the refinery process and will account for 40 % of the heating of crude oil and 10 % of steam production. Only in the event of breakdown or maintenance

will the old plant be used. What is clearly involved, therefore, is functional replacement by modern equipment. The fact that the old equipment is being maintained as a back-up is not relevant. The Commission therefore considers that, in this situation too, a correction must be made for the costs that would be incurred in the event of the replacement of the crude-oil heating capacity and steam production by conventional equipment.

(37) The replacement costs of the furnace by a conventional one — applying a replacement ratio of 40 % and taking account of the extra maintenance costs for the old furnace — amount to NLG 3,8 million (around EUR 1,7 million) ⁽¹⁾. According to the Netherlands authorities, the replacement costs of the steam-production — of equal size of the capacity of the new installation — by a conventional boiler amounts to NLG 5 million (around EUR 2,26 million). The total correction for these replacement costs amounts therefore to NLG 8,8 million (around EUR 3,9 million).

(38) Correction of the total investment amount as regards the abovementioned points gives the following:

(Million NLG)	
Total investment costs	93,0
Correction for electricity generating capacity	- 43,9
Correction for benefits as regards lower variable costs	- 2,6
Correction for replacement costs	- 8,8
Extra investment costs	37,7

⁽¹⁾ To determine the replacement cost, 40 % (the replacement ratio, i.e. the heating capacity of the crude oil of the new installation related to the capacity of the old installation) of the costs of replacement (NLG 15 million) of the capacity of the old installation by a conventional one has been taken into account. Furthermore, 40 % of the extra maintenance costs of the old installation has been taken into account by taking the discount value of the annual amount of the real maintenance costs (NLG 0,56 million) over a period of 15 years with a reference rate of 5,5 % resulting in an amount up to NLG 2,2 million. The Commission considers the latter correction here appropriate, since the old equipment must be maintained as a back-up, partly because of the experimental nature of the integrated gas turbine, resulting in extra maintenance costs. Therefore, the total replacement costs of the ovens can be determined up to NLG 3,8 million (around EUR 1,7 million). The replacement costs of the steam capacity (corresponding with 10 % of the steam production) by a conventional steam unit are NLG 5 million (around EUR 2,26 million). Therefore, total replacement costs are NLG 8,8 million (around EUR 3,9 million).

- (39) The remaining costs of NLG 37,7 million (around EUR 17,14 million) are, in the Commission's view, to be regarded as extra investment costs that are incurred solely for environmental objectives. Under heading 3.2.3.C of the Community Guidelines mentioned in point 16, aid for investment intended to achieve a higher level of environmental protection in cases where there are no mandatory standards may be authorised up to a maximum of 30 % of the eligible costs. The Commission can therefore authorise aid of NLG 11,31 million (around EUR 5,14 million).
- (40) It should be noted in conclusion here that the Commission generally takes a very positive view of CHP plants⁽¹⁾. Heat and power exchange is designed to take place in the integrated gas turbine. The fact that this equipment is being employed for the first time on such a scale is a positive factor in the Commission's assessment. The fact that no comments were forthcoming from third parties strengthens the Commission in its view in this case that trade will not be affected to an extent contrary to the common interest.

VII. CONCLUSION

- (41) The notified aid falls within the scope of Article 92(1) of the EC Treaty. In the Commission's view, aid amounting to NLG 11,31 million (around EUR 5,14 million) is in this instance compatible with the common market. Aid of NLG 11,31 million (around EUR 5,14 million) can therefore be authorised on the basis of Article 92(3)(c) of the EC Treaty and Article 61 (3)(c) of the EEA Agree-

ment, given that the aid is in line with the Community Guidelines on State aid for environmental protection⁽²⁾,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which the Netherlands is proposing to grant to the Nerefco project, in respect of a process-integrated gas turbine, amounting to NLG 15 million, subsequently reduced to NLG 13,91 million, is, pursuant to Article 92(3)(c) of the EC Treaty and Article 61 (3)(c) of the EEA Agreement, compatible with the common market up to a maximum of NLG 11,31 million. The part of the proposed aid that is in excess of NLG 11,31 million is incompatible with the common market and may not be granted.

The granting of this aid measure to an amount of NLG 11,31 million is therefore authorised.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 30 March 1999.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ COM(97) 514 final, Communication of the Commission of 15 October 1997, 'A Community strategy to promote combined heat and power (CHP) and to dismantle barriers to its development'.

⁽²⁾ OJ C 72, 10.3.1994, p. 3.

COMMISSION DECISION
of 29 September 1999
on state aid which Italy plans to grant to Fiat Auto SpA for its plant in Termoli, Campobasso

(notified under document number C(1999) 3274)

(Only the Italian version is authentic)

(Text with EEA relevance)

(2000/18/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 invited the parties concerned to submit their comments in accordance with the abovementioned provisions ⁽¹⁾,

Whereas:

- (3) The decision to initiate the procedure was published in the *Official Journal of the European Communities*, ⁽²⁾ and the interested parties were invited by the Commission to submit comments.
- (4) The Commission has not received any comments from interested parties.
- (5) Representatives of the Commission went to Mirafiori on 24 February 1999 to discuss the Fiat Termoli plan among other matters. Finally, on 6 July 1999 an on-site visit was arranged at Termoli.

I. PROCEDURE

- (1) Between October and December 1997 the Italian Government notified the Commission, pursuant to Article 88(3) of the Treaty, of six planned measures under which it proposed to grant state aid to Fiat Auto SpA ('Fiat') ⁽²⁾, one of which concerned the plant in Termoli, in the province of Campobasso in the region of Molise ('Fiat Termoli'); the Commission registered this measure on 28 October 1997 under N 730/97. Requests for further information and a number of reminders were sent to the Italian authorities to elicit the data required for a Commission decision. On 23 April 1998 a meeting was held with representatives of the Italian authorities and Fiat to clarify various aspects of the examination of the case. Finally, in a letter of 20 November 1998, the Italian authorities supplied partial replies to the questions raised by the Commission.
- (2) By letter of 9 March 1999 the Commission informed Italy that it had decided to initiate the procedure laid down in Article 88(2) of the Treaty in respect of the proposed aid measures, allowing Italy one month to supply all the documents, information and data required to assess the compatibility of the aid with the common market. In the absence of any reply, the Commission would reach a decision on the basis of the information in its possession.

II. DETAILED DESCRIPTION OF THE AID MEASURE

- (6) The aid proposed by the Italian authorities would be granted to Fiat, which has plants in Italy, Poland, Turkey and South America. In 1998 Fiat produced 2,7 million vehicles of the Alfa Romeo, Ferrari, Fiat, Lancia and Maserati makes. In 1997 it employed around 62 000 people in Italy, 3 300 of them at Termoli, where vehicle engines and gearboxes are produced. A significant share of Fiat's sales, roughly one third, are recorded in other Member States.
- (7) The investment notified is at Fiat Termoli, in an area qualifying for assistance under Article 87(3)(c) of the Treaty, where at the date of notification the maximum aid intensity for large firms was 30 % net grant equivalent. The investment started in 1995 and will be completed in 1999. According to a cost-benefit analysis of 20 November 1998, it amounts to ITL 487 billion ⁽⁴⁾ (current value: ITL 412 billion, or EUR 212 million). It will enable the production of the new Fire 16v ⁽⁵⁾ 1 242 cc engine, which was developed from the Fire 1 242 cc 8v MPI engine, but which has no common components. The installed capacity is approximately 230 000 Fire 16v engines per year.
- (8) According to the Italian authorities, the aid, worth a nominal ITL 55,2 billion (EUR 28 million) would be granted under the scheme provided for by Law No 488 of 19 December 1992 ⁽⁶⁾ for the refinancing of Law No 64/86 ('Law No 488/92'), approved by Commission

⁽¹⁾ OJ C 113, 24.4.1999, p. 16.

⁽²⁾ Four of these measures related to motor vehicle production: Cassino-Piedimonte San Germano (C 6/99, ex N 729/97), Mirafiori Carrozzeria (C 5/99, ex N 728/97), Pomigliano (C 4/99, ex N 727/97); and Rivalta (C 8/99, ex N 834/97); and two to engine production: Termoli (C 7/99, ex N 730/97) and Mirafiori Meccanica (C 9/99, ex N 838/97).

⁽³⁾ See footnote 1.

⁽⁴⁾ The notification referred to ITL 487 billion.

⁽⁵⁾ 'Fire' stands for 'Fully integrated robotised engine' and '16 v' means '16 valve'.

⁽⁶⁾ GURI No 299, 21.12.1992.

Decision of 24 March 1995. The discounted aid intensity would thus be 13,03 % of the gross grant equivalent, according to the cost-benefit analysis of 20 November 1998. The initial notification referred to 15,27 % gross grant equivalent, or 12,44 % net grant equivalent.

- (9) The Commission decided to initiate the formal investigation procedure in respect of the proposed aid measure and, informed the Italian Government accordingly, for the following reasons in particular:

(a) it had doubts about the need for the aid, and in particular the alleged mobility of the investment,

(b) it had doubts about the level of aid that could be authorised, given that according to the cost-benefit analysis provided by the Italian authorities the disadvantage of Termoli compared with Desio, cited as the reference site, would be 21,15 %.

- (10) The Commission asked Italy to supply all of the information required to assess the compatibility of the aid measure in question within one month, failing which it would take a decision on the basis of the information already in its possession.

III. COMMENTS BY ITALY

- (11) On 9 April 1999 the Italian authorities requested an extension of the deadline for their reply, and on 16 April they sent a letter to the Commission containing the information deemed necessary to conclude the examination of the six cases notified between October and December 1997 for which the Commission had decided to initiate the formal investigation procedure on 3 February 1999.

- (12) First, the Italian Government reiterated that the purpose of the investment at Termoli was to develop and expand the plant by installing new assembly lines in separate workshops from those producing the 8v engine. New jobs would also be created.

- (13) Second, the Italian Government deplored what it saw as the failure of the study carried out by the Commission to reflect the economic reality of the decision on plant location, in particular as regards the interconnected themes of mobility and the design of the cost-benefit analysis. The comments made in this context go beyond

the specific case of Fiat Termoli and include all of the six Fiat cases referred to.

- (14) As far as Fiat Termoli itself is concerned, Italy noted that the Commission continued to doubt the mobility of investment. Yet Fiat had considered various alternative locations for this project, particularly in Brazil and Turkey, both of which in 1994 offered lower operating costs, comparable levels of technology and productivity, and a well-trained workforce. Another indication of mobility was that by the year 2000 a production line for Fire 16v engines was to have been set up in Brazil. An economy of scale could have been achieved by grouping the production of all these Fire engines in Brazil.

The expected regional aid would not be sufficient to offset the additional costs entailed by the decision to carry out this investment in Italy, but it was undoubtedly a factor in the final decision.

The Italian Government therefore believed that the Fiat Termoli project satisfied the mobility requirement.

- (15) Third, Law No 488/92 did not allow aid to be granted to a horizontal aid programme, requiring instead that grant applications be separated. Because six sites were involved in the first two calls for applications used to select projects eligible for aid, Fiat submitted six separate applications. The six cases were therefore notified to the Commission separately. The handling of these cases was further complicated by the fact that the projects were notified at two different times, in October 1997 and December 1997. This led the Commission to apply the two different versions of the Community framework for state aid to the motor vehicle industry in force on the dates of notification⁽¹⁾. Under the first of these, the reference site in the cost-benefit analysis had to be located in a non-assisted region of the Community, whereas the second allows the use of a reference site situated in Europe or the countries of central and eastern Europe. It is alleged that this dual and artificial dichotomy fails to take account of the economic reality of investment.

- (16) Nevertheless, to comply with the Community framework, which prohibited reference to an alternative site in an assisted area of the Community, Italy prepared a cost-benefit analysis comparing the plants in Termoli and Desio for production of the Fire 16v engines. The letter of 16 April 1999 stated that Desio would potentially be a suitable production site, particularly given the space available. Various other details were provided to explain the differences in investment, the structure of transport costs, the references to the Mirafiori and Verrone plants, suppliers and other costs.

- (17) The cost-benefit analysis carried out by the Italian Government concluded that the comparative disadvantage of Termoli would be 21,15 %, which was sufficient to justify the aid notified.

⁽¹⁾ OJ C 123, 18.5.1989, p. 3, and OJ C 279, 15.9.1997, p. 1, respectively.

IV. ASSESSMENT OF THE AID

(18) The measure notified by the Italian authorities for Fiat Termoli constitutes state aid within the meaning of Article 87(1) of the Treaty. It would be financed by the state or through state resources; moreover, given that it represents a significant proportion of the project funding, it is likely to distort competition within the Community, giving an advantage to Fiat over other companies not receiving aid. Finally, the market for motor vehicle engines, like the motor vehicle market itself, is characterised by extensive trade between Member States.

(19) The state aid in question, granted under the approved scheme provided for in Law No 488/92, is intended for a firm operating in the motor vehicle production and assembly sector. The proposal should therefore be examined in the light of the relevant Community framework. Given that the Italian Government notified the project on 28 October 1997, which is also the date on which the notification was registered at the Commission, the relevant framework is that dating from 1989, as amended and extended. This is confirmed by the subsequent framework, which applies from 1 January 1998 ⁽¹⁾.

Point 2.6. of the new framework specifies that 'the preceding framework, which entered into force on 1 January 1996 for two years, will serve as a basis for the assessment of aid proposals which were notified before 1 November 1997 but which have not yet been declared compatible by the Commission or are the subject of proceedings under Article 93 (3) of the Treaty initiated before that date.'

Italy has not contested that understanding of the matter in the course of the present proceedings.

(20) The Commission also notes that the aid would be granted under an approved scheme, and that the cost of the project exceeds EUR 17 million. The Italian authorities have therefore complied with the notification requirement.

(21) However, the Commission deplores the long delay between the signature of the ministerial order awarding the aid in question, on 20 November 1996, and the official notification at the end of October 1997.

(22) Article 87(2) of the Treaty identifies a number of types of aid which it declares to be compatible with the Treaty. Given the nature and purpose of the aid and the geographic location of the investment, the project does not fall within any of the categories listed in points (a), (b) and (c) of this paragraph. Paragraph 3 of the same Article defines types of aid that may be considered to be compatible with the common market. Their compatibility has to be assessed in the overall context of the Community and not in a purely national context. To

safeguard the smooth running of the common market and comply with the principle laid down in Article 3g of the Treaty, exceptions such as those in Article 87(3) must be interpreted strictly. Looking first at Article 87(3)(b) and (d), the aid in question is clearly not intended for a project of common European interest, nor for a project likely to remedy a serious disturbance in the Italian economy. Nor is it intended to promote culture and heritage conservation. Turning to the exemptions provided for in Article 87(3)(a) and (c), only point (c) is relevant, as Termoli is located in an area which qualifies for assistance under this provision.

(23) To determine whether the proposed regional aid measures are compatible with the common market, under the exemption provided for in Article 87(3)(c) of the Treaty, the Commission must therefore check compliance with the conditions specified in the relevant Community framework.

(24) The Commission accepts that new investment in disadvantaged regions can contribute to regional development. It thus takes a generally favourable attitude towards aid to investment granted to redress the structural disadvantages suffered by the depressed regions of the Community. However, when assessing regional aid proposals the Commission must compare the benefits in terms of regional development (e.g. contribution to the long-term development of the region by creating or safeguarding steady jobs, and linkages into the local and Community economy) with any adverse effects on the sector as a whole (such as the creation or maintenance of substantial excess capacity). The purpose of such an assessment is not to deny the essential contribution made by regional aid to Community cohesion, but to ensure that other factors affecting the Community, such as the development of the sector at Community level, are taken into account. It is thus standard Commission practice to proceed as follows when examining regional aid measures for the motor vehicle industry, in the light of the relevant Community framework.

1. The Commission establishes first and foremost that regional aid may be granted. To this end it considers, in particular, whether the region in question is eligible for aid under Community law, and whether the investor could have chosen an alternative site for its project, so as to demonstrate the need for the aid, with particular reference to the mobility of the project.

2. The Commission checks the eligibility of the costs relating to the mobile aspects of the project.

3. It then checks that the planned aid is in proportion to the regional problems it is intended to help solve. To this end it checks that the project promotes the long-term development of the region, and usually carries out a cost-benefit analysis.

⁽¹⁾ OJ C 284, 28.10.1995, p. 3.

4. Finally, it considers the question of a 'top-up', which is an increase in the allowable aid intensity as a further incentive to the investor to invest in the region in question. Such top-ups are authorised on condition that the investment does not increase the capacity problems facing the motor vehicle industry.

The sum of the figures established in the last two stages of the calculation represents the total amount of aid that the Commission may authorise within the regional ceiling.

- (25) The procedure is familiar to the Italian Government, and to Fiat, from the many previous instances of aid to the motor vehicle industry. The Commission supplied proper replies to the methodological questions raised at the meetings between it and the Italian authorities, who were accompanied by representatives of Fiat.
- (26) The plant in question is located in a region qualifying for assistance under Article 87(3)(c) of the Treaty, for which regional aid could normally be authorised up to a net grant equivalent of 30 % for large firms at the time of notification ⁽¹⁾.
- (27) In order to prove the need for regional aid, the Italian authorities must, among other things show that the project is mobile, that is to say that there exists an economically viable alternative location for the project or parts of the project. If there were no other new or existing industrial site within the group capable of receiving the proposed investment, the firm would be compelled to carry out its project in the sole plant available, even in the absence of aid.
- (28) The Commission consulted independent experts on this subject (IMO-Leuven), who accompanied it on a visit to Fiat Termoli to complete the examination of the case. On the basis of the on-site visit, the Commission concluded that the production, assembly and test lines for the Fire 16v engines were separate from the other production lines at Termoli and that the new motors did not have components in common with the old Fire 8v motors. It is thus clear that Fiat did consider the alternative of producing the Fire 16v engines in Brazil or Turkey, or in other Italian plants, particularly Pogliano, rather than Termoli.

After an in-depth study the Commission concludes that the project does satisfy the mobility requirement.

- (29) The fact that the investment in Fiat Termoli began more than a year before the request for aid was made would normally mean, as the Commission stated when it gave notice of its decision to initiate the procedure, that the aid was not necessary to the implementation of the

project. However, in keeping with the Commission Decisions of 18 November 1997 ⁽²⁾, 30 September 1998 ⁽³⁾ and 7 April 1998 ⁽⁴⁾, there are very specific aspects of the implementation of Law No 488/92 which may, exceptionally, justify a time lag between the start of a project and the request for aid. It has also been ascertained that when the investment began, in February 1993, Fiat was firmly expecting regional aid to be granted. Obviously it had no way of knowing exactly how much aid might be available.

The Commission therefore concludes that the regional aid was necessary for the implementation of the investment project for Fiat Termoli.

- (30) The Commission then checked that the costs were eligible under the relevant aid scheme. It takes the view that the project notified qualifies as an initial investment within the meaning of the guidelines on national regional aid ⁽⁵⁾, in particular because it entails an increase in the production capacity of the plant. It also notes that under Ministerial Order No 527/95 investment expenditure may be allowed retroactively, going back as much as two years prior to the initial application for regional aid. This is an exceptional procedure introduced as a transitional measure to fill the legal vacuum caused by the expiry of the previous Law No 64/86 and the delay in enacting Law No 488/92. In the case of the project under consideration, the investment started in January 1995 and Fiat submitted the application for aid to the Italian authorities in May 1996.

The Commission concludes that the investment of ITL 487 billion is eligible for regional aid under Law No 488/92.

- (31) However, the Commission can allow only mobile investment, which is accordingly assessed below. Even if the project is mobile, there may be certain specific elements of the investment that are not mobile.
- (32) The direct consequences of the project (nominal investment of ITL 487 billion and creation of a large number of jobs at Fiat) as well as the secondary effects represent significant benefits for the local economy. The Commission concludes that the proposed aid will contribute to the long-term development of the Termoli region.
- (33) The relevant Community framework requires the project notified to be compared with an analogous project carried out in a non-assisted region of the Community, to identify the additional costs arising from the structural shortcomings of the assisted region chosen for the investment. The Italian Government does not

⁽¹⁾ The regional maximum for large firms in the area in question has evolved as follows: prior to July 1995 40 % nge; from then until December 1996 35 % nge; from then until December 1998 30 % nge; and from then until December 1999 25 % nge.

⁽²⁾ OJ C 70, 6.3.1998, p. 7.

⁽³⁾ OJ C 409, 30.12.1998, p. 7 and OJ C 384, 12.12.1998, p. 20.

⁽⁴⁾ OJ C 240, 31.7.1998, p. 3.

⁽⁵⁾ OJ C 74, 10.3.1998, p. 9.

contest this principle, but claims that its application does not reflect the economic choice Fiat faced. In its view the Commission should carry out an assessment that takes account of the integrated nature of the projects: in other words, the Commission should use the reference sites that the investor actually considered, in this case Brazil and Turkey.

- (34) If, in the case of Fiat Termoli, the Commission were to authorise the use of reference sites not situated in non-assisted regions of the Community, it would violate the principle of equal treatment. It would be using a method of assessment completely different from that applied in other cases legally subject to the same procedure, that is to say in all the cases examined in the light of the relevant Community framework in force prior to 1998, for which the reference site had to be in a non-assisted area.
- (35) Moreover, at the time when Fiat carried out its study of possible sites, which was also when it took into account the possibility of obtaining state aid, between 1993 and 1994, the Commission's practice required the use of a reference site situated in an area not eligible for regional aid. The Italian authorities and Fiat were familiar with this methodology at the time, for example from the case of *Fiat Mezzogiorno* ⁽¹⁾, a typical example of the application of the cost-benefit analysis. The only aid Fiat could have taken into consideration in the financial analysis relating to the location decision would have been that based on a comparison between the plant which might potentially benefit from regional aid and an alternative site in a non-assisted region of the Community. Reference to an alternative plant outside the Community, or in an assisted region, as called for by Italy, became possible only after the entry into force of the relevant Community framework in January 1998, some five years after the investment decision was taken.
- (36) In conclusion, the Commission cannot accept the Italian Government's argument that the analysis should focus on Fiat's integrated investment programme, comparing Italian options with sites outside Europe.
- (37) It is clear from the information supplied by the Italian authorities that the plant at Desio, located in a non-assisted region of the Community, where Fiat briefly considered siting the Fire 16v project, can serve as a reference site for the cost-benefit analysis needed in order to assess the aid intensity that can be authorised by the Commission.
- (38) The Commission experts have accordingly studied the information supplied by Italy to calculate the additional costs of carrying out the project at Fiat Termoli instead of Desio. Because the project involved an expansion, the operational advantages and handicaps are assessed over three years, beginning with the start of commercial production. Commercial production of the Fire 16v

engines began in 1997; the three-year reference period for the cost-benefit analysis thus began in 1997. These principles have not been contested by Italy.

- (39) In general, as revealed by the cost-benefit analysis prepared by the Italian authorities, the disadvantages of Termoli arise from the extra costs of transport, parts and investment. However, the Commission takes issue with the cost-benefit analysis supplied by Italy on a number of points.
1. First and foremost, the reference rate used by the Commission, in particular for calculating discounted values, is 11,90 %, the reference rate applying in Italy at the time the project studies were carried out (around 1994). Italy, on the other hand, has applied the 1995 reference rate (11,35 %), i.e. the rate at the time of the start of the investment.
 2. Secondly, in order to free space in the Termoli plant to install the Fire 16v engine production lines in the best possible way, Fiat had to contract out the production of certain components of the 8v and 16v engines. The purchase price of the components in question is generally higher than the cost of manufacture by Fiat, and so has to be considered a disadvantage of Termoli, in that this situation would not have arisen at Desio, which had space available. The Commission has verified these additional costs, and can accept this argument as it relates to the production of the 16v engines, the direct object of the investment, but must exclude from the cost-benefit analysis the disadvantages resulting from the additional costs for the 8v engine.
 3. Thirdly, the Commission has carefully examined the investment that would be made at Termoli and at Desio. The costs arising from the transfer of activities to plants in Northern Italy are not eligible and must therefore be excluded. Similarly, there is investment worth ITL 47,3 billion (discounted amount) which was carried out as part of the notified project but which relates to equipment that would have been installed at Termoli even if the production of the Fire 16v engine had been sited at Desio. This is true especially of couplings between the engine and the gearbox, which is produced at Termoli.
- (40) The corrections introduced by the Commission produce different cost-benefit results from those of the Italian authorities. On the basis of the investment of ITL 362,3 billion regarded as eligible by the Commission, the disadvantage of Termoli compared with Desio is 18,7 %.
- (41) The nominal aid of ITL 91,7 billion is equivalent to discounted aid of ITL 54 billion (base year 1995). The proposed aid intensity is thus 14,9 % gross grant equivalent, while the regional maximum is 30 % net grant equivalent.

⁽¹⁾ OJ C 37, 11.2.1993, p. 15.

- (42) In view of the sensitivity of the motor industry, the Commission usually examines the effects on competition of every investment project, looking in particular at variations in production capacity on the relevant market in the group concerned. Under the terms of the relevant Community framework, the allowable intensity can then be increased by an adjustment factor (top-up) of 0 to 3 percentage points.

In this particular case the results of the cost-benefit analysis obviate the need for such an examination.

V. CONCLUSIONS

- (43) The aid intensity notified by Italy is less than both the disadvantage identified by the cost-benefit analysis and the regional maximum. The regional aid that the Italian Government plans to grant Fiat Termoli is therefore compatible with the common market under Article 87(3)(c) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The state aid that Italy plans to grant to Fiat Auto SpA for its plant in Termoli, Campobasso, up to a maximum of ITL 54 billion, discounted at the rate of 11,90 % (base year 1995), is compatible with the common market under Article 87(3)(c) of the Treaty.

The aid is accordingly authorised.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 29 September 1999.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 9 December 1999

amending Commission Decision 98/371/EC concerning the animal health conditions and veterinary certifications for imports of fresh meat from certain European countries to take into account some aspects in relation with the Former Yugoslav Republic of Macedonia (FYROM)

(notified under document number C(1999) 4233)

(Text with EEA relevance)

(2000/19/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat and meat products from third countries ⁽¹⁾, as last amended by Directive 97/79/EC ⁽²⁾ and in particular Article 14 thereof,

Whereas:

- (1) The animal health conditions and veterinary certification for imports of fresh meat from certain European countries were established by Commission Decision 98/371/EC ⁽³⁾, as last amended by Decision 99/538/EC ⁽⁴⁾;
- (2) Imports of fresh meat originating from animals susceptible to foot-and-mouth disease from the former Yugoslav Republic of Macedonia (FYROM) have not been authorised due to some problems relating to the foot-and-mouth disease epidemic recorded in 1996;
- (3) Based on epidemiological data obtained from a sero-surveillance study carried out in accordance with the provisions of Commission Decision 97/432/EC ⁽⁵⁾; it appears that the health situation is satisfactory as regards the foot-and-mouth disease;

- (4) Following a recent Commission veterinary mission, it appears that the FYROM veterinary services control satisfactorily the whole country and thereof it is possible to authorise the imports of fresh meat of ovine and caprine species from FYROM;

- (5) The measures provided for in this Decision are in accordance with the opinion of the Standing veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

Annex II of Decision 98/371/EC is replaced by the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 9 December 1999.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 302, 31.12.1972, p. 28.

⁽²⁾ OJ L 24, 30.1.1998, p. 31.

⁽³⁾ OJ L 170, 16.6.1998, p. 16.

⁽⁴⁾ OJ L 207, 6.8.1999, p. 21.

⁽⁵⁾ OJ L 185, 15.7.1997, p. 15.

ANNEX

‘ANNEX II

MODELS OF ANIMAL HEALTH CERTIFICATES TO BE REQUESTED — FRESH MEAT

Country	Code	Fresh meat for human consumption								Fresh meat intended for purposes other than human consumption
		Bovine		Swine		Ovine/caprine		Solipeds		
		MC ⁽¹⁾	SG ⁽²⁾	MC ⁽¹⁾	SG ⁽²⁾	MC ⁽¹⁾	SG ⁽²⁾	MC ⁽¹⁾	SG ⁽²⁾	
ALBANIA	AL	—		—		—		—	—	—
BOSNIA-HERZEGOVINA ⁽³⁾	BA	—		—		—		—	—	—
BULGARIA	BG	—		—		—		D	—	E
	BG-1	A		—		C		D	—	E
	BG-2	A		—		C		D	—	E
	BG-3	—		—		—		D	—	E
BELARUS	BY	—		—		—		—	—	E
CZECH REPUBLIC	CZ	A		B		C		D	—	E
	CZ-1	A		B		C		D	—	E
	CZ-2	A		B		C		D	—	E
ESTONIA ⁽³⁾	EE	—		—		—		—	—	E
FEDERAL REPUBLIC OF YUGOSLAVIA	YU	—		—		—		D	—	E
	YU-1	A		—		C		D	—	E
	YU-2	—		—		—		D	—	E
CROATIA	HR	A		—		C		D	—	E
HUNGARY	HU	A		B		C		D	—	E
LITHUANIA ⁽³⁾	LI	—		—		—		—	—	E
LATVIA ⁽³⁾	LV	—		—		—		—	—	E
FORMER YUGOSLAV REPUBLIC OF MACEDONIA	807	—		—		C		D	—	E
POLAND	PL	A		—		C		D	—	E
ROMANIA	RO	A		—		C		D	—	E
RUSSIA ⁽³⁾	RU	—		—		—		—	—	E
SLOVANIA	SI	A		—		C		D	—	E
SLOVAK REPUBLIC	SK	A		—		C		D	—	E

⁽¹⁾ MC: model of certificate to be completed. The letters (A, B, C, D, etc.), appearing in the tables refer to the models of animal health guarantees as described in Annex III of Decision 98/371/EC, to be applied for each product and origin in accordance with Article 2 of this Decision. A dash ‘—’ indicates that imports are not authorised.

⁽²⁾ SG: supplementary guarantees. The letters (A, B, C, D, etc.) appearing in the tables refer to the supplementary guarantees to be provided by the exporting country as described in Annex IV. These supplementary guarantees must be inserted by the exporting country in section V of each model of certificate set down in Annex III.

⁽³⁾ The imports of fresh meat for human consumption are not allowed in so far as a programme of control of residues in the exporting third country has not been approved by the European Commission.’

COMMISSION DECISION

of 10 December 1999

establishing health certificates for the importation from third countries of gelatine intended for human consumption and of raw materials destined for the production of gelatine intended for human consumption

(notified under document number C(1999) 3989)

(Text with EEA relevance)

(2000/20/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 in 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 Commission Decision 1999/724/EC⁽²⁾, and in particular Article 10(c) thereof,

Whereas:

- (1) Chapter 4 of Annex II to Directive 92/118/EEC lays down the specific health requirements for the preparation of gelatine intended for human consumption. Specific requirements are also laid down for the importation from third countries of gelatine intended for human consumption and of raw materials destined for the production of gelatine intended for human consumption;
- (2) Specimens of health certificates which are to accompany importation of gelatine intended for human consumption and importation of raw materials destined for the production of gelatine intended for human consumption should be drawn up;
- (3) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

This Decision lays down the specimens of health certificates for the importation of gelatine intended for human consumption

and importation of raw materials destined for the production of gelatine intended for human consumption.

Article 2

Every consignment of gelatine intended for human consumption shall be accompanied by the health certificate as set out in the Annex I to this Decision.

Article 3

Every consignment of raw material destined for the production of gelatine intended for human consumption shall be accompanied by the health certificate as set out in the Annex II to this Decision.

Article 4

The health certificates referred in Article 2 and Article 3 shall consist of one sheet and shall be completed in at least one official language of the Member State through which the consignment first enters the Community and in at least one official language of the Member State of destination.

Article 5

This Decision shall apply from 1 June 2000.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 10 December 1999.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 62, 15.3.1993, p. 49.

⁽²⁾ OJ L 290, 12.11.1999, p. 32.

ANNEX I

HEALTH CERTIFICATE

For gelatine intended for human consumption, intended for dispatch to the European Community*Note for the importer:*

This certificate is for veterinary purposes only and must accompany the consignment until it reaches the border inspection post.

Reference number of the health certificate:

Country of destination:

Exporting country:

Responsible ministry:

Certifying department:

I. Identification of gelatine

Type of products:

Date of manufacture:

Type of packaging:

Number of packages:

Guaranteed storage period:

Net weight (kg):

II. Origin of gelatine

Address(es) and registration numbers(s) of authorised and registered production establishment(s):

.....

III. Destination of gelatine

The gelatine will be sent

from:

(place of loading)

to:

(country and place of destination)

by the following means of transport ⁽¹⁾:

.....

Name and address of consignor:

.....

Name and address of consignee:

.....

⁽¹⁾ Indicate the name or registration number (railway wagons and lorries), the flight number (aircraft) or the name (ship). This information is to be updated in the case of unloading and reloading.

IV. Health attestation

I, the undersigned, declare that I am aware of the provisions of Chapter 4 of Annex II to Directive 92/118/EEC and certify that the gelatine described above

- comes from establishments meeting the conditions laid down in Part I of that Chapter;
- has been produced from raw material which met the requirements of Parts II and III of that Chapter;
- has been manufactured in compliance with the conditions set out in Part IV of that Chapter;
- satisfies the criteria of Part V and the requirements of part VI(1) of that Chapter.

Done at, on
(place) (date)



.....
(Signature of official veterinarian) (1)

.....
(name in block letters)

(1) The signature and the stamp must be in a colour different to that of the printing.

ANNEX II

HEALTH CERTIFICATE

For raw materials destined to the production of gelatine intended for human consumption, intended for dispatch to the European Community

Note for the importer:

This certificate is for veterinary purposes only and must accompany the consignment until it reaches the border inspection post.

Reference number of the health certificate:

Country of destination:

Exporting country:

Responsible ministry:

Certifying department:

I. Identification of raw materials

Type of products:

Date of manufacture:

Type of packaging:

Number of packages:

Guaranteed storage period:

Net weight (kg):

II. Origin of raw material

Address(es) and registration numbers(s) of authorised and registered production establishment(s):

.....

III. Destination of raw material

The raw material will be sent

from:

(place of loading)

to:

(country and place of destination)

by the following means of transport ⁽¹⁾:

.....

Name and address of consignor:

.....

Name and address of consignee:

.....

⁽¹⁾ Indicate the name or registration number (railway wagons and lorries), the flight number (aircraft) or the name (ship). This information is to be updated in the case of unloading and reloading.

IV. Health attestation

I, the undersigned, declare that I am aware of the provisions of Part II of Chapter 4 of Annex II to Directive 92/118/EEC and certify that the raw material describe above complies with the requirements of this Part II, and in particular that ⁽¹⁾:

- bones, hides and skins of farmed ruminant animals, pig skins, poultry skin and tendons and sinews described above are derived from animals which have been slaughtered in a slaughterhouse and whose carcasses have been found fit for human consumption following ante and post mortem inspection, and/or
- wild games hides and skins described above are derived from killed animals whose carcasses have been found fit for human consumption following inspections laid down in Article 3 of Directive 92/45/EC, and/or
- fish skin and bones described above come from plants manufacturing fish products for human consumption authorised for export.

Done at , on
(place) (date)



.....
(Signature of official veterinarian) ⁽²⁾

.....
(name in block letters)

⁽¹⁾ Delete as appropriate.

⁽²⁾ The signature and the stamp must be in a colour different to that of the printing.